CITY OF MERCED

Meeting Agenda

City Council Chamber
Merced Civic Center
2nd Floor
678 W. 18th Street
Merced, CA 95340

City Council/Public Finance and Economic Development Authority/Parking Authority

Monday, March 18, 2019 | **6:00 PM** | **Council Chambers, 2nd Floor, Merced Civic Center, 678 W. 18th Street, Merced, CA 95340**

Closed Session at 5:00 PM / Regular Meeting at 6:00 PM

NOTICE TO PUBLIC

WELCOME TO THE MEETING OF THE MERCED CITY COUNCIL

At least 72 hours prior to each regular City Council meeting, a complete agenda packet is available for review on the City's website at www.cityofmerced.org or at the City Clerk's Office, 678 W. 18th Street, Merced, CA 95340. All public records relating to an open session item that are distributed to a majority of the Council will be available for public inspection at the City Clerk's Office during regular business hours.

PUBLIC COMMENT: OBTAIN SPEAKER CARD FROM THE CITY CLERK

Members of the audience who wish to address the City Council are requested to complete a speaker card available at the podium against the right-hand side of the Council Chamber. Please submit the completed card to the City Clerk before the item is called, preferably before the meeting begins.

INDIVIDUALS WITH DISABILITIES

Accommodation for individuals with disabilities may be arranged by contacting the City Clerk at (209) 388-8650. Assisted hearing devices are available for meetings held in the Council Chamber.

A. CLOSED SESSION ROLL CALL

B. CLOSED SESSION

B.1. 19-137 **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation pursuant to Government Code section 54956.9(d)(2): (1) case

B.2. 19-138 **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; Joseph Deliman v. City of Merced; Workers Compensation Appeals Board Case Nos. FRE-ADJ 10823278; FRE-ADJ 10823228; FRE-ADJ 10823337; AUTHORITY: Government Code Section 54956.9(d)(1)

B.3. 19-151 **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; Englert, et. al. v. City of Merced; Case No. 1:18-CV-01239-LJO-EPG; AUTHORITY: Government Code Section 54956.9(d)(1)

B.4. 19-149 **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; McKinnon, et. al. v. City of Merced; Case No. 1:18-CV-01124-LJO-SAB; AUTHORITY: Government Code Section 54956.9(d)(1)

C. CALL TO ORDER

C.1. Invocation - Monika Grasley, Lifeline Community Development

C.2. Pledge of Allegiance to the Flag

D. ROLL CALL

D.1. In accordance with Government Code 54952.3, it is hereby announced that the City Council sits either simultaneously or serially as the Parking Authority and the Public Financing and Economic Development Authority. City Council members receive a monthly stipend of $20.00 by Charter for sitting as the City Council; and the Mayor receives an additional $50.00 each month as a part of the adopted budget and Resolution 1975-37. The members of the Parking Authority and the Public Financing and Economic Development Authority receive no compensation.

E. REPORT OUT OF CLOSED SESSION

F. SPECIAL PRESENTATIONS

F.1. Kiki Raina Tahiti Fete Performance

F.2. Aerial Apparatus (Tiller) Dedication

G. WRITTEN PETITIONS AND COMMUNICATIONS

H. ORAL COMMUNICATIONS

Members of the public who wish to speak on any matter not listed on the agenda may speak during this portion of the meeting and will be allotted 5 minutes. The Mayor may, at his discretion, reduce the time to 3 minutes if there are more than 3 speakers, in order to accommodate as many speakers as possible. State law prohibits the City Council from acting at this meeting on any matter raised during the public comment period. Members of the public who wish to speak on a matter that is listed on the agenda will be called upon to speak during discussion of that item.

I. CONSENT CALENDAR

Adoption of the Consent Calendar may be made by one motion of the City Council, provided that any Council member, individual, or organization may request removal of an item from the Consent Calendar for separate consideration. If a request for removal of an item from the Consent Calendar has been received, the item will be discussed and voted on separately.

I.1. 18-637

SUBJECT: Reading by Title of All Ordinances and Resolutions

REPORT IN BRIEF

Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and a summary title may be read with further reading waived.

RECOMMENDATION

City Council - Adopt a motion waiving the reading of Ordinances and Resolutions, pursuant to Section 412 of the Merced City Charter.

I.2. 19-102

SUBJECT: Information Only-Planning Commission Minutes of February 6, 2019

RECOMMENDATION

Information only.

I.3. 19-113

SUBJECT: Information Only-Site Plan Committee Minutes of January 24 and 31, 2019

RECOMMENDATION

For information only.

I.4. 19-118

SUBJECT: Authorization to Apply for and Accept Reimbursable Grant Funding from the State of California, Office of Emergency Services for Equipment, Supplies and Training Related to the City's Upgrade to its Emergency Communications Center and Geographical Information System (GIS) in an Amount Not to Exceed $128,000; and Approval to Use Pooled Cash Pending the Receipt of Reimbursed Funds From the State

REPORT IN BRIEF

Authorizes the City to apply for and accept additional grant funding in an amount not to exceed $128,000 from the State of California for the purchase of additional equipment, supplies and training for upgrades to the City's Emergency Communications Center and GIS. Also authorizes the

use of pooled cash to pay for the purchases pending reimbursement from the State.

RECOMMENDATION

City Council - Adopt a motion:

A. Upon approval of additional grant funding from the State of California, Office of Emergency Services, Increasing State Grant revenue account 001-1002-324.02-00 in an amount not to exceed $128,000 and appropriating the same to Police Operations Machinery/Equipment expense account 001-1002-523.43-00; and,

B. Authorizing the use of pooled cash for purchases until the City receives reimbursement of funds; and,

C. Authorizing the City Manager or the Assistant City Manager to execute any necessary documents.

I.5. 19-089

SUBJECT: Approval of Reduction of Per Session Fees Charged for Swimming Lessons from the Established Rate of $35 to $10 for Swimming Lessons Offered from June 17 to August 1, 2019

REPORT IN BRIEF

Considers temporarily lowering swim lesson fees charged by the City from $35 per session to $10 per session for its Water Safety and Swimming Lessons Programs offered from June 17 to August 1, 2019.

RECOMMENDATION

City Council - Adopt a motion approving the temporary reduction in the fees charged for swimming lessons from $35 to $10 per session during the summer of 2019; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

I.6. 19-062

SUBJECT: Adoption of Resolution Establishing a Policy for the Distribution of Tickets and Passes Pursuant to Fair Political Practices Commission Regulation18944.1

REPORT IN BRIEF

Considers the adoption of a Resolution establishing a Policy regarding the distribution of complimentary tickets and passes received by the City, pursuant to Fair Political Practices Commission (FPPC) Regulation 18944.1.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-10**, a Resolution of the City Council of the City of Merced, California, adopting a policy for the distribution of tickets and passes in accordance with FPPC Regulation 18944.1.

I.7. 19-100

SUBJECT: Approval of Supplemental Appropriations / Budget Modifications Totaling $300,000 for Fuel Fund Shortages from Various Division Budgets to Fund 670-Fleet Management Vehicle Fuel Expense Account to Cover the Funding Shortage Through June 30, 2019

REPORT IN BRIEF

Considers transferring $300,000 from various divisions to the Fund 670-Fleet Management Vehicle Fuel expense account to cover the funding shortage through June 30, 2019.

RECOMMENDATION

City Council - Adopt a motion approving the transfer of $300,000 from various divisions to Fleet Fund 670 and appropriating the same to Vehicle Fuel expense account 670-1103-532.33-00 and authorizing the Finance Officer to make the necessary budget adjustments.

I.8. 19-099

SUBJECT: Approval of Consulting and Professional Services Contracts with Benchmark Engineering, Inc., BKF Engineers, Carollo Engineers, Golden Valley Engineering, Interwest Consulting Group, Michael K. Nunley & Associates, Precision Civil Engineering, Inc., Quad Knopf, Inc., and VVH Consulting Engineers to Provide Design and Engineering Support Services for the City's Capital Improvement Projects at the Rates Not to Exceed the Consultant Hourly Rates Listed within Attachment B of Each Respective Agreement for the Contract Period Ending June 30, 2022

REPORT IN BRIEF

Considers approving multiple Consulting and Professional Services Contracts for engineering and design services for the City's Capital Improvement Projects. The services provided under these agreements will be funded from individual Capital Improvement Project budgets as the projects occur through the contract period ending June 30, 2022, at the hourly rates set forth in Attachment B of each respective agreement.

RECOMMENDATION

City Council - Adopt a motion approving the Consulting and Professional

Services Agreements, for a contract period ending June 30, 2022, with Benchmark Engineering, Inc., BKF Engineers, Carollo Engineers, Golden Valley Engineering, Interwest Consulting Group, Michael K. Nunley & Associates, Precision Civil Engineering, Inc., Quad Knopf, Inc., and VVH Consulting Engineers, for professional engineering design services.

I.9. 19-073

SUBJECT: Award of Bid and Approval of Construction Agreement with Rolfe Construction Company in the Amount of $968,802 for the Re-Bid of the Yosemite Avenue Leaf Collection Site, Project No. 116017

REPORT IN BRIEF

Considers awarding a bid and approving an agreement in the amount of $968,802 with Rolfe Construction Company for City Project No. 116017 - Yosemite Avenue Leaf Collection Site.

RECOMMENDATION

City Council - Adopt a motion:

A. Awarding the Yosemite Avenue Leaf Collection Site, Project 116017 to Rolfe Construction Company of Atwater, Ca, in the amount of $968,802.00; and,

B. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents and to approve change orders not to exceed 10% of the total contract; and,

C. Authorizing the Finance Director to make necessary budget adjustments.

I.10. 19-104

SUBJECT: Approval of Professional Services Agreement with Precision Engineering, Inc., for the Not to Exceed Amount of $175,000, to Provide Personnel to Temporarily Serve in the Capacity of City Engineer

REPORT IN BRIEF

Considers approving a Professional Services Agreement with Precision Engineering, Inc., for the not to exceed amount of $175,000 to provide City Engineer services while the City recruits for a permanent City Engineer.

RECOMMENDATION

City Council - Adopt a motion approving the agreement for professional services with Precision Engineering, Inc., to provide City Engineer Services in an amount not to exceed $175,000; and, authorizing the City

Manager or the Assistant City Manager to execute the necessary documents.

I.11. 19-126

SUBJECT: Second Reading - Adoption of Ordinance 2498 to Amend Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required"

REPORT IN BRIEF

Adoption of previously introduced Ordinance to amend section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required" of the Merced Municipal Code.

RECOMMENDATION

City Council - Adopt a motion approving **Ordinance 2498**, an Ordinance of the City Council of the City of Merced, California, Amending Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required," of the Merced Municipal Code.

I.12. 19-127

SUBJECT: Second Reading - Adoption of Ordinance Approving a Mitigated Negative Declaration for Environmental Review #18-02 and Site Utilization Plan Revision #38 to Planned Development (P-D) #1 Allowing the Renovation of the Merced Mall and Theatre, Including the Possibility of Relocating the Theatre Adjacent to the Merced Mall Building

REPORT IN BRIEF

Adoption of previously introduced Ordinance No. 2499 and considers approving a Site Utilization Plan Revision for Planned Development (P-D) #1, a Mitigated Negative Declaration for Environmental Review #8-02 and Site Utilization Plan #38 allowing renovations to the Merced Mall located at 851 West Olive Avenue and the United Artists movie theater located at 645 Fairfield Drive, including possible relocation.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2499**, an Ordinance of the City of Merced, California approving a Mitigated Negative Declaration for Environmental Review #18-02 and Site Utilization Plan Revision #38 to Planned Development (P-D) #1 allowing the Renovation of the Merced Mall and Theatre, including the possibility of relocating the theatre adjacent to the Merced Mall building.

J. PUBLIC HEARINGS

Members of the public who wish to speak on public hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to further public comment and brought to the Council for discussion and action. Further comment will not be received unless requested by the Council.

J.1. 19-075

SUBJECT: Public Hearing - Introduction of Ordinance No. 2500 Approving Site Utilization Plan Revision #6 to Planned Development (P-D) #46; and Adoption of Resolution 2019-09, Approving a Negative Declaration for Environmental Review #18-60, General Plan Amendment #18-03, Specific Plan Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 to Allow Between 164 and 176 Apartments on a 10.73 Acre Site, Generally Located on the West Side of San Augustine Avenue, at Pacific Drive

REPORT IN BRIEF

Introduces Ordinance No. 2500 and considers approving a Negative Declaration for Environmental Review #18-60, General Plan Amendment #18-03, Specific Plan Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 to allow between 164 and 176 apartments on a 10.73 acre site, generally located on the west side of San Augustine Avenue, at Pacific Drive.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2019-09**, a Resolution of the City Council of the City of Merced, California, approving a Negative Declaration for General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 for 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive and approving General Plan Amendment #18-03 for the same property changing the General Plan designation from Business Park (BP) to High-Medium Density Residential (HMD) and approving revision #4 to the Fahrens Creek specific plan changing the land use designation from “Mini-Storage” to “Multi-Family”; and,

B. Introducing **Ordinance 2500**, an Ordinance of the City Council of the City of Merced, California, approving Site Utilization Plan Revision #6 to Planned Development (P-D) #46 changing the land use designation from

"Business Park" (BP) to "High-Medium Density Residential" (HMD) for 10.73 acres of land, generally located on the west side of San Augustine Avenue at Pacific Drive; and,

C. Authorizing the City Manager or the Assistant City Manager to execute the Legislative Action Agreement.

J.2. 19-108

SUBJECT: Continued Public Hearing - Vacation No. 18-03 for the Adoption of Resolution Ordering the Vacation of a 20-Foot Wide Temporary Access Easement Located on a Portion of 7 Lots within the Summer Creek Subdivision

REPORT IN BRIEF

The City Council will consider approving a Resolution ordering the vacation of a 20-foot wide temporary access easement located on a portion of 7 lots within the Summer Creek Subdivision, generally located west of McKee Road at Silverstone Drive.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-07**, a Resolution of the City Council of the City of Merced, California, ordering the vacation of a 20-foot-wide Temporary Emergency Access Easement on Lots 5, 6, 7, 17, 18, 29, and 130 within the Summer Creek, Phase One Subdivision (Vacation #18-03).

K. BUSINESS

K.1. 19-152

SUBJECT: Approving the City Council FY 2019/20 Goals and Priorities

REPORT IN BRIEF

Staff will provide a summary overview of initial comments received from Council to approve the FY 2019/20 Goals and Priorities.

RECOMMENDATION

City Council - Adopt a motion approving FY 2019/20 Goals and Priorities.

K.2. 19-140

SUBJECT: Mayor Murphy's Request to Discuss Amending the City of Merced Charter

REPORT IN BRIEF

This item is in response to Mayor Murphy's request to discuss amending

the City of Merced Charter pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

K.3. City Council Comments

K.4. Request to Add Item to Future Agenda

L. ADJOURNMENT

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item B.1. Meeting Date: 3/18/2019

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation pursuant to Government Code section 54956.9(d)(2): (1) case

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item B.2. Meeting Date: 3/18/2019

SUBJECT: CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; Joseph Deliman v. City of Merced; Workers Compensation Appeals Board Case Nos. FRE-ADJ 10823278; FRE-ADJ 10823228; FRE-ADJ 10823337; AUTHORITY: Government Code Section 54956.9(d)(1)

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item B.3. Meeting Date: 3/18/2019

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; Englert, et. al. v. City of Merced; Case No. 1:18-CV-01239-LJO-EPG; AUTHORITY: Government Code Section 54956.9(d)(1)

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item B.4. Meeting Date: 3/18/2019

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; McKinnon, et. al. v. City of Merced; Case No. 1:18-CV-01124-LJO-SAB; AUTHORITY: Government Code Section 54956.9(d)(1)

ADMINISTRATIVE REPORT

Agenda Item I.1. Meeting Date: 3/18/2019

SUBJECT: Reading by Title of All Ordinances and Resolutions

REPORT IN BRIEF

Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and a summary title may be read with further reading waived.

RECOMMENDATION

City Council - Adopt a motion waiving the reading of Ordinances and Resolutions, pursuant to Section 412 of the Merced City Charter.

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item I.2. Meeting Date: 3/18/2019

Report Prepared by: Stephani Davis, Development Services Tech II, Planning Division

SUBJECT: Information Only-Planning Commission Minutes of February 6, 2019

RECOMMENDATION
Information only.

ATTACHMENTS
1. PC Minutes of 02-06-2019

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, February 6, 2019

Chairperson DYLINA called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Mary Camper, Scott G. Drexel, Michael Harris, *Jeremy Martinez, Peter Padilla, Sam Rashe, and Chairperson Robert Dylina

*Commissioner Martinez arrived at 7:11 p.m.

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, Chief Deputy City Attorney Fincher, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S PADILLA-RASHE, and carried by unanimous voice vote (one absent), to approve the Agenda as submitted.

2. **MINUTES**

M/S PADILLA-HARRIS, and carried by unanimous voice vote (one absent), to approve the Minutes of January 23, 2019, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Conditional Use Permit #1228, initiated by Mark Patterson, on behalf of Gateway Park Development Partners, LLC, property owner. This application involves a request to allow the sale of beer and wine for off-site consumption within an ARCO convenience market generally located at the southeast corner of Campus Parkway and Coffee Street (810 S. Coffee Street). The subject site has a General Plan designation of Regional Commercial (RC) and is zoned Planned Development (P-D) #74.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #19-06.

Public testimony was opened at 7:10 p.m.

Speaker from the Audience in Favor:

MARK PATTERSON, California Gold Development Corp., Applicant, Sonora, CA

No one spoke in opposition to the project.

Public Testimony was completed at 7:15 p.m.

M/S CAMPER-HARRIS, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-68, and approve Conditional Use Permit #1228, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #19-06 (RESOLUTION #4016):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina
NOES: None
ABSENT: None
ABSTAIN: None

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

Planning Manager ESPINOSA extended the invitation to the upcoming League of California Cities Planning Commissioners Academy in Long Beach to the Planning Commission due to one of the previous four Commissioners not being able to attend. No other Commissioners were able to attend.

6. ADJOURNMENT

There being no further business, Chairperson DYLINA adjourned the meeting at 7: 19 p.m.

Respectfully submitted,

KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:

ROBERT DYLINA, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #4016

WHEREAS, the Merced City Planning Commission at its regular meeting of February 6, 2019, held a public hearing and considered **Conditional Use Permit #1228,** initiated by Mark Patterson, on behalf of Gateway Park Development Partners, LLC, property owner. This application involves a request to allow the sale of beer and wine for off-site consumption within an ARCO convenience market, generally located at the southeast corner of Campus Parkway and Coffee Street (810 S. Coffee Street). The subject site has a General Plan designation of Regional Commercial (RC) and is zoned Planned Development (P-D) #74; also known as Assessor's Parcel Number 061-250-092; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #19-06; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #18-68, and approve Conditional Use Permit #1228, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner CAMPER, seconded by Commissioner HARRIS, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

Adopted this 6th day of February 2019

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1228 (Alc sales for off-site consumption at new gas station)

Conditions of Approval
Planning Commission Resolution # 4016
Conditional Use Permit #1228

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan), Attachment C of Planning Commission Staff Report #19-06, except as modified by the conditions.

2. All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions" shall apply.

3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.

4. The Project shall comply with the conditions set forth in Planning Commission Resolution #3084 for the Merced Gateway Project [General Plan Amendment #15-03, Zone Change #422, and Establishment of Planned Development (P-D) #74] and Site Plan Review Resolution #426 previously approved for this project.

5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.

6. 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.

7. 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.

8. No sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.

9. No beer or wine shall be displayed within five (5) feet of the cash register or the front door.

10. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.

11. No sale of alcoholic beverages shall be made from a drive-through window.

12. No display or sale of beer or wine shall be made from an ice tub.

13. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.

14. Employees shall be at least twenty-one (21) years of age to sell alcohol.

15. No single-serving containers smaller than 20 ounces shall be sold individually, unless otherwise approved by the Police Chief or designee. Any containers smaller than 20 ounces shall be sold as part of a larger pack (i.e., 6-pack or 12-pack).

16. "No Loitering" signs shall be placed on the building along the alley and the front of the store.

17. The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits including, but not limited to, window and wall signage.

18. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.

19. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.

20. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.

21. Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the market. Details to be worked out with staff.

22. The premises shall remain clean and free of debris at all times.

n:shared:planning:PC Resolutions: CUP #1228 Exhibit A

ADMINISTRATIVE REPORT

Agenda Item I.3. Meeting Date: 3/18/2019

Report Prepared by: Stephani Davis, Development Services Tech II, Planning Division

SUBJECT: Information Only-Site Plan Committee Minutes of January 24 and 31, 2019

RECOMMENDATION
For information only.

ATTACHMENTS
1. SP Minutes of 01-24-2019
2. SP Minutes of 01-31-2019

CITY OF MERCED
Site Plan Review Committee

MINUTES

Planning Conference Room
2nd Floor Civic Center
Thursday, January 24, 2019

Acting Chairperson HREN called the meeting to order at 1:30 p.m.

1. **ROLL CALL**

Committee Members Present:	Plan Examiner II England (for Chief Building Official Frazier), Land Surveyor Cardoso (for City Engineer) and Principal Planner Hren (for Director of Development Services McBride)
Committee Members Absent:	None
Staff Present:	Planning Manager Espinosa, Land Refuse Equipment Operator McComb, Director of Development Services McBride, Housing Program Specialist Nutt, Housing Supervisor Hamilton, and Planner/Recording Secretary Mendoza-Gonzalez

2. **MINUTES**

M/S CARDOSO - ENGLAND, and carried by unanimous voice vote, to approve the Minutes of January 17, 2019, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Modification of Site Plan Application #429, submitted by The Richmond Group and Merced County on behalf of Merced County, property owner. This request allows the construction of a low-income apartment complex (119 units) with 30 of the low-income

units being permanent supportive housing units at 1137 B Street, within Planned Development (P-D) #6 with a General Plan designation of Office Commercial (CO).

Planner MENDOZA-GONZALEZ reviewed the application. Refer to Draft Modification of Site Plan Resolution #429 for further information.

Committee Member ENGLAND noted that since this Project will utilize government grants/funding, that Condition #7 should be modified to indicate that the apartments would be designed to comply with 2010 Title II ADA standards.

Land Refuse Equipment Operator McCOMB noted that Condition #24 should be modified to indicate that the applicant would work with the Refuse Department to ensure that the design of the refuse/refuse enclosure meets their standards.

Acting Chairperson HREN noted that Condition #29 would not be required since the storm drain basin would be maintained through the CFD.

Planning Manager Espinosa noted that the CFD process would need to begin before the issuance of the first building permit for this Project, so Condition #31 should be modified.

M/S CARDOSO - ENGLAND, and carried by the following vote to adopt a Categorical Exemption regarding Environmental Review #18-66, and approve Modification of Site Plan Application #429, subject to the Findings and thirty-one (31) conditions set forth in Draft Resolution #429 with modifications to Conditions #7, #24, and #31, and the elimination of Condition #29 as follows:

[Secretary's Note: Condition #31 became Condition #30 after the elimination of Condition #29]

(Note: ~~Strikethrough~~ deleted language, underline added language.)

"7. Notwithstanding all other conditions, all construction and improvements shall be in strict accordance with Zoning, Building, and all other codes, ordinances, standards, policies of the City of Merced, including full compliance with 2010 Title II ADA standards for government programs.

"24. The applicant shall work with the City's Refuse Department to determine the best design, location~~/~~, and angle for the refuse enclosure and to determine if a recycling container would be required for this use.

"29. ~~The proposed storm drain basin shall be dedicated to the City of Merced (through the lot split process), but maintained by the developer.~~

"30. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, and parks and open space. Developer/Owner shall submit a request agreeing to such a procedure, waiving their right to protest and posting a deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to ~~first assessments being received~~ issuance of the first building permit."

AYES: Committee Members Cardoso, England, and Chairperson Hren
NOES: None
ABSENT: None

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

There was no discussion regarding the calendar of meetings/events.

6. **ADJOURNMENT**

There being no further business, Acting Chairperson HREN adjourned the meeting at 2:15 p.m.

Respectfully submitted,

Kim Espinosa, Secretary
Merced City Site Plan Review Committee

APPROVED:

Michael Hren Acting Chairperson/
Principal Planner/Merced City Site Plan
Review Committee

CITY OF MERCED
SITE PLAN REVIEW COMMITTEE
MODIFIED RESOLUTION #429

The Richman Group/Merced County APPLICANT	Modify Site Plan Resolution #429 to develop an apartment complex (119 units) with ~~80% market rate units and 20% affordable units~~ 100% low-income serving units. PROJECT
420 31st Street, Ste. B1/2222 M St. ADDRESS	1137 B Street PROJECT SITE
Newport Beach, CA 92663/Merced, CA 95340 CITY/STATE/ZIP	035-010-071 APN
(619) 708-8797/(209) 385-7601 PHONE	Planned Development (P-D) #6 ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Site Plan Review Committee reviewed and approved Modified Site Plan Application #429 on January 24, 2019, submitted by The Richman Group and Merced County on behalf of Merced County, property owner. This request would modify and replace an existing resolution (adopted December 13, 2018) for the construction of an apartment complex (119 units) with 100% low-income serving units ~~80% market rate units and 20% affordable units~~ at 1137 B Street, within Planned Development (P-D) #6 with a General Plan designation of Office Commercial (CO). Said property being more particularly described as Parcel B as shown on the Map entitled "Raymond A. Bessemer, M.D.," recorded in Book 86, Page 23 of Merced County Records; also known as Assessor's Parcel Number (APN) 035-010-071.

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA), and is in accordance with Section 15332 (a) (Exhibit H); and,

WHEREAS, the Merced City Site Plan Review Committee makes the following Findings and Conditions with the modifications and additions as shown below:

(Note: ~~Strikethrough~~ deleted language, underline added language.)

A) The Project site includes a ~~approximate 4-acre~~ 4.03–acre apartment complex ~~and a 1-acre storm basin~~ located at the northwest corner of E. Childs Avenue and B Street.

B) As shown on the Site Plan at Exhibit B, this development includes a courtyard style community comprised of five 3-story buildings with 119 residential dwelling units (100% low-income serving) ~~with a mix of 100% affordable housing, with up to 25%~~ including 30 permanent supportive housing units. The

apartment complex includes a variety of one, two, and three bedroom apartments. Community amenities include a multi-purpose room, manager's and service provider's offices, computer center, fitness room, ~~mailboxes~~, ~~laundry facilities~~ a patio and barbecue area, swimming pool, and a play area for children. ~~community garden. The central courtyard includes a patio, swimming pool (with a 5-foot-tall iron rod perimeter fence), and a children's play area~~.

C) As shown on the Zoning Interpretation Letter at Exhibit G, the Site Plan Review Committee is of the opinion that this application can be processed with a site plan review permit instead of a conditional use permit. This is based on the establishment of Zoning for the subject site from 1970, when the City designated the site for "Mental Health Services/Staff Housing," and the Planned Development as a whole was intended to include multiple-family/senior housing complexes, medical offices/clinics, and a neighborhood park. Comparatively, these specific land uses are proposed with this affordable housing project in the form of low-income housing, community buildings, and office/clinic spaces for community services to be able to provide on-site visits for residents, thereby matching the intent of the established Planned Development zoning classification and the site's original Site Utilization Plan Designation.

D) As shown under Finding C, this proposal complies with the City of Merced General Plan designation of Office Commercial (CO) and the Zoning classification of Planned Development (P-D) #6.

E) This Project includes 123 off-street parking spaces with 16 adjacent on-street parking spaces, for a total of 139 parking spaces for this site. The parking requirements for traditional multiple-family housing is based on the number of bedrooms and bathrooms for each unit as shown at Merced Municipal Code Table 20.38-1 - Off-Street Parking Requirements for Multiple Family Dwellings/Condominiums.

F) As allowed under Merced Municipal Code Section 20.38.050 (D) - Parking Reductions, the applicant is providing a Transportation Demand Management Plan to obtain a 20% parking reduction from the Director of Development Services. A parking reduction may be granted if the developer "demonstrates a reduction in the demand for off-street parking spaces by encouraging the use of transit, ridesharing, biking, walking, or travel outside peak hours." In this case, the applicant is providing a transit proposal that encourages bicycle use with 17 short-term bicycle racks and 12 long-term bicycle racks, and is including a bus pullout along B Street for The Bus which provides services within City limits and throughout Merced County. In addition, approximately 30 affordable units will be reserved for homeless individuals/families that are expected to not have vehicles.

G) The Director of Development Services has determined that this proposal qualifies for a 20% parking reduction based on the variety of transit options described under Finding F. With this parking reduction, the Project exceeds

parking requirements by providing 139 parking spaces (133 parking spaces are required).

H) The Site Plan Review Committee originally approved Site Plan Resolution #429 on December 13, 2018.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Modified Site Plan Application #429 subject to the following conditions:

1) The proposed project shall be constructed/designed in substantial compliance with Exhibit B (site plan), Exhibit D (floor plans), and Exhibit E (elevations) - except as modified by the conditions.

2) All conditions contained in Site Plan Review #79-1 – Amended ("Standard Conditions for Site Plan Review Application") shall apply.

3) All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply including, but not limited to, the California Building Code and Fire Codes.

4) 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, 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 (with counsel selected by the City) 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.

5) 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.

6) The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

7) Notwithstanding all other conditions, all construction and improvements shall be in strict accordance with Zoning, Building, and all other codes, ordinances, standards, policies of the City of Merced, including full compliance with 2010 Title II ADA standards for government programs.

8) The perimeter picket fence shall be of a color that matches or complements the colors of the apartment complex.

9) The premises shall remain clean and free of debris and graffiti at all times.

10) All landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.

11) Parking lot and building lighting shall be shielded or oriented in a way that does not allow "spillover" onto adjacent lots in compliance with the California Energy Code requirements.

12) The parking lot layout shall comply with all applicable City Standards. Parking lot trees shall be provided at a ratio of one tree for every six parking spaces within this site. These trees shall be installed per the City's Parking Lot Landscape Standards, shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list).

13) Based on the proposed use and size of the building, the applicant should provide short-term bicycle parking spaces equivalent to 10% of required parking spaces and long-term bicycle parking spaces equivalent to 1 bicycle rack for every 10 units. In addition, the bicycle parking spaces should meet the City's design standards for bicycle racks, including racks with covered shelters. Based on the required 133 parking spaces (after approval of the Transportation Demand Management Plan parking reduction), the applicant should provide 13 short-term and 13 long-term bicycle parking spaces. Details to be worked out with Planning staff at the building permit stage.

~~14) The traffic signal at the intersection of Childs Avenue and B Street shall require a building permit with specs, details, and plans designed by a California Licensed Traffic Engineer.~~

14) The southernmost driveway along B Street shall be located at least ~~200~~ 150 feet from the face of the curb along Childs Avenue or as approved by the City Engineer.

15) Utility connections (for sewer, water, fire, etc.) to City services shall be made from B Street.

16) As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repaired if the permit value of the project exceeds $100,000.00. 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/Federal standards and regulations.

17) All street frontage improvements within City right-of-way (curb, gutter, sidewalk, driveway approaches, landscape areas, etc.) shall be designed and constructed to meet City Standards and are subject to review by the City Engineer.

18) This Project is categorized as a "Regulated Project." The Project shall comply with the criteria defined under the Post-Construction Standards Plan. All Post-Construction Treatment Control measures are subject to an Operations and Maintenance Plan and Agreement.

19) Storm drainage design shall address all on-site run-off with a biofiltration system or approved California Stormwater Quality Association Best Management Practices before draining to the adjacent basin south of the apartment complex or underground storage. The storm drain shall be designed to meet City Engineering Standards. Storm water shall be metered out from the basin to the nearby Merced Irrigation District (per MID requirements). Storm water shall be retained onsite per City Standards.

20) Any proposed on-site swales or post-construction storm treatment shall be addressed in the Post-Construction Standards Plan and identified in the Operations and Maintenance Agreement.

21) ~~The storm drain basin shall be designed for a 50-year storm per City Standard Designs and shall comply with the rules and regulations mandated by the State Water Quality Control Board and the General Permit for Storm Water Pollution Prevention Plan.~~ The developer shall contribute a fair share contribution towards the maintenance of the storm drain basin to the south of the site through the Community Facilities District (CFD).

22) The Project site shall have two means of ingress and egress.

23) The parking lot shall include full-width access and a complete ingress/egress circuit for City Fire and Refuse vehicles.

24) The applicant shall work with the City's Refuse Department to determine the best design, location~~/~~, and angle for the refuse enclosure and to determine if a recycling container would be required for this use.

25) A backflow prevention device shall be provided for all water services (i.e., domestic, irrigation, and fire) per Merced Municipal Code.

26) The development is allowed one domestic and one irrigation water service line.

27) Plans shall be drawn by a licensed California design professional, meeting current codes at the time of building permit application submittal. Fire sprinklers are required for this Project. If local, State, or Federal funds are used, including tax credits, Chapter 11B of the current California Building Code shall apply.

28) The Project shall comply with the residential design standards for multi-family projects as outlined in Merced Municipal Code Chapter 20.46.

~~29) The proposed storm drain basin shall be dedicated to the City of Merced (through the lot split process), but maintained by the developer.~~

~~30) The developer shall be responsible for obtaining an agreement with the Merced Irrigation District for storm drainage.~~

29) The bus turnout shall be designed per Merced County Association of Governments standards.

30) Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, and parks and open space. Developer/Owner shall submit a request agreeing to such a procedure, waiving their right to protest and posting a deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to ~~first assessments being received~~ issuance of the first building permit.

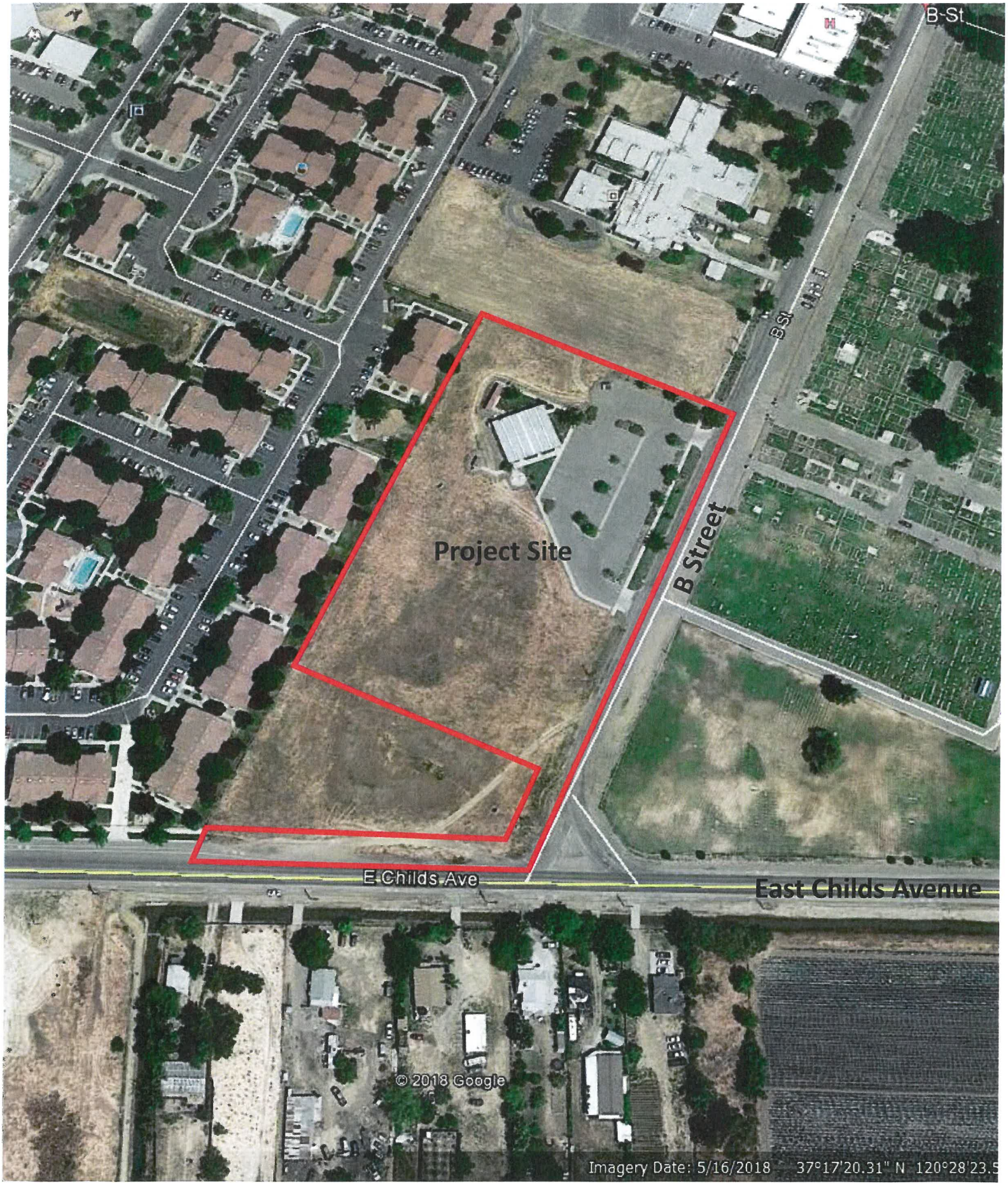
If there are any questions concerning these conditions and recommendations, please contact Francisco Mendoza-Gonzalez at (209) 385-6858.

1-24-2019
DATE

SIGNATURE

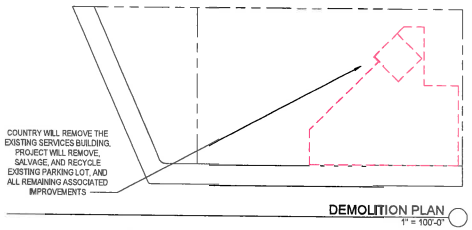
Planner
TITLE

Exhibits
A) Location Map
B) Site Plan
C) Site Plan (with Program Identification Legend)
D) Floor Plans
E) Elevations
F) Applicant's Project Description
G) Zoning Interpretation Letter
H) Categorical Exemption



Project Site

N



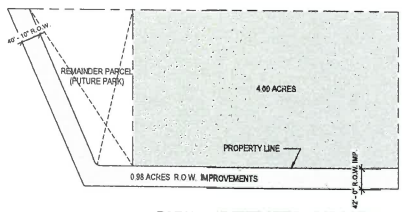
DEMOLITION PLAN
1" = 100'-0"

UNIT TYPE	UNIT COUNT	AREA
1 BR	17	636 SF
1 BR PSH	30	636 SF
2 BR	36	847 SF
3 BR	36	1,136 SF
TOTAL	119	—

PARKING TYPE	#
STANDARD SPACES	97
COMPACT SPACES	19
ACCESSIBLE SPACES	7
EV CHARGING (1)	-
TOTAL SPACES	123

*PSH: PERMANENT SUPPORTIVE HOUSING

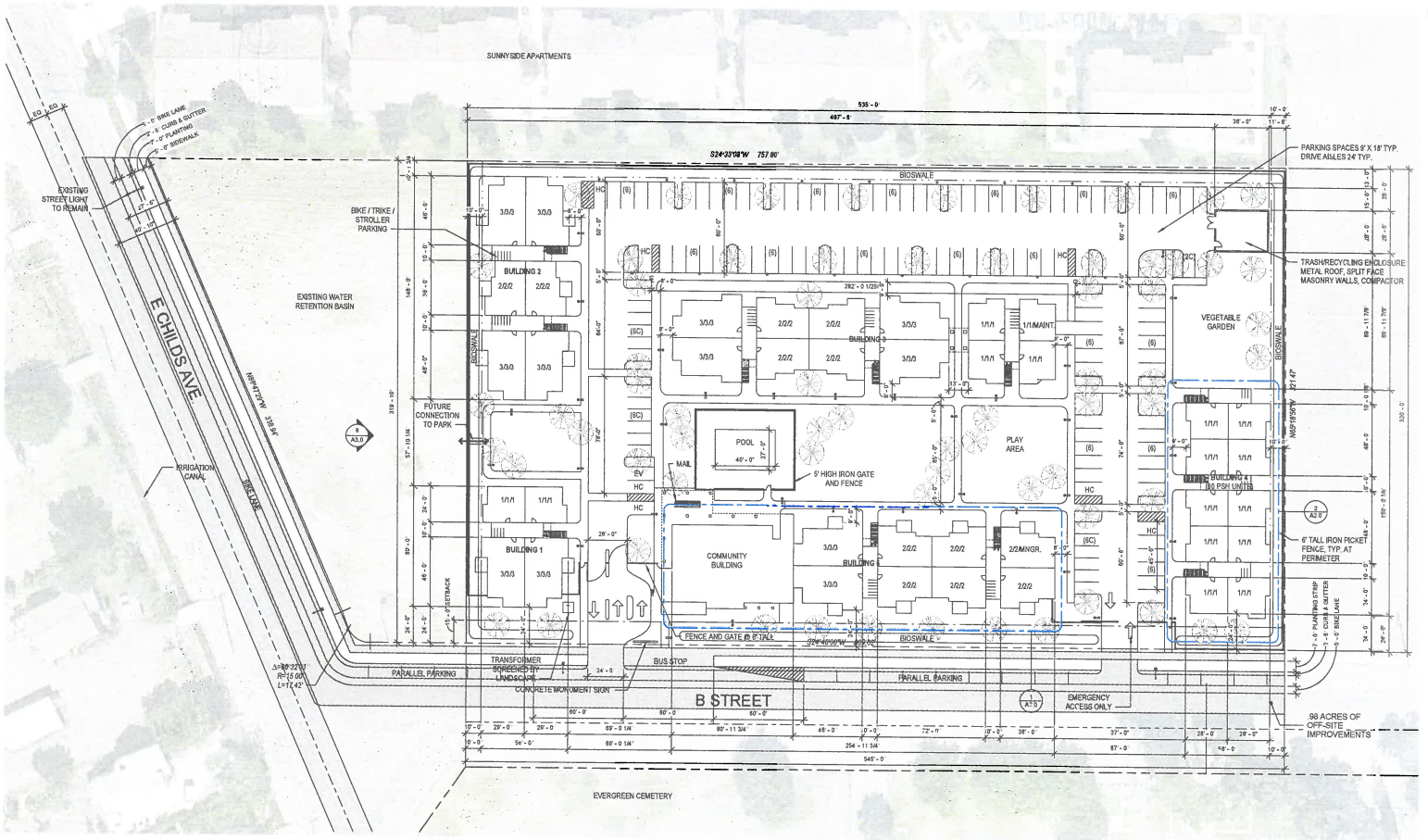
TOTAL BUILDING FOOTPRINT:	43,783 SF
TOAL BUILDING AREA:	122,324 SF
SITE AREA TOTAL:	174,400 SF or 4.003 ACRES
PAVED AREA ESTIMATE:	106,974 SF
LANDSCAPED AREA ESTIMATE:	67,426 SF
UNITS PER ACRE:	30



TOTAL PROJECT AREA - 4.98 ACRES
1" = 100'-0"

Lighting Notes:
1. 15" sq. Aluminum LED Pole Mounted Light w/ integral arm, 16' height at parking lot areas, 12' height at courtyards.
2. 36" tall Aluminum LED Bollard Lights as required.
3. Aluminum LED accent/uplight at monument sign.
4. Building mounted LED lighting at all stairs/entries/breezeways.
5. Street luminaires per City of Merced standards.

Drainage Notes:
1. This is a Preliminary Drainage Design Analysis (for 50 year / 24 Hour storm).
2. 4.0 acre affordable housing site design is approximately 61% impervious and 39% pervious, which equates to a composite volume coefficient of 0.664 and design storm of 2.74" which calculates to a volume of 26,400 CF.
3. Capacity of the existing storm basin currently serving the existing partially developed 5.06 acre site, using a maximum water level of elev. 167.6', is +/- 32,300 CF.
4. Project design and construction will comply with City/County Storm Water Management Plan requirements. BMP's will be utilized to facilitate removal of pollutants from storm water before it is conveyed to City/County waterways. Storm water will be filtered through landscaped areas, turf, and vegetated bioswales.
5. During the design storm event, the bioswales will store +/- 3,650 CF of water, and convey 22,750 CF into the adjacent basin.
6. Onsite storm water retention can be increased with underground storage.



Site Plan 1
1" = 30'-0"

PROJECT NORTH TRUE NORTH

0 15 30 60

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NEWPORT BEACH, CA, 92663

Childs and B Street, TOD Affordable Housing

905 B STREET, MERCED CA 95341

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DATE 5 November, 2018
SCALE As indicated
TITLE SITE PLAN

SHEET A1.0

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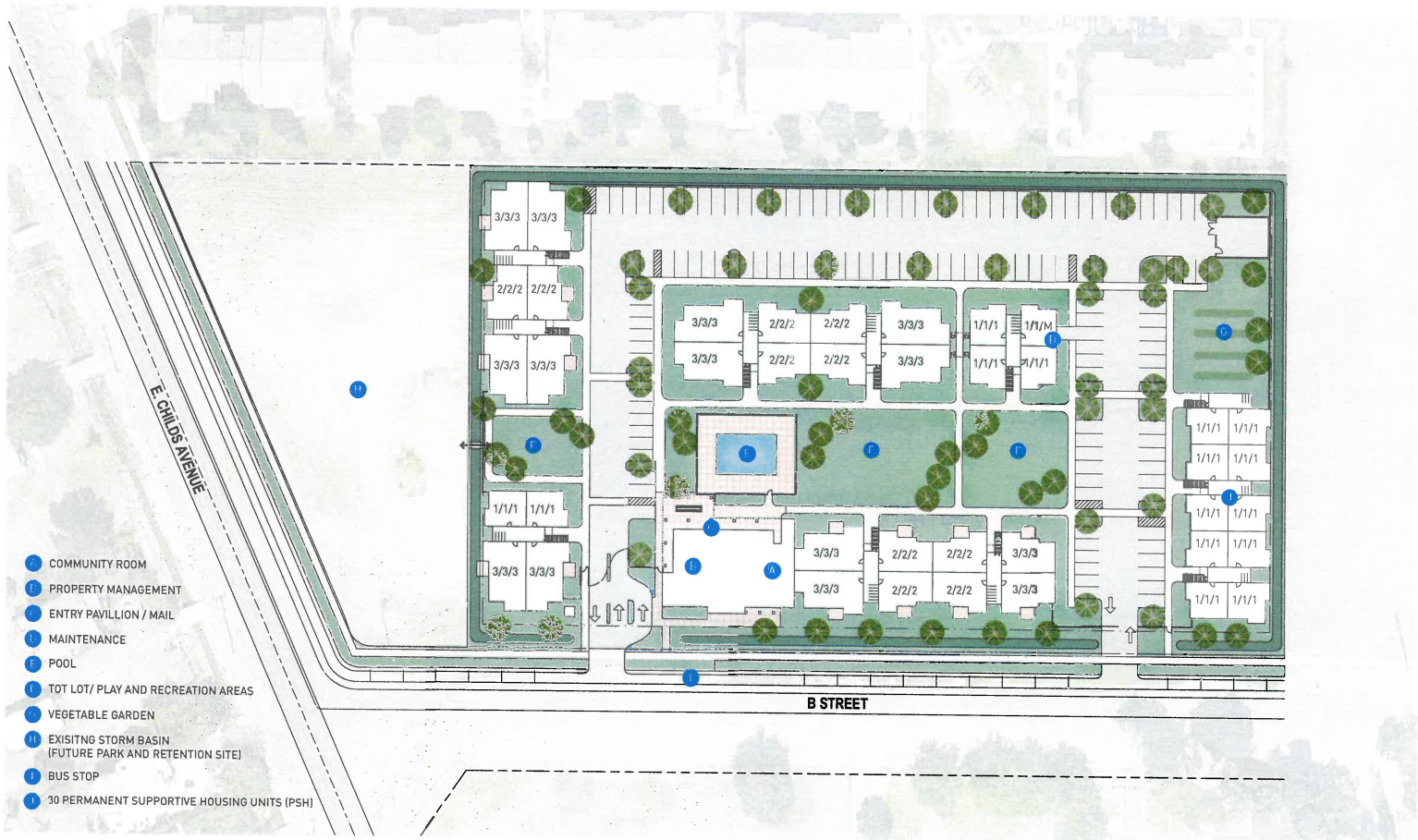
Landscape Notes:
1. All landscaping will be drought-tolerant species and will be designed and installed in compliance with Bay Friendly design guidelines. Soils tested and amended. Maintenance agreement required.
2. Trees: Typical 15 gal, Oregon Ash, Chitalpa, Chinese Pistach; Specimen 24" box Douglas Oak, and others
3. Shrubs and Ground Cover: Typical 5 gal, Sunset Rockrose, CA Coffeeberry, Pink Rhododendron, Mexican Sage; 1 Gal, Carmel Sur Manzanita, Lantana, Coral Bells, and others
4. Grasses/Sedges: Fescue varieties, Bio-Filtration Sod, Native Mow-Free Sod
5. Swale: Hydroseed Native Ornamental Bioswale Mix Fescue/Hairgrass/Sedge
6. Irrigation: Conform to water-use reduction measures and CA Maximum Applied Water Allowance regulations. Fully automated drip irrigation system with smart irrigation controller, backflow preventor, separate irrigation water meter, remote control valves and weather sensor. Bubblers typical, minimize spray emitters.
7. Accessories: All trees staked, root barriers adjacent to paving, all planters to have 3" mulch layer.



PROJECT NORTH TRUE NORTH

0 15 30 60

ILLUSTRATED SITE PLAN (1)
1" = 30'-0"

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TITLE
ILLUSTRATED SITE PLAN

SHEET
A1.2

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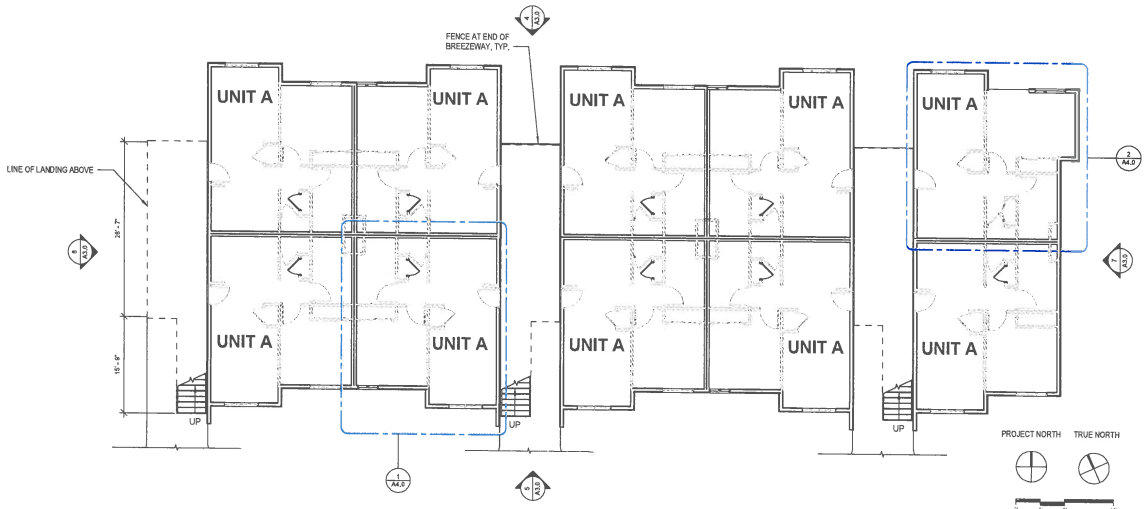
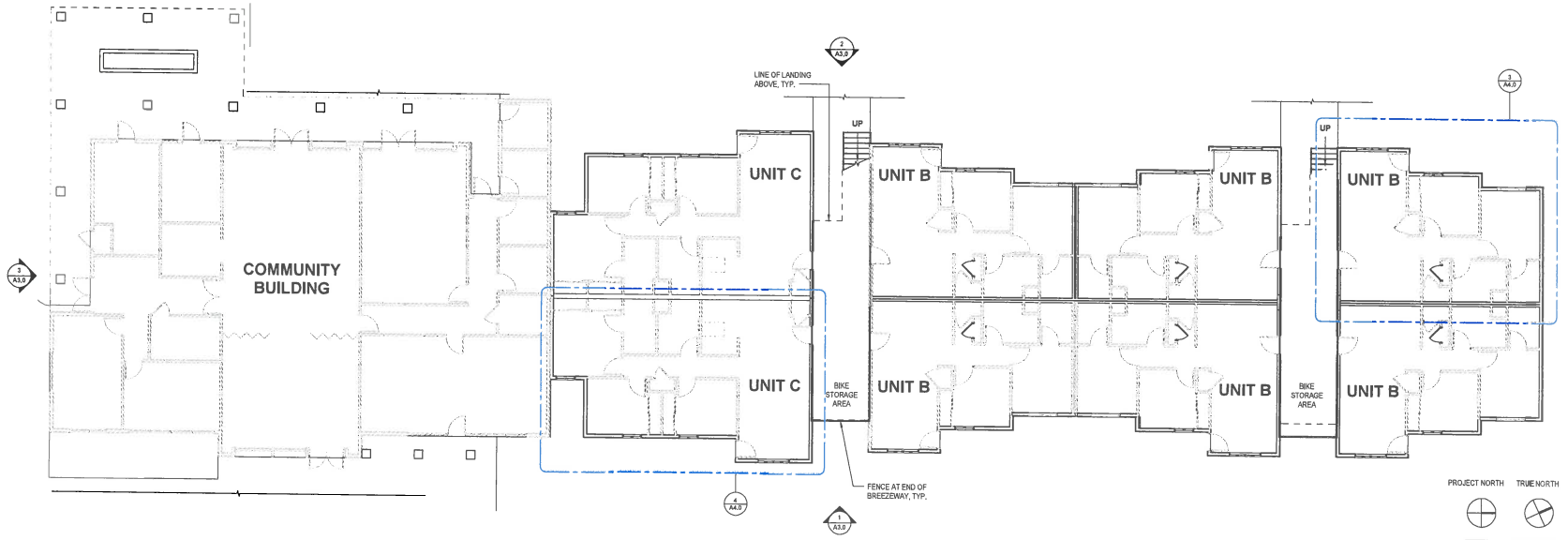


UPPER LEVELS SIMILAR

BUILDING 4 - PSH (1 BR UNITS) 2
1/8" = 1'-0"



UPPER LEVELS OF UNITS SIMILAR

BUILDING 5 1
1/8" = 1'-0"

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SCALE	1/8" = 1'-0"

TITLE
BUILDING PLANS

SHEET
A2.0

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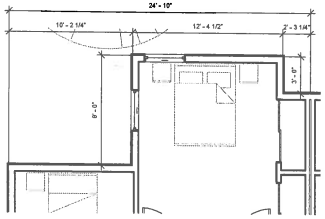
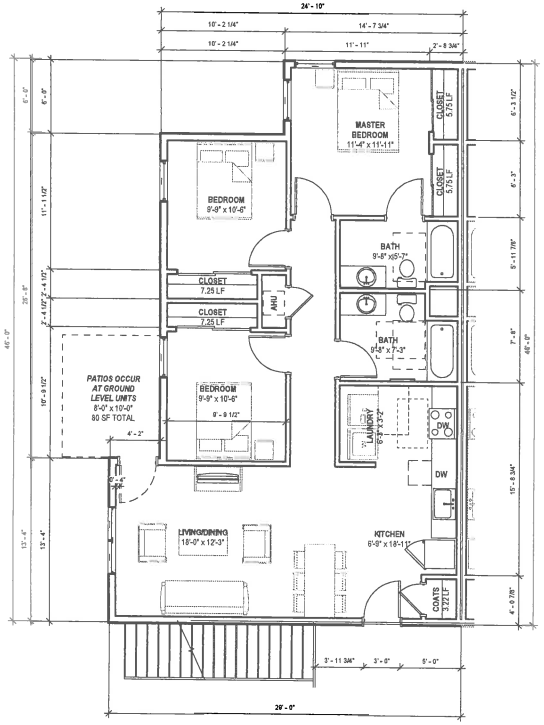


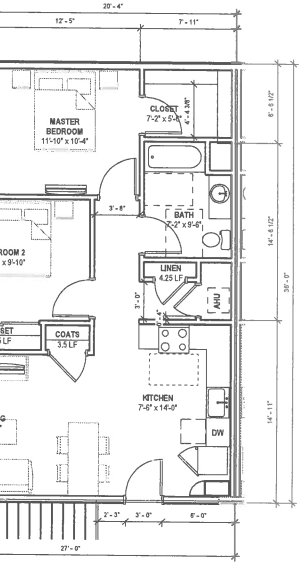
2 UNITS
1,173 SF

UNIT C - 3 BR TYP. W/BAY @ MASTER BEDROOM (5)
1/4" = 1'-0"



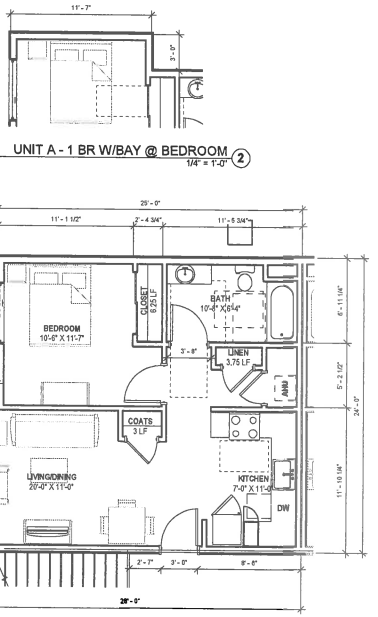
34 UNITS
1,136 SF

UNIT C - 3 BR TYP. (4)
1/4" = 1'-0"



36 UNITS
847 SF

UNIT B - 2 BR TYP. (3)
1/4" = 1'-0"



2 UNITS
670 SF

UNIT A - 1 BR W/BAY @ BEDROOM (2)
1/4" = 1'-0"

45 UNITS
636 SF

UNIT A - 1 BR TYP. (1)
1/4" = 1'-0"

40

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TITLE UNITS

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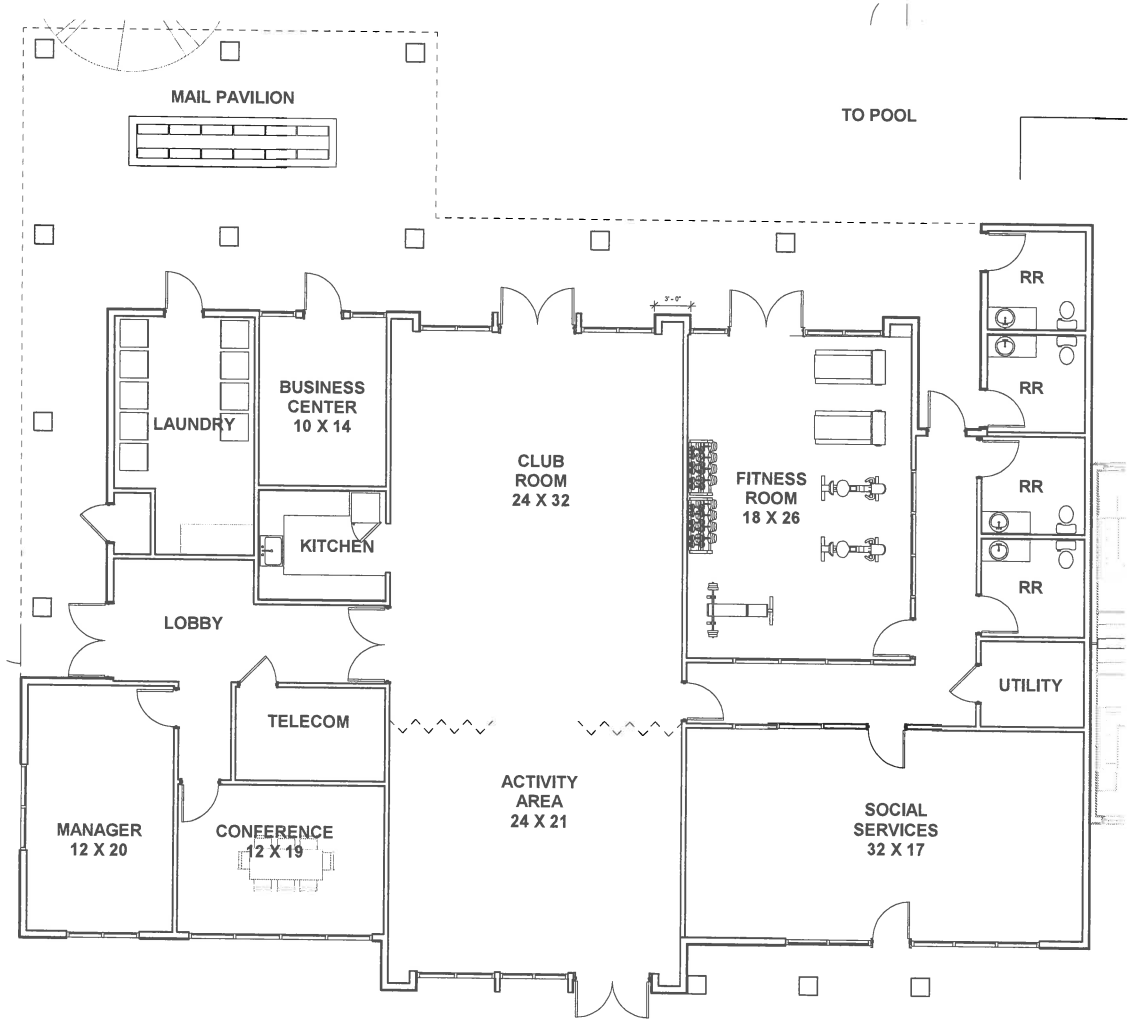

COMMUNITY BUILDING (1)
1/4" = 1'-0"

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TITLE
COMMUNITY BUILDING PLAN

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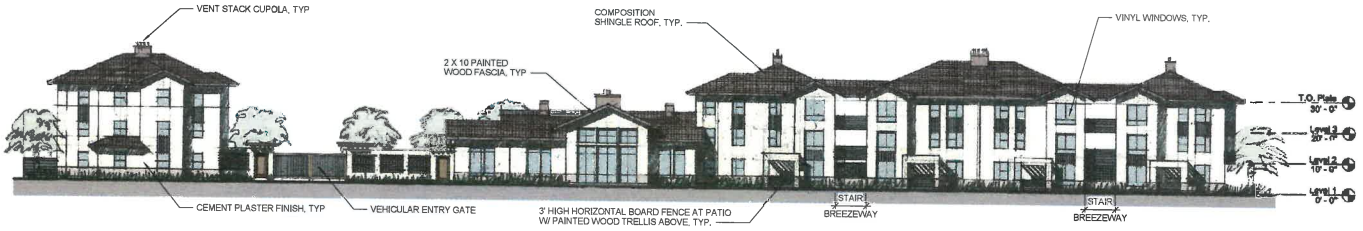
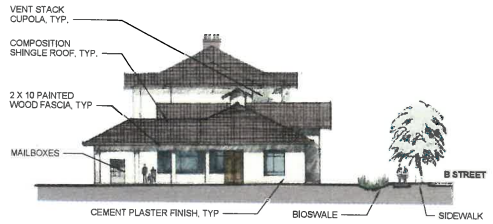
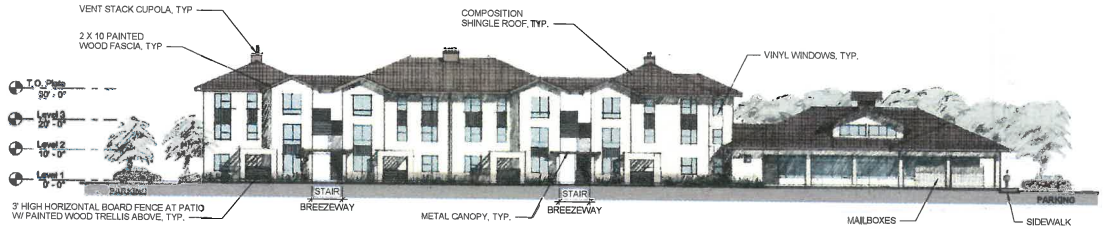


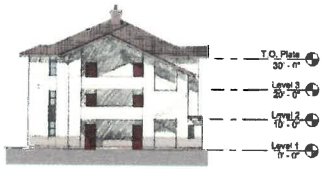
EAST ELEVATION - B STREET (1)
1/16" = 1'-0"



SOUTH ELEVATION - COMMUNITY BUILDING (3)
1/16" = 1'-0"



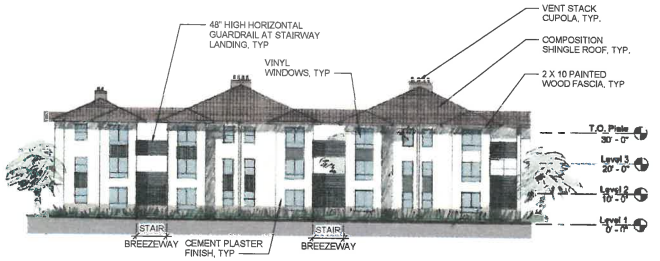
WEST ELEVATION - COMMUNITY / UNITS (2)
1/16" = 1'-0"



WEST ELEVATION - PSH (6)
1/16" = 1'-0"



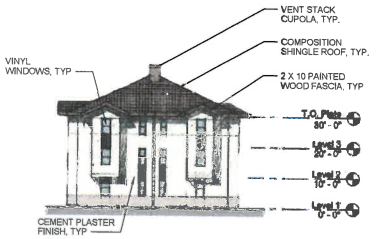
SOUTH ELEVATION - PSH (5)
1/16" = 1'-0"



NORTH ELEVATION - PSH (4)
1/16" = 1'-0"



SOUTH ELEVATION - CHILDS AVENUE (8)
1/16" = 1'-0"



EAST ELEVATION - PSH (7)
1/16" = 1'-0"

PYATOK
1611 TELEGRAPH AVE, SUITE 200
OAKLAND, CA 94612
510.465.7910 p | 510.465.8575 f
www.pyatok.com

THE RICHMAN GROUP OF CALIFORNIA
420 31ST STREET, SUITE B1
NEWPORT BEACH, CA, 92663

Childs and B Street, TOD Affordable Housing

905 B STREET, MERCED CA 95341

STAMP:

REVISION SCHEDULE
NO. | ISSUE | DATE

JOB NUMBER 1758
DRAWN BY Author
CHECKED BY Checker
DATE 5 November, 2018
SCALE 1/16" = 1'-0"
TITLE ELEVATIONS

SHEET
A3.0

PRELIMINARY - Not for Construction -

© COPYRIGHT PYATOK ARCHITECTURE & URBAN DESIGN

11/2/2018 10:06:16 AM

CITY OF MERCED
PLANNING DIVISION
678 W. 18th Street
Merced, CA 95340
(209) 385-6858
FAX: (209) 725-8775

GENERAL DESCRIPTION OF PROJECT (CONT.)

Name of Firm: The Richman Group Type of Business: Real Estate Development

Location of Project: Street Address: 905 B. St. Merced, CA 95341 (proposed new address)

Project Description:

The Childs & B Street TOD Affordable Housing Project is the result of a development partnership of the Richman group and the Central Valley Coalition for Affordable Housing. In collaboration with the City and County of Merced, the project will provide new housing opportunities and supportive services to low-income families and individuals.

The 4 acre site is bound by a storm basin and Childs Avenue to the south, B Street to the east, by existing apartments to the west, and by existing business and county services to the north.

The development is a courtyard style community comprised of five 3-story wood frame walk up buildings. There will be 119 residential dwelling units with a mix of one, two and three bedroom apartments. A two bedroom manager's unit is included. Off-street parking totaling 122 spaces is situated around the perimeter of the housing courts.

The community building locates amenities near the secured main entrance, and includes a multi-purpose room, manager's and service provider's offices, computer center, fitness room, mailboxes, and laundry facilities. The adjacent central courtyard has a patio, swimming pool, and children's play areas. Other spaces provide for recreation and gardening.

A secondary auto gate is provided for resident egress and emergency access only. Parallel parking spaces along B Street provide additional parking for the greater community. Storm water is managed and cleansed in vegetated bioswales along the perimeter of the site. Other improvements include a maintenance storage space, a trash and recycling enclosure with compactor, accessible parking spaces (van and standard) and infrastructure for future electric vehicle charging stations. Street frontage improvements include new lighting, street trees, and sidewalks/curb/gutter on Childs and B Streets.

The project will have onsite energy generation and exceed residential energy codes by 10-20%. It will be constructed in accordance with the CA Green Building Code and be certified at the Gold Level in the Green Point Rated multifamily sustainable building system.

CITY OF MERCED
"Gateway to Yosemite"

City of Merced Development Services, 678 W 18th Street, Merced, CA 95340

October 1, 2018

Re: Zoning Process Interpretation and Determination re: Affordable Housing Project at 1137 B Street (APN: 035-010-071)

To Whom It May Concern:

The developers, The Richman Group of California, LLC, in partnership with the City of Merced, have proposed an affordable housing project, consisting of 119 units on approximately five acres at the northwest corner of Childs Avenue and B Street within the City of Merced. One hundred percent (100%) of the project will be affordable housing units, with up to 25% of those units set aside for permanent supportive housing intended to help individuals and families at-risk of homelessness, as well as; office and multi-purpose spaces for supportive, social, and educational services; a fitness room, playground, and swimming pool; a multimodal bus stop; water and sewer mains; and full street frontage and intersection improvements.

This letter confirms that a Site Plan Review process has been determined to be the appropriate discretionary review process of the above-referenced project. It also seeks to explain City staff's interpretation of Merced Municipal Code Section 20.20.020(Q) in reaching this determination.

Background:
The property is currently zoned Planned Development #6 (P-D #6), with a General Plan land use designation of "CO/Commercial Office" (assigned upon the establishment of zoning when it was annexed to the City in 1970), along with a Site Utilization Plan (SUP) designation of "Mental Health Services/Staff Housing" for its planned future use within the P-D zone. At establishment, the development plan for P-D #6 intended to include, among other similar uses, multi-family dwellings, medical offices, mental health facilities, a day nursery, a senior citizen housing complex, a neighborhood park, and a convalescent hospital. City staff recommended Planned Development zoning so as to be able to include all of the intended land uses in one zone, and the Planning Commission found that the P-D zoning would both permit the owner to complete the proposed complex and allow the City to exercise control over the development.

In February 2001, the City Council approved a revision to the SUP designation to "Church," after the vacant site was gifted to a local church congregation for a twenty-year phased project. However, the church project did not progress beyond the beginnings of Phase 1. Therefore, the project failed to meet Condition #2 of Planning Commission Resolution #2634 (adopted by the February 5, 2001, City Council decision that approved the SUP Revision) in which Phase 1, a fellowship hall and full public improvements, was required to be completed by March 31, 2002. No development has occurred on the site, except for a modular office building built in 2004, and

the required public improvements were never installed. Based on this failure to meet the conditions of approval, the City has determined that the SUP designation should revert back to its original designation, which includes multi-family.

Discussion:
Zoning Code Section 20.20.020(Q) states the following: *"Q. Individual Projects within a Planned Development. After the Final SUP has been approved, individual projects within a Planned Development shall require a Site Plan Review Permit prior to development to address conformance with the Final SUP."*

It has been determined that the Site Plan Review process is the appropriate level of discretionary review for this project, based upon the findings below:

- Upon Establishment of Zoning in 1970, as explained above, this parcel's SUP designation was for "Mental Health Services/Staff Housing," and P-D #6 as a whole intended to include multiple-family/senior housing complexes, medical offices/clinics, and a neighborhood park. Comparatively, these specific land uses are proposed with the affordable housing project in the form of low-income housing, community buildings, and office/clinic spaces for community services to be able to provide on-site visits for residents, thereby matching the intent of the established P-D zoning and the site's original SUP designation.
- The church project failed to meet the conditions of approval for the SUP Revision approved in 2001. Therefore, the City has determined that the site should revert back to its original SUP designation described above.
- The proposed affordable housing project and its proposed uses also meet the General Plan land use designation of Commercial Office (multi-family residential projects are allowable with discretionary review under this designation).
- There will be no expansion of the previously-approved density.
- There is a strong community need within the City for affordable housing project(s) with a focus towards families and individuals currently and at risk of homelessness, in order to address the growing homelessness issue within the City and County. This project serves to target that need.
- The City of Merced and the County of Merced have formed a partnership regarding this site and its relationship to nearby County-owned mental health and medical clinic facilities.
- The City and the project developer are partnering with local health and homeless services agencies to provide necessary services to the future residents of the project.
- Upon completion, the project will provide badly-needed public infrastructure improvements in the form of repaving and widening of adjacent deteriorated streets, a traffic signal at the W. Childs and B Street intersection, sidewalks/curb/gutters, water and sewer mains, streetlights, and a storm water drainage basin that will also serve as a neighborhood park. These improvements will not only serve the affordable housing project, but the existing single-family and multi-family developments nearby.
- In addition to public improvements, the project will install public transit, vehicular, bicycle, and pedestrian transportation improvements to the area.

Based upon the above findings, along with its strong benefits to the community as a whole and a need to streamline the land use approval process to meet project funding deadlines, I have made

the interpretation per Merced Municipal Code Section 20.20.020(Q), that the project should be subject to the Site Plan Review approval process.

If you have any questions or concerns, please contact me by telephone at (209) 385-6858 or by email to mcbrides@cityofmerced.org.

Sincerely,

Scott McBride
Director of Development Services
City of Merced

Kn/Cc: Mark Hamilton, Housing Program Supervisor
Kim Espinosa, Planning Manager

NOTICE OF EXEMPTION

To: ____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

__X__ County Clerk
County of Merced
2222 M Street
Merced, CA 95340

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

Project Title: Site Plan Review #429 (Environmental Review #18-66)

Project Applicant: The Richman Group/Merced County

Project Location (Specific): 1137 B Street **APN:** 035-010-071

Project Location - City: Merced **Project Location - County:** Merced

Description of Nature, Purpose, and Beneficiaries of Project:

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: The Richmond Group/Merced County

Exempt Status: (check one)

___ Ministerial (Sec. 21080(b)(1); 15268);
___ Declared Emergency (Sec. 21080(b)(3); 15269(a));
___ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
__X__ Categorical Exemption. State Type and Section Number: 15332
___ Statutory Exemptions. State Code Number: _____.
___ General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt:
As defined under the above referenced Section, the proposed project is considered an in-fill project. The project location is within the City limits. The apartment complex would be built approximately 4.00-acres and is surrounded by urban uses. The site can be served by all required utilities and public services, and the project site has no value as habitat for endangered, rare or threatened species. No significant effects resulting from traffic, noise, air quality, or water quality will result from the construction of the building. The project is consistent with the City of Merced General Plan and Zoning regulations.

Lead Agency: City of Merced
Contact Person: Francisco Mendoza-Gonzalez **Area Code/Telephone:**(209) 385-6858

Signature: _____ **Date:** 12-5-2018 **Title:** Planner

__X__ Signed by Lead Agency

Date Received for Filing at OPR: _____
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

CITY OF MERCED
Site Plan Review Committee

MINUTES

Planning Conference Room
2nd Floor Civic Center
Thursday, January 31, 2019

Chairperson McBRIDE called the meeting to order at 1:32 p.m.

1. **ROLL CALL**

Committee Members Present: Chief Building Official Frazier, Land Surveyor Cardoso (for City Engineer) and Director of Development Services McBride

Committee Members Absent: None

Staff Present: Planning Manager Espinosa, Public Works Director Elwin, and Planner/Recording Secretary Nelson

2. **MINUTES**

M/S McBRIDE-CARDOSO, and carried by unanimous voice vote, to approve the Minutes of January 24, 2019, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Extension of Vesting Tentative Subdivision Map (VTSM) #1280 ("Bellevue Ranch North, Phases 3 & 4"), for 30 large lots, located at Bellevue Road and G Street.

Associate Planner NELSON reviewed the request for the extension of VTSM #1280. She recapped the history of the approvals and previous extensions granted by the State of California. She outlined the regulations of the Subdivision Map Act for denying a request for the extension of a vesting tentative subdivision map.

There was a brief discussion regarding the map and clarification on the information provided at Attachment D of the Memo to the Site Plan Committee.

M/S CARDOSO - FRAZIER, and carried by the following vote to approve a one-year extension for Vesting Tentative Subdivision Map (VTSM) #1280 (Amended Planning Commission Resolution #2857):

AYES: Committee Members Cardoso, Frazier, and Chairperson McBride
NOES: None
ABSENT: None

4.2 Extension of Vesting Tentative Subdivision Map (VTSM) #1279 ("Mission Ranch"), for 138 lots on 19.6 acres, located at the southwest corner of Mission Avenue and Highway 59.

Associate Planner NELSON reviewed the request for the extension of VTSM #1279. She recapped the history of the approvals and previous extensions granted by the State of California. She outlined the regulations of the Subdivision Map Act for denying a request for the extension of a vesting tentative subdivision map. Ms. NELSON explained that there is an unresolved issue regarding the drainage basin for this subdivision. Therefore, staff is recommending this item be continued to the Site Plan Committee Meeting of February 14, 2019, to allow staff to work with the developer on resolving this issue. Ms. NELSON noted that the Subdivision Map Act allows an automatic 60-day extension when a request for the extension of a tentative subdivision map is received. Therefore, this map would not expire until March 31, 2019.

The applicant, Bhupinder Kaur Sahota, and the applicant's engineer, Jim Xu with Golden Valley Engineering were in attendance to answer questions from the Committee. The applicant and Mr. Xu agreed to the continuation of this request.

M/S CARDOSO-McBRIDE, and carried by the following vote to continue this request to the Site Plan Committee meeting of February 14, 2019:

AYES: Committee Members Cardoso, Frazier, and Chairperson McBride
NOES: None
ABSENT: None

4.3 Extension of Vesting Tentative Subdivision Map (VTSM) #1291 ("Bright"), for 161 lots on 39.8 acres, located at the northeast corner of G Street and Merrill Place.

Associate Planner NELSON reviewed the request for the extension of VTSM #1291. She recapped the history of the approvals and previous extensions granted by the State of California. She outlined the regulations of the Subdivision Map Act for denying a request for the extension of a vesting tentative subdivision map. Ms. NELSON noted that correspondence from Rick Telegan had been received prior to the meeting. Because staff needs more time to review the information provided by Mr. Telegan, staff is recommending this request be continued to the Site Plan Committee meeting of February 14, 2019.

M/S McBRIDE-FRAZIER, and carried by the following vote to continue this request to the Site Plan Committee meeting of February 14, 2019:

AYES: Committee Members Cardoso, Frazier, and Chairperson McBride
NOES: None
ABSENT: None

4.4 Site Plan Application #432, submitted by Mike Ferrero for Devonwood 64, LP, property owner. The approval allows for variation in the building elevations for the subdivision known as "Highland Park" and the modification of certain mitigation measures previously required for this site. The Highland Park subdivision is generally located on the south side of Devonwood Drive between Loughborough Drive and Austin Avenue.

Associate Planner NELSON reviewed the application and request from the property owner. She noted a memo from staff (which was

provided to the Committee prior to the meeting) that included a corrected Exhibit 2 (Planning Commission Resolution #2901). Refer to Draft Site Plan Resolution #432 for further information.

The applicant and his contractor were in attendance to answer questions from the Committee.

There was discussion regarding the modification of Finding K to allow the City Engineer to determine the project's fair share of the improvements at Hwy 59 and 16th Street instead of coming back before the Site Plan Committee.

Committee Member CARDOSO asked if all the improvements had been accepted. Associate Planner NELSON explained that a Notice of Completion had been filed for the work done when the bonds were called for this subdivision, but she was unable to find any other Notice of Completion. In order to ensure all the work is done to City Standard and ensure public safety, Committee Member CARDOSO recommending adding a condition to require inspection of the public utilities.

Committee Member CARDOSO also asked if the streets within the subdivision were public or private streets. After a brief discussion and reviewing the maps, it was determined that a condition should be added to require a Public Utilities Easement over the private streets if one has not already been dedicated.

M/S MCBRIDE-FRAZIER, and carried by the following bot to adopt a Categorical Exemption regarding Environmental Review #19-02, and approve Site Plan Application #432, subject to the Findings and 4 conditions set forth in Draft Resolution #432 with the modification of Finding K and addition of Conditions #5, #6, and #7 as follows:

(Note: ~~Strikethrough~~ deleted language, <u>underline</u> added language)

K) Regarding Mitigation Measure 3.1-9, City staff agrees that some reduction from the 50% obligation is reasonable. City staff will research what was paid by Phase One of the Merced

Market Place development and present information to the ~~Site Plan Committee~~ City Engineer for a determination on what the appropriate reduction should be, including possibly reducing the obligation to zero or to the project's share to be paid through the Public Facilities Impact Fees. This shall occur prior to issuance of the first building permit.

5) Per Finding K, the City Engineer shall determine the appropriate reduction prior to issuance of the first building permit.

6) All public utilities will need to be inspected to ensure they meet City standards and public safety requirements.

7) If not already completed, the streets shall be dedicated to the City as public utilities easements.

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

There was no discussion regarding the calendar of meetings/events.

6. ADJOURNMENT

There being no further business, Chairperson McBRIDE adjourned the meeting at 2:21 p.m.

Respectfully submitted,

Kim Espinosa, Secretary
Merced City Site Plan Review Committee

APPROVED:

Scott McBride, Chairperson/
Director of Development Services
Merced City Site Plan Review Committee

CITY OF MERCED
SITE PLAN REVIEW COMMITTEE
RESOLUTION #432

Mike Ferrero for Devonwood 64, LP	Revise building elevations and modify mitigation measures dealing with traffic
APPLICANT	PROJECT
5732 Engineer Dr. #102	**Devonwood Drive between Austin Avenue and Loughborough Drive**
ADDRESS	PROJECT SITE
Huntington Beach, CA 92649	058-470-001 through –036; 058-480-001 through -047; 058-490-001 through -053
CITY/STATE/ZIP	APN
951-454-2359	Planned Development (P-D) #16
PHONE	ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Site Plan Review Committee reviewed and administratively approved Site Plan Application #432 on January 31, 2019, submitted by Mike Ferrero for Devonwood 64, LP, property owner. The approval allows for variation in the building elevations for the subdivision known as "Highland Park" and the modifiication of certain mitigation measures previously required for this site. The Highland Park subdivision is generally located on the south side of Devonwood Drive between Loughborough Drive and Austin Avenue. Said property being more particularly described as Lots 1 through 124 as shown on the Subdivision Map entitled "Tract No. 4346 Highland Park," recorded in Volume 77, Page 1 of Merced County Records, also known as Assessor's Parcel Numbers 058-470-001 through –036; 058-480-001 through -047; 058-490-001 through -053.

WHEREAS, the Merced City Site Plan Review Committee makes the following Findings:

A) General Plan Amendment and Site Utilization Plan (SUP) Revision #22 to Planned Development (P-D) #16 for the Highland Park Subdivision (Exhibit 1) was approved by City Council on November 6, 2006.

B) Conditional Use Permit (CUP) #1092 and Tentative Subdivision Map #1293 for the Highland Park Subdivision were approved by the Planning Commission on September 20, 2006, subject to the approval of the aforementioned General Plan Amendment and SUP Revision. Refer to Planning Commission Resolution #2901 at Exhibit 2 for the Conditions of Approval.

C) An Environmental Impact Report was adopted by the City Council on June 11, 1999 for the Merced Market Place Development. A Supplemental Environmental Impact Report was adopted by the City Council on November 6, 2006 as part of the General Plan Amendment and SUP Revision for Highland Park.

D) A Mitigation Monitoring Program was adopted as part of the Environmental Review for the General Plan Amendment and SUP Revision for Highland. This Mitigation Monitoring Program is provided with Planning Commission Resolution #2901 at Exhibit 3.

E) Per Condition #1 of Planning Commission Resolution #2901, the project was to be constructed consistent with Attachments B, D, and G of Staff Report #06-63. Attachment D included the approved elevations for the homes to be constructed within the Highland Park Subdivision. Attachment D of Staff Report #06-63 is provided at Exhibit 4.

F) Condition #34 of Planning Commission Resolution #2901 provided specific design features that were to be included in the elevations for the homes throughout the subdivision.

G) Final Subdivision Map No. 5346 for Highland Park was recorded February 20, 2007, but no homes were ever constructed.

H) All the work required by the Subdivision Agreement for Highland Park was not completed by the developer. The City called the security bonds and entered into a Takeover Agreement to have certain work completed. A Notice of Completion for the Takeover Agreement was recorded on February 17, 2010.

I) The current owner, Devonwood 64, LP has requested approval of revised building elevations (Exhibit 5) and modification of the following traffic mitigation measures (see letter at Exhibit 6): 3.1-7, 3.1-9, 3.1-11, 3.1-12, and 3.1-13.

J) A traffic analysis was prepared by Ken Anderson and Associates to analyze the current traffic conditions and the effects of this project (Exhibit 7). This analysis revealed that the Olive Avenue/R Street intersection would operate at a Level of Service (LOS) B during the AM Peak Hour traffic hours and LOS C during the PM Peak Hour traffic hours under the existing plus project conditions. Based on this analysis, MM 3.1-7 and 3.1-13 are no longer necessary with this project.

K) Regarding Mitigation Measure 3.1-9, City staff agrees that some reduction from the 50% obligation is reasonable. City staff will research what was paid by Phase One of the Merced Market Place development and present information to the City Engineer for a determination on what the appropriate reduction should be, including possibly reducing the obligation to zero or to the project's share to be paid through the Public Facilities Impact Fees. This shall occur prior to issuance of the first building permit.

L) Regarding Mitigation Measure 3.1-11, these improvements would be 100% reimbursable by the City. Because the City would ultimately be responsible for payment of these improvements and the project would pay Public Facilities Impact Fees to contribute to the cost of these improvements, this project would not be responsible for constructing the improvements required by this mitigation measure. However, they are still required to pay the Public Facilities Impact Fees.

M) The northbound right-turn lane required by Mitigation Measure 3.1-12 has already been installed. Therefore, it is no longer a requirement of this subdivision.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Application #432 subject to the following conditions:

1) The elevations provided at Exhibit 4 are approved as proposed. These elevations shall comply with Condition #34 of Planning Commission Resolution #2901 (Exhibit 2).

2) All conditions contained in Site Plan Review #79-1 – Amended ("Standard Conditions for Site Plan Review Application") shall apply.

3) The project shall comply with all conditions of Planning Commission Resolution #2901, except those superseded by this resolution.

4) The modifications to the mitigation measures as described in Findings J, K, L, and M above are approved.

5) Per Finding K, the City Engineer shall determine the appropriate reduction prior to issuance of the first building permit.

6) All public utilities will need to be inspected to ensure they meet City standards and public safety requirements.

7) If not already completed, the streets shall be dedicated to the City as public utilities easements.

If there are any questions concerning these conditions and recommendations, please contact Julie Nelson at (209) 385-6858.

1/31/2019	
DATE	SIGNATURE
	Associate Planner
	TITLE

1) Location Map
2) Planning Commission Resolution #2901
3) Mitigation Monitoring Program
4) Elevations approved by Planning Commission
5) Proposed Elevations
6) Letter from owner
7) Traffic Analysis

N:\SHARED\PLANNING\Site Plan Review\Resolutions\Final Resolutions\2019\SP#432 - Highland Park.doc



SITE PLAN REVIEW #432
HIGHLAND PARK

Disclaimer: This document was prepared for general inquiries only. The City of Merced is not liable for errors or ommissions that might occur. Official information concerning specific parcels should be obtained from recorded or adopted City documents.

N

HIGHLAND PARK

CITY OF MERCED
Planning Commission

Resolution #2901

WHEREAS, the Merced City Planning Commission at its regular meeting of September 20, 2006, held a public hearing and considered **Conditional Use Permit #1092 and Vesting Tentative Subdivision Map #1293 ("Highland Park"),** initiated by Benchmark Engineering, applicants for Bianchi Land Company, property owner, for the construction of approximately 125 single family residential lots, ranging in size from 2,500 to 3,500 square-feet, and improvements to the regional bike trail system. The property is approximately 17.3-acres in size and is located on the south side of Loughborough Drive, approximately 300 feet south of Olive Avenue and 100-feet west of Devonwood Drive within Planned Development #16; also known as Assessor's Parcel Numbers 058-220-042, -043, and -044; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through Z of Staff Report #06-63; with Finding X modified as follows:

X) Staff is recommending that the proposed "Development Standards" be enforced at the time of issuance of a building permit for the units within the current Project's boundary.

Development Standards	Detached Homes
Density	125 dwellings on 17.3 acres 7.11 units / acre
Lot Dimensions	20' – 40' wide 60' –117' deep
Lot Size	1,500 sq. ft, - 3,500 sq. ft. lots
Floor Area Range	900 – 2,000 sq. ft.
Lot Coverage Range	50% to 65%
Building Height	Maximum of 35 feet
Front Setback *	10' – 25'
Garage Setback	20' minimum
Rear Setback *	5' min.

Interior Side Setback *	3' min.
Street-Side Setback *	10' – 25'
Bikeway, Paseo's, and Open Space setbacks	0' min.
Road Right-of-Way Road Sections	Section A is 48-Feet Sections B is 36-Feet Section C is 20-Feet Section D is 28-Feet (Condition #37)
Patio Covers	Comply with setbacks above
Fencing	In compliance with Merced Municipal Code and no side yard fencing.

*** Setback as measured from property line**

WHEREAS, after reviewing the City's Supplemental Environmental Impact Report, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt Supplemental Environmental Impact Report #06-35 and Mitigation Monitoring Program (Exhibit A); and approve Conditional Use Permit #1092 and Vesting Tentative Subdivision Map #1293 ("Highland Park"), subject to the following conditions:

1. Except as may be changed by project Conditions of Approval herein, the proposed project shall be constructed/designed as shown on Exhibits #1, #2, #3, and Attachments B, D and G of Staff Report #06-63.

2. 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.

3. The Project shall comply with applicable conditions set forth in the Merced Market Place Development Plan (adopted by the City Council

in May 2002), and the Final EIR Mitigation Measures (adopted June 11, 1999), and City Council Resolution #2002-126 (adopted May 2002), previously approved for this Project along with the Mitigation Measures found at Attachment H of Staff Report #06-63.

4. Approval of the General Plan Amendment/Site Utilization Plan is subject to the applicants entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include regional traffic impact fees, a Parsons Avenue impact fee, Mello-Roos, etc., as well as payment of fees for off-site traffic improvements identified in Attachment I of Staff Report #06-63; said agreement to be approved by the City Council prior to the adoption of the ordinance or resolution.

5. The developer/applicant shall indemnify, protect, defend, 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, 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. Consistent with the Planned Development ordinance, a Conditional Use Permit for the review of a detailed Development Plan (including building elevations and landscaping) is required. Building designs shall be consistent with the Development Standards set forth in Planned Development #16.

7. Where applicable, public improvements shall be installed per City standards.

8. All conditions contained in *Resolution #1175-Amended ("Standard Tentative Subdivision Map Conditions") and Resolution #1249 ("Standard Conditional Use Permit Conditions")* shall apply.

9. The proposed project shall comply with all standard Municipal Code (including P-D standards, 20.42.070) and Subdivision Map Act requirements as applied by the City Engineering Department.

10. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.

11. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before final map approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure cost and maintenance costs expected prior to first assessments being received.

12. Street names to be approved by City Engineer.

13. Dedicate, by Final Map, all necessary easements, as shown on plans, and as needed for irrigation, utilities, drainage, landscaping, and open space.

14. Developer shall conform to existing sanitary sewer master plan established for the area and share proportionally in any cost of the sewer pump station.

15. Developer shall provide storm drainage calculations, including retention volumes where such volume is proposed, and share proportionally in the cost of the storm pump station located adjacent to Loughborough Drive.

16. Compliance with the 40-foot visual corner is required for corner lots fronting onto public rights of way and may result in the applicant constructing smaller homes on these lots or increasing the front yard setbacks. A 4-foot encroachment for the porch area can be allowed within this area.

17. The proposed setbacks for the homes are approved for all lots, but the driveways must remain 20 feet in length. This distance shall be measured from either the back of sidewalk or from the property line along the private driveways, whichever results in a driveway length without encroachment on the sidewalk area.

18. Developer shall submit landscape/irrigation/wall plans for approval by City Development Services. All walls shall be solid masonry with anti-graffiti coatings. There shall be no walls constructed along Loughborough or Bear Creek Drives. The wall along the western property line shall be 6-feet in height and shall be open for a bike trail. There shall be a tree planted every thirty-feet (30) on center on the eastern side of the western wall, buffering the appearance of the wall from the homes. The wall along the Railroad Right-of-way shall be 17-19 feet in height, or as recommended by a qualified Noise Technician, and a tree shall be planted every thirty-feet (30) on the northern side of the wall buffering the appearance of the wall from the homes.

19. The developers will need to establish an approved Home Owners Association (HOA) (or approved alternative) governing this project.

The HOA will be responsible for the maintenance of all streets and landscaping within the development, sweeping/cleaning of all interior streets, and requiring that refuse containers, basketball hoops and other items not be placed in the Alley lanes. Enforcement of the Alleys and parking restrictions shall be performed by the HOA and all "Alleys" and "Streets" shall be designated as "Tow Away" zones and shall be posted as fire lanes. Prior to Final Map approval, articles of incorporation for the HOA and CC&R'S shall be reviewed and approved by the City Attorney.

20. Fire Hydrants to be provided and spaced in accordance with City of Merced standards. The maximum spacing between hydrants is 500 feet. However, a fire hydrant must be provided at the entrance of each alley. In the case where two private street entrances are across a street from each other, one hydrant may serve both driveways at the discretion of the Fire Department. Placement of fire hydrants and number of hydrants shall be coordinated with the Fire Department prior to Final Map approval.

21. Homeowner's utility meters shall be placed on private streets or sidewalks for access. Meters will not be placed on private driveways or alleys to facilitate reading meters.

22. The dead-end drive areas shall be constructed using stamped asphalt texture to give the appearance of either bricks or cobblestone. Said placement and type of stamped asphalt texture shall be coordinated with City Public Works and Development Services Staff prior to Final Map approval.

23. Home Owners refuse containers shall be located on the "private streets" on collection day. City vehicles will not travel on the alleys to collect refuse.

24. Refuse containers shall be stored out of site of the general public, including those homes located on the alleys. A concrete pad (3 x 6 foot minimum) shall be installed in the side or back yard of each unit to house refuse containers with a paved access to the street. An

access and PUE easement for City refuse service and other City Services shall be granted to the City.

25. City utility service (water and sewer) connections shall be located under the driveway for each lot. Water lines are privately owned and maintained between the meter and the home. Sewer lines are privately owned and maintained from the point of connection to the City-owned main sewer line. An access and PUE easement shall be granted to the City for all City Utilities in private streets.

26. All open areas and private streets/driveways, except the specifically identified City owned park/storm basin and Class 1 bikeways and associated public rights of way (including the oak grove), will be fully maintained by the HOA, and shall not be dedicated to the City of Merced.

27. The project shall incorporate the existing 20-foot-wide right-of-way (along the Railroad Right-of-Way) and dedicate a 10-foot-wide right-of-way along North Bear Creek and the east property line for bikeway purposes. The bike path shall comply with the *Merced Vision 2015 General Plan* requirements.

28. The park-lot and the open-space preserve shall not be considered a "park" or "open space" by City Standards for the purpose of fee credit. However, it will need to remain unfenced, except for the tot lot equipment, and shall serve as open space. The HOA shall maintain the park lot and the CFD shall maintain the open space preserve.

29. The Parks and Community Services Director shall review and approve the design and the layout for the park-lot and open-space preserve and the Class 1 bikeways prior to Final Map approval.

30. The private streets shall not be considered a "street" or an "alley" by City Standards. However, they will need to remain unfenced and shall serve the homes that have access to them. The Home Owners

Association shall maintain these driveways and enforce the "no parking" requirement.

31. No side-yard fences shall be allowed between the homes where there is less than 10 feet between homes. (This case exists throughout the subdivision.) Windows on these side elevations shall be offset so that in no case shall windows on adjacent homes face each other to prevent fire from spreading from house to house.

32. The private streets within the development shall have right-of-ways of 48.5 feet, 36-feet, and 28-feet with parking, park-strips, and sidewalks on one side only, and a 20-foot right-of-way without parking, as noted on Attachment B of Staff Report #06-63. Trees shall be planted with root barriers to help prevent damage to the sidewalk. A front yard landscape tree or a City street tree shall in planted in each lot. The City street tree shall be within the Public Utilities Easement (PUE) along the private streets and deed restrictions shall clearly state that these trees are the property of the City and shall not be removed.

33. A minimum turning radius of 33 feet inside, 47 feet curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the subdivision. Refuse containers or other items shall not be permitted to be placed in the required clear space of the turning area.

34. The following design features shall be added to the elevations for the homes throughout the subdivision:

    a. *Garage Doors*: Design features such as windows and door molds, or driveway pavement treatments such as aggregate, integral color, and stamped patterns, shall be added. These designs shall be varied from one lot to the other.

    b. *Front Elevations:*

i. Except as modified by these conditions, the front elevation shall contain all features shown on Attachment D of Staff Report #06-63; none of the features shall be considered options.

ii. Each floor plan is to be evenly distributed throughout the site. Prior to submittal of building permits, the applicant shall provide the Development Services Director with a "distribution plan" showing the: house plan, color, roof material, porch design, and garage door/pavement design selected for each lot. In no case, shall any more than two adjacent lots in a row have the same above noted features.

iii. Blank rear and side elevations visible from a street shall not be permitted. The elevation shall include functional features (windows and doors), or be adorned with attractive features in addition to landscaping.

iv. The color palette for houses shall be varied (at least 6 distinct sets of colors) and be consistent with the style of the house.

v. High quality aesthetically pleasing materials (wood, stone, iron, pre-formed plastic fencing, etc.) shall be used.

35. The development shall only install vertical curb on public streets, with the option of rolled curb and/or valley gutters on private streets and alleys.

36. Lots 22 through 28, Lots 35 & 36, and Lots 49 through 51 contain a Public Utility Easement where Mistwood Drive was proposed. There shall be no buildings or porches constructed within the easement.

37. The applicant is required to complete specific off-site traffic improvements in accordance with the Mitigation Measures contained

in the Supplemental EIR (See Attachment I of Staff Report #06-63). Said improvements shall be constructed, or bonded for, within 12 months of final map recordation. The following shall be completed by the applicant:

a. The following improvements to the W. Olive Avenue/Austin Drive intersection: (spell out as specified in the March 6, 2006 technical memorandum from Fehr & Peers). These improvements are to be paid and installed by the applicant with no reimbursement; and,

b. Modifications of the southbound traffic lanes and adjacent sidewalk on the "R" Street leg of the Olive Avenue/"R" Street intersection so that a right-turn lane is created by striping and relocation of the bike path to a widened sidewalk. These improvements are to be paid and installed by the applicant with no reimbursement; and,

c. Based on a traffic study of the Olive Avenue/"R" Street intersection (to be completed by the applicant), assuming a cumulative build-out scenario as specified by City Staff, provide the City a plan of the intersection showing improvements and right-of-way necessary for the intersection to operate at LOS D on all approaches in the p.m. peak hour. Sufficient detail is needed to show how the plan would affect on-site structures, infrastructures, buildings, and landscaping.

38. The developer shall coordinate with Merced County Public Works ("The Bus") on the design and location of the bus stop.

39. Each of the four (4) access driveways that intersect with Devonwood Drive shall have a texture surface that encompasses the entire intersection from curb-to-curb (spanning the entire width of Devonwood Drive and the entire length of the drive aisle) for traffic calming purposes.

40. There shall be 5 foot in width concrete connection sidewalks placed at each of the 4 drive aisles that intersect with the drive aisle that parallels the regional bike trail.

Upon motion by Commissioner Ward, seconded by Commissioner Conte, and carried by the following vote:

AYES: Commissioners Acheson, Amey, Conte, Fisher, Ward, Burr, and Chairman Shankland
NOES: None
ABSENT: None

Adopted this 20th day of September, 2006

Chairman, Planning Commission of the City of Merced, California

ATTEST:

Secretary

n:shared:planning:PC Resolutions:#2901 CUP#1092 & VTSM#1293 Highland Park

Exhibit A – Mitigation Monitoring Program

ENVIRONMENTAL REVIEW #06-35
for
HIGHLAND PARK

Appendix A
Mitigation Monitoring Program

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own "Mitigation Monitoring and Reporting Program" (MMC 19.28). The City's program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor's Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

1) The requirements of the adopted mitigation monitoring program for the "Highland Park Project" shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City's construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be

required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

General Plan Mitigation Measures

As a second tier environmental document, the Highland Park Project environmental review incorporates some mitigation measures adopted as part of the *Merced Vision 2015 General Plan Program Environmental Impact Report* (SCH# 95082050), as mitigation for potential impacts of the Project.

Noncompliance Complaints

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

Monitoring Matrix

The following pages provide a series of tables identifying the mitigation measures proposed specifically for the "Highland Park Project." The columns within the tables are defined as follows:

Mitigation Measure:	Describes the Mitigation Measure (referenced by number).
Timing:	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
Agency/Department Consultation:	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation.
Verification:	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

Highland Park Project
Mitigation Monitoring Checklist

Project Name:_____ **File Number:**_____
Approval Date:_____ **Project Location** _____
Brief Project Description_____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-1	Reduction in acceptable Level of Service at one signalized intersection & 3 unsignalized intersections due to project-generated traffic.	3.1-1	Construct a new signalized intersection at SR 59/West 16th Street.	Significant	Less Than significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-2	Construct a new signalized intersection at SR 59/Cooper Avenue.			Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-1 Cont.	Cont.	3.1-3	Construct a new signalized intersection at West Olive Avenue/Meadows Avenue.	Significant	Less than Significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-4	Implement a coordinated signal timing plan along West Olive Avenue between SR 59 & R Street to improve traffic progression & LOS operations at the 4 existing & one proposed signalized intersections along the major east-west arterial.			The developer will be responsible for submittal & funding of the signal timing plan. Approval of the plan, monitoring & inspections & ongoing maintenance will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-1 Cont.	Cont.	3.1-5	Implement a protected overlap phase for the northbound right-turn movement from SR 59 to eastbound West Olive Avenue.	Significant	Less than Significant	The developer will be responsible for submittal & funding of the signal modification plan. Approval of the plan, monitoring & inspections & ongoing maintenance will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-2	Reduction in acceptable Level of Service on specific roadway segments (West Olive Avenue & R Street) due to project-generated traffic.		None required.	Less than Significant		None required.
3.1-3	Reduction in acceptable Level of Service at 3 signalized intersections & 3 unsignalized intersections due to project-generated traffic.	3.1-1	Same as above.	Significant	Less than Significant	Same as above.
		3.1-2	Same as above.			Same as above.
		3.1-3	Same as above.			Same as above.
		3.1-4	Same as above.			Same as above.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-3 Cont.	Cont.	3.1-6	Modify the westbound lane configurations at West Olive Avenue/Austin Avenue to provide dual left-turn lanes to accommodate project-generated traffic entering the project site.	Significant	Less than Significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-7	Modify the northbound lane configurations at West Olive Avenue/R Street to provide dual left-turn lanes or other design to provide for sufficient left-turn movements. Additional traffic studies may be needed to ensure LOS levels at all legs of intersection are acceptable given the selected design.			The developer will be responsible for preparation of plans and improvement of the site. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-4	Reduction in acceptable Level of Service on a specific roadway segment (West Olive Avenue) due to project-generated traffic.	3.1-5	Same as above.	Significant	Less than Significant	Same as above.
3.1-5	Reduction in intersection service levels at 4 existing unsignalized intersections & 3 signalized intersections	3.1-2	Same as above.	Significant, Cumulative	Less than Significant	Same as above.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
	with the addition of project-generated traffic under Cumulative Plus Project Conditions.					
3.1-5 Cont.	Cont.	3.1-3	Same as above.	Significant, Cumulative	Less than Significant	Same as above.
		3.1-4	Same as above.			Same as above.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-9	Modify the southbound lane geometry of the SR 59/West 16th Street intersection to add one exclusive left-turn lane & modify the eastbound lane geometry to add one exclusive left-turn lane & a shared left-through configuration.			Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-5 Cont.	Cont.	3.1-10	Because of the identified need to construct new signalized intersections at both SR 59/Cooper Avenue & SR 59/Willowbrook Drive, & the General Plan Policy to provide ¼ to ½ mile intersection spacing on major arterials like SR 59, it is proposed that Willowbrook Drive be realigned to form a 4-legged intersection at SR 59/Cooper Avenue/Willowbrook Drive.	Significant, Cumulative	Less than Significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-12	Add one exclusive northbound right turn lane to the West Olive Avenue/Austin Avenue intersection.			The developer will be responsible for preparation of plans and improvement of the site. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-5 Cont.	Cont.	3.1-13	Restripe the southbound approach to the West Olive Avenue/R Street intersection to provide an exclusive right-turn lane.	Significant, Cumulative	Less than Significant	The developer will be responsible for preparation of plans and improvement of the site. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-6	Reduction in Level of Service on specific roadway segments due to the addition of project-generated traffic under Cumulative Plus Project Conditions.	3.1-11	Construct another EB Olive thru lane; EB Olive RT lane; WB Olive LT lane; EB Olive RT lane; NB SR 59 thru lane; and SB SR 59 thru lane.	Significant, Cumulative (impact on SR 59) Significant, Cumulative (impact on West Olive Avenue)	Significant, Cumulative (impact on SR 59) Less than Significant (impact on West Olive Avenue)	Terms regarding contribution of the project's fair share, reimbursement & impact fee credits will be incorporated in the development agreement for the project. The developer will be responsible for submittal & funding of the

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
						signal phasing plan. Approval of the plan, monitoring & inspections, & ongoing maintenance will be conducted by the City of Merced Engineering & Inspection Services Depts.

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required mitigation measures have been implemented as evidenced by the Schedule of Tasks and Sign-Off Checklist, and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

_____ _____

Environmental Coordinator Date

APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR— HIGHLAND PARK PROJECT

	Mitigation Measure	*Timing*	*Agency or Department Consultation*	*City Verification (date and initials)*
	Plant/Animal Life			
3-a)	When site-specific development proposals are submitted to the City for review and action, surveys should be conducted for special-status species prior to the disturbance of potentially suitable habitat. All surveys will be conducted in accordance with applicable state and federal guidelines.	*Tentative Subdivision Map*	*City Planning*	
	Traffic/Circulation			
7-a)	Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection levels of service below "D."	*General Plan Amendment*	*City Planning*	
7-b)	The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.	*Certificate of Occupancy*	*City Planning*	
	Public Facilities/Services			
8c)	Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.	*Tentative Subdivision Map*	*City Planning*	
8-d)	Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.	*Certificate of Occupancy*	*City Planning*	

Highland Park Project
Mitigation Monitoring Checklist

Project Name:_____ **File Number:**_____
Approval Date:_____ **Project Location** _____
Brief Project Description_____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-1	Reduction in acceptable Level of Service at one signalized intersection & 3 unsignalized intersections due to project-generated traffic.	3.1-1	Construct a new signalized intersection at SR 59/West 16th Street.	Significant	Less Than significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-2	Construct a new signalized intersection at SR 59/Cooper Avenue.			Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-1 Cont.	Cont.	3.1-3	Construct a new signalized intersection at West Olive Avenue/Meadows Avenue.	Significant	Less than Significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-4	Implement a coordinated signal timing plan along West Olive Avenue between SR 59 & R Street to improve traffic progression & LOS operations at the 4 existing & one proposed signalized intersections along the major east-west arterial.			The developer will be responsible for submittal & funding of the signal timing plan. Approval of the plan, monitoring & inspections & ongoing maintenance will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-1 Cont.	Cont.	3.1-5	Implement a protected overlap phase for the northbound right-turn movement from SR 59 to eastbound West Olive Avenue.	**Significant**	Less than Significant	The developer will be responsible for submittal & funding of the signal modification plan. Approval of the plan, monitoring & inspections & ongoing maintenance will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-2	Reduction in acceptable Level of Service on specific roadway segments (West Olive Avenue & R Street) due to project-generated traffic.		None required.	Less than Significant		None required.
3.1-3	Reduction in acceptable Level of Service at 3 signalized intersections & 3 unsignalized intersections due to project-generated traffic.	3.1-1	Same as above.	Significant	Less than Significant	Same as above.
		3.1-2	Same as above.			Same as above.
		3.1-3	Same as above.			Same as above.
		3.1-4	Same as above.			Same as above.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-3 Cont.	Cont.	3.1-6	Modify the westbound lane configurations at West Olive Avenue/Austin Avenue to provide dual left-turn lanes to accommodate project-generated traffic entering the project site.	Significant	Less than Significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-7	Modify the northbound lane configurations at West Olive Avenue/R Street to provide dual left-turn lanes or other design to provide for sufficient left-turn movements. Additional traffic studies may be needed to ensure LOS levels at all legs of intersection are acceptable given the selected design.			The developer will be responsible for preparation of plans and improvement of the site. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-4	Reduction in acceptable Level of Service on a specific roadway segment (West Olive Avenue) due to project-generated traffic.	3.1-5	Same as above.	Significant	Less than Significant	Same as above.
3.1-5	Reduction in intersection service levels at 4 existing unsignalized intersections & 3 signalized intersections	3.1-2	Same as above.	Significant, Cumulative	Less than Significant	Same as above.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
	with the addition of project-generated traffic under Cumulative Plus Project Conditions.					
3.1-5 Cont.	Cont.	3.1-3	Same as above.	Significant, Cumulative	Less than Significant	Same as above.
		3.1-4	Same as above.			Same as above.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-9	Modify the southbound lane geometry of the SR 59/West 16th Street intersection to add one exclusive left-turn lane & modify the eastbound lane geometry to add one exclusive left-turn lane & a shared left-through configuration.			Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
3.1-5 Cont.	Cont.	3.1-10	Because of the identified need to construct new signalized intersections at both SR 59/Cooper Avenue & SR 59/Willowbrook Drive, & the General Plan Policy to provide ¼ to ½ mile intersection spacing on major arterials like SR 59, it is proposed that Willowbrook Drive be realigned to form a 4-legged intersection at SR 59/Cooper Avenue/Willowbrook Drive.	Significant, Cumulative	Less than Significant	Terms regarding contribution of the project's fair share, reimbursements & impact fee credits will be incorporated in the development agreement for the project. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
		3.1-12	Add one exclusive northbound right turn lane to the West Olive Avenue/Austin Avenue intersection.			The developer will be responsible for preparation of plans and improvement of the site. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-5 Cont.	Cont.	3.1-13	Restripe the southbound approach to the West Olive Avenue/R Street intersection to provide an exclusive right-turn lane.	Significant, Cumulative	Less than Significant	The developer will be responsible for preparation of plans and improvement of the site. Monitoring & inspections will be conducted by the City of Merced Engineering & Inspection Services Depts.
3.1-6	Reduction in Level of Service on specific roadway segments due to the addition of project-generated traffic under Cumulative Plus Project Conditions.	3.1-11	Construct another EB Olive thru lane; EB Olive RT lane; WB Olive LT lane; EB Olive RT lane; NB SR 59 thru lane; and SB SR 59 thru lane.	Significant, Cumulative (impact on SR 59) Significant, Cumulative (impact on West Olive Avenue)	Significant, Cumulative (impact on SR 59) Less than Significant (impact on West Olive Avenue)	Terms regarding contribution of the project's fair share, reimbursement & impact fee credits will be incorporated in the development agreement for the project. The developer will be responsible for submittal & funding of the

Impact No.	Impact	Mitigation No.	Mitigation Measures	Level of Significance		Monitoring Program
				Before Mitigation	After Mitigation	
						signal phasing plan. Approval of the plan, monitoring & inspections, & ongoing maintenance will be conducted by the City of Merced Engineering & Inspection Services Depts.

Certificate of Completion:
By signing below, the environmental coordinator confirms that the required mitigation measures have been implemented as evidenced by the Schedule of Tasks and Sign-Off Checklist, and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

_____ _____

Environmental Coordinator Date

APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR— HIGHLAND PARK PROJECT

	Mitigation Measure	*Timing*	*Agency or Department Consultation*	*City Verification (date and initials)*
	Plant/Animal Life			
3-a)	When site-specific development proposals are submitted to the City for review and action, surveys should be conducted for special-status species prior to the disturbance of potentially suitable habitat. All surveys will be conducted in accordance with applicable state and federal guidelines.	*Tentative Subdivision Map*	*City Planning*	
	Traffic/Circulation			
7-a)	Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection levels of service below "D."	*General Plan Amendment*	*City Planning*	
7-b)	The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.	*Certificate of Occupancy*	*City Planning*	
	Public Facilities/Services			
8c)	Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.	*Tentative Subdivision Map*	*City Planning*	
8-d)	Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.	*Certificate of Occupancy*	*City Planning*	

Traffic Improvement Phasing Plan / September 20, 2006

Phasing of Mitigation Measures			
Phase 1			
MM / Facility Site	*Mitigation Measure*	*Install Phase*	*Responsibility*
1. Hwy 59 /16th	Signal	I* & **	Payment of Fees
2. Hwy 59 / Cooper	Signal	I	Payment of Fees
3. Olive / Meadows	Signal	I	Payment of Fees
4. Olive from Hwy 59 to "R" Street	Signal Timing	I	100% Project – Phase I
5. Hwy 59 / Olive Ave	NB right-turn Overlap	I	100% Project – Phase I
Devonwood ("Carryover" Mitigation Measure 3.2-11)	Traffic Calming Measures ("Carryover" Mitigation Measure 3.2-11)	I	100% Project – Phase I.
Phase II			
Facility Site	**Mitigation Measure**	*Install Phase*	*Responsibility*
6. Olive / Austin	WB Dual Left (Olive) ***	II	100% Project – Phase II
7. Olive / "R" Street	**MM 3.1-7: NB Dual Left**	II	100% Project – Phase II
Cumulative			
Facility Site	*Mitigation Measure*	*Install Phase*	*Responsibility*
9. Hwy 59 / 16th Street	MM 3.1-9: **Add left turn lanes on SB Hwy 59 and EB 16th Street**	II*	50% Reimbursable / 50% Shared between Phases I and II.
10. Hwy 59 / Willowbrook	Align Willow/Cooper	I	Payment of Fees
11. Hwy 59 / Olive	MM 3.1-11: **Add: EB Olive thru lane; EB Olive RT lane; WB Olive LT lane; EB Olive RT lane; NB SR 59 thru lane; and SB SR 59 thru lane.**	II*	100% Reimbursable
12. Olive / Austin	**MM 3.1-12: Exclusive NB right-turn lane**	II	100% Project
13. Olive / "R" Street	**MM 3.1-13: SB exclusive right-turn.**	II	100% Project

* Alternative is deferred improvement w/project impact fees earmarked for Hwy 59 widening project
** Interim measure is to add exclusive SB right-turn lane
*** Already installed with Phase I

Attachment J

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Approved by Planning Commission 9/20/2006



PACIFIC PRIDE VILLAS

streetscape

PACIFIC PRIDE COMMUNITIES

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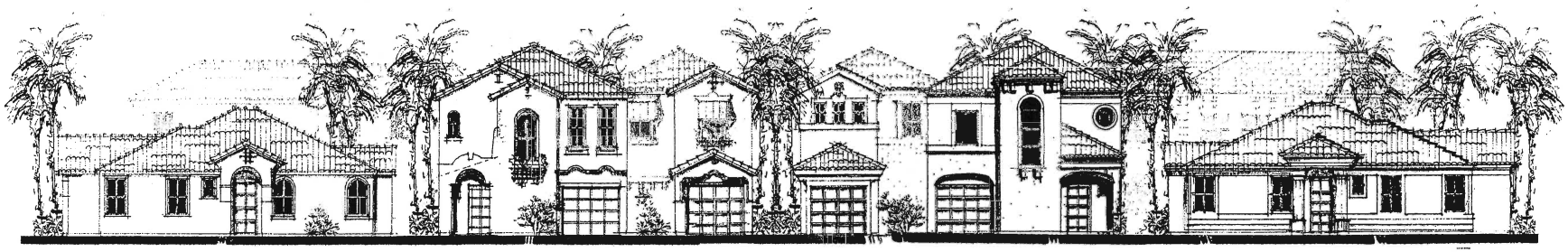

PACIFIC PRIDE VILLAS

streetscape

PACIFIC PRIDE
COMMUNITIES

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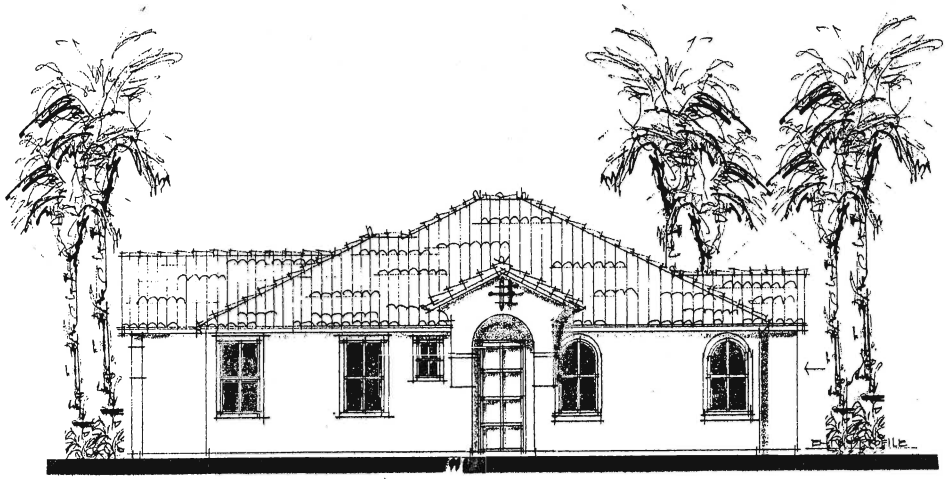
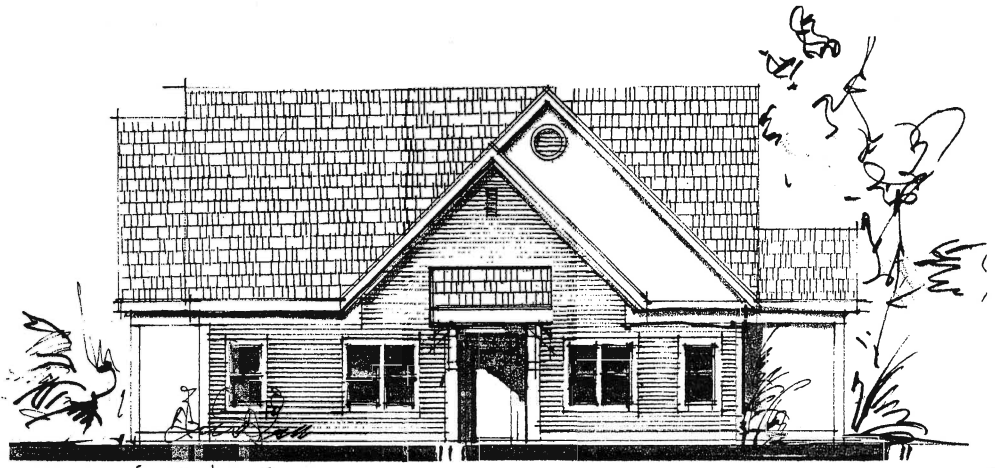
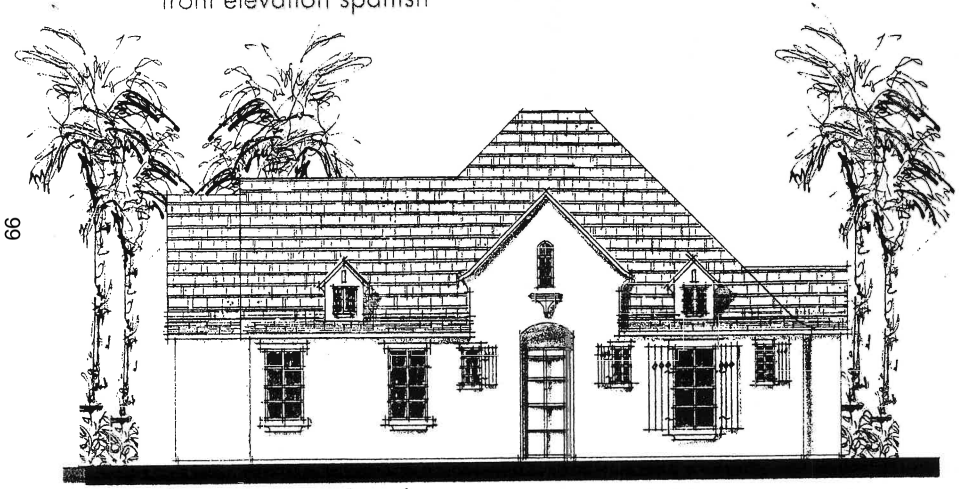


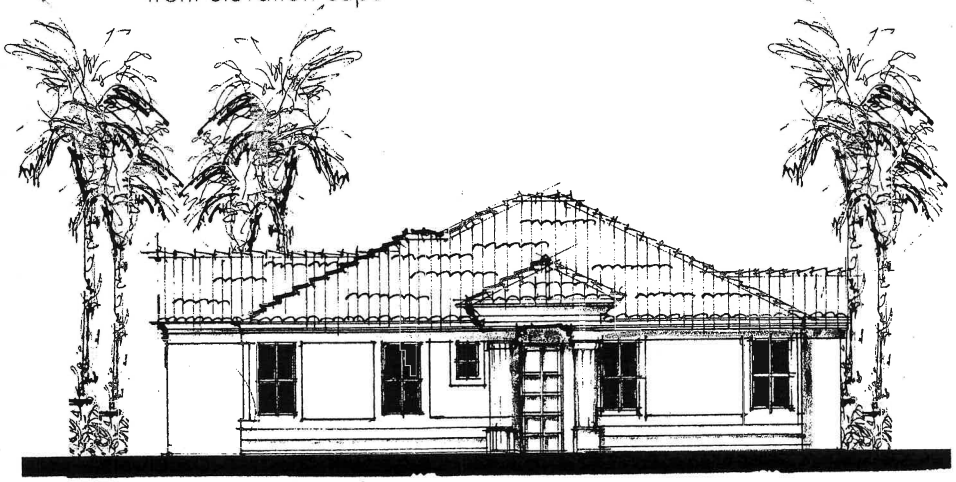
front elevation spanish



front elevation cape



front elevation french



front elevation italianate

PACIFIC PRIDE VILLAS

Plan A

PACIFIC PRIDE COMMUNITIES

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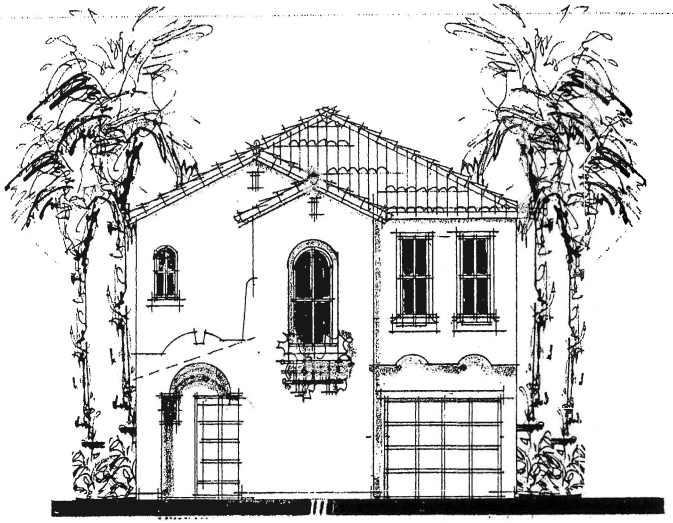


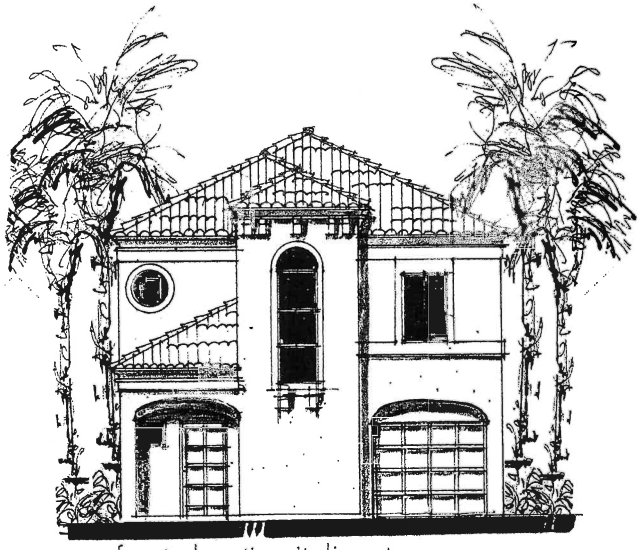
front elevation spanish



front elevation cape



front elevation french



front elevation italianate

PACIFIC PRIDE VILLAS

Plan B

PACIFIC PRIDE COMMUNITIES

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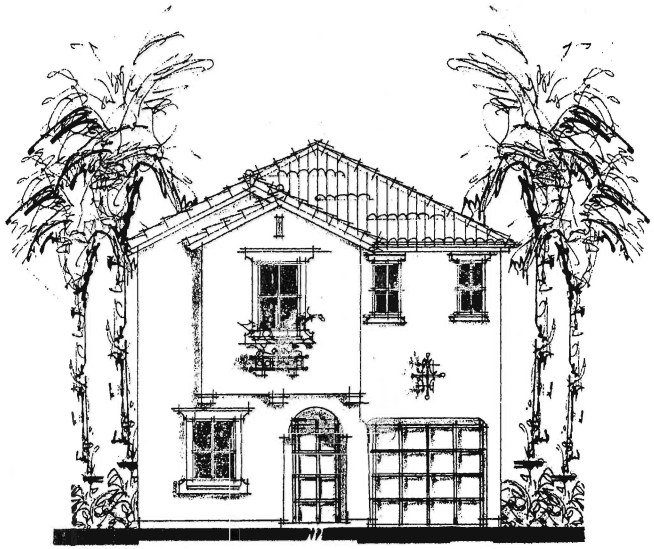
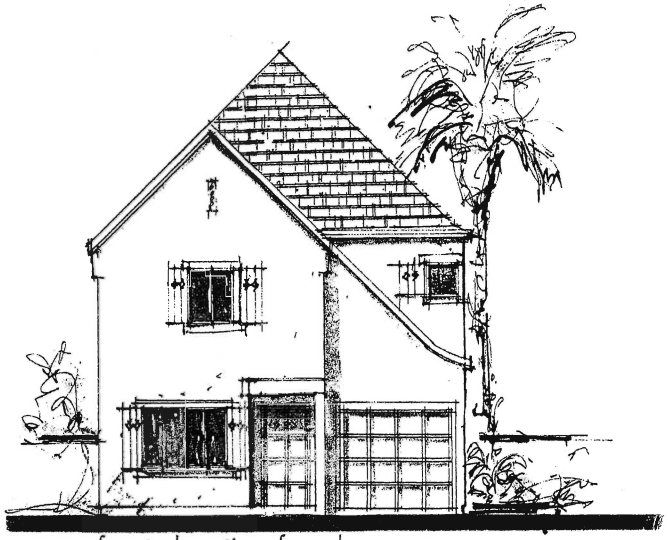
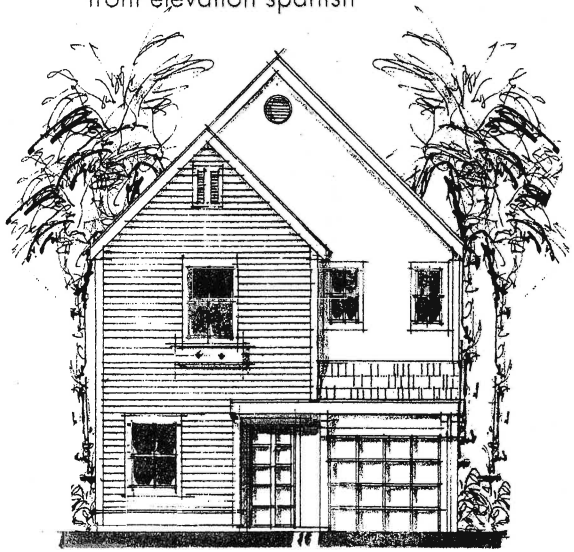


front elevation spanish



front elevation french



front elevation cape



front elevation italianate

PACIFIC PRIDE VILLAS

Plan C

PACIFIC PRIDE

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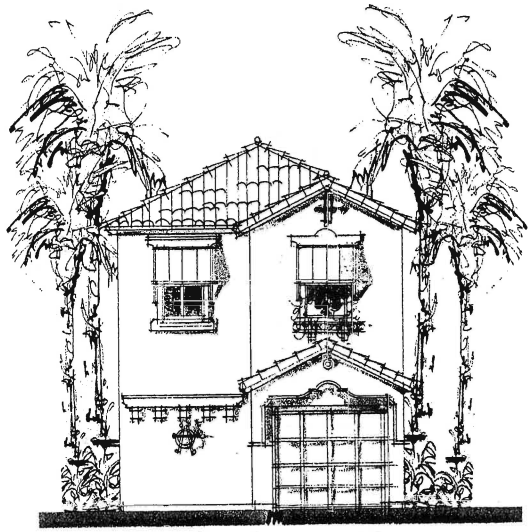
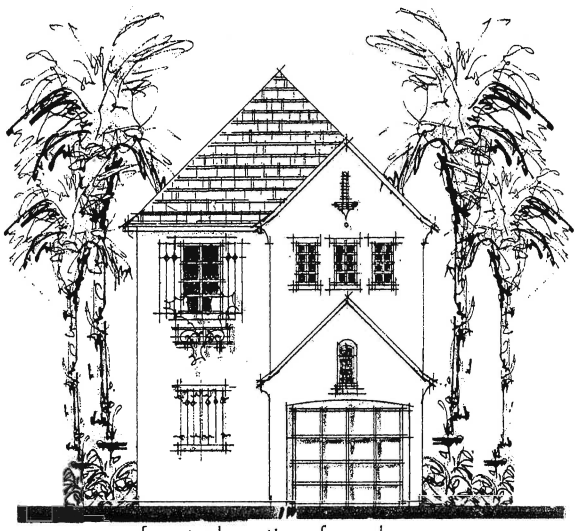


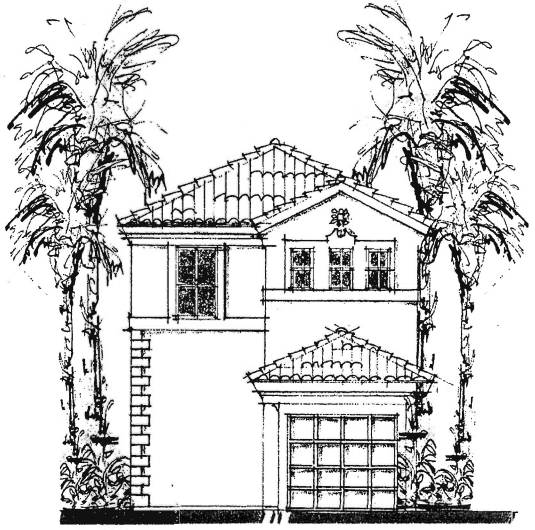
front elevation spanish



front elevation french



front elevation cape



front elevation italianate

PACIFIC PRIDE VILLAS

Plan D

PACIFIC PRIDE

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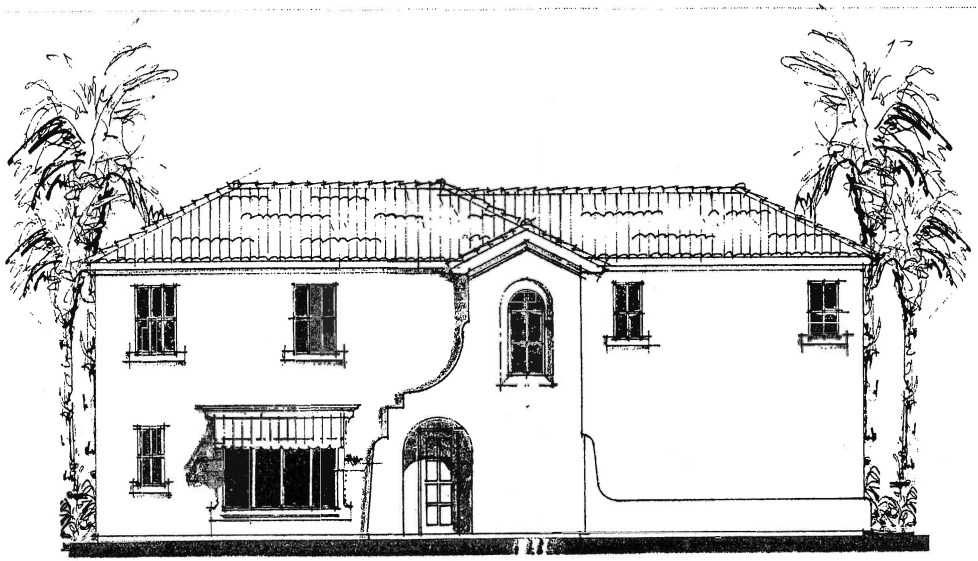
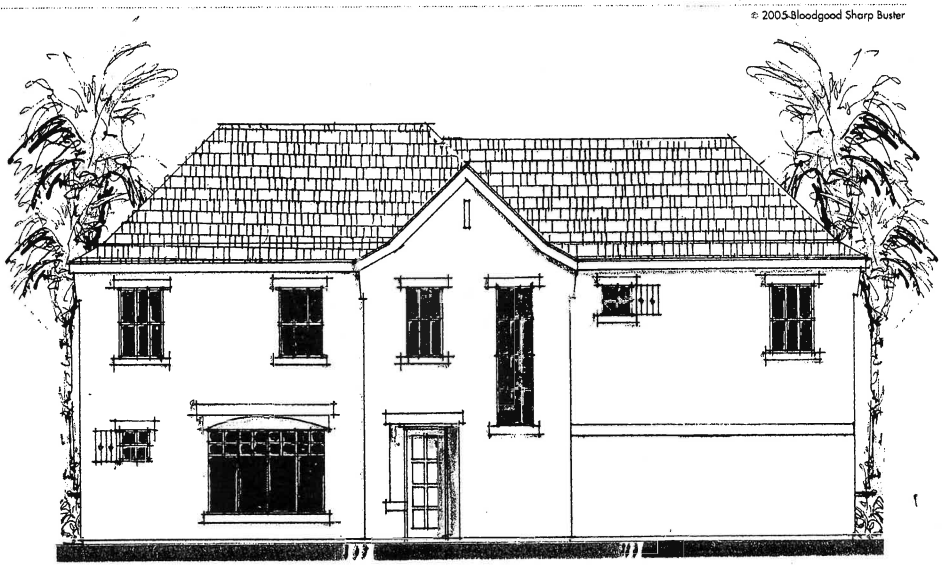


front elevation spanish



front elevation french



front elevation cape



front elevation italianate

PACIFIC PRIDE VILLAS

Plan E

PACIFIC PRIDE COMMUNITIES



Paseo



Front

Plan A - Spanish
Scale: 1/4" = 1'-0"

CP CAPITAL CONSULTANTS
Fullerton, CA

PACIFIC PRIDE VILLAS
MERCED, CA

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Paseo



Front

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Plan A - Craftsman
Scale: 1/4" = 1'-0"

PACIFIC PRIDE VILLAS
MERCED, CA

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Paseo



Front

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Plan A - French
Scale: 1/4" = 1'-0"

PACIFIC PRIDE VILLAS
MERCED, CA

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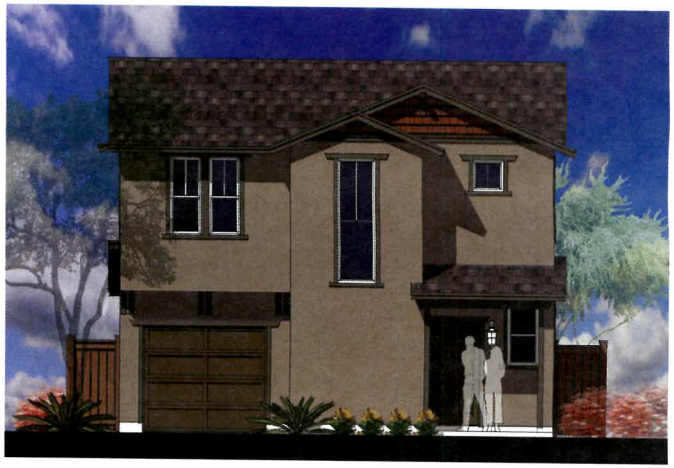
French



Craftsman



Spanish

Plan B
Scale: 1/4" = 1'-0"

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MERCED, CA

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French



Craftsman



Spanish

Plan C
Scale: 1/4" = 1'-0"

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French



Craftsman



Spanish

Plan D
Scale: 1/4" = 1'-0"

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MERCED, CA

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Paseo



Front

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Plan E - Spanish
Scale: 1/4" = 1'-0"

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MERCED, CA

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Paseo



Front

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Fullerton, CA

Plan E - Craftsman
Scale: 1/4" = 1'-0"

PACIFIC PRIDE VILLAS
MERCED, CA

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Paseo



Front

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Plan E - French
Scale: 1/4" = 1'-0"

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MERCED, CA

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REQUEST TO REMOVE TRAFFIC MITIGATION MEASURES

RE: Highland Park Project, 124 homes on Devonwood Drive, Merced, CA

Julie,

Based upon the findings of the traffic study that we have submitted to the city, we are requesting the following mitigation measures/conditions be removed from the project. Our understanding of the study and our discussions with the consultant reflect that these intersections will operate at acceptable levels after the project is built out in their current state, or that the improvements have already been made.

1. Item #6 of Attachment J, to the Traffic Improvement Phasing Plan relating to a WB dual turn lane at Olive and Austin.
2. Item #7 of Attachment J, relating to a NB dual left turn lane at Olive and R Street.
3. Item #9 of Attachment J, relating to left turn lanes at Hwy 59 and 16th Street.
4. Item #11 of Attachment J, relating to improvements at Olive and Hwy 59.
5. Item #12 of Attachment J, relating to NB right turn lane at Olive and Austin.
6. Item #13 of Attachment J, relating to SB right turn at Olive and R Street.

Sincerely,

Craig Potter
Devonwood 64, LP

PHASE 1 = LOWES
PHASE 2 = PROJECT

Traffic Improvement Phasing Plan / September 20, 2006

MM / Facility Site	Mitigation Measure	Install Phase	Responsibility
1. Hwy 59 /16th	Signal	I* & **	Payment of Fees
2. Hwy 59 / Cooper	Signal	I	Payment of Fees
3. Olive / Meadows	Signal	I	Payment of Fees
4. Olive from Hwy 59 to "R" Street	Signal Timing	I	100% Project – Phase I
5. Hwy 59 / Olive Ave	NB right-turn Overlap	I	100% Project – Phase I
Devonwood ("Carryover" Mitigation Measure 3.2-11)	Traffic Calming Measures ("Carryover" Mitigation Measure 3.2-11)	I	100% Project – Phase I
Facility Site	**Mitigation Measure**	*Install Phase*	*Responsibility*
6. Olive / Austin	WB Dual Left (Olive) ***	II	100% Project – Phase II
7. Olive / "R" Street	MM 3.1-7: NB Dual Left	II	100% Project – Phase II
Facility Site	*Mitigation Measure*	*Install Phase*	*Responsibility*
9. Hwy 59 / 16th Street	MM 3.1-9: Add left turn lanes on SB Hwy 59 and EB 16th Street	II*	50% Reimbursable / 50% Shared between Phases I and II.
10. Hwy 59 / Willowbrook	Align Willow/Cooper	I	Payment of Fees
11. Hwy 59 / Olive	MM 3.1-11: Add: EB Olive thru lane; EB Olive RT lane; WB Olive LT lane; EB Olive RT lane; NB SR 59 thru lane; and SB SR 59 thru lane.	II*	100% Reimbursable
12. Olive / Austin	MM 3.1-12: Exclusive NB right-turn lane	II	100% Project
13. Olive / "R" Street	MM 3.1-13: SB exclusive right-turn.	II	100% Project

* Alternative is deferred improvement w/project impact fees earmarked for Hwy 59 widening project
** Interim measure is to add exclusive SB right-turn lane
*** Already installed with Phase I

September 11, 2018

Mr. Craig Potter
CP Capital Consultants
823 N Harbor Boulevard
Fullerton, CA 92832

Subject: ***Highland Park Project Traffic Analysis***

Dear Mr. Potter -

On behalf of KD Anderson & Associates (KDA), I am pleased to submit this letter report presenting our traffic analysis of the Highland Park project. The following is:

- an executive summary of the analysis,
- our understanding of the project,
- a description of the methods used in the analysis, and
- the results of the analysis.

Enclosed separately is a technical appendix presenting:

- traffic volume count data reports,
- level of service (LOS) calculation worksheets, and
- travel demand model output.

EXECUTIVE SUMMARY

This letter report presents traffic analysis of the Highland Park project in the City of Merced. The enclosed **Figure 1** shows the roadway network in the study area. The enclosed **Figure 2** shows the roadway network in the immediate vicinity of the project site. The enclosed **Figure 3** shows a site plan for the project.

This report presents analysis of traffic operations at four intersections that would provide vehicle access to the project site. The enclosed **Figure 1** shows the study intersections for this report.

The objective of the analysis presented in this letter report is to determine whether the Highland Park project would have a significant traffic-related impact on the study intersections. The analysis concludes the project would not have a significant traffic-related impact on study intersections.

PROJECT UNDERSTANDING

The Highland Park project is located in the City of Merced, in the general area:

- south of Olive Avenue,
- northeast of the Santa Fe railroad,
- east of State Route (SR) 59, and
- west of R Street.

The enclosed **Figure 1** shows the roadway network in the study area.

The project site is located along the south side of a U-shaped roadway, which is Loughborough Drive to the west and Austin Avenue to the east. The enclosed **Figure 2** shows the roadway network in the immediate vicinity of the project site.

Retail commercial land uses are located adjacent to the Highland Park project site, including a Walmart facility to the northwest and a Lowe's facility to the north. Other commercial land uses are located in the vicinity of the project site along Olive Avenue.

The Highland Park project would include 124 single-family detached units. **Figure 3** presents a site plan displaying the arrangement of proposed land uses on the project site.

The Highland Park project site was included in a traffic analysis prepared for an environmental impact report (EIR) on a larger project site that included, for example, the Walmart site. The traffic analysis presented in this letter report augments traffic analysis presented in a *Supplemental Environmental Impact Report SCH #1998091004 – Original Application Site Utilization Plan Revision #17 to Planned Development #16 Lot Split #98-03 – Current Application General Plan Amendment #06-06 Site Utilization Plan Revision #22 to Planned Development #16* (SEIR) prepared by the City of Merced in July 2006. While the previous SEIR analyzed the impacts of land use development including an area larger than the Highland Park project site, the analysis presented in this letter report focuses on the direct traffic-related impacts of solely the Highland Park project site. If needed, this letter report identifies improvements required to ensure acceptable traffic operations.

Because the analysis presented in this letter report augments the traffic analysis presented in the SEIR, many of the methods, assumptions, and approaches applied in the SEIR are also applied in this letter report. As described in more detail below in the *Analysis Methods* section of this letter report, some methods, assumptions, and approaches have been updated to reflect current industry-standard analysis.

ANALYSIS METHODS

The following is a description of the methods and assumptions used in the traffic analysis presented in this letter report.

As noted earlier in this letter report, the analysis presented in this report augments the traffic analysis presented in the SEIR. Therefore, many of the methods, assumptions, and approaches applied in the SEIR are also applied in this letter report. Descriptions provided in the SEIR are incorporated by reference, including:

- descriptions of existing transportation systems in the vicinity of the project site;
- standards of significance;
- relevant General Plan policies, special issues, and standards; and
- software used to analyze LOS.

While the items listed above are incorporated by reference into this letter report, some methods, assumptions, and approaches have been updated to reflect current industry-standard analysis or analysis focused on the Highland Park project. The following is a description of updated or focused methods, assumptions, and approaches applied in the analysis presented in this letter report.

Study Area Intersections

Traffic operations at intersections that would provide vehicle access to the Highland Park project site were analyzed for this letter report. In consultation with City of Merced staff, the following four intersections were analyzed for this letter report:

1. Olive Avenue & Loughborough Drive
2. Olive Avenue & Austin Avenue
3. Olive Avenue & Meadows Avenue
4. Olive Avenue & R Street

These four intersections are considered most likely to experience impacts associated with development of the Highland Park project. The locations of the study intersections are presented in the enclosed **Figure 1**. The numbers listed above correspond to the intersection numbers on **Figure 1**.

Study Scenarios

As noted previously, the objective of the analysis presented in this letter report is to identify the direct traffic-related impacts of development of the Highland Park project site. Therefore, in consultation with City of Merced staff, the analysis presented in this letter report focuses on:

- Existing Conditions, and
- Existing Plus Project Conditions.

Level of Service Analysis Procedures

Level of service analysis provides a quantitative basis for describing traffic operating conditions. LOS measures the quality of traffic flow and is represented by letter designations from A to F, with a grade of A referring to the best conditions, and F representing the worst conditions. The characteristics associated with the various LOS are presented in the enclosed **Table 1**.

Level of service was analyzed for the SEIR using the most recent version of the *Highway Capacity Manual* and *Synchro* analysis software package available at the time. Both the *Highway Capacity Manual* and *Synchro* analysis software package have been updated since the time the SEIR was prepared. For this letter report, LOS was analyzed using updated *Highway Capacity Manual* and *Synchro* versions. Methods presented in the *Highway Capacity Manual 2010* (Transportation Research Board 2010) were used in the analysis presented in this letter report. Methods described in the *Highway Capacity Manual 2010* were used to provide a basis for describing traffic conditions. The Synchro Version 10 software analysis package (Trafficware 2018) was used for the analysis presented in this letter report.

Worksheets and output reports for the calculation of LOS are presented in the enclosed technical appendix.

Existing Traffic Volumes

Updated intersection turning movement traffic volume count data at all study intersections were collected during the 7:00 a.m. to 9:00 a.m. period, and the 4:00 p.m. to 6:00 p.m. period.

Count data for the intersection of Olive Avenue & Loughborough Drive, and for the intersection of Olive Avenue & Austin Avenue were collected on Tuesday March 28, 2017. Count data for the intersection of Olive Avenue & Meadows Avenue and for the intersection of Olive Avenue & R Street were collected on Tuesday August 28, 2018.

Traffic volume count data worksheets used in the analysis presented in this letter report are included in the enclosed technical appendix.

Figure 4 presents the existing a.m. peak hour and p.m. peak hour traffic volumes at the existing study intersections.

Trip Generation

The number of vehicle trips that would be generated by a project is determined by identifying the type and size of proposed land use. Recognized sources of trip generation rates may then be used to calculate the total number of trips.

KDA

Trip generation was analyzed for the SEIR using the most recent version of the Institute of Transportation Engineers (ITE) *Trip Generation Manual* available at the time.

Trip generation for the Highland Park project has been updated for this letter report using trip generation rates published in the *Trip Generation Manual, 10th Edition* (Institute of Transportation Engineers 2017) and the projected use of the site. **Table 2** shows the trip generation rates applied for the proposed project. **Table 3** shows the trip generation estimate for the project.

As shown in **Table 3**, the Highland Park project is estimated to generate 92 a.m. peak hour trips, and 123 p.m. peak hour trips.

Trip Distribution

Project-related trips were geographically distributed over the study area roadway network. The distribution of trips is based on the relative attractiveness or utility of possible destinations.

Trip distribution was analyzed for the SEIR using the most recent version of the Merced County Association of Governments (MCAG) travel demand model available at the time. The 2015 version of the MCAG travel demand model was used to estimate trip distribution percentages for the analysis presented in this letter report. The travel demand model is considered to be a valid source for the trip distribution percentages because it directly addresses:

- the location of destinations of project-related trips,
- the magnitude of land uses that would attract project-related trips, and
- the quality of access to the destinations via the roadway network.

A "select link" analysis was conducted using the MCAG travel demand model to determine the geographic distribution of project-related travel. The select link analysis identifies vehicle trips associated with the project site, and identifies the direction of travel to and from the project site. Adjustment of the raw results from the travel demand models, where needed, was applied. Raw, pre-adjustment, traffic model results used in the development of trip distribution percentages are presented in the enclosed technical appendix.

Trip distribution percentages applied in the analysis presented in this letter report are presented in **Table 4**.

Trip Assignment

Project –related trips, shown in **Table 3**, were geographically distributed using the data shown in **Table 4**, and assigned to logical travel routes. The resulting traffic generated by the project is shown in **Figure 5**. This traffic was then added to existing traffic volumes. The resulting Existing Plus Project traffic volumes are shown in **Figure 6**.

KDA

ANALYSIS RESULTS

The enclosed **Table 5** presents the results of the analysis of traffic operations at the study intersections. **Table 5** shows LOS for both a.m. peak hour and p.m. peak hour conditions, under both Existing Conditions and Existing Plus Project Conditions.

As shown in **Table 5**, all study intersections would operate at LOS C or better during both the a.m. peak hour and p.m. peak hour, under both Existing Conditions and Existing Plus Project Conditions. Implementation of the Highland Park project would increase vehicle delay during both the a.m. peak hour and p.m. peak hour. However, as described in the SEIR, LOS C is considered by the City of Merced to be acceptable operating condition. Therefore, based on standards of significance presented in the SEIR, the Highland Park project is considered to have a less than significant impact on traffic operations. No mitigation measures are required.

CLOSING

Thank you for this opportunity to provide traffic analysis services on the Highland Park project. If you have any questions about this report, please contact me via E-mail message at kanderson@kdanderson.com, or call me at 916/660-1555.

Sincerely,

KD Anderson & Associates, Inc.



Kenneth D. Anderson, P.E.
President

enclosures

REFERENCES

Publications Cited

Institute of Transportation Engineers. 2017. Trip Generation Manual, 10th Edition. Washington, D.C.

Trafficware. 2018. Trafficware Internet Website. http://www.trafficware.com/

Transportation Research Board. 2010. Highway Capacity Manual 2010. Washington, D.C.



ROADWAY NETWORK AND STUDY INTERSECTIONS

KD Anderson & Associates, Inc.
Transportation Engineers

1740-01 RA 9/10/2018

figure 1



PROJECT VICINITY



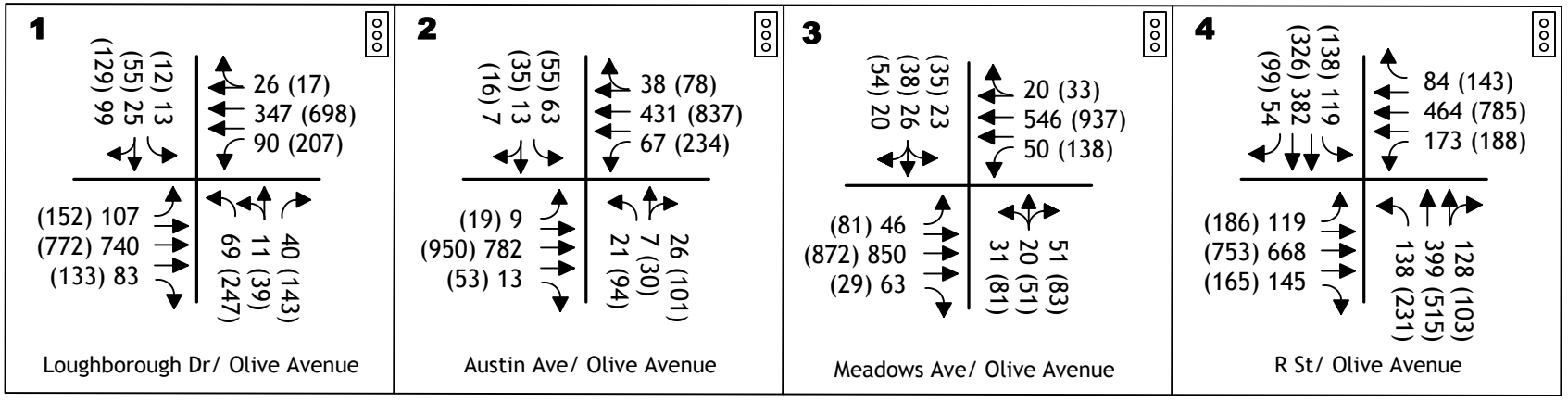
HIGHLAND PARK | Pacific Pride Villas

PACIFIC PRIDE COMMUNITIES

Architects and Planners, Inc.
Bloodgood Sharp Buster

SITE PLAN





EXISTING TRAFFIC VOLUMES AND LANE CONFIGURATIONS

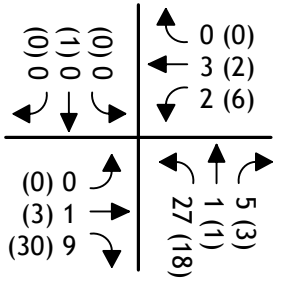
KD Anderson & Associates, Inc.
Transportation Engineers

1740-01 RA 9/10/2018

figure 4

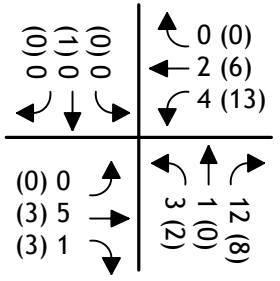


1



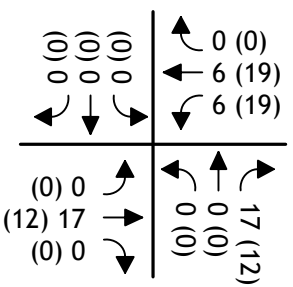
Olive Avenue/ Loughborough Dr

2



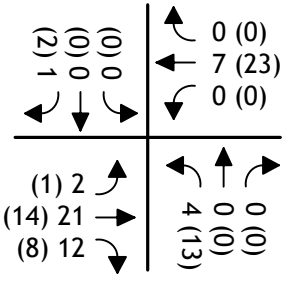
Olive Ave/ Austin Ave

3



Olive Ave/ Meadows Ave

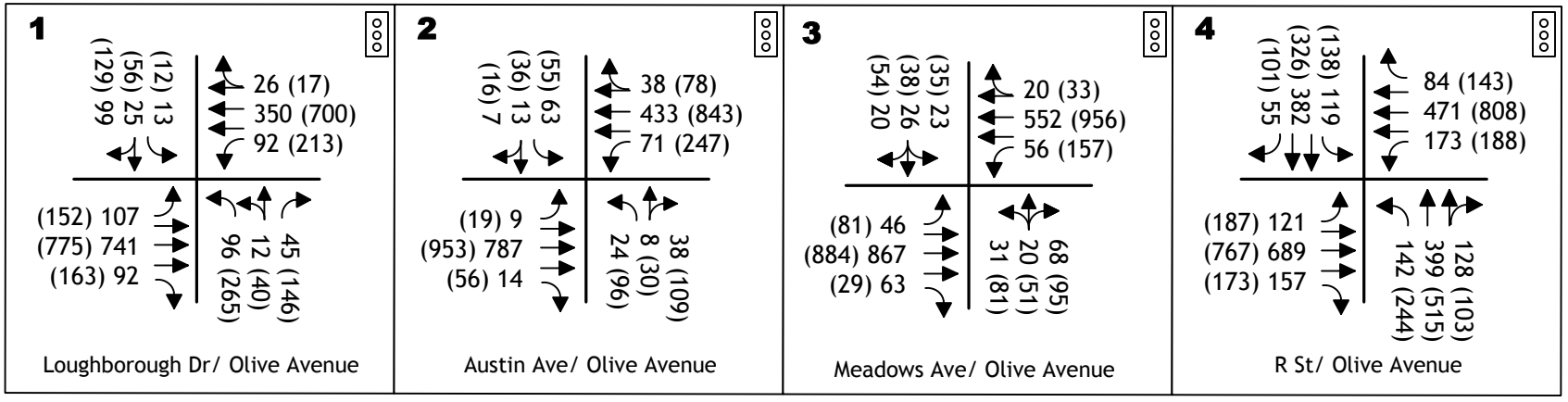
4



Olive Ave/ R St

PROJECT ONLY TRAFFIC VOLUMES





EXISTING PLUS PROJECT TRAFFIC VOLUMES AND LANE CONFIGURATIONS

Table 1. Level of Service Definitions - Signalized Intersections

Level of Service	Characteristics	Vehicle Delay (in Seconds)
A	Vehicle progression is exceptionally favorable or the cycle length is very short.	Delay ≤ 10.0 seconds/vehicle
B	Vehicle progression is highly favorable or the cycle length is short.	Delay > 10 seconds/vehicle and < 20 seconds/vehicle
C	Vehicle progression is favorable or the cycle length is moderate. Individual cycle failures may begin to appear at this level.	Delay > 20 seconds/vehicle and < 35 seconds/vehicle
D	Vehicle progression is ineffective or the cycle length is long. Many vehicles stop and the individual cycle failures are noticeable.	Delay > 35 seconds/vehicle and < 55 seconds/vehicle
E	Vehicle progression is unfavorable and the cycle length is long. Individual cycle failures are frequent.	Delay > 55 seconds/vehicle and < 80 seconds/vehicle
F	Vehicle progression is very poor and the cycle length is long. Most cycles fail to clear the vehicle queue.	Delay > 80 seconds/vehicle

Source: Transportation Research Board 2010.

Table 2. Highland Park - Trip Generation Rates

Land Use and ITE Land Use Code	Units	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Single-Family Detached Housing (ITE Code 210)	Dwelling Units	0.19	0.56	0.74	0.62	0.37	0.99

Source: Institute of Transportation Engineers *Trip Generation Manual 9th Edition* .
Note: Trip generation rates are based on average rates.

Table 3. Highland Park - Trip Generation Estimates

Land Use and ITE Land Use Code	Quantity	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Single-Family Detached Housing (ITE Code 210)	124 Dwelling Units	24	69	92	77	46	123

Source: Institute of Transportation Engineers *Trip Generation Manual 10th Edition* .
Total may not equal the sum of components due to rounding.

Table 4. Highland Park Project Trip Distribution Percentages

Direction of Travel	Percent of Project-Related Trips
North on Loughborough Drive	2%
North on Austin Avenue	1%
North on R Street	3%
West on Olive Avenue	43%
East on Olive Avenue	30%
Retail Commercial Along Devonwood Drive	4%
South on R Street	17%
TOTAL	100%

Source: MCAG travel demand model select link analysis.

Table 5. Level of Service

Study Intersections	Inters. Control	Existing Conditions				Existing Plus Project Conditions			
		AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
		LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay
1 Olive Avenue & Loughborough Drive	Signal	B	17.0	C	28.6	B	17.3	C	29.4
2 Olive Avenue & Austin Avenue	Signal	A	9.5	B	14.5	A	9.8	B	15.1
3 Olive Avenue & Meadows Avenue	Signal	A	9.7	B	14.0	B	10.1	B	14.6
4 Olive Avenue & R Street	Signal	C	28.4	C	32.4	C	28.9	C	33.9

Notes: "LOS" = Level of Service. "Inters. Control" = Type of intersection control.
"Signal" = Signalized light control. Delay is measured in seconds per vehicle.

ADMINISTRATIVE REPORT

Agenda Item I.4. Meeting Date: 3/18/2019

Report Prepared by: Marvin Dillsaver, Communications Supervisor, Merced Police Department

SUBJECT: Authorization to Apply for and Accept Reimbursable Grant Funding from the State of California, Office of Emergency Services for Equipment, Supplies and Training Related to the City's Upgrade to its Emergency Communications Center and Geographical Information System (GIS) in an Amount Not to Exceed $128,000; and Approval to Use Pooled Cash Pending the Receipt of Reimbursed Funds From the State

REPORT IN BRIEF

Authorizes the City to apply for and accept additional grant funding in an amount not to exceed $128,000 from the State of California for the purchase of additional equipment, supplies and training for upgrades to the City's Emergency Communications Center and GIS. Also authorizes the use of pooled cash to pay for the purchases pending reimbursement from the State.

RECOMMENDATION

City Council - Adopt a motion:

A. Upon approval of additional grant funding from the State of California, Office of Emergency Services, Increasing State Grant revenue account 001-1002-324.02-00 in an amount not to exceed $128,000 and appropriating the same to Police Operations Machinery/Equipment expense account 001-1002-523.43-00; and,

B. Authorizing the use of pooled cash for purchases until the City receives reimbursement of funds; and,

C. Authorizing the City Manager or the Assistant City Manager to execute any necessary documents.

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Refer back to staff for reconsideration of specific items as requested by Council; or,
3. Take no action.

AUTHORITY

Article 11 of the Merced City Charter pertaining to fiscal administration.

CITY COUNCIL PRIORITIES

Enhance the efficiency and productivity of public safety staff by using technology to operate in a more

resourceful manner.

DISCUSSION

On November 5, 2018 the council approved the Acceptance of Grant Funding in the Amount of $346,000 from the California Office of Emergency Services (CAL OES) and $105,000 in Geographic Information Systems (GIS) from the State of California for Upgrades to the City's 911 and GIS Systems. The Police Department has started the project of upgrading the Communications 911 telephone system and the City's GIS system; however, there are additional items that are needed for the upgrade of both projects that are not covered through a direct funding process through the State of California. These additional purchases can be funded through the State of California through a reimbursement process. This means that the State of California will reimburse the City of Merced for all approved purchases after the vendor has been paid and proof of payment is submitted to the State.

To receive this funding, the Police Department will make a request to the State of California, Office of Emergency Services for funding to purchase training services, equipment or supplies that fall under the guidelines of the Office of Emergency Services. If the State approves the purchase of the requested services, supplies or equipment, they will issue the City a commitment to fund the purchases. Once the City receives documentation of the State's commitment to fund, the City will purchase the needed items. Once the items have been received, the City will pay for the items and the cancelled check will be turned in to the State of California on a (TD-290) reimbursement claim form. To facilitate this reimbursement process, staff is requesting approval to use pooled cash to pay for the purchases pending receipt of reimbursed funds from the State.

IMPACT ON CITY RESOURCES

There will be an impact on pooled cash until such time as the invoices are paid and submitted to the State of California and the funds are reimbursed back to the city.

ATTACHMENTS

1. Customer Premise Equipment (CPE) funding letter
2. GIS Funding letter

EDMUND G. BROWN JR.
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

January 29, 2018

Tracking Number: 21215

Marvin Dillsaver
Merced Police Department
611 W. 22nd St.
Merced, CA 95340

Subject: Customer Premise Equipment (CPE) Fixed Allotment Funding

Dear Mr. Dillsaver:

The California 9-1-1 Emergency Communications Branch (CA 9-1-1 Branch) has received your January 26, 2018 Advance Notification for CPE Funding letter of intent to replace the 9-1-1 telephone system at your Public Safety Answering Point (PSAP). Acceptance of CPE Allotment funds from the CA 9-1-1 Branch commits your agency to PSAP operations 24 hours-a-day, seven days-a-week, for a minimum of five years. If PSAP operations are not maintained at that level, the Merced Police Department may become financially responsible for all subsequent CPE maintenance and 9-1-1 network service charges. Our evaluation of recent 9-1-1 emergency call volume qualifies the Merced Police Department for a Fixed Allotment in the amount of $346,000.00. The Fixed Allotment funding will expire June 30, 2019 if your CPE approval process has not been initiated. Years six (6) and seven (7) of extended maintenance will not be deducted from your Fixed Allotment. Extended maintenance cost in year eight (8) and beyond is the PSAPs responsibility.

The CA 9-1-1 Branch has implemented a non-mandatory Master Purchase Agreement (MPA) that enables participating vendors to invoice the CA 9-1-1 Branch directly for the purchase of 9-1-1 systems and services. User instructions for the MPA are available at: http://www.caloes.ca.gov/for-governments-tribal/public-safety/ca-9-1-1-emergency-communications-branch/ca-9-1-1-services-contracts

Please contact me directly with any questions at yvonne.winn@caloes.ca.gov or (916) 657-9460.

Sincerely,

YVONNE WINN, 9-1-1 Advisor
California 9-1-1 Emergency Communications Branch

cc: Norm Andrade

601 SEQUOIA PACIFIC BLVD, SACRAMENTO, CA 95811
PUBLIC SAFETY COMMUNICATIONS
(916) 657-9369 TELEPHONE (916) 657-9882 FAX

EDMUND G. BROWN JR.
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

January 22, 2018 Tracking Number: 15112

Marvin Dillsaver, Communications Manager
Merced Police Department
611 W. 22nd St
Merced, CA 95340
Subject: Geographic Information System (GIS) Funding Allotment Increase

Dear Mr. Dillsaver:

This letter will serve as notification of an increase to your funding allotment for a geographic information system (GIS). In 2011, our office indicated that you may be eligible for a maximum of $60,000.00. Based on an updated analysis of your call volume and your commitment to answer wireless E9-1-1 calls directly within one year as shown by the Wireless E9-1-1 Implementation Plan, the Merced police Department may be eligible for a maximum of $105,000.00. The Wireless E9-1-1 Plan can be located on the State website at:

http://www.calema.ca.gov/PSC/Pages/Services/911/we911.aspx.

In future correspondence, and communication related to this request, please refer to the assigned funding request tracking number 15112.

GIS funding is a one-time allotment that may be used in current and future years toward the purchase of a GIS. GIS funding may be used for software, hardware and services necessary to provide the 9-1-1 call-taker with GIS mapping for the display of wireless Phase II latitude and longitude of the person that has dialed 9-1-1. Should your agency later decide not to answer wireless E9-1-1 calls, any GIS funding provided by the California 9-1-1 Emergency Communications Branch may be deducted from your annual 9-1-1 customer premises equipment allotment.

To obtain final approval, your agency must submit a GIS Plan identifying the scope (task and/or item elements with a description of how the mapping requirement will be met), schedule and resources (itemization of proposed costs). For step-by-step instructions on the funding processes for GIS, please refer to the 9-1-1 Manual, Chapter III, Funding. The entire 9-1-1 Manual can be found on the State website at:

http://www.calema.ca.gov/PSC/Pages/Publications/911-Operations-Manual.aspx

601 SEQUOIA PACIFIC BLVD, SACRAMENTO, CA 95811
PUBLIC SAFETY COMMUNICATIONS
(916) 657-9369 TELEPHONE (916) 657-9882 FAX

If you have any questions or need guidance through this process, please do not hesitate to email me at yvonne.winn@caloes.ca.gov or contact me by email at (916) 657-9470.

Sincerely,

YVONNE WINN, 9-1-1 Consultant
California 9-1-1 Emergency Communications Branch

cc: Tonya Mora, Finance – Merced Police Department

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item I.5. Meeting Date: 3/18/2019

Report Prepared by: Michelle Reid, Recreation Supervisor, Recreation and Parks Department

SUBJECT: Approval of Reduction of Per Session Fees Charged for Swimming Lessons from the Established Rate of $35 to $10 for Swimming Lessons Offered from June 17 to August 1, 2019

REPORT IN BRIEF
Considers temporarily lowering swim lesson fees charged by the City from $35 per session to $10 per session for its Water Safety and Swimming Lessons Programs offered from June 17 to August 1, 2019.

RECOMMENDATION
City Council - Adopt a motion approving the temporary reduction in the fees charged for swimming lessons from $35 to $10 per session during the summer of 2019; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

ALTERNATIVES
1. Approve, as recommended by staff; or,
2. Approve, subject to other than recommended by staff (identify specific findings and/or conditions amended to be addressed in the motion); or,
3. Deny; or,
4. Refer to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
5. Continue to a future meeting (date and time to be specified in the motion).

AUTHORITY
Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES
Youth Programs as provided for in the 2018/2019 budget

DISCUSSION
On June 16, 2008, the Merced City Council established the rate for swim lessons at $35 a session. In order to lower the cost of the swim lessons for the programs offered during the summer of 2019, the City Council must approve a rate change.

The City is offering swim lessons to the public this summer at McNamara Pool and Merced High School. Three sets of lessons are being offered from June 17 through June 27 (in Fiscal Year 2018-19), and July 8 through July 18 and July 22 through August 1 (in Fiscal Year 2019-20).

The 30-minute lessons are held Monday through Thursday at both locations. McNamara Pool sessions range from 10 a.m. to 2 p.m., prior to the start of recreational swimming. The sessions at the Merced High Pool are offered from 4 p.m. to 7 p.m. Offering lessons at Merced High School and McNamara provides the opportunity to serve different geographic locations while adding flexibility for busy parents.

In 2016 staff was informed that the Swim 4 Jaylin Scholarship Fund, which had provided $6,000 to the Aquatics Division in exchange for $10 swim lesson fees for all participants, was no longer available. The Department was able to mitigate the lost funds with a grant from First 5 of Merced County for $3,000 for the last few years.

The First 5 of Merced County grant provides reduced fees for registrants from ages 6 months to 5 years old. Per grant guidelines, the cost will remain at $10 per session for children in the applicable age group. In an effort to serve more participants and provide valuable swim lessons to children up to fourteen (14) years old, staff is requesting that the established fee of $35 be reduced to $10 per session for all swimmers.

The total cost for three sessions of swim lessons this year is approximately $47,800. The reduced price does not affect revenue, as swim lesson fees were budgeted in FY 18/19 at $10 per session in anticipation of continuing the service to the community. The revenue and expenses associated with providing swim lessons will be evaluated when recommending a fee modification in future years.

IMPACT ON CITY RESOURCES

No impact on revenue line 024-1221-360.02-01.

ADMINISTRATIVE REPORT

Agenda Item I.6. Meeting Date: 3/18/2019

Report Prepared by: John Tresidder, Assistant City Clerk, City Clerk's Office

SUBJECT: Adoption of Resolution Establishing a Policy for the Distribution of Tickets and Passes Pursuant to Fair Political Practices Commission Regulation18944.1

REPORT IN BRIEF
Considers the adoption of a Resolution establishing a Policy regarding the distribution of complimentary tickets and passes received by the City, pursuant to Fair Political Practices Commission (FPPC) Regulation 18944.1.

RECOMMENDATION
City Council - Adopt a motion adopting **Resolution 2019-10**, a Resolution of the City Council of the City of Merced, California, adopting a policy for the distribution of tickets and passes in accordance with FPPC Regulation 18944.1.

ALTERNATIVES
1. Approve as recommended by staff; or,
2. Approve with amendments (specify in motion); or,
3. Deny

AUTHORITY
City of Merced Charter, Section 200 and Section 201.
FPPC Regulations Section 18944.1.

CITY COUNCIL PRIORITIES
As it applies to Government transparency.

DISCUSSION
Under specific circumstances, an agency's distribution of tickets or passes to entertainment events, sporting events, etc., does not result in a gift to the individuals who attend. The agency, as required by the FPPC, must adopt a written policy that identifies the public purpose served in distributing the tickets. Admission to certain events for an individual who performs a ceremonial role (e.g., ribbon cutting) also does not result in a gift to the individual if the required information is disclosed.

FPPC Form 802 is used by state and local government agencies to disclose detailed information about the distribution of tickets and passes, including the identity of persons who receive the tickets and passes and the public purpose of each ticket distribution. The Form 802 is also used to disclose

information about ceremonial role events.

The FPPC posts on its website links to the completed Form 802s and the ticket distribution policies adopted by agencies.

The attached Policy complies with FPPC Regulation 18944.1. The Policy will apply to every officer, agent and employee of the City who is obligated to file an Annual Statement of Economic Interests (FPPC Form 700). Once adopted, the Ticket Policy will be in full force and provided to all employees of the City of Merced and to the FPPC as required. Additionally, the City website link to the Form 802 reporting page that is required by the FPPC, will be forwarded per the regulation.

IMPACT ON CITY RESOURCES

N/A

ATTACHMENTS

1. Resolution and Ticket Policy
2. Form 802

RESOLUTION NO. 2019-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, ADOPTING A POLICY FOR THE DISTRIBUTION OF TICKETS AND PASSES IN ACCORDANCE WITH SECTION 18944.1 OF TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS, AS AMENDED BY THE FAIR POLITICAL PRACTICES COMMISSION

WHEREAS, the California Fair Political Practices Commission ("FPPC") amended Section 18944.1 of Title 2 of the California Code of Regulations that sets forth the circumstances under which the City's distribution of certain tickets and passes to a public official would need to be disclosed by the City and not trigger a disclosure requirement for the purposes of the public official's Statement of Economic Interest (FPPC Form 700); and

WHEREAS, tickets and passes subject to Regulation 18944.1 apply solely to an admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose; and

WHEREAS, Regulation 18944.1 provides that tickets and passes that are distributed by the City to public officials in accordance with a duly adopted policy are not gifts to the public official(s); and

WHEREAS, from time to time, the City of Merced may receive complimentary or discounted tickets and passes from public and private sources or pursuant to co-sponsorship of event(s) or may purchase tickets or passes for both public and private events for distribution to City officials; and

WHEREAS, the distribution to and use of such tickets and passes by officials may serve legitimate governmental and/or public purposes. FPPC Regulation 18944.1 provides for the circumstances and procedures for receipt and distribution of such tickets and passes; and

WHEREAS, in accordance with the FPPC Regulation Section 18944.1, the City Council wants to use such tickets and passes to further public purposes such as for the promotion of city's business, resources, programs and facilities, and the furtherance of said public purposes may require the distribution to "public

officials" as defined in Government Code Section 82048 and FPPC Regulation 18701; and,

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

SECTION 1. That certain document entitled, "City of Merced Ticket Policy Adopted Pursuant to the Requirements of FPPC Regulation, Section 18944.1 of Title 2 of the California Code of Regulations," attached as Exhibit "A" is hereby adopted as the official policy of the City of Merced for the distribution of tickets and passes regulated under Section 18944.1.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2019, 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:

Theodora A Miller 1-28-19
City Attorney Date

X:\Resolutions\2019\City Clerk\Establishing Ticket Policy.docx

CITY OF MERCED TICKET POLICY ADOPTED PURSUANT TO THE REQUIRMENTS OF FAIR POLITICAL PRACTICES COMMISSION REGULATIONS, SECTION 18944.1 OF TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS

1. Purpose.

1.1 To ensure that tickets and passes received and distributed by the City are in furtherance of a governmental and/or public purpose as required under Regulation 18944.1 and this Policy.

1.2 To ensure that tickets and passes distributed by the City under Regulation 18944.1 and this Policy are disclosed on FPPC Form 802 and posted to the City's website within forty-five (45) days of distribution as required by Regulation 18944.1

2. Application of Policy.

2.1 This policy applies to tickets and passes that provide admission to a facility, event, show or performance for an entertainment, amusement, recreational, or other similar purpose, and are either:

a. Gratuitously provided to the City by an outside source

b. Acquired by the City by purchase

c. Acquired by the City as consideration pursuant to the terms of a contract for the use of a city venue; or

d. Acquired and distributed by the City in any other manner

3. Limitation.

3.1 This policy shall only apply to the City's distribution of tickets and passes to, or at the behest of, a city official.

4. Definitions.

Unless otherwise expressly provided herein, words and terms used in this policy shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code Sections 81000 et seq., as the same may from time to time be amended) and the FPPC ("FPPC") Regulations (Title 2, division 6 of the California Code of Regulations, Sections 18110 et seq., as the same may from time to time be amended).

4.1 "City" or "City of Merced" shall mean and include the City of Merced and any other affiliated agency created or activated by the Merced City Council or the City Charter, and any departments, boards, and commissions thereof.

4.2 "City Official" shall mean and refer to every member, elected officer, appointed officer, employee or consultant of the City, as defined in Government Code Section 82048 and FPPC Regulation 18701. This term shall include, without limitation, any City board, commission or committee member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).

4.3 "City Venue" shall mean and refer to any facility, building or real property owned, controlled, or operated by the City of Merced at which events, shows or performances for an entertainment, amusement, recreational, or similar purpose are held, performed or conducted.

4.4 "Immediate Family" shall mean and refer to the spouse (including the registered domestic partner) and dependent children of a City Official.

4.5 "Policy" shall mean and refer to this Policy for the distribution of tickets and/or passes.

4.6 "Ticket" or "Pass" shall mean and refer to a ticket or pass as those terms are defined in FPPC Regulation 18944.1, as may be amended from time to time. (As of the adoption of this Policy, the term "ticket" or "pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose).

4.7 "Ticket Administrator" means the City Manager of the City of Merced or his/her designee.

5. General Provisions.

5.1 No Right to Tickets. The use of tickets is a privilege extended by the City and is not the right of any person to which the privilege may from time to time be extended.

5.2 Limitation on Transfer of City Tickets. Tickets distributed to a City Official pursuant to this Policy shall not be transferred to any other person except to a member of such City Official's immediate family solely for their personal use or to no more than one guest solely for their attendance at the event.

5.3 Sale of or Receiving Compensation for Tickets Prohibited. No person who receives a ticket pursuant to this policy shall sell or receive any form of compensation or reimbursement for the value of the ticket(s).

5.4 No Earmarking of Ticket Given to City. No Ticket gratuitously provided to the City by an outside source and distributed by the City to, or at the behest of, a City Official pursuant to this Policy shall be earmarked by the original source for provisions to a particular City Official.

6. Procedures for Distributing Tickets.

6.1 The Ticket Administrator has the sole authority, in his or her discretion, to establish procedures for the distribution of tickets supplemental to and in accordance with this Policy. All requests for tickets from City Officials which fall within the scope of this Policy shall be made in accordance with the procedures established by the Ticket Administrator.

6.2 If the ticket does not have a stated face value, the Ticket Administrator will determine the face value of tickets distributed by the City for purposes of this policy.

6.3 The Ticket Administrator, in his or her sole discretion, may revoke or suspend the ticket privileges of any City Official or person who violates any provision of this Policy or the procedures established by the Ticket Administrator for the distribution of City tickets in accordance with this Policy.

7. Conditions Under Which Tickets May Be Distributed Subject to the Provisions of this Policy, Complimentary Tickets may be Distributed to City Officials by the Ticket Administrator Under Either of the Following Conditions:

7.1 The City Official reimburses the City for the established face value of the ticket(s) as follows:

a. Reimbursement shall be made at the time the tickets are distributed to the City Official.

b. The Ticket Administrator shall, in his or her sole discretion, determine which event tickets, if any, shall be available under this section.

7.2 In accepting the ticket(s), the City Official acknowledges that the value of the tickets will be treated as income in a manner consistent with applicable federal and state income tax laws; or

7.3 The City Official expressly acknowledges to the Ticket Administrator that such ticket(s) will be used for one or more of the following governmental/public purposes:

a. In connection with the Official's performance of a ceremonial role or function representing the City at the event, for which the City Official may receive enough tickets for the City Official and each member of his or her immediate family.

b. The job duties of the City Official require his or her attendance at an event which has been financially sponsored or supported by the City (whether in whole or in part) and the Official will provide a report to the City Administrator or City Council on whether the City's goals in sponsoring the event appear to have been fulfilled - for which the City Official may receive enough tickets for the City Official and each member of his or her immediate family.

c. For purposes of fostering positive intergovernmental relations including, but not limited to, attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members, and their guests.

d. Rewarding volunteer public service by a City employee.

e. Supporting or showing appreciation for programs or services rendered to the community by non-profit organizations which programs or services have benefited Merced residents.

f. Encouraging or rewarding significant academic, athletic, or public service achievements by Merced students, residents, or businesses.

g. As special recognition for meritorious service by a City employee - for which such employee may receive no more than four (4) tickets per event.

h. For use in connection with a City employee competition or drawing, for which there shall be made available no more than (4) tickets per event.

8. Tickets Received by a City Official or City Employee other than Through the City Ticket Administrator.

8.1 Only the Ticket Administrator shall have authority to receive and accept a gift of tickets given or donated to the City.

8.2 Any City Official/employee who receives an offer to donate tickets to the City shall refer the donor to the City Manager's Office.

9. Public Disclosure Requirements.

9.1 Tickets distributed by the Ticket Administrator to any City Official pursuant to this policy shall be disclosed on FPPC Agency Report of Ticket Distributions (Form 802) to be posted in a prominent fashion on the City's website and shall be sent to the FPPC within thirty (30) days after distribution, and shall include the following information:

a. The name of the Ticket recipient or City Department, if applicable;

b. The date of the event and a description of it;

c. The face value of the ticket or, if none, the value of the ticket as determined by the Ticket Administrator;

d. The number of tickets provided to each person;

e. If the tickets were distributed to another person at the request of a City Official, the name of the City Official who made such request and;

f. A description of the public purpose(s) (as described in Section 7.3 above) under which the distribution was made, or, alternatively, that the City Official is treating the ticket as income (as described in Section 7.2 above).

9.2 Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section 7.1 above are not subject to the disclosure requirement.

10. Posting to Website.

10.1 This Policy shall be posted on the City's website in a prominent fashion and the link shall be submitted to the FPPC for posting on the FPPC website.

10.2 The distribution of a ticket(s) or pass(es) pursuant to this Policy shall be posted on the City's website within forty-five (45) days after the ticket distribution. Such posting shall use FPPC Form 802 or such alternate form as the FPPC may designate from time to time.

Reset Page Print Form

Agency Report of: Ceremonial Role Events and Ticket/Pass Distributions

A Public Document

1. Agency Name

Date Stamp

California Form 802

For Official Use Only

Division, Department, or Region *(if applicable)*

Designated Agency Contact *(Name, Title)*

Area Code/Phone Number | **E-mail**

☐ **Amendment** *(Must Provide Explanation in Part 3.)*

Date of Original Filing: _____ *(month, day, year)*

2. Function or Event Information

Does the agency have a ticket policy? Yes ☐ No ☐

Face Value of Each Ticket/Pass $ _____

Event Description: _____ *Provide Title/ Explanation*

Date(s) ____/____/____ ____/____/____

Ticket(s)/Pass(es) provided by agency? Yes ☐ No ☐

If no: _____ *Name of Source*

Was ticket distribution made at the behest of agency official? Yes ☐ No ☐

If yes: _____ *Official's Name (Last, First)*

3. Recipients

• Use Section A to identify the agency's department or unit. • Use Section B to identify an individual. • Use Section C to identify an outside organization.

A. Name of Agency, Department or Unit	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy

B. Name of Individual *(Last, First)*	Number of Ticket(s)/ Passes	Identify one of the following:
		Ceremonial Role ☐ Other ☐ Income ☐ *If checking "Ceremonial Role" or "Other" describe below:*
		Ceremonial Role ☐ Other ☐ Income ☐ *If checking "Ceremonial Role" or "Other" describe below:*

C. Name of Outside Organization (include address and description)	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy

4. Verification

I have read and understand FPPC Regulations 18944.1 and 18942. I have verified that the distribution set forth above, is in accordance with the requirements.

Signature of Agency Head or Designee | Print Name | Title | *(month, day, year)*

Comment: _____

Agency Report of: Ceremonial Role Events and Ticket/Pass Distributions

California Form 802

A Public Document

This form is for use by all state and local government agencies. The form identifies persons that receive admission tickets and passes and describes the public purpose for the distribution. This form was prepared by the Fair Political Practices Commission (FPPC) and is available at www.fppc.ca.gov.

General Information

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets to entertainment events, sporting events, and like occasions would not result in a gift to individuals that attend the function. In general, the agency must adopt a policy which identifies the public purpose served in distributing the admissions. The Form 802 serves to detail each event and the public purpose of each ticket distribution. FPPC Regulation 18942 lists exceptions to reportable gifts, including ceremonial events, when listed on this form.

When the regulation procedures are followed, persons, organizations, or agencies who receive admissions are listed on a Form 802. Agency officials do not report the admissions on the official's Statement of Economic Interests, Form 700, and the value of the admission is not subject to the gift limit.

The Form 802 also informs the public as to whether the admissions were made at the behest of an agency official and whether the behested tickets were provided to an organization or to specific individuals.

Exception

FPPC This form is not required for admission provided to a school or university district official, coach, athletic director, or employee to attend an amateur event performed by students of that school or university.

Reporting and Public Posting

Ticket Distribution Policies: An agency must post its ticket policy on its website within 30 days of adoption or amendment and e-mail a link of the website location to FPPC at form802@fppc.ca.gov.

Form 802: The use of the ticket or pass under the policy must be reported on Form 802 and posted on the agency's website within 45 days of distribution. A link to the website location of the forms must be e-mailed to FPPC at form802@fppc.ca.gov.

The FPPC will post on its website the link to each agency's policy and completed forms. It is not necessary to send an e-mail each time a new Form 802 is posted. It is only necessary to submit the link if the posting location changes.

This form must be maintained as a public document.

Privacy Information Notice

Information requested by the FPPC is used to administer and enforce the Political Reform Act. Failure to provide information may be a violation subject to administrative, criminal, or civil penalties. All reports are public records available for inspection and reproduction. Direct questions to FPPC's General Counsel.

Instructions

Part 1. Agency Identification:
List the agency's name. Provide a designated agency contact person, their phone number, and e-mail address. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Function or Event Information:
Confirm that your agency has a policy for ticket distribution. Unless the ceremonial role or income box in Part 3, Section B, is marked, this form is only applicable if your agency has a policy.

Complete all of the other required fields that identify the ticket value, description of event, date(s) and whether the ticket was provided by the agency or an outside source. If an agency official behests the tickets, the official's name is also required. Use the comment field or an attachment to explain in full.

Part 3. Ticket Recipients:
This part identifies who uses the tickets. The identification requirements vary depending upon who received the tickets and are categorized into three sections. Each section must list the number of tickets received. Use the comment field or an attachment to explain in full.

Section A. Report tickets distributed to agency staff, other than an elected official or governing board member, pursuant to the agency's policy. It is not necessary to list each employee's name, but identify the unit/department for which the employee works. The agency must describe the public purpose associated with the ticket distribution. A reference to the policy is permissible.

Section B. Report: 1) any agency official who performs a ceremonial role; 2) any agency official who reports the value as income; or 3) tickets used by elected officials and governing board members (including those distributed pursuant to the agency's policy).

Section C. Report tickets provided to an organization. The organization's name, an address (website url is permissible), and a brief description of the public purpose are required.

Reset Page Print Form

Agency Report of: Ceremonial Role Events and Ticket/Pass Distributions Continuation Sheet

California Form 802

A Public Document

Agency Name

3. Recipients

• Use Section A to identify the agency's department or unit. • Use Section B to identify an individual. • Use Section C to identify an outside organization.

A. Name of Agency, Department or Unit	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy

B. Name of Individual *(Last, First)*	Number of Ticket(s)/ Passes	Identify one of the following:
		Ceremonial Role ☐ Other ☐ Income ☐ *If checking "Ceremonial Role" or "Other" describe below:*
		Ceremonial Role ☐ Other ☐ Income ☐ *If checking "Ceremonial Role" or "Other" describe below:*
		Ceremonial Role ☐ Other ☐ Income ☐ *If checking "Ceremonial Role" or "Other" describe below:*
		Ceremonial Role ☐ Other ☐ Income ☐ *If checking "Ceremonial Role" or "Other" describe below:*

C. Name of Outside Organization (include address and description)	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item I.7. Meeting Date: 3/18/2019

Report Prepared by: Wally Broughton, Public Works Manager - Operations

SUBJECT: Approval of Supplemental Appropriations / Budget Modifications Totaling $300,000 for Fuel Fund Shortages from Various Division Budgets to Fund 670-Fleet Management Vehicle Fuel Expense Account to Cover the Funding Shortage Through June 30, 2019

REPORT IN BRIEF
Considers transferring $300,000 from various divisions to the Fund 670-Fleet Management Vehicle Fuel expense account to cover the funding shortage through June 30, 2019.

RECOMMENDATION
City Council - Adopt a motion approving the transfer of $300,000 from various divisions to Fleet Fund 670 and appropriating the same to Vehicle Fuel expense account 670-1103-532.33-00 and authorizing the Finance Officer to make the necessary budget adjustments.

ALTERNATIVES
1. Approve, as recommended by staff;
2. Refer to staff for reconsideration of specific items;
3. Continue to a future meeting;
4. Deny.

AUTHORITY
Charter of the City of Merced, Section 1105.

DISCUSSION
The original requested Fiscal Year 2018/2019 Fuel Budget totaled $1,230,678. However, due to the difference in estimated versus actual available fund balance at the end of Fiscal Year 2017-18, the fuel account was reduced to $950,166. Staff attempted to work with the available budget; unfortunately, due to actual fuel consumption amongst the 490 vehicles in the City's Fleet, including core services of Police, Fire, and Refuse, an additional $300,000 is needed in order to purchase fuel through the end of the Fiscal Year.

IMPACT ON CITY RESOURCES
Transfers from the following divisions, in the following amounts, will be necessary in a total amount of $300,000. The Finance Department has verified there is sufficient funding within each department's FY 2018-19 approved budget to cover the transfer. Amounts shown below are calculated using each

respective division's anticipated fuel consumption based on current usage.

Department	Amount
Airport	$ 840
City Clerk	$ 203
Engineering	$ 576
Finance, Purchasing	$ 37
Fire	$ 28,167
Fire/Measure C	$ 557
Information Technology	$ 256
Inspection Services	$ 813
Parks and Recreation	$ 974
Police	$ 41,579
Police/Measure C	$ 1,756
Public Works, Admin	$ 290
Public Works, Land Application	$ 3,398
Public Works, Parks Maintenance	$ 4,682
Public Works, Parks/CFD	$ 71
Public Works, Refuse	$ 147,208
Public Works, Sewer	$ 9,452
Public Works, Storm Drains	$ 1,079
Public Works, Street Sweeping	$ 17,245
Public Works, Streets / LTF	$ 11,618
Public Works, WWTP	$ 6,804
Public Works, Water	$ 19,493
Public Works, Water Quality Control	$ 786
Public Works, Facilities	$ 2,116

Total: $ 300,000

ADMINISTRATIVE REPORT

Agenda Item I.8. Meeting Date: 3/18/2019

Report Prepared by: Ken Elwin, PE, Director of Public Works / Acting City Engineer

SUBJECT: Approval of Consulting and Professional Services Contracts with Benchmark Engineering, Inc., BKF Engineers, Carollo Engineers, Golden Valley Engineering, Interwest Consulting Group, Michael K. Nunley & Associates, Precision Civil Engineering, Inc., Quad Knopf, Inc., and VVH Consulting Engineers to Provide Design and Engineering Support Services for the City's Capital Improvement Projects at the Rates Not to Exceed the Consultant Hourly Rates Listed within Attachment B of Each Respective Agreement for the Contract Period Ending June 30, 2022

REPORT IN BRIEF

Considers approving multiple Consulting and Professional Services Contracts for engineering and design services for the City's Capital Improvement Projects. The services provided under these agreements will be funded from individual Capital Improvement Project budgets as the projects occur through the contract period ending June 30, 2022, at the hourly rates set forth in Attachment B of each respective agreement.

RECOMMENDATION

City Council - Adopt a motion approving the Consulting and Professional Services Agreements, for a contract period ending June 30, 2022, with Benchmark Engineering, Inc., BKF Engineers, Carollo Engineers, Golden Valley Engineering, Interwest Consulting Group, Michael K. Nunley & Associates, Precision Civil Engineering, Inc., Quad Knopf, Inc., and VVH Consulting Engineers, for professional engineering design services.

ALTERNATIVES

1. Approve as recommended by staff;
2. Approve subject to conditions outlined by Council;
3. Refer to staff for reconsideration of specific items;
4. Continue to a future meeting;
5. Deny.

AUTHORITY

City of Merced Charter Section 200, Powers.

DISCUSSION

The Engineering Department has issued a Request for Qualification (RFQ) for qualified firms to provide professional engineering services, including Plan Checking, Civic Design, Surveying,

Geotechnical, and Traffic Engineering. The RFQ allowed vendors to propose on one or more of the five core services. In response to the RFQ, the City received a total of 14 proposals for various services.

It is staff's intention to execute separate contracts for "design" work (including Civic Design, Surveying, Geotechnical, and Traffic Engineering) and plan checking" services. A separate item will be brought to Council at a future meeting for approval of "plan checking" contracts.

With the multiple current vacancies, the Engineering Department does not have sufficient staffing to provide the necessary design services for Capital Improvement Projects. At this time, staff is proposing to approve agreements with nine (9) vendors to provide design related services, including Civil Design, Surveying, and Traffic Engineering. Due to current department needs and variation in scope for future projects in respects to geotechnical work, it is staff's recommendation to not move forward with consulting contracts for Geotechnical Services at this time.

The proposed scope for each respective consultant is attached (Attachments 2 through 10).

IMPACT ON CITY RESOURCES

Funding for these contracts will come from individual Capital Improvement Projects as the projects occur. In the event funding is not available in the project budget, the contract(s) would be brought back to City Council for approval.

ATTACHMENTS

1. Contract Form
2. Scope of Work - Benchmark Engineering, Inc.
3. Scope of Work - BKF Engineers
4. Scope of Work - Carollo Engineers
5. Scope of Work - Golden Valley Engineering
6. Scope of Work - Interwest Consulting
7. Scope of Work - Michael K Nunley & Associates (MKN)
8. Scope of Work - Precision Civil Engineering
9. Scope of Work - Quad Knopf, Inc.
10. Scope of Work - VVH Consutling Engineers

CITY OF MERCED
CONSULTING AND PROFESSIONAL SERVICES CONTRACT
(Design Professional)

THIS CONTRACT is made at Merced, California, by and between the City of Merced ("City"), a California Charter Municipal Corporation, and _____, a _____, whose address of record is _____, ("Consultant") for the purpose of providing full service consulting and engineering services, including CIP plan design, surveying, traffic engineering and geotechnical services.

WHEREAS, City does not have sufficient personnel to perform full service consulting and engineering services for the above referenced fields and thereby necessitating this Contract for professional services.

NOW, THEREFORE, the Parties covenant and agree, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, as follows:

SECTION 1. CONSULTANT SERVICES

A. Subject to the terms and conditions set forth in this Contract, Consultant shall provide to City the services described in Exhibit "A," attached and incorporated herein. City and Consultant shall enter into an "Authorization of Service Agreement," substantially in the form of Exhibit "C" attached hereto and incorporated herein by this reference, for each project. City's City Manager or Assistant City Manager shall have the authority to execute on City's behalf the Authorization of Service Agreement without additional approval by the City Council so long as the funding is available within the specific project(s) budget. In the event additional funding is required, such Authorization of Service Agreement will require prior City Council approval. In the event of a conflict between the term of this Contract and the terms of the Authorization of Service Agreement, the terms and conditions set forth herein shall prevail over those set forth in the Authorization of Service Agreement.

B. Pursuant to Government Code § 7550, if the compensation set forth in Section 2 exceeds the sum of five thousand dollars ($5,000), each

document or report prepared by Consultant for City pursuant to this Contract shall, in a separate section of the document or report, contain the numbers and dollar amount of the Contract and all subcontracts under the Contract relating to the preparation of the document or written report. If multiple documents or written reports are the subject of the Contract or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

SECTION 2. COMPENSATION AND REIMBURSEMENT OF COSTS

A. City shall pay Consultant for services rendered pursuant to this Contract, at the times and in the manner set forth in each Authorization of Service Agreement. The payments specified in the Authorization of Service Agreement shall be the only payments to be made to Consultant for services rendered pursuant to this Contract. Consultant hourly rates shall not exceed those listed in Exhibit "B," "Hourly Rates," attached hereto and incorporated herein by this reference.

SECTION 3. TERM AND TERMINATION

A. The term of this Contract shall commence on the date of this Contract and shall expire June 30, 2022. The City shall have the option to extend this Contract for a single one (1) year term. Time is of the essence.

B. If Consultant fails to perform its duties to the satisfaction of City, or if Consultant fails to fulfill in a timely and professional manner its obligations under this Contract, then City shall have the right to terminate this Contract effective immediately upon City giving written notice thereof to Consultant.

C. Either Party may terminate this Contract without cause on thirty (30) calendar days' written notice.

D. City may terminate this Contract immediately upon written notice to Consultant if funding ceases or is materially decreased during the term of this Contract.

E. In the event that City gives notice of termination, Consultant shall promptly provide to City any and all finished and unfinished reports, AutoCAD files, data, studies, photographs, charts, or other work product prepared by Consultant pursuant to this Contract. City shall have full ownership, including, but not limited to, intellectual property rights, and control of all such finished and unfinished reports, data, studies, photographs, charts, or other work product.

F. In the event that City terminates the Contract, City shall pay Consultant the reasonable value of services rendered by Consultant pursuant to this Contract; provided, however, that City shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Contract. Consultant shall, not later than ten (10) calendar days after termination of this Contract by City, furnish to City such financial information as in the judgment of the City's representative is necessary to determine the reasonable value of the services rendered by Consultant.

G. In no event shall the termination of this Contract be construed as a waiver of any right to seek remedies in law, equity, or otherwise for a Party's failure to perform each obligation required by this Contract.

SECTION 4. MISCELLANEOUS TERMS AND CONDITIONS OF CONTRACT

A. City shall make its facilities accessible to Consultant as required for Consultant's performance of its services under this Contract, and, upon request of Consultant at times convenient to City, provide labor and safety equipment as required by Consultant for such access.

B. Unless otherwise agreed to in the Authorization of Services Agreement, City shall obtain, arrange, and pay for all advertisements for bids, permits, and licenses required by local, state, or federal authorities.

C. Pursuant to the City's business license ordinance, Consultant shall obtain a City business license prior to commencing work.

D. Consultant represents and warrants to City that it has all licenses, permits, qualifications, and approvals of any nature whatsoever that are legally required for Consultant to practice its profession. Consultant

represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract any licenses, permits, and approvals that are legally required for Consultant to practice its profession.

E. Consultant shall, during the entire term of this Contract, be construed to be an independent contractor and nothing in this Contract is intended, nor shall it be construed, to create an employer/employee relationship, association, joint venture relationship, trust, or partnership or to allow City to exercise discretion or control over the professional manner in which Consultant performs under this Contract; provided, however, that the services to be provided by Consultant shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of City is to insure that services are rendered and performed in a competent, efficient, and satisfactory manner. Consultant shall be fully responsible for payment of all taxes due to state and federal governments which would be withheld from compensation if Consultant were a City employee. City shall not be liable for deductions for any amount for any purpose relating to Consultant's compensation. Consultant shall not be eligible for coverage under City's workers' compensation insurance plan, benefits under the City's retirement plan, or be eligible for any other City benefit. No party shall be the agent of, or have a right or power to bind, the other Party without its express written consent.

   In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Contract is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

F. No provision of this Contract is intended to, or shall be for the benefit of, or construed to create rights in, or grant remedies to, any person or entity not a party hereto, including any third-party beneficiary.

G. No portion of the work or services to be performed under this Contract shall be assigned, transferred, conveyed, or subcontracted without the prior written approval of City. Consultant may use the services of independent contractors and subcontractors to perform a portion of its obligations under this Contract with the prior written approval of City. Independent contractors and subcontractors shall be provided with a copy of this Contract and Consultant shall have an affirmative duty to assure that said independent contractors and subcontractors comply with the same and agree to be bound by its terms. Consultant shall be the responsible party with respect to all actions of its independent contractors and subcontractors, and shall obtain such insurance and indemnity provisions from its contractors and subcontractors as City's Risk Manager shall determine to be necessary in his/her sole discretion.

H. Consultant, at such times and in such form as City may require, shall furnish City with such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs or obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

I. Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by City to assure proper accounting for all project funds. These records shall be made available for audit purposes to state and federal authorities, or any authorized representative of City. Consultant shall retain such records for three (3) years after the expiration of this Contract, unless prior permission to destroy them is granted by City or unless a longer retention period is required by a funding source for this Contract.

J. Consultant shall perform all services required pursuant to this Contract in the manner and according to the standards observed by a competent practitioner of Consultant's profession. All products of whatsoever nature, which Consultant delivers to City pursuant to this Contract, shall be prepared in a professional manner and conform to the standards of quality normally observed by a person practicing the profession of Consultant and its agents, employees, and subcontractors assigned to perform the services contemplated by this Contract.

K. Unless Consultant is specifically advised in writing by City to verify data, Consultant shall be entitled to rely upon the accuracy and completeness of all data furnished by City to Consultant that is used by Consultant in providing its services under this Contract. Consultant may retain and use all data furnished to it, except such data which may be marked "confidential" and required to be returned, and may use all plans, designs, specifications, plan checking, and other work product created by Consultant in providing services hereunder. Any use of such work product that includes proprietary information shall not identify City; nor shall the manner of such use have the effect of identifying City. In any reuse by Consultant for any non-City purpose of any data, drawings, plans, etc., prepared for City, Consultant shall fully release, protect, defend, indemnify, and hold harmless City, its officials, officers, employees, and agents from all claims, costs, expenses, damage, or liability arising out of or resulting from the reuse or modification of any reports, data, documents, drawings, specifications, or other work product prepared by Consultant for City for any entity or purpose other than for City's benefit.

L. All completed reports and other data or documents, or computer media including diskettes, and other materials provided or prepared by Consultant in accordance with this Contract are the property of City, and may be used by City. City shall have all intellectual property rights including, but not limited to, copyright and patent rights, in said documents, computer media, and other materials provided by Consultant. City shall release, defend, indemnify, and hold harmless Consultant from all claims, costs, expenses, damage, or liability arising out of or resulting from the use or modification of any reports, data, documents, drawings, specifications, or other work product prepared by Consultant, except use by City on those portions of the project for which such items were prepared.

M. Consultant, including its employees, agents, and subconsultants, shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Contract. Consultant shall comply with all requirements of the Political Reform Act (Government Code § 81000 *et seq*.), Government Code Section 1090 *et seq*., and other laws relating to conflicts of interest, including the following: 1) Consultant shall not make or participate in a decision made by City if it is reasonably foreseeable that the decision may have a material effect on Consultant's

economic interest, and 2) if required by City Clerk, Consultant shall file financial disclosure forms with the City Clerk.

SECTION 5. INSURANCE

During the term of this Contract, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars ($100,000) for any one person and as required by law, including Employer's Liability limits of $1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. General Liability.

(i) Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.

(ii) Consultant shall maintain limits of no less than One Million Dollars ($1,000,000) per occurrence for bodily injury, personal injury and property damage.

(iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.

(iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

(v) Consultant shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to

the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

(i) Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars ($1,000,000) per accident for bodily injury and property damage.

(ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Consultant.

(iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars ($1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

(i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,

(ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Contract, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Contract, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium.

g. Notwithstanding any language in this Contract to the contrary, Consultant shall be entitled to be paid pursuant to the terms of this Contract until Consultant has obtained the insurance required by this Section 10 and provided documentation of said insurance to the City. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

SECTION 6. INDEMNIFICATION AND HOLD HARMLESS

A. To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), Consultant shall indemnify, protect, defend (with legal counsel reasonably acceptable to City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property, or expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation), that arise out of, pertain to, or relate to, the negligence, recklessness, willful misconduct of Consultant or its employees, subcontractors, or agents in the performance of this Agreement. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to

the provisions of this Section and that it is a material element of consideration.

SECTION 7. CONTRACT INTERPRETATION, VENUE AND ATTORNEY FEES

A. This Contract shall be deemed to have been entered into in Merced, California. All questions regarding the validity, interpretation, or performance of any of its terms or of any rights or obligations of the parties to this Contract shall be governed by California law, and any action brought by either party to enforce any of the terms of this Contract shall be filed in the Merced County Superior Court. If any claim, at law or otherwise, is made by either party to this Contract, the prevailing party shall be entitled to its costs and reasonable attorneys' fees.

B. This document, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding each may have had prior to the execution of this Contract. This Contract shall not be altered, amended, or modified except by a writing signed by City and Consultant. No verbal agreement or conversation with any official, officer, agent, or employee of City, either before, during, or after the execution of this Contract, shall affect or modify any of the terms or conditions contained in this Contract, nor shall any such verbal agreement or conversation entitle Consultant to any additional payment whatsoever under the terms of this Contract.

C. If any portion of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

D. The headings in this Contract are inserted for convenience only and shall not constitute a part hereof. A waiver of any party of any provision or a breach of this Contract must be provided in writing, and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.

E. Each Party hereto declares and represents that in entering into this Contract, it has relied and is relying solely upon its own judgment, belief, and knowledge of the nature, extent, effect, and consequence relating thereto. Each Party further declares and represents that this Contract is made without reliance upon any statement or representation not contained herein of any other Party or any representative, agent, or attorney of the other Party. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this Contract and that the decision of whether or not to seek the advice of counsel with respect to this Contract is a decision which is the sole responsibility of each of the Parties. Accordingly, no party shall be deemed to have been the drafter hereof, and the principle of law set forth in Civil Code § 1654 that contracts are construed against the drafter shall not apply.

F. In the event of a conflict between the term and conditions of the body of this Contract and those of any exhibit or attachment hereto, the terms and conditions set forth in the body of this Contract proper shall prevail. In the event of a conflict between the terms and conditions of any two or more exhibits or attachments hereto, those prepared by City shall prevail over those prepared by Consultant.

SECTION 8. SURVIVAL

The provisions set forth in Sections 5 and 6 of this Contract shall survive termination of the Contract.

SECTION 9. COMPLIANCE WITH LAWS - NONDISCRIMINATION

A. Consultant shall comply with all applicable laws, ordinances, and codes of federal, state, and local governments.

B. In the performance of this Contract, Consultant shall not discriminate against any employee or applicant for employment because of race, color, ancestry, national origin, religious creed, sex, sexual orientation, gender, gender identity, gender expression, military and veteran status, disability, age, marital status, political affiliation, or membership or nonmembership in any organization. Consultant shall take affirmative action to ensure applicants are employed and that employees are treated during their employment without regard to their race, color, ancestry,

national origin, religious creed, sex, sexual orientation, gender, gender identity, gender expression, military and veteran status, disability, age, marital status, political affiliation, or membership or nonmembership in any organization. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay, or other forms of compensation and selection for training.

SECTION 10. FEDERAL REQUIREMENTS

A. During the performance of this Contract, Consultant, for itself, its assignees, and successors in interest agrees as follows:

1. Compliance with Regulations. Consultant shall comply with the regulations relative to nondiscrimination in Federally-assigned programs of the Department of Transportation (hereinafter called "DOT") Title 49, Code of Federal Regulations, PART 21, as they may be amended from time to time (hereinafter referred to as the "Regulations") which are herein incorporated by reference and made a part of this Contract.

2. Nondiscrimination. Consultant, with regard to the work performed by it in the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

SECTION 11. REPRESENTATIVES

A. City's representative for this Contract is Steven Son, telephone number (209) 385-6898, fax number (209) 385-6211. All of Consultant's questions pertaining to this Contract shall be referred to the above-named person, or to the representative's designee.

B. Consultant's representative for this Contract is _____, telephone number _____ fax number _____. All of City's questions pertaining to this Contract shall be referred to the above-named person.

C. The representatives set forth herein shall have authority to give all notices required herein. City's City Manager or Assistant City Manager is authorized to execute any amendment to this Contract, which does not increase the amount of compensation allowable to Consultant.

SECTION 12. NOTICES

A. All notices, requests, demands, and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender (may be other than the representatives referred to in Section 11) and delivered by facsimile, with a hard copy mailed first class, postage prepaid; or when sent by a courier or an express service guaranteeing overnight delivery to the receiving party, addressed to the respective parties as follows:

To City:	**To Consultant:**
City of Merced Steven Son 678 West 18th Street Merced, CA 95340 City Clerk City of Merced 678 West 18th Street Merced, CA 95340	

B. Either party may change its address for the purposes of this Section by giving written notice of such change to the other party in the manner provided in this Section.

C. Notice shall be deemed effective upon: 1) personal service; 2) two days after mailing or transmission by facsimile, whichever is earlier.

SECTION 13. AUTHORITY TO CONTRACT

Each of the undersigned signatories hereby represents and warrants that they are authorized to execute this Contract on behalf of the respective parties to this Contract; that they have full right, power, and lawful authority to undertake all obligations as provided in this Contract; and that the execution, performance, and delivery of this Contract by said signatories has been fully authorized by all requisite actions on the part of the respective parties to this Contract.

SECTION 14. CONFORMANCE TO APPLICABLE LAWS

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq*.), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Contract, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

SECTION 15. WAIVER

In the event that either City or Consultant shall at any time or times waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Contract, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

SECTION 16. AMENDMENT

This Contract shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto by the authorized representative thereof.

SECTION 17. COUNTERPARTS

This Contract may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

SECTION 18. DATE OF CONTRACT

The date of this Contract shall be the date it is signed by City.

IN WITNESS WHEREOF, City and Consultant have executed this Contract on the days and year set forth below:

CITY OF MERCED,
A California Charter-law Municipal Corporation

Dated: _____, 20__

_____
By: City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

_____
By: Assistant/Deputy City Clerk

APPROVED AS TO FORM:

_____
City Attorney Date

CONSULTANT

Dated: _____, 20__

BY:_____
(Signature)

_____
(Typed Name)

Its:_____
(Title)

BY:_____
(Signature)

_____
(Typed Name)

Its:_____
(Title)

Taxpayer I.D. No._____

ADDRESS: _____
_____

TELEPHONE:_____
FAX:_____
E-MAIL:_____

Attachments:

Exhibit A (Scope of Work)
Exhibit B (Hourly Rates)
Exhibit C (Authorization for Service Agreement)

Name of City Contact _____ Phone Ext. _____

Description of Services to be Provided: ***Official Use Only***

_____

_____

_____

_____

Check Box If Applicable To Project:

☐ License (1)* Type _____ ☐ Business License (2)* ☐ Bonds (6)*

☐ Insurance (13)* ☐ Workers' Compensation (14)* ☐ Prevailing Wages (15)*

**** Numbers correspond to paragraph numbers on the Terms and Conditions attached hereto.***

Consultant: **Proposal/Quote**

1._____

2._____

3._____

Total Amount $_____

By completing and executing this document, Consultant agrees to be bound to the Terms and Conditions attached hereto and incorporated by reference, any additional terms and conditions found on the Purchase Order, and any other terms and conditions imposed by the City and attached hereto or in the Merced Municipal Code, and makes the City an offer for the above-mentioned services at the above-mentioned price. This agreement is not binding on the City until executed by the City Manager, or his/her designee, and a Purchase Order is issued to Consultant. Any terms and conditions proposed by Consultant shall not be binding upon the City unless expressly agreed to in writing by the designated representative of the City.

The individuals executing this contract represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

Consultants

_____

_____

_____ _____

Print Name **Name of Business Entity**

_____ **Date** _____

Signature **Phone No.**_____

_____ **License No.:** _____

Position/Title **(If Applicable)**

Accepted by City of Merced ***Official Use Only***

_____ **Date** _____

City Manager or Designee

TERMS AND CONDITIONS FOR SERVICES CONTRACTS

THESE TERMS AND CONDITIONS, ("Terms and Conditions") are made and entered into on the date shown on the attached Statement of Services, by and between the City of Merced, a California Charter Municipal Corporation, ("City") and the Consultant, Vendor, Contractor, or Person, ("Contractor") shown on the Authorization for Service Agreement. These Terms and Conditions, Authorization for Service Agreement, and the Consulting and Professional Services Contract shall herein be collectively referred to as the "Agreement." Any words that Consultant adds to the Agreement or any form that Consultant uses in the course of business will not change or supersede these Terms and Conditions. The City must agree, in writing, to any change in terms and conditions. The City's acceptance of any work or services is not an acceptance of Consultant's conflicting terms and conditions should such exist.

1. CONTRACTOR'S SERVICES. Contractor shall, at its own cost and expense and as authorized and directed by the City, provide the personnel, supervision, equipment, supplies, services, administration, transportation, and other needs to complete the work described in the Authorization for Service Agreement and the City's Purchase Order, which is hereby incorporated and made a part of these Terms and Conditions, within the agreed upon time schedule and budget. The Contractor is responsible for obtaining and administering the employment of personnel having the training, experience, licenses, and other qualifications necessary for the work assigned. All project-related costs shall be assumed and paid by the Contractor. These Terms and Conditions and Purchase Order provide the exclusive means of payment and reimbursement of costs to the Contractor by the City.

Such work shall include the following:

a. The Contractor shall perform the services as described in the Statement of Services and Purchase Order in full compliance with these Terms and Conditions and adopted City policies and guidelines as provided to the Contractor, and in compliance with all other applicable laws and regulations.

b. The Contractor shall perform all services and prepare all documents in professional form, exercising the special experience, skill, and education required for such service.

c. The Contractor shall provide finished documents of presentation quality that evidence the highest standards of investigation, professional review, public participation, and presentation.

2. SCHEDULE OF PERFORMANCE AND BUDGET. The Contractor shall satisfactorily perform the services described in the Statement of Services and Purchase Order within the Time Schedule stated or agreed to between the Contractor and the City. The Contractor shall review the remaining work and remaining budget at least monthly (or at such other interval as directed by City staff) and shall confirm that completion may be expected within the budget approved or, in the

alternative, give immediate notice when it shall first appear that the approved budget will not be sufficient, together with an explanation for any projected insufficiency.

The Contractor shall immediately inform the City of any problems, obstructions, or deviations of which the Contractor becomes aware affecting Contractor's ability to complete the project in a timely, efficient, and competent manner.

3. RISK OF LOSS PRIOR TO FINAL ACCEPTANCE. Risk of loss from total or partial destruction of the work, prior to final acceptance, shall be borne by Contractor regardless of the cause. Contractor shall repair or replace such damages or destroyed work to its prior undamaged condition before being entitled to additional progress payments or final payment. Total or partial destruction or damage shall not excuse Contractor from completion of work.

4. COMPENSATION. Payment by the City to the Consultant for actual services rendered shall be made upon presentation of an invoice detailing services performed and authorized.

5. PERMITS AND LICENSES.

a. Contractor shall apply for and procure permits and licenses necessary for the work.

b. Contractor shall give notices necessary and incidental to the due and lawful prosecution of the work and shall comply duly with the terms and conditions of permits and licenses.

c. Contractor shall pay charges and fees in connection with permits and licenses.

PROPOSED SCOPE OF SERVICES

Benchmark Engineering, Inc. will provide the City of Merced, on an "as needed" basis, civil engineering, design and surveying services related to various City of Merced projects. These services are generally needed to assist the Engineering Division to meet a growing need for support for ongoing projects. Services will be provided on an "On-Call" basis, with each service requiring a written scope of services detailing the work to be performed and the required deliverables, along with the schedule and cost estimate from the Consultant to perform that work, which the City must authorize in writing prior to commencement of services by the Consultant.

Our team, in concert with the City's Project Manager, will be able to provide the following services:

- Engineering Design and Surveying Services

1. Provide construction plans and specifications of various road projects.
2. Provide construction plans and specifications for various utility projects (i.e. water, sewer, storm, etc.).
3. Provide construction support/inspection on various projects.
4. Provide alignment studies and cost estimates.
5. Prepare application for various grants.
6. Prepare various studies that are related to roads, water, sewer, and storm drains.
7. Assist with regulatory compliance and negotiation with Federal, State, and other agencies as necessary.
8. Manage sub-consultant to complete the projects (geotechnical, traffic, environmental, etc.).
9. Prepare topographic and planimetric survey of proposed City projects, including all underground utility location(s) based on USA markings, digital terrain modeling for contour interpolation, profile, cross-section, and earthwork volume calculations.
10. Prepare drawings of the survey based on the latest AutoCAD version (2019 or newer).
11. Provide land records research for boundary determination of existing and proposed City properties and right-of-way.
12. Recover existing monuments, including monuments (section corners, etc.) for property corners, right-of-way monuments, and benchmarks.
13. Provide retracement surveys.
14. Re-establish lost or obliterated corners.
15. Re-establish control points.
16. Provide construction staking as needed.
17. Provide record filing including, but not limited to, corner records and records of survey.

18. Provide boundary and right-of-way resolution.
19. Prepare plats and legal descriptions.
20. Perform digital leveling.
21. Conduct as-built surveys.
22. Perform monument preservation.
23. Other tasks that may be requested by the City (i.e. Structural).

Project deliverables will vary based on the work requested. In general, deliverables will include, but not limited to, electronic and/or hard copies of reports, maps, Civil 3D files and other related data. AutoCAD files will be exported using the eTransmit feature to include all fonts, textures, references and pen settings.

BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING

BENCHMARK ENGINEERING,INC.
RATE SCHEDULE 2018

OFFICE

CIVIL ENGINEERING, MAPPING AND PLANNING SERVICES	
Principal	$ 160.00
Civil Engineer	$ 160.00
Land Surveyor	$ 160.00
Project Manager	$ 135.00
CAD Technician III	$ 120.00
CAD Technician II	$ 105.00
CAD Technician I	$ 90.00
ADMINISTRATION	
Project Coordinator	$ 80.00
Administrative Assistant	$ 60.00

FIELD

SURVEYING	
Land Surveyor	$ 160.00
Associate Land Surveyor	$ 145.00
Survey Manager	$ 135.00
Assistant Land Surveyor	$ 120.00
Survey Technician	$ 105.00
Survey Assistant	$ 90.00
2 Person Survey Crew	$ 250.00
1 Person Survey Crew	$ 145.00
2 Person Survey Crew Travel	$ 135.00
1 Person Survey Crew Travel	$ 85.00

NOTE:
Expert witness consultation fee is $300.00 per hour.

The above rate schedule is effective through December 31, 2018 and is subject to adjustment January 1, 2019.

EXHIBIT B

BKF No. P20181032-01
11/19/2018

SCOPE OF WORK

BKF Engineers welcomes the opportunity to submit this scope of work for following services related to the City of Merced Request for Qualification (On-Call) contract. BKF and its sub-consultant(s) are capable to response to the following tasks:

GENERAL CIVIL ENGINEERING:

1. Provide construction plans and specifications of various road projects.
2. Provide construction plans and specifications for various utility projects (i.e. water, sewer, storm, etc.).
3. Provide construction support/inspection on various projects.
4. Provide alignment studies and cost estimates.
5. Prepare application for various grants.
6. Prepare various studies that is related to roads, water, sewer, and storm drains.
7. Assist with regulatory compliance and negotiation with Federal, State, and other agencies as necessary.
8. Manage sub-consultant to complete the projects (geotechnical, traffic, environmental, etc.).

SURVEY:

1. Prepare topographic and planimetric survey of proposed City projects, including all underground utility location(s) based on USA markings, digital terrain modeling for contour interpolation, profile, cross-section, and earthwork volume calculations
2. Prepare drawings of the survey based on the latest AutoCAD version (2010 or newer).
3. Provide land records research for boundary determination of existing and proposed City properties and right-of-way.
4. Recover existing monuments, including monuments (section corners, etc.) property corners, right-of-way monuments, and benchmark.
5. Provide retracement surveys.
6. Re-establish lost or obliterated corners.
7. Re-establish control points.
8. Provide construction staking as needed.
9. Provide record filing including, but not limited to, corner records, record of survey, etc.

TRAFFIC ENGINEER:

1. Provide construction plans and specifications for traffic signals and phasing.
2. Prepare railroad pre-emption studies as necessary.
3. Provide transportation planning.
4. Prepare traffic safety and traffic studies.
5. Analyze traffic safety and traffic studies prepared by other consultants for development projects.
6. Conduct traffic counts and speed studies.
7. Coordinate with the California Public Utilities Commission (CPUC) and other agencies as necessary to obtain approval(s) for various projects.
8. Prepare pre-emption timing.
9. Traffic cards.
10. Signal coordination

PROFESSIONAL PERSONNEL SERVICE FEES

JANUARY 1, 2018 - DECEMBER 31, 2022

		Projected Rates			
PERSONNEL	**2018**	***2019***	***2020***	***2021***	***2022***
ENGINEERING					
Senior Associate Engineer	$212	$218	$225	$232	$239
Associate Engineer	$206	$212	$219	$225	$232
Senior Project Manager	$202	$208	$214	$221	$227
Project Manager	$197	$203	$209	$215	$222
Engineer IV	$182	$187	$193	$199	$205
Engineer III	$168	$173	$178	$184	$189
Engineer II	$148	$152	$157	$162	$167
Engineer I	$129	$133	$137	$141	$145
Engineering Assistant	$79	$81	$84	$86	$89
Junior Engineer	$67	$69	$71	$73	$75
PLANNING					
Planner IV	$182	$187	$193	$199	$205
Planner III	$168	$173	$178	$184	$189
Planner II	$148	$152	$157	$162	$167
Planner I	$129	$133	$137	$141	$145
SURVEYING					
Senior Associate Surveyor	$212	$218	$225	$232	$239
Associate Surveyor	$206	$212	$219	$225	$232
Senior Project Manager	$202	$208	$214	$221	$227
Project Manager	$197	$203	$209	$215	$222
Surveyor IV	$181	$186	$192	$198	$204
Surveyor III	$168	$173	$178	$184	$189
Surveyor II	$148	$152	$157	$162	$167
Surveyor I	$129	$133	$137	$141	$145
Survey Party Chief	$169	$174	$179	$185	$190
Survey Chainman	$109	$112	$116	$119	$123
Apprentice IV	$105	$108	$111	$115	$118
Apprentice III	$99	$102	$105	$108	$111
Apprentice II	$90	$93	$95	$98	$101
Apprentice I	$67	$69	$71	$73	$75
Instrumentman	$145	$149	$154	$158	$163
Surveying Assistant	$79	$81	$84	$86	$89
Junior Surveyor	$67	$69	$71	$73	$75
Utility Locating Superintendent	$170	$175	$180	$186	$191
Utility Locator III	$149	$153	$158	$163	$168
Utility Locator II	$124	$128	$132	$135	$140
Utility Locator I	$88	$91	$93	$96	$99
BIM Specialist III	$168	$173	$178	$184	$189
BIM Specialist II	$148	$152	$157	$162	$167
BIM Specialist I	$129	$133	$137	$141	$145
DESIGN AND DRAFTING					
Technician IV	$155	$160	$164	$169	$174
Technician III	$143	$147	$152	$156	$161
Technician II	$131	$135	$139	$143	$147
Technician I	$123	$127	$130	$134	$138
Drafter IV	$127	$131	$135	$139	$143
Drafter III	$114	$117	$121	$125	$128
Drafter II	$106	$109	$112	$116	$119
Drafter I	$96	$99	$102	$105	$108
CONSTRUCTION ADMINISTRATION/QSP-QSD					
Sr. Construction Administrator	$191	$197	$203	$209	$215
Resident Engineer	$142	$146	$151	$155	$160
Field Engineer III	$168	$173	$178	$184	$189
Field Engineer II	$148	$152	$157	$162	$167
Field Engineer I	$129	$133	$137	$141	$145
Senior Consultant	$221	$228	$234	$241	$249
SERVICES AND EXPENSES					
Project Assistant	$79	$81	$84	$86	$89
Clerical/Admin. Assistant	$67	$69	$71	$73	$75
Delivery Services	$35	$36	$37	$38	$39
PRINCIPAL IN CHARGE	$237	$244	$251	$259	$267

Charges for outside services, equipment, and facilities not furnished directly by BKF Engineers will be billed at cost plus 10%. Such charges may include, but shall not be limited to printing and reproduction services; shipping, delivery, and courier charges; subconsultant fees and expenses; special fees, permits, and insurance; transportation on public carriers, meals, and lodging; and consumable materials. Mileage will be charged at the prevailing IRS rate per mile. Monthly invoices are due within 30 days from invoice date. Interest will be charged at 0.833% per month on past due accounts. Expert witness/litigation rates are available upon request.

SCOPE OF SERVICES

City of Merced
On-Call Consultant Services

PROJECT UNDERSTANDING

The City of Merced (City) is looking to obtain an on-call consultant to perform general Civil Engineering design services for future Capital Improvement Projects. Carollo is prepared to assist the City with water, sewer, and storm related projects. Carollo will partner with a City approved subconsultant for specialty items such as surveying, traffic control/road design, environmental consulting, hydrogeological services, and geotechnical services. The following is a general scope of work for areas of service Carollo Engineers, Inc. can assist the City with:

General Civil Engineering Design Services

Carollo Engineers, Inc. can provide general Civil Engineering services in water, sewer, and storm water. The following are outlines of services we see fit to assist the City with their Capital Improvement Program:

Water

- Planning
    - Services include hydraulic modeling, master planning, growth studies, groundwater sustainability planning, asset management, condition assessment, or related projects.
- Design
    - Services include the design of water facilities which include wells, water pipelines, pump stations, reservoir/tanks, water quality improvements, treatment facilities, or related projects.
- Permitting
    - Services include assistance with permitting and projects related to State Water Board Division of Drinking Water approval, city/county approvals (encroachment permits, building permits, etc.) and CEQA documentation.
- Construction
    - Services include construction related services for water design projects. This includes construction management, inspections, or engineering services during construction.

Sewer

- Planning
    - Services include hydraulic modeling, master planning, growth studies, asset management, condition assessment, or related projects.
- Design
    - Services include the design of wastewater facilities which include collection system pipelines, sewer lift stations, treatment facilities, or related projects.
- Permitting

- Services include assistance with permitting and projects related to approval by the Central Valley Regional Water Quality Control Board, city/county approvals (encroachment permits, building permits, etc.) and CEQA documentation.

- Construction
  - Services include construction related services for wastewater design projects. This includes construction management, inspections, or engineering services during construction.

Storm

- Planning
  - Services include hydraulic modeling, master planning, growth studies, asset management, condition assessment, or related project.
- Design
  - Services include the design of storm water facilities which include storm water conveyance (pipelines, culverts, and ditches), pump stations, detention/retention basins, or related projects.
- Construction
  - Services include construction related services for storm water design projects. This includes construction management, inspections, or engineering services during construction.
- Permitting
  - Services include assistance with permitting and projects related to approval by the Central Valley Regional Water Quality Control Board, city/county approvals (encroachment permits, building permits, etc.) and CEQA documentation.

CAROLLO ENGINEERS, INC.
FEE SCHEDULE

As of January 1, 2018
California

	Hourly Rate
Engineers/Scientists	
Assistant Professional	$174.00
Professional	213.00
Project Professional	252.00
Lead Project Professional	272.00
Senior Professional	294.00
Technicians	
Technicians	131.00
Senior Technicians	183.00
Support Staff	
Document Processing / Clerical	115.00
Project Equipment Communication Expense (PECE) Per DL Hour	**11.70**
Other Direct Expenses	
Travel and Subsistence	at cost
Mileage at IRS Reimbursement Rate Effective January 1, 2018	$.545 per mile
Subconsultant	cost + 10%
Other Direct Cost	cost + 10%
Expert Witness	Rate x 2.0

This fee schedule is subject to annual revisions due to labor adjustments.

EXHIBIT A

CIVIL ENGINEERING DESIGN SERVICE
SCOPE OF WORK

- Provide construction plans and specification of various road projects
- Provide construction plans and specifications for various utility projects (i.e. water, sewer, storm, etc.)
- Provide construction support / inspection on various projects
- Provide alignment studies and cost estimates
- Prepare application for various grants
- Prepare various studies that is related to roads, water, sewer, and storm drains.
- Assist with regulatory compliance and negotiation with Federal, State, and other agencies as necessary
- Other tasks that may be requested by the City (i.e. Structural)
- Manage sub-consultant to complete the projects (geotechnical, traffic, environmental etc.

EXHIBIT A
SURVEY
SCOPE OF WORK

- Prepare topographic and planimetric survey of proposed City projects, including all underground utility location(s) based on USA markings, digital terrain modeling for contour interpolation, profile, cross-section, and earthwork volume calculations.
- Prepare drawings of the survey based on the latest AutoCAD version (2010 or newer)
- Provide land records research for boundary determination of existing and proposed City properties and right-of-way.
- Recover existing monuments, including monuments (section corners, etc.) property corners, right-of-way monuments, and benchmark.
- Provide retracement surveys.
- Re-establish lost or obliterated corners.
- Re-establish control points
- Provide construction staking as needed.
- Provide record filing including, but not limited to, corner records, record of survey, etc.

EXHIBIT B
HOURLY RATES

STRUCTURAL/CIVIL ENGINEER	- PRINCIPAL	$	150.00/HR.
LICENSED LAND SURVEYOR - PRINCIPAL		$	150.00/HR.
LICENSED ARCHITECT		$	120.00/HR.
LICENSED LAND SURVEYOR - CHIEF		$	120.00/HR.
LICENSED CIVIL ENGINEER		$	120.00/HR.
STRUCTURAL ENGINEERING DESIGNER		$	85.00/HR.
BUILDING DESIGNER		$	85.00/HR.
CIVIL ENGINEERING DESIGNER		$	85.00/HR.
DRAFTSMAN		$	65.00/HR.
SURVEY CREWS (NON PREVAILING WAGE)		$	150.00/HR.
SURVEY CREWS (PREVAILING WAGE)		$	225.00/HR.
CLERICAL		$	30.00/HR
BLUE PRINTS (24X36)		$	1.80/SHT
BLUE PRINTS (30X42)		$	2.60/SHT
PLOTTING SERVICE (24X36)		$	12.00/SHT
PLOTTING SERVICE (30X42)		$	15.00/SHT
COLOR PRINTS (8 1/2X11)		$	2.00/SHT
COLOR PRINTS (24X36)		$	100.00/SHT
COLOR PRINTS (36X48)		$	150.00/SHT
COLOR PRINTS (36X96)		$	250.00/SHT
OUTSIDE SERVICES		COST + 10%	

November 16, 2018

INTERWEST
CONSULTING GROUP

City of Merced
Department of Public Works
Attn: Jamie Cruz, Management Analyst
1776 Grogan Avenue
Merced, CA 95341

Subject: Proposal to Provide – DESIGN CATEGORY (TRAFFIC ENGINEERING SERVICES)

Dear Ms. Cruz:

Interwest Consulting Group is pleased to submit our scope of work and rates to provide on-call professional traffic engineering services to the City of Merced Department of Public Works.

Interwest will bring a sub-contractors, **Y & C Transportation** and **WILTEC** onto our team for traffic signal design and traffic data collection and speed surveys.

Interwest will perform services to provide professional traffic engineering to the City of Merced Public Works Department, as described within the Scope of Work on a time and materials basis per the attached rate sheet. The total not-to-exceed contract amount will be determined by the City.

We appreciate the opportunity to present our proposal for your review and consideration. Please contact me at troschen@interwestgrp.com or 916-842-1069 if you have any questions or would like additional information.

Sincerely,

Theron Roschen, PE
Municipal Services Manager

9300 WEST STOCKTON BOULEVARD | SUITE 105 • ELK GROVE, CALIFORNIA 95758
TEL. 916.683.3340 • FAX. 916.683.3375 • www.interwestgrp.com

SCOPE OF WORK

We understand that in anticipation of changes in staffing and a heavily increased workload, the City of Merced will require on-call traffic engineering support services in the following areas:

- Review and development of traffic investigation, evaluation and studies
- Review and development of traffic engineering design plans
- Evaluation and development of traffic engineering and Capital Improvement Plan projects and programs
- Staffing and support of Traffic Committee
- Review and additional guidance on modification or development of policies
- Staff training
- Assistance in developing effective and efficient investigation, evaluation methods and procedures
- Assistance in grant funding
- Assistance in Traffic Data Collection and Management

Specific services include but are not limited to:

Data Collection, Preparation and Review of Investigations, Analysis and Studies

- Traffic collision, circulation and intersection operation analysis
- Engineering and speed surveys– conduct analysis of speed surveys and offer speed limit recommendations
- Traffic signal, stop sign and school crossing guard warrant studies
- Parking studies
- Residential traffic management study
- Pedestrian and bicycle study for safety and facility improvement
- Evaluation of the city's investigation, evaluation and study methods and practices and areas of improvement
- Review traffic signal timing plans and field operation and provide recommendation for adjustments
- Implement Intelligent transportation systems (ITS) technologies
- City Attorney/Risk Management support for claims/litigation against the City. Provide depositions/expert witness testimony as needed for claims.

Preparation and Review of Engineering Design Plans

- Traffic Signal Design
- Traffic sign and striping design

- Traffic detour plan
- Event traffic management
- Safe Route to School

Development, guidance and review of program, policies and plans

- Traffic Collision Reduction, Traffic Signal Operation and Maintenance, Striping, Traffic Sign Maintenance, and Safe Route to School programs
- Traffic Signal Priority, Synchronization, Traffic Calming, School Crossing Guard, Mid-block crosswalk treatment policies
- Municipal and Circulation Element
- Mobility plan
- Assistance with the organization and management of Traffic Data used for forecasting future traffic conditions, evaluations and operations of traffic signal system.

Assist in Private Development Entitlement Process

- Site Plan Review
- Project impact and mitigation measure
- Traffic Impact Study Review
- Access Management
- Environmental traffic analysis
- Conditions of Approval and Development Agreement

Project Management

- Oversee duties performed by the team
- Plan, organize and supervise a variety of traffic engineering tasks and projects
- Supervise the planning, design and review of the traffic engineering-related aspects of Community Development construction projects, coordinating with other divisions and agencies and ensuring that City standards and goals are met
- Represent the City at Caltrans, MCOG, and other regional transportation agencies.
- Work closely with other City Departments to provide support for traffic and circulation improvements
- Attend City Planning Commission and City Council meetings, as directed by City staff
- Handle citizen and business requests, interfacing with the requestor, conducting field work, and preparing the relevant studies, summary reports and work orders
- Coordinate with Merced Police and Fire Departments and the Merced School District regarding traffic safety, proposed new/modified traffic controls and signal operations
- Perform other duties as assigned

STAFFING

We propose the following primary staff to provide the described services. Additional staff will support these individuals.

Interwest Staff	Classification
Michael Kashiwagi, PE	Principal-in-Charge
Theron Roschen, PE	Project Manager
Firoz Vohra, TE	Traffic Engineer
David Yatabe, TE	Traffic Engineer
Marty Hanneman, PE, TE	Traffic Engineer
Ruth Smith, TE, PTP	Traffic Engineer / Transportation Planner
Nicole Jules, PE	Civil Engineer / Director of Traffic Engineering Services
Nadia Bosan, PE, PTOE, QSP	Civil Engineer / Traffic Operations Engineer
Grecia Bahena Morillon	Assistant Engineer
Yvonne Soto	Assistant Engineer

SUB-CONSULTANTS

Y&C Transportation Consultants Inc. | SMBE/DBE, SBE, MBE
Services:

- Prepare plans, specifications, and cost estimates (PS&E) for traffic signals, lighting, and electrical system.
- Prepare PS&E for signing and striping.
- Prepare PS&E for construction stage traffic control to support various infrastructure projects.
- Review traffic signal, lighting, signing, striping, and traffic control PS&E by developers' consultants.

WILTEC | DBE, SBE
Services:

- Manual Intersection Traffic Counts
- Manual Vehicle Axle Classification Counts
- Manual Mainline Freeway and Ramp Surveys
- 24-Hour ADT Machine Counts
- Travel Time and Speed Surveys
- Saturation Flow Rate Surveys
- Queuing Surveys
- Vehicle Occupancy Surveys
- Origin and Destination Surveys
- Traffic Data Analysis

Billing Rates



The rates displayed in the fee schedule below reflect Interwest's current fees. Hourly rates are typically reviewed yearly on July 1 and may be subject to revision unless under specific contract obligations. In addition, there is no charge for shipping, supply, or material costs.

CLASSIFICATION	HOURLY BILLING RATE
Engineering	
Principal in Charge	$200
Project Manager	180
Traffic Engineer	165
Supervising Engineer	160
Senior Engineer	150
Engineering Associate III	135
Engineering Associate II	125
Engineering Associate I	115
Engineering Technician III	95
Engineering Technician II	85
Engineering Technician I	85
Student Trainee	30
Grading Plans Examiner	120
Building & Safety Services	
Certified Building Official	150
Senior Structural Engineer	140
Licensed Plan Review Engineer	140
Senior Plan Review Architect	125
ICC Certified Plans Examiner	100
Senior Plans Examiner	105
CASp	100
Permit Technician	60
Inspector III	95
Inspector II	85
Inspector I	75
Code Enforcement Officer	80
Fire Protection Engineer	135
Fire Marshal	110
ICC Fire Plans Examiner	100
Fire Inspector	95
Transportation	
Supervising Transportation Planner	130
Senior Transportation Planner	120
Associate Transportation Planner III	110
Associate Transportation Planner II	100
Associate Transportation Planner I	90

Real Estate

Principal Oversight	185
Real Estate Property Manager	160
Senior Real Property Agent	135
Real Property Agent	110
Real Estate Technician	95
Senior Administrative	75

Geographic Information Systems

GIS Project Manager	135
Database Administrator	125
Senior GIS Analyst	120
GIS Analyst	95
GIS Technician	70

Information Technology

IT Project Manager	135
Network Engineer	125
IT Senior Analyst – Project Manager	125
IT Analyst	100
IT Technician	70

Planning Services

Planning Manager	160
Principal Planner	135
Senior Planner	130
Associate Project Planner	115
Assistant Planner	95

Administrative

Management Analyst II	90
Management Analyst I	80
Senior Administrative	70
Administrative III	65
Administrative II	60
Administrative I	55

Overtime, Night & Weekend work 140% of rates listed above

No billing for travel expences

Y&C Transportation Consultants, Inc.

Y&C Transportation Consultants, Inc.
2018/2019/2020 Fee Schedule

Engineer XII	$220/hr
Engineer XI	$210/hr
Engineer X	$190/hr
Engineer IX	$175/hr
Engineer VIII	$160/hr
Engineer VII	$145/hr
Engineer VI	$135/hr
Engineer V	$120/hr
Engineer IV	$110/hr
Engineer III	$95/hr
Engineer II	$85/hr
Engineer I	$75/hr
Technician IV	$65/hr
Technician III	$55/hr
Technician II	$45/hr
Technician I	$40/hr
Clerk III	$55/hr
Clerk II	$45/hr
Clerk I	$40/hr

MISCELLANEOUS COSTS

Reimbursables (Printing and Materials, Express Mail and Delivery Expenses, Filing Fees, Parking and Field Expenses) will be billed at cost.

Auto Mileage will be billed in accordance with current IRS rate.

WILTEC

STANDARD RATES SCHEDULE *EFFECTIVE JANUARY 2018*

INDIVIDUAL RATES

Moses R. Wilson, PE.	$175.00 per hour
Senior Project Manager	$125.00 per hour
Project Managers / Associate Engineers	$100.00 per hour
Engineering and Field Technicians	$55.00 per hour
Administrative Assistants	$55.00 per hour

TYPICAL SURVEY RATES

Intersection Turning Movement Counts

- Single 2-hour count ..... $250.00 per intersection
- 2-hour AM and 2-hour PM count ..... $420.00 per intersection
- 2-hour AM, 2-hour MD and 2-hour PM count ..... $630.00 per intersection
- 3-hour AM and 3-hour PM count ..... $630.00 per intersection
- Each additional hour of survey at same location ..... $100.00 per hour

(minimum $220.00 per intersection per order)

Standard 24-hour ADT machine counts

First day of survey ..... $150.00 per location
Each additional consecutive day of survey at same location ..... $100.00 per location
(minimum $240.00 per order)

Speed or Axle Classification machine counts ..... $150.00 per machine per day

Radar Speed Surveys ..... $150.00 per survey hour
(minimum $240.00 per order)

Floating car surveys ..... $150.00 per survey hour (vehicle costs included)
(minimum $400.00 per order)

Parking Surveys ..... $55.000 per hour per technician
plus appropriate supervisor fees
(minimum $240.00 per order)

- ***For surveys outside of the Greater San Francisco or Los Angeles areas, please call for quotes.***
- ***Rates will be increased by 25% for all manual field surveys conducted between the hours of 9 PM and 5 AM, each additional hour past the first 8 hours of a continuous survey, and on all holidays.***

SOUTHERN CALIFORNIA OFFICE
- 596 N. Lake Avenue, Ste. 301, Pasadena, CA 91101 ♦ Phone (626) 564-1944 ♦ Fax (626) 564-0969

NORTHERN CALIFORNIA OFFICES
- San Jose, CA ♦ Phone (408) 871-7707 ♦ Fax (408) 871-7711

E-mail: info@wiltecusa.com

Traffic Engineering and Data Research

City of Merced

MKN & Associates, Inc's
Scope of Services for
On-Call Engineering Services for Design Engineering Services

Background

As part of the City of Merced's (City) request for qualifications (RFQ) process, the City has selected MKN & Associates, Inc. (MKN) to be one of the on-call engineers for the General Civil Engineering category. The RFQ stated the scope or services to be performed under the General Civil Engineering category may include:

1. Provide construction plans and specifications of various road projects.
2. Provide construction plans and specifications for various utility projects (i.e. water, sewer, storm, etc.).
3. Provide construction support/inspection on various projects.
4. Provide alignment studies and cost estimates.
5. Prepare application for various grants.
6. Prepare various studies that is related to roads, water, sewer, and storm drains.
7. Assist with regulatory compliance and negotiation with Federal, State, and other agencies as necessary.
8. Other tasks that may be requested by the City (i.e. Structural).
9. Manage sub-consultant to complete the projects (geotechnical, traffic, environmental, etc.)

The following is a detailed scope of services of work to be performed by MKN on an on-call basis.

A. Scope of Services

Task Group 100 – Provide Construction Plans and Specifications of Various Road Projects

MKN and its subconsultant Drake Haglan & Associates will perform the following Task Group 100 services:

- Planning and design of roadways, bridges, traffic signals, intersections, and
- Review and/or develop engineering details, standards, and technical specifications
- Permitting and coordination with other stakeholders (e.g. Merced Irrigation District, UC Merced)
- Utility coordination by contacting utility companies and agencies that may have existing utilities at the project site to discuss potential utility relocations needed for projects

Task Group 100 Example Deliverables:

- *Plans and technical specifications*
- *Engineer's estimate of probable construction costs*
- *Design details*

Task Group 200 – Provide Construction Plans and Specifications for Various Utility Projects (i.e. water, sewer, storm, etc.)

- Planning and design of transmission pipelines, water distribution pipelines, pump stations, wells, treatment facilities, surface water treatment facilities, tanks, pressure relief/sustaining stations, and surge control facilities.

- Planning and design of sewer trunk lines, sewer collection systems, lift stations, odor control facilities, wastewater treatment plants, and sewer rehabilitation of pipelines and manholes.
- Review and/or develop engineering details, standards, and technical specifications
- Permitting and coordination with other stakeholders (e.g. Merced Irrigation District, UC Merced)

Task Group 200 Example Deliverables:

- *Plans and technical specifications*
- *Engineer's estimate of probable construction costs*
- *Design details*

Task Group 300 – Provide Construction Support/Inspection on Various Projects

- Conduct and/or attend preconstruction meetings
- Review and respond to contractor shop drawings/submittals
- Construction management/resident engineering
- Construction observation and inspection
- Materials testing and special inspection (performed by a MKN teaming partner)
- Conduct construction meetings
- Construction site visits
- Construction administration
- Review change orders

Task Group 300 Example Deliverables:

- *Walkthrough punchlists*
- *Submittal review forms*
- *Construction meeting agenda and notes*
- *Site Visit reports*

Task Group 400 – Provide Alignment Studies and Cost Estimates

- Evaluation of pipeline alignment alternatives
- Utility investigations
- Site investigations along alignment corridors
- Schematic design of pipelines
- Develop cost estimates and perform cost comparisons for different pipeline alignments

Task Group 400 Example Deliverables:

- *Alignment analysis figures*
- *Schematic design plans*
- *Cost estimates*

Task Group 500 – Prepare Application for Various Grants

- Developing funding applications
- Research funding opportunities
- Develop technical, managerial, and financial (TMF) assessments
- Contact funding administration authorities

Task Group 500 Example Deliverables:

- *Funding applications*
- *TMF assessments*

Task Group 600 – Prepare Various Studies Related to Roads, Water, Sewer, and Storm Drain

- Developing hydraulic models and performing hydraulic analyses
- Water age analysis
- Tracer Studies
- Transient (surge) analyses
- Developing Capital Improvement (CI) Programs
- Developing cost estimates for CI Projects
- Master planning
- Condition assessment
- Asset management
- GIS Mapping/Utility Atlas Development
- Flow monitoring (performed by a MKN teaming partner)
- Performing traffic counts
- Traffic analyses
- Pavement analysis

Task Group 600 Example Deliverables:

- *Hydraulic models*
- *Master plan reports*
- *Condition assessment reports*
- *Asset management systems*
- *Capital Improvement Program*
- *Plan Lines*
- *GIS maps*

Task Group 700 – Assist with Regulatory Compliance and Negotiation with Federal, State, and Other Agencies as Necessary

- Preparing Report of Waste Discharge
- Preparing Title 22 Engineering Reports
- Evaluating Waste Discharge Requirements
- Coordination with the State Water Resources Control Board Division of Drinking Water
- Coordination with the Regional Water Quality Control Board
- Coordination with the Air Quality Control Board
- Preparing Stormwater Pollution Prevention Plans (performed by a MKN teaming partner)

Task Group 700 Example Deliverables:

- *Report of Waste Discharge*
- *Title 22 Engineering Reports*
- *Water System Permit Amendments*
- *Air Permits*

Task Group 800 – Other Tasks that may be Requested by the City (i.e. Structural)

- Structural engineering (performed by a MKN teaming partner)
- Mechanical engineering
- Electrical engineering
- Fire protection engineering
- Performing plan-check reviews of plans

Task Group 800 Example Deliverables:

- *Structural calculations*
- *Mechanical calculations*

Task Group 900 – Manage Subconsultants to Complete the Projects (geotechnical, traffic, environmental, etc.)

- General management and coordination with subconsultants
- Solicit fee proposals from subconsultants
- Review subconsultant deliverables

MKN & Associates, Inc.
8405 N. Fresno Street, Suite 120
Fresno, CA 93720
559 500 4750

FEE SCHEDULE FOR PROFESSIONAL SERVICES

ENGINEERS AND TECHNICAL SUPPORT STAFF

Project Manager	$180/HR
Senior Project Engineer	$170/HR
Project Engineer	$150/HR
Water Resources Planner	$138/HR
Assistant Engineer	$127/HR
GIS Specialist	$130/HR
GIS Technician	$110/HR
Senior Design Technician	$97/HR
Administrative Assistant	$57/HR

Routine office expenses such as computer usage, telephone charges, office equipment and supplies, incidental postage, copying, faxes, etc., are included in the hourly rates.

DIRECT PROJECT EXPENSES

Outside Reproduction	Cost + 10%
Subcontracted or Subconsultant Services	Cost + 10%
Travel & Subsistence (other than mileage)	Cost
Auto Mileage	Current IRS Rate - $.54/mi.

EXHIBIT B

Description of Services

City Engineer Services

PCE will assign a dedicated Licensed Civil Engineer to perform the City Engineer services as requested. The CIty Engineer will attend meetings, review, sign and stamp plans and documents as requested.

Design Services

PCE will provide design services to the City as follows:

Utility/Infrastructure master Planning Services

PCE will perform master planning and updating of current master plan documents for the City's sewer, water, flood control, storm drainage system, and solid waste systems, as requested. PCE will prepare Groundwater Management Plans, Urban Water Management Plans, and Storm Water Management Plans (MS-4) Permit, to name a few, as requested by the City.

Topographic Field Survey and Boundary

PCE will perform topographic field surveys, boundary surveys, process survey data, and provide the City with a completed topographic survey in AutoCAD Civil 3D. Boundary surveys will be reviewed and prepared by a Licensed Land Surveyor.

Design Services for Capital Improvement Projects

PCE will provide design services for Capital Improvement Projects. PCE will prepare construction plans, specifications, and engineers cost estimate. PCE will provide 30% conceptual/schematic design, 60% design, 90% design, and 100% construction drawings.

Traffic Engineering Services

PCE will prepare traffic signal striping and signage plans. If requested, PCE can perform traffic counts and prepare traffic impact analyses, including traffic signal warrant analysis, stop sign warrant analysis, spot speed studies and provide recommended speed limits, stopping sight analysis, roundabout analysis and design.

Pavement Management Services

If requested, PCE can provide pavement management services, including setting up a pavement management system/software, perform pavement condition inspections, perform pavement modeling, update pavement cost indices, and provide a recommended pavement rehabilitation plan.

Land Surveying and Mapping Services

PCE will perform boundary surveys, and prepare record of survey, parcel maps, final maps, legal descriptions, exhibits, lot line adjustments, dedications documents, and easement documents, as requested. PCE can also provide surveying services to update the City's Benchmark system, if requested.

Boundary and Construction Surveying Services

PCE will perform boundary monumentation, set property corners, re-establish centerline monuments, construction staking, and as-built surveys.

Proposal and Bidding Services

PCE will provide the City assistance with preparation of proposals and bidding documents. PCE will attend and facilitate pre-proposal meetings and walkthroughs. If requested PCE can provide the City with a list qualified firms and/or contractors that can perform the services requested to complete the projects. PCE will assist the City staff in reviewing bids, and proposals, conduct and facilitate proposal interviews, assist the City in the cases of bid protests and provide recommendations.

Construction Administration

PCE will provide construction oversight and administration when requested. PCE will coordinate with other city staff, departments, and contractors necessary. PCE shall monitor construction progress and provide the city with report. PCE will review contractors' materials and specifications submittals and provide the City with recommendations. PCE will review contractors request for substitutions, request for information, and shop drawings. PCE will provide the City with a response and recommendation for the request. PCE will assist the City in reviewing Contractors request for payment, and provide recommendations for payment. PCE will assist the City and provide recommendations for claims made by the Contractor.

Construction Inspection Services

PCE will provide construction services for capital improvement projects and private development projects as requested. PCE will provide the City with daily inspection notes and photographs, and contractors estimated man hours based on visual inspections. PCE will attend and facilitate pre-construction meeting. Upon project completion PCE will facilitate and conduct the final walkthrough inspections and provide the City with a recommendation punch list of items to be repaired or addressed. PCE will assist the City in preparation and filing of the Notice of Completion.

Davis Bacon/Prevailing Wage Compliance Review

PCE will provide random onsite interviews with contractor employees to verify compliance with Davis Bacon/Prevailing Wage regulations. PCE will assist the City in reviewing Contractors payment request, reported hours, labor rates, and copies of payroll records to verify compliance and provide the recommendations to the City of payment.

Development Impact Fee Updates

PCE can assist the City in updating the City's development impact fee program. PCE will perform research, update infrastructure master plans, developable area maps, construction cost indices, analyze city staff man hours, and provide a recommendation to the City. If requested, PCE can review the City's development fee program, entitlement applications, and other fees and provide recommendations for adjustments, or new fees to capture lost revenues that are not being recovered. PCE will assist the City with meeting with the building and development industry.

Engineers Assessment Report/Prop 218 Assistance

PCE can assist the City in establishing, creating, updating, Special Districts, Business Districts, landscape Maintenance Districts service charges. PCE will prepare the Engineers Assessment Report, and provide assistance to the City to ensure compliance with proposition 26 and 218. PCE can provide assistance and facilitate the ballot mailing and ballot counting process to ensure compliance with Proposition 218.

Grants and Loans Services

PCE will provide grant application assistance, including meetings with granting agencies/ entities as needed. PCE will conduct necessary research and data gathering to comply with grant submittal requirements. PCE will prepare a draft response package, including preparation of engineers cost estimate for City review. PCE will review all City comments, and prepare a final submittal package. PCE will provide grant administration and reimbursement processing services to assist the City in complying with Grant requirements.

Solid Waste Services

PCE can provide assistance in reviewing the City's current solid waste program and provide recommendations to ensure compliance with AB 939 (50% Recycling diversion), and AB 341 (commercial recycling). PCE will review the City's current solid waste franchise contracts, and provide recommendations to ensure compliance with AB 939, ad AB 341, identify opportunities to increase revenues to the City and increase level of services, while maximizing and/or reducing the service cost to the City's customers. PCE will assist the City in outreach to citizens group, proposal preparation, interviews, contract negotiations and recommendations, if requested.

Consulting Services

PCE will provide Professional Consulting Services to City Council, Commissions, Special Committees, City Administration, and Public Works. The services include attendance and representation at requested meetings.

Development Services

PCE will provide assistance to City staff in reviewing development proposals and entitlement documents. PCE will provide recommendations for conditions of approval. PCE will attend regular Development Review Committee Meetings, meetings with the developer, Planning Commission, and City Council meetings as requested.

Expert Witness Services to City Attorney

PCE will provide Expert Witness Services to City Attorney and Public Work Director as requested. PCE will attend briefings, depositions, hearings, and trials, as requested.

Landscape Architecture

PCE will provide landscape architecture services for preparation of plans and specifications for landscape planting plans, irrigation plans, parks and recreation, play equipment, parks facilities such benches, drinking fountains, covered patio, picnic tables, to name a few. PCE will provide 30% conceptual layout, 60%, 90% and 100% construction plans for parks, trails, recreation facilities, and public open space areas.

Rate Schedule

2018 Rate Schedule:

Senior Principal/Principal	$ 190.00/Hr.
Senior Designer/Professional Engineer	$ 175.00/Hr.
Senior Entitlement Manager	$ 150.00/Hr.
Project Manager/Licensed Civil Engineer	$ 160.00/Hr.
Project Engineer II	$ 130.00/Hr.
Project Engineer I	$ 110.00/Hr.
Senior CAD Technician	$ 100.00/Hr.
CAD Technician II	$ 90.00/Hr.
CAD Technician I	$ 80.00/Hr.
Professional Licensed Surveyor	$ 160.00/Hr.
Project Surveyor/LSIT	$ 130.00/Hr.
Technical Analyst/GIS Specialist	$ 120.00/Hr.
High-Definition Scanner	$ 200.00/Hr.
Registration/Fly-Through	$ 125.00/Hr
3-Man Survey Crew or GPS	$ 220.00/Hr.
2-Man Survey Crew or Robotic	$ 180.00/Hr.
1-Man Survey Crew	$ 140.00/Hr.
Landscape Architect	$ 145.00/Hr.
Biologist	$ 120.00/Hr.
QSP Trained Inspector	$ 120.00/Hr
Expert Witness (Deposition)	$ 290.00/Hr
Expert Witness (Trial)	$ 390.00/Hr
Clerical	$ 65.00/Hr.
Mileage	$ 0.535/Mile

Proposed Scope of Work

Below is the scope of services we can offer under the on-call General Civil Engineering, Survey and Traffic Engineering contract.

General Civil Engineering

Our decades of experience in providing engineering services to public agencies throughout the state makes us **the most helpful firm in California** to provide a complete array of services, including the following:

- Preliminary Design Reports (PDRs)
- Utility Planning and Coordination
- Storm Drainage Design
- Water Storage, Distribution, and Supply
- Sanitary Sewer Design
- Water and Wastewater Treatment
- Certified Accessibility Specialist (CASp) Review
- Management Plans for Water, Sewer, and Storm Drainage
- Infrastructure Master Plans and Fee Studies
- Street and Road Design
- Roundabout Design
- Grade Separations
- Traffic Signal, Signage, and Pavement Delineation Design
- Pavement Management
- Construction Engineering, Observation and Monitoring, Management, and Permitting
- Development Plan Checking Services
- Grant Writing and Project Funding Assistance
- Contract City or District Engineer Services

Survey

Representative land surveying services performed on an as-needed basis include:

- Review of Final and Parcel Maps, Records of Survey, and Lot Line Adjustments
- Review of Development Improvement Plans
- Topographic, ALTA, Boundary and Cadastral Surveys
- Construction Staking
- Right-of-way Acquisitions
- Parcels Maps

Traffic Engineering

QK's traffic engineering staff includes licensed civil and traffic engineers with extensive experience in the subdisciplines essential to providing complete traffic engineering services, including the following:

- Traffic Engineering Design (including the use of the Caltrans Standard Specifications and Standard Plans)
- Traffic Operations Analysis
- Transportation Studies
- Traffic Engineering Reports
- Traffic Signal Design

- Bicycle and Pedestrian Facilities
- Active Transportation Plans
- Roundabouts
- Neighborhood Traffic Calming
- Safe Routes to School
- Roadway Lighting
- Ramp Metering
- Sign Lighting
- Traffic Handling
- Signing
- Pavement Delineation
- Expert Witness Testimony for Traffic-Related Matters
- Traffic Signal and Traffic Signal System Evaluation
- Red Light Traffic Monitoring Facilities
- Engineering and Traffic Surveys (Speed Zone Studies)
- On- and Off-Street Parking Analysis Studies
- Parking Facilities Design
- Traffic Control Device Assessments

Utility Coordination

Below are the utility coordination services we can provide:

- Submittals of Improvement Plans to Affected Utility Company
- Preparation of Utility Company Applications and Contract Reviews
- Coordination services for Subdivisions and Commercial Developments
- Joint Trench Composites
- Coordination of Relocations for Road Improvements/Widening Projects
- Coordination of New Power Connections for Well Sites and Lift Stations
- Coordination of On-Site Upgrades with Local Power Companies
- Rule 20A Underground Districts
- Researching Utility Locations for Design and Construction
- Research and Due Diligence Reports – Site Specific
- Coordination of Power Connections for New Streetlights and Traffic Signals
- Coordination and Permitting/License Agreements with Railroads
- Site Development, Site Acquisition and Zoning for Cell Towers

Landscape Architecture

Our team is up-to-date on the current Model Water Efficiency Landscape Ordinance (MWELO), as part of a statewide effort to reduce water waste. Landscapes designed by our professionals incorporate designs that meet the new MWELO requirements.

How we help clients with Landscape Architecture:

- Public Parks
- Site Planning
- Planting and Irrigation Design
- Paved and Grassy Recreation Facilities
- Sports Parks

- Skate Parks
- Tot Lots and Pre-teen Playgrounds
- Streetscapes
- Pedestrian Malls
- Bicycle and Pedestrian Trails
- Picnic and Barbeque Facilities
- Disc Golf Courses
- Decorative Lighting and Fencing
- Splash Pads
- Existing Park Renovations
- Accessible Playground Design
- MWELO Existing Irrigation Evaluations
- Visual Impact Assessments (VIA) for EIRs

Environmental Compliance

If needed, QK's skilled planning professionals can assist in addressing environmental concerns with innovative, cost-effective solutions.

QK's environmental planning staff has prepared over 4,000 CEQA and NEPA environmental documents that successfully meet project objectives and schedules while complying with ever changing environmental regulations. QK's team of environmental planners is well versed in the preparation of the CEQA and NEPA services anticipated for the proposed project.

Additional Capabilities

QK also has the capability to provide a number of additional services. Below are some brief titles of the additional services that we provide.

- Construction Management & Observation
- Labor Compliance
- Geographical Information Systems (GIS)
- Urban Design
- Land Use Planning
- Biology & Environmental Permitting



2018 Charge Rate Schedule	
Technical Services	
Project Assistant	$66 /hour
Project Administrator	$88 /hour
Assistant CADD Technician/Designer /GIS Technician	$83 /hour
Associate CADD Technician/Designer /GIS Analyst	$97 /hour
Senior Associate CADD Technician/Designer/ GIS Analyst	$112 /hour
Senior CADD Technician/Designer /GIS Analyst	$127 /hour
Professional Services	
Engineering	
Assistant Engineer	$110 /hour
Associate Engineer	$133 /hour
Senior Associate Engineer	$156 /hour
Senior Engineer	$180 /hour
Principal Engineer	$199 /hour
Planning/Environmental/Landscape Architecture	
Assistant Planner/Environmental Scientist	$77 /hour
Associate Planner/Environmental Scientist	$97 /hour
Senior Associate Planner/Environmental Scientist	$121 /hour
Senior Planner/Environmental Scientist/Landscape Architect	$142 /hour
Principal Planner/Environmental Scientist	$157 /hour
Senior Principal Planner/Environmental Scientist	$187 /hour
Construction and Project Management	
Field Construction Observer	$99 /hour
Associate Field Construction Observer	$118 /hour
Senior Field Construction Observer	$138 /hour
Assistant Construction Manager	$110 /hour
Associate Construction Manager	$129 /hour
Project Manager	$133 /hour
Senior Associate Construction/Project Manager	$148 /hour
Senior Construction/Project Manager	$165 /hour
Principal Project Manager	$180 /hour
Surveying	
Assistant Surveyor	$97 /hour
Associate Surveyor	$110 /hour
Senior Associate Surveyor	$133 /hour
Senior Surveyor	$156 /hour
One-Person Survey Crew	$121 /hour
Two-Person Survey Crew	$198 /hour
Three-Person Survey Crew	$240 /hour

Fees are based on the median hourly pay rate for employees in each classification, plus indirect costs, overhead, and profit.

Expenses:

Plotting, In-house Printing and Reproduction, Equipment Rentals, Laboratory Analyses	1.15 x Cost
Transportation and per diem	1.15 x Cost
Mileage	$0.63/mile
Off-road vehicles	$50.00/day
Communication expenses (telephone, parcel post, etc.)	1.15 x Cost
Other Expenses – Including Subconsultants & Purchased Services through Subcontracts	1.15 x Cost

Rates are effective through December 31, 2018. If contract assignment extends beyond that date, a new rate schedule may be added to the contract. Litigation support will be billed at $300 per hour. Rates based on "Prevailing Wage" (PW) for Construction Surveying will be determined by project and County per California law.

VVH
CONSULTING ENGINEERS

EXHIBIT A

SCOPE OF SERVICES
CITY OF MERCED

I. Civil Engineering Design

VVHCE will support the Civil Engineering Department by providing engineering services necessary to provide construction plans and specifications for various road and utility projects. These services include but are not limited to the following:

- Preparation of Civil Engineering Improvement Plans
- Provide construction support / inspection on various projects;
- Provide alignment studies and engineer's opinion of probable cost estimates
- Prepare applications for various grants
- Preparation of project study reports
- Coordinate, and as necessary, manage sub-consultants on City projects.

II. Surveying Services

VVHCE will support the Department by performing all necessary land surveying services as requested by the City, including but not limited to the following:

- Review and approval of final parcel and subdivision maps. Mapping services include review of all mapping and dedication documents, legal descriptions, and agreements for conformance with City standards and the conditions of development and to ensure conformance with the Subdivision Map Act, City Municipal Code, and policies; these services include signing and stamping maps in capacity of City Surveyor;
- Stamp & sign subdivision maps, parcel maps, lot line adjustments, and other documents as necessary, as City surveyor;
- Determine locations of property lines, boundaries, easements and rights-of-way;
- Perform construction surveys for improvement projects;
- Establish and adjust benchmarks;
- Establish and monument street center lines;
- Provide for the conservation/perpetuation of monumentation;
- Perform topographic surveys and aerial orthophotography to determine locations and elevations of existing improvements, structures, and topographic features;
- Perform research and survey work related to property divisions and mergers;
- Perform research and survey work related to public and private land ownership, public and private easements, public improvements, construction, and historic information;
- Prepare and record Corner Records and Records of Survey;
- Prepare all survey related-related computations and drawings;
- Prepare and interpret deeds and descriptions;
- Develop legal descriptions and plat maps;
- Other survey-related tasks as necessary

CONSULTING ENGINEERS

Exhibit B

2018 FEE SCHEDULE

Effective May 1, 2018

Title / Position	Hourly Billing Rate
Principal	$180.00
Senior Project Manager	$170.00
Project Manager	$150.00
Senior Civil Engineer	$170.00
Civil Engineer	$150.00
Senior Land Surveyor	$170.00
Land Surveyor	$150.00
Senior Designer	$140.00
Designer	$130.00
Drafter	$100.00
Administrative / Clerical	$85.00
1-Person Survey Crew	$140.00
2-Person Survey Crew	$195.00
3-Person Survey Crew	$255.00
Investigative / Expert Witness*	$450.00
Professional Consultation*	$450.00

Expense Item	Billing Rate
Additional Bond Plot, Black & White	$0.30 / sf
Additional Bond Plot, Color	$0.50 / sf
Additional Vellum Plot, Black & White	$1.00 / sf
Additional Mylar° Plot, Black & White	$5.00 / sf
U.S. Mail Transmittal	No Fee
FedEx, UPS, or Other Courier Transmittal	Cost + 15%
Vehicle Mileage (excludes survey crews)	Current IRS Standard Rate + 15%

* Fees for investigative services, expert witness, and professional consultation are generally not applicable to projects involving the preparation of plans or specifications for construction projects.

ADMINISTRATIVE REPORT

Agenda Item I.9. Meeting Date: 3/18/2019

Report Prepared by: John Ainsworth, Temporary Senior Engineer, Engineering Division

SUBJECT: Award of Bid and Approval of Construction Agreement with Rolfe Construction Company in the Amount of $968,802 for the Re-Bid of the Yosemite Avenue Leaf Collection Site, Project No. 116017

REPORT IN BRIEF
Considers awarding a bid and approving an agreement in the amount of $968,802 with Rolfe Construction Company for City Project No. 116017 - Yosemite Avenue Leaf Collection Site.

RECOMMENDATION
City Council - Adopt a motion:

A. Awarding the Yosemite Avenue Leaf Collection Site, Project 116017 to Rolfe Construction Company of Atwater, Ca, in the amount of $968,802.00; and,

B. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents and to approve change orders not to exceed 10% of the total contract; and,

C. Authorizing the Finance Director to make necessary budget adjustments.

ALTERNATIVES
1. Approve, as recommended by staff; or,
2. Reject all bids and direct Staff to rebid the project; or,
3. Continue to a future meeting (date and time to be specified in the motion).

AUTHORITY
Charter of the City of Merced, Article XI, Section 1109 - Contracts on Public Works, and Merced Municipal Code Chapter 3.04, Article IV - Public Works Contracts.

CITY COUNCIL PRIORITIES
As provided for in the 2018-19 Adopted Budget.

DISCUSSION
The work to be done consists, in general, of the demolition, clearing and grubbing of an existing rock sales yard and to install the improvements for a City operated street sweeping/leaf collection transfer site.

Items include the removal of concrete, asphalt paving, concrete bins, removal of septic system, fencing, and the installation of new fencing, concrete pads, a street sweeper dump structure, asphalt paving, water, sewer and storm drain improvements.

Staff revised the plans and specifications, reducing the project scope, and the project was re-advertised for bids in December 2018. Bid proposals were opened on January 15, 2019, with the following results:

1. Rolfe Construction Company (Atwater, CA)	$ 968,802.00
2. Avison Construction, Inc. (Madera, CA)	$ 991,023.00
3. Hobbs Construction, Inc. (Friant, CA)	$ 1,046,775.00
4. Harris Builders, Inc. (Hilmar, CA)	$ 1,068,192.75
5. Dirt Dynasty, Inc. (Farmington, CA)	$ 1,073,348.50
6. W.M. Lyles Co. (Fresno, CA)	$ 1,188,539.00

The engineer's estimate for construction was $ 890,620.00.

The following is the proposed budget for the project:

Construction	$ 968,802.00
Contingency	$ 96,880.20
Engineering, Testing & Inspection	$ 29,064.06
TOTAL:	$ 1,094,746.26

History and Past Actions

In June 2018, the project was originally advertised for bidding.

On July 10, 2018, bid proposals were opened. The lowest bidder was Rolfe Construction Company with a bid proposal of $1,207,216.50.

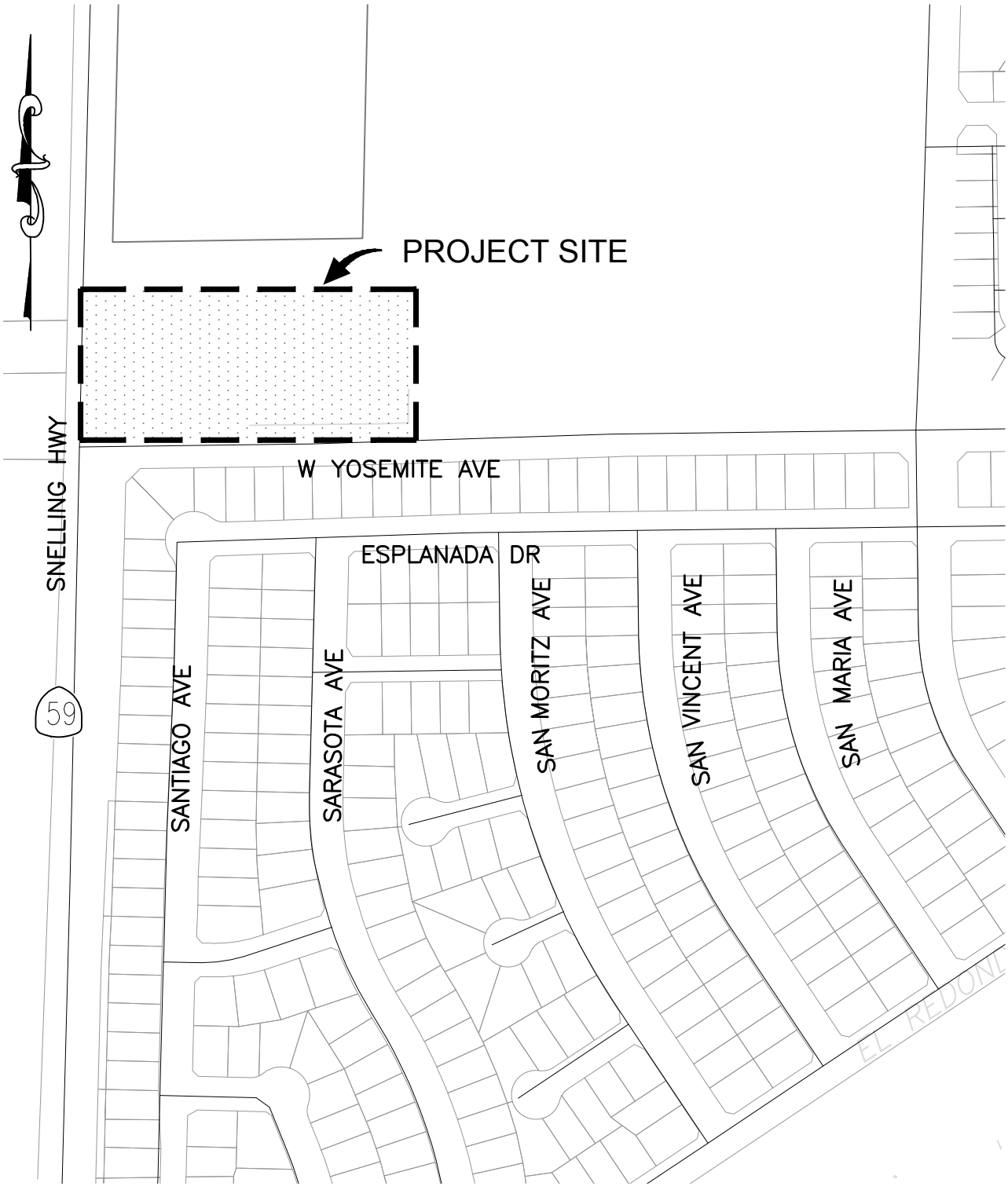
On September 4, 2018, Council approved staff's recommendation of rejecting all bids for the Yosemite Avenue Leaf Collection Site due to insufficient funding and directed staff to re-advertise the project after reducing the project scope.

IMPACT ON CITY RESOURCES

This project was established as a Capital Improvement Project and accounts 553-1108-637.65-00-116017, 558-1112-637.65-116017, and 670-1103-637.65-00-116017 contain sufficient funding to complete the project.

ATTACHMENTS

1. Location Map
2. Bid Results
3. Construction Contract



LOCATION MAP

NOT TO SCALE

City of Merced
"Gateway to Yosemite"
DEVELOPMENT SERVICES
ENGINEERING PROJECTS AND STANDARDS
678 W. 18th Street (209) 385-6846

PROJECT NO. 116017

YOSEMITE AVE LEAF

DR. BY:	PAF
DATE:	1/29/18
CH. BY:	
DATE:	
File No.	0952
SCALE:	AS SHOWN

I:\1 Current Projects\116017 - Yosemite Ave Storm Debris Recycle\Dwg\0952_1_recover000.dwg

CITY OF MERCED
PROJECT NO. 116017
YOSEMITE AVE. LEAF COLLECTION SITE

Bid Opening 1/15/2019

BASE BID SCHEDULE				ROLFE CONSTRUCTION CO. ATWATER, CA		AVISON CONSTRUCTION MADERA, CA		HOBBS CONSTRUCTION FRIANT, CA		HARRIS BUILDERS, INC. HILMAR, CA		DIRT DYNASTY, INC. FARMINGTON, CA		W. M. LYLES CO. FRESNO, CA	
NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
1	Permits, Bonds, Licenses & Insurance	LS	1	$ 36,556.00	$ 36,556.00	$ 40,000.00	$ 40,000.00	$ 50,000.00	$ 50,000.00	$ 44,181.00	$ 44,181.00	$ 47,000.00	$ 47,000.00	$ 16,200.00	$ 16,200.00
2	Dust Control	LS	1	$ 5,928.00	$ 5,928.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,300.00	$ 1,300.00	$ 2,000.00	$ 2,000.00	$ 5,400.00	$ 5,400.00
3	Public Convenience & Safety	LS	1	$ 7,306.00	$ 7,306.00	$ 1,500.00	$ 1,500.00	$ 1,500.00	$ 1,500.00	$ 1,100.00	$ 1,100.00	$ 14,100.00	$ 14,100.00	$ 5,400.00	$ 5,400.00
4	Water Pollution Control	LS	1	$ 10,478.00	$ 10,478.00	$ 2,000.00	$ 2,000.00	$ 5,000.00	$ 5,000.00	$ 9,393.00	$ 9,393.00	$ 16,000.00	$ 16,000.00	$ 10,800.00	$ 10,800.00
5	Surveying Services	LS	1	$ 9,724.00	$ 9,724.00	$ 7,500.00	$ 7,500.00	$ 8,500.00	$ 8,500.00	$ 10,664.00	$ 10,664.00	$ 9,300.00	$ 9,300.00	$ 5,400.00	$ 5,400.00
6	Demolition, Clearing and Grubbing	LS	1	$ 21,476.00	$ 21,476.00	$ 74,500.00	$ 74,500.00	$ 50,000.00	$ 50,000.00	$ 13,703.00	$ 13,703.00	$ 68,000.00	$ 68,000.00	$ 37,900.00	$ 37,900.00
7	Remove Septic Tank and Leach Field	LS	1	$ 9,568.00	$ 9,568.00	$ 15,000.00	$ 15,000.00	$ 8,000.00	$ 8,000.00	$ 5,239.00	$ 5,239.00	$ 9,000.00	$ 9,000.00	$ 24,400.00	$ 24,400.00
8	4-Inch D.I.P. Water Main	LF	452	$ 61.25	$ 27,685.00	$ 65.00	$ 29,380.00	$ 55.00	$ 24,860.00	$ 70.68	$ 31,947.36	$ 64.00	$ 28,928.00	$ 40.00	$ 18,080.00
9	4-Inch Gate Valve	EA	3	$ 1,020.00	$ 3,060.00	$ 1,100.00	$ 3,300.00	$ 1,000.00	$ 3,000.00	$ 1,190.33	$ 3,570.99	$ 1,650.00	$ 4,950.00	$ 1,800.00	$ 5,400.00
10	Wharf Hydrant	EA	1	$ 3,062.00	$ 3,062.00	$ 2,200.00	$ 2,200.00	$ 2,500.00	$ 2,500.00	$ 2,626.00	$ 2,626.00	$ 1,925.00	$ 1,925.00	$ 2,800.00	$ 2,800.00
11	3/4 Inch Hose Bib	EA	3	$ 900.00	$ 2,700.00	$ 700.00	$ 2,100.00	$ 550.00	$ 1,650.00	$ 761.33	$ 2,283.99	$ 265.00	$ 795.00	$ 1,000.00	$ 3,000.00
12	2-Inch Water Service w/Ball Valve	LF	159	$ 33.00	$ 5,247.00	$ 33.00	$ 5,247.00	$ 45.00	$ 7,155.00	$ 37.20	$ 5,914.80	$ 29.00	$ 4,611.00	$ 54.00	$ 8,586.00
13	Pressure Testing and Disinfection	LS	1	$ 6,292.00	$ 6,292.00	$ 2,200.00	$ 2,200.00	$ 5,000.00	$ 5,000.00	$ 2,490.00	$ 2,490.00	$ 6,500.00	$ 6,500.00	$ 2,800.00	$ 2,800.00
14	~~Connection to Existing Water System~~ (Deleted)				$ -		$ -		$ -		$ -		$ -		$ -
15	Backflow Preventer/Compound Meter	LS	1	$ 19,227.00	$ 19,227.00	$ 12,500.00	$ 12,500.00	$ 10,000.00	$ 10,000.00	$ 14,500.00	$ 14,500.00	$ 13,200.00	$ 13,200.00	$ 14,000.00	$ 14,000.00
16	4-Inch DSDR-35 Sewer Line	LF	665	$ 30.00	$ 19,950.00	$ 34.00	$ 22,610.00	$ 40.00	$ 26,600.00	$ 39.00	$ 25,935.00	$ 49.00	$ 32,585.00	$ 44.00	$ 29,260.00
17	6-Inch DSDR-35 Sewer Line	LF	54	$ 75.00	$ 4,050.00	$ 54.00	$ 2,916.00	$ 60.00	$ 3,240.00	$ 60.00	$ 3,240.00	$ 76.00	$ 4,104.00	$ 116.00	$ 6,264.00
18	Sanitary Sewer Manhole	EA	3	$ 3,000.00	$ 9,000.00	$ 3,500.00	$ 10,500.00	$ 5,000.00	$ 15,000.00	$ 4,000.00	$ 12,000.00	$ 3,350.00	$ 10,050.00	$ 5,700.00	$ 17,100.00
19	Sanitary Sewer Drop Manhole	EA	1	$ 6,817.00	$ 6,817.00	$ 22,000.00	$ 22,000.00	$ 20,000.00	$ 20,000.00	$ 26,040.00	$ 26,040.00	$ 7,200.00	$ 7,200.00	$ 41,300.00	$ 41,300.00
20	Sanitary Sewer Clean-Out	EA	4	$ 765.00	$ 3,060.00	$ 650.00	$ 2,600.00	$ 800.00	$ 3,200.00	$ 825.00	$ 3,300.00	$ 1,000.00	$ 4,000.00	$ 1,400.00	$ 5,600.00
21	Sand-Oil Separator	EA	1	$ 18,174.00	$ 18,174.00	$ 14,000.00	$ 14,000.00	$ 15,000.00	$ 15,000.00	$ 18,900.00	$ 18,900.00	$ 14,500.00	$ 14,500.00	$ 15,200.00	$ 15,200.00
22	12-Inch PVC Storm Drain Pipe	LF	365	$ 48.00	$ 17,520.00	$ 52.00	$ 18,980.00	$ 40.00	$ 14,600.00	$ 58.27	$ 21,268.55	$ 71.00	$ 25,915.00	$ 53.00	$ 19,345.00
23	~~18-Inch RCP Storm Drain Pipe~~ (Deleted)				$ -		$ -		$ -		$ -		$ -		$ -
24	24-Inch Storm Drain Manhole	EA	2	$ 2,100.00	$ 4,200.00	$ 2,500.00	$ 5,000.00	$ 5,000.00	$ 10,000.00	$ 2,951.00	$ 5,902.00	$ 2,000.00	$ 4,000.00	$ 5,200.00	$ 10,400.00
25	~~48-Inch Storm Drain Manhole~~ (Deleted)				$ -		$ -		$ -		$ -		$ -		$ -
26	Asphalt Concrete	Ton	400	$ 165.50	$ 66,200.00	$ 120.00	$ 48,000.00	$ 145.00	$ 58,000.00	$ 143.36	$ 57,344.00	$ 118.00	$ 47,200.00	$ 173.00	$ 69,200.00
27	Aggregate Base	CY	996	$ 85.50	$ 85,158.00	$ 60.00	$ 59,760.00	$ 160.00	$ 159,360.00	$ 176.30	$ 175,594.80	$ 105.50	$ 105,078.00	$ 135.00	$ 134,460.00
28	Structural Concrete (Headwalls)	CY	137	$ 665.00	$ 91,105.00	$ 1,000.00	$ 137,000.00	$ 800.00	$ 109,600.00	$ 1,160.58	$ 158,999.46	$ 990.00	$ 135,630.00	$ 1,192.00	$ 163,304.00
29	Pedestrian Railing	LF	240	$ 86.00	$ 20,640.00	$ 120.00	$ 28,800.00	$ 125.00	$ 30,000.00	$ 143.75	$ 34,500.00	$ 34.00	$ 8,160.00	$ 83.00	$ 19,920.00
30	Reinforced Concrete Slabs	SF	22,000	$ 9.60	$ 211,200.00	$ 10.25	$ 225,500.00	$ 8.13	$ 178,860.00	$ 6.49	$ 142,780.00	$ 9.90	$ 217,800.00	$ 11.30	$ 248,600.00
31	Concrete Curbing	LF	235	$ 70.20	$ 16,497.00	$ 40.00	$ 9,400.00	$ 40.00	$ 9,400.00	$ 76.82	$ 18,052.70	$ 55.00	$ 12,925.00	$ 66.00	$ 15,510.00
32	Asphalt Grindings	CY	490	$ 40.00	$ 19,600.00	$ 12.00	$ 5,880.00	$ 50.00	$ 24,500.00	$ 51.46	$ 25,215.40	$ 42.50	$ 20,825.00	$ 33.00	$ 16,170.00
33	Yard Lights	EA	5	$ 8,865.00	$ 44,325.00	$ 7,000.00	$ 35,000.00	$ 7,000.00	$ 35,000.00	$ 8,000.00	$ 40,000.00	$ 7,300.00	$ 36,500.00	$ 12,100.00	$ 60,500.00
34	Conduits and Pull Boxes	LS	1	$ 43,446.00	$ 43,446.00	$ 35,000.00	$ 35,000.00	$ 50,000.00	$ 50,000.00	$ 24,000.00	$ 24,000.00	$ 50,300.00	$ 50,300.00	$ 53,100.00	$ 53,100.00
35	Trash Enclosure	LS	1	$ 11,208.00	$ 11,208.00	$ 20,000.00	$ 20,000.00	$ 10,000.00	$ 10,000.00	$ 38,440.00	$ 38,440.00	$ 31,200.00	$ 31,200.00	$ 27,100.00	$ 27,100.00
36	6-Foot Chainlink Fence W/Slats	LF	1,810	$ 41.30	$ 74,753.00	$ 35.00	$ 63,350.00	$ 35.00	$ 63,350.00	$ 38.67	$ 69,992.70	$ 31.75	$ 57,467.50	$ 34.00	$ 61,540.00
37	25-foot Chainlink Sliding Gate	EA	1	$ 2,910.00	$ 2,910.00	$ 6,000.00	$ 6,000.00	$ 4,000.00	$ 4,000.00	$ 2,775.00	$ 2,775.00	$ 4,000.00	$ 4,000.00	$ 2,400.00	$ 2,400.00
38	30-Foot Chainlink Dual Swing Gate	EA	1	$ 3,640.00	$ 3,640.00	$ 3,000.00	$ 3,000.00	$ 5,000.00	$ 5,000.00	$ 3,400.00	$ 3,400.00	$ 2,800.00	$ 2,800.00	$ 3,000.00	$ 3,000.00
39	40-foot Chainlink Sliding Gate	EA	1	$ 3,900.00	$ 3,900.00	$ 7,500.00	$ 7,500.00	$ 11,500.00	$ 11,500.00	$ 3,700.00	$ 3,700.00	$ 4,700.00	$ 4,700.00	$ 3,200.00	$ 3,200.00
40	Bollards	EA	4	$ 2,132.00	$ 8,528.00	$ 1,200.00	$ 4,800.00	$ 600.00	$ 2,400.00	$ 1,225.00	$ 4,900.00	$ 1,150.00	$ 4,600.00	$ 800.00	$ 3,200.00
41	Final Clean-up	LS	1	$ 14,612.00	$ 14,612.00	$ 5,000.00	$ 5,000.00	$ 10,000.00	$ 10,000.00	$ 3,000.00	$ 3,000.00	$ 5,500.00	$ 5,500.00	$ 2,700.00	$ 2,700.00
	TOTAL BID ITEMS 1-41:				$ 968,802.00		$ 991,023.00		$ 1,046,775.00		$ 1,068,192.75		$ 1,073,348.50		$ 1,188,539.00

BID ALTERNATE NO. 1				ROLFE CONSTRUCTION CO. ATWATER, CA		AVISON CONSTRUCTION MADERA, CA		HOBBS CONSTRUCTION FRIANT, CA		HARRIS BUILDERS, INC. HILMAR, CA		DIRT DYNASTY, INC. FARMINGTON, CA		W. M. LYLES CO. FRESNO, CA	
NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
1	Aggregate Base	CY	490	$ 85.50	$ 41,895.00	$ 65.00	$ 31,850.00	$ 160.00	$ 78,400.00	$ 102.04	$ 49,999.60	$ 81.00	$ 39,690.00	$ 113.00	$ 55,370.00
2	Hot Mix Asphalt	Ton	340	$ 165.50	$ 56,270.00	$ 130.00	$ 44,200.00	$ 160.00	$ 54,400.00	$ 138.23	$ 46,998.20	$ 120.00	$ 40,800.00	$ 140.00	$ 47,600.00
3	Less Asphalt Grindings	CY	490	$ (40.00)	$ (19,600.00)	$ (11.00)	$ (5,390.00)	$ (40.00)	$ (19,600.00)	$ (41.50)	$ (20,335.00)	$ (15.00)	$ (7,350.00)	$ (29.00)	$ (14,210.00)
	TOTAL BID ALTERNATE NO. 1:				$ 78,565.00		$ 70,660.00		$ 113,200.00		$ 76,662.80		$ 73,140.00		$ 88,760.00
	TOTAL BASE BID + BID ALTERNATE NO.1:				$ 1,047,367.00		$ 1,061,683.00		$ 1,159,975.00		$ 1,144,855.55		$ 1,146,488.50		$ 1,277,299.00

BID ALTERNATE NO. 2				ROLFE CONSTRUCTION CO. ATWATER, CA		AVISON CONSTRUCTION MADERA, CA		HOBBS CONSTRUCTION FRIANT, CA		HARRIS BUILDERS, INC. HILMAR, CA		DIRT DYNASTY, INC. FARMINGTON, CA		W. M. LYLES CO. FRESNO, CA	
NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
1	Water Well Destruction	LS	1	$ 9,256.00	$ 9,256.00	$ 25,000.00	$ 25,000.00	$ 17,500.00	$ 17,500.00	$ 5,000.00	$ 5,000.00	$ 9,300.00	$ 9,300.00	$ 21,200.00	$ 21,200.00
	TOTAL BID ALTERNATE NO. 2:				$ 9,256.00		$ 25,000.00		$ 17,500.00		$ 5,000.00		$ 9,300.00		$ 21,200.00
	TOTAL BASE BID + BID ALTERNATE NO.2:				$ 978,058.00		$ 1,016,023.00		$ 1,064,275.00		$ 1,073,192.75		$ 1,082,648.50		$ 1,209,739.00
	TOTAL BASE BID + BID ALTERNATES NO. 1 & 2:				**$ 1,056,623.00**		**$ 1,086,683.00**		**$ 1,177,475.00**		**$ 1,149,855.55**		**$ 1,155,788.50**		**$ 1,298,499.00**

Adjusted per unit price

GENERAL CONSTRUCTION CONTRACT

THIS CONTRACT made on _____, by and between the CITY OF MERCED, a municipal corporation of the State of California, hereinafter called the Owner, and ROLFE CONSTRUCTION COMPANY, hereinafter called the Contractor:

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

1. CONTRACT DOCUMENTS. The complete contract consists of the following documents, to wit:
   (1) This General Construction Contract;
   (2) Faithful Performance Bond;
   (3) Laborers and Materialmens Bond;
   (4) Guaranty;
   (5) Special Provisions for **PROJECT NUMBERS 116017**;
   (6) Amendments to the Standard Specifications;
   (7) Project Plans;
   (8) Standard Specifications;
   (9) City Standards;
   (10) Proposal;
   (11) Instructions to Bidders;
   (12) Notice Inviting Bids;
   (13) Bidder's Bond;
   (14) List of Subcontractors and Material Dealers; and
   (15) Safety Provisions.

Any and all obligations of the Owner and the Contractor are fully set forth and described therein.

All of the above documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract are sometimes hereinafter referred to as the Contract Documents. In case of conflict between any of the documents, the order of documents first listed above shall be the order of precedence, with the first item listed having the highest precedence.

2. THE WORK. Said Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete in a good and workmanlike manner all work of improvement in accordance with Contract Documents in the manner designated in, and in strict conformity with, the Plans and Specifications for **PROJECT NUMBERS 116017**, which said Plans and Specifications are entitled, **"YOSEMITE AVE LEAF COLLECTION SITE,"** for construction in Merced County in Merced, and which were included in the award of bid made by the City Council of the City of Merced on _____, 2019.

It is understood and agreed that said tools, equipment, apparatus, facilities, labor, transportation and material, except materials to be supplied by the City as designated in the Contract Documents, shall be furnished and said work performed and completed as required in said Plans and Specifications under the sole direction and control of the Contractor, and subject to inspection and approval of the Owner or its

representative. The Owner hereby designates the City Engineer as its representative for the purpose of this Contract.

3. CONTRACT PRICE. The Owner agrees to pay, and the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and doing all work contemplated and embraced in this agreement to wit:

BASE BID SCHEDULE FOR YOSEMITE AVE LEAF COLLECTION SITE PROJECT 116017

ITEM NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1	Permits, Bonds, Licenses & Insurance	LS	1	$ 36,556.00	$ 36,556.00
2	Dust Control	LS	1	$ 5,928.00	$ 5,928.00
3	Public Convenience & Safety	LS	1	$ 7,306.00	$ 7,306.00
4	Water Pollution Control	LS	1	$ 10,478.00	$ 10,478.00
5	Surveying Services	LS	1	$ 9,724.00	$ 9,724.00
6	Demolition, Clearing and Grubbing	LS	1	$ 21,476.00	$ 21,476.00
7	Remove Septic Tank and Leach Field	LS	1	$ 9,568.00	$ 9,568.00
8	4-Inch D.I.P. Water Main	LF	492	$ 61.25	$ 27,685.00
9	4-Inch Gate Valve	EA	4	$ 1,020.00	$ 3,060.00
10	Wharf Hydrant	EA	1	$ 3,062.00	$ 3,062.00
11	¾-Inch Hose Bib	EA	3	$ 900.00	$ 2,700.00
12	2-Inch Water Service	LF	159	$ 33.00	$ 5,247.00
13	Pressure Testing and Disinfection	LS	1	$ 6,292.00	$ 6,292.00
14	Connection to Existing Water System				
15	Backflow Preventer/Compound Meter	LS	1	$ 19,227.00	$ 19,227.00
16	4-Inch SDR-35 Sewer Line	LF	665	$ 30.00	$ 19,950.00
17	6-Inch SDR-35 Sewer Line	LF	54	$ 75.00	$ 4,050.00
18	Sanitary Sewer Manhole	EA	3	$ 3,000.00	$ 9,000.00
19	Sanitary Sewer Drop Manhole	EA	1	$ 6,817.00	$ 6,817.00
20	Sanitary Sewer Clean-out	EA	4	$ 765.00	$ 3,060.00
21	Sand-Oil Separator	LS	1	$ 18,174.00	$ 18,174.00
22	12-Inch PVC Storm Drain	LF	365	$ 48.00	$ 17,520.00
23	18-Inch RCP Storm Drain				
24	24-Inch Storm Drain Manhole	EA	2	$ 2,100.00	$ 4,200.00
25	48-Inch Storm Drain Manhole				
26	Asphalt Concrete	Ton	400	$ 165.50	$ 6,200.00
27	Aggregate Base	CY	996	$ 85.50	$ 85,158.00
28	Structural Concrete (Headwalls)	CY	94	$ 665.00	$ 91,105.00
29	Pedestrian Railing	LF	265	$ 86.00	$ 20,640.00
30	Reinforced Concrete Slabs	SF	22,000	$ 9.60	$ 211,200.00
31	Concrete Curbing	LF	235	$ 70.20	$ 16,497.00
32	Asphalt Grindings	CY	490	$ 40.00	$ 19,600.00
33	Yard Lights	EA	5	$ 8,865.00	$ 44,325.00

34	Conduits and Pull Boxes	LS	1	$ 43,446.00	$ 43,446.00
35	Trash Enclosure	LS	1	$ 11,208.00	$ 11,208.00
36	6-Foot Chain-Link Fence w/Slats	LF	1,810	$ 41.30	$ 74,753.00
37	25-Foot Chain-Link Sliding Gate	EA	1	$ 2,910.00	$ 2,910.00
38	30-Foot Chain-Link Dual Swing Gate	EA	1	$ 3,640.00	$ 3,640.00
39	40-Foot Chain-Link Sliding Gate	EA	1	$ 3,900.00	$ 3,900.00
40	Bollards	EA	4	$ 2,132.00	$ 8,528.00
41	Final Clean-Up	LS	1	$ 14,612.00	$ 14,612.00

TOTAL BASE BID ITEMS 1 THROUGH 41: $ 968,802.00

4. TERMINATION. If the Contractor should be adjudged as bankrupt or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his subcontractors should violate any of the provisions of the Contract Documents, the Owner may serve written notice upon him and his surety of its intention to terminate the Contract; such notice to contain the reasons for such intention to terminate the Contract, and, unless within ten (10) days after serving of such notice such violation shall cease and satisfactory arrangements for correction thereof be made, the Contract shall, upon the expiration of said ten (10) days, cease and terminate.

In the event of any such termination, the Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided however, that if the surety within fifteen (15) days after the serving upon it of notice of termination does not give the Owner written notice of its intention to take over and perform the Contract or does not commence performance thereof within thirty (30) days from the date of the serving of such notice, the Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant, and other property belonging to the Contractor as may be on the site of the work and necessary therefor.

5. NOTICE AND SERVICE THEREOF. Any notice from one party to the other under the Contract shall be in writing and shall be dated and signed by the party giving such notice, or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in the following manner; namely, (a) if the notice is given to the Owner, per personal delivery thereof to the City Engineer of said Owner, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to the Owner, postage prepaid and registered; (b) if the notice is given to the Contractor, by personal delivery thereof to said Contractor or to his duly authorized representative at the site of the project, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to said Contractor at **3573 Southern Pacific Avenue, Atwater, CA 95301**, postage prepaid and registered; and (c) if the notice is given to the surety or any other person, by personal delivery to such surety or other person, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to such surety or person, as the case may be, at the address of such surety or person last communicated by him to the party giving the notice, postage prepaid and registered.

6. ASSIGNMENT OF CONTRACT. Neither the Contract nor any part thereof, nor moneys due, or to become due thereunder, may be assigned by the Contractor without the prior written approval of the Owner.

7. CONTRACT SECURITY. The Contractor shall furnish a surety bond in an amount at least equal to 100 percent of the contract price as security for the faithful performance of this Contract. The Contractor shall also furnish a separate surety bond in an amount at least equal to 100 percent of the contract price as security for the payment of all persons for furnishing materials, provisions, provender, or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for performing any work or labor thereon of any kind, and for the payment of amounts due under the Unemployment Insurance Code with respect to such work or labor in connection with this Contract, and for the payment of a reasonable attorney's fee to be fixed by the court in case suit is brought upon the bond.

8. INSURANCE. Contractor shall not commence work under this Contract until he has obtained all insurance required by Section 7-3 of the Standard Specifications for Public Works Construction (1997 Edition), as amended, and such insurance has been approved by the City Attorney of Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish the Owner with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract, and particularly paragraph 9 hereof. Said insurance obtained by the Contractor shall be primary and noncontributory as to any insurance maintained by owner. ***Endorsement for additional insured shall be submitted on Standard form CG 20101185. Endorsement forms CG 20101001 and CG 20371001, when used together, are acceptable in lieu of CG 20101185 for Public Works projects***. Any policy of insurance required of the Contractor under this Contract shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to the Owner of any pending change in the limits of liability or of any cancellation or modification of the policy.

The Contractor shall furnish the City a policy or certificate of liability insurance in which the City is the named insured or is named as an additional insured with the Contractor. Notwithstanding any inconsistent statement in the policy or any subsequent endorsement attached thereto, the City shall be the insured or named as an additional insured covering the work, whether liability is attributable to the Contractor or the City. The policy shall insure the City, its officers, employees and agents while acting within the scope of their duties on the work, against all claims arising out of or in connection with the work.

The Contractor may file insurance acceptable to the City covering more than one project. The coverage shall provide the following minimum limits:

Bodily Injury...	$500,000.00	each person
	$1,000,000.00	each occurrence
	$1,000,000.00	aggregate products and completed operations
Property Damage...	$250,000.00	each occurrence
	$500,000.00	aggregate

A combined single limit policy with aggregate limits in the amount of $1,250,000.00 will be considered equivalent to the required minimum limits.

The Contractor will require all subcontractors to take out and maintain bodily injury liability and property damage liability in the amounts stated above.

The Contractor and subcontractors shall save, keep and hold harmless the City, its officers and agents from all damages, costs or expenses in law or equity that may at any time arise or be set up because of damages to property, or of personal injury received by reason of or in the course of performing work, which may be caused by any willful or negligent act or omission by the Contractor, any of the Contractors

employees, or any subcontractor. The City will not be liable for any accident, loss or damage to the work prior to its completion and acceptance.

All liability insurance policies shall bear an endorsement or shall have attached a rider whereby it is provide that, in the event of expiration or proposed cancellation of such policies for any reason whatsoever, the Agency shall be notified by registered mail, return receipt requested, giving sufficient time before the date thereof to comply with the applicable law or statute, but in no event less than thirty (30) days before expiration or cancellation is effective.

All insurance required by this section shall be from a California admitted insurance company.

The cost of this insurance shall be included in the Contractor's bid.

CANCELLATION CLAUSE

NOTE: The standard form used by insurance carriers will not be acceptable unless the word "endeavor" is crossed out where the paragraph states, "The issuing company will (endeavor to) mail . . ." A portion of the last paragraph should be crossed out, which states, "but failure to mail such notice shall impose no obligation or liability of any kind upon the company."

9. HOLD HARMLESS. The Contractor will indemnify, defend with counsel selected by the Owner, save, keep, and hold harmless, the Owner and all officers, employees, and agents thereof from all damages, costs, or expenses, in law or in equity, that may at any time arise or be set up because of personal injury or damage to property sustained by any person or persons by reason of, or in the course of the performance of said work, or by reason of any infringement or alleged infringement of the patent rights of any person or persons, firm or corporation, in consequence of the use in, on, or about said work, of any article or material supplied or installed under this Contract. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Notwithstanding the above, the Contractor shall, wherever it is necessary, keep and maintain at his sole cost and expense during the course of his operations under this Contract such warnings, signs, and barriers as may be required to protect the public. The provisions of the preceding sentence shall not impose any liability upon the Owner and are for the express benefit of the general public.

Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

It is expressly understood that Contractor is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Contractor shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Contractor desire any insurance protection, the Contractor is to acquire such protection at its expense.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

10. ACCIDENT PREVENTION. Precaution shall be exercised at all times for protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions of the Construction Safety Orders issued by the Industrial Accident Commission of the State of California.

11. PAYMENT. The Owner will make partial and final payment to the Contractor in accordance with Section 9-3.2 of the Standard Specifications, as amended, except that the Owner will retain the five percent (5%) of the final payment amount until the expiration of thirty-five (35) days from the date of recording by Owner of notice of acceptance of completion of all work covered by this Contract, if such notice be recorded within ten (10) days after the acceptance of completion of such Contract; or, if such notice be not so recorded within ten (10) days, until the expiration of ninety-five (95) days after the acceptance of completion of such work of improvement, at which time and not before, Owner shall pay to Contractor the whole of the remaining five percent (5%) of said contract price so held back as provided.

The payment of progress payments by the Owner shall not be construed as an absolute acceptance of the work done up to the time of such payments, but the entire work is to be subjected to the inspection and approval of the Owner and subject to whatever inspection and approval may be required by law.

12. CALIFORNIA LABOR CODE. The Contractor is aware of, and hereby agrees to comply with Section 1776 of the California Labor Code.

13. SUBSTITUTION OF SECURITIES FOR WITHHELD AMOUNTS. Pursuant to Section 22300 of the Public Contracts Code of the State of California, securities may be substituted for any moneys withheld by a public agency to ensure performance under a contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a State or Federally-chartered bank as the escrow agent, who shall pay such moneys to the Contractor upon satisfactory completion of the Contract.

Securities eligible for substitution under this section shall include those listed in Section 16430 of the Government Code of the State of California, or bank or savings and loan certificate of deposit.

The Contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Any escrow agreement entered into pursuant to this section shall contain, as a minimum, the following provisions:

(a) The amount of securities to be deposited;
(b) The terms and conditions of conversion to cash in case of the default of the Contractor; and
(c) The termination of the escrow upon completion of the Contract.

14. TRENCHES AND EXCAVATIONS. Should the Contractor be required to dig trenches or other excavations that extend deeper than four (4) feet below the surface, then the following clauses shall apply:

(a) The Contractor shall promptly, and before the following conditions are disturbed, notify the City in writing of any:

(1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;

(2) Subsurface or latent physical conditions at the site differing from those indicated;

(3) Unknown physical conditions at the site of any unusual nature different materially from those ordinarily encountered, and generally recognized as inherent in work of the character provided for in the Contract.

(b) The City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ or do involve hazardous waste and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work, shall issue a change order under the procedures described in this Contract.

(c) In the event that a dispute arises between the City and the Contractor whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of or time required for performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protests between the contracting parties.

15. CLAIMS. This clause applies to all Contractor claims of three hundred seventy-five thousand dollars ($375,000), or less, which arise out of this Contract.

(a) "Claim" means a separate demand by the Contractor for (1) a time extension, (2) payment of money or damages arising from work done by, or on behalf of, the Contractor pursuant to this contract, and payment of which is not otherwise expressly provided for or the Contractor not otherwise entitled to, or (3) an amount the payment of which is disputed by the City.

(b) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing herein shall extend the time limit or supersede notice requirements otherwise provided by Contract for the filing of claims.

(c) For claims of less than fifty thousand dollars ($50,000), the City shall respond in writing to any written claim within forty-five (45) days of receipt of the claim or may request, in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the City may have against the Contractor.

(1) If additional information is thereafter required, it shall be requested and provided upon mutual agreement of the City and the Contractor.

(2) The City's written response to the claim as further documented shall be submitted to the Contractor within fifteen (15) days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.

(d) For claims of over fifty thousand dollars ($50,000) and less than, or equal to, three hundred seventy-five thousand dollars ($375,000), the City shall respond in writing to all written claims within sixty (60) days of receipt of the claim or may request, in writing within thirty (30) days of

receipt of the claim, any additional documentation supporting the claim, or relating to defenses or claims the City may have against the Contractor.

(1) If additional information is thereafter required, it shall be requested and provided upon mutual agreement of the City and the Contractor.

(2) The City's written response to the claim as further documented shall be submitted to the Contractor within thirty (30) days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater

(e) If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within fifteen (15) days of receipt of the City's response, or within fifteen (15) days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule to meet and confer conference within thirty (30) days for settlement of the dispute.

(f) If, following the meet and confer conference, the claim or any portion remains in dispute, the Contractor may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title I of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits its written claim pursuant to Subdivision (b) until the time the claim is denied, including any period of time utilized by the meet and confer conference.

(g) The following procedures shall be followed for all civil actions filed to resolve claims subject to this clause:

(1) Within sixty (60) days, but no earlier than thirty (30) days following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within fifteen (15) days by both parties of a disinterested third person as mediator, shall be commenced within thirty (30) days of the submittal, and shall be concluded within fifteen (15) days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.

(2) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.

(h) The City shall not fail to pay money as to any portion of a claim that is undisputed, except as otherwise provided in this contract.

(i) In any suit filed under Section 20104.4, the City shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

IN WITNESS WHEREOF, three (3) identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the day and year first herein written.

ATTEST:

CITY OF MERCED, a Municipal Corporation
(Herein called Owner)

By: _____
Deputy City Clerk

By: _____
City Manager

APPROVED AS TO FORM:

Rolfe Construction, Co
(Contractor Name, Herein called Contractor)

By: _____
City Attorney

By: _____
Contractor

ACCOUNT DATA:

TAXPAYER I.D. NO: 77-0131418

PROJECT NUMBER 116017

VENDOR NUMBER: 864

Project Account Numbers:

553-1108-637.65-00-116017 - 65.5%
$634,565.31
558-1112-637.65-00-116017 - 27%
$261,576.54
670-1103-637.65-00-116017 - 7.5%
$72,660.15
Amount: **$ 968,802.00**

ADDRESS: 3573 Southern Pacific Avenue
Atwater, CA

PHONE (209) 358-5548
FAX: (209) 357-2916
EMAIL: mail@rolfeconstruction.biz

(SEAL)

By: _____
Finance Officer Verification

GUARANTY

To the City of Merced, California:

PROJECT NUMBERS 116017

YOSEMITE AVE LEAF COLLECTION SITE

The undersigned guarantees the construction and installation of the work included in this project as described in the Contract Documents.

Should any of the materials or equipment prove defective or should the work as a whole prove defective, due to faulty workmanship, material furnished or methods of installation, or should the work or any part thereof fail to operate properly as originally intended and in accordance with the plans and specifications, due to any of the above causes, within one year after date on which the "Notice of Completion" is recorded by the City, the undersigned agrees to reimburse the City, upon demand, for its expenses incurred in restoring said work to that contemplated in said project, including the cost of any such equipment or materials replaced and the cost of removing and replacing any other work necessary to make such replacement or repairs, or, upon demand by the City, to replace any such material and to repair said work completely without cost to the City so that said work will function as contemplated.

The City shall have the unqualified option to make any needed replacements or repairs itself or to have such replacements or repairs done by the undersigned. In the event the City elects to have said work performed by the undersigned, the undersigned agrees that the repairs shall be made and such materials as are necessary shall be furnished and installed within a reasonable time after the receipt of demand from the City. If the undersigned shall fail or refuse to comply with his obligations under this guaranty, the City shall be entitled to all costs and expenses, including attorney's fees, reasonably incurred by reason of said failure or refusal.

By: _____ Date: _____

Contractor

FAITHFUL PERFORMANCE BOND
(Contract)

WHEREAS, the City of Merced, State of California, and Rolfe Construction Company, the Contractor, have entered into a contract to perform certain work as set forth in the contract for **PROJECT NUMBER 116017**; and,

WHEREAS, _____, hereinafter designated as Principal, has agreed to install and complete said work.

NOW, THEREFORE, we the Principal and _____, as Surety, are held and firmly bound unto the City of Merced, hereinafter called "City" in the penal sum of $_____, lawful money of the United States, for payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded Principal, his or its heirs, executors, administrators, successors or assigns shall in all things stand to and abide by and well and truly keep and perform the covenants, conditions and provisions of said improvement requirements, and any lawful modification thereof, on their part, and such work is performed at the time and in the manner specified by the City, and shall indemnify and save harmless the City, its officers, agents and employees as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect. As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed, or to the specifications accompanying such work shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on _____, 2019.

By: _____ By: _____

PRINCIPAL SURETY

LABORERS AND MATERIALMENS BOND
(Contract)

WHEREAS, the City of Merced, State of California, and Rolfe Construction Company, the Contractor, have entered into a contract to perform certain work as set forth in the contract for **PROJECT NUMBER 116017**; and

WHEREAS, _____, hereinafter designated as Principal, has agreed to install and complete said work; and,

WHEREAS, said Principal is required under the terms of the Contract Specifications to furnish a bond to secure the claims to which reference is made in Title 15 commencing with Section 3082 of Part 4 of Division 3 of the Civil Code of the State of California. Now, said Principal and the undersigned as Surety are held and firmly bound unto the City of Merced, hereinafter called the City, and all contractors, subcontractors, laborers, materialsmen and other persons employed in the performance of the work and referred to in the aforesaid Code of Civil Procedure in the sum of $ _____, lawful money of the United States, for materials furnished or labor thereon of any kind or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that Surety will pay the same in an amount not exceeding the amount hereinabove set forth and also in case suit is brought upon this bond, will pay in addition to the face amount thereof costs and reasonable expenses and fees, including reasonable attorneys' fees incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 commencing with Section 3082 of Part 4 of Division 3 of the Civil Code so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void. Otherwise, it shall be and remain in full force and effect. The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said conditions or work shall in any manner affect its obligation on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on _____, 2019.

By: _____ By: _____
PRINCIPAL SURETY

ADMINISTRATIVE REPORT

Agenda Item I.10. Meeting Date: 3/18/2019

Report Prepared by: Ken Elwin, PE, Director of Public Works

SUBJECT: Approval of Professional Services Agreement with Precision Engineering, Inc., for the Not to Exceed Amount of $175,000, to Provide Personnel to Temporarily Serve in the Capacity of City Engineer

REPORT IN BRIEF

Considers approving a Professional Services Agreement with Precision Engineering, Inc., for the not to exceed amount of $175,000 to provide City Engineer services while the City recruits for a permanent City Engineer.

RECOMMENDATION

City Council - Adopt a motion approving the agreement for professional services with Precision Engineering, Inc., to provide City Engineer Services in an amount not to exceed $175,000; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Approve, as modified by City Council; or,
3. Deny; or,
4. Refer to staff for reconsideration of specific items (to be addressed in Council motion); or,
5. Continue the item to a future City Council meeting (date and time to be specified in motion.

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

Not Applicable

DISCUSSION

The City Engineer position is currently vacant and is a core position necessary for the operation of the Engineering division. A recruitment will be underway to replace the full-time position. However, it is necessary to have a qualified, licensed City Engineer available in the interim.

Precision Engineering, Inc. has qualified individuals to perform professional engineering services. These individuals include Michael Beltran, a licensed engineer, who will be designated as the City Engineer until the position is filled. Other individuals will be available as needed for the duration of

the contract.

City staff is proposing that the City enters into a Professional Services Agreement with Precision Engineering, Inc. (Attachment 1). Precision will provide engineering services on an as needed basis as outlined in the Scope of Services, Exhibit A of the agreement, on an hourly basis for an amount not to exceed $175,000.

IMPACT ON CITY RESOURCES

This contract will be funded with no new appropriation of funds in the FY 2018-19 Budget, but will utilize savings in salary and benefits for vacant positions in the Engineering Division.

ATTACHMENTS

1. Professional Services Agreement

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as "City") and Precision Civil Engineering, Inc., a California Corporation, whose address of record is 1234 O Street, Fresno, California 93721 (hereinafter referred to as "Consultant").

WHEREAS, City does not have sufficient personnel to perform City Engineer duties; and,

WHEREAS, Consultant represents that it possesses the professional skills to provide such engineering services.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. SCOPE OF SERVICES. The Consultant shall furnish the following services: Consultant shall provide the engineering services described in Exhibit "A" attached hereto.

No additional services shall be performed by Consultant unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the City Manager or his designee. However, the means by which the work is accomplished shall be the sole responsibility of the Consultant.

2. RESERVED.

3. TERM. The term of this Agreement shall be from the effective date of this Agreement for a period of six (6) months, unless earlier terminated as provided herein.

4. COMPENSATION. Payment by the City to the Consultant for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance with the fee schedule set forth in Exhibit "B" attached hereto and incorporated herein by reference. The Consultant agrees to provide all services required under

the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "B". For Consultant's services rendered under this Agreement, City shall pay Consultant the not to exceed sum of One Hundred Seventy Five Thousand Dollars $175,000.00.

5. METHOD OF PAYMENT. Compensation to Consultant shall be paid by the City after submission by Consultant of an invoice delineating the services performed.

6. RECORDS. It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Consultant relating to the matters covered by this Agreement shall be the property of the City, and Consultant hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. CONSULTANT'S BOOKS AND RECORDS. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. INDEPENDENT CONTRACTOR. It is expressly understood that Consultant is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, the Consultant is to acquire same at its expense.

In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, protect, defend, and hold harmless the City for the

payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

9. INDEMNITY. To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), Consultant shall indemnify, protect, defend (with legal counsel reasonably acceptable to City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property, or expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation), that arise out of, pertain to, or relate to, the negligence, recklessness, willful misconduct of Consultant or its employees, subcontractors, or agents in the performance of this Agreement. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

10. INSURANCE. During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars ($100,000) for any one person and as required by law, including Employer's Liability limits of $1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. General Liability.

(i) Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.

(ii) Consultant shall maintain limits of no less than One Million Dollars ($1,000,000) per occurrence for bodily injury, personal injury and property damage.

(iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.

(iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

(v) Consultant shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

(i) Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars ($1,000,000) per accident for bodily injury and property damage.

(ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Consultant.

(iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its

sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars ($1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

(i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,

(ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium.

g. Notwithstanding any language in this Agreement to the contrary, Consultant shall be entitled to be paid pursuant to the terms of this Agreement until Consultant has obtained the insurance required by this Section 10 and provided documentation of said insurance to the City. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

11. ASSIGNABILITY OF AGREEMENT. It is understood and agreed that this Agreement contemplates personal performance by the Consultant and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties

or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City.

12. TERMINATION FOR CONVENIENCE OF CITY. The City may terminate this Agreement any time by providing thirty (30) days notice in writing to Consultant that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

13. CONFORMANCE TO APPLICABLE LAWS. Consultant shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Consultant in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

14. WAIVER. In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

15. INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS. In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

16. AMBIGUITIES. This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

17. VENUE. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

18. AMENDMENT. This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

19. INTEGRATION. This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

20. AUTHORITY TO EXECUTE. The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

21. COUNTERPARTS. This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

///

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal Corporation

BY:_____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: _____ 3-4-19
City Attorney Date

ACCOUNT DATA:

BY:_____
Verified by Finance Officer

CONSULTANT
PRECISION CIVIL ENGINEERING, INC., A California Corporation

BY: _____
(Signature)

EDWARD D DUNKEL JR.
(Typed Name)

Its: PRESIDENT
(Title)

BY: _____
(Signature)

EDWARD D DUNKEL JR.
(Typed Name)

Its: SECRETARY
(Title)

Taxpayer I.D. No. 74-3054917

ADDRESS: 1234 O Street
Fresno, CA 93721

TELEPHONE: (559) 449-4500
FAX: (559) 449-4515
E-MAIL: _____

EXHIBIT A
SCOPE OF WORK
On-Call/Staff Augmentation Services

Consultant shall provide a variety of anticipated and requested services required by the City of Merced over the contract period. Consultant shall also perform additional tasks within the Consultant's area of expertise as requested and approved by the City Manager or Director of Public Works. Services generally will include:

- Executive Team meeting attendance as requested
- City Council staff report preparation as requested
- City Council meeting attendance as requested
- Planning Commission meeting attendance as requested
- Traffic Investigations, coordination and resolutions
- Technical and Policy Review and response to:
    - Regional, State and Federal funding programs
    - Issues requiring engineering review/analysis/recommendations
    - Outside agency and industry questions/issues
    - General Correspondence
- Technical review of outside Agency reports/studies
- Development conditions, plan check and meeting attendance
- Capital Improvement Program Support
- Grant Funding application preparation

Consultant's personnel shall be deemed to be agents of the City while performing such services, provided such services are within the scope of work authorized by this Contract. Consultant has specified that Michael Beltran shall represent the City as City Engineer. Any changes to consultant's assigned representative shall require prior approval by the City Manager or Assistant City Manager.

In addition to the work expectations outlined in the attached City Engineer Job Description, Consultant's specific areas of services include, but are not limited to, the following:

- Provide qualified and experienced individual(s) to represent the City as City Engineer;

- May provide additional staff support upon request from the City Manager or Assistant City Manager.

- Provide development processing, plan and map checking, and on-site oversight for new development activity as directed;

- May assist with City Surveyor review and approval duties that includes Map

review, legal descriptions, lot line adjustments, and sign/stamp all documents in technical compliance with the City ordinances and the State Map Act

- Research, prepare, and coordinate grant funding requests;

- Coordinate the City's transportation program with the Merced County Association of Governments, California Transportation Commission, California Department of Transportation, and other local, regional, State, and Federal programs;

- Support and administer the City's Engineering Department Budget and Capital Improvement Program Budget, initiating capital improvement projects and programs, defining project scope, determining project budget and financial resources;

- As part of developing the City's long-range Capital Improvement Program, undertake a comprehensive review of all finance programs currently underway or proposed including all debt finance programs, developer fee programs, specific development finance plans, other regional, State, and Federal funding programs;

- Develop specific finance plans, lighting and landscape districts, and strategies necessary to implement development projects in the City;

- Provide Assessment Engineering for CFDs (Mello-Roos) and 1913/15 Act Assessment Districts;

- Prepare, review, and administer public facilities infrastructure master plans;

- Prepare and issue consultant Requests for Proposal, select and manage consultants, and assure compliance with design standards and funding source requirements;

- Provide project management services for the preparation of in-house contract documents and specifications for public infrastructure projects, recommendation for project award; negotiation and administration of contracts for construction projects;

- Provide leadership, mentoring and training to in-house City staff;

- Provide limited design services for various public works projects;

- Provide support and management of environmental documentation, permits and Real Estate services for City and Private Development projects;

- Assist with and manage appropriate levels of proactive maintenance of the City's infrastructure;

- May manage third party agreements with the City;

- Provide City Traffic Engineering related services such as traffic safety investigations, speed zone surveys, route planning, corridor analysis, capacity evaluations, bicycle and pedestrian facilities analysis, traffic impact reports, computer modeling, congestion management programs, traffic signal and control systems, traffic management plans for construction zones; parking facilities, street signage and marking programs, and street lighting;

- Assist with ADA Transition Plan;

- Provide creative solutions to difficult and unforeseen problems;

- Keep City staff abreast in current technology, materials, grant funding availability and methods in the Public Works arena;

- Provide services to support other City departments as requested such as administrative, City Clerk Services, Finance, and Accounting, Information Technology; and

- Work with the City Attorney in the preparation of ordinances and agreements.

Limitations of Budgetary Authority:

All decisions made by Consultant on behalf of the City regarding the commitment or use of City funds, including in-kind services and future funding commitments, requires prior approval of the City Manager or Assistant City Manager.

CITY ENGINEER

DEFINITION

Under administrative direction, to plan, organize, direct, and manage the City Engineer functions of the City of Merced; to be responsible for the development, organization, and administration of City capital improvement projects; to develop and update engineering standards; to perform a variety of the most difficult and complex professional office and field engineering work; to prepare plans, designs, and specifications for a variety of City projects; to review work prepared by outside consultants; to prepare engineering reports; to supervise, train, and evaluate work for staff assigned to the City Engineer function; to monitor work-flow and seek outside consultants to maintain Capital Improvement Project schedule; to provide professional engineering consultation for the City Council, City Manager, and other City staff; and to do related work as required.

DISTINGUISHING CHARACTERISTICS

This is the top level management classification for the position which has responsibility for managing and directing the services and functions of the Office of the City Engineer, as well as serving as the primary engineering advisor for the City Council, City Manager, and City staff.

REPORTS TO

City Manager, through the Director of Development Services

CLASSIFICATIONS SUPERVISED

Staff assigned to the Engineering Department.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES *(The following is used as a partial description and is not restrictive as to duties required.)*

Plans, organizes, and manages, and directs the City Engineer functions; has responsibility for the development, management, and oversight of City capital improvement projects; provides supervision, training, and work evaluations assigned technical, professional, paraprofessional, and office support staff; accepts and approves construction work under City contract and private construction of public improvements; analyzes and assesses the impact of pending legislation which may impact City engineering functions; approves final Subdivision and Parcel Maps; approves plans and specifications for engineering and construction projects; oversees the Disadvantaged Business Enterprise Program; oversees traffic and radar speed studies; gives depositions and represents the City in legal matters related to City Engineer responsibilities; manages contracts; negotiates development conditions with developers and engineers; plans regional transportation systems; provides Resident Engineer services on grant projects; seeks and manages grant funding; resolves construction claims and conflicts; performs a variety of special studies and analysis, prepares reports; performs utility rate studies and analysis; provides a variety of consultation regarding engineering and community

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES (continued)

development problems to City management and staff; develops, updates, and maintains City engineering standards; performs a variety of highly complex professional engineering work; researches data and provides consultation to engineers and contractors; develops and proposes solutions to complex engineering problems; represents the City in meetings with contractors, engineers, developers, property owners, attorneys, community groups, and representatives of other public agencies.

TYPICAL PHYSICAL REQUIREMENTS

Frequently stand and walk; sit for extended periods; normal manual dexterity and eye-hand coordination; lift and move objects weighing up to 25 pounds; corrected hearing and vision to normal range; verbal communication; use of engineering and office equipment, including computer, telephone, calculator, copiers, and FAX.

TYPICAL WORKING CONDITIONS

Work is performed in an office environment; may work outside; some exposure to weather and temperature variances; exposure to dust; continuous contact with other staff and the public.

DESIRABLE QUALIFICATIONS

Knowledge of:

Principles of public and engineering administration.
Capital improvement project, planning, development, and administration.
Comprehensive knowledge of the theory, principles, and practices of civil engineering and their application to the design and preparation of engineering specifications, and construction of public works facilities, including roads, bridges, drainage systems, airports, and water and wastewater facilities.
Laws, rules, regulations, and policies affecting public works engineering.
Construction methods, materials, and equipment.
Proper inspection methods and procedures.
Contract development and administration.
Uses of computers and computer applications in professional engineering.
Principles of engineering management, supervision, training and employee evaluation.

Ability to:

Plan, organize, and manage the City Engineer functions of the City.
Plan, develop, and administer City capital improvement projects.
Provide a variety of engineering consultation to City elected officials, management, and staff.
Develop and administer grants.
Plan and oversee project scheduling, completion, and acceptance (at design and construction stages).
Supervise, train, and evaluate professional, paraprofessional, technical engineering, and office support staff.

DESIRABLE QUALIFICATIONS (continued)

Ability to: (continued)

Perform a wide scope of the most professional engineering work in the preparation of plans, designs, and specifications for public works and City facility development, construction, and maintenance.
Prepare a variety of engineering reports.
Conduct engineering reviews of designs, plans, and specifications prepared by others.
Gather, organize, analyze, and present a variety of technical engineering and statistical data.
Perform construction project administration, ensuring compliance with plans, specifications, and contracts.
Use a computer and appropriate software in professional engineering and administrative work.
Effectively represent the City Engineering Department in contacts with the public, other City staff, and other government agencies.
Establish and maintain cooperative working relationships.

Training and Experience:

Any combination of training and experience which would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the required knowledge and abilities would be:

Thorough professional engineering experience including considerable managerial experience in the direction of varied capital improvement projects and programs, and graduation from an accredited college or university with specialization in civil engineering, public administration or related field, and eight years of experience in a managerial or supervisory capacity.

Special Requirements:

Possession of a valid California Driver License.

Possession of current registration as a professional civil engineer in California. Registered Civil Engineer certification to include surveying or Civil Engineer and Land Surveyor registration to meet Subdivision Map Act requirements, desirable at time of appointment. May be required to obtain Land Surveyor registration following appointment to position.

CITY ENGINEER - 4

Reference: City of Merced Personnel Rules and Regulations, Sections 5.05 and 5.07.

The contents of this class specification shall not be construed to constitute any expressed or implied warranty or guarantee, nor shall it constitute a contract of employment. The City of Merced assumes no responsibility beyond the general accuracy of the document, nor does it assume responsibility for any errors or omissions in the information contained herein. The contents of this specification may be modified or revoked without notice. Terms and conditions of employment are determined by the City Manager.

APPROVED Nolvia Reynolds DATE 11-13-12
Chairperson, Personnel Board

EXHIBIT B
Rate Schedule

2019 Rate Schedule:

Senior Principal/Principal	$ 205.00/Hr.
Senior Designer/Professional Engineer	$ 190.00/Hr.
Senior Entitlement Manager	$ 150.00/Hr.
Project Manager/Licensed Civil Engineer	$ 170.00/Hr.
Project Engineer II	$ 140.00/Hr.
Project Engineer I	$ 120.00/Hr.
Senior CAD Technician	$ 110.00/Hr.
CAD Technician II	$ 95.00/Hr.
CAD Technician I	$ 85.00/Hr.
Professional Licensed Surveyor	$ 170.00/Hr.
Project Surveyor/LSIT	$ 135.00/Hr.
Technical Analyst/GIS Specialist	$ 120.00/Hr.
High-Definition Scanner	$ 250.00/Hr.
Registration/Fly-Through	$ 125.00/Hr.
3-Man Survey Crew or GPS	$ 230.00/Hr.
2-Man Survey Crew or Robotic	$ 190.00/Hr.
1-Man Survey Crew	$ 150.00/Hr.
3-Man Survey Crew or GPS	$ 435.00/Hr.*
2-Man Survey Crew or Robotic	$ 335.00/Hr.*
1-Man Survey Crew	$ 195.00/Hr.*
Landscape Architect	$ 150.00/Hr.
Biologist	$ 135.00/Hr.
QSP Trained Inspector	$ 120.00/Hr
Expert Witness (Deposition)	$ 300.00/Hr
Expert Witness (Trial)	$ 400.00/Hr
Clerical	$ 70.00/Hr.
Mileage	$ 0.600/Mile

ADMINISTRATIVE REPORT

Agenda Item I.11. Meeting Date: 3/18/2019

Report Prepared by: Michael Hren, Principal Planner, Development Services Department

SUBJECT: Second Reading - Adoption of Ordinance 2498 to Amend Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required"

REPORT IN BRIEF

Adoption of previously introduced Ordinance to amend section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required" of the Merced Municipal Code.

RECOMMENDATION

City Council - Adopt a motion approving **Ordinance 2498**, an Ordinance of the City Council of the City of Merced, California, Amending Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required," of the Merced Municipal Code.

ALTERNATIVES

1. Approve the Ordinance, as recommended by Planning Commission and staff; or,
2. Deny; or,
3. Refer to staff for reconsideration of specific items (to be addressed in the motion); or,
4. Continue to a future City Council meeting (date and time to be specified in the motion).

AUTHORITY

Merced Municipal Code Section 20.80, "Zoning Ordinance Amendments" spell out procedures for amending the Zoning Ordinance.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

The City of Merced's regulations regarding commercial cannabis businesses have been in effect since January 3, 2018. In order to ensure that the City's process continues to function in an effective and timely fashion, amendments to the language are proposed. These amendments are based on a number of factors, including observation of the process since the initial implementation of the City of Merced's cannabis business application process and best practices learned from contact with other communities and professionals in the cannabis industry. At the City Council meeting on February 19,

2019, the Council recommended the modification of the definition of 'school' to require the use to be the primary use of the site and for a list of schools to be approved by the City Council at an additional Public Hearing, to be updated annually and as retail sales dispensary permits become available. At the City Council meeting of March 4, 2019, the Council recommended that the review of appeals by City Council be a 'de novo' review, indicating that new testimony and information may be raised at appeal hearings. Previously, appeal hearings were limited to the record of the Planning Commission meeting that the item was initially heard at.

Summary

The City is proposing various changes to what was adopted under Cannabis Ordinance #2480 in 2017. Changes include an addition of a fifth permit for a cannabis dispensary for retail sales, clarification of key definitions, modifications to the list of disqualifying factors for an application that can be discovered during a background check, clarifications and updates to the procedures undertaken in order to select applications to be recommended to the Planning Commission, updates to the method by which modifications to applications or permitted businesses can be undertaken, and other clarifications to bring the ordinance and the City's implementation of it in line with best practices, along with minor corrections for spelling, grammar, and formatting throughout Section 20.44.170.

Proposed Changes to the Zoning Ordinance

The proposed zoning ordinance amendment (redline changes to the Ordinance are presented at Attachment 3) would do the following:

1) Increase the number of allowable commercial dispensaries for retail sale of cannabis from four (4) to five (5).

2) Change the point at which the City reviews sensitive uses for each application to the time at which an application is received. Previously, this point was the time at which a permit was issued.

3) Add a definition of "Greenhouse" that is inclusive of facilities using solely artificial light and facilities using mixed-light.

4) Update the definition of "Owner" and "Ownership interest" to include "entities" and note that persons holding 5% or greater financial interest in an entity that is an owner makes those persons owners of a cannabis business.

5) Add a definition of "Selection Panel."

6) Update the definition of "School" to eliminate a circular definition and prevent edge cases.

7) Update the validity of a Commercial Cannabis Business Permit issued on or after October 1 to be valid until December 31 of the following calendar year. Previously, such permits would

expire on December 31 of the same calendar year.

8) Modify permittee requirements to inform the City in writing within ten (10) days of receipt of a State license. Previously, the requirement was to inform the City within ten (10) days of applying for a State license.

9) Give the Director of Development Services the discretion to grant an exception to fencing requirements in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises.

10) Update the number of days the Director of Development Services has to notify applicants of deficiencies in applications to thirty (30) days, consistent with other City policies. Previously, the Director of Development Services had twenty-one (21) days to do so.

11) Give the Chief of Police discretion to disqualify an applicant if any of the following are discovered upon completion of the comprehensive background check: any civil judgment(s) against any owner for torts involving dishonesty including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties; any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or any material misrepresentation made by the applicant in the application for a Commercial Cannabis Business Permit.

12) Update the Zoning Clearance provided by the Zoning Administrator during the Phase I process to be a Provisional Zoning Clearance, and add that it shall be subject to final approval by the Planning Commission. The Zoning Clearance confirms that the application is outside of the buffer zones from sensitive uses, such as schools, and adheres to all other zoning requirements.

13) Update the scoring process for ranking of applicants consistent with established practice from previously approved permits, as well as noting that the existing ranking list expires on September 20, 2019, and that future ranking lists created after that date shall expire 180 days after the issuance of the last available Commercial Cannabis Business Permit.

14) Require the Planning Commission to review only the Commercial Cannabis Business Permit application(s) for Dispensaries/Retail Sales recommended by the Selection Panel. Previously, the requirement was for “all” such applications to be reviewed.

15) Add language to sections discussing disqualification of applicants requiring notice to be provided to the applicant within ten (10) days, and noting that there shall be no further right to appeal the disqualification.

16) Add a section relating to modifications of pending applications, allowing minor modifications to such things as name or structure of business, change in ownership, floor/site/elevation plans, operation/security procedures, and modifications to the parcel on which the proposed business is located.

17) Add a section relating to modifications of approved permits consistent with #16 above, with the addition of location changes, with the approval of the Planning Commission at a public hearing.

18) Update numbering, references, spelling, grammar, and formatting throughout Section 20.44.170.

Planning Commission Recommendation

At the January 23, 2019, public hearing of the Planning Commission, the Commission voted 5-2 (5 ayes, 2 noes) to recommend approval of the Zoning Ordinance Amendment as proposed. See Attachments 1 and 2 for the Planning Commission Staff Report and Resolution.

After the Planning Commission's review and recommendation, staff noted that a number of passages of the proposed Ordinance followed the format, "[Position Title] or his designee." Staff has updated the proposed Ordinance to follow the format, "[Position Title] or designee," instead.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Ordinance Redline Version
2. Ordinance 2498

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTION 20.44.170, "REGULATION OF COMMERCIAL CANNABIS ACTIVITIES – COMMERCIAL CANNABIS BUSINESS PERMIT REQUIRED," OF THE MERCED MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT TO CODE. Section 20.44.170, "Regulation of Commercial Cannabis Activities – Commercial Cannabis Permit Required," of the Merced Municipal Code is hereby amended to read as follows:

"**20.44.170 - REGULATION OF COMMERCIAL CANNABIS ACTIVITIES - COMMERCIAL CANNABIS BUSINESS PERMIT REQUIRED**

A. Zoning Compliance and Commercial Cannabis Business Permit Requirements

Specific commercial cannabis businesses are allowed as a special use in the C-C, C-O, C-G, C-N, 1-L and 1-H Zoning Districts and Planned Developments which have the equivalent General Plan land use designations of those zones. Commercial cannabis activities are expressly prohibited in all other zones in the City of Merced. Commercial cannabis businesses shall apply for and conduct business only in the appropriate zones as described in Table 20.44-1 and the City of Merced's zoning ordinance as a requisite for obtaining a Commercial Cannabis Business Permit (CCBP). No commercial cannabis business may operate in the City of Merced without a Commercial Cannabis Business Permit.

This Land Use Table 20.44-1 shall be used to determine whether a cannabis business is not permitted – 'X', or permitted – 'P'. Any Commercial Cannabis business in the City of Merced shall also operate in compliance with the City's zoning ordinance. If a Zoning District is not listed in the Land Use Table in this section then the use is expressly not permitted.

Commercial Cannabis Business Activities Use Type	City of Merced Municipal Code Table 20.44-1							Additional Specific Use Standards
	Land Use Classification [4][5]	C-C Zone	C-O Zone	C-G Zone	C-N Zone	I-L Zone	I-H Zone	
Cultivator	Greenhouse, Type A	X	X	X	X	P	P	Sec. 20.44.170(i)
Cultivator	Greenhouse, Type B	X	X	X	X	P	P	Sec. 20.44.170(i)
Cultivator	Greenhouse, Type C	X	X	X	X	P	P	Sec. 20.44.170(i)
Nursery	Greenhouse, Type D	X	X	X	X	P	P	Sec. 20.44.170(i)
Manufacturing	Manufacturing, non-volatile	X	X	X	X	P	P	Sec. 20.44.170(h)
Manufacturing	Manufacturing, volatile	X	X	X	X	P	P	Sec. 20.44.170(h)
Dispensary [1][2]	Pharmaceutical, medical	P	P	P	P	P	X	Sec. 20.44.170(f)
Dispensary [1][2]	Retail, non-medical/combined	P	P	P	P	P	X	Sec. 20.44.170(f)
Testing Laboratory	No Retail	P	P	P	X	P	P	Sec. 20.44.170(j)
Distribution [3]	Freight/Transport	X	X	P	X	P	P	Sec. 20.44.170(k)

Footnotes

1. Only five (5) dispensaries shall operate within the Merced City Limits. At least one (1) of those dispensaries shall also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than five (5) dispensaries of any kind be allowed within the City of Merced at any one time.

2. Dispensaries (medical or adult use) are prohibited in the City Center area between 19th and 16th Streets and O Street and Martin Luther King Jr. Way, including properties fronting on either side of each of the above streets.

3. Only allowed in General Commercial (C-G) zones if it meets the provisions of Section 20.44.170 (K)(10).

4. If listed as 'Permitted' in a specific zone above, then that use is also 'Permitted' in Planned Development (P-0) zones that have the equivalent General Plan land use designation as that zone.

5. 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 Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f). 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 Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f).

Land Use Classifications:

Greenhouse, Commercial A - Permitted cultivation area: 0 to 5,000 square feet
Greenhouse, Commercial B - Permitted cultivation area: 5,001 to 10,000 square feet
Greenhouse, Commercial C - Permitted cultivation area: 10,000 to 22,000 square feet
Greenhouse, Commercial D - Permitted cultivation area: 22,000 square feet

B. Cultivation of Cannabis for Personal Use in Residential Zones

1. When authorized by State regulations, an authorized resident shall be allowed to cultivate cannabis only in a private residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:

a. The cannabis cultivation area shall be located indoors within a residential structure and shall not exceed fifty square feet and not exceed ten feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting, nor shall it exceed the limits set forth in Section 20.44.170(B)(1)(j) below. Cultivation in a greenhouse or other legal accessory structure on the property of the residence, but not physically part of the home, is permitted as long as it is fully enclosed, secure, not visible from a public right-of-way, and meeting all requirements in this Chapter. Additionally, all structures must meet setback, height limitations, and be constructed in accordance with all local requirements as well as all applicable Building Codes.

b. If the resident is not the property owner, they must have the property owner's express written authorization to conduct cannabis cultivation. Nothing contained herein shall limit the property owner's right to

deny or revoke permission to allow cannabis cultivation as set forth by State law.

c. The use of gas products such as, but not limited to CO2, butane, methane, or any other flammable or non-flammable gas for marijuana or cannabis cultivation or processing is prohibited.

d. There shall be no exterior visibility or evidence of cannabis cultivation outside the private residence from the public right-of-way, including but not limited to any marijuana or cannabis plants, equipment used in the growing and Cultivation operation, and any light emanating from cultivation lighting.

e. The authorized resident shall reside full-time on the property where the cannabis cultivation occurs.

f. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for cannabis cultivation.

g. The cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code including § 1203.4 Natural Ventilation or§ 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

h. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to, installation of fire suppression sprinklers.

i. The cannabis cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic,

vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

j. No more than six (6) cannabis plants, mature or immature, for personal use, are permitted per residence for indoor personal cultivation under this Chapter, unless permitted under State regulations.

k. Cannabis in excess of twenty-eight and one-half (28.5) grams produced by plants kept for indoor personal cultivation under this Chapter must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.

i. The authorized grower shall not provide any cannabis in any form to animals or any minors that are not authorized users under Medical Marijuana Regulation and Safety Act or the Adult Use of Marijuana Act. Anyone found in violation shall be prosecuted pursuant to State regulations.

ii. Outdoor cultivation of cannabis is expressly prohibited in all zones and districts of the City of Merced.

C. Definitions

The definitions are incorporated herein as fully set forth and are applicable to this ordinance. All definitions are intended to comply with those set forth by the State of California for all commercial cannabis activities.

1. **'Applicant'** means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

2. **‘Cannabis’** means all parts of the Cannabis sativa Linnaeus, Cannabis lndica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ‘Cannabis’ also means the separated resin, whether crude or purified, obtained from marijuana. ‘Cannabis’ also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. ‘Cannabis’ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, ‘cannabis’ does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

3. **‘Cannabis waste’** means waste that is not hazardous waste, as defined in Public Resources Code section 40191, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed by the State.

4. **‘Canopy’** means all of the following:

a. The designated area(s) at a licensed premises that will contain mature plants at any point in time;

b. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;

c. Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space; and

d. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

5. **'City'** means the City of Merced.

6. **'Commercial cannabis business permit (CCBP)'** means a permit issued by the City pursuant to this chapter to a commercial cannabis business.

7. **'Commercial cannabis activity'** includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of cannabis or a cannabis product, except as set forth in Section 19319 of the Business and Professions Code, related to qualifying patients and primary caregivers.

8. **'Commercial vehicle'** means a vehicle as defined in Vehicle Code section 260.

9. **'Concentrated cannabis product'** means a consolidation of cannabinoids made by dissolving cannabis in its plant form into a solvent.

10. **'Cultivation'** means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

11. **'Customer'** means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation.

12. **'Day Care Center'** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities,

and school age child care centers as defined in Health and Safety Code Sections 1596.76, 1596.7915, 1576.750, and 1596.78.

13. **‘Delivery’** means the commercial transfer of marijuana or marijuana products to a customer. ‘Delivery’ also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

14. **‘Delivery employee’** means an individual employed by a licensed dispensary who delivers cannabis goods from the permitted dispensary premises to a medical cannabis patient or primary caregiver or qualified purchaser at a physical address.

15. **‘Dispensary’** means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

16. **‘Display’** means cannabis goods that are stored in the licensed dispensary's retail area during the hours of operation.

17. **‘Display case’** means container in the licensed dispensary retail area where cannabis goods are stored and visible to customers.

18. **‘Distribution’** means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.

19. **‘Edible cannabis product’** means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

20. **‘Fully Enclosed and Secure Structure’** means a fully-enclosed space within a building that complies with the California Building Code (‘CBSC’), as adopted in the City of Merced, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor lighting or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Merced.

21. **‘Free sample’** means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.

22. **‘Greenhouse’** means a facility in which plants are grown and is inclusive of facilities using solely artificial light and facilities using mixed-light. In order to be lawful and permitted in the City of Merced, a greenhouse must be a ‘Fully Enclosed and Secure Structure’ as defined above in 20.44.170(C), Subsection 20.

23. **‘Indoors’** means within a fully enclosed and secure structure as that structure is defined above in 20.44.170(C), Subsection 20.

24. **‘License’** means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.

25. **‘Limited-access area’** means an area in which cannabis goods are stored or held and which is only accessible to a licensee and the licensee's employees and contractors.

26. **‘Medical’** or **‘Medicinal’** have the same meaning under the terms of this ordinance.

27. **‘Medical cannabis goods’** means cannabis, including dried flower, and manufactured cannabis products.

28. **‘Medical cannabis patient’** is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.

29. **‘Manufacturer’** means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

30. **‘Manufacturing’** or **‘manufacturing operation’** means all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products.

Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

31. **‘Nonvolatile solvent’** means any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide used for extraction, or as it may be defined and amended by the State.

32. **‘Operating hours’** means the hours within a day during which a permitted retail sales outlet may allow qualified cannabis purchasers and primary caregivers to enter the dispensary premises and purchase cannabis goods.

33. **‘Owner’** or **‘Ownership interest’** means an interest held by a person or entity who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of 5% or more. In the event an entity holds a financial interest in the commercial cannabis business of 5% or more, any person who holds a financial interest in said entity of 5% or more is also considered an ‘owner’ of the commercial cannabis business.

34. **‘Package’** and **‘Packaging’** means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. ‘Package’ and ‘packaging’ does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.

35. **‘Patient or qualified patient’** shall have the meaning given that term by California Health and Safety Code and possesses a valid physician's recommendation.

36. **‘Person’** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust,

receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

37. **‘Pest’** means undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism that is injurious to human health.

38. **‘Physician's recommendation’** means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

39. **‘Premises’** means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or licensee to conduct the commercial cannabis activity.

40. **‘Pre-roll’** means dried cannabis flower rolled in paper prior to retail sale.

41. **‘Primary Caregiver’** has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

42. **‘Private security officer’** has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.

43. **‘Publicly owned land’** means any building or real property that is owned by a city, county, state, federal, or other government entity.

44. **‘Purchase’** means obtaining cannabis goods in exchange for consideration.

45. **‘Purchaser’** means a person who is engaged in a transaction with a licensee for purposes of obtaining cannabis goods.

46. **‘Quarantine’** means the storage or identification of cannabis goods, to prevent distribution or transfer of the cannabis goods, in a physically separate area clearly identified for such use.

47. **‘Retail area’** means a building, room, or other area upon the licensed dispensary premises in which cannabis or other goods are sold or displayed.

48. ‘**School’** means those sites upon which full-time instruction in any of grades K through 12 is provided where the primary purpose is education, as determined in the sole discretion of the City Council, and which are identified as a school on the City’s official ‘List of Schools’ as provided in Section 20.44.170(E)(3)(f)(i). ‘School’ does not include any private site upon which education is primarily conducted in private homes.

49. **‘Security monitoring’** means the continuous and uninterrupted attention to potential alarm signals that can be transmitted from a security alarm system for the purpose of summoning law enforcement.

50. **‘Selection Panel’** means the group consisting of the City Manager, Chief of Police, and Director of Development Services, or their designees, convened for the purpose of evaluating applicants based on the merit-based scoring system, and making recommendations to the Planning Commission with respect to issuance of Commercial Cannabis Business Permits.

51. **‘Sell,’ ‘sale,’** and ‘**to sell’** include any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.

52. **‘Sublet’** means to lease or rent all or part of a leased or rented property.

53. **‘State’** means the State of California.

54. **‘Testing Laboratory’** means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.

55. **‘Vehicle alarm system’** is a device or series of devices installed to discourage theft of the commercial vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the commercial vehicle.

56. **‘Volatile solvent’** means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include but are not limited to, butane, hexane, propane, and ethanol, or as it may be defined and amended by the State.

57. **‘Wholesale’** means the sale of cannabis goods to a distributor for resale to one or more dispensaries.

58. **‘Youth Center’** means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club activities, video arcades with over 10 or more video games on the premises, or similar amusement park facilities, or as otherwise described in Health and Safety Code Section 11353.1(e)(2).

D. Compliance with State and Local Licensing Requirements

Any dispensary, cultivation facility, manufacturing facility, testing facility or any other commercial cannabis activity as defined by the State of California or the City of Merced shall operate in conformance with all regulations and standards set forth in this Section of the Municipal Code to assure that the operations of the dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility or any other commercial cannabis activity as defined by the State of California or allowed by the City of Merced are in compliance with local and State law and are established to mitigate any adverse secondary effects from its operations.

Cannabis operators shall be required to obtain a State license once they become available, and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria.

Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City of Merced and only if all uses proposed are allowed pursuant to the City's Zoning Code.

E. General Provisions for Commercial Cannabis Activities in the City of Merced

1. Commercial Cannabis Business Permit Required

a. Each business shall have a Commercial Cannabis Business Permit specific to the business activity defined by the State pertaining to that activity and whether the activity is medical or non-medical or any other commercial cannabis activity the State may define and as they may be amended. Following is a list of current license types:

i. Cultivation

ii. Distribution

iii. Manufacturing

iv. Retail sales (Dispensary)

v. Testing

b. It shall be unlawful for any person, association, partnership, corporation, or other entity to engage in, conduct or carry on, in or upon any premises within the City of Merced, any commercial cannabis business without a Commercial Cannabis Business Permit. A cannabis business shall register and obtain a Commercial Cannabis Business Permit from the City of Merced prior to operation. The Commercial Cannabis Business Permit applicant shall pay an annual non-refundable regulatory fee in an amount and at a frequency established by the City Council by resolution.

c. A copy of the Commercial Cannabis Business Permit shall be displayed at all times in a place visible to the public.

d. A Commercial Cannabis Business Permit shall be valid for one (1) year or until December 31 of each year, unless sooner revoked. In the event a Commercial Cannabis Business Permit is issued on or after October 1, said permit shall be valid until December 31 of the following calendar year. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.

e. A Commercial Cannabis Business Permit shall not be issued to an individual or a business entity owned or managed in whole or in part by an individual or a business entity employing an individual who has a

previous conviction for or has entered a plea of nolo contendere/no contest to any of the following:

i. A felony offense listed in California Health and Safety Code Section 11590.

ii. A felony offense listed in California Penal Code Section 667.S(c).

iii. A felony offense listed in California Penal Code Sections 1197.2(c) or Section 1192.8.

iv. A felony or misdemeanor offense that substantially relate to the qualifications, functions, or duties of the business or profession.

v. A felony conviction involving fraud, deceit, or embezzlement.

vi. A felony or misdemeanor offense involving the sale or giving to a minor of controlled substances, cannabis, alcohol, or tobacco.

A Commercial Cannabis Business Permit may be issued, at the discretion of the City, to an individual with a conviction listed above provided a period of ten (10) years has elapsed in which the individual has remained free of criminal convictions or violations of parole or probation, and the individual has either obtained a certificate of rehabilitation pursuant to Penal Code Section 4852.01 or received expungement pursuant to California Penal Code Section 1203.4.

f. The Commercial Cannabis Business Permit shall be issued to the specific person/persons/entity listed on the Cannabis Permit Application.

g. A Commercial Cannabis Business Permit is not transferable except under the terms of Merced

Municipal Code Section 20.44.170(L)(7), and does not run with the land or with the business.

2. Maintenance of Records and Reporting

All records for the commercial cannabis business of the following activities shall be maintained and available to the City of Merced for at least 7 years. Records shall be produced within 24 hours of a request by an authorized City of Merced representative:

a. The business shall obtain and maintain a valid Seller's Permit from the State Board of Equalization.

b. Financial records include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization under Title 18 California Code of Regulations Section 1968.

c. Personnel records, including each employee's full name, address, phone number, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable.

d. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.

e. Contracts with other licensees regarding commercial cannabis activity.

f. Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity, including BOE sellers permit.

g. Security records.

h. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.

i. Proof of building ownership or landlord letter acknowledging business type.

j. Proof of insurance.

3. Operational Standards for All Commercial Cannabis Business Activities

a. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record 24 hours a day at a minimum of 20 frames per second.

b. The applicant shall conduct and pay for any required CEQA reviews and analyses, and pay for all costs, including those of the City, associated with project review under CEQA.

c. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the Merced Police Department or their designee on request.

d. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure location for a

period of not less than thirty (30) calendar days, and be available for inspection at any time. The City of Merced or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings

e. All commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.

f. 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 Application for a Commercial Cannabis Business Permit is submitted to the City. 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 Application for Commercial Cannabis Business Permit is submitted to the City. 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.

(i) The City shall establish an official “List of Schools” which are located within the City of Merced by resolution of the City Council after a public hearing. Said list shall be updated on an

annual basis on or before January 31st of each year, and/or whenever a commercial cannabis business permit for a dispensary becomes available.

g. No physical modification of the permitted premises is allowed without written prior permission by the City of Merced and payment of any additional fees required by the City.

h. All commercial cannabis activities shall provide adequate off-street parking and comply with the City of Merced Municipal Code requirements in Chapter 20.38 Parking and Loading, to service customers without causing negative impact.

i. The commercial cannabis business shall provide adequate handicapped parking per the requirements in the California Building Code.

j. The commercial cannabis business shall provide adequate interior and exterior lighting for safety and security as determined by the Police Chief or designee.

k. The commercial cannabis business shall minimize nuisances such as trash, litter, and graffiti.

l. Any and all signage, packaging, and facilities shall not be 'attractive', as it is defined by the State, to minors.

m. All commercial cannabis facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the

use occupies only a portion of a building. The air treatment system must also prevent the build-up of mold within the facility.

n. A permitted commercial cannabis business entity shall have 180 days after permit issuance by the City of Merced to begin initial operations, unless otherwise approved by the Development Services Director or designee. A permitted commercial cannabis business entity that remains inoperative for more than 60 calendar days after initial operations begin shall be deemed 'abandoned' and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Development Services Director or designee.

o. The cannabis business shall comply with all State and City of Merced regulations regarding testing, labeling and storage of all cannabis products.

p. The cannabis business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis as well as any unsold cannabis or cannabis products.

q. The cannabis business shall conform to all State regulations regarding the use of appropriate weighing devices.

r. The cannabis business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3).

s. The cannabis businesses' electrical and plumbing shall comply with State and local regulations.

t. The cannabis business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an ‘A’ rated insurance carrier in an amount no less than two million dollars and naming the City of Merced as additional insured.

u. No free samples of any cannabis or cannabis product may be distributed at any time.

v. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee’s ‘doing business as’ name and license number, the employees first and last name, and a color photo of the employee that shows the full front of the employee's face.

w. The commercial cannabis business shall have a centrally-monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows.

x. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors and responds to the alarm system. The alarm company shall obtain a City of Merced business license.

y. Meet all State deadlines for applying for a State license and receive a State license within six (6) months after the date the State begins issuing licenses. This may be waived if the State has longer delays in issuing licenses of the type the commercial cannabis business seeks. The permittee must inform the City in writing within 10 days of receipt of a State license. Said

notification shall be addressed to the Director of Development Services or designee at 678 W. 18th St., Merced, CA 95340.

z. All persons hiring employees to engage in commercial cannabis activities shall document compliance with the following employee safety practices:

i. Emergency action response planning as necessary
ii. Employee accident reporting and investigation policies

iii. Fire prevention

iv. Hazard communication policies, including maintenance of material safety data sheets

v. Materials storage and handling policies

vi. Personal protective equipment policies

vii. Operation manager contacts

viii. Emergency responder contacts

ix. Poison control contacts

aa. All persons with ownership interest; and all employees agents, officers or other persons acting for or employed by a permittee must be at least 21 (twenty-one) years of age.

F. Additional Regulations for Dispensary and Retail Sales of Cannabis

1. Only five (5) dispensaries shall operate within the Merced City Limits, regardless of the location's compliance with any other Section specified in this ordinance. At least one (1) of those dispensaries shall

also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than five (5) dispensaries of any kind be allowed within the City of Merced.

2. No retail cannabis facility may engage in check cashing activities at any time.

3. Only one dispensary permit per person with ownership interest is allowed in the City of Merced. Any person with community property rights of an ownership interest is considered a person with ownership interest in this section.

4. Restrooms shall remain locked during business hours and not open to the public.

5. The total number of dispensaries in operation shall be determined based on the number of locations which have been issued a Commercial Cannabis Business Permit for a dispensary by the City.

6. Display of cannabis products shall be limited to only an amount necessary to provide a visual sample for customers.

7. At all times, when the cannabis dispensary is open to the public, the dispensary shall provide at least one security guard who is registered with Bureau of Security and Investigative Services, and possesses a valid and current security guard registration card on their person while on-duty.

8. Security guards are permitted, but not mandated, to carry firearms.

9. All cannabis products available for sale shall be securely locked and stored

10. The security guard and cannabis dispensary personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the dispensary or on the property or in the parking lot.

11. Medical Cannabis Dispensaries shall maintain the full name, address and telephone number(s) of all patient members to whom the business provides medical cannabis, and a copy of a physician-issued recommendation card or State-issued card for all patient members.

12. Dispensaries shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.

13. Any commercial cannabis retail or medical retail sales facility shall be open to the public a minimum of 40 hours per week, unless otherwise specified in the Commercial Cannabis Business Permit.

14. Hours of operation in Commercial Office (C-O) zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 7 p.m. Pacific Time. Hours of operation in all other zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 9 p.m. Pacific Time, unless zoning regulations specify more restrictive hours.

15. 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 (banners, A-frames, etc.) or window signs are allowed.

16. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis

dispensary: ‘Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited.’

17. An adult use license shall not sell cannabis products to persons under 21 years of age or allow any person under 21 years of age on its premises, unless such licensee also holds a medicinal license and the licensee holds a CCBP for both adult use and medicinal cannabis. A medicinal licensee may sell cannabis products to and allow on the premises, any person 18 years of age or older who possesses a valid government issued identification card, and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.

18. Adequate signage shall clearly state that the City of Merced has not tested or inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.

19. No recommendations from a doctor for medical cannabis shall be issued on-site.

20. Shipments of cannabis goods may only be accepted during regular business hours.

21. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol or tobacco by patrons.

22. Inventory shall be secured and locked in a room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss during non-business hours.

23. No cannabis product shall be visible from the exterior of the business.

24. All required labelling shall be maintained on all product, as required by State regulations, at all times.

25. The business shall post signs that spell out the ‘Prohibited Conduct Involving Marijuana and Marijuana Products’ contained in Health and Safety Code Section 11362.3 in a conspicuous manner on the business premises for the education of patrons. The City shall develop a standard format and content for such signs.

26. The use of vending machines (i.e. a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is strictly prohibited.

27. No drive-through facilities shall be allowed and no cannabis shall be sold through a drive- through facility.

G. Additional Regulations for Commercial Cannabis Delivery Services

1. Commercial cannabis deliveries may be made only from a commercial cannabis dispensary permitted by the City in compliance with this ordinance, and in compliance with all State regulations.

2. All employees who deliver cannabis shall have valid identification and a copy of the dispensary's Commercial Cannabis Business Permit at all times while making deliveries.

3. All commercial cannabis businesses shall provide proof of insurance in a minimum amount of $1,000,000 for any and all vehicles being used to transport cannabis goods.

4. Deliveries may only take place during the hours of 8:00 a.m. and 7:00 p.m. daily.

5. A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and

shall make it available upon request by the licensing authority and law enforcement officers, only as required by State regulations.

6. The following applies to all deliveries of cannabis products:

a. May only be made to a physical address in California; and

b. A licensed delivery employee shall not leave the State of California while possessing cannabis products.

7. A dispensary shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information and for the duration of time required by State regulations.

8. A cannabis business shall only deliver cannabis in aggregate amounts as ordered by the customer. A cannabis business shall ensure compliance with State delivery limits as they regard the amount of cannabis and cannabis products.

9. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.

10. Any delivery method shall be made in compliance with State regulations and as it may be amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).

11. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed $3,000 at any time.

12. Each delivery request shall have a receipt prepared by the dispensary with the following information:

a. Name and address of the licensed dispensary;

b. The name of the employee who delivered the order;

c. The date and time the delivery request was made;

d. The complete delivery address;

e. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested;

f. The total amount paid for the delivery including any fees or taxes; and

g. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.

13. The delivery business shall provide a flyer that spells out the 'Prohibited Conduct Involving Marijuana and Marijuana Products' contained in Health and Safety Code Section 11362.3 to all delivery customers. The City shall develop a standard format and content for such flyers.

H. Additional Requirements for Manufactured Cannabis Businesses

1. A licensed cannabis manufacturing facility may conduct all activities permitted by the State. This includes, but is not limited to, volatile and non-volatile extractions, repackaging and relabeling, and infusions.

2. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City of Merced for that additional activity.

3. At all times, the cannabis manufacturing facility will be compliant with all State regulations for cannabis manufacturing including Health and Safety Code 11362.775 and as it may be amended.

4. Inspections by the City Fire Chief or designee may be conducting anytime during the business's regular business hours.

5. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

6. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure and also within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises._Outdoor manufacturing of cannabis is expressly prohibited.

I. Additional Requirements for Cannabis Cultivation Businesses

1. The cannabis business shall register with the Department of Pesticide Regulation if using any pesticides.

2. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation.

3. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

4. Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.

5. All outdoor lighting used for security purposes shall be shielded and downward facing.

6. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.

7. Cannabis plants shall not be visible from offsite or the public right-of-way. All cannabis cultivation activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the

discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises. Outdoor cultivation of cannabis is expressly prohibited.

J. Additional Requirements for Cannabis Testing Laboratory Businesses

1. A licensed cannabis testing facility shall comply with all State regulations.

2. Any cannabis testing facility shall maintain all certifications required by the State.

3. A licensed cannabis testing facility business, its owners and employees may not hold an interest in any other cannabis business except another testing business.

4. Inspections by the City Fire Chief or designee may be conducted anytime during the business's regular business hours.

K. Additional Requirements for Cannabis Distribution Businesses

1. A licensed cannabis distribution facility shall comply with all State regulations.

2. Any cannabis distribution facility shall provide proof of a bond of at least five thousand dollars to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

3. Inspections by the City Police Chief or designee may be conducted anytime during the business's regular business hours.

4. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.

5. A distributor shall ensure a label with the following information is physically attached to each container of each batch:

a. The manufacturer or cultivator's name and license number;

b. The date of entry into the distributor's storage area;

c. The unique identifiers and batch number associated with the batch;

d. A description of the cannabis goods with enough detail to easily identify the batch; and

e. The weight of or quantity of units in the batch.

6. A distributor shall store harvest batches and edible cannabis products that require refrigeration at 35 to 42 degrees Fahrenheit. In addition, a distributor shall store harvest batches in a darkened area with no more than 60% humidity.

7. A distributor shall store medical cannabis goods in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. The area in which medical cannabis goods are stored shall not be exposed to direct sunlight. A distributor may not store medical cannabis goods outdoors.

8. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from the storage areas.

9. All cannabis distribution activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the distribution area. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises.

10. If located in a General Commercial (C-G) zone,

a. The cannabis distribution business shall be located on a parcel no less than 20,000 square feet in size; and

b. All loading and unloading activities shall take place within the secured fenced area required above.

L. Commercial Cannabis Business Permit Selection Process

1. Selection Process for Dispensaries/Retail Sales (Limited Number of Permits Available)

a. The Commercial Cannabis Business Permit selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed

for completeness by the Director of Development Services or designee.

b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

c. The City of Merced has established a merit based scoring system to objectively award permits as described in the application documents in Phase 2 to be used in the event that there are more applications than there are Commercial Cannabis Business Permits for a specific license type, such as for retail dispensaries.

d. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant- Dispensaries/Retail Sales'. The qualified applicants will be entered into the Phase 2 review process.

e. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant

will have 10 calendar days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of Development Services decision.

f. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 1 - Initial Review.

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the ‘Qualified Applicant List for Dispensaries/Retail Sales’ and entered into the Phase 2 review process. These requirements include but are not limited to:

i. All Application documents required in the City's Phase 1 application package;

ii. Application was submitted during the application period.

iii. Application forms are filled out completely;

iv. Business Owner(s)/Applicant(s) referenced on the application provide a Live Scan that was conducted within 14 days prior to submitting the application;

v. Phase 1 application fee is paid; and

vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning

criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

g. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 - Final Review and Scoring.

Phase 2 requirements include, but are not limited to:

i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:

a. Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;

b. Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or

c. Any material misrepresentation made by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within (10) ten days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the

Chief of Police shall be final and there shall be no further right to appeal said decision.

ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.

iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:

a. The use is permitted in the Zoning District;

b. The location of the cannabis business meets the distance requirements from sensitive uses;

c. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;

d. No zoning violations exist on the property;

e. A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and

f. The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.

iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and the aforementioned information, will convene a Selection Panel composed of the City Manager, Chief of Police, and the Director of Development Services, or their designees. The Selection Panel will review all application documents required in the City's Phase 1 application package plus an additional background check of all owners conducted to the satisfaction of the Chief of Police, and individually score each application in accordance with the merit based scoring system established by Resolution of the City Council. A complete description of the merit based system and all merit based considerations shall be included with the application forms. An average score for each applicant based upon the merit based scoring of the Selection Panel shall be calculated and the applications shall be ranked from highest to lowest in accordance with the average score. The applications, in order of ranking, shall then be placed on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales in the order of ranking. The Selection Panel will recommend the highest ranked applicant(s) on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail to the Planning Commission for the issuance of a Commercial Cannabis Business Permit – Dispensaries/Retail Sales. The number of applicants recommended to the Planning

Commission by the Selection Panel shall be the same number of Commercial Cannabis Business Permits – Dispensaries/Retail Sales then available.

a. The Qualified Commercial Cannabis Business Application List – Dispensaries/Retail that was established on September 20, 2018, shall be valid until September 20, 2019. Should a new Commercial Cannabis Business Permit-Dispensaries/Retail become available, whether by creation of a new permit or by vacancy of an existing permit, before September 20, 2019, the highest ranking applicant on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be recommended to the Planning Commission for issuance of a Commercial Cannabis Business Permit-Dispensaries/Retail. The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on September 20, 2018, shall have no further force and effect after September 20, 2019 and the City shall have no further obligations to applicants on said list.

b. Should a Commercial Cannabis Business Permit-Dispensaries/Retail become available after September 20, 2019, whether by creation of a new permit or by vacancy of an existing permit, then a new application period shall be opened as provided in Section 20.44.170(L)(1).

c. Except as provided in subsection 20.44.170(L)(1)(g)(iv)(a) above, the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be

valid for a period not to exceed 180 days from the date the last available Commercial Cannabis Business Permit-Dispensaries/Retail is issued by the Planning Commission. The City shall have no further obligations to applicants on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail after 180 days have elapsed since the last available Commercial Cannabis Business Permit was issued.

h. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 – Planning Commission

The Planning Commission will review the Commercial Cannabis Business Permit- Dispensaries/Retail Sales application(s) recommended by the Selection Panel as provided herein, and all other relevant information, and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit-Dispensaries/Retail Sales, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit- Dispensaries/Retails Sales shall be issued otherwise.

2. Selection Process for All Other Commercial Cannabis Business Permits (No Limits On the Number of Permits Available)

a. The Commercial Cannabis Business Permit-All Other Cannabis Businesses selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.

b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

c. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-All Other Cannabis Businesses' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant-All Other Cannabis Businesses'. The qualified applicants will be entered into the Phase 2 review process. The Director of Development Services shall maintain the 'Qualified Application List for All Other Cannabis Businesses'.

d. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of

Development Services decision. A new application, with new fees, would then be required for any subsequent consideration of that same or similar proposal at the same location.

e. Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 1 - Initial Review

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for All Other Cannabis Businesses' and entered into the Phase 2 review process. These requirements include, but are not limited to:

i. All Application documents required in the City's Phase 1 application package;

ii. Application was submitted during the application period;

iii. Application forms are filled out completely;

iv. Business Owner(s) I Applicant(s) referenced on the application provides a Live Scan that was conducted within 14 days prior to submitting the application;

v. Phase 1 application fee is paid; and

vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

f. Commercial Cannabis Business Permit- All Other Cannabis Businesses Selection - Phase 2 - Final Review

Phase 2 requirements include, but are not limited to:

i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:

a. Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;

b. Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or

c. Any material misrepresentation by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within ten (10) days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.

iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:

a. The use is permitted in the Zoning District;

b. The use meets the distance requirements from sensitive uses;

c. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;

d. No zoning violations exist on the property;

e. A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and

f. The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.

iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and reviewing the foregoing information will make a recommendation to the Planning Commission to approve or reject the application for the Commercial Cannabis Business Permit for All Other Cannabis Businesses.

g. Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 – Planning Commission

The Planning Commission will review the Commercial Cannabis Business applications for All Other Cannabis Businesses recommended by the Director of Development Services and all other relevant information and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit for All Other Cannabis Businesses, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit shall be issued otherwise.

3. Minor Modifications to Pending Application for Commercial Cannabis Business Permit (All Types).

a. Applicants may make a written request to the Director of Development Services for a minor modification to a Commercial Cannabis Business Permit application at any point in the application process.

b. The Director of Development Services shall have the discretion to approve minor modifications to the application. Minor modifications to an application include, but are not limited to, the following:

i. A change to the name of the proposed business and/or entity;

ii. A change in the organizational structure of a proposed business;

iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation, and must meet the requirements of Section 20.44.170(E)(1)(e);

iv. A change in building elevations, floor plans, or site plans;

v. A change in operational procedures or security plans or procedures;

vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

c. The Director of Development Services will review any proposed modifications to the application and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

4. Appeal of Denial of Commercial Cannabis Business Permit (All Types)

The Planning Commission will review the Commercial Cannabis Business applications and all other relevant information, and determine if a CCBP should be granted, as provided in Sections 20.44.170(L)(1)(h) and 20.44.170(L)(2)(g) herein. If the Planning Commission determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. Any decision of the Planning Commission may be appealed to the City Council.

a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council within thirty (30) calendar days of receiving the appeal.

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review ~~of the appeal~~ shall be ~~limited to review of the Planning Commission decision and shall not be~~ a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. ~~may affirm, reverse or modify the decision appealed.~~ The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

5. Commercial Cannabis Business Permit Annual Renewal (All Types)

a. Applications for the renewal of a permit shall be filed with the Director of Development Services at least sixty (60) calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the Director of Development Services who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this Section. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the Director of Development Services in order to determine whether said permit should be renewed. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted.

c. The Director of Development Services or designee may deny the annual renewal of a Commercial Cannabis Business Permit if the permittee or the permittee's agent or employee has committed any one of the following acts:

i. Any act which would be considered a ground for denial of the permit in the first instance;

ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity;

iii. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee;

iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public;

v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business;

vi. Violates or fails to comply with the terms and conditions of the permit; or

vii. Fails to pay all applicable City, State, or Federal taxes and fees.

6. Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types)

a. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and

all other relevant information, and determine if a renewal CCBP should be granted. If the Development Services Director determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have fourteen (14) calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Development Services Director will approve or deny the permit by providing written notice to the applicant.

b. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.

i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission within thirty (30) calendar days of receiving the appeal.

ii. Notice of the hearing shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

iii. Any interested person may appear and be heard regarding the appeal.

iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.

v. A matter being heard on appeal may be continued for good cause.

vi. The decision of the Planning Commission may be appealed to the City Council.

a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council within thirty (30) calendar days of receiving the appeal.

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review ~~of the appeal~~ shall be ~~limited to review of the Planning Commission decision and shall not be~~ a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. ~~may affirm, reverse or modify the decision appealed.~~ The decision of the City Council shall be the City's final decision in this regard and shall

be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

7. Modifications to Commercial Cannabis Business Permit (All Types)

a. A Commercial Cannabis Permit holder may make a written request to the Director of Development Services for modification of an existing permit at any time.

b. The Director of Development Services shall have the discretion to approve minor modifications to the permit. Minor modifications to an application include, but are not limited to, the following:

i. A change to the name of the proposed business and/or entity;

ii. A change in the organizational structure of a proposed business;

iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation, and must meet the requirements of Section 20.44.170(E)(1)(e);

iv. A change in building elevations, floor plans, or site plans;

v. A change in operational procedures or security plans or procedures;

vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business

will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

c. Any change to the location of a Commercial Cannabis Business after issuance of a Commercial Cannabis Business Permit may require a new application with payment of associated fees, at the discretion of the Director of Development Services. Any change to the location of a Commercial Cannabis Business shall be subject to approval by the Planning Commission. Prior to approval of a change in location of a Commercial Cannabis Business, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.

d. The Director of Development Services will review any requests for modifications to the permit and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

8. Revocation of Commercial Cannabis Business Permit (All Types)

a. The Director of Development Services or designee may suspend or revoke a Commercial Cannabis Business Permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

i. Any act which would be considered a ground for denial of the permit in the first instance.

ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity.

iii. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.

iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.

v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.

vi. Violates or fails to comply with the terms and conditions of the permit.

vii. Fails to pay all applicable City, State, or Federal taxes and fees.

b. Prior to suspension or revocation of the applicable permit, the Director of Development Services shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least ten (10) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.

c. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.

i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission within (thirty) 30 days of receiving the appeal.

ii. Notice of the hearing shall be provided to the applicant at least (ten) 10 calendar days prior to the public hearing.

iii. Any interested person may appear and be heard regarding the appeal.

iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.

v. A matter being heard on appeal may be continued for good cause.

vi. The decision of the Planning Commission may be appealed to the City Council.

a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council within thirty (30) calendar days of receiving the appeal.

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review ~~of the appeal~~ shall be ~~limited to review of the Planning Commission decision and shall not be~~ a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. ~~may affirm, reverse or modify the decision appealed.~~ The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

M. Limitations on the City's Liability

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any Commercial Cannabis Business Permit pursuant to this ordinance or the operation of any cannabis facility approved pursuant to this chapter. As a condition of approval of a Commercial Cannabis Business Permit as provided in this chapter, the applicant or its legal representative shall:

1. Execute an agreement indemnifying the City from any claims, damages, injuries or liabilities of any kind

associated with the registration or operation of the commercial cannabis facility or the prosecution of the applicant or permittee or its members for violation of federal or State laws;

2. Maintain insurance in the amounts and types that are acceptable to the City Attorney or designee;

3. Name the city as an additionally insured on all City required insurance policies;

4. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a Commercial Cannabis Business permit; and

5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a Commercial Cannabis Business Permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

N. Enforcement

1. A violation of the regulations in this ordinance by an act, omission, or failure of an agent, owner, officer or other person acting in concert with or employed by a permittee within the scope of their employment or office, shall be deemed the act, omission, or failure of the permittee.

2. A permitted Commercial Cannabis Business shall notify the Police Chief or designee of the City of Merced upon discovery of any of the following situations:

a. A discrepancy of more than $1,000 in inventory over a period of 24 hours or $3,000 over period of 7 days.

b. A reason to suspect diversion, loss, theft or any other criminal activity pertaining to the operation of the commercial cannabis business.

c. The loss or alteration of records related to cannabis goods, registered medical cannabis patients, caregivers or dispensary employees or agents.

d. Any other reason to suspect any other breach of security.

3. Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Municipal Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the business's Commercial Cannabis Business Permit, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the cannabis business and/or any owner, agent, officer, or any other person acting in concert with or employed by the cannabis business.

4. City Officials or their designees may enter and inspect the location of any commercial cannabis business during normal business hours to ensure compliance with this Section. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this Section, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter

shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section.

O. Fees and Taxes

All Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following:

1. Initial Application Fees. The Business Applicant shall submit a non-refundable fee to cover the cost of processing an initial application for the commercial cannabis business. These fees may be divided into two fees according to Initial Review (Phase 1) and Final Review (Phase 2).

2. Application Renewal Fees. The Business Owner shall submit a non-refundable fee to cover the cost of processing an application renewal annually.

3. Business License Fee. The Business Owner shall at all times maintain a current and valid business license and pay all business taxes required by the Merced Municipal Code.

4. Commercial Cannabis Regulatory Fee. The Business Owner shall pay an annual regulatory fee ('Regulatory Fee') to cover the costs of anticipated enforcement relating to the Cannabis Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or

before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.

5. All required taxes including sales and use taxes, business, payroll etc.
6. Additional cannabis-specific gross receipts, excise, cultivation or any other tax approved by the voters of the City of Merced."

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

_____
Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
City Attorney Date

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTION 20.44.170, "REGULATION OF COMMERCIAL CANNABIS ACTIVITIES – COMMERCIAL CANNABIS BUSINESS PERMIT REQUIRED," OF THE MERCED MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT TO CODE. Section 20.44.170, "Regulation of Commercial Cannabis Activities – Commercial Cannabis Permit Required," of the Merced Municipal Code is hereby amended to read as follows:

"20.44.170 - REGULATION OF COMMERCIAL CANNABIS ACTIVITIES - COMMERCIAL CANNABIS BUSINESS PERMIT REQUIRED

A. Zoning Compliance and Commercial Cannabis Business Permit Requirements

Specific commercial cannabis businesses are allowed as a special use in the C-C, C-O, C-G, C-N, 1-L and 1-H Zoning Districts and Planned Developments which have the equivalent General Plan land use designations of those zones. Commercial cannabis activities are expressly prohibited in all other zones in the City of Merced. Commercial cannabis businesses shall apply for and conduct business only in the appropriate zones as described in Table 20.44-1 and the City of Merced's zoning ordinance as a requisite for obtaining a Commercial Cannabis Business Permit (CCBP). No commercial cannabis business may operate in the City of Merced without a Commercial Cannabis Business Permit.

This Land Use Table 20.44-1 shall be used to determine whether a cannabis business is not permitted – 'X', or permitted – 'P'. Any Commercial Cannabis business in the City of Merced shall also operate in compliance with the City's zoning ordinance. If a Zoning District is not listed in the Land Use Table in this section then the use is expressly not permitted.

Commercial Cannabis Business Activities Use Type	City of Merced Municipal Code Table 20.44-1							Additional Specific Use Standards
	Land Use Classification [4][5]	C-C Zone	C-O Zone	C-G Zone	C-N Zone	I-L Zone	I-H Zone	
Cultivator	Greenhouse, Type A	X	X	X	X	P	P	Sec. 20.44.170(i)
Cultivator	Greenhouse, Type B	X	X	X	X	P	P	Sec. 20.44.170(i)
Cultivator	Greenhouse, Type C	X	X	X	X	P	P	Sec. 20.44.170(i)
Nursery	Greenhouse, Type D	X	X	X	X	P	P	Sec. 20.44.170(i)
Manufacturing	Manufacturing, non-volatile	X	X	X	X	P	P	Sec. 20.44.170(h)
Manufacturing	Manufacturing, volatile	X	X	X	X	P	P	Sec. 20.44.170(h)
Dispensary [1][2]	Pharmaceutical, medical	P	P	P	P	P	X	Sec. 20.44.170(f)
Dispensary [1][2]	Retail, non-medical/combined	P	P	P	P	P	X	Sec. 20.44.170(f)
Testing Laboratory	No Retail	P	P	P	X	P	P	Sec. 20.44.170(j)
Distribution [3]	Freight/Transport	X	X	P	X	P	P	Sec. 20.44.170(k)

Footnotes

1. Only five (5) dispensaries shall operate within the Merced City Limits. At least one (1) of those dispensaries shall also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than five (5) dispensaries of any kind be allowed within the City of Merced at any one time.

2. Dispensaries (medical or adult use) are prohibited in the City Center area between 19th and 16th Streets and O Street and Martin Luther King Jr. Way, including properties fronting on either side of each of the above streets.

3. Only allowed in General Commercial (C-G) zones if it meets the provisions of Section 20.44.170 (K)(10).

4. If listed as 'Permitted' in a specific zone above, then that use is also 'Permitted' in Planned Development (P-0) zones that have the equivalent General Plan land use designation as that zone.

5. 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 Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f). 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 Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f).

Land Use Classifications:

Greenhouse, Commercial A - Permitted cultivation area: 0 to 5,000 square feet
Greenhouse, Commercial B - Permitted cultivation area: 5,001 to 10,000 square feet
Greenhouse, Commercial C - Permitted cultivation area: 10,000 to 22,000 square feet
Greenhouse, Commercial D - Permitted cultivation area: 22,000 square feet

B. Cultivation of Cannabis for Personal Use in Residential Zones

1. When authorized by State regulations, an authorized resident shall be allowed to cultivate cannabis only in a private residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:

a. The cannabis cultivation area shall be located indoors within a residential structure and shall not exceed fifty square feet and not exceed ten feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting, nor shall it exceed the limits set forth in Section 20.44.170(B)(1)(j) below. Cultivation in a greenhouse or other legal accessory structure on the property of the residence, but not physically part of the home, is permitted as long as it is fully enclosed, secure, not visible from a public right-of-way, and meeting all requirements in this Chapter. Additionally, all structures must meet setback, height limitations, and be constructed in accordance with all local requirements as well as all applicable Building Codes.

b. If the resident is not the property owner, they must have the property owner's express written authorization to conduct cannabis cultivation. Nothing contained herein shall limit the property owner's right to

deny or revoke permission to allow cannabis cultivation as set forth by State law.

c. The use of gas products such as, but not limited to CO2, butane, methane, or any other flammable or non-flammable gas for marijuana or cannabis cultivation or processing is prohibited.

d. There shall be no exterior visibility or evidence of cannabis cultivation outside the private residence from the public right-of-way, including but not limited to any marijuana or cannabis plants, equipment used in the growing and Cultivation operation, and any light emanating from cultivation lighting.

e. The authorized resident shall reside full-time on the property where the cannabis cultivation occurs.

f. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for cannabis cultivation.

g. The cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code including § 1203.4 Natural Ventilation or§ 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

h. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to, installation of fire suppression sprinklers.

i. The cannabis cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic,

vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

j. No more than six (6) cannabis plants, mature or immature, for personal use, are permitted per residence for indoor personal cultivation under this Chapter, unless permitted under State regulations.

k. Cannabis in excess of twenty-eight and one-half (28.5) grams produced by plants kept for indoor personal cultivation under this Chapter must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.

i. The authorized grower shall not provide any cannabis in any form to animals or any minors that are not authorized users under Medical Marijuana Regulation and Safety Act or the Adult Use of Marijuana Act. Anyone found in violation shall be prosecuted pursuant to State regulations.

ii. Outdoor cultivation of cannabis is expressly prohibited in all zones and districts of the City of Merced.

C. Definitions

The definitions are incorporated herein as fully set forth and are applicable to this ordinance. All definitions are intended to comply with those set forth by the State of California for all commercial cannabis activities.

1. **'Applicant'** means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

2. **'Cannabis'** means all parts of the Cannabis sativa Linnaeus, Cannabis Indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. 'Cannabis' also means the separated resin, whether crude or purified, obtained from marijuana. 'Cannabis' also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. 'Cannabis' does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, 'cannabis' does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

3. **'Cannabis waste'** means waste that is not hazardous waste, as defined in Public Resources Code section 40191, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed by the State.

4. **'Canopy'** means all of the following:

a. The designated area(s) at a licensed premises that will contain mature plants at any point in time;

b. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;

c. Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space; and

d. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

5. **'City'** means the City of Merced.

6. **'Commercial cannabis business permit (CCBP)'** means a permit issued by the City pursuant to this chapter to a commercial cannabis business.

7. **'Commercial cannabis activity'** includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of cannabis or a cannabis product, except as set forth in Section 19319 of the Business and Professions Code, related to qualifying patients and primary caregivers.

8. **'Commercial vehicle'** means a vehicle as defined in Vehicle Code section 260.

9. **'Concentrated cannabis product'** means a consolidation of cannabinoids made by dissolving cannabis in its plant form into a solvent.

10. **'Cultivation'** means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

11. **'Customer'** means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation.

12. **'Day Care Center'** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities,

and school age child care centers as defined in Health and Safety Code Sections 1596.76, 1596.7915, 1576.750, and 1596.78.

13. **'Delivery'** means the commercial transfer of marijuana or marijuana products to a customer. 'Delivery' also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

14. **'Delivery employee'** means an individual employed by a licensed dispensary who delivers cannabis goods from the permitted dispensary premises to a medical cannabis patient or primary caregiver or qualified purchaser at a physical address.

15. **'Dispensary'** means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

16. **'Display'** means cannabis goods that are stored in the licensed dispensary's retail area during the hours of operation.

17. **'Display case'** means container in the licensed dispensary retail area where cannabis goods are stored and visible to customers.

18. **'Distribution'** means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.

19. **'Edible cannabis product'** means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

20. **'Fully Enclosed and Secure Structure'** means a fully-enclosed space within a building that complies with the California Building Code ('CBSC'), as adopted in the City of Merced, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor lighting or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Merced.

21. **'Free sample'** means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.

22. **'Greenhouse'** means a facility in which plants are grown and is inclusive of facilities using solely artificial light and facilities using mixed-light. In order to be lawful and permitted in the City of Merced, a greenhouse must be a 'Fully Enclosed and Secure Structure' as defined above in 20.44.170(C), Subsection 20.

23. **'Indoors'** means within a fully enclosed and secure structure as that structure is defined above in 20.44.170(C), Subsection 20.

24. **'License'** means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.

25. **'Limited-access area'** means an area in which cannabis goods are stored or held and which is only accessible to a licensee and the licensee's employees and contractors.

26. **'Medical'** or **'Medicinal'** have the same meaning under the terms of this ordinance.

27. **'Medical cannabis goods'** means cannabis, including dried flower, and manufactured cannabis products.

28. **'Medical cannabis patient'** is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.

29. **'Manufacturer'** means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

30. **'Manufacturing'** or **'manufacturing operation'** means all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products.

Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

31. **'Nonvolatile solvent'** means any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide used for extraction, or as it may be defined and amended by the State.

32. **'Operating hours'** means the hours within a day during which a permitted retail sales outlet may allow qualified cannabis purchasers and primary caregivers to enter the dispensary premises and purchase cannabis goods.

33. **'Owner'** or **'Ownership interest'** means an interest held by a person or entity who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of 5% or more. In the event an entity holds a financial interest in the commercial cannabis business of 5% or more, any person who holds a financial interest in said entity of 5% or more is also considered an 'owner' of the commercial cannabis business.

34. **'Package'** and **'Packaging'** means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. 'Package' and 'packaging' does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.

35. **'Patient or qualified patient'** shall have the meaning given that term by California Health and Safety Code and possesses a valid physician's recommendation.

36. **'Person'** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust,

receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

37. **'Pest'** means undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism that is injurious to human health.

38. **'Physician's recommendation'** means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

39. **'Premises'** means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or licensee to conduct the commercial cannabis activity.

40. **'Pre-roll'** means dried cannabis flower rolled in paper prior to retail sale.

41. **'Primary Caregiver'** has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

42. **'Private security officer'** has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.

43. **'Publicly owned land'** means any building or real property that is owned by a city, county, state, federal, or other government entity.

44. **'Purchase'** means obtaining cannabis goods in exchange for consideration.

45. **'Purchaser'** means a person who is engaged in a transaction with a licensee for purposes of obtaining cannabis goods.

46. **'Quarantine'** means the storage or identification of cannabis goods, to prevent distribution or transfer of the cannabis goods, in a physically separate area clearly identified for such use.

47. **'Retail area'** means a building, room, or other area upon the licensed dispensary premises in which cannabis or other goods are sold or displayed.

48. **'School'** means those sites upon which full-time instruction in any of grades K through 12 is provided where the primary purpose is education, as determined in the sole discretion of the City Council, and which are identified as a school on the City's official 'List of Schools' as provided in Section 20.44.170(E)(3)(f)(i). 'School' does not include any private site upon which education is primarily conducted in private homes.

49. **'Security monitoring'** means the continuous and uninterrupted attention to potential alarm signals that can be transmitted from a security alarm system for the purpose of summoning law enforcement.

50. **'Selection Panel'** means the group consisting of the City Manager, Chief of Police, and Director of Development Services, or their designees, convened for the purpose of evaluating applicants based on the merit-based scoring system, and making recommendations to the Planning Commission with respect to issuance of Commercial Cannabis Business Permits.

51. **'Sell,' 'sale,'** and **'to sell'** include any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.

52. **'Sublet'** means to lease or rent all or part of a leased or rented property.

53. **'State'** means the State of California.

54. **'Testing Laboratory'** means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.

55. **'Vehicle alarm system'** is a device or series of devices installed to discourage theft of the commercial vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the commercial vehicle.

56. **'Volatile solvent'** means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include but are not limited to, butane, hexane, propane, and ethanol, or as it may be defined and amended by the State.

57. **'Wholesale'** means the sale of cannabis goods to a distributor for resale to one or more dispensaries.

58. **'Youth Center'** means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club activities, video arcades with over 10 or more video games on the premises, or similar amusement park facilities, or as otherwise described in Health and Safety Code Section 11353.1(e)(2).

D. Compliance with State and Local Licensing Requirements

Any dispensary, cultivation facility, manufacturing facility, testing facility or any other commercial cannabis activity as defined by the State of California or the City of Merced shall operate in conformance with all regulations and standards set forth in this Section of the Municipal Code to assure that the operations of the dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility or any other commercial cannabis activity as defined by the State of California or allowed by the City of Merced are in compliance with local and State law and are established to mitigate any adverse secondary effects from its operations.

Cannabis operators shall be required to obtain a State license once they become available, and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria.

Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City of Merced and only if all uses proposed are allowed pursuant to the City's Zoning Code.

E. General Provisions for Commercial Cannabis Activities in the City of Merced

1. Commercial Cannabis Business Permit Required

a. Each business shall have a Commercial Cannabis Business Permit specific to the business activity defined by the State pertaining to that activity and whether the activity is medical or non-medical or any other commercial cannabis activity the State may define and as they may be amended. Following is a list of current license types:

i. Cultivation

ii. Distribution

iii. Manufacturing

iv. Retail sales (Dispensary)

v. Testing

b. It shall be unlawful for any person, association, partnership, corporation, or other entity to engage in, conduct or carry on, in or upon any premises within the City of Merced, any commercial cannabis business without a Commercial Cannabis Business Permit. A cannabis business shall register and obtain a Commercial Cannabis Business Permit from the City of Merced prior to operation. The Commercial Cannabis Business Permit applicant shall pay an annual non-refundable regulatory fee in an amount and at a frequency established by the City Council by resolution.

c. A copy of the Commercial Cannabis Business Permit shall be displayed at all times in a place visible to the public.

d. A Commercial Cannabis Business Permit shall be valid for one (1) year or until December 31 of each year, unless sooner revoked. In the event a Commercial Cannabis Business Permit is issued on or after October 1, said permit shall be valid until December 31 of the following calendar year. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.

e. A Commercial Cannabis Business Permit shall not be issued to an individual or a business entity owned or managed in whole or in part by an individual or a business entity employing an individual who has a

previous conviction for or has entered a plea of nolo contendere/no contest to any of the following:

i. A felony offense listed in California Health and Safety Code Section 11590.

ii. A felony offense listed in California Penal Code Section 667.S(c).

iii. A felony offense listed in California Penal Code Sections 1197.2(c) or Section 1192.8.

iv. A felony or misdemeanor offense that substantially relate to the qualifications, functions, or duties of the business or profession.

v. A felony conviction involving fraud, deceit, or embezzlement.

vi. A felony or misdemeanor offense involving the sale or giving to a minor of controlled substances, cannabis, alcohol, or tobacco.

A Commercial Cannabis Business Permit may be issued, at the discretion of the City, to an individual with a conviction listed above provided a period of ten (10) years has elapsed in which the individual has remained free of criminal convictions or violations of parole or probation, and the individual has either obtained a certificate of rehabilitation pursuant to Penal Code Section 4852.01 or received expungement pursuant to California Penal Code Section 1203.4.

f. The Commercial Cannabis Business Permit shall be issued to the specific person/persons/entity listed on the Cannabis Permit Application.

g. A Commercial Cannabis Business Permit is not transferable except under the terms of Merced

Municipal Code Section 20.44.170(L)(7), and does not run with the land or with the business.

2. Maintenance of Records and Reporting

All records for the commercial cannabis business of the following activities shall be maintained and available to the City of Merced for at least 7 years. Records shall be produced within 24 hours of a request by an authorized City of Merced representative:

a. The business shall obtain and maintain a valid Seller's Permit from the State Board of Equalization.

b. Financial records include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization under Title 18 California Code of Regulations Section 1968.

c. Personnel records, including each employee's full name, address, phone number, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable.

d. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.

e. Contracts with other licensees regarding commercial cannabis activity.

f. Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity, including BOE sellers permit.

g. Security records.

h. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.

i. Proof of building ownership or landlord letter acknowledging business type.

j. Proof of insurance.

3. Operational Standards for All Commercial Cannabis Business Activities

a. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record 24 hours a day at a minimum of 20 frames per second.

b. The applicant shall conduct and pay for any required CEQA reviews and analyses, and pay for all costs, including those of the City, associated with project review under CEQA.

c. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the Merced Police Department or their designee on request.

d. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure location for a

period of not less than thirty (30) calendar days, and be available for inspection at any time. The City of Merced or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings

e. All commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.

f. 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 Application for a Commercial Cannabis Business Permit is submitted to the City. 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 Application for Commercial Cannabis Business Permit is submitted to the City. 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.

(i) The City shall establish an official "List of Schools" which are located within the City of Merced by resolution of the City Council after a public hearing. Said list shall be updated on an

annual basis on or before January 31st of each year, and/or whenever a commercial cannabis business permit for a dispensary becomes available.

g. No physical modification of the permitted premises is allowed without written prior permission by the City of Merced and payment of any additional fees required by the City.

h. All commercial cannabis activities shall provide adequate off-street parking and comply with the City of Merced Municipal Code requirements in Chapter 20.38 Parking and Loading, to service customers without causing negative impact.

i. The commercial cannabis business shall provide adequate handicapped parking per the requirements in the California Building Code.

j. The commercial cannabis business shall provide adequate interior and exterior lighting for safety and security as determined by the Police Chief or designee.

k. The commercial cannabis business shall minimize nuisances such as trash, litter, and graffiti.

l. Any and all signage, packaging, and facilities shall not be 'attractive', as it is defined by the State, to minors.

m. All commercial cannabis facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the

use occupies only a portion of a building. The air treatment system must also prevent the build-up of mold within the facility.

n. A permitted commercial cannabis business entity shall have 180 days after permit issuance by the City of Merced to begin initial operations, unless otherwise approved by the Development Services Director or designee. A permitted commercial cannabis business entity that remains inoperative for more than 60 calendar days after initial operations begin shall be deemed 'abandoned' and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Development Services Director or designee.

o. The cannabis business shall comply with all State and City of Merced regulations regarding testing, labeling and storage of all cannabis products.

p. The cannabis business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis as well as any unsold cannabis or cannabis products.

q. The cannabis business shall conform to all State regulations regarding the use of appropriate weighing devices.

r. The cannabis business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3).

s. The cannabis businesses' electrical and plumbing shall comply with State and local regulations.

t. The cannabis business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an 'A' rated insurance carrier in an amount no less than two million dollars and naming the City of Merced as additional insured.

u. No free samples of any cannabis or cannabis product may be distributed at any time.

v. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee's 'doing business as' name and license number, the employees first and last name, and a color photo of the employee that shows the full front of the employee's face.

w. The commercial cannabis business shall have a centrally-monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows.

x. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors and responds to the alarm system. The alarm company shall obtain a City of Merced business license.

y. Meet all State deadlines for applying for a State license and receive a State license within six (6) months after the date the State begins issuing licenses. This may be waived if the State has longer delays in issuing licenses of the type the commercial cannabis business seeks. The permittee must inform the City in writing within 10 days of receipt of a State license. Said

notification shall be addressed to the Director of Development Services or designee at 678 W. 18th St., Merced, CA 95340.

z. All persons hiring employees to engage in commercial cannabis activities shall document compliance with the following employee safety practices:

i. Emergency action response planning as necessary
ii. Employee accident reporting and investigation policies

iii. Fire prevention

iv. Hazard communication policies, including maintenance of material safety data sheets

v. Materials storage and handling policies

vi. Personal protective equipment policies

vii. Operation manager contacts

viii. Emergency responder contacts

ix. Poison control contacts

aa. All persons with ownership interest; and all employees agents, officers or other persons acting for or employed by a permittee must be at least 21 (twenty-one) years of age.

F. Additional Regulations for Dispensary and Retail Sales of Cannabis

1. Only five (5) dispensaries shall operate within the Merced City Limits, regardless of the location's compliance with any other Section specified in this ordinance. At least one (1) of those dispensaries shall

also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than five (5) dispensaries of any kind be allowed within the City of Merced.

2. No retail cannabis facility may engage in check cashing activities at any time.

3. Only one dispensary permit per person with ownership interest is allowed in the City of Merced. Any person with community property rights of an ownership interest is considered a person with ownership interest in this section.

4. Restrooms shall remain locked during business hours and not open to the public.

5. The total number of dispensaries in operation shall be determined based on the number of locations which have been issued a Commercial Cannabis Business Permit for a dispensary by the City.

6. Display of cannabis products shall be limited to only an amount necessary to provide a visual sample for customers.

7. At all times, when the cannabis dispensary is open to the public, the dispensary shall provide at least one security guard who is registered with Bureau of Security and Investigative Services, and possesses a valid and current security guard registration card on their person while on-duty.

8. Security guards are permitted, but not mandated, to carry firearms.

9. All cannabis products available for sale shall be securely locked and stored

10. The security guard and cannabis dispensary personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the dispensary or on the property or in the parking lot.

11. Medical Cannabis Dispensaries shall maintain the full name, address and telephone number(s) of all patient members to whom the business provides medical cannabis, and a copy of a physician-issued recommendation card or State-issued card for all patient members.

12. Dispensaries shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.

13. Any commercial cannabis retail or medical retail sales facility shall be open to the public a minimum of 40 hours per week, unless otherwise specified in the Commercial Cannabis Business Permit.

14. Hours of operation in Commercial Office (C-O) zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 7 p.m. Pacific Time. Hours of operation in all other zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 9 p.m. Pacific Time, unless zoning regulations specify more restrictive hours.

15. 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 (banners, A-frames, etc.) or window signs are allowed.

16. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis

dispensary: 'Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited.'

17. An adult use license shall not sell cannabis products to persons under 21 years of age or allow any person under 21 years of age on its premises, unless such licensee also holds a medicinal license and the licensee holds a CCBP for both adult use and medicinal cannabis. A medicinal licensee may sell cannabis products to and allow on the premises, any person 18 years of age or older who possesses a valid government issued identification card, and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.

18. Adequate signage shall clearly state that the City of Merced has not tested or inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.

19. No recommendations from a doctor for medical cannabis shall be issued on-site.

20. Shipments of cannabis goods may only be accepted during regular business hours.

21. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol or tobacco by patrons.

22. Inventory shall be secured and locked in a room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss during non-business hours.

23. No cannabis product shall be visible from the exterior of the business.

24. All required labelling shall be maintained on all product, as required by State regulations, at all times.

25. The business shall post signs that spell out the 'Prohibited Conduct Involving Marijuana and Marijuana Products' contained in Health and Safety Code Section 11362.3 in a conspicuous manner on the business premises for the education of patrons. The City shall develop a standard format and content for such signs.

26. The use of vending machines (i.e. a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is strictly prohibited.

27. No drive-through facilities shall be allowed and no cannabis shall be sold through a drive- through facility.

G. Additional Regulations for Commercial Cannabis Delivery Services

1. Commercial cannabis deliveries may be made only from a commercial cannabis dispensary permitted by the City in compliance with this ordinance, and in compliance with all State regulations.

2. All employees who deliver cannabis shall have valid identification and a copy of the dispensary's Commercial Cannabis Business Permit at all times while making deliveries.

3. All commercial cannabis businesses shall provide proof of insurance in a minimum amount of $1,000,000 for any and all vehicles being used to transport cannabis goods.

4. Deliveries may only take place during the hours of 8:00 a.m. and 7:00 p.m. daily.

5. A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and

shall make it available upon request by the licensing authority and law enforcement officers, only as required by State regulations.

6. The following applies to all deliveries of cannabis products:

a. May only be made to a physical address in California; and

b. A licensed delivery employee shall not leave the State of California while possessing cannabis products.

7. A dispensary shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information and for the duration of time required by State regulations.

8. A cannabis business shall only deliver cannabis in aggregate amounts as ordered by the customer. A cannabis business shall ensure compliance with State delivery limits as they regard the amount of cannabis and cannabis products.

9. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.

10. Any delivery method shall be made in compliance with State regulations and as it may be amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).

11. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed $3,000 at any time.

12. Each delivery request shall have a receipt prepared by the dispensary with the following information:

a. Name and address of the licensed dispensary;

b. The name of the employee who delivered the order;

c. The date and time the delivery request was made;

d. The complete delivery address;

e. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested;

f. The total amount paid for the delivery including any fees or taxes; and

g. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.

13. The delivery business shall provide a flyer that spells out the 'Prohibited Conduct Involving Marijuana and Marijuana Products' contained in Health and Safety Code Section 11362.3 to all delivery customers. The City shall develop a standard format and content for such flyers.

H. Additional Requirements for Manufactured Cannabis Businesses

1. A licensed cannabis manufacturing facility may conduct all activities permitted by the State. This includes, but is not limited to, volatile and non-volatile extractions, repackaging and relabeling, and infusions.

2. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City of Merced for that additional activity.

3. At all times, the cannabis manufacturing facility will be compliant with all State regulations for cannabis manufacturing including Health and Safety Code 11362.775 and as it may be amended.

4. Inspections by the City Fire Chief or designee may be conducting anytime during the business's regular business hours.

5. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

6. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure and also within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises._Outdoor manufacturing of cannabis is expressly prohibited.

I. Additional Requirements for Cannabis Cultivation Businesses

1. The cannabis business shall register with the Department of Pesticide Regulation if using any pesticides.

2. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation.

3. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

4. Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.

5. All outdoor lighting used for security purposes shall be shielded and downward facing.

6. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.

7. Cannabis plants shall not be visible from offsite or the public right-of-way. All cannabis cultivation activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the

discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises. Outdoor cultivation of cannabis is expressly prohibited.

J. Additional Requirements for Cannabis Testing Laboratory Businesses

1. A licensed cannabis testing facility shall comply with all State regulations.

2. Any cannabis testing facility shall maintain all certifications required by the State.

3. A licensed cannabis testing facility business, its owners and employees may not hold an interest in any other cannabis business except another testing business.

4. Inspections by the City Fire Chief or designee may be conducted anytime during the business's regular business hours.

K. Additional Requirements for Cannabis Distribution Businesses

1. A licensed cannabis distribution facility shall comply with all State regulations.

2. Any cannabis distribution facility shall provide proof of a bond of at least five thousand dollars to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

3. Inspections by the City Police Chief or designee may be conducted anytime during the business's regular business hours.

4. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.

5. A distributor shall ensure a label with the following information is physically attached to each container of each batch:

a. The manufacturer or cultivator's name and license number;

b. The date of entry into the distributor's storage area;

c. The unique identifiers and batch number associated with the batch;

d. A description of the cannabis goods with enough detail to easily identify the batch; and

e. The weight of or quantity of units in the batch.

6. A distributor shall store harvest batches and edible cannabis products that require refrigeration at 35 to 42 degrees Fahrenheit. In addition, a distributor shall store harvest batches in a darkened area with no more than 60% humidity.

7. A distributor shall store medical cannabis goods in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. The area in which medical cannabis goods are stored shall not be exposed to direct sunlight. A distributor may not store medical cannabis goods outdoors.

8. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from the storage areas.

9. All cannabis distribution activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the distribution area. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises.

10. If located in a General Commercial (C-G) zone,

a. The cannabis distribution business shall be located on a parcel no less than 20,000 square feet in size; and

b. All loading and unloading activities shall take place within the secured fenced area required above.

L. Commercial Cannabis Business Permit Selection Process

1. Selection Process for Dispensaries/Retail Sales (Limited Number of Permits Available)

a. The Commercial Cannabis Business Permit selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed

for completeness by the Director of Development Services or designee.

b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

c. The City of Merced has established a merit based scoring system to objectively award permits as described in the application documents in Phase 2 to be used in the event that there are more applications than there are Commercial Cannabis Business Permits for a specific license type, such as for retail dispensaries.

d. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant- Dispensaries/Retail Sales'. The qualified applicants will be entered into the Phase 2 review process.

e. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant

will have 10 calendar days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of Development Services decision.

f. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 1 - Initial Review.

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for Dispensaries/Retail Sales' and entered into the Phase 2 review process. These requirements include but are not limited to:

i. All Application documents required in the City's Phase 1 application package;

ii. Application was submitted during the application period.

iii. Application forms are filled out completely;

iv. Business Owner(s)/Applicant(s) referenced on the application provide a Live Scan that was conducted within 14 days prior to submitting the application;

v. Phase 1 application fee is paid; and

vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning

criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

g. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 - Final Review and Scoring.

Phase 2 requirements include, but are not limited to:

i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:

a. Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;

b. Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or

c. Any material misrepresentation made by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within (10) ten days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the

Chief of Police shall be final and there shall be no further right to appeal said decision.

ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.

iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:

a. The use is permitted in the Zoning District;

b. The location of the cannabis business meets the distance requirements from sensitive uses;

c. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;

d. No zoning violations exist on the property;

e. A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and

f. The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.

iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and the aforementioned information, will convene a Selection Panel composed of the City Manager, Chief of Police, and the Director of Development Services, or their designees. The Selection Panel will review all application documents required in the City's Phase 1 application package plus an additional background check of all owners conducted to the satisfaction of the Chief of Police, and individually score each application in accordance with the merit based scoring system established by Resolution of the City Council. A complete description of the merit based system and all merit based considerations shall be included with the application forms. An average score for each applicant based upon the merit based scoring of the Selection Panel shall be calculated and the applications shall be ranked from highest to lowest in accordance with the average score. The applications, in order of ranking, shall then be placed on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales in the order of ranking. The Selection Panel will recommend the highest ranked applicant(s) on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail to the Planning Commission for the issuance of a Commercial Cannabis Business Permit – Dispensaries/Retail Sales. The number of applicants recommended to the Planning

Commission by the Selection Panel shall be the same number of Commercial Cannabis Business Permits – Dispensaries/Retail Sales then available.

a. The Qualified Commercial Cannabis Business Application List – Dispensaries/Retail that was established on September 20, 2018, shall be valid until September 20, 2019. Should a new Commercial Cannabis Business Permit-Dispensaries/Retail become available, whether by creation of a new permit or by vacancy of an existing permit, before September 20, 2019, the highest ranking applicant on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be recommended to the Planning Commission for issuance of a Commercial Cannabis Business Permit-Dispensaries/Retail. The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on September 20, 2018, shall have no further force and effect after September 20, 2019 and the City shall have no further obligations to applicants on said list.

b. Should a Commercial Cannabis Business Permit-Dispensaries/Retail become available after September 20, 2019, whether by creation of a new permit or by vacancy of an existing permit, then a new application period shall be opened as provided in Section 20.44.170(L)(1).

c. Except as provided in subsection 20.44.170(L)(1)(g)(iv)(a) above, the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be

valid for a period not to exceed 180 days from the date the last available Commercial Cannabis Business Permit-Dispensaries/Retail is issued by the Planning Commission. The City shall have no further obligations to applicants on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail after 180 days have elapsed since the last available Commercial Cannabis Business Permit was issued.

h. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 – Planning Commission

The Planning Commission will review the Commercial Cannabis Business Permit- Dispensaries/Retail Sales application(s) recommended by the Selection Panel as provided herein, and all other relevant information, and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit-Dispensaries/Retail Sales, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit- Dispensaries/Retails Sales shall be issued otherwise.

2. Selection Process for All Other Commercial Cannabis Business Permits (No Limits On the Number of Permits Available)

a. The Commercial Cannabis Business Permit-All Other Cannabis Businesses selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.

b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

c. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-All Other Cannabis Businesses' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant-All Other Cannabis Businesses'. The qualified applicants will be entered into the Phase 2 review process. The Director of Development Services shall maintain the 'Qualified Application List for All Other Cannabis Businesses'.

d. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of

Development Services decision. A new application, with new fees, would then be required for any subsequent consideration of that same or similar proposal at the same location.

e. Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 1 - Initial Review

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for All Other Cannabis Businesses' and entered into the Phase 2 review process. These requirements include, but are not limited to:

i. All Application documents required in the City's Phase 1 application package;

ii. Application was submitted during the application period;

iii. Application forms are filled out completely;

iv. Business Owner(s) I Applicant(s) referenced on the application provides a Live Scan that was conducted within 14 days prior to submitting the application;

v. Phase 1 application fee is paid; and

vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

f. Commercial Cannabis Business Permit- All Other Cannabis Businesses Selection - Phase 2 - Final Review

Phase 2 requirements include, but are not limited to:

i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:

a. Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;

b. Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or

c. Any material misrepresentation by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within ten (10) days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.

iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:

a. The use is permitted in the Zoning District;

b. The use meets the distance requirements from sensitive uses;

c. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;

d. No zoning violations exist on the property;

e. A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and

f. The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.

iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and reviewing the foregoing information will make a recommendation to the Planning Commission to approve or reject the application for the Commercial Cannabis Business Permit for All Other Cannabis Businesses.

g. Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 – Planning Commission

The Planning Commission will review the Commercial Cannabis Business applications for All Other Cannabis Businesses recommended by the Director of Development Services and all other relevant information and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit for All Other Cannabis Businesses, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit shall be issued otherwise.

3. Minor Modifications to Pending Application for Commercial Cannabis Business Permit (All Types).

a. Applicants may make a written request to the Director of Development Services for a minor modification to a Commercial Cannabis Business Permit application at any point in the application process.

b. The Director of Development Services shall have the discretion to approve minor modifications to the application. Minor modifications to an application include, but are not limited to, the following:

i. A change to the name of the proposed business and/or entity;

ii. A change in the organizational structure of a proposed business;

iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation, and must meet the requirements of Section 20.44.170(E)(1)(e);

iv. A change in building elevations, floor plans, or site plans;

v. A change in operational procedures or security plans or procedures;

vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

c. The Director of Development Services will review any proposed modifications to the application and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

4. Appeal of Denial of Commercial Cannabis Business Permit (All Types)

The Planning Commission will review the Commercial Cannabis Business applications and all other relevant information, and determine if a CCBP should be granted, as provided in Sections 20.44.170(L)(1)(h) and 20.44.170(L)(2)(g) herein. If the Planning Commission determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. Any decision of the Planning Commission may be appealed to the City Council.

a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council within thirty (30) calendar days of receiving the appeal.

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

5. Commercial Cannabis Business Permit Annual Renewal (All Types)

a. Applications for the renewal of a permit shall be filed with the Director of Development Services at least sixty (60) calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the Director of Development Services who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this Section. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the Director of Development Services in order to determine whether said permit should be renewed. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted.

c. The Director of Development Services or designee may deny the annual renewal of a Commercial Cannabis Business Permit if the permittee or the permittee's agent or employee has committed any one of the following acts:

i. Any act which would be considered a ground for denial of the permit in the first instance;
ii. Violates any other provision of this section or any City of Merced or State

law, statute, rule or regulation relating to the business's permitted activity;

iii. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee;

iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public;

v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business;

vi. Violates or fails to comply with the terms and conditions of the permit; or

vii. Fails to pay all applicable City, State, or Federal taxes and fees.

6. Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types)

a. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted. If the Development Services Director determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have fourteen (14) calendar

days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Development Services Director will approve or deny the permit by providing written notice to the applicant.

b. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.

i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission within thirty (30) calendar days of receiving the appeal.

ii. Notice of the hearing shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

iii. Any interested person may appear and be heard regarding the appeal.

iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.

v. A matter being heard on appeal may be continued for good cause.

vi. The decision of the Planning Commission may be appealed to the City Council.

a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council within thirty (30) calendar days of receiving the appeal.

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review-shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

7. Modifications to Commercial Cannabis Business Permit (All Types)

a. A Commercial Cannabis Permit holder may make a written request to the Director of Development Services for modification of an existing permit at any time.

b. The Director of Development Services shall have the discretion to approve minor modifications to the permit. Minor modifications to an application include, but are not limited to, the following:

i. A change to the name of the proposed business and/or entity;

ii. A change in the organizational structure of a proposed business;

iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation, and must meet the requirements of Section 20.44.170(E)(1)(e);

iv. A change in building elevations, floor plans, or site plans;

v. A change in operational procedures or security plans or procedures;

vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

c. Any change to the location of a Commercial Cannabis Business after issuance of a Commercial Cannabis Business Permit may require a new application

with payment of associated fees, at the discretion of the Director of Development Services. Any change to the location of a Commercial Cannabis Business shall be subject to approval by the Planning Commission. Prior to approval of a change in location of a Commercial Cannabis Business, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.

d. The Director of Development Services will review any requests for modifications to the permit and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

8. Revocation of Commercial Cannabis Business Permit (All Types)

a. The Director of Development Services or designee may suspend or revoke a Commercial Cannabis Business Permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

i. Any act which would be considered a ground for denial of the permit in the first instance.

ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity.

iii. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.

iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.

v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.

vi. Violates or fails to comply with the terms and conditions of the permit.

vii. Fails to pay all applicable City, State, or Federal taxes and fees.

b. Prior to suspension or revocation of the applicable permit, the Director of Development Services shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least ten (10) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.

c. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.

i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission within (thirty) 30 days of receiving the appeal.

ii. Notice of the hearing shall be provided to the applicant at least (ten) 10 calendar days prior to the public hearing.

iii. Any interested person may appear and be heard regarding the appeal.

iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.

v. A matter being heard on appeal may be continued for good cause.

vi. The decision of the Planning Commission may be appealed to the City Council.

a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council within thirty (30) calendar days of receiving the appeal.

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

M. Limitations on the City's Liability

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any Commercial Cannabis Business Permit pursuant to this ordinance or the operation of any cannabis facility approved pursuant to this chapter. As a condition of approval of a Commercial Cannabis Business Permit as provided in this chapter, the applicant or its legal representative shall:

1. Execute an agreement indemnifying the City from any claims, damages, injuries or liabilities of any kind associated with the registration or operation of the commercial cannabis facility or the prosecution of the applicant or permittee or its members for violation of federal or State laws;

2. Maintain insurance in the amounts and types that are acceptable to the City Attorney or designee;

3. Name the city as an additionally insured on all City required insurance policies;

4. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees

related to the approval of a Commercial Cannabis Business permit; and

5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a Commercial Cannabis Business Permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

N. Enforcement

1. A violation of the regulations in this ordinance by an act, omission, or failure of an agent, owner, officer or other person acting in concert with or employed by a permittee within the scope of their employment or office, shall be deemed the act, omission, or failure of the permittee.

2. A permitted Commercial Cannabis Business shall notify the Police Chief or designee of the City of Merced upon discovery of any of the following situations:

a. A discrepancy of more than $1,000 in inventory over a period of 24 hours or $3,000 over period of 7 days.

b. A reason to suspect diversion, loss, theft or any other criminal activity pertaining to the operation of the commercial cannabis business.

c. The loss or alteration of records related to cannabis goods, registered medical cannabis patients, caregivers or dispensary employees or agents.

d. Any other reason to suspect any other breach of security.

3. Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Municipal Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the business's Commercial Cannabis Business Permit, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the cannabis business and/or any owner, agent, officer, or any other person acting in concert with or employed by the cannabis business.

4. City Officials or their designees may enter and inspect the location of any commercial cannabis business during normal business hours to ensure compliance with this Section. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this Section, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section.

O. Fees and Taxes

All Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following:

1. Initial Application Fees. The Business Applicant shall submit a non-refundable fee to cover the cost of processing an initial application for the commercial cannabis business. These fees may be divided into two fees according to Initial Review (Phase 1) and Final Review (Phase 2).

2. Application Renewal Fees. The Business Owner shall submit a non-refundable fee to cover the cost of processing an application renewal annually.

3. Business License Fee. The Business Owner shall at all times maintain a current and valid business license and pay all business taxes required by the Merced Municipal Code.

4. Commercial Cannabis Regulatory Fee. The Business Owner shall pay an annual regulatory fee ('Regulatory Fee') to cover the costs of anticipated enforcement relating to the Cannabis Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.

5. All required taxes including sales and use taxes, business, payroll etc.

6. Additional cannabis-specific gross receipts, excise, cultivation or any other tax approved by the voters of the City of Merced."

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

_____

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

3-5-19
City Attorney **Date**

ADMINISTRATIVE REPORT

Agenda Item I.12. Meeting Date: 3/18/2019

Report Prepared by: Julie Nelson, Associate Planner, Development Services Department

SUBJECT: Second Reading - Adoption of Ordinance Approving a Mitigated Negative Declaration for Environmental Review #18-02 and Site Utilization Plan Revision #38 to Planned Development (P-D) #1 Allowing the Renovation of the Merced Mall and Theatre, Including the Possibility of Relocating the Theatre Adjacent to the Merced Mall Building

REPORT IN BRIEF

Adoption of previously introduced Ordinance No. 2499 and considers approving a Site Utilization Plan Revision for Planned Development (P-D) #1, a Mitigated Negative Declaration for Environmental Review #8-02 and Site Utilization Plan #38 allowing renovations to the Merced Mall located at 851 West Olive Avenue and the United Artists movie theater located at 645 Fairfield Drive, including possible relocation.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2499**, an Ordinance of the City of Merced, California approving a Mitigated Negative Declaration for Environmental Review #18-02 and Site Utilization Plan Revision #38 to Planned Development (P-D) #1 allowing the Renovation of the Merced Mall and Theatre, including the possibility of relocating the theatre adjacent to the Merced Mall building.

ALTERNATIVES

1. Approve as recommended by the Planning Commission and staff; or,
2. Approve, subject to modifications by the City Council; or,
3. Deny; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
5. Continue to a future meeting (date and time to be specified in motion).

AUTHORITY

Merced Municipal Code Section 20.20.020 (N) grants the City Council authority to approve revisions to a Planned Development.

CITY COUNCIL PRIORITIES

FY 2018/19 Council Goals and Priorities identifies “Economic Development” under “Future Planning.”

DISCUSSION

The Merced Mall, located at 851 West Olive Avenue, is seeking approval for a renovation and expansion of their existing building, including the possibility of relocating the theater adjacent to the Mall building. The proposed renovation would add additional floor area to the Mall and the theater. The proposed renovation would be done in two phases and would include the parcel where the Mall is located (APN: 236-220-038) along with the parcels where the theater and Michael's are located as well as the retail space adjacent to Big Lots (APN's: 236-220-016; -015; -014). A description of each phase as well as the two Alternatives proposed for Phase II are provided below.

Phase I

Phase I of the proposed project would expand the buildings located along the southern elevation of the shopping center south towards West Olive Avenue by an additional 80 feet. The new frontage would be constructed in an updated and contemporary design. The height of the new frontage would increase the building mass and would be approximately 50 feet tall. This would increase the gross leasable area (GLA) of the project site by approximately 50,000 square feet. The southern parking lot would be reconfigured, repaved, restriped, and relandscaped. The total parking within the project site under Phase I would decrease by 232 parking spaces for a total of 2,867 parking spaces.

Phase II

Phase II of the proposed project would include construction of a 72,000-square-foot movie theater containing up to 3,000 seats. The project applicant has proposed two alternatives under Phase II which would result in the location of a new movie theater at one of two locations within the project site.

Phase II, Alternative 1

Phase II, Alternative 1, would add an at-grade 72,000-square-foot theater between the existing JC Penny and Kohl's stores in the main shopping center building. In addition, this Phase would remove the enclosed mall roof between JC Penney and Kohl's, and result in a pedestrian mall and open courtyard in front of the new theater. The design and height of the movie theater addition would be integrated into the existing shopping center building and would be consistent with the exterior additions completed under Phase I. The height of the movie theater would be approximately 50 feet. The existing United Artists movie theater would be demolished and replaced with a new retail building of similar size. The total GLA of the project site after Phase I and Phase II, Alternative 1, would be approximately 660,097 square feet. The total number of parking spaces within the project site following completion of Phase I and Phase II, Alternative 1, would decrease by 232 parking spaces for a total of 2,810 parking spaces.

Phase II, Alternative 2

Phase II, Alternative 2, would demolish the existing United Artists Theater and two retail stores located along the eastern boundary of the project site and would construct a 72,000-square-foot at-grade theater at that location. The design and height of the movie theater would be consistent with the exterior additions completed under Phase I and would be approximately 50 feet tall. The existing

theater is approximately 22,680 square feet in size, and the existing retail stores are approximately 25,416 square feet in size. As a result, the total GLA would increase by approximately 23,904 square feet for a total GLA of 612,001 square feet under Phase I and Phase II, Alternative 2. Construction of Phase II, Alternative 2, would include reconfigured parking for the theater. The existing 3,099 parking spaces would decrease by 124 parking spaces under Phase I and Phase II, Alternative 2, resulting in a total of 2,975 parking spaces.

Traffic/Circulation

The proposed renovation does not include any changes to the access and driveways to the site. The project site currently has 11 vehicle ingress/egress driveways providing access to and from West Olive Avenue, R Street, Loughborough Drive, and Fairfield Drive. As noted above, the parking lot facing West Olive Avenue would be reconfigured, repaved, and restriped with the renovation.

As part of the Environmental Review process for this project, a Traffic Impact Analysis was prepared by LSA Associates, Inc. (Initial Study #18-02, including the traffic analysis at Appendix C, is available for review on the City's website or in the City Clerk's office). The traffic analysis concluded that the proposed changes would not result in a decrease to the Level of Service (LOS) for the roadways and intersections studied. Although, one intersection - Olive Avenue and Pepperwood Lane - currently operates at an LOS F, which is below the City Standard of LOS D. However, since the major street (Olive Avenue) at this intersection has unimpeded through movements on low delays; for this reason, the impact at this intersection would not be considered a significant CEQA impact. Therefore, the City does not recommend any mitigation for this intersection. All other study intersections are forecast to operate at a satisfactory LOS in all scenarios and no significant delay is forecast at any of the signalized intersections. Additionally, all roadway segments would operate at an LOS D or better.

For additional information regarding the traffic analysis, please refer to the "Traffic/Circulation" section of Planning Commission Staff Report #19-04 at Attachment 9.

Parking

Parking for the site would be modified with both Phase 1 and Phase 2 (either alternative). With the additional floor area being added, additional parking spaces are required. However, based on the existing number of spaces, there would still be sufficient parking available to meet the demands of the uses within the Mall and the theater. For more information on the parking changes and parking requirements, please refer to the Planning Commission Staff Report #19-04 at Attachment 9.

Building Design
Phase 1

The existing Mall structure would remain, but would be modified and updated to a more contemporary look. The proposed improvements for Phase I would include extending the southern elevation to the south approximately 80 feet to add additional floor and pedestrian area. The vacant retail space located to the east of the main Mall entrance (previously occupied by CVS) would be reconfigured and leased to new retailers and restaurants, some of which would have storefronts facing the parking lot adjacent to West Olive Avenue. Refer to Attachment 6 for the conceptual

design of the building elevations for Phase 1 and Phase II, Alternative 1.

The building elevations would be updated to a more contemporary design. Instead of the elevations being a consistent color and design, there will be a mixture of materials and colors, as well as the use of awnings and other architectural features to provide a more interesting and appealing aesthetic. The height of the new frontage would increase the building mass and would be approximately 50 feet tall.

Phase II

Phase II, Alternative 1, would add the theater to the existing building between JC Penny's and Kohl's Department Stores. The roof would be opened to create a pedestrian Mall and open courtyard in front of the new theater. The height of the new theater would be approximately 50 feet tall and would continue the use of a more modern design for the building elevations.

Phase II, Alternative 2, would demolish the existing theater and two retail spaces to the east of the Merced Mall. Specific elevations for the proposed 70,000 square-foot theater have not been provided, the design and height of the movie theater would be consistent with the exterior additions completed under Phase I and would be approximately 50 feet tall.

The building elevations and site design at Attachments 3 through 6 are very preliminary and conceptual only. The final designs would be approved by the Site Plan Review Committee prior to building permit issuance.

Site Design

The general layout of the site would not be changed with the proposed renovations. The driveway access would remain the same as well as the location of the parking areas. However, the parking lot on the south side of the Mall would be reconfigured as part of Phase I to allow for the proposed expansion.

The overall site would be more welcoming for pedestrians and bicyclists. Condition #12 of Planning Commission Resolution #4014 requires pedestrian access between all buildings and connections to the public ways. Condition #13 of Planning Commission Resolution #4014 requires that all walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.

With Phase II, Alternative 1, the roof of the Mall would be opened up to allow the construction of the theater and the creation of a pedestrian courtyard area as well as an outdoor dining area (refer to the drawings at Attachment 6).

Phase II, Alternative 2, would modify the eastern portion of the site by demolishing the existing theater, Michael's, and the vacant retail space adjacent to Big Lots. As described in the Parking section above, this alternative would reduce and reconfigure the parking on between the Mall and theater. It would also slightly modify the circulation of the site by providing a drive aisle and compact parking spaces along the south side of the Big Lots building. A pedestrian path is provided between the Mall and the theater.

Signage

Specific signs have not been proposed with this project. However, in the future, it's likely the applicant would request a modification to the City's Sign Ordinance to allow the existing Merced Mall pylon sign to be modified and updated. Currently, the existing free-standing pylon sign along Olive Avenue does not comply with the City's Sign Ordinance and therefore, could not be modified without being brought into compliance with the sign code regulations. Because the current sign ordinance would not allow a sign with a changeable marquee, the existing sign is not being modified at this time. All other signs on the site would be required to comply with the North Merced Sign Ordinance.

Environmental Review

The Planning staff has conducted an environmental review (Initial Study #18-02, available on the City's website or at the City Clerk's office; a copy has been provided to City Council) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Mitigated Negative Declaration (i.e., no significant effects in this case because of the mitigation measures and/or modifications described in Initial Study #18-02) is being recommended. A Mitigation Monitoring Program would also be adopted.

Planning Commission Action

The Planning Commission held a duly noticed public hearing on this matter on January 23, 2019. At the meeting, the project proponent, Bill Kenney spoke in favor of the project. No one spoke in opposition. The Planning Commission unanimously voted to recommend approval of Environmental Review #18-02, including the Mitigation Monitoring Program, and Site Utilization Plan Revision #38 to Planned Development (P-D) #1. Planning Commission Resolution #4014 is provided at Attachment 7 and Planning Commission Staff Report #19-04 is provided at Attachment 8. An excerpt from the minutes of the Planning Commission meeting are provided at Attachment 9.

City Council Action

The Planning Commission and Planning Staff recommend approval of Environmental Review #18-02, including the adoption of the mitigation monitoring program, and Site Utilization Plan Revision #38 to Planned Development (P-D) #1. In order for the Council to approve these items, a motion should be made to adopt Ordinance 2499.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Ordinance 2499

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL REVIEW #18-02 AND SITE UTILIZATION PLAN REVISION #38 TO PLANNED DEVELOPMENT (P-D) #1 ALLOWING THE RENOVATION OF THE MERCED MALL AND THEATRE, INCLUDING THE POSSIBILITY OF RELOCATING THE THEATRE ADJACENT TO THE MERCED MALL BUILDING

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT TO CODE. The Site Utilization Plan for the property located within Planned Development (P-D) #1 described in Exhibit A and shown on the Map at Exhibit B, attached hereto, and by reference made a part of this Ordinance is hereby modified as shown on the Site Plan for Phase I and on the Site Plan for Phase II, Alternate 1 or Phase II, Alternate 2, Exhibits C, D, and E.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT. Based upon the evidence and testimony in the record at the City Council public hearing, the City Council exercising its independent judgment and review, hereby adopts and approves the Mitigated Negative Declaration following Environmental Review #18-02, pursuant to the California Environmental Quality Act.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 4. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

_____
Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

2-12-19
City Attorney Date

X:\Ordinances\2019\Planning\SUP Revision - Merced Mall.docx

EXHIBIT A
LEGAL DESCRIPTION

Parcel C as shown on the map entitled "Parcel Map for Merced Mall," recorded in Book 58 at Page 19 of Merced County Records.

APN: 236-230-038

Parcel C-C as shown on the map entitled "Parcel Map for Pacific Telephone," recorded in Book 33 at Page 49 of Merced County Records.

APN: 236-230-014

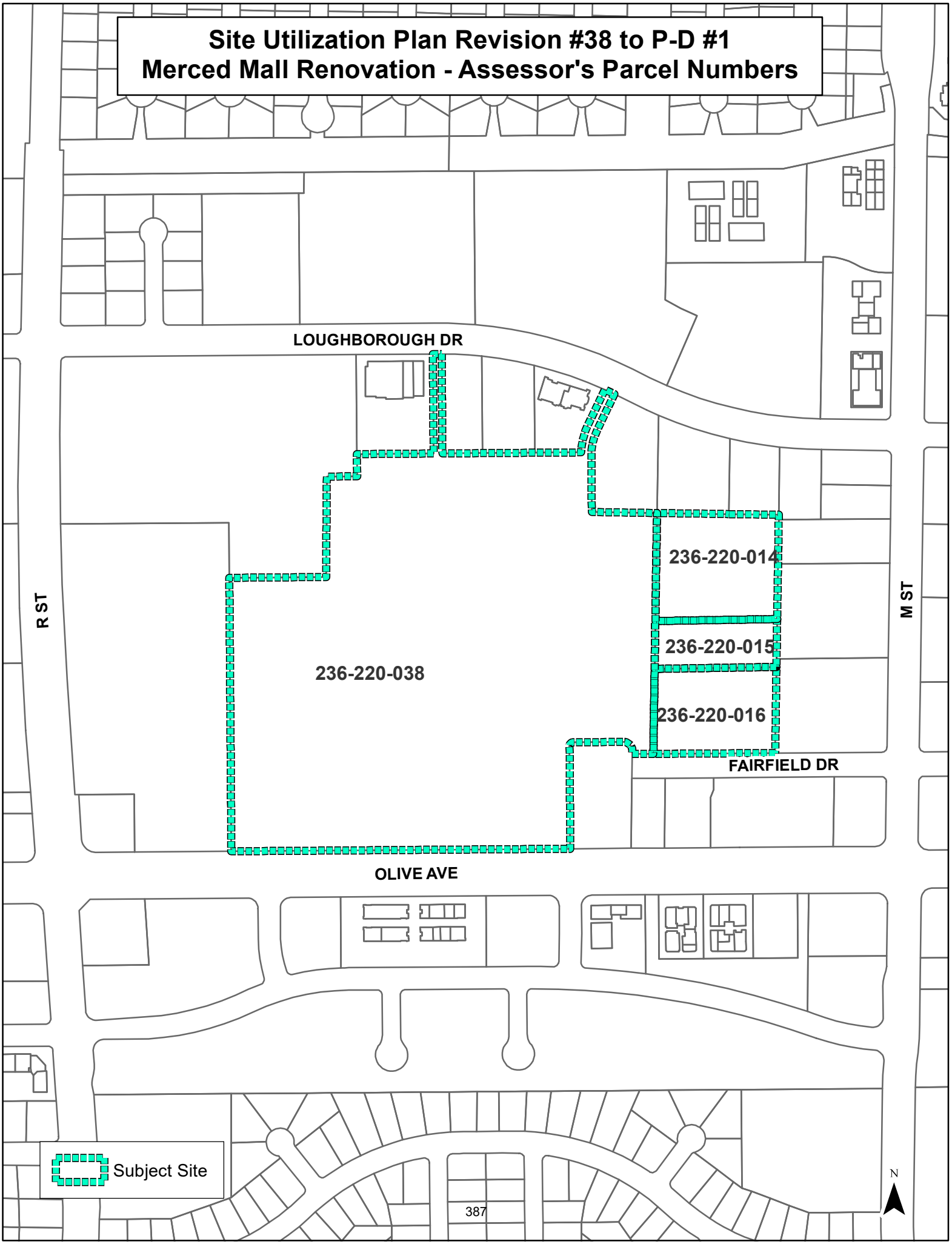
Parcel A as shown on the map entitled "Parcel Map for "U.A. Regency Theatre," recorded in Book 60 at Page 28 of Merced County Records.

APN: 236-230-015

Parcel B as shown on the map entitled "Parcel Map for "U.A. Regency Theatre," recorded in Book 60 at Page 28 of Merced County Records.

APN: 236-230-016

Site Utilization Plan Revision #38 to P-D #1
Merced Mall Renovation - Assessor's Parcel Numbers



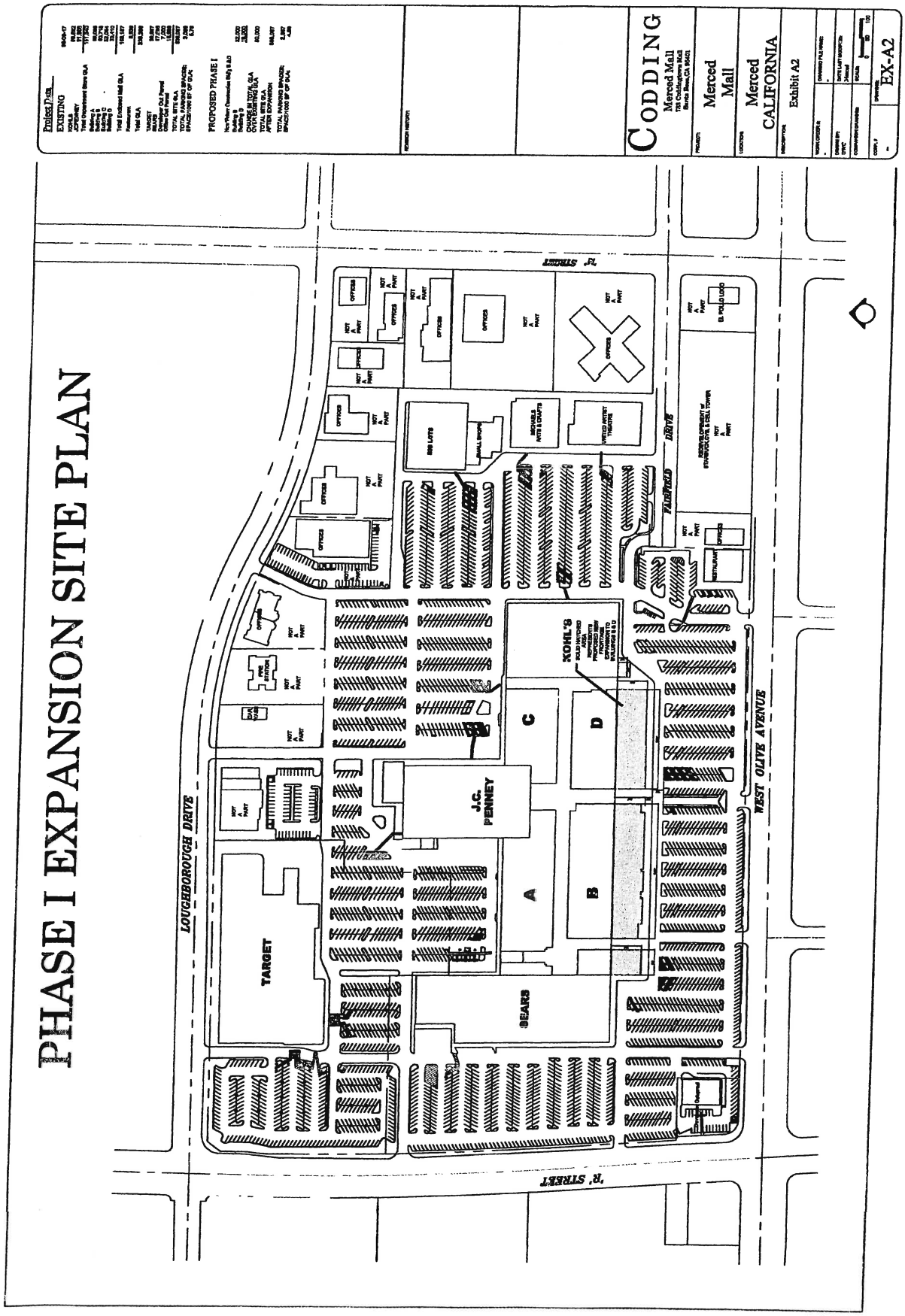

PHASE I EXPANSION SITE PLAN
CODDING
Merced Mall
Merced
Merced
CALIFORNIA
Exhibit A2
EX-A2
LOUGHBOROUGH DRIVE
WEST OLIVE AVENUE
FAIRFIELD DRIVE
'R' STREET
'L' STREET
TARGET
J.C. PENNEY
SEARS
KOHL'S
A
B
C
D
OFFICES
NOT A PART

EXHIBIT C

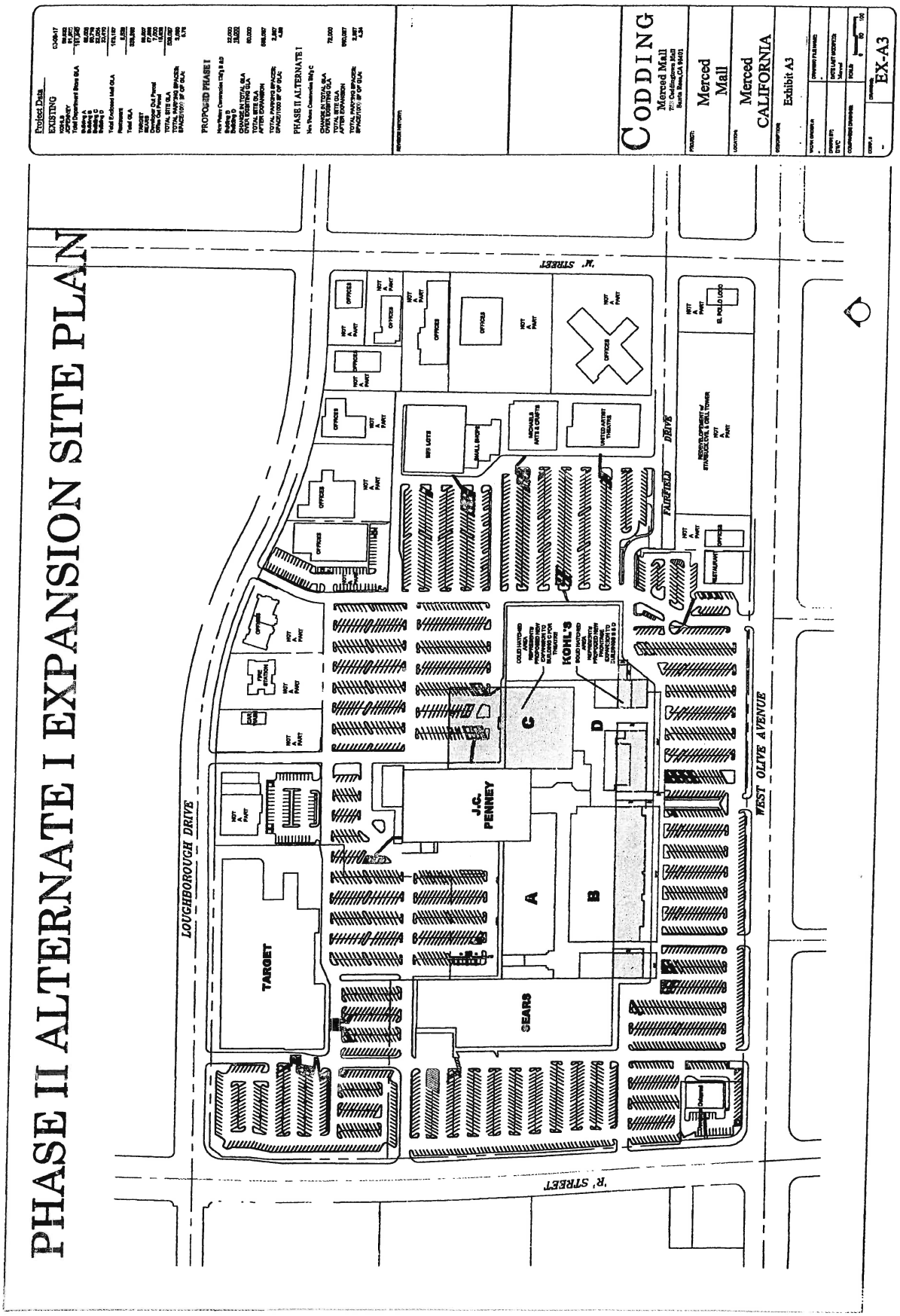

PHASE II ALTERNATE I EXPANSION SITE PLAN
CODDING
Merced Mall
Merced
Merced
CALIFORNIA
Exhibit A3
EX-A3
LOUGHBOROUGH DRIVE
WEST OLIVE AVENUE
FAIRFIELD DRIVE
'M' STREET
'R' STREET
TARGET
J.C. PENNEY
SEARS
KOHL'S
A
B
C
D
OFFICES
NOT A PART

EXHIBIT D

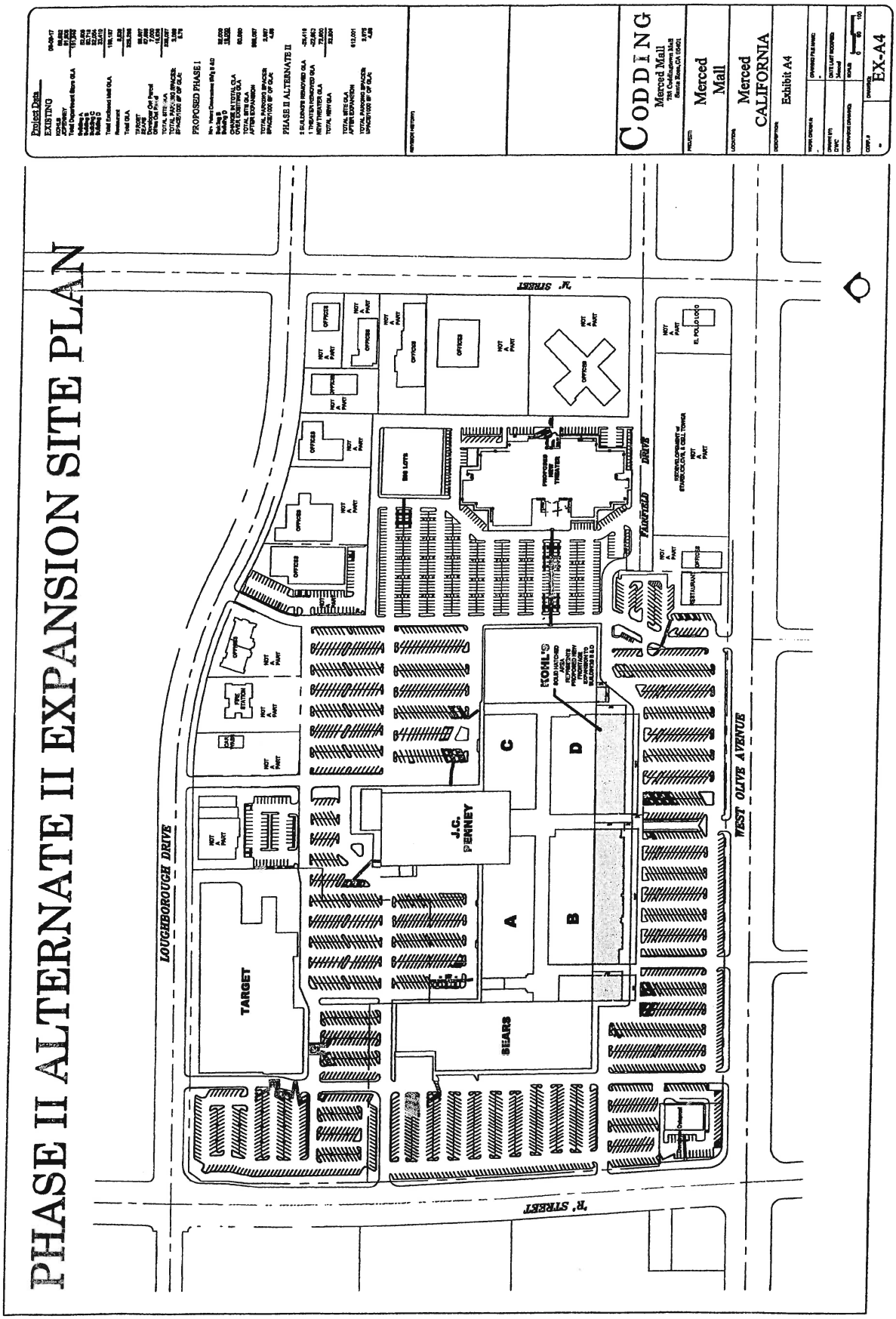

PHASE II ALTERNATE II EXPANSION SITE PLAN
CODDING
Merced Mall
Merced
Merced
CALIFORNIA
Exhibit A4
EX-A4
LOUGHBOROUGH DRIVE
WEST OLIVE AVENUE
FAIRFIELD DRIVE
'R' STREET
'M' STREET
TARGET
SEARS
J.C. PENNEY
KOHL'S
A
B
C
D
OFFICES
NOT A PART
FIRE STATION
RESTAURANT
EL POLLO LOCO

EXHIBIT E

ADMINISTRATIVE REPORT

Agenda Item J.1. Meeting Date: 3/18/2019

Report Prepared by: Julie Nelson, Associate Planner, Development Services Department

SUBJECT: Public Hearing - Introduction of Ordinance No. 2500 Approving Site Utilization Plan Revision #6 to Planned Development (P-D) #46; and Adoption of Resolution 2019-09, Approving a Negative Declaration for Environmental Review #18-60, General Plan Amendment #18-03, Specific Plan Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 to Allow Between 164 and 176 Apartments on a 10.73 Acre Site, Generally Located on the West Side of San Augustine Avenue, at Pacific Drive

REPORT IN BRIEF

Introduces Ordinance No. 2500 and considers approving a Negative Declaration for Environmental Review #18-60, General Plan Amendment #18-03, Specific Plan Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 to allow between 164 and 176 apartments on a 10.73 acre site, generally located on the west side of San Augustine Avenue, at Pacific Drive.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2019-09**, a Resolution of the City Council of the City of Merced, California, approving a Negative Declaration for General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 for 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive and approving General Plan Amendment #18-03 for the same property changing the General Plan designation from Business Park (BP) to High-Medium Density Residential (HMD) and approving revision #4 to the Fahrens Creek specific plan changing the land use designation from “Mini-Storage” to “Multi-Family”; and,

B. Introducing **Ordinance 2500**, an Ordinance of the City Council of the City of Merced, California, approving Site Utilization Plan Revision #6 to Planned Development (P-D) #46 changing the land use designation from “Business Park” (BP) to “High-Medium Density Residential” (HMD) for 10.73 acres of land, generally located on the west side of San Augustine Avenue at Pacific Drive; and,

C. Authorizing the City Manager or the Assistant City Manager to execute the Legislative Action Agreement.

ALTERNATIVES

1. Approve the request as recommended the Planning Commission and staff; or,

2. Approve subject to modifications as conditioned by the City Council; or,
3. Deny the request; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
5. Continue to a future meeting (date and time to be specified in the motion).

AUTHORITY

Title 19 of the Merced Municipal Code outlines environmental review procedures and California Government Code Section 65358 (a) grants the authority to amend all or part of an adopted General Plan. The legislative body may amend the zoning pursuant to California Government Code Section 65583.

DISCUSSION

The proposed project site is approximately 10.73 acres and is located on the west side of San Augustine Avenue at Pacific Drive (Attachment 1). The proposal would allow the change in the General Plan Land Use designation from Business Park (BP) to High Medium Density Residential (HMD), a revision to the Fahrens Creek Specific Plan, and a Site Utilization Plan Revision to Planning Development (P-D) #46 changing the land use designation for both the Specific Plan and the Site Utilization Plan from “mini-storage” to “multi-family.” The proposed changes would allow the construction of an apartment complex, a community building, swimming pool, children’s play area, dog park, and associated parking for the complex (refer to the site plan at Attachment 2).

The proposed apartment complex was originally supposed to consist of 176 units with a mixture of one and two bedroom apartments within 24 buildings. However, in order to accommodate a Fire Lane as required by the Fire Department, the site plan was revised and the total number of units decreased to 164 units (Attachment 2). In order to allow flexibility in their design, the Planning Commission and Planning staff have recommended the project be approved to construct between 164 and 176 units. Allowing the range of units between 164 and 176 provides additional flexibility in their site design. However, the fire lane must be included in any design they choose to move forward with for final approval.

The current plans include two building types - Building A and Building B. Each Building A would be a two-story building with a total of 8 units per building consisting of a mixture of one and two bedroom units. Each Building B would also be a two-story building with four units per building consisting of only two bedroom units. Building elevations and floor plans are included with Attachments 3 and 4. The developer is continuing to refine the plans for this project and may add a third building type that would include a six-unit building.

Once the applicant has determined the final site details, building design, and unit count, a Site Plan Review application would be required to finalize the project details (Condition #9 of Planning Commission Resolution #40). Additional details regarding the project design are available in Planning Commission Staff Report #19-05 at Attachment 9.

<u>Site Design</u>

The project site is bounded on the east by San Augustine Avenue and on the west by SR 59. Access is prohibited to SR 59, except for an Emergency Vehicle Access (EVA). All access to the site is off of San Augustine Avenue.

The project site is somewhat unique in that it has PG&E transmission towers running through the site approximately 65 to 70 feet south of the northern property line. PG&E restricts the types of uses that can be placed underneath the power lines and transmission towers. Parking is typically allowed underneath the power lines and around the towers, but buildings would not be allowed. Condition #23 of Planning Commission Resolution #4013 requires written documentation from PG&E allowing the parking underneath the power lines.

Given the location of the power lines, the site is very challenging to develop either as commercial or multi-family. The proposed project keeps the buildings as far away as possible from the residential, but does place the parking underneath he power lines making them closer to the residential uses. An approximately 10-foot-wide drainage swale is located along the northern property line. The drive aisle for entering the site is adjacent to the drainage swale and is approximately 30 feet wide, putting the first row of parking spaces approximately 40 feet from the property line.

Traffic/Circulation

The project site is located on the west side of San Augustine Avenue at Pacific Drive. The site abuts SR 59 to the west. San Augustine Avenue and Pacific Drive are both designated as Collector Roads on the City's Circulation Plan. San Augustine Avenue connects to Yosemite Avenue (an arterial roadway) approximately one-quarter mile south of the project site. Pacific Drive connects to R Street (an arterial roadway) just over one-half mile east of the project site. Access to the project site would be from San Augustine Avenue with an entrance only driveway providing access into the site and an exit-only driveway leaving the site (refer to the Site Plan at Attachment 2).

The intersection of Yosemite Avenue and San Augustine Avenue would be signalized in the future (this development is conditioned to pay a percentage of the cost for this traffic signal - refer to Condition #12). Currently, the intersection has a four-way stop. The City is currently working on a project to widen Yosemite Avenue from San Augustine Avenue west to SR 59.

Access from Pacific Drive onto R Street would allow right turns only. A U-turn could be made at Yosemite Avenue. However, R Street currently dead-ends just north of Pacific Drive. In the future, R Street would be extended north to Bellevue Road and ultimately further north to the end of the City Limit.

Access to Yosemite Avenue could also be made using El Redondo Drive and Compass Pointe Avenue. El Redondo Drive is a north/south collector road approximately one-quarter mile east of the site off of Pacific Drive. The intersection of El Redondo Drive and Yosemite Avenue is signalized. Compass Pointe Avenue is approximately one-half mile from the site and is also a collector road. Access to Yosemite Avenue at this intersection is restricted to right-turns only.

San Augustine Avenue will eventually extend north to intersect with Cardella Road which would provide additional access to the north, east, and west.

In addition to the Class I bike path near the site, Class III bicycle lanes are provided on San Augustine Avenue, Pacific Drive, El Redondo Drive, Yosemite Avenue, and R Street. There is also a bus stop located at El Redondo Drive and Aurora Drive less than one-quarter mile from the project site.

The Institute of Transportation Engineers (ITE) Trip Generation Rates Manual (8th Edition) is used to estimate the number of trips generated by a particular use. The Manual lists the number of estimated average daily trips (ADT's) based on the total gross square feet of storage area. Based on an analysis of other mini-storage facilities within the City, the average square feet of storage area per acre is approximately 21,000 square feet. Using this factor, the 10.83-acre project site could accommodate approximately 227,430 square feet of storage area. Based on this calculation, the total ADT's for a mini-storage use at this location would be 569 average daily trips. In comparison, the proposed apartment project would generate 1,170 ADT's. However, given the proximity of the project site to a bus stop and easy access to bicycle lanes, it's expected that the total ADT's would be reduced by at least 10%. Additionally, given the fact that the project is adjacent to two collector streets which provide easy access to arterial roadways, the additional traffic is not expected to have a significant impact to the area.

Parking

Parking for multi-family dwellings is calculated based on the number of units, the number of bedrooms, and the number of bathrooms per the Zoning Ordinance. The total number of spaces required for the apartment complex would be 272 spaces (based on 176 units). As proposed, the site would provide 296 stalls.

The majority of the parking for the project would be provided on the north side of the apartment buildings, underneath the PG&E power lines. No structures could be built in this area, therefore, the parking spaces would be uncovered. However, consistent with City Standards for Parking Lots and as required by Condition #30, parking lot trees would be required at a ratio of one tree for every six parking spaces. There are a few parking spaces that would be closer to the buildings which could possibly be covered. This area would accommodate the required handicap accessible parking stalls in addition to about 40 other stalls.

Neighborhood Impact

The proposed land use change and subsequent apartment complex would increase the number of people in the area as well as the traffic in the area. However, as previously described, given the project location and easy access to collector and arterial streets, as well as public transit and bicycle lanes, the traffic is not expected to over-burden the area.

Additional light and glare would be created from the site. Condition #34 requires that all exterior lighting be oriented so that it does not spillover onto adjacent properties. As previously described, the parking spaces would be at least 40 feet from the property line of the adjacent residential uses. Any light standards would typically be placed in the middle of the parking area which would make them approximately 60 feet from the property line. With the implementation of Condition #34, light

and glare from the project should not impact the adjacent dwellings any more than a commercial development would if the site were developed under the current land use designations.

The project would introduce new noise sources to the area. Vehicles would be entering and leaving the site on a regular basis via the drive way on San Augustine Avenue. The entrance side of the drive aisle would be approximately 10 feet from the northern property line and approximately 20 to 30 feet from the residences. A typical residence is set back 20 feet from a street.

The two-story apartment buildings would be approximately 120 feet from the residential properties to the north. There are several two-story homes along the northern property line, facing La Sierra Court. All of the adjacent homes to the north have at least a ten-foot setback from the rear property line, bringing the distance between the closest apartment building to 130 feet. The homes along Pacific Drive are slightly closer at 100 feet away, but have a collector street separating them from the apartments which would help reduce any potential impacts.

Subsequent to the Planning Commission meeting, staff received an e-mail from Fong Xiong, who owns property adjacent to the site along La Sierra Street (Mr. Xiong's e-mail is available at Attachment 5). Mr. Xiong's e-mail expressed concerns related to traffic (vehicular and pedestrian), light, noise, and vandalism and graffiti. Mr. Xiong asked if there were any requirements for a block wall between the proposed apartment complex and the existing single-family homes.

The City's General Plan and Zoning Ordinance do not require a block wall between multi-family and single-family development. As previously discussed in this report, a block wall is required between residential and commercial uses.

Land Use/Density Issues

The project site is currently designated on the General Plan Land Use Diagram as Business Park and is shown as "Mini-Storage" on the Fahrens Creek Specific Plan and the Site Utilization Plan for Planned Development (P-D #46). According to the General Plan, a Business Park designation is "to provide areas for a mix of commercial, office, and industrial uses with shared access and parking facilities. Uses could include a wide variety of light manufacturing, warehousing, office, research and development, and service business activities."

According to the City's Zoning Ordinance, residential uses would not be allowed within a Business Park (B-P) zone. Principally permitted uses include parking facilities, research and development, reverse vending machines (recycling facilities), and other similar uses. The Zoning Ordinance also lists a variety of uses that would be allowed with Conditional Use Permit or Site Plan Review approval. Please refer to the Zoning Ordinance excerpt at Attachment 6.

The Zoning Ordinance also has parking and development standards for commercial uses adjacent to a residential uses. Section 20.38 I (2) (c) requires commercial parking lots abutting residential zoning districts to have a solid wall with a minimum height of 6 feet. However, there are no parking standards for multi-family uses adjacent to single-family uses.

The proposed General Plan land use designation change to High/Medium Density (HMD) Residential

allows 12 to 24 units per acres. The proposal of 176 units would have a density of 16 units per acre and if the project is reduced to 164 units, the density would be 15 units per acre. The density from both scenarios fall within the allowable density for the General Plan designation of High/Medium Density (HMD) Residential and would be compatible with the nearby residential uses.

Environmental Clearance

The Planning staff has conducted an environmental review (Initial Study # 18-60) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Negative Declaration (i.e., no significant adverse environmental effects have been found) is being recommended (Attachment 7).

Planning Commission Action

The Planning Commission held a duly noticed public hearing on this matter on January 23, 2019. At the meeting, the project proponent spoke in favor of the project and no one spoke in opposition. The Planning Commission voted 7 ayes, 0 noes, to recommend approval of Environmental Review #18-60, General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46. Planning Commission Resolution #4013 is provided at Attachment 8. Planning Commission Staff Report #19-05 is available at Attachment 9 and an excerpt from the Planning Commission minutes of January 23, 2019, is available at Attachment 10.

City Council Action

The Planning Commission and Planning Staff recommend approval of Environmental Review #18-60, General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46. In order for the Council to approve these items, a motion should be made to adopt the Resolution at Attachment 11, introduce the Ordinance at Attachment 12, and authorize the City Manager or Assistant City Manager to execute the Legislative Action Agreement at Attachment 13.

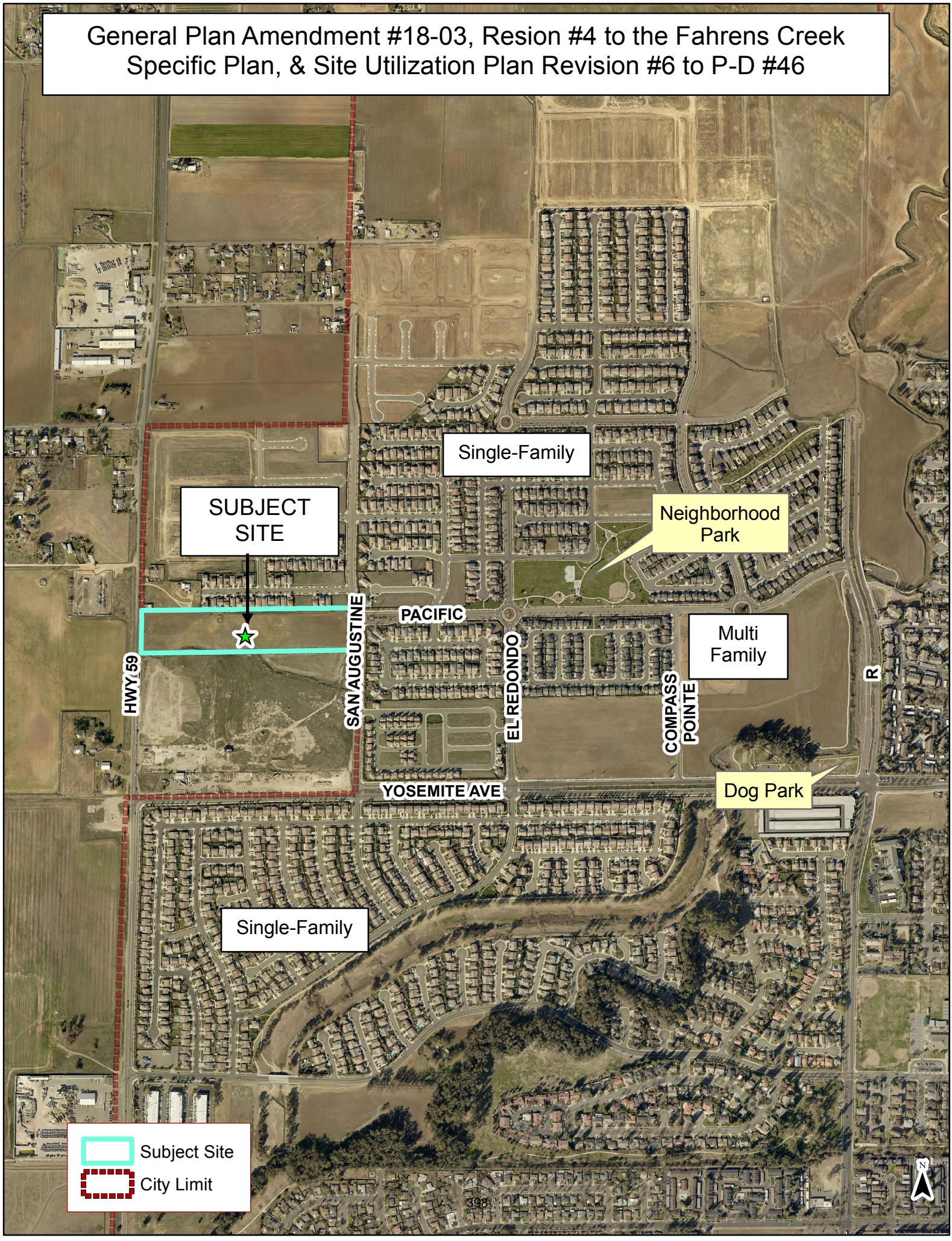
IMPACT ON CITY RESOURCES

As a condition of approval, the project would be required to annex into the City's Community Facilities District (CFD) for services. Once building permits are issued for construction of the project, the City would be able to begin collecting funds to cover the costs of Police and Fire protection, landscape maintenance (in the public right-of-way), storm drain maintenance, and the costs for street lights.

ATTACHMENTS

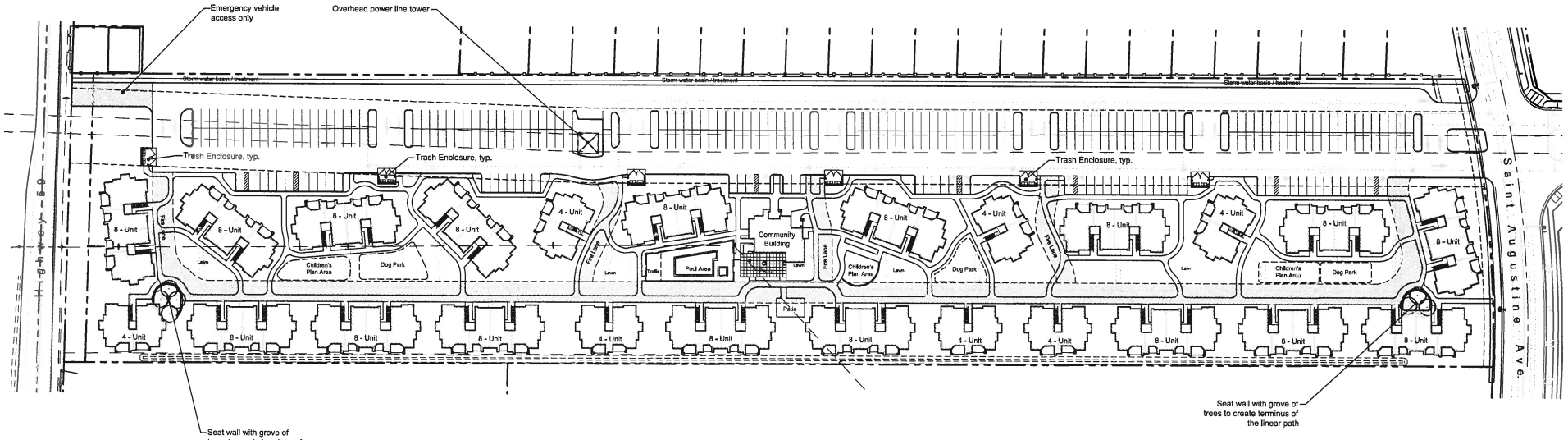
1. Location Map
2. Site Plan
3. Elevations
4. Floor Plans
5. E-mail from Fong Xiong

6. Zoning Ordinance Table 20.10-1
7. Initial Study #18-60
8. Planning Commission Resolution #4013
9. Planning Commission Staff Report #19-05
10. Planning Commission Minutes Excerpt
11. Draft City Council Resolution
12. Draft Ordinance
13. Legislative Action Agreement
14. Presentation


General Plan Amendment #18-03, Resion #4 to the Fahrens Creek Specific Plan, & Site Utilization Plan Revision #6 to P-D #46
Single-Family
SUBJECT SITE
Neighborhood Park
PACIFIC
Multi Family
HWY 59
SAN AUGUSTINE
EL REDONDO
COMPASS POINTE
R
YOSEMITE AVE
Dog Park
Single-Family
Subject Site
City Limit
N

REVISED SITE PLAN

KLA
LANDSCAPE ARCHITECTURE PLANNING



SITE DATA

SITE ± 10.7 GROSS ACRES

BUILDING DATA

APARTMENT BUILDINGS
BUILDING TYPE A - 2 STORY - 4 UNITS PER FLOOR = 8 UNITS PER BUILDING (4-1 BEDROOM, 4-2 BEDROOM)

BUILDING TYPE B - 2 STORY - 2 UNITS PER FLOOR = 4 UNITS PER BUILDING (2- 1 BEDROOM, 2- 2 BEDROOM)

TOTALS

BUILDING TYPE A=	8 UNITS X 17 =	136 UNITS
BUILDING TYPE B =	4 UNITS X 7 =	28 UNITS
	TOTAL =	164 UNITS

DENSITY = 15.33 DU/ACRE

COMMUNITY BUILDING
APPROXIMATELY 2000 S.F.

PARKING DATA

PARKING REQUIRED : TOWNHOME, CONDOMINIUM, AND APARTMENT

1.75 SPACES PER UNIT (1 AND 2 BEDROOM) UP TO 30 UNITS
1.5 SPACES PER UNIT THEREAFTER

1.75 SPACE PER UNIT (UP TO 30)	= 53 STALLS
1.5 SPACE PER UNIT (142 UNITS)	= 201 STALLS
TOTAL	= 254 STALLS

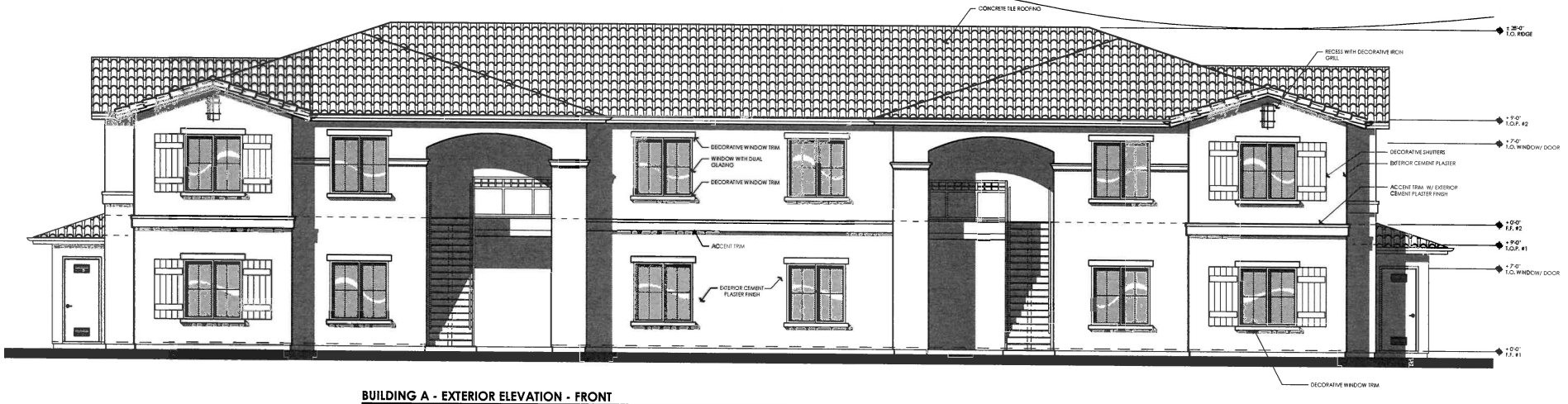
PARKING PROVIDED:

TOTAL	= 286 STALLS

NORTH
Scale: 1" = 50'-0"
0' 25' 50' 100'
Scale: 1" - 50'-0"
January 18, 2019
18-2071

Bruno Multi-Family - Merced, CA

Schematic Site Plan



BUILDING A - EXTERIOR ELEVATION - FRONT

SCALE: 1/4" = 1'-0"



BUILDING A - EXTERIOR ELEVATION - LEFT SIDE

SCALE: 1/8" = 1'-0"



BUILDING A - EXTERIOR ELEVATION - RIGHT SIDE

SCALE: 1/8" = 1'-0"



BUILDING A - EXTERIOR ELEVATION - REAR

SCALE: 1/8" = 1'-0"

400

PROPOSED NEW DEVELOPEMENT:

PACIFIC APARTMENTS

Pacific Drive
Merced, CA.

PLANNING
ARCHITECTURE
api
ARCHITECTURE PLUS INC.
4335-B NORTH STAR WAY
MODESTO, CA 95356
ph. 209.577.4661
fx. 209.577.0213
www.apiarc.com

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BUILDING B - EXTERIOR ELEVATION - FRONT

SCALE: 1/4" = 1'-0"



BUILDING B - EXTERIOR ELEVATION - LEFT SIDE

SCALE: 1/8" = 1'-0"



BUILDING B - EXTERIOR ELEVATION - RIGHT SIDE

SCALE: 1/8" = 1'-0"



BUILDING B - EXTERIOR ELEVATION - REAR

SCALE: 1/4" = 1'-0"

401

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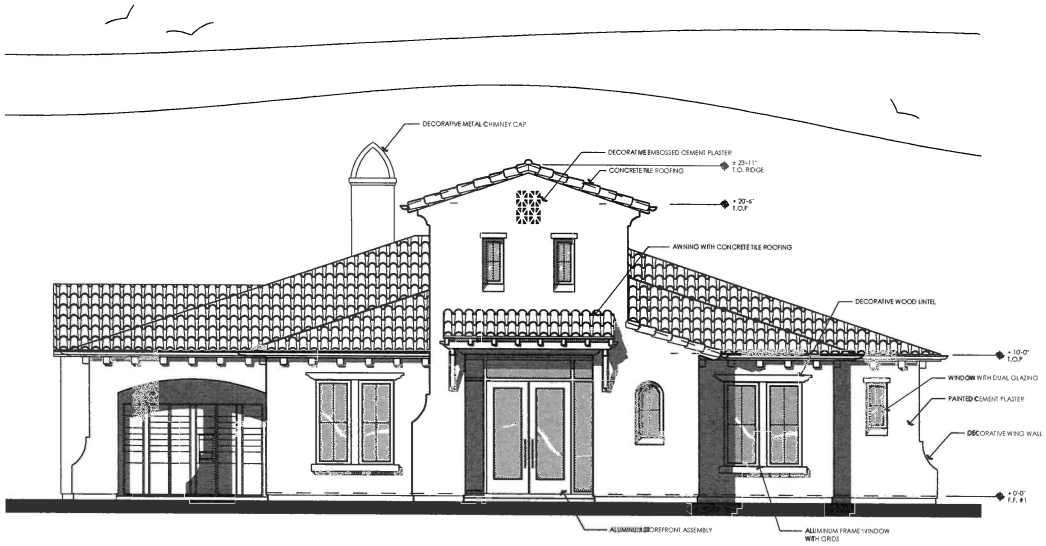
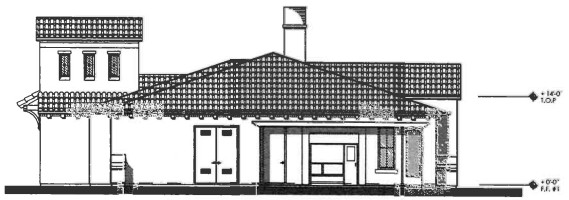


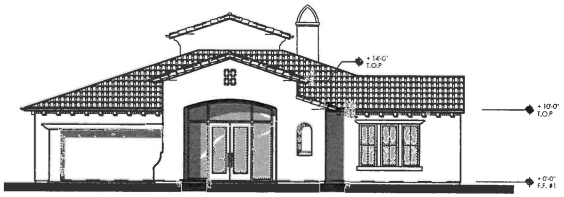
NORTH ELEVATION

SCALE: 1/4" = 1'-0"



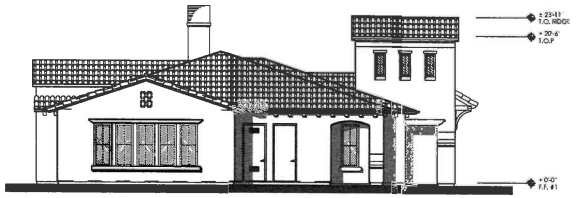
EAST ELEVATION

SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



WEST ELEVATION

SCALE: 1/8" = 1'-0"

PROPOSED NEW DEVELOPEMENT:

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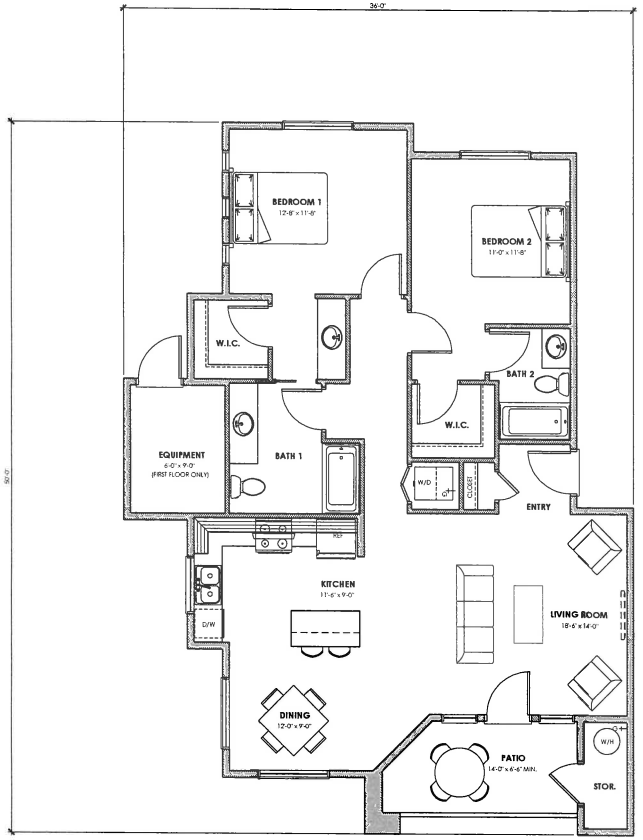
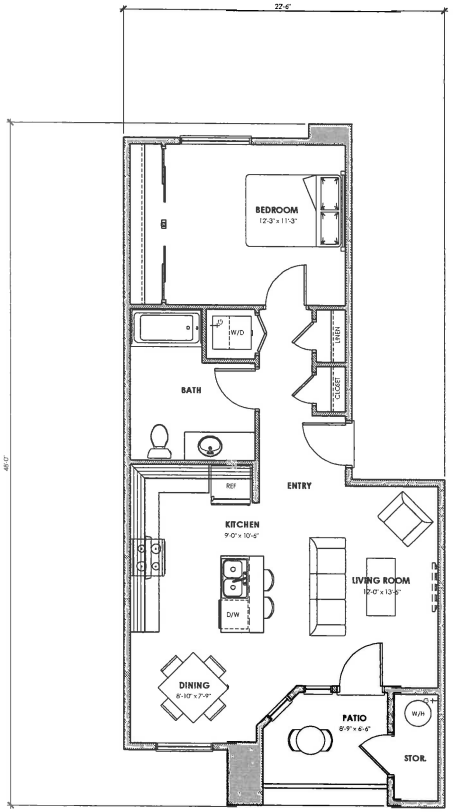


UNIT B - 2 BEDROOM / 2 BATH (END)

SCALE: 1/4" = 1'-0"

FLOOR AREAS:
CONDITIONED SPACE: 1,175 S.F.
UTILITY CLOSET: 32 S.F.
COVERED PATIO: 90 S.F. MIN. - 117 S.F. MAX.
MECHANICAL: 70 S.F.



UNIT A - 1 BEDROOM / 1 BATH

SCALE: 1/4" = 1'-0"

FLOOR AREAS:
CONDITIONED SPACE: 764 S.F.
PATIO: 58 S.F.
UTILITIES: 32 S.F.

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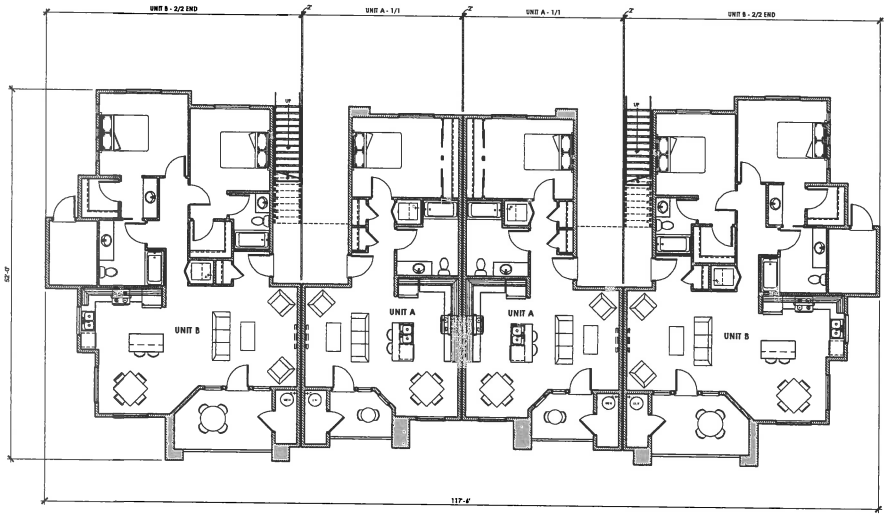
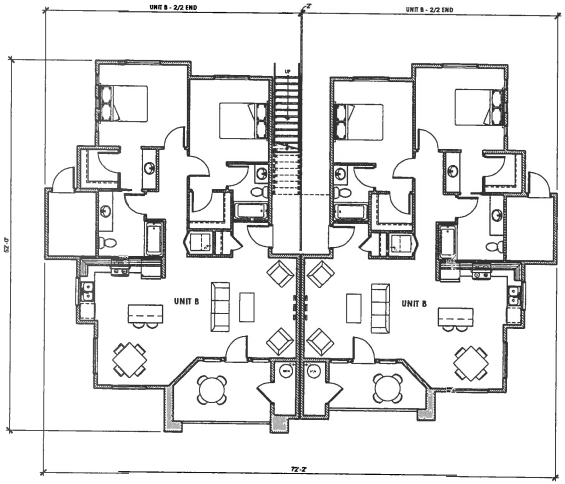


BUILDING TYPE A FIRST FLOOR PLAN - SECOND FLOOR SIMILAR

SCALE: 1/8" = 1'-0"



BUILDING TYPE B FIRST FLOOR PLAN - SECOND FLOOR SIMILAR

SCALE: 1/8" = 1'-0"

404

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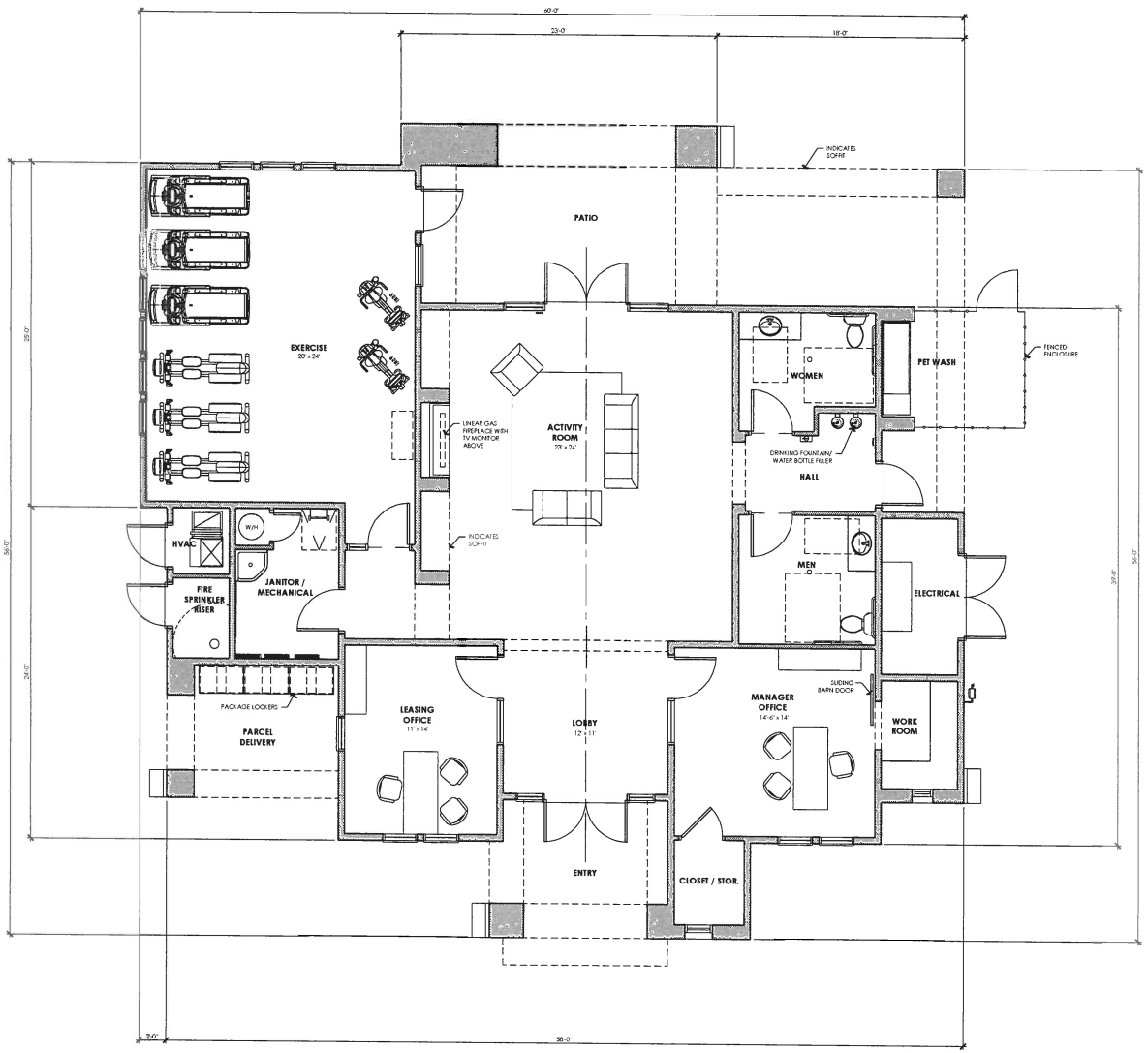

COMMUNITY BUILDING FLOOR PLAN

SCALE: 1/4" = 1'-0"

FLOOR AREAS:

CONDITIONED SPACE:	2,115 S.F.
UNCONDITIONED SPACE:	123 S.F.
COVERED ENTRY:	127 S.F.
COVERED PATIO:	554 S.F.
PARCEL LOCKERS:	120 S.F.

NORTH

PROPOSED NEW DEVELOPEMENT:

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From:	McBride, Scott
To:	Xiong, Fong;
Cc:	Shelton, Delray; Carrigan, Steve; Dietz, Stephanie; Murphy, Mike; Espinosa, Kim; Nelson, Julie
Subject:	RE: Multi unit development between San Augustine and Hwy 59, Staff report #19-05
Date:	Friday, February 01, 2019 4:14:39 PM
Attachments:	image001.jpg

Correction on the City Council Meeting Date.

The item will be placed on the March 18th City Council Agenda for consideration. The meeting time is 6 PM.

Thank you,

Scott McBride
Development Services Director
City of Merced | 678 W. 18th Street | Merced, CA 95340
(209) 385-6818 | (209) 564-0613 cell
mcbrides@cityofmerced.org | www.cityofmerced.org

From: McBride, Scott
Sent: Friday, February 01, 2019 4:04 PM
To: Xiong, Fong
Cc: Shelton, Delray <SheltonD@cityofmerced.org>; Carrigan, Steve <CarriganS@cityofmerced.org>; Dietz, Stephanie <DietzS@cityofmerced.org>; Murphy, Mike <MurphyM@cityofmerced.org>; Espinosa, Kim <ESPINOSAK@cityofmerced.org>; Julie Nelson (NelsonJ@cityofmerced.org) <NelsonJ@cityofmerced.org>
Subject: RE: Multi unit development between San Augustine and Hwy 59, Staff report #19-05

Fong,

Good afternoon.

Mayor Murphy asked for some information to be shared on the proposed Multi Family Project between San Augustine and State Hwy 59, the Bruno Project. My understanding is you attended the Planning Commission Meeting when the Public hearing was held. The project will be coming to the City Council at the meeting of March 4, 2019, meeting time is 6 PM. We will be providing notice of the Public Hearing. The method of the notice is described below in response to one of your questions.

As you know from the presentation at the Commission Meeting the project includes a General Plan Amendment (GPA) from Business Park (light industrial) land use to a High-Medium Density land use designation. In addition to this amendment the City Council will be asked to consider and take action on a Site Utilization Plan Revision (SUP) and a revision to the Fahrens Creek Specific Plan for the construction of 176 apartment units.

Some of the questions that came up at the meeting form the public were regarding traffic issues on State Hwy 59, the intersection of State Hwy 59 and Olive Ave., and the City utilities to serve the project. We will be addressing those as part of the staff report and presentation at the City Council Meeting.

I used the questions – concerns you had in your email and provided a response to each of them;

Is there a design principle within the City's general plan to require the developer to build a masonry wall between the adjacent homes and the apartment complex?

No, a masonry block wall is not required under our current Zoning Code or the General Plan as a separation between these two uses – Low Density residential and High-Medium Density multi-family residential. Our current code does require this as a separation if the proposed use was commercial or a few other more intensive land uses categories. For example a

masonry block wall would be required to separate a commercial project and single family or low density residential area.

Does the City consider it reasonable for the adjacent homeowners to expect this type of improvement from the developer for such a large project?

Although not required by our Zoning Code or General Plan the City Council may add additional conditions at its discretion that are needed to protect the interests of the public health, safety, and general welfare. Therefore the City Council could add this requirement when the item comes before it for consideration. It would also be noted in the Staff Report and Staff Presentation at the City Council Meeting that the need for a masonry block wall was not discussed or part of the recommendation of the Planning Commission when this item was before them but the question came about as a public inquiry since that meeting.

Being that my fence is only 6 foot, the parking lot lighting would also impact the lighting into my home at night.

The City has a requirement that all lighting be screened to avoid glare onto surrounding properties. The applicant – developer is also required to use the lowest wattage possible to provide adequate lighting. Those are reviewed as part of the site improvement plans by the City Engineering Department after a project has been "entitled" or approved by the Planning Commission or in some cases City Council.

I would also like to be notified of any public meetings regarding this project.

The City is required to provide notice to all registered property owners of record within 300 feet of the proposed project site by regular mail. If you received a Public Hearing Notice by mail of the Planning Commission Meeting you should expect one for the City Council Meeting. A general public notice is also published in the paper of record, Merced County Times, at least ten days prior to the Public Hearing. We can also add you as a specific contact in the project file. Should this item be continued or delayed you will need to provide an additional request in writing to the City Clerk's office within one calendar year to continue receiving future notice in addition to the mailings to registered property owners within three 300 feet and the general public notice that would be provided.

We appreciate your interest in the process and sharing your questions – concerns. We hope you will attend the future public meeting on this item and participate in the process.

Respectfully,

Scott McBride
Development Services Director
City of Merced | 678 W. 18th Street | Merced, CA 95340
(209) 385-6818 | (209) 564-0613 cell
mcbrides@cityofmerced.org | www.cityofmerced.org

From: Murphy, Mike <MurphyM@cityofmerced.org>
Sent: Tuesday, January 29, 2019 4:55 PM
To: Xiong, Fong
Cc: district6@cityofmerced.org; ; Carrigan, Steve <CarriganS@cityofmerced.org>; Dietz, Stephanie <DietzS@cityofmerced.org>; McBride, Scott <McBrideS@cityofmerced.org>
Subject: Re: Multi unit development between San Augustine and Hwy 59, Staff report #19-05

Fong,
Thank you for your email and follow up.

Steve,
Could you have planning staff include Council Member Shelton and me on their response?

-Mike

Sent from my iPhone.

On Jan 29, 2019, at 4:44 PM, Xiong, Fong > wrote:

Mayor Mike Murphy and Council Member Delray Shelton,

I just emailed the planning department about my concerns along with a few questions regarding the new development of property next to my home in Merced. I copied you both in the email but I apparently used incorrect email addresses for you. I do want to bring it to your attention so I can have an opportunity to address these concerns with the city council before final approval of the project.

Thank you.

Fong Xiong

Merced, CA 95348

Thank you.

From: Xiong, Fong
Sent: Tuesday, January 29, 2019 3:03 PM
To: 'planningweb@cityofmerced.org' <planningweb@cityofmerced.org>
Cc: 'district6@cityofmerced.com' <district6@cityofmerced.com>; 'mayor@cityofmerced.com' <mayor@cityofmerced.com>
Subject: Multi unit development between San Augustine and Hwy 59, Staff report #19-05

Hello,

I reside at La Sierra Street in Merced and recently found out the property directly behind me is being developed into an apartment complex. I am not against the project but I am writing to you because I do have some concerns about the impact of having such a large number of units directly behind my home.

I attended the planning commission's meeting on January 23, 2019, and had a chance to speak briefly to the developer. He indicated there would be no wall between the apartment complex and the adjacent homes on La Sierra Street. Being that there will be approximately 176 units of a combination of one bedroom, two bedroom, and possibly three bedroom units, my life experiences tell me I can expect an increase in vandalism and graffiti on my 6 foot wood fence. Also, when the complex is at maximum occupancy, and with the driveway in the parking lot running east west parallel to my back fence, I can expect lots of late night speeding cars, tenants and their guests coming and going to and from their parked cars at odd hours, and a general increase in foot traffic between San Augustin Avenue and Highway 59 thru that parking lot. Being that my fence is only 6 foot, the parking lot lighting would also impact the lighting into my home at night.

With that said, I have a couple of questions. Is there a design principle within the City's general plan to require the developer to build a masonry wall between the adjacent homes and the apartment complex? Does the City consider it reasonable for the adjacent homeowners to expect this type of improvement from the developer for such a large project?

I look forward to your response. I would also like to be notified of any public meetings regarding this project.

Thank you.

Fong Xiong

Merced, CA 95348

****
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FAFLD

20.10.020 Land Use Regulations for Commercial Zoning Districts

A. Permitted Uses. Table 20.10-1 identifies land uses permitted in commercial zoning districts.

TABLE 20.10-1 PERMITTED LAND USES IN THE COMMERCIAL ZONING DISTRICTS

Key	Zoning District [1]							
P Permitted Use **M** Minor Use Permit Required **SP** Site Plan Review Permit Required **C** Conditional Use Permit Required **X** Use Not Allowed	**C-O**	**C-N**	**C-C**	**C-SC**	**C-T**	**C-G**	**B-P**	**Additional Regulations**
RESIDENTIAL USES								
Group/Transitional/Supportive Housing	X	X	P [3]	X	X	X	X	
Live/Work Units	C	C	P [2]	X	X	X	X	Sec. 20.44.080
Multiple-Family Dwellings	C	C	P	X	X	X	X	
Residential Care Facilities, Small *(6 or Less)*	X	X	P [3]	X	X	X	X	
Residential Care Facilities, Large *(More than 6 residents)*	X	X	P [3]	X	X	X	X	
Single-Room Occupancy	X	X	P [3]	X	X	X	X	Sec. 20.44.120
COMMUNITY USES								
Community Assembly	C	C	C	X	C	C	C	
Community Garden	SP	SP	SP	X	X	SP	X	Sec. 20.44.050
Colleges and Trade Schools	C	C	C	X	X	C	C	
Convalescent or Nursing Homes	C	C	C	X	X	X	X	
Cultural Institutions	C	C	C	X	C	C	C	
Day Care Centers (Children & Adults)	M	M	M	X	X	X	SP	
Emergency Shelters	X	X	C	X	C	P	X	Sec.20.44.150
Government Offices	P	P	P	X	C	C	C	
Hospitals and Surgery Centers	C	C	C	X	X	X	C	
Instructional Services	P	P	P	X	X	X	SP	
Medical Offices and Clinics	P	P	P	X	X	X	C	
Parks and Recreational Facilities	C	C	C	X	X	X	C	
Public Safety Facilities	SP	SP	P	C	SP	SP	SP	
Rehabilitation Centers	P	P [6]	P[10]	X	X	C	C	
Social Assistance Services	C	C	C	X	SP	P	X	

Key	Zoning District [1]							
P Permitted Use **M** Minor Use Permit Required **SP** Site Plan Review Permit Required **C** Conditional Use Permit Required **X** Use Not Allowed	C-O	C-N	C-C	C-SC	C-T	C-G	B-P	Additional Regulations
COMMERCIAL USES								
Alcoholic Beverage Sales [7]	X	P [7][8]	P [7]	C [7][8]	P [7]	P [7]	SP [7]	Sec.20.44.010
Bail Bond Businesses	C	X	C [10]	X	C	C	C	
Bars and Nightclubs	X	C	C	X	C	C	C	
Banks, Retail	P	P	P	P [9]	SP	SP	SP	
Bed and Breakfast	X	X	C	X	C	C	X	Sec.20.44.030
Building Supplies/Home Improvement	X	X	C	X	SP	P	SP	
Business Support Services	X	C	M	X	P	P	SP	
Cardrooms [5]	X	X	C [5]	X	C [5]	C [5]	X	Chapter 9.08
Cemeteries and Mausoleums	X	X	C	X	C	P	X	
Check Cashing/Payday Loan Establishments	C	X	C [10]	X	C	C	C	Sec.20.44.040
Commercial Cannabis Businesses	Refer to Table 20.44-1 in Section 20.44.170							
Commercial Recreation, Indoor (Except Below)	X	SP	SP	X	P	SP	C	
Multi-Screen (6 or More) Movie Theaters	X	C	P	X	C	X	C	
Commercial Recreation, Outdoor	X	X	X	X	P	C	C	
Drive-Through and Drive-Up Sales	C	C	SP	X	P	P	SP	
Equipment Sales and Rental	X	X	X	X	P	P	SP	
Farmer's Market	C	SP	SP	SP	SP	SP	SP	Sec.20.50.030B
Flea Market	X	X	X	X	C	C	C	
Funeral Parlors and Mortuaries	C	C	C	X	C	P	C	
Gas and Service Stations/Car Washes	X	C	SP	C [9]	P	P	SP	Sec.20.44.070
Hotels and Motels	X	X	P	X	P	C	C	
Hookah Lounges	X	C	C	X	C	C	C	
Kennels	X	X	X	X	C	P	C	
Maintenance and Repair Services	X	X	X	X	P	P	SP	
Massage Establishments	C [16]	C [16]	C [16]	X	C [16]	C [16]	X	Chapter 5.44
Massage Therapy—Sole Practitioner	P[17]	P[17]	P[17]	X	C [16]	C [16]	X	Chapter 5.44
Mobile Food Vendors	C	C	C [10]	X	SP [11]	SP	C	Sec. 5.54 & 20.44.020
Mobile Home Sales	X	X	X	X	P	P	SP	
Office, Professional	P	P	P	C [9]	SP	SP	SP	

Key	Zoning District [1]							
P Permitted Use **M** Minor Use Permit Required **SP** Site Plan Review Permit Required **C** Conditional Use Permit Required **X** Use Not Allowed	C-O	C-N	C-C	C-SC	C-T	C-G	B-P	Additional Regulations
COMMERCIAL USES (Continued)								
Pawn Shops	X	X	C [10]	X	X	P	X	
Personal Services	SP	P	P	P [9]	SP	SP	SP [12]	
Retail, General	SP[12]	P	P	P [9]	P	SP	SP	
Restaurants	C [13]	P [8]	P	C [9]	P	M	SP [12] [13]	
Tattoo Parlors	X	SP	M	X	M	M	SP	
Tobacco Retailers [18]	X	P [18]	P [18]	P [18]	P [18]	P [18]	SP[18]	Sec.20.44.160
Vehicle Parts and Accessories Sales	X	P	P	X	P	P	SP	
Vehicle Rentals	X	X	M	X	P	P	SP	
Vehicle Repair and Maintenance, Major	X	X	X	X	C	P	C	
Vehicle Repair and Maintenance, Minor	X	SP	P	X	P	P	C	
Vehicle Sales	X	X	P [10] [14]	X	P	P	C	
INDUSTRIAL USES								
Manufacturing and Processing, General	X	X	X	X	X	M	C	
Manufacturing and Processing, Light	X	X	X	X	X	P	SP	
Research and Development	C	X	C	X	SP	SP	P	
Warehousing, Wholesaling, and Distribution	X	X	SP[15]	X	P	P	SP	
Wrecking & Salvage Establishments	X	X	X	X	C	C	X	Sec.20.44.140
TRANSPORTATION, COMMUNICATION, AND UTILITY USES								
Airports	X	X	X	X	C	C	C	
Freight Terminals	X	X	X	X	C	C	C	
Heliports	C	X	C	X	C	C	C	
Parking Facilities	P	P	P	P[9]	P	P	P	
Public/Mini Storage	X	X	X	X	M	M	SP	
Recycling Collection Facilities								Sec.20.44.090
Reverse Vending Machines	P	P	P	M[9]	P	P	P	
Small Collection Facilities	SP	SP	SP	SP[9]	SP	SP	SP	
Large Collection Facilities	X	X	X	X	C	C	C	
Utilities, Major	C	C	C	X	C	C	C	
Utilities, Minor	P	P	P	P[9]	P	P	P	
Wireless Communications Facilities	**See Chapter 20.58**							

Notes:

[1] A Site Plan Review Permit may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.10-1.

[2] Residential use on the ground floor is prohibited unless it is located on the back of the property where it is not visible or approved with a Conditional Use Permit.

[3] Prohibited as a single use. Permitted as part of a residential mixed-use project.

[4] Use shall not exceed 20,000 square feet.

[5] 24 hour operations limited to C-T and C-C zones per Chapter 9.08 (Gaming).

[6] Rehabilitation centers for drug, methadone, and alcohol are prohibited.

[7] A Conditional Use Permit is required for establishments smaller than 20,000 square feet.

[8] A Conditional Use Permit is required for alcoholic beverage sales for on-site consumption.

[9] Permitted only as part of a shopping center or other retail establishment with a minimum of 5,000 square feet of floor area devoted to the sale of groceries.

[10] Prohibited in the City Center area between 19th and 16th Streets and O Street and Martin Luther King, Jr. Way, including properties fronting on either side of each of the above streets, except vehicle sales showrooms can be allowed.



[11] Includes refreshment stands.

[12] Permitted only as an ancillary use to serve employees, not to occupy more than 5,000 square feet.

[13] Conditional Use Permit required unless the use is ancillary to a principal permitted use. For restaurants, Conditional Use Permit is required unless the uses are conducted in and entered from within the building with no outside advertising.

[14] A Site Plan Review Permit is required for used vehicle sales.

[15] Temporary warehousing and storage only is allowed per the requirements of Section 20.10.030(D).

[16] Provided that a massage establishment permit has not been revoked at that location within 12 months of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44.

[17] Must have valid certificate from State of California as a massage therapist or massage practitioner pursuant to the Massage Therapy Act (Business and Professions Code Section 4600 *et seq.)*.

[18] Prohibited within 1,000 feet of schools and other uses per Sec. 20.44.160, unless building over 20,000 square feet.

20.10.030 Development Standards and Guidelines for Commercial Zoning Districts

A. General Standards. Table 20.10-2 identifies development standards that apply to all parcels and structures located in commercial zoning districts. See Figure 20.10-1.

B. Outdoor Operation of Uses.

1. The outdoor operation of a land use in the C-C and C-N zoning districts shall require approval of a Site Plan Review Permit. Outdoor dining in accordance with Chapter 12.36 (Restaurant Encroachment Permits), outdoor recreation,

CITY OF MERCED
PLANNING & PERMITTING DIVISION

TYPE OF PROPOSAL: **General Plan Amendment #18-03, Revision #4 To the Fahrens Creek Specific Plan, Site Utilization Plan Revision #6 to Planned Development (P-D) #46**

INITIAL STUDY: #18-60

DATE RECEIVED: October 11, 2018 (date application determined to be complete)

LOCATION: West of San Augustine Avenue at Pacific Drive (approximately 980 feet north of Yosemite Avenue)

ASSESSOR'S PARCEL NUMBERS: 206-050-017

(SEE ATTACHED PUBLIC HEARING NOTICE AND MAP AT ATTACHMENTS D AND E.)

Please forward any written comments by January 23, 2018 to:

Julie Nelson, Associate Planner
City of Merced Planning & Permitting Division
678 West 18th Street
Merced, CA 95340
209-385-6858
nelsonj@cityofmerced.org

Applicant Contact Information:

M and B Bruno Family, LP (Owner)
Tony Bruno
6906 Corte Del Sol
Modesto, CA 95356

Project Description

The project site is located on the west side of San Augustine Drive approximately 980 feet north of Yosemite Avenue. The site also has frontage on State Route (SR) 59 (refer to the location map at Attachment A). The site is approximately 10.73 acres and is currently vacant. The proposed project would allow the construction of a 176-unit apartment complex, a community building, swimming pool, children's play area, dog park, and associated parking for the complex.

The site is currently zoned Planned Development (P-D) #46 and has a land use designation of Business Park. The Site Utilization Plan adopted for Planned Development (P-D) #46 designates the site for Mini-Storage. In order to construct the proposed apartment complex, a General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and a Site Utilization Plan Revision are required. The General Plan Amendment would change the General Plan designation from Business Park (BP) to High-Medium Density Residential (HMD). The Specific Plan Revision and Site Utilization Plan Revision would change the designation from Mini-Storage to Multi-Family.

The project site was part of the Fahrens Creek Annexation and was analyzed as part of Initial Study #00-31. All applicable mitigation measures for the annexation would apply to this project as well.

The project site is situated between San Augustine Avenue and SR 59 with frontage on both roadways. The proposed 176-unit apartment complex would have access from San Augustine Drive. This driveway access on San Augustine Avenue would be a divided driveway separating the entrance side from the exit side. An emergency vehicle access (EVA) would be provided off of SR 59. The EVA would be paved, but would be gated off to prohibit the use of this driveway as an additional access point for the general public or residents of the complex. The EVA would be equipped with a knox-box or "click-to-enter" technology to allow emergency vehicles access to the site.

There are five PG&E transmission towers that sit near the middle of the site. The project has been designed to locate the parking area underneath the transmission lines and around the transmission towers (refer to the Site Plan at Attachment B). PG&E maintains an 80-foot-wide easement underneath the transmission lines. This easement would allow the parking to be located in this area, but no structures could be built in the area. Therefore, the parking for this complex would uncovered.

The proposed apartment complex would have a mixture of one and two bedroom apartments within 24 buildings. There are two types of buildings – Building A and Building B. Each Building A would be a two-story building with a total of 8 units per building consisting of a mixture of one and two bedroom units. Each Building B would also be a two-story building with four units per building consisting of only two bedroom units. Building elevations and floor plans are included with Attachment B.

I. Initial Findings

A. The proposal is a project as defined by CEQA Guidelines Section 15378.

B. The project is not a ministerial or emergency project as defined under CEQA Guidelines (Sections 15369 and 15369).

C. The project is therefore discretionary and subject to CEQA (Section 15357).

D. The project is not Categorically Exempt.

E. The project is not Statutorily Exempt.

F. Therefore, an Environmental Checklist has been required and filed.

II. Checklist Findings

A. An on-site inspection was made by this reviewer on December 21, 2018.

B. The checklist was completed on December 21, 2018.

C. The *Merced Vision 2030 General Plan* and its associated EIR (SCH# 2008071069) were certified in January 2012. The document comprehensively examined the potential environmental impacts that may occur as a result of build-out of the 28,576-acre Merced SUDP/SOI. For those significant environmental impacts (Loss of Agricultural Soils and Air Quality) for which no mitigation measures were available, the City adopted a Statement of Overriding Considerations (City Council Resolution #2011-63). This document herein incorporates by reference the *Merced Vision 2030 General Plan, the General Plan Program EIR* (SCH# 2008071069), and Resolution #2011-63.

As a subsequent development project within the SUDP/SOI, many potential environmental effects of the Project have been previously considered at the program level and addressed within the General Plan and associated EIR. (Copies of the General Plan and its EIR are available for review at the City of Merced Planning and Permitting Division, 678 West 18th Street, Merced, CA 95340.) As a second tier environmental document, Initial Study #18-60 plans to incorporate goals, policies, and implementing actions of the *Merced Vision 2030 General Plan*, along with mitigation measures from the General Plan EIR, as mitigation for potential impacts of the Project.

Project-level environmental impacts and mitigation measures (if applicable) have been identified through site-specific review by City staff. This study also utilizes existing technical information contained in prior documents and incorporates this information into this study.

Project-level environmental impacts have been identified through site-specific review by City staff. This study also utilizes existing technical information contained in prior documents and incorporates this information into this study.

III. Environmental Impacts:

Will the proposed project result in significant impacts in any of the listed categories? Significant impacts are those which are substantial, or potentially substantial, changes that may adversely affect the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant. (Section 15372, State CEQA Guidelines. Appendix G of the Guidelines contains examples of possible significant effects.)

A narrative description of all "potentially significant," "negative declaration: potentially significant unless mitigation incorporated," and "less than significant impact" answers are provided within this Initial Study.

The California Supreme Court has clarified CEQA practice to limit the evaluation of environmental effects only to the impact of a proposed project on the environment, and not the effects of the environment on a project. Thus, adverse effects from existing environmental hazards on a proposed new use would not be assessed for CEQA purposes, and no environmental conclusions would be reached. No mitigation could be required. The exception to this general rule would be if the construction or operation of the proposed project modified a condition on the project site or affecting the project site in a way that caused new or increased environmental effects offsite, or if implementation of the project exacerbated an existing condition for offsite uses.

This revision of CEQA practice affects the following issue areas in this Initial Study: However, for many environmental hazards, local agencies, such as the City of Merced, impose requirements to avoid or reduce hazards. Similarly, local agencies have the ability to impose conditions of project approval to avoid or reduce hazardous conditions.

A. Aesthetics

SETTING AND DESCRIPTION

The project site is located on the western edge of the city limits. The site is adjacent to single-family residential units to the north and vacant land to the south (this land is still in the County). To the west is SR Hwy 59 and to the east are more single-family dwellings. PG&E transmission lines run through the property near the northern property line with an approximately 120-foot tall tower sitting approximately 950 feet east of San Augustine Drive. There are also several other wooden utility poles running along the southern edge of the property. These would be removed for development. The site is flat with uninterrupted views from the east to the west. The view to the north is of dwelling units and to the south is the view of vacant land. There are no trees on the site other than a few small trees along the northern property line.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
A. Aesthetics. Will the project:				
1) Have a substantial adverse effect on a scenic vista?				✓
2) Substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				✓
3) Substantially degrade the existing visual character or quality of the site and its surrounding?				✓
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			✓	

1) *Would the project have a substantial adverse effect on a scenic vista?*

   A scenic vista is generally defined as a public vantage point with an expansive view of a significant landscape feature. As described in the General Plan, the City of Merced has developed along routes and corridors which have come to be part of the City's identity.[1] The City has designated many of these scenic routes for special development review regulation. The project site is not included in the City's designated Scenic Corridors, as designated in Implementing Action 1.3.b of the General Plan. Therefore, the project would have **no impact.**

2) *Would the project substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

   The California Department of Transportation's (Caltrans) Landscape Architecture Program administers the Scenic Highway Program, contained in the State Streets and Highways Code, Sections 260–263. State highways are classified as either Eligible for Scenic Designation, Officially Designated, or Connecting Federal Highway. Within Merced County, there are two Officially designated State Scenic Highways (Interstate 5 [I-5; north of State Route 152{SR152}] and SR 52 [west of I-5]). Both of these State Scenic Highways are located approximately 34 miles west of the project site. The project site is not visible from either State Scenic Highways; therefore the proposed project does not have the potential to damage scenic resources from designated scenic highways, and will have **no impact**.

3) *Would the project substantially degrade the existing visual character or quality of the site and its surrounding?*

   The site is currently vacant with no visual character other than a few small trees along the northern property line. The site is generally vacant other than the PG&E transmission tower and the other utility poles on the site. The proposed 2-story apartment buildings would enhance the visual character of the site adding buildings, trees, and landscaping to the site. The 2-story buildings are in keeping with the surrounding neighborhood which has a mixture of 1- and 2-story dwellings. Therefore, this project would have **no impact.**

4) *Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?*

   The project is located within an urban area and is bordered to the north and east by single-family subdivisions. To the west is SR Hwy 59 and to the south is a vacant site located within the jurisdiction of Merced County. The proposed project would introduce new sources of light and glare to the area in the form of new windows and exterior safety and security lighting, as well as parking lot lighting. Daytime glare would not be substantial because no highly-reflective glass elements or building material are proposed as part of the project. Compliance with the Building Code and Title 24 standards would ensure that light and glare impacts from the proposed project would be **less than significant**.

B. Agriculture Resources

SETTING AND DESCRIPTION

Merced County is among the largest agriculture producing counties in California (ranked fifth), with a gross income of more than $2.9 billion in 2012. The County's leading agriculture commodities include milk, chickens, almonds, cattle and calves, tomatoes, and sweet potatoes.

Important Farmlands

The Farmland Mapping and Monitoring Program is a farmland classification system that is administered by the California Department of Conversation. The system classifies agricultural land according to its soil quality and irrigation status. The best quality agricultural land is called "Prime Farmland." Prime Farmland is land that has the best combination of physical and chemical characteristics for the production of crops. The system has four additional classifications: Farmland of Statewide Importance, Unique Farmland, Farmland of Local Importance, Grazing Land, Urban and Built-up Land, and Other.

According to the 2018, Important Farmland Map for Merced County, the project site is classified as Urban and Built-up Land and Grazing Land. Urban and Built-up land is defined as land occupied by structures with a building density of at least 1 units to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential industrial, commercial, construction, institutional, public administration, railroad and other transportation yards, cemeteries, airports, golf courses, sanity landfills, sewage treatment, water control structures, and other developed purposes. Grazing land is defined as land on which the existing vegetation is suited to the grazing of livestock. This category was developed in cooperation with the California Cattlemen's Association, University of California Cooperative Extension, and other groups interested in the extent of grazing activities.

Williamson Act

In 2005, Merced County elected to participate in the State of California Williamson Act agricultural land preservation program. The purpose of the Act is to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. As of 2007, there were more than 450,000 acres of the County under Williamson Act contracts, but in 2009, the Merced County Board of Supervisors elected to suspend the Act when the State elected to end tax reimbursements to the County. The annexation area is not subject to a Williamson Act contract.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
B. Agriculture Resources. Will the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non - agriculture?				✓

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				✓
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?				✓
4) Result in the loss of forest land or conversion of forest land to non-forest use?				✓
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				✓

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

   As shown on the map at Figure B-1 and described above, the project site is classified as Urban and Built-up Land and Grazing Land. Therefore, there would be **no impact** to Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.

2) *Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?*

   The project site is not currently zoned for agriculture activities or part of a Williamson Act contract. Therefore there would be **no impact.**

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

   The project site is located within an existing urban area and is zoned Planned Development (P-D) #46. The proposed project would not conflict with the existing zoning for, or cause rezoning of, forest land or conversion of forest land to non-forest uses. Therefore, the proposed project would have **no impact**.

4) *Would the project result in the loss of forest land or conversion of forest land to non-forest use?*

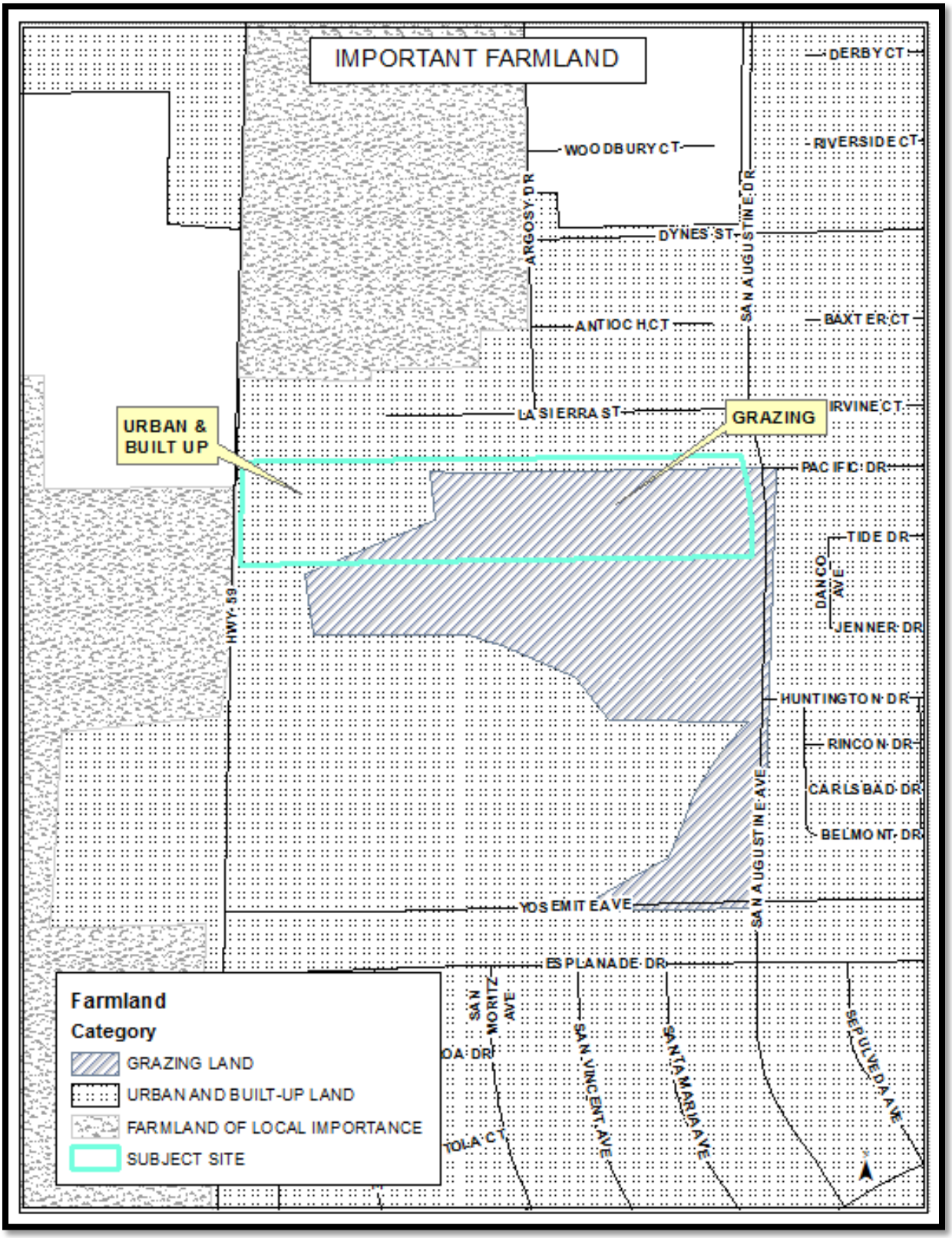
The proposed project would not result in the loss of forest land or conversion of forest land to non-forest uses. Therefore, the proposed project would have **no impact**.

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

The project site is adjacent to developed residential land to the north and east. The vacant property to the south previously had a cement plant on it and appears to have left some cement scattered throughout the site making it less than ideal for farming or grazing. The property across SR Hwy 59 to the west of the site is designated as "Farmland of Local Importance." Although the land west of SR Hwy 59 has this designation, it does not appear this land has been farmed in recent years.

The development of the proposed project would not cause changes to the environment that could result in the conversion of Farmland to a non-agricultural use. Additionally, as stated above, the project site would have no impact on forest land and could not result in the conversion of Forest land to non-forest use. Therefore, there is **no impact.**

Figure B-1
Important Farmland



C. Air Quality

SETTING AND DESCRIPTION

The San Joaquin Valley Air Pollution Control District (SJVAPCD) reviews development projects to assess the impact to air quality and to establish acceptable mitigation measures. While the action of the SJVAPCD is independent of City reviews and actions, their process allows the City to review proposed mitigation measures that could affect project design and operation. Any proposed changes are subject to approval by the City.

The City of Merced is located in the San Joaquin Valley Air Basin (SJVAB), which occupies the southern half of the Central Valley and is approximately 250 miles in length and, on average, 35 miles in width. The Coast Range, which has an average elevation of 3,000 feet, serves as the western border of the SJVAB. The San Emigdio Mountains, part of the Coast Range, and the Tehachapi Mountains, part of the Sierra Nevada, are both located to the south of the SJVAB. The Sierra Nevada extends in a northwesterly direction and forms the eastern boundary of the SJVAB. The SJVAB is basically flat with a downward gradient to the northwest.

The climate of the SJVAB is strongly influenced by the presence of these mountain ranges. The mountain ranges to the west and south induce winter storms from the Pacific to release precipitation on the western slopes, producing a partial rain shadow over the valley. A rain shadow is defined as the region on the leeward side of the mountain where precipitation is noticeably less because moisture in the air is removed in the form of clouds and precipitation on the windward side. In addition, the mountain ranges block the free circulation of air to the east, resulting in the entrapment of stable air in the valley for extended periods during the cooler months.

Winter in the SJVAB is characterized as mild and fairly humid, and the summer is hot, dry, and cloudless. During the summer, a Pacific high-pressure cell is centered over the northeastern Pacific Ocean, resulting in stable meteorological conditions and a steady northwesterly wind.

The SJVAPCD has jurisdiction over most air quality matters in the Air Basin. It is tasked with implementing programs and regulations required by the federal and California Clean Air Acts. Under their respective Clean Air Acts, both the federal government and the State of California have established ambient air quality standards for six criteria air pollutants: ozone, particulate matter, carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead. California has four additional pollutants for which it has established standards. The table below shows the attainment status of the Air Basin relative to federal and State ambient air quality standards.

As shown in Table C-1, the Air Basin is considered a nonattainment area for ozone under both State and federal 8-hour standards and under the State 1-hour standard, for particulate matter less than 10 micrometers in diameter (PM_{10}) under the State standard, and for particulate matter less than 2.5 micrometers in diameter ($PM_{2.5}$) under the federal standard. The Air Basin is in attainment of, or unclassified for, all other federal and State criteria pollutant standards.

TABLE C-1
SAN JOAQUIN VALLEY AIR BASIN ATTAINMENT STATUS

	Designation/Classification	
Criteria Pollutant	**Federal Primary Standards**	**State Standard**
Ozone – One hour	No Federal Standard	Nonattainment/Severe
Ozone – Eight hour	Nonattainment/Extreme	Nonattainment
PM_{10}	Attainment	Nonattainment
$PM_{2.5}$	Nonattainment	Nonattainment
Carbon Monoxide (CO)	Attainment/Unclassified	Attainment/Unclassified
Criteria Pollutant	**Federal Primary Standards**	**State Standard**
Nitrogen Dioxide (NO_x)	Attainment/Unclassified	Attainment
Sulfur Dioxide (SO_x)	Attainment/Unclassified	Attainment
Lead	No Designation Classification	Attainment
Hydrogen Sulfide	No Federal Standard	Unclassified
Sulfates	No Federal Standard	Attainment
Visibility Reducing Particles	No Federal Standard	Unclassified
Vinyl Chloride	No Federal Standard	Attainment

Ozone is not directly produced by automobile fuel combustion; rather, it is a secondary pollutant that is formed from reactive organic gases (ROG) and nitrogen oxides (NO_x) in the presence of sunlight. The principal sources of ROG and NO_x (known as "ozone precursors") are the combustion of fuels and the evaporation of solvents, paints, and fuels. Ozone is a strong irritant that can cause constriction of the airways, forcing the respiratory system to work harder to provide oxygen. It also can lead to aggravated respiratory diseases and lung damage, and it can cause substantial damage to vegetation and to manmade products such as rubber and plastics. Applicable attainment plans of the SJVAPCD include the 2007 Ozone Plan and the 2013 Plan for the Revoked 1-Hour Ozone Standard for the Air Basin.

Particulate matter is a complex mixture of solids and liquids that may contain soot, smoke, metals, nitrates, sulfates, dust, water, and tire rubber. It can be directly emitted, or it can form in the atmosphere from reactions of gases such as NO_x. There are many sources of particulate matter emissions, including combustion, industrial and agricultural processes, grading and construction, and motor vehicle use. The size of the particles is directly linked to their potential for causing health problems, including respiratory, pulmonary, and cardiovascular diseases. $PM_{2.5}$ poses the greatest health threat because it can get deep into the lungs and even enter the bloodstream. Applicable attainment plans of the SJVAPCD include the 2015 PM2.5 Plan for the 1997 federal $PM_{2.5}$ standard, the 2012 PM2.5 Plan for the 2006 federal $PM_{2.5}$ standard, the 2016 Moderate Area Plan for the 2012 federal $PM_{2.5}$ standard, and the 2007 PM10 Maintenance Plan to maintain the Air Basin's attainment status of federal PM_{10} standards.

Another criteria pollutant of concern is carbon monoxide (CO). CO is an odorless, colorless gas that is formed by incomplete combustion of fuels and is emitted directly into the air. The main source of CO in the San Joaquin Valley is on-road motor vehicles. At high concentrations, CO reduces the oxygen-carrying capacity of the blood and can cause dizziness, headaches, unconsciousness, and even death. Problems associated with CO are localized in character, so both ARB and EPA designate urban areas as CO nonattainment areas instead of

the entire Air Basin (SJVAPCD 2015b). The project site is not within an urban area designated as nonattainment for CO.

In addition to the criteria pollutants, the California Air Resources Board (CARB) has identified a class of air pollutants known as toxic air contaminants (TACs) - pollutants that even at low levels may cause acute serious, long-term health effects, such as cancer. Diesel particulate matter is the most commonly identified TAC, generated mainly as a product of combustion in diesel engines. Other TACs are less common and are typically associated with industrial activities. However, gasoline contains toxic substances such as benzene, toluene, and naphthalene, among others.

Regulatory Framework

As previously noted, the SJVAPCD has jurisdiction over most air quality matters in the San Joaquin Valley Air Basin, including the City of Merced. It implements the federal and California Clean Air Acts, and the applicable attainment and maintenance plans, through local regulations. The SJVAPCD regulations that would be applicable to the project are summarized below.

Regulation VIII (Fugitive Dust PM10 Prohibitions)
Rules 8011-8081 are designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction and demolition activities, road construction, bulk materials storage, paved and unpaved roads, carryout and track out, landfill operations, etc.

Rule 4101 (Visible Emissions)

This rule prohibits emissions of visible air contaminants to the atmosphere and applies to any source operation that emits or may emit air contaminants.

Rule 9510 (Indirect Source Review)

Rule 9510, also known as the Indirect Source Rule (ISR), is intended to reduce or mitigate emissions of NO_x and PM_{10} from new development in the SJVAPCD including construction and operational emissions. This rule requires specific percentage reductions in estimated on-site construction and operation emissions, and/or payment of off-site mitigation fees for required reductions that cannot be met on the project site. ISR fees are used to provide offsetting mitigation. Construction emissions of NO_x and PM_{10} exhaust must be reduced by 20% and 45%, respectively. Operational emissions of NO_x and PM_{10} must be reduced by 33.3% and 50%, respectively. The ISR applies to commercial development projects of 2,000 square feet and larger. Based on this criteria, the project would be subject to Rule 9510.

In addition, the SJVAPCD regulates the construction and improvement of facilities with potential air toxic emissions, including gasoline stations. SJVAPCD rules applicable to gasoline stations include:

Rule 2201 (New and Modified Stationary Source Review Rule)

New stationary sources and modifications of existing stationary sources that may emit criteria pollutants must obtain an Authority to Construct and Permit to Operate

the proposed facility. Emissions that exceed impact thresholds must include emission controls and may require additional mitigation.

Rule 4621 (Gasoline Transfer into Stationary Storage Containers, Delivery Vessels and Bulk Plants)

Rule 4621 prohibits the transfer of gasoline from a delivery vessel into a stationary storage container unless the container is equipped with a CARB-certified permanent submerged fill pipe and CARB certified pressure-vacuum relief valve, and utilizes a CARB-certified Phase I vapor recovery system.

Rule 4622 (Transfer of Gasoline into Vehicle Fuel Tanks)

Rule 4622 prohibits the transfer of gasoline from a stationary storage container into a motor vehicle fuel tank with a capacity greater than 5 gallons, unless the gasoline dispensing unit used to transfer the gasoline is equipped with and has in operation a CARB-certified Phase II vapor recovery system.

Significance Thresholds

According to Appendix G of the CEQA Guidelines, a project may have a significant impact on the environment if it would do the following:

- Conflict with or obstruct implementation of an applicable air quality plan.
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation.
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.
- Expose sensitive receptors to substantial pollutant concentrations.
- Create objectionable odors affecting a substantial number of people.

CEQA Guidelines Appendix G also states that, where available, significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make significance determinations. In 2015, the SJVAPCD adopted an updated Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI). The GAMAQI defines methodology and thresholds of significance for the assessment of air quality impacts for projects within SJVAPCD's jurisdiction, along with potential mitigation measures for identified impacts.

Table C-2 shows the significance thresholds for criteria air pollutant emissions within the SJVAPCD, both for construction emissions and emissions from project operations. As stated in the GAMAQI, the basis for the significance thresholds are the New Source Review (SJVAPCD Rule 2201) offset thresholds. The SJVAPCD's attainment plans demonstrate that project-specific emissions below these offset thresholds would have air quality impacts that are less than significant (SJVAPCD 2015b). It should be noted that a project may still have significant air quality impacts even if its estimated emissions are below significance thresholds, depending on its location and adjacent land uses.

TABLE C-2
SJVAPCD SIGNIFICANCE THRESHOLDS
Emissions (tons per year)

Pollutant	Construction	Operational
Carbon Monoxide	100	100
Nitrogen Oxides (NOx)	10	10
Reactive Organic Gases (ROG)	10	10
Sulfur Oxides (SOx)	27	27
Particulate Matter (PM_{10})	15	15
Fine Particulate Matter ($PM_{2.5}$)	15	15

Source: SJVAPCD 2015b.

For CO emissions, the GAMAQI states that project operational emissions would have an impact that is less than significant if either of the following criteria are met:

- A traffic study for the project indicates that the Level of Service (LOS) on one or more streets or at one or more intersections in the project vicinity will be reduced to LOS E or F; and,
- A traffic study indicates that the project will substantially worsen an already existing LOS F on one or more streets or at one or more intersections in the project vicinity.

If either of these criteria can be associated with any intersection affected by the project, then a CO analysis would need to be conducted to determine the significance of the project's impacts (SJVAPCD 2015b). For TACs, the GAMAQI states that carcinogenic emissions from project operations are considered to have a significant impact if the maximally exposed individual risk equals or exceeds 10 in 1 million.

An Air Quality and Greenhouse Gas Analysis was prepared by Mitchell Air Quality Consulting (Attachment C). This analysis found all Air Quality impacts to be less than significant.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
C. <u>Air Quality.</u> Would the project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?			✓	
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			✓	

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			✓	
4) Expose sensitive receptors to substantial pollutant concentrations?			✓	
5) Create objectionable odors affecting a substantial number of people?			✓	

1) *Would the project conflict with or obstruct implementation of the applicable air quality plan?*

Refer to Section 5.2 for details on the analysis prepared by Mitchell Air Quality Consulting (Attachment C). The analysis concluded that the project's emission are less than significant for all criteria pollutants and would not result in inconsistency with the AQP for this criterion. The project proposes a land use designation that would provide densities and development patterns consistent with the land use policies of the *City of Merced Vision 2030 General Plan*. The project complies with all applicable policies, implementation actions, and mitigation measures of the General Plan, therefore, the project is consistent with the AQP, and the impact would be **less than significant**.

2) *Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?*

Refer to Section 5.2 for details on the analysis prepared by Mitchell Air Quality Consulting (Attachment C). The analysis concluded this impact would be **less than significant.**

3) *Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?*

Refer to Section 5.2 for details on the analysis prepared by Mitchell Air Quality Consulting (Attachment C). The analysis concluded this impact would be **less than significant.**

4) *Would the project expose sensitive receptors to substantial pollutant concentrations?*

Refer to Section 5.2 for details on the analysis prepared by Mitchell Air Quality Consulting (Attachment C). The project does not exceed SJVAPCD screening thresholds for localized criteria pollutant impacts on sensitive receptors. The project would not result in significant

impacts from operational TAC emissions and Valley fever. Therefore, the project's impact on sensitive receptors would be **less than significant**.

5) *Would the project **c**reate objectionable odors affecting a substantial number of people?*

Refer to Section 5.2 for details on the analysis prepared by Mitchell Air Quality Consulting (Attachment C). The project has the potential to place sensitive receptors near existing odor sources. There are no odor generating sources within screening distance of the site. Therefore, the uses in the vicinity of the project would not cause substantial odor impacts to the project. This is impact would be **less than significant.**

D. Biological Resources

SETTING AND DESCRIPTION

The City of Merced is located in the Central California Valley eco-region (Omernik 1987). This eco-region is characterized by flat, intensively farmed plains with long, hot, dry summers and cool, wet winters (14-20 inches of precipitation per year). The Central California Valley eco-region includes the Sacramento Valley to the north and the San Joaquin Valley to the south and it ranges between the Sierra Nevada Foothills to the east to the Coastal Range foothills to the west. Nearly half of the eco-region is actively farmed, and about three fourths of that farmed land is irrigated.

The project site, located at the City's western edge, is a vacant parcel that was most recently used for farming activities, but has been unused for at least the last year. There are residential uses to the north and west and vacant land to the south designated for residential development. The property to the east and northeast are farmland areas.

The project site does not contain any trees, creeks, or other wetland areas.

The biologic assessment conducted with the annexation of this site in 2000 made the following findings:

- There were no Swainson's hawks or burrowing owls occupying the Project site. It is considered unlikely that these species would nest in or near the site in the future.
- No kit fox were observed in the Project site or buffer areas around the site. In the opinion of the consultants (Moore Biological Consultants of Lodi), the fact that this site is substantially surrounded by development, both residential and agricultural would provide the strong basis for argument that any importance of this site to the species is approaching zero and mitigation is unwarranted.

The biological assessment done is 2000 revealed no evidence of the presence of any candidate, sensitive, or special status species or their habitats on the project site. According to the U.S. Fish and Wildlife Service Information for Planning and Conservation (IPaC) trust resource report, the site does not include any plant and/or animal species listed as threatened or endangered by the State of California or the Federal Government. Furthermore, the biological resources evaluation, prepared as part of the *Merced Vision 2030 General Plan Program Environmental Impact Report* (EIR), does not identify the project area as containing any seasonal or non-seasonal wetland or vernal pool areas. Given the adjacent, built-up, urban land uses and major roadways, no form of unique, rare, or endangered species of plant and/or animal life could be sustained on the subject site.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
D. <u>Biological Resources.</u> Would the project:				
1) Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			✓	
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			✓	
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				✓
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			✓	
5) Conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance?			✓	
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan				✓

1) *Would the project have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

No species identified as a candidate, sensitive, or special status species in local or regional plan has been identified on the project site. However, at the time the project site was annexed, mitigation measures were adopted to ensure that development in this area would not produce any adverse effects on any of these species. In addition, compliance with the mitigation measures identified in the *Merced Vision 2030 General Plan* would mitigate any possible impacts to these species. Therefore, this impact is **less than significant.**

2) *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

No riparian habitat or other sensitive natural community has been identified on the project site. However, at the time the project site was annexed, mitigation measures were adopted to ensure that development in this area would not produce any adverse effects on any of these species. In addition, compliance with the mitigation measures identified in the *Merced Vision 2030 General Plan* would mitigate any possible impacts to these species. Therefore, this impact is **less than significant.**

3) *Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No wetlands have been identified on the project site. Therefore, **no impact** would result from the implementation of this project.

4) *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

According to the *Merced Vision 2030 General Plan Draft EIR*, the area within the City of Merced is not within a designated wildlife corridor or linkage area for sensitive species. The City is not within a local migratory corridor for other species and is not considered to be a wildlife nursery. However, construction activity within the City, including this site, could disturb nesting, feeding, rearing, and foraging behaviors of migratory birds if active nests are within construction areas. Implementation of the mitigation measures required by the *Merced Vision 2030 General Plan* would ensure any impacts were **less than significant.**

5) *Would the project conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance?*

The *Merced Vision 2030 General Plan* includes policies directed at the conservation of wildlife habitats which support rare, endangered, or threatened species and preserving and enhancing creeks in their natural state. Compliance with these policies and any applicable mitigation measures would reduce any impacts to a **less than significant level.**

6) *Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan*

There are no applicable habitat conservation plans or natural community preservations plans affecting the project site. Therefore, there would be **no impact.**

E. Cultural Resources

SETTING AND DESCRIPTION

The City of Merced area lies within the ethnographic territory of the Yokuts people. The Yokuts were members of the Penutian language family which held all of the Central Valley, San Francisco Bay Area, and the Pacific Coast from Marin County to near Point Sur.

Merced County was first explored by Gabriel Moraga in 1806, when he named the Merced River, "El Rio de Nuestra Señora de la Merced." Moraga's explorations were designed to locate appropriate sites for an inland chain of missions. Moraga explored the region again in 1808 and 1810.

The project site is not known to have any cultural or historical resources.

Archaeology

Archaeological sites are defined as locations containing significant levels of resources that identify human activity. Very little archaeological survey work has been conducted within the City or its surrounding areas. Creeks, drainage, and sloughs exist in the northern expansion area of the City, and Bear Creek and Cottonwood Creek pass through the developed area. Archaeological sites in the Central Valley are commonly located adjacent to waterways and represent potential for significant archaeological resources.

Paleontological sites are those that show evidence of pre-human existence. Quite frequently, they are small outcroppings visible on the earth's surface. While the surface outcroppings are important indications of paleontological resources, it is the geologic formations that are the most important. There are no known sectors within the project area known to contain sites of paleontological significance.

Historic Resources

In 1985, in response to community concerns over the loss of some of the City's historic resources, and the perceived threats to many remaining resources, a survey of historic buildings was undertaken in the City. The survey focused on pre-1941 districts, buildings, structures, and objects of historical, architectural, and cultural significance. The survey area included a roughly four square-mile area of the central portion of the City.

The National Register of Historic Places, the California Historical Landmarks List, and the California Inventory of Historic Resources identify several sites within the City of Merced. These sites are listed on the Merced Historical Site Survey and maintained by the Merced Historical Society.

According to the environmental review conducted for the General Plan, there are no listed historical sites and no known locations within the project area that contain sites of paleontologic or archeological significance. The General Plan (Implementation Action SD-2.1.a) requires that the City utilize standard practices for preserving archeological materials that are unearthed during construction, as prescribed by the State Office of Historic Preservation.

The project site consists of approximately 10.73 acres of vacant land that was previously used as agricultural land. In more recent times, the site has remained vacant and is currently covered in native grass and weeds.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
E. <u>Cultural Resources.</u> Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?			✓	
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?			✓	
3) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			✓	
4) Disturb any human remains, including those interred outside of formal cemeteries?			✓	

1) *Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?*

   There are no cultural resources identified on this site. However, if previously undiscovered resources were uncovered during project construction, implementation of the mitigation measures adopted by the *Merced Vision 2030 General Plan* and the mitigation measures previously adopted for this site with the annexation would reduce any potential impacts to a **less than significant level.**

2) *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?*

   There are no archeological resources identified on this site. However, if previously undiscovered resources were uncovered during project construction, implementation of the mitigation measures adopted by the *Merced Vision 2030 General Plan* and the mitigation measures previously adopted for this site with the annexation would reduce any potential impacts to a **less than significant level**.

3) *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

   There are no paleontological resources identified on this site. However, if previously undiscovered resources were uncovered during project construction, implementation of the mitigation measures adopted by the *Merced Vision 2030 General Plan* and the mitigation measures previously adopted for this site with the annexation would reduce any potential impacts to a **less than significant level.**

4) *Would the project disturb any human remains, including those interred outside of formal cemeteries?*

It is not anticipated that human remains would be found on the site. However, if previously undiscovered human remains were uncovered during project construction, implementation of the mitigation measures adopted by the *Merced Vision 2030 General Plan* and the mitigation measures previously adopted for this site with the annexation would reduce any potential impacts to a **less than significant level.**

F. Geology and Soils

SETTING AND DESCRIPTION

The City of Merced is located approximately 150 miles southeast of San Francisco along the west side of the southern portion of the Great Valley Geomorphic Province, more commonly referred to as the San Joaquin Valley. The valley is a broad lowlands bounded by the Sierra Nevada to the east and Coastal Ranges to the west. The San Joaquin Valley has been filled with a thick sequence of sedimentary deposits of Jurassic to recent age. A review of the geologic map indicates that the area around Merced is primarily underlain by the Pleistocene Modesto and Riverbank Formations with Holocene alluvial deposits in the drainages. Miocene-Pliocene Mehrten and Pliocene Laguna Formation materials are present in outcrops on the east side of the SUDP/SOI. Modesto and Riverbank Formation deposits are characterized by sand and silt alluvium derived from weathering of rocks deposited east of the SUDP/SOI. The Laguna Formation is made up of consolidated gravel sand and silt alluvium and the Mehrten Formation is generally a well consolidated andesitic mudflow breccia conglomerate.

Faults and Seismicity

A fault, or a fracture in the crust of the earth along which rocks on one side have moved relative to those on the other side, are an indication of past seismic activity. It is assumed that those that have been active recently are the most likely to be active in the future, although even inactive faults may not be "dead." "Potentially Active" faults are those that have been active during the past two million years or during the Quaternary Period. "Active" faults are those that have been active within the past 11,000 years. Earthquakes originate as movement or slippage occurring along an active fault. These movements generate shock waves that result in ground shaking.

Based on review of geologic maps and reports for the area, there are no known active or potentially active faults, or Alquist-Priolo Earthquake Fault Zones (formerly referred to as a Special Studies Zone) in the SUDP/SOI. In order to determine the distance of known active faults within 50 miles of the Site, the computer program EZ-FRISK was used in the General Plan update.

Soils

Soil properties can influence the development of building sites, including site selection, structural design, construction, performance after construction, and maintenance. Soil properties that affect the load-supporting capacity of an area include depth to groundwater, ponding, flooding, subsidence, shrink-swell potential, and compressibility.

The City of Merced regulates the effects of soils and geological constraints primarily through the enforcement of the California Building Code (CBC), which requires the implementation of engineering solutions for constraints to development posed by slopes, soils, and geology.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
F. <u>Geology and Soils.</u> Would the project:				
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: a) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?			✓	
b) Strong seismic ground shaking?			✓	
c) Seismic-related ground failure, including liquefaction?			✓	
d) Landslides?			✓	
2) Result in substantial soil erosion or loss of topsoil?			✓	
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?			✓	
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			✓	
5) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				✓

1) *Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:*

(a) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

The project site is not located within a mapped fault hazard zone, and there is no record or evidence of faulting on the project site (City of Merced General Plan Figure 11.1).

Because no faults underlie the project site, no people or structures would be exposed to substantial adverse effects related to earthquake rupture.

According to the City's *Merced Vision 2030 General Plan EIR*, the probability of soil liquefaction occurring within the City of Merced is considered to be a low to moderate hazard; however, a detailed geotechnical engineering investigation would be required for the project in compliance with the California Building Code (CBC).

There would be no exposure to any geological hazards in the project area.

Ground shaking of moderate severity may be expected to be experienced on the project site during a large seismic event. All building permits are reviewed to ensure compliance with the California Building Code (CBC). In addition, the City enforces the provisions of the Alquist Priolo Special Study Zones Act that limit development in areas identified as having special seismic hazards. All new structures shall be designed and built in accordance with the standards of the California Building Code. Therefore, this impact would be **less than significant.**

APPLICABLE GENERAL PLAN GOALS AND POLICIES

The City's *Merced Vision 2030 General Plan* contains policies that address seismic safety.

Goal Area S-2: Seismic Safety:	
Goal: Reasonable Safety for City Residents from the Hazards of Earthquake and Other Geologic Activity.	
Policies:	
S-2.3	Restrict urban development in all areas with potential ground failure characteristics.

(b) Strong seismic ground shaking?

Refer to the analysis above. This impact is **less than significant.**

(c) Seismic-related ground failure, including liquefaction?

Refer to the analysis above. This impact is **less than significant.**

(d) Landslides?

The project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.

Landslides generally occur on slopes of 15 percent or greater. The project site's topography is generally of slopes between 0 and 3 percent, which are considered insufficient to produce hazards other than minor sliding during seismic activity. Therefore, this impact would be **less than significant.**

2) *Would the project result in substantial soil erosion or loss of topsoil?*

Construction associated with the proposed project could result in temporary soil erosion and the loss of top soil due to construction activities, including clearing, grading, site preparation activities, and installation of the proposed buildings and other improvements. The City of Merced enforces a Stormwater Management Program in compliance with the Federal Clean Water Act. All construction activities are required to comply with the City's Erosion and Sediment Control Ordinance (MMC §15.50.120.B), including the implementation of Best Management Practices (BMPs) to limit the discharge of sediment into natural waterways and stormwater drainage facilities. Compliance with the City's General Plan Policies and Implementing Actions as well as the City's Sediment Control Ordinance would reduce the any potential impacts to a **less than significant level.**

APPLICABLE GENERAL PLAN GOALS AND POLICIES

The City's *Merced Vision 2030 General Plan* contains policies that address soil erosion and loss of topsoil.

Goal Area OS-5.2:Conservation of Resources	
Goal: Preservation and Protection of Soil Resources	
Policies:	
OS-5.2	Protect soil resources from the erosive forces of wind and water.
Implementing Actions:	
5.2a	Reduce soil erosion potential of new development.
5.2c	Maintain adequate vegetation along the banks of urban streams and stormwater drainage channels.

3) *Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?*

The City of Merced is located in the Valley area of Merced County and is, therefore, less likely to experience landslides than other areas in the County. The probability of soil liquefaction actually taking place anywhere in the City of Merced is considered to be a low to moderate hazard. According to the *Merced Vision 2030 General Plan EIR*, no significant free face failures were observed within the SUDP/SOI and the potential for lurch cracking and lateral spreading is, therefore, very low within the SUDP/SOI area. Therefore, this impact is **less than significant.**

4) *Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?*

Expansive soils are those possessing clay particles that react to moisture changes by shrinking (when they dry) or swelling (when they become wet). Expansive soils can also consist of silty to sandy clay. The extent of shrinking and swelling is influenced by the environment, extent of wet or dry cycles, and by the amount of clay in the soil. This physical change in the soils can react unfavorably with building foundations, concrete walkways, swimming pools, roadways, and masonry walls.

Implementation of General Plan Policies, adherence to the Alquist-Priolo Act, and enforcement of the California Building Code (CBC) Standards would reduce the effect of this hazard on new buildings and infrastructure associated with the project. This impact would be **less than significant.**

5) *Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?*

The project site would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. However, the proposed project would be served by the City's sewer system. No new septic systems are allowed within the City Limits. Therefore, there would be **no impact.**

G. Hazards and Hazardous Materials

SETTING AND DESCRIPTION

Hazardous Materials

A substance may be considered hazardous due to a number of criteria, including toxicity, ignitability, corrosivity, or reactivity. The term "hazardous material" is defined in law as any material that, because of quantity, concentration, or physical, or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment.

Wildland and Urban Fire Hazards

Both urban and wildland fire hazard potential exists in the City of Merced and surrounding areas, creating the potential for injury, loss of life, and property damage. Urban fires primarily involve the uncontrolled burning of residential, commercial, or industrial structures due to human activities. Wildland fires affect grassland, brush or woodlands, and any structures on or near these fires. Such fires can result from either human made or natural causes.

Urban fires comprise the majority of fires in the City of Merced. The site is adjacent to undeveloped ag land which could be a source for a wildland fire. However, the City of Merced Fire Department has procedures in place to address the issue of wildland fires, so no additional mitigation would be necessary.

Airport Safety

The City of Merced is impacted by the presence of two airports-Merced Regional Airport, which is in the southwest corner of the City, and Castle Airport (the former Castle Air Force Base), located approximately eight miles northwest of the subject site.

The continued operation of the Merced Regional Airport involves various hazards to both flight (physical obstructions in the airspace or land use characteristics which affect flight safety) and safety on the ground (damage due to an aircraft accident). Growth is restricted around the Regional Airport in the southwest corner of the City due to the noise and safety hazards associated with the flight path.

Castle Airport also impacts the City. Portions of the northwest part of the City's SUDP/SOI and the incorporated City are within Castle's safety zones. The primary impact is due to noise (Zones C and D), though small areas have density restrictions (Zone B2). The military discontinued operations at Castle in 1995. One important criterion for determining the various zones is the noise factor. Military aircraft are designed solely for performance, whereas civilian aircraft have extensive design features to control noise.

Potential hazards to flight include physical obstructions and other land use characteristics that can affect flight safety, which include: visual hazards such as distracting lights, glare, and sources of smoke; electronic interference with aircraft instruments or radio communications; and uses which may attract flocks of birds. In order to safeguard an airport's long-term usability, preventing encroachment of objects into the surrounding airspace is imperative.

Railroad

Hazardous materials are regularly shipped on the BNSF and SP/UP Railroad lines that pass through the City. While unlikely, an incident involving the derailment of a train could result in the spillage of cargo from the train in transporting. The spillage of hazardous materials could have devastating results. The City has little to no control over the types of materials shipped via the rail lines. There is also a safety concern for pedestrians along the tracks and vehicles utilizing at-grade crossings. The design and operation of at-grade crossings allows the City some control over rail-related hazards. Ensuring proper gate operation at the crossings is the most effective strategy to avoid collision and possible derailments.

Public Protection and Disaster Planning

Hospitals, ambulance companies, and fire districts provide medical emergency services. Considerable thought and planning have gone into efforts to improve responses to day-to-day emergencies and planning for a general disaster response capability.

The City's Emergency Plan and the County Hazardous Waste Management Plan both deal with detailed emergency response procedures under various conditions for hazardous materials spills. The City also works with the State Department of Health Services to establish cleanup plans and to monitor the cleanup of known hazardous waste sites within the City.

Project Characteristics

The project site is adjacent to SR Hwy 59 to the west. This route is used by large trucks for transporting goods into and around the Merced area. PG&E transmission lines run through this site with a large tower being located near the center of the site. PG&E maintains an 80-foot easement under the lines which would prohibit any construction in that area other than an uncovered parking lot.

The project site is not adjacent to any railroad facilities. According to the State Fire Hazard Severity Zone Map, the project site is located within a "non-wildland/non-urban" zone.

The proposed apartment project does not include the use of any hazardous materials after construction is complete.

The Merced Regional Airport is located approximately 4.5 miles south of the project site. The Castle Airport is located approximately 7 miles west of the site. According to the Merced County Airport Land Use Compatibility Map, the project site is located within Zone D (no restrictions).

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
G. **Hazards and Hazardous Materials.** Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			✓	
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			✓	
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				✓
4) Be located on a site which is included on a list of hazardous materials site compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				✓
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			✓	
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				✓

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				✓
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			✓	

1) *Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

   The proposed apartment complex would not have hazardous material onsite, other than chemicals used to treat the swimming pool for the apartment complex. These chemicals would be subject to the Merced County Health Department regulations as well as compliance with the California Fire and Building Codes.

   Construction activities associated with the proposed project would involve the use, storage, transport, and disposal of oil, gasoline, diesel fuel, paints, solvents, and other hazardous materials. Once constructed, the project would be required to adhere to all applicable federal and state health and safety standards. Construction activity must also be in compliance with the California Occupational Safety and Health Administration regulations (Occupational Safety and Health Act of 1970). Compliance with these requirements would reduce the risk of hazards to the public to a **less than significant** level.

2) *Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

   The proposed project would not involve the use of hazardous materials other than the chemicals used to maintain the swimming pool. Implementation of Fire Department and Building Code regulations for hazardous materials, as well as implementation of federal and state requirements, would reduce any risk caused by the use of any hazardous chemical to a **less than significant level**.

APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The *Merced Vision 2030 General Plan* contains policies that address disaster preparedness.

Goal Area S-1: Disaster Preparedness	
Goal **General Disaster Preparedness**	
Policies	
S-1.1	Develop and maintain emergency preparedness procedures for the City.
Implementing Actions:	
1.1.a	Keep up-to-date through annual review the City's existing Emergency Plan and coordinate with the countywide Emergency Plan.
1.1.b	Prepare route capacity studies and determine evacuation procedures and routes for different types of disasters, including means for notifying residents of a need to evacuate because of a severe hazard as soon as possible.
7.1.d	Provide continuing training for hazardous materials enforcement and response personnel.

The City of Merced *Vision 2030 General Plan* contains policies that address hazardous materials.

Goal Area S-7: Hazardous Materials	
Goal **Hazardous Materials Safety for City Residents**	
Policies	
S-2.1	Prevent injuries and environmental contamination due to the uncontrolled release of hazardous materials.
Implementing Actions:	
7.1.a	Support Merced County in carrying out and enforcing the Merced County Hazardous Waste Management Plan.
7.1.b	Continue to update and enforce local ordinances regulating the permitted use and storage of hazardous gases, liquids, and solids.
7.1.d	Provide continuing training for hazardous materials enforcement and response personnel.

3) *Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

There are no schools within one-quarter mile of the project site. Therefore, there is **no impact.**

4) *Would the project be located on a site which is included on a list of hazardous materials site compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

According to a California Department of Toxic Substances Control EnviroStor database search, the project site is not listed as a hazardous waste site. Therefore there is **no impact.**

5) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?*

The project site is identified as being located in Zone D (refer to map at Figure G-1) of the Merced County Airport Land Use Compatibility Plan (ALUCP). As such, there are no restrictions on the development of this site as it relates to the ALUCP. Therefore, this impact is **less than significant.**

6) *For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?*

The project site is not located within the vicinity of a private air strip. Therefore, there is **no impact.**

7) *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The proposed project would not adversely affect any adopted emergency response plan or emergency evacuation plan. No additional impacts would result from the development of the project area over and above those already evaluated by the EIR prepared for the *Merced Vision 2030 General Plan.* Refer to the General Plan Policy S-1 above. Therefore there is **no impact.**

8) Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

According to the Cal Fire website, the Merced County Fire Hazard Severity Zone Map shows the project site is designated as a "Local Area of Responsibility" (LRA) with a Hazard Classification of "Non-Wildland/Non-Urban" (refer to the map at Figure G-2)

The City of Merced Fire Department is the responsible agency for responding to fires at the project site. The project site is located within Fire District #53, with the nearest Fire Station located at 800 Loughborough Drive.

The site is adjacent to ag land that could be susceptible to wildland fires. However, the City of Merced Fire Department has procedures in place to address the issue of wildland fires, so no additional mitigation would be necessary. This potential impact is **less than significant.**

Figure G-1
Airport Land Use Compatibility Zone

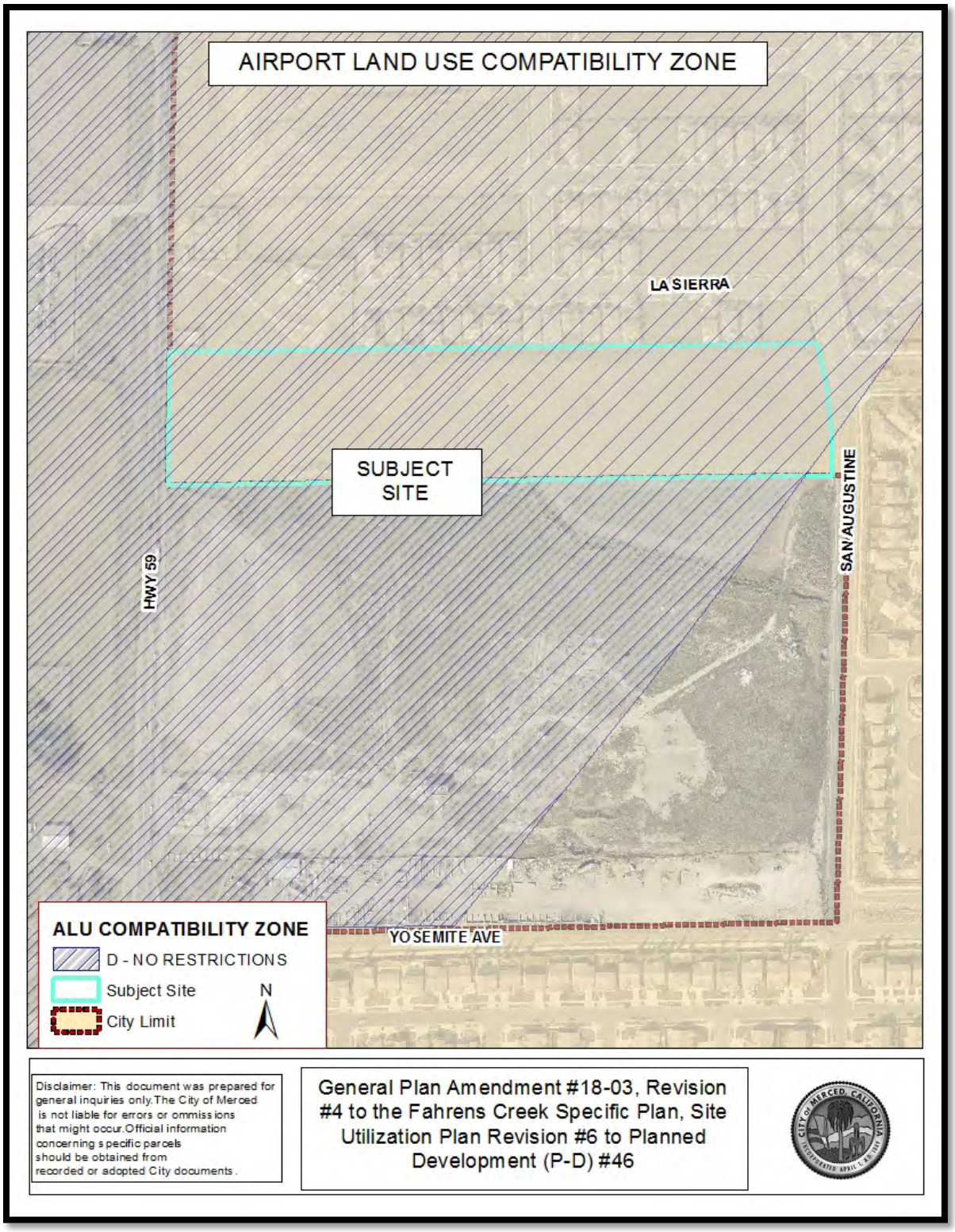
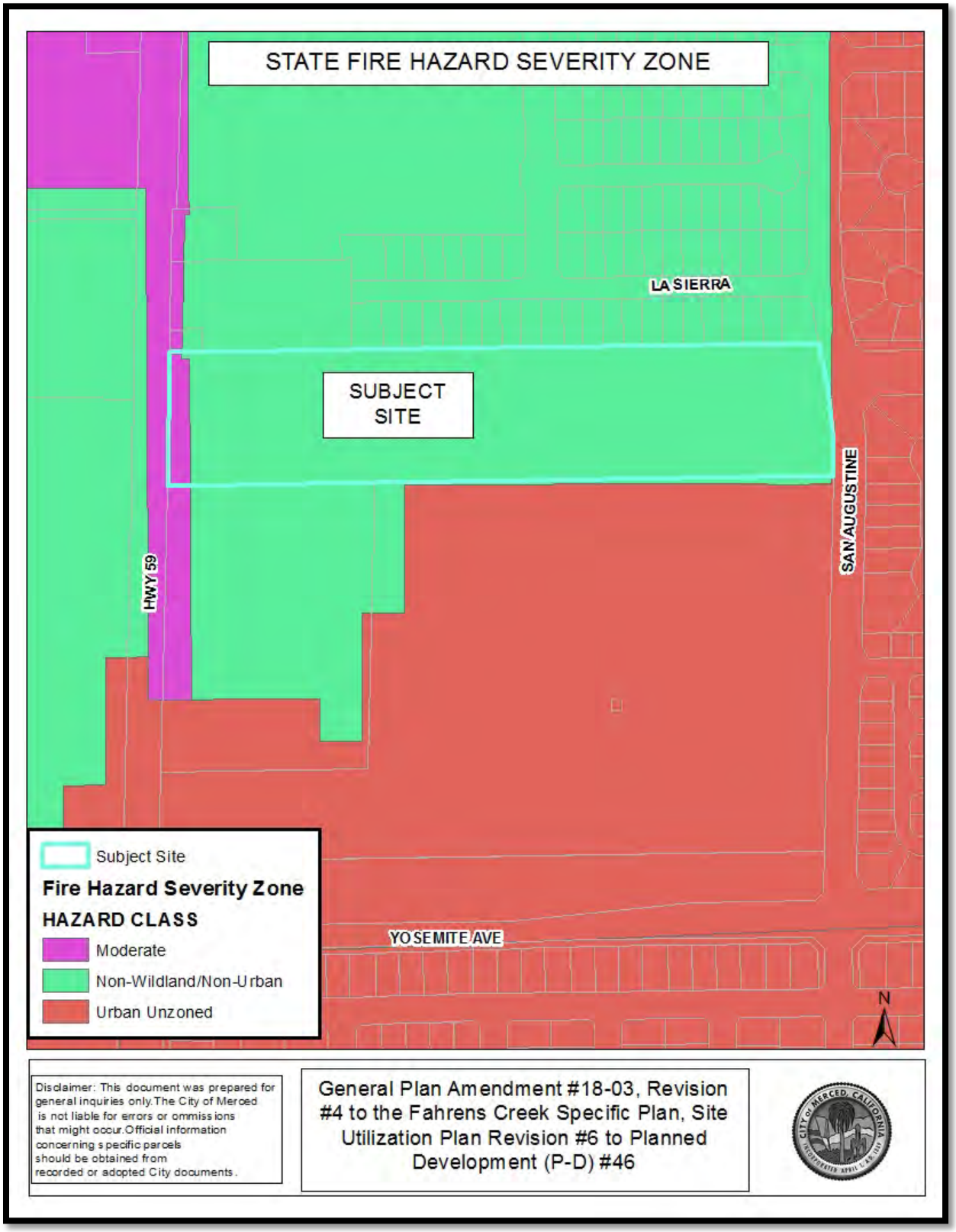


Figure G-2
Fire Hazard Severity Zone



H. Hydrology and Water Quality

SETTING AND DESCRIPTION

Water Supplies and Facilities

The City's water supply system consists of 22 wells and 14 pumping stations equipped with variable speed pumps that attempt to maintain 45 to 50 psi (pounds per square inch) nominal water pressure. The City is required to meet State Health pressure requirements, which call for a minimum of 20 psi at every service connection under the annual peak hour condition and maintenance of the annual average day demand plus fire flow, whichever is stricter.

Storm Drainage/Flooding

In accordance with the adopted *City of Merced Standard Designs of Common Engineering Structures*, percolation/detention basins are designed to temporarily collect run-off so that it can be metered at acceptable rates into canals and streams which have limited capacity. Storm drain lines would have to be extended to serve the project area. Additionally, drainage facilities would need to be provided on-site to hold stormwater generated from the site. The project would be required to comply with all Post Construction Standards for the City's MS IV Permit.

The proposed project would implement a stormwater drainage system to retain stormwater on-site and then meter it out to the City's stormwater facilities. The use of landscaping areas and drainage swales would be included in the project design to capture the stormwater. All storm drainage would ultimately be collected into the City's stormwater system. The project site is located within a Flood Zone 'X" according to the FEMA Flood Hazard Mapping Tool.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
H. Hydrology and Water Quality. Would the project:				
1) Violate any water quality standards or waste discharge requirements?			✓	
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			✓	

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			✓	
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			✓	
5) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			✓	
6) Otherwise substantially degrade water quality?			✓	
7) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			✓	
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			✓	
9) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			✓	
10) Inundation by seiche, tsunami, or mudflow?			✓	

1) *Would the project violate any water quality standards or waste discharge requirements?*

The proposed project is not expected to violate any water quality standards or waste discharge requirements once constructed. However, construction of the project involves grading, building and construction, and paving activities. During development of the project there would be the potential for surface water to carry sediment from on-site erosion and other pollutants into the stormwater system.

Construction of the project would also require the use of gasoline- and diesel-powered heavy equipment such as bulldozers, backhoes, water pumps, and air compressors. Chemicals such as gasoline, diesel fuel, lubricating oil, hydraulic oil, lubricating grease, automatic transmission fluid, paints, solvents glues, and other substances would be utilized

during construction. An accidental release of any of these substances could degrade the water quality of the surface water runoff and add additional sources of pollution into the drainage system.

The National Pollutant Discharge Elimination System (NPDES) stormwater permitting is required by the State Water Board's Construction General Stormwater permit (General Permit). The General Permit regulates stormwater discharges from construction sites. Under the General Permit, the preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) is required for construction activities of 1 acre in area. The SWPPP must identify potential sources of pollution that may be reasonably expected to affect the quality of stormwater discharges as well as identify and implement BMP's that ensure the reduction of these pollutants during stormwater discharges.

As part of the permit process, the applicant would be required to submit a Stormwater Pollution Prevention Plan (SWPPP). The implementation of this plan would ensure the potential short-term impacts are reduced to a **less than significant level.**

APPLICABLE GENERAL PLAN GOALS AND POLICIES:
The *Merced Vision 2030 General Plan* contains policies that address Water Quality and Storm Drainage.

Goal Area P-5: Storm Drainage and Flood Control	
Goal: An Adequate Storm Drainage Collection and Disposal System in Merced	
Policies	
P-5.1	Provide effective storm drainage facilities for future development.
P-5.2	Integrate drainage facilities with bike paths, sidewalks, recreation facilities, agricultural activities, groundwater recharge, and landscaping.
Implementing Actions:	
5.1.a	Continue to implement the City's Stormwater Master Plan and the Stormwater Management Plan and its control measures.
5.1.c	Continue to require all development to comply with the Stormwater Master Plan and any subsequent updates.

2) *Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?*

The City of Merced is primarily dependent on groundwater sources that draw from the San Joaquin aquifer. The City has 22 active well sites with one under construction, and 14 pumping stations, which provide service to meet peak hour urban level conditions and the average daily demand plus fire flows.

According to the City of Merced Draft Water Master Plan, the estimated average peak water demand in 2016 was 23.1 mgd.

The proposed project is estimated to use approximately 42,240 gallons of water per day. This would represent 0.18% of the estimated average daily water consumption in 2016. Although development of the site would restrict onsite recharge where new impervious surface areas are created, all alterations to groundwater flow would be captured and routed to the stormwater percolation ponds or pervious surfaces with no substantial net loss in recharge potential anticipated. This reduces this impact to a **less than significant level**.

3) *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?*

The proposed project would result in modifications to the existing drainage pattern on the site. The project will be designed to capture all surface water runoff onsite and then drain into the City's existing storm drainage system.

The project site is currently vacant and consists of pervious surfaces. The proposed project would create impervious surfaces over a large portion of the project site, thereby preventing precipitation from infiltrating and causing it to pond or runoff. However, stormwater flows would be contained on-site and piped or conveyed to the City's stormwater system, there would be no potential for increased erosion or sedimentation.

Developed storm drainage facilities on the site would adequate to handle this minor increase in flows. The project would not result in a substantial alteration of drainage in the area, and no offsite uses would be affected by the proposed changes. All potential impacts are **less than significant.**

4) *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?*

The proposed project would alter the existing drainage pattern of the site, but not in a manner that would result in flooding. The site is currently vacant and any construction on the site would alter the drainage pattern and reduce the absorption capability of the site. There are no streams or rivers that would be affected. All storm runoff would be captured onsite and conveyed through pipes to the City's stormwater system. Any changes to the site would drain into the City's existing storm drain system which would prevent any onsite or offsite flooding. The project site is located in a Flood Zone "X"' which is defined as areas of minimal flooding. The project would not alter the site to the extent to affect the flood zone. This potential impact is **less than significant**.

5) *Would the project create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

Construction of the proposed apartment complex would include a storm drainage system designed to connect to the City's existing storm drain system. Storm drain lines currently exist in San Augustine Drive and Pacific Drive to the east of the site. These lines were designed to handle the capacity of this area. By changing the land use from Business Park to High—Medium Density Residential, the amount of impervious surfaces will be less. The landscaping/open space requirements for multi-family development are greater than

those for a Business Park. Therefore, the amount of run-off from the site would be less. The developer would be required to comply with the City's Post-Construction Standards for the City's Phase II MS4 Permit and provide all documentation required by the City Engineer to confirm the proposed basin is of sufficient capacity to serve the development. Therefore, this impact is **less than significant.**

6) *Would the project otherwise substantially degrade water quality?*

The proposed project would not substantially degrade water quality. The proposed project would be served by the City's water system and all water runoff will be contained onsite then directed out to the City's storm drain system. The construction of the project would not affect the water quality and would not degrade water quality in the area. This potential impact is **less than significant**.

7) *Would the project place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?*

According to the Flood Insurance Rate Map and the FEMA National Flood hazard Layer Mapping Tool, the project site is located within a Zone "X" (minimal flooding). The project would be required to comply with all California Building Code requirements related to the flood zone and any mitigation measures previously adopted for this site through the annexation process. Therefore, this impact is **less than significant.**

8) *Would the project place within a 100-year flood hazard area structures which would impede or redirect flood flows?*

The Flood Insurance Rate Map shows the project site within Flood Zone "X" (100-year) (refer to Figure H-1).

In addition to FEMA flood zone requirements, the State of California has adopted the Urban Level of Flood Protection (ULOP) Criteria in response to the Central Valley Flood Protection Act of 2008. These criteria were adopted to help strengthen the link between flood management and land use within California's Central Valley by protecting development from a 200-year flood event. According to the most recent data the City has regarding the ULOP boundaries, the eastern portion of the site is located within the ULOP area with an elevation contour of 168 (refer to Figure H-2). The project would be required to comply with all requirements of the ULOP as part of the building permit process. This would reduce this impact to a **less than significant level.**

9) *Would the project expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?*

Refer to the discussion in item #8 above. This impact is **less than significant.**

10) *Would the project cause inundation by seiche, tsunami, or mudflow?*

The proposed project is located approximately 80 miles from the Pacific Ocean. The site is located within the inundation zone for Lake Yosemite, However, the implementation of the requirements for the ULOP would protect the buildings from any potential dam failure at Lake Yosemite. According to the City's General Plan Safety Element, the City of

Merced is not subject to inundation by tsnami, seiche, or mudflow. This potential impact is **less than significant**.

Figure H-1
FEMA Flood Zone

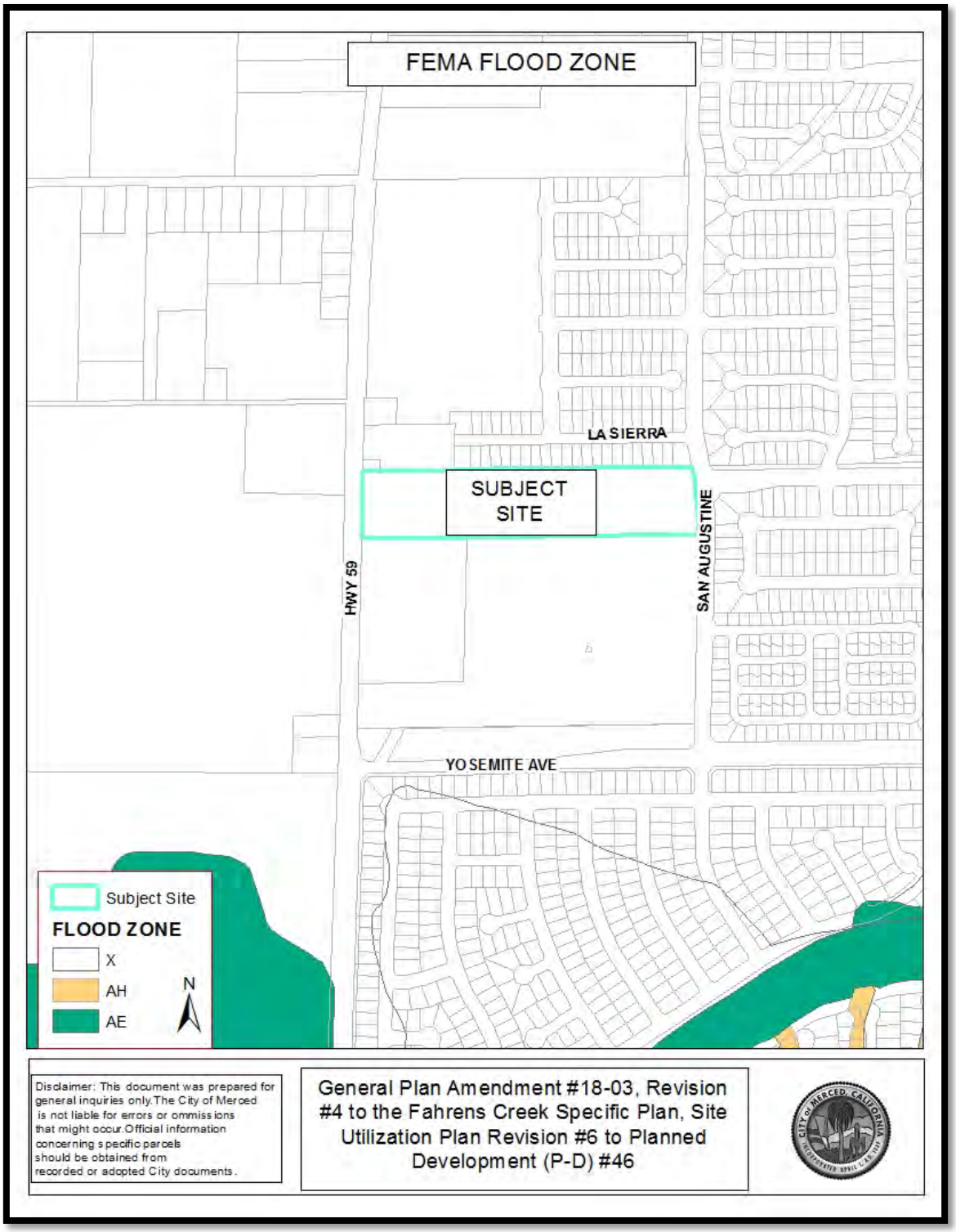
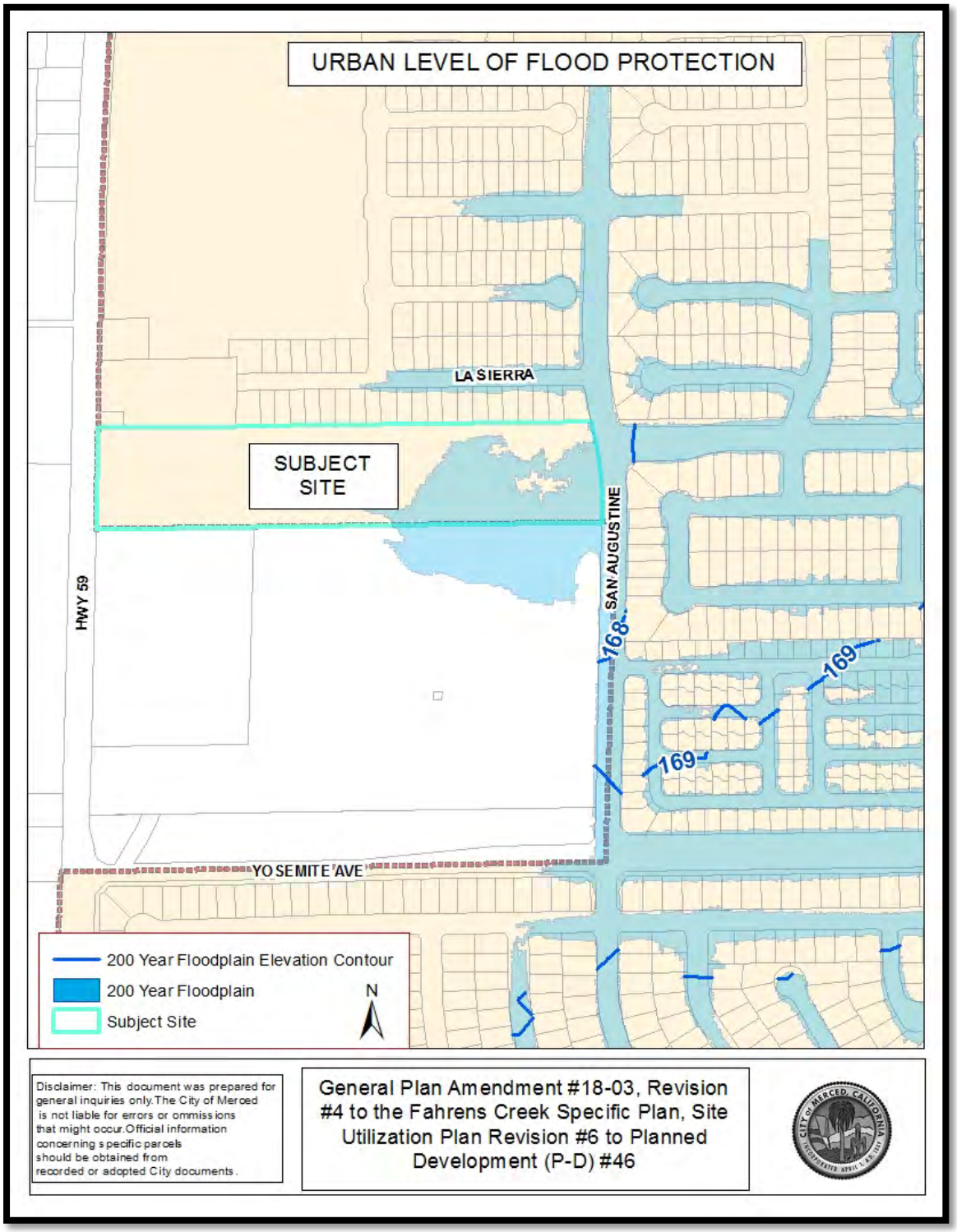


Figure H-2
Urban Level of Flood Protection



I. Land Use and Planning

SETTING AND DESCRIPTION

The project site is located on the west side of San Augustine Avenue, at the intersection of San Augustine Avenue and Pacific Drive. The project site currently has a General Plan designation of Business Park (BP). The site is part of the Fahrens Creek Specific Plan and currently has a land use designation of "mini-storage." The project site is zoned Planned Development (P-D) #46 and has a land use designation of "mini-storage." In order for the proposed 176-unit apartment project to be constructed, a General Plan Amendment, Specific Plan Revision, and Site Utilization Plan Revision are required. The Table below shows the current land uses and the proposed land uses.

	Current Land Use Designation	Proposed Land Use Designation
General Plan	Business Park (BP)	High/Medium Density Residential (HMD)
Fahrens Creek Specific Plan	Mini-Storage	Multi-Family Residential
Site Utilization Plan for Planned Development (P-D) #46	Mini-Storage	Multi-Family Residential

Under the current Business Park and Mini-Storage designations, the site could be developed with a mini-storage project, subject to approval by the Site Plan Review Committee.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. Land Use and Planning. Would the project:				
1) Physically divide an established community?				✓
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			✓	
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?				✓

1) *Would the project physically divide an established community?*

The proposed project would not divide an established community. As shown on the location map at Attachment A, the project site is located within the City Limits. Therefore, there is **no impact.**

2) *Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*

Upon approval of the proposed General Plan Amendment, Specific Plan Revision, and Site Utilization Plan Revision, the project site would comply with the City's General Plan, the Fahrens Creek Specific Plan, and the Site Utilization Plan for Planned Development (P-D) #42. The project would not conflict with any other plans. Therefore, this potential impact is **less than significant.**

3) *Would this project conflict with any applicable habitat conservation plan or natural community conservation plan?*

The project site is not part of any habitat conservation plan or natural community conservation plan. Therefore, there are **no impacts**.

J. Mineral Resources

SETTING AND DESCRIPTION

The City of Merced and its SUDP/SOI do not contain any mineral resources that require managed production, according to the State Mining and Geology Board. Based on observed site conditions and review of geological maps for the area, economic deposits of precious or base metals are not expected to underlie the Merced SUDP/SOI. According to the California Geological Survey, Aggregate Availability in California - Map Sheet 52, Updated 2006, minor aggregate production occurs west and north of the City of Merced, but economic deposits of aggregate minerals are not mined within the immediate vicinity of the SUDP/SOI. Commercial deposits of oil and gas are not known to occur within the SUDP/SOI or vicinity.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
J. Mineral Resources. Would the project:				
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				✓
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				✓

1) *Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*

   The project site does not support mineral extraction operations and would not result in the loss of availability of any known mineral resource. There is **no impact.**

2) *Would the project result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

   The project site does not support mineral extraction operations and would not result in the loss of availability of any known mineral resource. There is **no impact.**

K. Noise

SETTING AND DESCRIPTION

Potential noise impacts of the proposed project can be categorized as those resulting from construction and those from operational activities. Construction noise would have a short-term effect; operational noise would continue throughout the lifetime of the project. The project site is surrounding by existing single-family homes to the north and east of the site. There are also a few homes to the west across SR 59.

Some land uses are considered more sensitive to noise levels than other uses. Sensitive land uses can include residences, schools, nursing homes, hospitals, and some public facilities, such as libraries. The noise level experienced at the receptor depends on the distance between the source and the receptor, the presence or absence of noise barriers and other shielding devices, and the amount of noise attenuation (lessening) provided by the intervening terrain. For line sources such as motor or vehicular traffic, noise decreases by about 3.0 to 4.5A –weighted decibels (dBA) for every doubling of the distance from the roadway.

Noise from Other Existing Sources

Vehicular noise from North SR 59 which is adjacent to the west side of the project would be the primary existing noise source at the project site. According to the *Merced Vision 2030 General Plan*, the acceptable noise level for outdoor uses within a residential setting adjacent to SR 59 is 65db/CNEL. The acceptable noise level for aircraft is 75db/CNEL. The acceptable noise level for indoor residential uses is 45 db/CNEL.

According to the *Merced Vision 2030 General Plan*, the existing noise level at a distance of 100 feet from SR 59 between Yosemite Avenue and Cardella Road is 66.9 dB. At a distance of 287 feet, the noise level drops to 60 db.

The Castle Airport is approximately 6 miles to the west and the Merced Regional Airport is approximately 4 miles to the south. The site is located outside the noise contour areas for both airports.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
K. <u>Noise.</u> Would the project result in:				
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			✓	
2) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			✓	
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			✓	
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			✓	
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				✓
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				✓

1) *Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

Construction Noise

Construction of the project would temporarily increase noise levels in the area during the construction period. The duration of construction is expected to be 120-180 days. Therefore, the noise from construction may be steady for several weeks and then cease all together. Construction activities, including site clearing, building construction, and paving would be considered an intermittent noise impact throughout the construction period. These activities could result in various effects on sensitive receptors, depending on the presence of intervening barriers or other insulating materials. Although construction activities would likely occur only during daytime hours, construction noise could still be considered disruptive to local residents. The City of Merced does not have a noise

ordinance, but past practice has been to allow construction activities during daylight hours (between 7:00 a.m. and 7:00 p.m.). Initial Study #00-31 for the annexation of this area identified mitigation measures to reduce the noise during construction. These measures would be applicable to this project as well.

Operational Noise

Noise from the apartment complex would be primarily traffic related. Although there could be some noise from outdoor activities such as use of the community pool. The buildings are sited along the southern half of the property away from the single-family homes to the north. A parking lot would be located between the apartments and the single-family homes to the north. There are also single-family homes to the east, across San Augustine Avenue. The distance from the apartment buildings to the edge of the properties to the north would be approximately 120 feet. The distance to the property edge for the single-family uses to the east would be approximately 100 feet. The outdoor recreation areas and pool are located near the center of the complex which would provide a buffer from any noise between the outdoor recreation areas and the adjacent dwellings to the east and north.

Noise from SR 59

As described in the setting, the noise generated from SR 59 would be 66.9 db/CNEL at a distance of 100 feet from the highway. In order to ensure the indoor noise level of 45 db/CNEL is provided within the apartment units, the project is required to comply with Mitigation Measure F-2 previously adopted as part of the annexation of this site. This mitigation measure requires sound-rated windows, as well as sound-rated exterior wall assemblies where necessary, or other acceptable methods of sound attenuation to achieve comparable noise reductions to be consistent with the 45 dB interior noise level maximum.

Implementation of the previously approved mitigation measures would reduce this impact to a **less than significant level.**

2) *Would this project result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?*

Construction activity can create groundborne vibration and groundborne noise. This noise would be short-term and in keeping with the City's past practices, would only occur between the hours of 7:00 a.m. to 7:00 p.m. This potential impact is **less than significant.**

3) *Would this project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?*

Implementation of the project would introduce new noise sources to the area. However, these noise levels would not exceed the thresholds set forth in the General Plan. This potential impact is **less than significant.**

4) *Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

Temporary or periodic noise levels would increase with construction of the project. Construction noise was analyzed under item #1 above. Implementation of the mitigation measures previously adopted with the annexation of this site would reduce the impacts to a **less than significant level.**.

5) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

The project site is not located within two miles of a public airport or public use airport, therefore, there is **no impact.**

6) *For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?*

The project site is not located within the vicinity of a private airstrip, therefore, there is **no impact.**

L. Population and Housing

SETTING AND DESCRIPTION

The implementation of the proposed project would result in the construction and operation of 176 apartments units, an office/lounge building, community swimming pool, and required parking area. The project site is located on a vacant lot surrounded by urban uses to the north and east, vacant land to the south (in the County) and residential and ag land to the west across SR 59.

Expected Population and Employment Growth

According to the State Department of Finance, the City of Merced's population in 2018 was estimated to be 86,750. Population projections estimate that the Merced SUDP/SOI area will have a population of 159,900 by the Year 2030. According to the *Merced Vision 2030 General Plan*, the City of Merced is expected to experience significant employment growth by the Year 2030.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
L. Population and Housing. Would the project:				
1) Induce substantial population growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			✓	
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				✓
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				✓

1) *Would the project induce substantial population growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

   Temporary construction-related jobs would result due to the construction of the project, but it is unlikely that construction workers would need to relocate to Merced in order to work temporarily on the project site. With 176 apartment units and with an estimate of approximately 3 persons per unit, the population of the site will increase to 528 persons or 0.6% of the City's 2018 estimated population of 86,750. Therefore, this is a **less than significant impact**.

2) *Would the project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?*

   There are no housing units within the project site. No one would be displaced by this project. Therefore, there is **no impact.**

3) *Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?*

   See item 2. **No impact.**

M. Public Services

SETTING AND DESCRIPTION

Fire Protection

The City of Merced Fire Department provides fire protection, rescue, and emergency medical services from five fire stations throughout the urban area. The City's Central Fire Station (Station 51) is located in the downtown area at 16th and G Streets. There are four other stations within the City: Station 52 is located at the Merced Regional Airport on Falcon Way; Station 53 is located on Loughborough Drive between M and R Streets, just north of the Merced Mall; Station 54 is on East 21st Street; and Station 55 is located at the intersection of Parsons and Silverado Avenues in North Merced.

The proposed project would be served by Station 53 on Loughborough Drive. This station is approximately 2.0 miles from the project site.

Police Protection

The City of Merced Police Department provides police protection for the entire City. The Police Department employs a mixture of sworn officers, non-sworn officer positions (clerical, etc.), and unpaid volunteers (VIP's). The service standard used for planning future police facilities is approximately 1.37 sworn officers per 1,000 population, per the Public Facilities Financing Plan.

The Police Department has two stations: the Main Station located at 611 West 22nd Street, and the South Station located at 470 West 11th Street.

Schools

The public school system in Merced is served by three districts: 1) Merced City School District (elementary and middle schools); 2) Merced Union High School District (MUHSD); and, 3) Weaver Union School District (serving a small area in the southeastern part of the City with

elementary schools). The districts include various elementary schools, middle (junior high) schools, and high schools.

Parks

Project Characteristics

The proposed project site will consist of 176 apartment units along with recreational facilities for its tenant to include a pool, playground, community building, and open space areas.

The City of Merced has a well-developed network of parks and recreation facilities throughout the City.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
M. <u>Public Services.</u> Would the project:				
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a) Fire Protection?			✓	
b) Police Protection?			✓	
c) Schools?			✓	
d) Parks?			✓	
e) Other Public Facilities?			✓	

The annexation area is located at the northwest corner of North Highway 59 and Santa Fe Drive. There is an existing retail/wholesale business at the southwest corner of North Highway 59 and Santa Fe Drive and a vacant lot at the northwest corner. A commercial development is proposed for the northwest corner once annexation is complete. Refer to the project description section of this document for details.

1) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:*

a) Fire Protection

The proposed project would be served by the Station 53 on Loughborough Drive. This station would be able to adequately serve the project site and maintain the Fire Department's goal of a 4-6 minute response time for the first crew to arrive at a fire or medical emergency. The proposed development of the vacant parcel would not significantly affect fire protection services, and no new or modified fire facilities would be needed. Construction of the project would be required to meet all requirements of the California Fire Code and the Merced Municipal Code.

At the time a building permit is issued, the developer would be required to pay the fees required by the Public Facility Financing Plan (PFFP). A portion of this fee goes to cover the City's costs for fire protection such as fire stations, etc. In addition, the developer would be required to annex into the City's Community Facilities District for Services (CFD #2003-2). This would result in an assessment paid with property taxes in which a portion of the tax would go to pay for fire protection services.

Compliance with all Fire, Building, and Municipal Code requirements as well as payment of the Impact Fees required by the Public Facilities Financing Program, and annexation into the City's CFD for services would reduce any potential impacts to a **less than significant level**).

b) Police Protection

The proposed apartment project would be adequately served by the City's Police Department. The same requirements for paying Public Facility Impact Fees and annexation into the City's Community Facilities District for Services (CFD #2003-2) would apply with a portion of the fees and taxes collected going toward the costs for police protection. Therefore, this potential impact is reduced to a **less than significant level**.

c) Schools

The public school system in Merced is served by three districts: 1) Merced City School District (elementary and middle schools); 2) Merced Union High School District (MUHSD); and, 3) Weaver Union School District (serving a small area in the southeastern part of the City with elementary schools). The districts include various elementary schools, middle (junior high) schools, and high schools. The Project site falls within the Merced City School District and Merced Union High School District (MUHSD).

As the City grows, new schools will need to be built to serve our growing population. According to the Development Fee Justification Study for the MUHSD, Merced City Schools students are generated by new multi-family development at the following rate:

Student Generation Rates		
Commercial/Industrial Category	**Elementary (K-8) (Students per 1,000 sq.ft.)**	**High School (9-12) (Students per 1,000 sq.ft.)**
Retail	0.13	0.038
Restaurants	0.00	0.157
Offices	0.28	0.048
Services	0.06	0.022
Wholesale/Warehouse	0.19	0.016
Industrial	0.30	0.147
Multi-Family	0.559 (per unit)	0.109 (per unit)

Based on the table above, the proposed apartment project would add 19.2 high school students and 98.4 K-8 students. This change would not create a significant impact on the school system. Payment of state-required school fees would address those impacts. Therefore, this impact is **less than significant**.

d) Parks

Payment of the fees required under the Public Facilities Financing Program (PFFP) as described above would be required at time of building permit issuance to help fund future parks and maintenance of existing parks as well as the payment of fees in lieu of land dedication for future parks would be required at the building permit stage. The proposed amenities onsite and the payment of fees would reduce this potential impact to **less than significant**.

e) Other Public Facilities

The development of the project could impact the maintenance of public facilities and could generate impacts to other governmental services. Payment of the fees required under the Public Facilities Financing Program (PFFP) as described above would mitigate these impacts to a **less than significant** level.

N. Recreation

SETTING AND DESCRIPTION

The City of Merced has a well-developed network of parks and recreation facilities. Fahrens Park and Rudolph Merino Park are both located within a one-mile radius of the project site, as well as the City's Dog Park at the northwest corner of R Street and Yosemite Avenue. Additionally, a Class I bike path is accessible at R Street or on Yosemite Avenue which provides connection to the area to the east, south, and central portions of the city.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
N. Recreation. Would the project:				
1) Increase the use of neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			✓	
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			✓	

1) *Would the project increase the use of neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*

   Development of the project may increase the use of neighborhood or regional parks. However, payment of the required development fees at the building permit stage along with the amenities on site would reduce the potential impacts to a **less than significant level**.

2) *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

   The project is not responsible for the construction or expansion of any recreational facilities. The project would provide a swimming pool and outdoor recreation areas for the occupants of the apartment project. As described above, new construction would pay impact fees required under the PFFP, a portion of which goes to fund parks facilities. Payment of these fees would reduce this potential impact to a **less than significant level.**

O. Transportation/Traffic

SETTING AND DESCRIPTION

This project would allow the construction of 176 apartment units on an approximately 10.83-acre parcel located at the on the west side of San Augustine Avenue at the end of Pacific Drive. San Augustine Avenue and Pacific Drive are both designated as Collector Roads on the City's Circulation Plan. Both roadways are two lane roads. San Augustine Avenue connects to Yosemite Avenue (an arterial roadway) approximately one-quarter mile south of the project site. Pacific Drive Connects to R Street (an arterial roadway) just over one-half mile east of the project site. Access to the project site would be from San Augustine Avenue with an entrance only driveway provide access into the site and an exit-only driveway to leave the site (refer to the site plan at Attachment B).

The intersection of Yosemite Avenue and San Augustine Avenue would be signalized in the future. Currently, the intersection has a four-way stop. The City is currently working on a project to widen Yosemite Avenue from San Augustine Avenue west to SR 59.

Access from Pacific Drive onto R Street would allow right turns only. A U-turn could be made at Yosemite Avenue. However, R Street currently dead-ends just north of Pacific Drive. In the future, R Street would be extended north to Bellevue Road and ultimately further north to the end of the City Limit.

Access to Yosemite Avenue could also be made using El Redondo Drive and Compass Pointe Avenue. El Redondo Drive is a north/south collector road approximately one-quarter mile east of the site off of Pacific Drive. The intersection of El Redondo Drive and Yosemite Avenue is signalized. Compass Pointe Avenue is approximately one-half mile from the site and is also a collector road. Access to Yosemite Avenue at this intersection is restricted to right-turns only.

San Augustine Avenue will eventually extend north to intersect with Cardella Road which would provide additional access to the north, east, and west.

In addition to the Class I bike path near the site, Class III bicycle lanes are provided on San Augustine Avenue, Pacific Drive, El Redondo Drive, Yosemite Avenue, and R Street. There is

also a bus stop located at El Redondo Drive and Aurora Drive less than one-quarter mile from the project site.

The site is currently has a General Plan land use designation of Business Park and a Specific Plan and Site Utilization Plan designation of Mini Storage. Based on an analysis of other mini-storage facilities within the City, the average square feet of storage area per acre is approximately 21,000 square feet. Using this factor, the 10.83-acre project site could accommodate approximately 227,430 square feet of storage area.

The Institute of Transportation Engineers (ITE) Trip Generation Rates Manual (8th Edition) is used to estimate the number of trips generated by a particular use. The Manual lists the number of estimated average daily trips (ADT's) based on the total gross square feet of storage area. Using the calculation above of 227,430 s.f. of storage area, the total ADT's for a mini-storage use at this location would be 569 average daily trips. In comparison, the proposed apartment project would generate 1,170 ADT's. However, given the proximity of the project site to a bus stop and easy access to bicycle lanes, it's expected that the total ADT's would be reduced by at least 10%.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
O. <u>Transportation/Traffic.</u> Would the project:				
1) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant component of the circulation system including, but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?			✓	
2) Conflict with an applicable congestion management program including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?			✓	

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				✓
4) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?			✓	
5) Result in inadequate emergency access?			✓	
6) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?			✓	

1) *Would the project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant component of the circulation system including, but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?*

According to the *Merced Vision 2030 General Plan,* a 2-lane collector such as San Augustine Avenue and Pacific Drive can carry up to 10,300 Average Daily Trips (ADT's) while still functioning at a Level of Service (LOS) D, which is the City's standard level of service for roads within the City. As described in the setting above, the proposed apartment project would be expected to generate approximately 1,053 ADT's (including a 10% reduction for alternate transportation). In order to determine the amount of traffic currently on San Augustine Avenue, staff looked at the total number of units within the area bounded by Pettiotti Road to the north, Yosemite Avenue to the south, El Redondo Drive to the east, and San Augustine Avenue to the west. The total number of units in this area (including lots approved, but not constructed), is 689 lots. Based on the ITE generation rates, these units would generate 6,594 ADT's. With the addition of the 1,053 ADT's anticipated to be generated by the proposed apartment complex, the total ADT's for San Augustine Avenue would be significantly less than 10,300 which would confirm that this roadway segment would continue to operate at an LOS D or better.

Based on the above analysis, this project would not conflict with the City's General Plan standard for Level of Service or any other plan. Therefore, this impact is **less than significant.**

2) *Would the project conflict with an applicable congestion management program including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?*

Refer to item #1 above.

3) *Would the project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?*

The project site is identified as being located in Zone D (refer to map at Figure G-1) of the Merced County Airport Land Use Compatibility Plan (ALUCP). As such, there are no restrictions on the development of this site as it relates to the ALUCP and the proposed project would not affect air traffic patterns or increase the levels of air traffic. Therefore, there is **no impact.**

4) *Would the project substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?*

The proposed project would not result in an increase in any hazards due to sharp curves or dangerous intersections. The project has access with clear lines of site in all directions. Additionally, the project does not increase hazards due to incompatible uses as the site is surrounded to the north and south by single-family residential uses, vacant land to the south, and farm land and residential uses across SR 59 to the west. Although there is farmland to the west, no farm equipment would be expected within this residential area. Therefore, this impact is **less than significant.**

5) *Would the project result in inadequate emergency access?*

The proposed development has its primary access off San Augustine Avenue. However, an emergency vehicle access (EVA) would be provided off of SR 59. This EVA would provide a secondary point of access to the site for emergency vehicles only. This impact is **less than significant.**

6) *Would the project conflict with adopted policies, plans, or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?*

The project site is served by the M-1 bus route and would be easily accessible to the City's existing bike path. The City's Design Standards provide standards for constructing streets with bicycle facilities and the Zoning Ordinance requires on-site bicycle parking facilities. Compliance with these requirements and the implementation of the following mitigation measure would reduce any impacts to a **less than significant level**.

P. Utilities and Service Systems

SETTING AND DESCRIPTION

Water

The City's water system is composed of 23 groundwater production wells located throughout the City, approximately 350 miles of main lines, and 4 water tower tanks for storage. Well pump operators ensure reliability and adequate system pressure at all times to satisfy customer demand. Diesel powered generators help maintain uninterrupted operations during power outages. The City

of Merced water system delivered more than 24 million gallons of drinking water per day in 2016 to approximately 20,733 residential, commercial, and industrial customer locations. The City is required to meet State Health pressure requirements, which call for a minimum of 20 psi at every service connection under the annual peak hour condition and maintenance of the annual average day demand plus fire flow, whichever is stricter. The City of Merced Water Division is operated by the Public Works Department.

The City of Merced's wells have an average depth of 414 feet and range in depth from 161 feet to 800 feet. The depth of these wells would suggest that the City of Merced is primarily drawing water from a deep aquifer associated with the Mehrten geologic formation. Increasing urban demand and associated population growth, along with an increased shift by agricultural users from surface water to groundwater and prolonged drought have resulted in declining groundwater levels due to overdraft. This condition was recognized by the City of Merced and the Merced Irrigation District (MID) in 1993, at which time the two entities began a two-year planning process to assure a safe and reliable water supply for Eastern Merced County through the year 2030. Integrated Regional Water Planning continues today through various efforts.

Wastewater

Wastewater (sanitary sewer) collection and treatment in the Merced urban area is provided by the City of Merced. The wastewater collection system handles wastewater generated by residential, commercial, and industrial uses in the City.

The City Wastewater Treatment Plant (WWTP), located in the southwest part of the City about two miles south of the airport, has been periodically expanded and upgraded to meet the needs of the City's growing population and new industry. The City's wastewater treatment facility has a capacity of 11.5 million gallons per day (mgd), with an average 2006 flow of 8.5 mgd. The City has recently completed an expansion project to increase capacity to 12 mgd and upgrade to tertiary treatment with the addition of filtration and ultraviolet disinfection. Future improvements would add another 8 mgd in capacity (in increments of 4 mgd), for a total of 20 mgd. This design capacity can support a population of approximately 174,000. The collection system will also need to be expanded as development occurs.

Treated effluent is disposed of in several ways depending on the time of year. Most of the treated effluent (75% average) is discharged to Hartley Slough throughout the year. The remaining treated effluent is delivered to a land application area and the on-site City-owned wetland area south of the treatment plant.

Storm Drainage

The Draft *City of Merced Storm Drainage Master Plan* addresses the collection and disposal of surface water runoff in the City's SUDP. The study addresses both the collection and disposal of stormwater. Systems of storm drain pipes and catch basins are laid out, sized, and costed in the plan to serve present and projected urban land uses.

It is the responsibility of the developer to ensure that utilities, including stormwater and drainage facilities, are installed in compliance with City regulations and other applicable regulations. Necessary arrangements with the utility companies or other agencies will be made for such installation, according to the specifications of the governing agency and the City (Ord. 1342 § 2 (part), 1980: prior code § 25.21(f)). The City requires the construction of stormwater

percolation/detention basins with new development. Percolation basins are designed to collect stormwater and filter it before it is absorbed into the soil and reaches groundwater tables. Detention basins are designed to temporarily collect runoff so it can be metered at acceptable rates into canals and streams which have limited capacity. The disposal system is mainly composed of MID facilities, including water distribution canals and laterals, drains, and natural channels that traverse the area.

The City of Merced has been involved in developing a Stormwater Management Plan (SWMP) to fulfill requirements of stormwater discharges from Small Municipal Separate Storm Sewer System (MS4) operators in accordance with Section 402(p) of the Federal Clean Water Act (CWA). The SWMP was developed to also comply with General Permit Number CAS000004, Water Quality Order No. 2003-0005-DWQ.

Solid Waste

The City of Merced is served by the Highway 59 Landfill and the Highway 59 Compost Facility, located at 6040 North Highway 59, one and one-half miles north of Old Lake Road. The County of Merced is the contracting agency for landfill operations and maintenance, while the facilities are owned by the Merced County Association of Governments. The City of Merced provides services for all refuse pick-up within the City limits and franchise hauling companies collect in the unincorporated areas. In addition to these two landfill sites, there is one private disposal facility, the Flintkote County Disposal Site, at SR 59 and the Merced River. This site is restricted to concrete and earth material.

Project Characteristics

The project site would be served by City utility lines (water, sewer, storm drain) that currently exist in San Augustine Avenue and Pacific Drive. An 8-inch water line currently exists in Pacific Drive and a 12-inch line is in San Augustine Avenue. Twelve-inch sewer lines exist in both streets as well. Additionally, a 30-inch storm drain line exists in both streets. Because the sewer line doesn't currently run across the full property frontage, the line may have to be extended from its current location near the northern corner of the property to the southern corner.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
P. <u>Utilities and Service Systems.</u> Would the project:				
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			✓	
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			✓	

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			✓	
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			✓	
5) Result in a determination by the wastewater treatment provider which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			✓	
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			✓	
7) Comply with federal, state, and local statues and regulations related to solid waste?			✓	

1) *Would the project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*

   The project site would be served by the City sewer system. There is sufficient capacity for serving this project. This potential impact is **less than significant.**

2) *Would the project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

   The City's current water and wastewater systems are capable of handling this project and other future developments within the City of Merced. Existing lines exist in the area to serve the proposed project. No new facilities would be required. This potential impact is **less than significant**.

3) *Would the project require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

   The project would be required to provide storm drainage facilities that would capture stormwater onsite and be routed to the City's storm drain system. There are existing storm drain lines in San Augustine Avenue and Pacific Drive to serve the project site. This potential impact is **less than significant**.

4) *Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?*

As explained above, no new water facilities are needed for this project. The existing water system is sufficient to serve the development. Potential impacts are **less than significant**.

5) *Would the project result in a determination by the wastewater treatment provider which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

Refer to item 2 above. This potential impact is **less than significant.**

6) *Would the project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?*

The City of Merced uses the Highway 59 Landfill. Sufficient capacity is available to serve the future project. According to the *Merced Vision 2030 General Plan* DEIR, the landfill has capacity to serve the City through 2030. Potential impacts are **less than significant**.

7) *Would the project comply with federal, state, and local statues and regulations related to solid waste?*

All construction on the site would be required to comply with all local, state, and federal regulations regarding solid waste, including recycling. Potential impacts are **less than significant**.

Q. Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Q. Mandatory Findings of Significance. Would the project:				
1) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			✓	

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)			✓	
3) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			✓	

1) *Would the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

   As previously discussed in this document, the project does not have the potential to adversely affect biological resources or cultural resources because such resources are lacking on the project site, and any potential impacts would be avoided with implementation of the mitigation measures and other applicable codes identified in this report. Also, the project would not significantly change the existing urban setting of the project area. Thus, this impact would be **less than significant**.

2) *Would the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)*

   The Program Environmental Impact Report conducted for the *Merced Vision 2030 General Plan, the General Plan Program EIR* (SCH# 2008071069), has recognized that future development and build-out of the SUDP/SOI will result in cumulative and unavoidable impacts in the areas of Air Quality and Loss of Agricultural Soils. In conjunction with this conclusion, the City has adopted a Statement of Overriding Considerations for these impacts (Resolution #2011-63) which is herein incorporated by reference.

   The certified General Plan EIR addressed and analyzed cumulative impacts resulting from changing agricultural use to urban uses. No new or unaddressed cumulative impacts will result from the Project that have not previously been considered by the certified General Plan EIR or by the Statement of Overriding Considerations, or mitigated by this Expanded

Initial Study. This Initial Study does not disclose any new and/or feasible mitigation measures which would lessen the unavoidable and significant cumulative impacts.

The analysis of impacts associated with the project will contribute to the cumulative impacts identified in the General Plan EIR. The nature and extent of these impacts, however, falls within the parameters of impacts previously analyzed in the General Plan EIR. No individual or cumulative impacts will be created by the Project that have not previously been considered at the program level by the General Plan EIR or mitigated by this Initial Study. This impact would be **less than significant.**

3) *Would the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

Development anticipated by the *Merced Vision 2030 General Plan* will have significant adverse effects on human beings. These include the incremental degradation of air quality in the San Joaquin Basin, the loss of prime agricultural soils, the incremental increase in traffic, and the increased demand on natural resources, public services, and facilities. However, consistent with the provisions of CEQA previously identified, the analysis of the Project is limited to those impacts which are peculiar to the Project site or which were not previously identified as significant effects in the prior EIR. The previously-certified General Plan EIR and the Statement of Overriding Considerations addressed those cumulative impacts; hence, there is no requirement to address them again as part of this Project.

This previous EIR has concluded that these significant adverse impacts are accounted for in the mitigation measures incorporated into the General Plan EIR. In addition, a Statement of Overriding Considerations has been adopted by City Council Resolution #2011-63 that indicates that the significant impacts associated with development of the Project are offset by the benefits that will be realized in providing necessary jobs for residents of the City. The analysis and mitigation of impacts has been detailed in the Environmental Impact Report prepared for the *Merced Vision 2030 General Plan*, which are incorporated into this document by reference.

While this issue was addressed and resolved with the General Plan EIR in an abundance of caution, in order to fulfill CEQA's mandate to fully disclose potential environmental consequences of projects, this analysis is considered herein. However, as a full disclosure document, this issue is repeated in abbreviated form for purposes of disclosure, even though it was resolved as a part of the General Plan.

Potential impacts associated with the Project's development have been described in this Initial Study. All impacts were determined to be **no impact or less than significant**.

R. Greenhouse Gas Emissions

SETTING AND DESCRIPTION

The issue of project-generated Greenhouse Gas (GHG) Emissions is a reflection of the larger concern of Global Climate Change. While GHG emissions can be evaluated on a project level, overall, the issue reflects a more regional or global concern. CEQA requires all projects to discuss a project's GHG contributions. However, from the standpoint of

CEQA, GHG impacts on global climate change are inherently cumulative. The quantity of GHGs that it takes to ultimately result in climate change is not precisely known; however, it can safely be assumed that existing conditions do not measurably contribute to a noticeable incremental change in the global climate.

THRESHOLDS OF SIGNIFICANCE

The proposed project would result in a significant impact on the environment if it would:

- Generate GHG emissions either directly or indirectly, that may have a significant impact on the environment;
- Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs.

A study on the impacts of greenhouses gases as a result of this project was prepared by Mitchell Air Quality Consulting (Attachment C). The information contained in this section is based on this study.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
R. <u>Greenhouse Gas Emissions.</u> Would the project:				
1) Generate greenhouse gas emission, either directly or indirectly, that may have a significant impact on the environment?			✓	
2) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			✓	

1) *Would the project Generate greenhouse gas emission, either directly or indirectly, that may have a significant impact on the environment?*

Based on results from the CalEEMod run (see Appendix A of Attachment C), total construction GHG emissions (Phase 1 and Phase 2) from the proposed project would be approximately 233.77 metric tons CO_2e. Unmitigated (business-as-usual) operational GHG emissions, mainly from vehicle use, are estimated to generate approximately 3,642.57 metric tons CO_2e annually. With incorporation of project features that would reduce GHG emissions, the total operational GHG emissions would be 2,354.89 metric tons CO2e annually. This would be a reduction of approximately 35.3% from unmitigated levels, which exceeds the reduction target set by the City of Merced. Based on this, project impacts related to GHG emissions are considered **less than significant**.

2) *Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

As noted above, GHG emissions associated with the project would be reduced by an amount that would exceed the City's GHG reduction target. Because of this, the project would be consistent with the GHG reduction objectives of the City's Climate Action Plan (CAP). It is also consistent with the 29% GHG reduction target established by the SJVAPCD in its Climate Change Action Plan. Project impacts related to GHG reduction plans are considered **less than significant.**

S. Environmental Determination

On the basis of this initial environmental evaluation:

X I find that the project could have a significant effect on the environment, and that a NEGATIVE DECLARATION HAS BEEN PREPARED for public review.

December 31, 2018

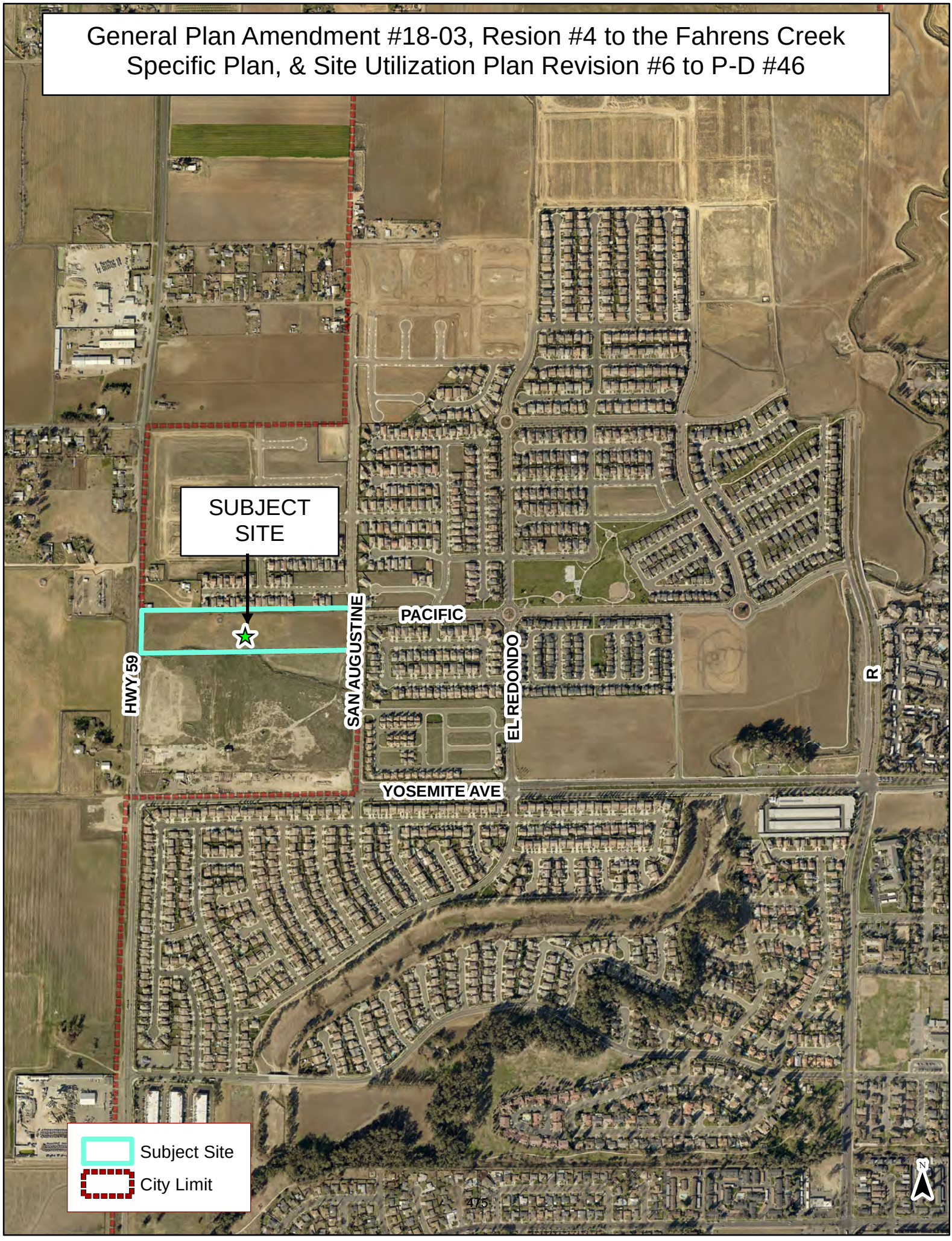
Julie Nelson, Associate Planner

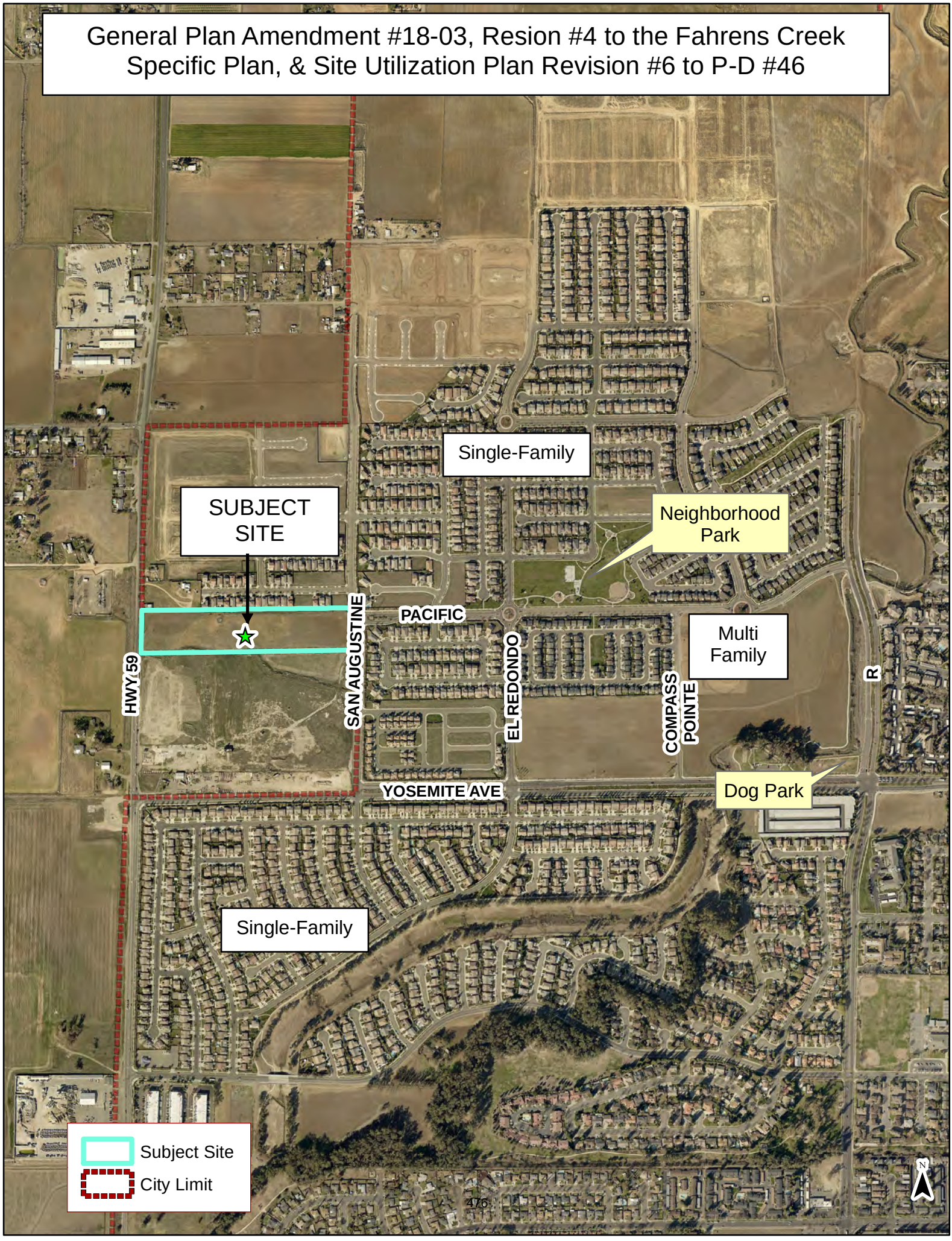
Scott McBride, Director of Development Services
Environmental Coordinator
City of Merced

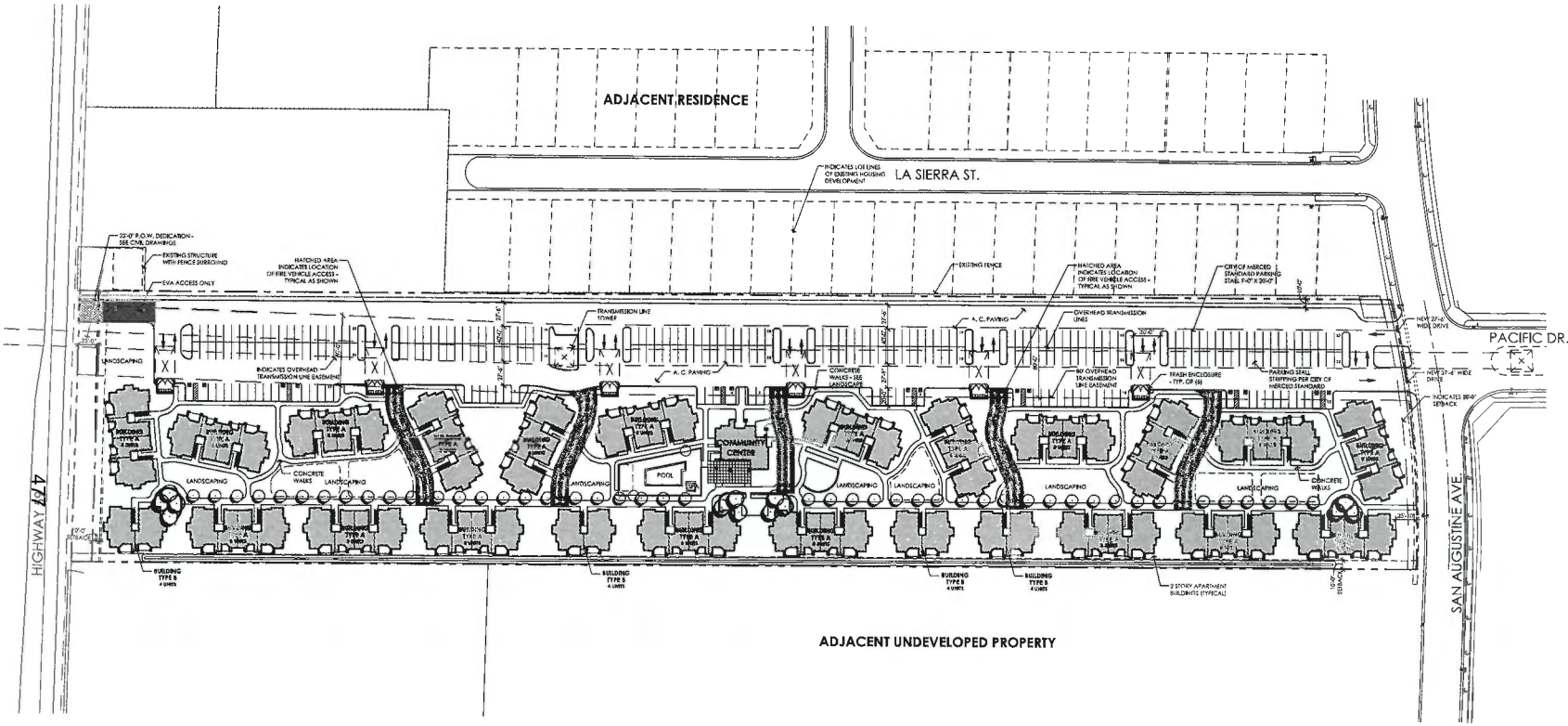
Distributed for Public Review: January 3, 2019

Attachments:

A) Location Map
B) Site Plan
C) Air Quality/Greenhouse Gas Report
D) Public Hearing Notice
E) Map of Notice Area


General Plan Amendment #18-03, Resion #4 to the Fahrens Creek Specific Plan, & Site Utilization Plan Revision #6 to P-D #46
SUBJECT SITE
HWY 59
SAN AUGUSTINE
PACIFIC
EL REDONDO
R
YOSEMITE AVE
Subject Site
City Limit
N


General Plan Amendment #18-03, Resion #4 to the Fahrens Creek Specific Plan, & Site Utilization Plan Revision #6 to P-D #46
Single-Family
SUBJECT SITE
Neighborhood Park
PACIFIC
Multi Family
HWY 59
SAN AUGUSTINE
EL REDONDO
COMPASS POINTE
R
YOSEMITE AVE
Dog Park
Single-Family
Subject Site
City Limit
N

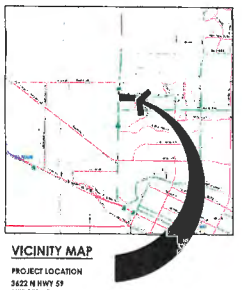


ADJACENT UNDEVELOPED PROPERTY

OVERALL SITE PLAN

SCALE: 1" = 60'-0"

NORTH



VICINITY MAP

PROJECT LOCATION
3422 N HWY 59
MERCED, CA

PROJECT TEAM

OWNER:
BRUNO M & B FAMILY LP
PO BOX 1530
TURLOCK, CA 95381
PHONE: (209) 668-7985
CONTACTS: TONY BRUNO
tony@tbinc.com

CIVIL:
BENCHMARK ENGINEERING, INC.
1121 OAKDALE RD, SUITE 1
MODESTO, CA 95355
PHONE: (209) 568-1300
CONTACTS: RICK MUMMERT
rmummert@bmeng.net

ARCHITECT:
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(209) 577-4661
CONTACT: JOSEPH L. SMITH
joe@apiarc.com

LANDSCAPE:
KLA, INC.
181 N. NORLIN ST.
SONORA, CA 95370
(209) 532-2856
CONTACT: TOM HOLLOWAY
tom@kla-ca.com

SITE DATA

ASSESSORS PARCEL NUMBER:	204-060-017-000
PROPERTY AREA:	± 10.73 ACRES (NET)
BUILDING AREA:	
APARTMENT BUILDINGS:	215,764 SQ. FT.
COMMUNITY BUILDING:	3,045 SQ. FT.
TOTAL:	218,809 SQ. FT.
BUILDING COVERAGE:	
APARTMENT BUILDINGS:	100,689 SQ. FT.
COMMUNITY BUILDING:	3,045 SQ. FT.
TOTAL:	103,734 SQ. FT.
ONSITE LANDSCAPING:	± 34,996 SQ.FT.
MAXIMUM BUILDING HEIGHT:	± 28'-6"
EXISTING ZONING:	SP - SPECIFIC PLAN
DENSITY:	16.4 DU/ACRE (NET)
PAVING / HARDSCAPE:	± 216,639 SQ.FT.

BUILDING DATA

BUILDING/ UNIT DATA							
	1 BDRM.	2 BDRM.	# OF UNITS/BLDG	# OF BLDGS	STORIES	BLDG AREA	BLDG AREA TOTAL
BUILDING A	4	4	8	20	2	±9,646 SQ.FT.	±192,920 SQ.FT.
BUILDING B	0	4	4	4	2	±5,711 SQ.FT.	±22,844 SQ.FT.
COMMUNITY	N/A	N/A	N/A	1	1	±3,045 SQ.FT.	
			TOTAL UNIT				
UNIT TYPE TOTAL	80	96	176			TOTAL AREA	±215,764 SQ.FT.

PARKING DATA

PARKING REQUIRED : TOWNHOME, CONDOMINIUM, AND APARTMENT

1.75 SPACES PER UNIT (1 AND 2 BEDROOM) UP TO 30 UNITS
1.5 SPACES PER UNIT THEREAFTER

1.75 SPACE PER UNIT (UP TO 30)	= 53 STALLS
1.5 SPACE PER UNIT (146 UNITS)	= 219 STALLS
TOTAL	= 272 STALLS

PARKING PROVIDED:

TOTAL	= 296 STALLS

PROPOSED NEW DEVELOPEMENT:

PACIFIC APARTMENTS

Pacific Drive
Merced, CA.

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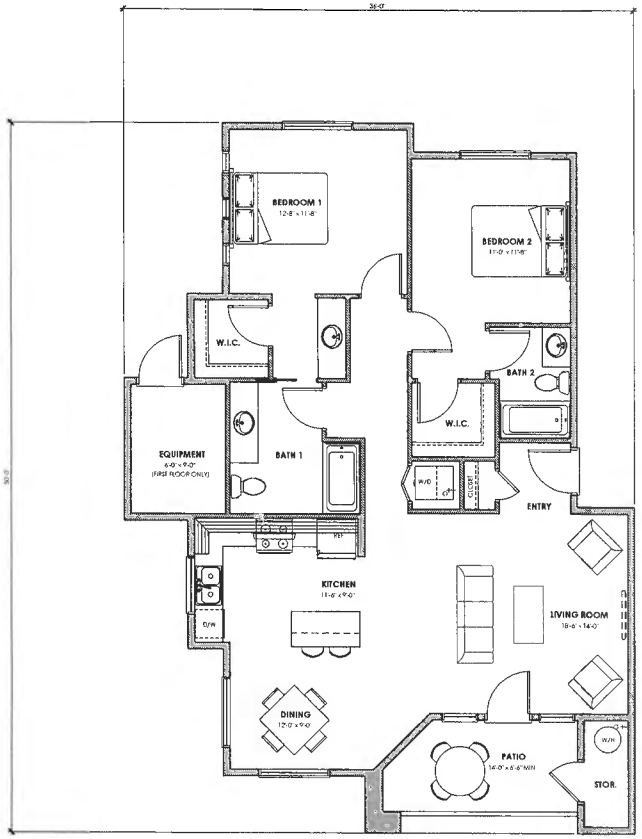
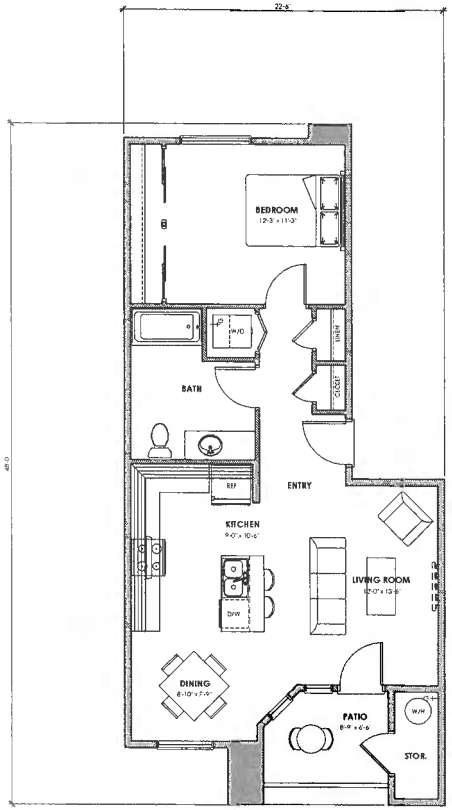


UNIT B - 2 BEDROOM / 2 BATH (END)

SCALE: 1/4" = 1'-0"

FLOOR AREAS:
CONDITIONED SPACE: 1,175 S.F.
UTILITY CLOSETS: 32 S.F.
COVERED PATIO: 90 S.F. MIN. - 117 S.F. MAX.
MECHANICAL: 70 S.F.



UNIT A - 1 BEDROOM / 1 BATH

SCALE: 1/4" = 1'-0"

FLOOR AREAS:
CONDITIONED SPACE: 764 S.F.
PATIO: 58 S.F.
UTILITIES: 32 S.F.

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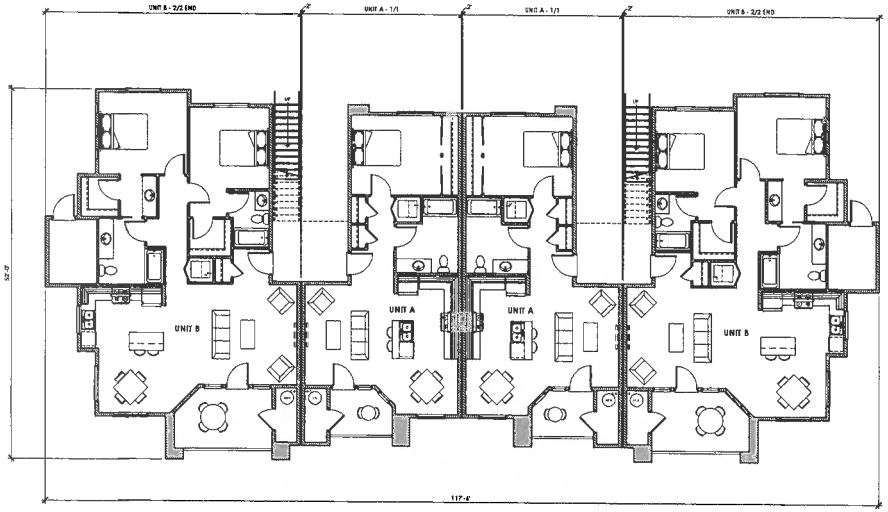
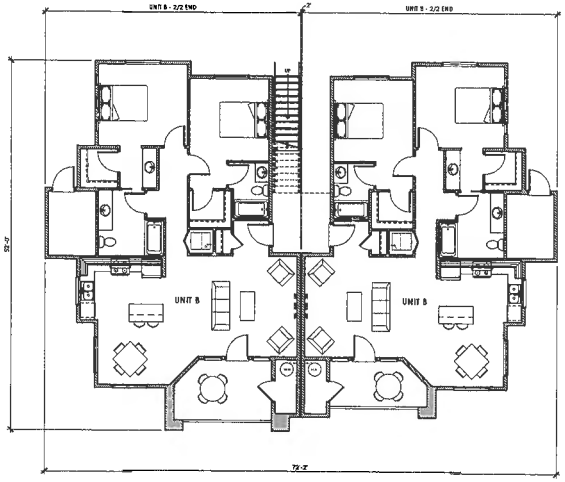


BUILDING TYPE A FIRST FLOOR PLAN - SECOND FLOOR SIMILAR

SCALE: 1/8" = 1'-0"



BUILDING TYPE B FIRST FLOOR PLAN - SECOND FLOOR SIMILAR

SCALE: 1/8" = 1'-0"

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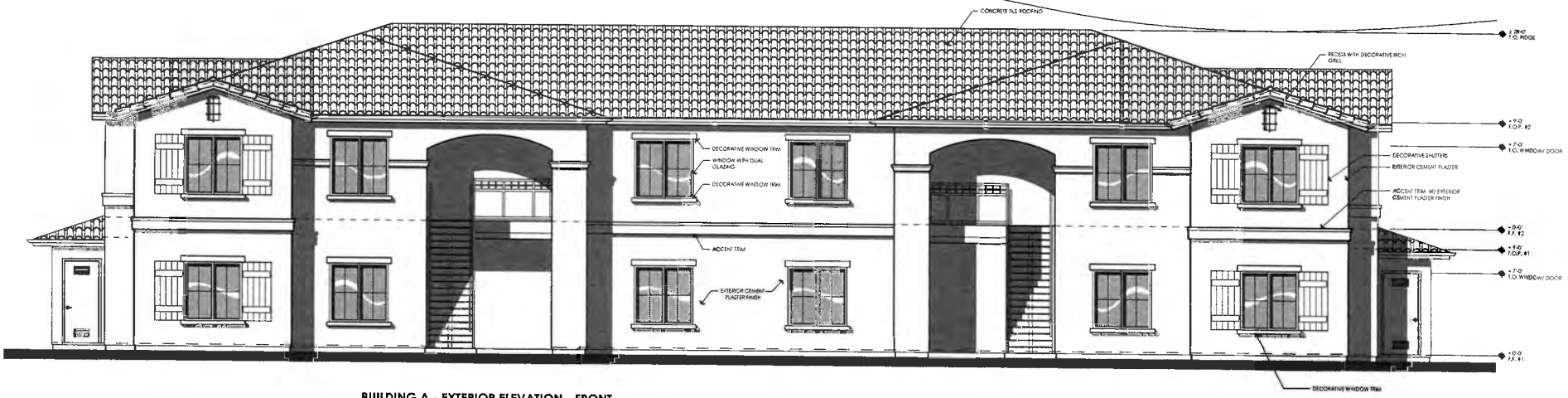

BUILDING A - EXTERIOR ELEVATION - FRONT

SCALE: 1/4" = 1'-0"



BUILDING A - EXTERIOR ELEVATION - LEFT SIDE

SCALE: 1/8" = 1'-0"



BUILDING A - EXTERIOR ELEVATION - RIGHT SIDE

SCALE: 1/8" = 1'-0"



BUILDING A - EXTERIOR ELEVATION - REAR

SCALE: 1/8" = 1'-0"

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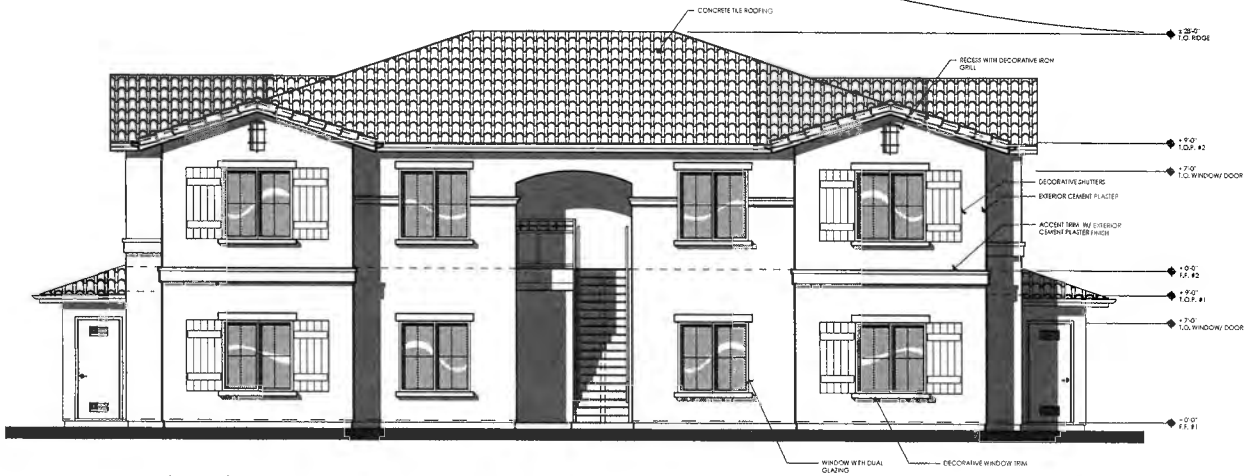

BUILDING B - EXTERIOR ELEVATION - FRONT

SCALE: 1/4" = 1'-0"



BUILDING B - EXTERIOR ELEVATION - LEFT SIDE

SCALE: 1/8" = 1'-0"



BUILDING B - EXTERIOR ELEVATION - RIGHT SIDE

SCALE: 1/8" = 1'-0"



BUILDING B - EXTERIOR ELEVATION - REAR

SCALE: 1/4" = 1'-0"

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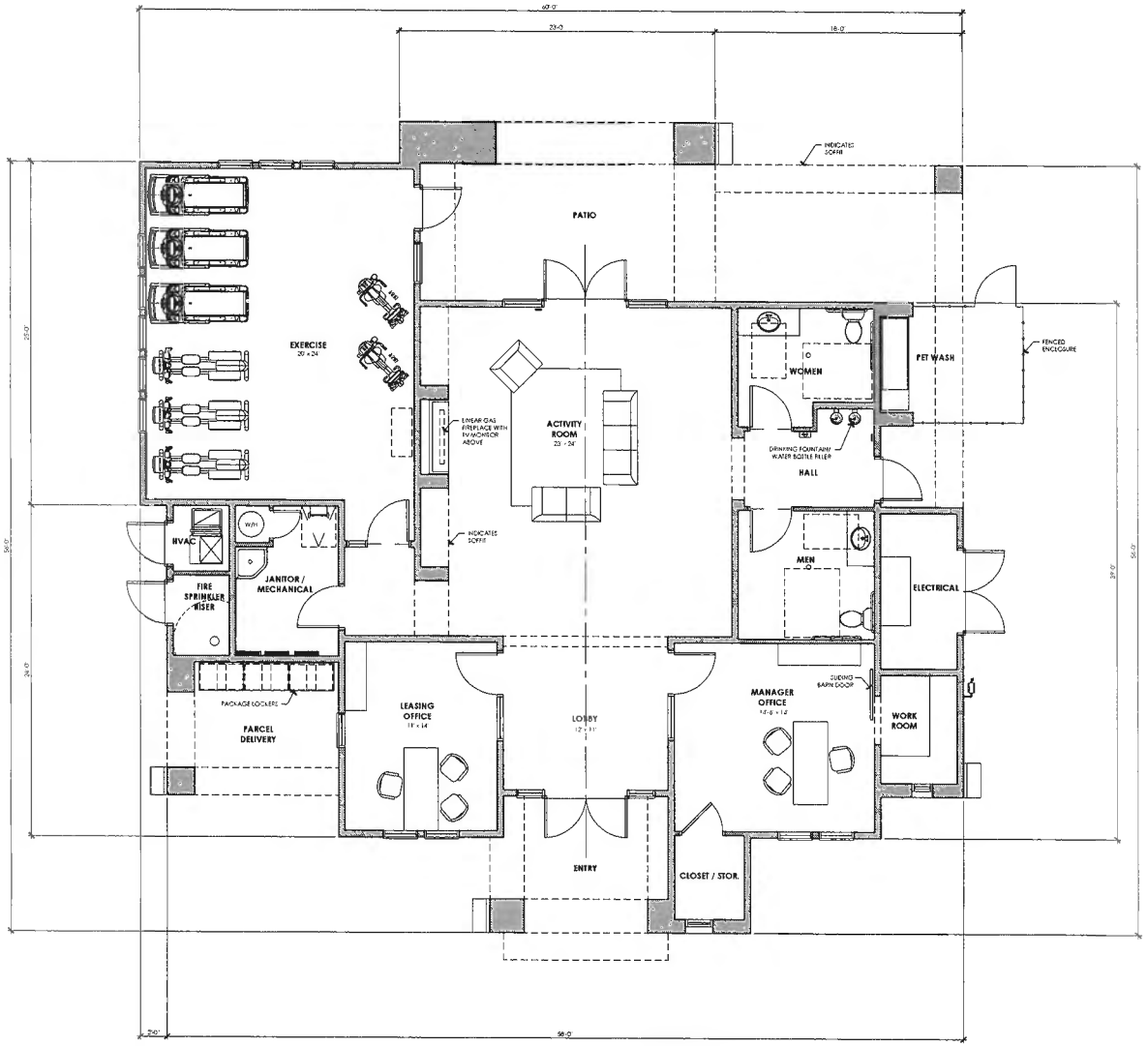

COMMUNITY BUILDING FLOOR PLAN

SCALE: 1/4"= 1'-0"

FLOOR AREAS:	
CONDITIONED SPACE:	2,115 S.F.
UNCONDITIONED SPACE:	123 S.F.
COVERED ENTRY:	127 S.F.
COVERED PATIO:	554 S.F.
PARCEL LOCKERS:	120 S.F.

NORTH

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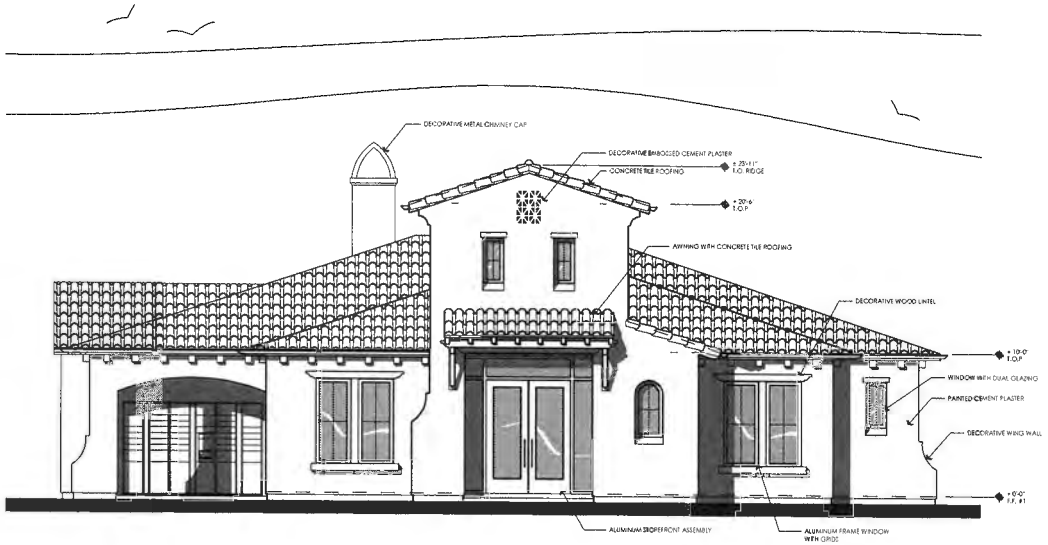
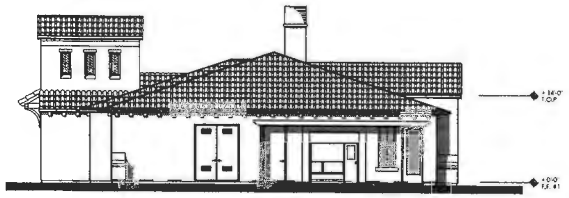


NORTH ELEVATION

SCALE: 1/4" = 1'-0"



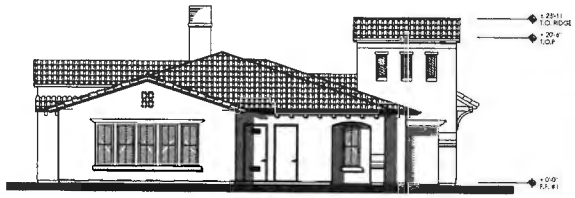
EAST ELEVATION

SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



WEST ELEVATION

SCALE: 1/8" = 1'-0"

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Mitchell Air Quality Consulting

Air Quality and Greenhouse Gas Analysis Report
Pacific Apartments Project
City of Merced, California

Prepared for:
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Turlock, CA 95381

Contact: Tony Bruno

Prepared by:
Mitchell Air Quality Consulting
1164 E. Decatur Avenue
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Contact: Dave Mitchell,
Owner/Senior Air Quality Scientist

December 18, 2018

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ACRONYMS AND ABBREVIATIONS

$\mu g/m^3$	micrograms per cubic meter
AB	Assembly Bill
AQMP	Air Quality Management Plan
ARB	California Air Resources Board
BAU	Business as Usual
BPS	Best Performance Standards
CalEEMod	California Emissions Estimator Model
CAPCOA	California Air Pollution Control Officers Association
CEQA	California Environmental Quality Act
CO	carbon monoxide
CO_2	carbon dioxide
DCP	Dust Control Plan
District	San Joaquin Valley Air Pollution Control District
DOF	California Department of Finance
DPM	diesel particulate matter
EMFAC	EMission FACtors Model
EPA	United States Environmental Protection Agency
GAMAQI	Guidance for Assessing and Mitigating Air Quality Impacts
GHG Rx	Greenhouse Gas Reduction Exchange
GHG(s)	greenhouse gas(es)
HAP	hazardous air pollutant
HRA	health risk assessment
IPCC	United Nations Intergovernmental Panel on Climate Change
MAQC	Mitchell Air Quality Consulting
MCAG	Merced County Association of Governments
$MMTCO_2e$	million metric tons of carbon dioxide equivalent
$MTCO_2e$	metric tons of carbon dioxide equivalent
NO_X	nitrogen oxides
PM_{10}	particulate matter less than 10 microns in diameter
$PM_{2.5}$	particulate matter less than 2.5 microns in diameter
ppb	parts per billion
ppm	parts per million
ROG	reactive organic gases
RTP/SCS	Regional Transportation Plan/Sustainable Communities Strategy
SB	Senate Bill
SCAQMD	South Coast Air Quality Management District

SJVAPCD	San Joaquin Valley Air Pollution Control District
SMAQMD	Sacramento Metropolitan Air Quality Management District
SO_X	sulfur oxides
VOC	volatile organic compounds

SECTION 1: EXECUTIVE SUMMARY

1.1—Purpose and Methods of Analysis

The following air quality and greenhouse gas (GHG) analysis was prepared to evaluate whether the estimated criteria air pollutant, toxic air contaminant (TAC), and GHG emissions generated from the development of the Pacific Apartment Project (project) would cause significant impacts to air resources in the project area. This assessment was conducted within the context of the California Environmental Quality Act (CEQA, California Public Resources Code Sections 21000, et seq.). The methodology follows the Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI) prepared by the San Joaquin Valley Air Pollution Control District (SJVAPCD or District) for quantification of emissions and evaluation of potential impacts to air resources (SJVAPCD 2015) and the SJVAPCD's Guidance for Valley Land-Use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA (SJVAPCD 2009).

1.2—Project Description

The project consists of the construction and development of 176 apartments located on the west side of San Augustine Avenue at Pacific Drive in the City of Merced. The project site encompasses approximately 10.73 acres. The project density is 16.4 units per acre. The site is currently vacant. The surrounding land uses are single-family residential development to the north and east of the site, farmland and a PG&E substation to the west, and a vacant lot to the south. The Assessor's Parcel Number is 206-050-017. The project is zoned P-D (Planned Development).

The project's regional vicinity location is shown in Figure 1; an aerial view of the local vicinity is provided in Figure 2; and the site plan is provided in Figure 3.

1.3—Summary of Analysis Results

The following is a summary of the analysis results. As shown below, the project would result in less than significant impacts for all air quality and GHG impact criteria analyzed.

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. **Less than significant impact.**

Impact AIR-2: The project would not violate air quality standards or contribute substantially to an existing or projected air quality violation. **Less than significant impact.**

Impact AIR-3: The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors). **Less than significant impact.**

Impact AIR-4: The project would not expose sensitive receptors to substantial pollutant concentrations. **Less than significant impact.**

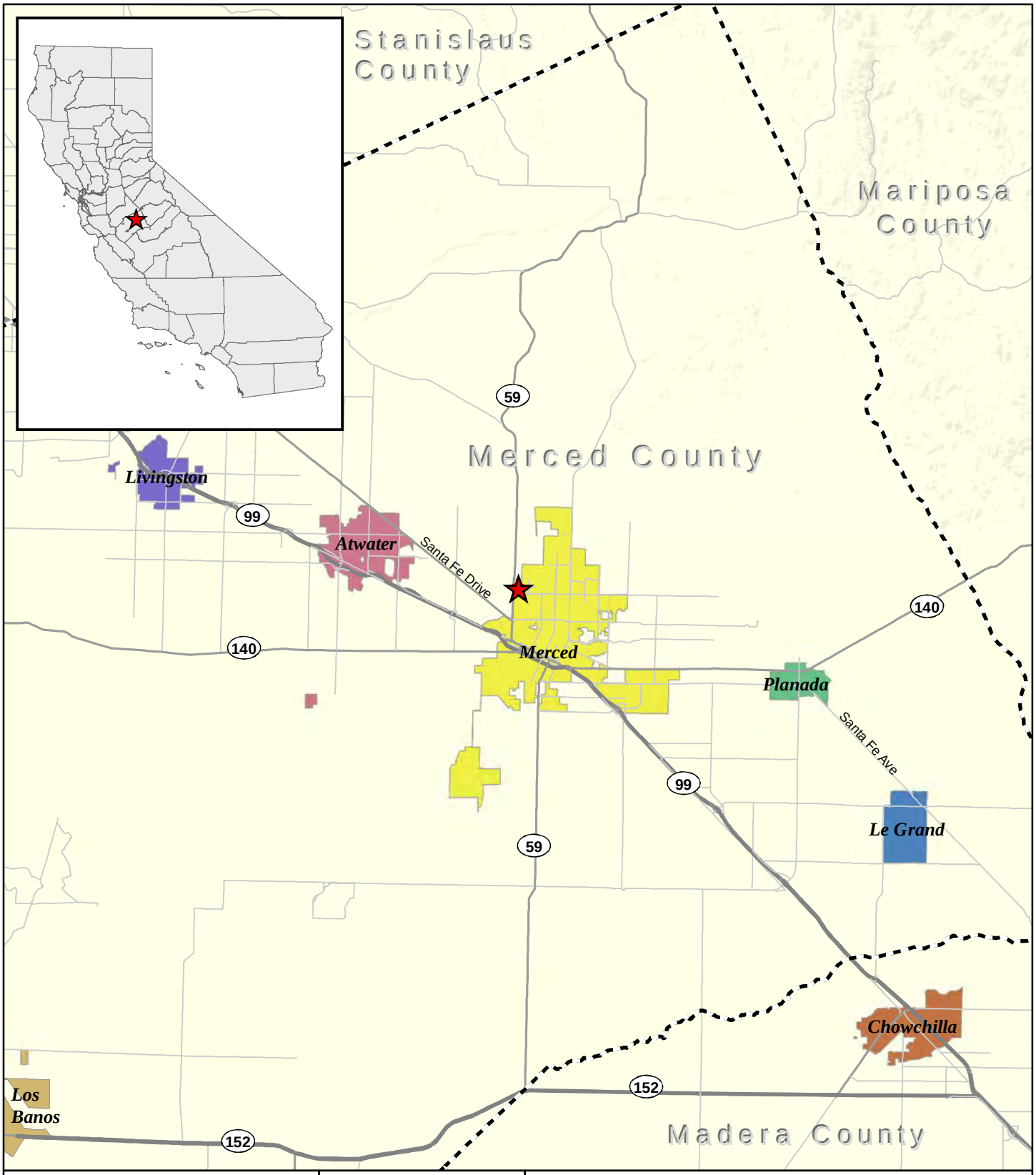
Impact AIR-5: The project would not create objectionable odors affecting a substantial number of people. **Less than significant impact.**

Impact GHG-1: The project would not generate direct or indirect greenhouse gas emissions that would result in a significant impact on the environment. **Less than significant impact.**

Impact GHG-2: The project would not conflict with any applicable plan, policy or regulation of an agency adopted to reduce the emissions of greenhouse gases. **Less than significant impact**.

1.4—Standard Conditions and Mitigation Measures Applied to the Project

No mitigation measures beyond compliance with mandatory regulations were required to demonstrate that the project would have less than significant for air quality, health risk, and GHG impacts.



Legend

Project Location

County Boundary

Sources: ESRI StreetMap North America; Open StreetMap; CalAtlas. Map date: December 13, 2017.

NORTH

0 2 4

Miles

1:300,000

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PACIFIC APARTMENTS PROJECT

Figure 1. Regional Vicinity Map

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Legend

- Project Parcel 206-050-017-000
- Merced City Boundary
- Roadway
- Pedestrian or Bike Path
- Fahrens Creek
- Canal

Sources: Merced County GIS; OpenStreets; ArcGIS Online World Imagery Map Service; USGS Hydrography Dataset. Map date: December 13, 2018.

NORTH

0 300 600

Feet

1:9,000

BRUNO M & B FAMILY LP
AIR QUALITY AND GREENHOUSE GAS ANALYSIS REPORT
PACIFIC APARTMENTS PROJECT

Figure 2. Local Vicinity Map

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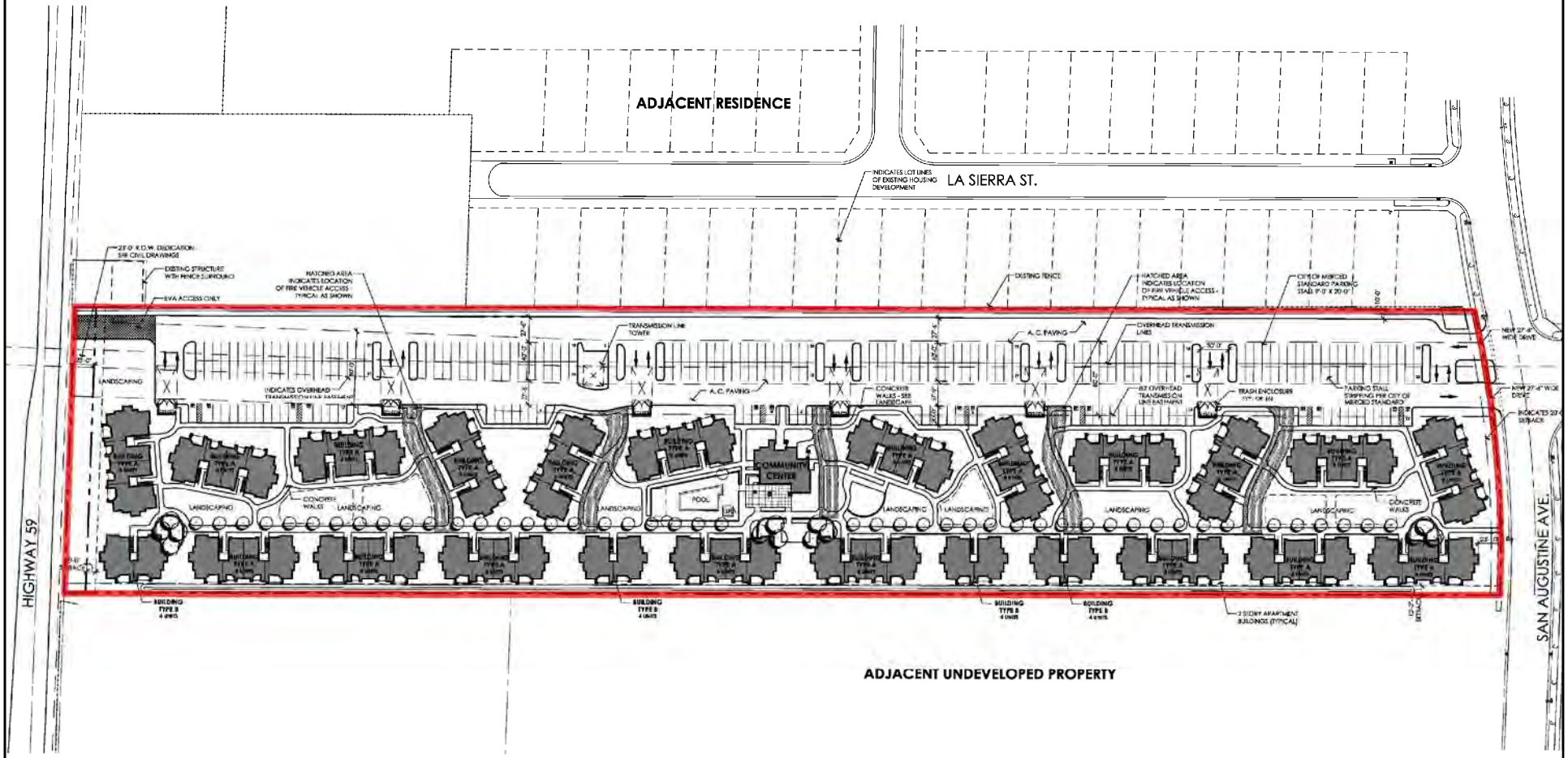

Legend

Project Parcel

NORTH

0 50 100

Feet

1:2,000

Sources: api Architecture Plus Inc., Overall Site Plan, 10-1-18.
Map date: December 13, 2018.

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AIR QUALITY AND GREENHOUSE GAS ANALYSIS REPORT
PACIFIC APARTMENT PROJECT

Figure 3. Site Plan

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SECTION 2: AIR QUALITY SETTING

2.1—Environmental Setting

Air quality impacts are both local and regional. Regional and local air quality is impacted by topography, dominant airflows, atmospheric inversions, location, and season. The project is located in the San Joaquin Valley Air Basin (Air Basin), which experiences some of the most challenging environmental conditions for air quality in the nation. The following section describes these conditions as they pertain to the Air Basin. The information in this section is primarily from the SJVAPCD's GAMAQI (SJVAPCD 2015).

2.1.1 - San Joaquin Valley Air Basin

Topography

The topography of a region is important for air quality because mountains can block airflow that would help disperse pollutants and can channel air from upwind areas that transports pollutants to downwind areas. The SJVAPCD covers the entirety of the Air Basin. The Air Basin is generally shaped like a bowl. It is open in the north and is surrounded by mountain ranges on all other sides. The Sierra Nevada mountains are along the eastern boundary (8,000 to 14,000 feet in elevation), the Coast Ranges are along the western boundary (3,000 feet in elevation), and the Tehachapi Mountains are along the southern boundary (6,000 to 8,000 feet in elevation).

Climate

The climate is important for air quality because of differences in the atmosphere's ability to trap pollutants close to the ground, which creates adverse air quality; inversely, the atmosphere's ability to rapidly disperse pollutants over a wide area prevents high concentrations from accumulating under different climatic conditions. The Air Basin has an "inland Mediterranean" climate and is characterized by long, hot, dry summers and short, foggy winters. Sunlight can be a catalyst in the formation of some air pollutants (such as ozone); the Air Basin averages over 260 sunny days per year.

Inversion layers are significant in determining pollutant concentrations. Concentration levels can be related to the amount of mixing space below the inversion. Temperature inversions that occur on the summer days are usually encountered 2,000 to 2,500 feet above the valley floor. In winter months, overnight inversions occur 500 to 1,500 feet above the valley floor.

Dominant airflows provide the driving mechanism for transport and dispersion of air pollution. The mountains surrounding the Air Basin form natural horizontal barriers to the dispersion of air contaminants. The wind generally flows south-southeast through the valley, through the Tehachapi Pass and into the Mojave Desert Air Basin portion of Kern County. As the wind moves through the Air Basin, it mixes with the air pollution generated locally, generally transporting air pollutants from the north to the south in the summer and in a reverse flow in the winter.

The winds and unstable air conditions experienced during the passage of winter storms result in periods of low pollutant concentrations and excellent visibility. Between winter storms, high pressure and light winds allow cold moist air to pool on the San Joaquin Valley floor. This creates strong, low-

level temperature inversions and very stable air conditions, which can lead to Tule fog. Wintertime conditions favorable to fog formation are also conditions favorable to high concentrations of $PM_{2.5}$ and PM_{10}.

2.2—Regulatory Setting

Air pollutants are regulated to protect human health and for secondary effects such as visibility and building soiling. The Clean Air Act of 1970 tasks the United States Environmental Protection Agency (EPA) with setting air quality standards. The State of California also sets air quality standards, which are in some cases more stringent than federal standards, in addition to addressing additional pollutants. The following section describes these federal and state standards and the health effects of the regulated pollutants.

2.2.1 - Clean Air Act

Congress established much of the basic structure of the Clean Air Act (CAA) in 1970 and made major revisions in 1977 and 1990. Six common air pollutants (also known as criteria pollutants) are addressed in the CAA: particulate matter, ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides, and lead. The EPA labels these pollutants as criteria air pollutants because they are regulated by developing human health-based and/or environmentally based criteria (science-based guidelines), which sets permissible levels. The set of limits based on human health are called primary standards. Another set of limits intended to prevent environmental and property damage are called secondary standards (EPA 2014). The federal standards are called National Ambient Air Quality Standards (NAAQS). The air quality standards provide benchmarks for determining whether air quality is healthy at specific locations and whether development activities will cause or contribute to a violation of the standards. The criteria pollutants are:

- Ozone
- Nitrogen dioxide (NO_2)
- Lead
- Particulate matter (PM_{10} and $PM_{2.5}$)
- Carbon monoxide (CO)
- Sulfur dioxide

The federal standards were set to protect public health, including that of sensitive individuals; thus, the EPA is tasked with updating the standards as more medical research is available regarding the health effects of the criteria pollutants. Primary federal standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health (ARB 2016).

2.2.2 - California Clean Air Act

The California Legislature enacted the California Clean Air Act (CCAA) in 1988 to address air quality issues of concern not adequately addressed by the federal CAA at the time. California's air quality problems were and continue to be some of the most severe in the nation and required additional actions beyond the federal mandates. The California Air Resources Board (ARB) administers California Ambient Air Quality Standards (CAAQS) for the 10 air pollutants designated in the CCAA. The 10 state air pollutants are the six federal standards listed above as well visibility-reducing particulates, hydrogen sulfide, sulfates, and vinyl chloride. The EPA authorized California to adopt its own regulations for motor vehicles and other sources that are more stringent than similar federal regulations implementing the CAA. Generally, the planning requirements of the CCAA are less

stringent than the federal CAA; therefore, consistency with the CAA will also demonstrate consistency with the CCAA.

2.2.3 - Toxic Air Contaminants

A TAC is defined as an air pollutant that may cause or contribute to an increase in mortality or serious illness, or that may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air; however, their high toxicity or health risk may pose a threat to public health even at low concentrations. There are no ambient air quality standards for TAC emissions. TACs are regulated in terms of health risks to individuals and populations exposed to the pollutants. The 1990 Clean Air Act Amendments significantly expanded the EPA's authority to regulate hazardous air pollutants (HAP). Section 112 of the Clean Air Act lists 187 hazardous air pollutants to be regulated by source category. Authority to regulate these pollutants was delegated to individual states. ARB and local air districts regulate TACs and HAPs in California.

2.2.4 - Air Pollutant Description and Health Effects

The federal and state ambient air quality standards, relevant effects, properties, and sources of the pollutants are summarized in Table 1.

Table 1: Description of Air Pollutants

Air Pollutant	Averaging Time	California Standard	Federal Standard[a]	Most Relevant Effects from Pollutant Exposure	Properties	Sources
Ozone	1 Hour	0.09 ppm	—	Irritate respiratory system; reduce lung function; breathing pattern changes; reduction of breathing capacity; inflame and damage cells that line the lungs; make lungs more susceptible to infection; aggravate asthma; aggravate other chronic lung diseases; cause permanent lung damage; some immunological changes; increased mortality risk; vegetation and property damage.	Ozone is a photochemical pollutant as it is not emitted directly into the atmosphere, but is formed by a complex series of chemical reactions between volatile organic compounds (VOC), NO_X, and sunlight. Ozone is a regional pollutant that is generated over a large area and is transported and spread by the wind.	Ozone is a secondary pollutant; thus, it is not emitted directly into the lower level of the atmosphere. The primary sources of ozone precursors (VOC and NO_X) are mobile sources (on-road and off-road vehicle exhaust).
	8 Hour	0.070 ppm	0.070 ppm[f]			
Carbon monoxide (CO)	1 Hour	20 ppm	35 ppm	Ranges depending on exposure: slight headaches; nausea; aggravation of angina pectoris (chest pain) and other aspects of coronary heart disease; decreased exercise tolerance in persons with peripheral vascular disease and lung disease; impairment of central nervous system functions; possible increased risk to fetuses; death.	CO is a colorless, odorless, toxic gas. CO is somewhat soluble in water; therefore, rainfall and fog can suppress CO conditions. CO enters the body through the lungs, dissolves in the blood, replaces oxygen as an attachment to hemoglobin, and reduces available oxygen in the blood.	CO is produced by incomplete combustion of carbon-containing fuels (e.g., gasoline, diesel fuel, and biomass). Sources include motor vehicle exhaust, industrial processes (metals processing and chemical manufacturing), residential wood burning, and natural sources.
	8 Hour	9.0 ppm	9 ppm			
Nitrogen dioxide[b] (NO_2)	1 Hour	0.18 ppm	0.100 ppm	Potential to aggravate chronic respiratory disease and respiratory symptoms in sensitive groups; risk to public health implied by pulmonary and extra-pulmonary biochemical and cellular changes and pulmonary structural changes; contribution to atmospheric discoloration; increased visits to hospital for respiratory illnesses.	During combustion of fossil fuels, oxygen reacts with nitrogen to produce nitrogen oxides—NO_X (NO, NO_2, NO_3, N_2O, N_2O_3, N_2O_4, and N_2O_5). NO_X is a precursor to ozone, PM_{10}, and $PM_{2.5}$ formation. NO_X can react with compounds to form nitric acid and related small particles and result in PM-related health effects.	NO_X is produced in motor vehicle internal combustion engines and fossil fuel-fired electric utility and industrial boilers. Nitrogen dioxide (NO_2) forms quickly from NO_X emissions. NO_2 concentrations near major roads can be 30 to 100 percent higher than those at monitoring stations.
	Annual	0.030 ppm	0.053 ppm			

Table 1 (cont.): Description of Air Pollutants

Air Pollutant	Averaging Time	California Standard	Federal Standard[a]	Most Relevant Effects from Pollutant Exposure	Properties	Sources
Sulfur dioxide[c] (SO_2)	1 Hour	0.25 ppm	0.075 ppm	Bronchoconstriction accompanied by symptoms which may include wheezing, shortness of breath and chest tightness, during exercise or physical activity in persons with asthma. Some population-based studies indicate that the mortality and morbidity effects associated with fine particles show a similar association with ambient sulfur dioxide levels. It is not clear whether the two pollutants act synergistically or one pollutant alone is the predominant factor.	Sulfur dioxide is a colorless, pungent gas. At levels greater than 0.5 ppm, the gas has a strong odor, similar to rotten eggs. Sulfur oxides (SO_x) include sulfur dioxide and sulfur trioxide. Sulfuric acid is formed from sulfur dioxide, which can lead to acid deposition and can harm natural resources and materials. Although sulfur dioxide concentrations have been reduced to levels well below state and federal standards, further reductions are desirable because sulfur dioxide is a precursor to sulfate and PM_{10}.	Human-caused sources include fossil-fuel combustion, mineral ore processing, and chemical manufacturing. Volcanic emissions are a natural source of sulfur dioxide. The gas can also be produced in the air by dimethylsulfide and hydrogen sulfide. Sulfur dioxide is removed from the air by dissolution in water, chemical reactions, and transfer to soils and ice caps. The sulfur dioxide levels in the State are well below the maximum standards.
	3 Hour	—	0.5 ppm			
	24 Hour	0.04 ppm	0.14 (for certain areas)			
	Annual	—	0.030 ppm (for certain areas)			
Particulate matter (PM_{10})	24 Hour	50 µg/m^3	150 µg/m^3	• Short-term exposure (hours/days): irritation of the eyes, nose, throat; coughing; phlegm; chest tightness; shortness of breath; aggravates existing lung disease, causing asthma attacks and acute bronchitis; those with heart disease can suffer heart attacks and arrhythmias. • Long-term exposure: reduced lung function; chronic bronchitis; changes in lung morphology; death.	Suspended particulate matter is a mixture of small particles that consist of dry solid fragments, droplets of water, or solid cores with liquid coatings. The particles vary in shape, size, and composition. PM_{10} refers to particulate matter that is between 2.5 and 10 microns in diameter (1 micron is one-millionth of a meter). $PM_{2.5}$ refers to particulate matter that is 2.5 microns or less in diameter, about one-thirtieth the size of the average human hair.	Stationary sources include fuel or wood combustion for electrical utilities, residential space heating, and industrial processes; construction and demolition; metals, minerals, and petrochemicals; wood products processing; mills and elevators used in agriculture; erosion from tilled lands; waste disposal; and recycling. Mobile or transportation-related sources are from vehicle exhaust and road dust. Secondary particles form from reactions in the atmosphere.
	Mean	20 µg/m^3	—			
Particulate matter ($PM_{2.5}$)	24 Hour	—	35 µg/m^3			
	Annual	12 µg/m^3	12.0 µg/m^3			
Visibility-reducing particles	8 Hour	See note below[d]				

Table 1 (cont.): Description of Air Pollutants

Air Pollutant	Averaging Time	California Standard	Federal Standard[a]	Most Relevant Effects from Pollutant Exposure	Properties	Sources
Sulfates	24 Hour	25 µg/m^3	—	(a) Decrease in ventilatory function; (b) aggravation of asthmatic symptoms; (c) aggravation of cardio-pulmonary disease; (d) vegetation damage; (e) degradation of visibility; (f) property damage.	The sulfate ion is a polyatomic anion with the empirical formula SO_4^{2-}. Sulfates occur in combination with metal and/or hydrogen ions. Many sulfates are soluble in water.	Sulfates are particulates formed through the photochemical oxidation of sulfur dioxide. In California, the main source of sulfur compounds is combustion of gasoline and diesel fuel.
Lead[e]	30-day	1.5 µg/m^3	—	Lead accumulates in bones, soft tissue, and blood and can affect the kidneys, liver, and nervous system. It can cause impairment of blood formation and nerve conduction, behavior disorders, mental retardation, neurological impairment, learning deficiencies, and low IQ.	Lead is a solid heavy metal that can exist in air pollution as an aerosol particle component. Leaded gasoline was used in motor vehicles until around 1970. Lead concentrations have not exceeded state or federal standards at any monitoring station since 1982.	Lead ore crushing, lead-ore smelting, and battery manufacturing are currently the largest sources of lead in the atmosphere in the United States. Other sources include dust from soils contaminated with lead-based paint, solid waste disposal, and crustal physical weathering.
	Quarter	—	1.5 µg/m^3			
	Rolling 3-month average	—	0.15 µg/m^3			
Vinyl chloride[e]	24 Hour	0.01 ppm	—	Short-term exposure to high levels of vinyl chloride in the air causes central nervous system effects, such as dizziness, drowsiness, and headaches. Epidemiological studies of occupationally exposed workers have linked vinyl chloride exposure to development of a rare cancer, liver angiosarcoma, and have suggested a relationship between exposure and lung and brain cancers.	Vinyl chloride, or chloroethene, is a chlorinated hydrocarbon and a colorless gas with a mild, sweet odor. In 1990, ARB identified vinyl chloride as a toxic air contaminant and estimated a cancer unit risk factor.	Most vinyl chloride is used to make polyvinyl chloride plastic and vinyl products, including pipes, wire and cable coatings, and packaging materials. It can be formed when plastics containing these substances are left to decompose in solid waste landfills. Vinyl chloride has been detected near landfills, sewage plants, and hazardous waste sites.
Hydrogen sulfide	1 Hour	0.03 ppm	—	High levels of hydrogen sulfide can cause immediate respiratory arrest. It can irritate the eyes and respiratory tract and cause	Hydrogen sulfide (H_2S) is a flammable, colorless, poisonous gas that smells like rotten eggs.	Manure, storage tanks, ponds, anaerobic lagoons, and land application sites are the primary sources of hydrogen sulfide.

Table 1 (cont.): Description of Air Pollutants

Air Pollutant	Averaging Time	California Standard	Federal Standard[a]	Most Relevant Effects from Pollutant Exposure	Properties	Sources
				headache, nausea, vomiting, and cough. Long exposure can cause pulmonary edema.		Anthropogenic sources include the combustion of sulfur-containing fuels (oil and coal).
Volatile organic compounds (VOC)		There are no state or federal standards for VOCs because they are not classified as criteria pollutants.		Although health-based standards have not been established for VOCs, health effects can occur from exposures to high concentrations because of interference with oxygen uptake. In general, concentrations of VOCs are suspected to cause eye, nose, and throat irritation; headaches; loss of coordination; nausea; and damage to the liver, the kidneys, and the central nervous system. Many VOCs have been classified as toxic air contaminants.	Reactive organic gases (ROG), or VOCs, are defined as any compound of carbon—excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate—that participates in atmospheric photochemical reactions. Although there are slight differences in the definition of ROG and VOCs, the two terms are often used interchangeably.	Indoor sources of VOCs include paints, solvents, aerosol sprays, cleansers, tobacco smoke, etc. Outdoor sources of VOCs are from combustion and fuel evaporation. A reduction in VOC emissions reduces certain chemical reactions that contribute to the formulation of ozone. VOCs are transformed into organic aerosols in the atmosphere, which contribute to higher PM_{10} and lower visibility.
Diesel particulate matter (DPM)		There are no ambient air quality standards for DPM.		Some short-term (acute) effects of DPM exposure include eye, nose, throat, and lung irritation, coughs, headaches, light-headedness, and nausea. Studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks, and premature deaths among those suffering from respiratory problems. Human studies on the carcinogenicity of DPM demonstrate an increased risk of lung cancer, although the increased risk cannot be clearly attributed to diesel exhaust exposure.	DPM is a source of $PM_{2.5}$—diesel particles are typically 2.5 microns and smaller. Diesel exhaust is a complex mixture of thousands of particles and gases that is produced when an engine burns diesel fuel. Organic compounds account for 80 percent of the total particulate matter mass, which consists of compounds such as hydrocarbons and their derivatives, and polycyclic aromatic hydrocarbons and their derivatives. Fifteen polycyclic aromatic hydrocarbons are confirmed carcinogens, a number of which are found in diesel exhaust.	Diesel exhaust is a major source of ambient particulate matter pollution in urban environments. Typically, the main source of DPM is from combustion of diesel fuel in diesel-powered engines. Such engines are in on-road vehicles such as diesel trucks, off-road construction vehicles, diesel electrical generators, and various pieces of stationary construction equipment.

Table 1 (cont.): Description of Air Pollutants

Air Pollutant	Averaging Time	California Standard	Federal Standard[a]	Most Relevant Effects from Pollutant Exposure	Properties	Sources

Notes:
ppm = parts per million (concentration) $\mu g/m^3$ = micrograms per cubic meter Annual = Annual Arithmetic Mean 30-day = 30-day average Quarter = Calendar quarter

[a] Federal standard refers to the primary national ambient air quality standard, or the levels of air quality necessary, with an adequate margin of safety to protect the public health. All standards listed are primary standards except for 3 Hour SO_2, which is a secondary standard. A secondary standard is the level of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

[b] To attain the 1-hour NO_2 national standard, the 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations at each site must not exceed 100 parts per billion (ppb) (0.100 ppm).

[c] On June 2, 2010, a new 1-hour SO_2 standard was established and the existing 24-hour and annual primary standards were revoked. To attain the 1-hour national standard, the 3-year average of the annual 99th percentile of the 1-hour daily maximum concentrations at each site must not exceed 75 ppb. The 1971 SO_2 national standards (24-hour and annual) remain in effect until one year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved.

[d] Visibility-reducing particles: In 1989, the ARB converted both the general statewide 10-mile visibility standard and the Lake Tahoe 30-mile visibility standard to instrumental equivalents, which are “extinction of 0.23 per kilometer” and “extinction of 0.07 per kilometer” for the statewide and Lake Tahoe Air Basin standards, respectively.

[e] The ARB has identified lead and vinyl chloride as “toxic air contaminants” with no threshold level of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.

[f] The EPA Administrator approved a revised 8-hour ozone standard of 0.07 ppb on October 1, 2015. The new standard went into effect 60 days after publication of the Final Rule in the Federal Register. The Final Rule was published in the Federal Register on October 26, 2015 and became effective on December 28, 2015.

Source of effects, properties, and sources: South Coast Air Quality Management District 2007; California Environmental Protection Agency 2002; California Air Resources Board 2009a; U.S. Environmental Protection Agency 2003, 2009a, 2009b, 2010, 2011, 2012a and 2012b; National Toxicology Program 2011 and 2016.
Source of standards: California Air Resources Board 2013a.

Several pollutants listed in Table 1 are not addressed in this analysis. Analysis of lead, hydrogen sulfide, sulfates, and vinyl chloride are not included in this report because no new sources of these pollutant emissions are anticipated with the project. Visibility-reducing particles are not explicitly addressed in this analysis because particulate matter is addressed as PM_{10} and $PM_{2.5}$.

Toxic Air Contaminants Health Effects

A TAC is defined as an air pollutant that may cause or contribute to an increase in mortality or serious illness, or that may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air; however, their high toxicity or health risk may pose a threat to public health even at low concentrations. There are no ambient air quality standards for TAC emissions. TACs are regulated in terms of health risks to individuals and populations exposed to the pollutants. The 1990 Clean Air Act Amendments significantly expanded the EPA's authority to regulate hazardous air pollutants. Section 112 of the Clean Air Act lists 187 hazardous air pollutants to be regulated by source category. Authority to regulate these pollutants was delegated to individual states. ARB and local air districts regulate TACs and hazardous air pollutants in California.

Exposures to TACs emissions can have both chronic long-term (over a year or longer) and acute short-term (over a period of hours) health impacts. The TACs of greatest concern are those that cause serious health problems or affect many people. Health problems can include cancer, respiratory irritation, nervous system problems, and birth defects. Some health problems occur very soon after a person inhales a TAC. These immediate effects may be minor, such as watery eyes, or they may be serious, such as life-threatening lung damage. Other health problems may not appear until many months or years after a person's first exposure to the TAC. Cancer is one example of a delayed health problem.

A TAC is defined as an air pollutant that may cause or contribute to an increase in mortality or serious illness, or that may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air; however, their high toxicity or health risk may pose a threat to public health even at low concentrations. The California Almanac of Emissions and Air Quality—2009 Edition (ARB 2009b) presents the relevant concentration and cancer risk data for the ten TACs that pose the most substantial health risk in California based on available data. The ten TACs are acetaldehyde, benzene, 1.3-butadiene, carbon tetrachloride, hexavalent chromium, para-dichlorobenzene, formaldehyde, methylene chloride, perchloroethylene, and diesel particulate matter (DPM).

Some studies indicate that DPM poses the greatest health risk among the TACs listed above. A 10-year research program (ARB 1998) demonstrated that DPM from diesel-fueled engines is a human carcinogen and that chronic (long-term) inhalation exposure to DPM poses a chronic health risk. In addition to increased risk of lung cancer, exposure to diesel exhaust can have other health effects. Diesel exhaust can irritate the eyes, nose, throat, and lungs, and it can cause a cough, headaches, lightheadedness, and nausea. Diesel exhaust is a major source of fine particulate pollution as well, and studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks, and premature deaths among those suffering from respiratory problems.

DPM differs from other TACs in that it is not a single substance, but a complex mixture of hundreds of substances. Although DPM is emitted by diesel-fueled, internal combustion engines, the composition of the emissions varies, depending on: engine type, operating conditions, fuel composition, lubricating oil, and whether an emission control system is present. Unlike the other TACs, however, no ambient monitoring data are available for DPM because no routine measurement method currently exists. The ARB has made preliminary concentration estimates based on a DPM exposure method. This method uses the ARB emissions inventory's PM_{10} database, ambient PM_{10} monitoring data, and the results from several studies to estimate concentrations of DPM.

Health risks attributable to the top 10 TACs listed above are available from the ARB as part of its California Almanac of Emissions and Air Quality. As shown therein for data collected at the First Street air monitoring station in Fresno, cancer risks attributable to all of the listed TACs above with the exception of DPM have declined about 70 percent from the mid-1990s to 2007. Risks associated with DPM emissions are provided only for the year 2000 and have not been updated in the Almanac. Although more recent editions of the Almanac do not provide estimated risk, they do provide emission inventories for DPM for later years. The 2013 Almanac provides emission inventory trends for DPM from 2000 through 2035. The same Almanac reports that DPM emissions were reduced in the San Joaquin Valley Air Basin from 16 tons per day in 2000 to 11 tons per day in 2010, a 31 percent decrease. DPM emissions in the San Joaquin Valley are projected to decrease to 6 tons per day by 2015, a 62 percent reduction from year 2000 levels. ARB predicts a reduction to three tons per day by 2035, which would be an 81 percent reduction from year 2000 levels. Continued implementation of the ARB's Diesel Risk Reduction Plan is expected to provide continued reductions in DPM through 2020 and beyond through regulations on this source (ARB 2013b).

Asbestos

Asbestos is the name given to a number of naturally occurring fibrous silicate minerals that have been mined for their useful properties such as thermal insulation, chemical and thermal stability, and high tensile strength. The three most common types of asbestos are chrysotile, amosite, and crocidolite. Chrysotile, also known as white asbestos, is the most common type of asbestos found in buildings. Chrysotile makes up approximately 90 to 95 percent of all asbestos contained in buildings in the United States. Exposure to asbestos is a health threat; exposure to asbestos fibers may result in health issues such as lung cancer, mesothelioma (a rare cancer of the thin membranes lining the lungs, chest, and abdominal cavity), and asbestosis (a non-cancerous lung disease that causes scarring of the lungs). Exposure to asbestos can occur during demolition or remodeling of buildings that were constructed prior to the 1977 ban on asbestos for use in buildings. Exposure to naturally occurring asbestos can occur during soil-disturbing activities in areas with deposits present. No naturally occurring asbestos is located near the project site.

2.3—Existing Air Quality Conditions

The local air quality can be evaluated by reviewing relevant air pollution concentrations near the project area. Table 2 summarizes 2014 through 2016 published monitoring data, which is the most recent 3-year period available. The table displays data from the Merced—Coffee Avenues monitoring station (located approximately 2.1 miles southeast of the project site) and the Merced—2334 M Street monitoring station (located approximately 5.4 miles southeast of the project site). These sites

are the closest monitoring stations to the project site. The data shows that during the past few years, the project area has exceeded the standards for ozone (state and national), PM_{10} (state), and $PM_{2.5}$ (national). The data in the table reflects the concentration of the pollutants in the air, measured using air monitoring equipment. This differs from emissions, which are calculations of a pollutant being emitted over a certain period. No recent monitoring data for Merced County or the San Joaquin Valley Air Basin was available for CO or SO_2. Generally, no monitoring is conducted for pollutants that are no longer likely to exceed ambient air quality standards.

Table 2: Air Quality Monitoring Summary

Air Pollutant	Averaging Time	Item	2014	2015	2016
Ozone[1]	1 Hour	Max 1 Hour (ppm)	**0.102**	**0.097**	0.093
		Days > State Standard (0.09 ppm)	2	2	0
Ozone[1]	8 Hour	Max 8 Hour (ppm)	**0.089**	**0.086**	**0.084**
		Days > State Standard (0.07 ppm)	34	29	17
		Days > National Standard (0.070 ppm)	29	28	16
Carbon monoxide (CO)	8 Hour	Max 8 Hour (ppm)	ND	ND	ND
		Days > State Standard (9.0 ppm)	ND	ND	ND
		Days > National Standard (9 ppm)	ND	ND	ND
Nitrogen dioxide (NO_2)[2]	Annual	Annual Average (ppm)	ID	0.006	0.007
	1 Hour	Max 1 Hour (ppm)	0.0350	0.0354	0.0389
		Days > State Standard (0.18 ppm)	0	0	0
Sulfur dioxide (SO_2)	Annual	Annual Average (ppm)	ND	ND	ND
	24 Hour	Max 24 Hour (ppm)	ND	ND	ND
		Days > State Standard (0.04 ppm)	ND	ND	ND
Inhalable coarse particles (PM_{10})[2]	Annual	Annual Average (µg/m^3)	30.6	29.3	35.4
	24 hour	24 Hour (µg/m^3)	**97.2**	**64.3**	**146.6**
		Days > State Standard (50 µg/m^3)	31.8	38.9	76.6
		Days > National Standard (150 µg/m^3)	0	0	0
Fine particulate matter ($PM_{2.5}$)[2]	Annual	Annual Average (µg/m^3)	**12.6**	11.1	**12.6**
	24 Hour	24 Hour (µg/m^3)	**60.8**	**42.8**	**66.7**
		Days > National Standard (35 µg/m^3)	40.4	15.4	8.2

Notes:
> = exceed
ppm = parts per million
µg/m^3 = micrograms per cubic meter
ID = insufficient data
ND = no data
max = maximum
Bold = exceedance
State Standard = California Ambient Air Quality Standard
National Standard = National Ambient Air Quality Standard
[1] Merced South Coffee Avenue monitoring station
[2] Merced 2334 M Street monitoring station
Source: California Air Resources Board 2017a.

The health impacts of the various air pollutants of concern can be presented in a number of ways. The clearest of these is comparable with the state and federal ozone standards. If concentrations are below the standard, it is safe to say that no health impact would occur to anyone. When concentrations exceed the standard, impacts will vary based on the amount by which the standard is exceeded. The EPA developed the Air Quality Index (AQI) as an easy-to-understand measure of health impacts compared with concentrations in the air. Table 3 provides a description of the health impacts of ozone at different concentrations.

Table 3: Air Quality Index and Health Effects from Ozone

Air Quality Index/ 8-hour Ozone Concentration	Health Effects Description
AQI 51–100—Moderate Concentration 55–70 ppb	**Sensitive Groups**: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Unusually sensitive individuals may experience respiratory symptoms.
	Cautionary Statements: Unusually sensitive people should consider limiting prolonged outdoor exertion.
AQI 101–150—Unhealthy for Sensitive Groups Concentration 71–85 ppb	**Sensitive Groups**: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Increasing likelihood of respiratory symptoms and breathing discomfort in active children and adults and people with respiratory disease, such as asthma.
	Cautionary Statements: Active children and adults, and people with respiratory disease, such as asthma, should limit prolonged outdoor exertion.
AQI 151–200—Unhealthy Concentration 86–105 ppb	**Sensitive Groups**: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Greater likelihood of respiratory symptoms and breathing difficulty in active children and adults and people with respiratory disease, such as asthma; possible respiratory effects in general population.
	Cautionary Statements: Active children and adults, and people with respiratory disease, such as asthma, should avoid prolonged outdoor exertion; everyone else, especially children, should limit prolonged outdoor exertion.
AQI 201–300—Very Unhealthy Concentration 106–200 ppb	**Sensitive Groups**: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Increasingly severe symptoms and impaired breathing likely in active children and adults and people with respiratory disease, such as asthma; increasing likelihood of respiratory effects in general population.
	Cautionary Statements: Active children and adults, and people with respiratory disease, such as asthma, should avoid all outdoor exertion; everyone else, especially children, should limit outdoor exertion.
Source: Air Now 2015.	

The AQI for the 8-hour ozone standard was changed to reflect the current NAAQS of 70 parts per billion (ppb). Based on the AQI scale for the 8-hour ozone standard, the project area experienced no days in the last three years that would be categorized as very unhealthy (AQI 201–250), and as many as 73 days that were unhealthy (AQI 151–200) or unhealthy for sensitive groups (AQI 101–150), violating the 70-ppb standard as measured at the Merced S. Coffee Avenue monitoring station. The highest reading was 89 parts per billion (ppb) in 2017 (AQI 159), which falls into the unhealthy range. This may be compared with the 85-ppb to 105-ppb range for unhealthy.

The other nonattainment pollutant of concern is $PM_{2.5}$. An AQI of 100 or lower is considered moderate and would be triggered by a 24-hour average concentration of 12.1 to 35.4 µg/m^3. An AQI of 101 to 105 or 35.5-55.4 µg/m^3 is considered unhealthful for sensitive groups. When concentrations reach this amount, it is considered an exceedance of the federal $PM_{2.5}$ standard. The monitoring station nearest the project exceeded the standard on approximately 171 days in the 3-year period spanning from 2015 to 2017. People with respiratory or heart disease, the elderly, and children are the groups most at risk. Unusually sensitive people should consider reducing prolonged or heavy exertion. The AQI of 151 to 200 is classified as unhealthy for everyone. This AQI classification is triggered when $PM_{2.5}$ concentration ranges from 55.4 to 150.4 µg/m^3. At this concentration, there is increasing likelihood of respiratory symptoms in sensitive individuals, aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease, and in the elderly. People with respiratory or heart disease, the elderly, and children should limit prolonged exertion. Everyone else should reduce prolonged or heavy exertion. The highest concentration recorded at the Merced M Street monitoring station in the last three years was 66.7 µg/m^3 (AQI 157) in 2017. At this concentration, increased aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly, and increased respiratory effects in general population would occur. People with respiratory or heart disease, children, and the elderly should avoid prolonged exertion; everyone else should limit prolonged exertion when the AQI exceeds this level. The relationship of the AQI to health effects in shown Table 4.

Table 4: Air Quality Index and Health Effects of Particulate Pollution

Air Quality Index/ $PM_{2.5}$ Concentration	Health Effects Description
AQI 51–100—Moderate	**Sensitive Groups**: Some people who may be unusually sensitive to particle.
Concentration 12.1–35.4 µg/m^3	**Health Effects Statements**: Unusually sensitive people should consider reducing prolonged or heavy exertion.
	Cautionary Statements: Unusually sensitive people: Consider reducing prolonged or heavy exertion. Watch for symptoms such as coughing or shortness of breath. These are signs to take it easier.
AQI 101–150—Unhealthy for Sensitive Groups	**Sensitive Groups**: Sensitive groups include people with heart or lung disease, older adults, children, and teenagers.
Concentration 35.5–55.4 µg/m^2	**Health Effects Statements**: Increasing likelihood of respiratory symptoms in sensitive individuals, aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease, and the elderly.
	If you have heart disease: Symptoms such as palpitations, shortness of breath, or unusual fatigue may indicate a serious problem. If you have any of these, contact your health care provider.

Table 4 (cont.): Air Quality Index and Health Effects of Particulate Pollution

Air Quality Index/ $PM_{2.5}$ Concentration	Health Effects Description
AQI 151–200—Unhealthy Concentration 55.5–150.4 µg/m^3	**Sensitive Groups**: Everyone
	Health Effects Statements: Increased aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; increased respiratory effects in general population.
	Cautionary Statements: Sensitive groups: Avoid prolonged or heavy exertion. Consider moving activities indoors or rescheduling. Everyone else: Reduce prolonged or heavy exertion. Take more breaks during outdoor activities.
AQI 201–300—Very Unhealthy Concentration 150.5–250.4 µg/m^3	**Sensitive Groups**: Everyone
	Health Effects Statements: Significant aggravation of heart or lung disease and premature mortality in persons with cardiopulmonary disease and the elderly; significant increase in respiratory effects in general population.
	Cautionary Statements: Sensitive groups: Avoid all physical activity outdoors. Move activities indoors or reschedule to a time when air quality is better. Everyone else: Avoid prolonged or heavy exertion. Consider moving activities indoors or rescheduling to a time when air quality is better.

2.3.1 - Attainment Status

The EPA and the ARB designate air basins where ambient air quality standards are exceeded as "nonattainment" areas. If standards are met, the area is designated an "attainment" area. If there is inadequate or inconclusive data to make a definitive attainment designation, they are considered "unclassified." National nonattainment areas are further designated marginal, moderate, serious, severe, or extreme as a function of deviation from standards.

Each standard has a different definition, or "form" of what constitutes attainment, based on specific air quality statistics. For example, the federal 8-hour CO standard is not to be exceeded more than once per year; therefore, an area is in attainment of the CO standard if no more than one 8-hour ambient air monitoring values exceeds the threshold per year. In contrast, the federal annual $PM_{2.5}$ standard is met if the 3-year average of the annual average $PM_{2.5}$ concentration is less than or equal to the standard.

The current attainment designations for the Air Basin are shown in Table 5. The Air Basin is designated nonattainment for ozone, PM_{10}, and $PM_{2.5}$.

Table 5: San Joaquin Valley Air Basin Attainment Status

Pollutant	State Status	National Status
Ozone—One Hour	Nonattainment/Severe	No Standard
Ozone—Eight Hour	Nonattainment	Nonattainment/Extreme
Carbon monoxide	Attainment/Unclassified	Merced, Madera, and Kings Counties are unclassified; others are in Attainment
Nitrogen dioxide	Attainment	Attainment/Unclassified
Sulfur dioxide	Attainment	Attainment/Unclassified
PM_{10}	Nonattainment	Attainment
$PM_{2.5}$	Nonattainment	Nonattainment
Lead	Attainment	No Designation/Classification
Source of State status: California Air Resources Board (ARB 2013c). Source of National status: U.S. Environmental Protection Agency (EPA 2016a). Source of additional status information (SJVAPCD 2017a).		

2.4—Air Quality Plans and Regulations

Air pollutants are regulated at the national, state, and air basin or county level, and each agency has a different level of regulatory responsibility: the EPA regulates at the national level, the ARB at the state level, and the SJVAPCD at the air basin level.

The EPA is responsible for national and interstate air pollution issues and policies. The EPA sets national vehicle and stationary source emission standards, oversees approval of all State Implementation Plans, provides research and guidance for air pollution programs, and sets National Ambient Air Quality Standards—also known as the federal standards described earlier.

A State Implementation Plan (SIP) is a document prepared by each state describing existing air quality conditions and measures that will be followed to attain and maintain federal standards. The SIP for the State of California is administered by the ARB, which has overall responsibility for statewide air quality maintenance and air pollution prevention. California's SIP incorporates individual federal attainment plans for regional air districts; specifically, an air district prepares its federal attainment plan, which is sent to ARB to be approved and incorporated into the California State Implementation Plan. Federal attainment plans include the technical foundation for understanding air quality (e.g., emission inventories and air quality monitoring), control measures and strategies, and enforcement mechanisms. The ARB then submits the SIP to the EPA for approval. After reviewing submitted SIPs, the EPA proposes to approve or disapprove all or part of each plan. The public has an opportunity to comment on the EPA's proposed action. The EPA considers public input before taking final action on a state's plan. If EPA approves all or part of a SIP, those control measures are enforceable in federal court. If a state fails to submit an approvable plan or if the EPA disapproves a plan, the EPA is required to develop a federal implementation plan. The SIP approval process often takes several years.

The most recent federally approved attainment plans for the SJVAPCD are the 2007 8-Hour Ozone Attainment Plan and the 2012 $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ standard. The EPA Administrator signed

the Final Rule revising the 8-hour ozone standard to 70 parts per million (ppm) on October 1, 2015. The Air Basin is designated an extreme ozone nonattainment area for the EPA's 2008 8-hour ozone standard of 75 ppb. The plan to address this standard was adopted by the SJVAPCD on June 16, 2016. The ARB approved the attainment demonstration plan for the San Joaquin Valley on July 21, 2016 and transmitted the plan to the EPA on August 24, 2016. The plan for areas designated extreme nonattainment must demonstrate attainment of the new ozone standard by December 31, 2031. The 2016 Ozone Plan predicts attainment of the 2008 standard by 2031. The 2016 $PM_{2.5}$ Plan is currently under ARB review. This plan provides the SJVAPCD strategy to achieve the 2012 $PM_{2.5}$ standard.

Areas designated nonattainment must develop air quality plans and regulations to achieve standards by specified dates, depending on the severity of the exceedances. For much of the country, implementation of federal motor vehicle standards and compliance with federal permitting requirements for industrial sources are adequate to attain air quality standards on schedule. For many areas of California, however, additional state and local regulation is required to achieve the standards. Regulations adopted by California are described below.

2.4.1 - California Regulations

Low-Emission Vehicle Program

The ARB first adopted Low-Emission Vehicle (LEV) program standards in 1990. These first LEV standards ran from 1994 through 2003. LEV II regulations, running from 2004 through 2010, represent continuing progress in emission reductions. As the State's passenger vehicle fleet continues to grow and more sport utility vehicles and pickup trucks are used as passenger cars rather than work vehicles, the more stringent LEV II standards were adopted to provide reductions necessary for California to meet federally mandated clean air goals outlined in the 1994 State Implementation Plan. In 2012, ARB adopted the LEV III amendments to California's Low-Emission Vehicle (LEV) regulations. These amendments, also known as the Advanced Clean Car Program include more stringent emission standards for model years 2017 through 2025 for both criteria pollutants and GHGs for new passenger vehicles (ARB 2012a).

On-Road Heavy-Duty Vehicle Program

The ARB has adopted standards for emissions from various types of new on-road heavy-duty vehicles. Section 1956.8, Title 13, California Code of Regulations contains California's emission standards for on-road heavy-duty engines and vehicles, as well as test procedures. ARB has also adopted programs to reduce emissions from in-use heavy-duty vehicles including the Heavy-Duty Diesel Vehicle Idling Reduction Program, the Heavy-Duty Diesel In-Use Compliance Program, the Public Bus Fleet Rule and Engine Standards, and the School Bus Program and others (ARB 2013b).

ARB Regulation for In-Use Off-Road Diesel Vehicles

On July 26, 2007, the ARB adopted a regulation to reduce DPM and nitrous oxides (NO_X) emissions from in-use (existing) off-road heavy-duty diesel vehicles in California. Such vehicles are used in construction, mining, and industrial operations. The regulation limits idling to no more than five consecutive minutes, requires reporting and labeling, and requires disclosure of the regulation upon vehicle sale. The ARB is enforcing that part of the rule with fines up to $10,000 per day for each vehicle in violation. Performance requirements of the rule are based on a fleet's average NO_X

emissions, which can be met by replacing older vehicles with newer, cleaner vehicles or by applying exhaust retrofits. The regulation was amended in 2010 to delay the original timeline of the performance requirements, making the first compliance deadline January 1, 2014 for large fleets (over 5,000 horsepower), 2017 for medium fleets (2,501–5,000 horsepower), and 2019 for small fleets (2,500 horsepower or less).

ARB Truck and Bus Regulation

The latest amendments to the Truck and Bus regulation became effective on December 31, 2014. The amended regulation requires diesel trucks and buses that operate in California to be upgraded to reduce emissions. Newer heavier trucks and buses must meet PM filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent.

The regulation applies to nearly all privately and federally owned diesel-fueled trucks and buses and to privately and publicly owned school buses with a gross vehicle weight rating (GVWR) greater than 14,000 pounds. The regulation provides a variety of flexibility options tailored to fleets operating low-use vehicles, fleets operating in selected vocations like agricultural and construction, and small fleets of three or fewer trucks (ARB 2015a).

ARB Regulation for Consumer Products

The ARB Consumer Products Regulation was last amended in January 2015. The ARB regulates the VOC content of a wide variety of consumer products sold and manufactured in California. The purpose of the regulation is to reduce the emission of ozone precursors, TACs, and GHG emissions in products that are used by homes and businesses. The regulated products include but are not limited to solvents, adhesives, air fresheners, soaps, aromatic compounds, windshield cleaners, charcoal lighter, dry cleaning fluids, floor polishes, and general cleaners and degreasers (ARB 2015b)

ARB Airborne Toxic Control Measure for Asbestos

In July 2001, the ARB approved an Air Toxic Control Measure for construction, grading, quarrying, and surface mining operations to minimize emissions of naturally occurring asbestos. The regulation requires application of best management practices to control fugitive dust in areas known to have naturally occurring asbestos and requires notification to the local air district prior to commencement of ground-disturbing activities. The measure establishes specific testing, notification and engineering controls prior to grading, quarrying, or surface mining in construction zones where naturally occurring asbestos is located on projects of any size. There are additional notification and engineering controls at work sites larger than one acre in size. These projects require the submittal of a “Dust Mitigation Plan” and approval by the air district prior to the start of a project.

Construction sometimes requires the demolition of existing buildings where construction occurs. Buildings often include materials containing asbestos. No demolition is required at the project site. Asbestos is also found in a natural state, known as naturally occurring asbestos. Exposure and disturbance of rock and soil that naturally contain asbestos can result in the release of fibers into the air and consequent exposure to the public. Asbestos most commonly occurs in ultramafic rock that has undergone partial or complete alteration to serpentine rock (serpentinite) and often contains

chrysotile asbestos. In addition, another form of asbestos, tremolite, can be found associated with ultramafic rock, particularly near faults. Sources of asbestos emissions include unpaved roads or driveways surfaced with ultramafic rock, construction activities in ultramafic rock deposits, or rock quarrying activities where ultramafic rock is present.

The ARB has an Air Toxic Control Measure for construction, grading, quarrying, and surface mining operations, requiring the implementation of mitigation measures to minimize emissions of asbestos-laden dust. The measure applies to road construction and maintenance, construction and grading operations, and quarries and surface mines when the activity occurs in an area where naturally occurring asbestos is likely to be found. Areas are subject to the regulation if they are identified on maps published by the Department of Conservation as ultramafic rock units or if the Air Pollution Control Officer or owner/operator has knowledge of the presence of ultramafic rock, serpentine, or naturally occurring asbestos on the site. The measure also applies if ultramafic rock, serpentine, or asbestos is discovered during any operation or activity. Review of the Department of Conservation maps indicates that no ultramafic rock has been found near Merced.

Diesel Risk Reduction Plan

The ARB's Diesel Risk Reduction Plan has led to the adoption of new state regulatory standards for all new on-road, off-road, and stationary diesel-fueled engines and vehicles to reduce DPM emissions by about 90 percent overall from year 2000 levels. The projected emission benefits associated with the full implementation of this plan, including federal measures, are reductions in DPM emissions and associated cancer risks of 75 percent by 2010, and 85 percent by 2020 (ARB 2000).

2.4.2 - San Joaquin Valley Air Pollution Control District

The District is responsible for controlling emissions primarily from stationary sources. The District, in coordination with the eight countywide transportation agencies, is also responsible for developing, updating, and implementing air quality attainment plans for the Air Basin. The District also has roles under CEQA.

Ozone Plans

The Air Basin is designated nonattainment of state and federal health-based air quality standards for ozone. To meet Clean Air Act requirements for the one-hour ozone standard, the District adopted an Extreme Ozone Attainment Demonstration Plan in 2004, with an attainment date of 2010. Although the EPA revoked the federal 1-hour ozone standard effective June 15, 2005 and replaced it with an 8-hour standard, the requirement to submit a plan for that standard remained in effect for the San Joaquin Valley.

The planning requirements for the 1-hour plan remain in effect until replaced by a federal 8-hour ozone attainment plan. On March 8, 2010, the EPA approved the 2004 Extreme Ozone Attainment Demonstration Plan, including revisions to the plan, effective April 7, 2010. However, the Air Basin failed to attain the standard in 2010 and was subject to a $29 million Clean Air Act penalty. The penalty is being collected through an additional $12 motor vehicle registration surcharge for each passenger vehicle registered in the Air Basin that will be applied to pollution reduction programs in the region. The District also instituted a more robust ozone episodic program to reduce emissions on days with the potential to exceed the ozone standards. On July 18, 2016, the EPA published in the

Federal Register a final action determining that the San Joaquin Valley has attained the 1-hour ozone national ambient air quality standard. This determination is based on the most recent three-year period (2012-2014) of sufficient, quality-assured, and certified data. The penalty fees remain in place pending submittal of a demonstration that the San Joaquin Valley will maintain the 1-hour standard for 10 years (EPA 2016b).

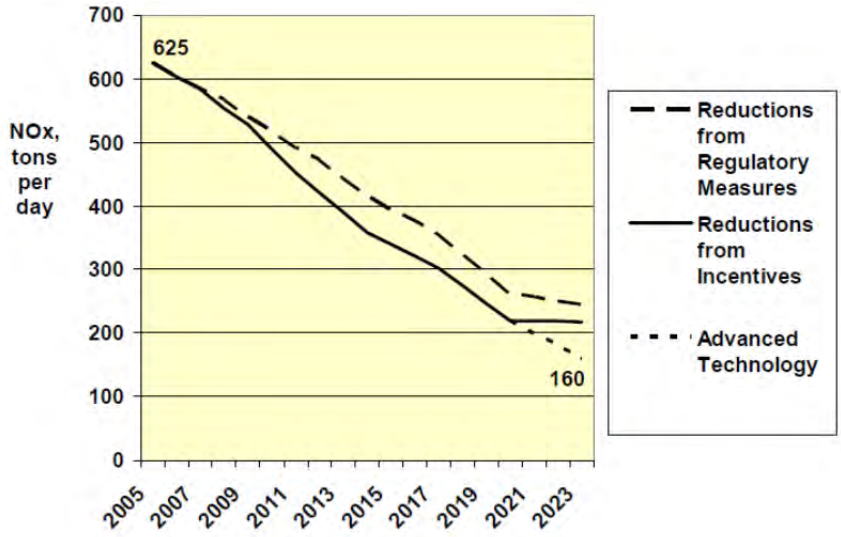
The EPA originally classified the Air Basin as serious nonattainment for the 1997 federal 8-hour ozone standard with an attainment date of 2013. On April 30, 2007, the District's Governing Board adopted the 2007 Ozone Plan, which contained analysis showing a 2013 attainment target to be infeasible. The 2007 Ozone Plan details the plan for achieving attainment on schedule with an "extreme nonattainment" deadline of 2024. At its adoption of the 2007 Ozone Plan, the District also requested a reclassification to extreme nonattainment. ARB approved the plan in June 2007, and the EPA approved the request for reclassification to extreme nonattainment on April 15, 2010.

The 2007 Ozone Plan contains measures to reduce ozone and particulate matter precursor emissions to bring the Basin into attainment with the federal 8-hour ozone standard. The 2007 Ozone Plan calls for a 75 percent reduction of NO_X and a 25 percent reduction of reactive organic gases (ROG). Figure 4 displays the anticipated NO_X reductions attributed in the 2007 Ozone Plan (Source: 2007 Ozone Plan). The plan, with innovative measures and a "dual path" strategy, assures expeditious attainment of the federal 8-hour ozone standard for all Air Basin residents. The District Governing Board adopted the 2007 Ozone Plan on April 30, 2007. The ARB approved the plan on June 14, 2007. The 2007 Ozone Plan requires yet to be determined "Advanced Technology" to achieve additional reductions after 2021, in order to attain the standard at all monitoring stations in the Air Basin by 2024 as allowed for areas designated extreme nonattainment by the federal Clean Air Act.

The Air Basin is designated an extreme ozone nonattainment area for the EPA's 2008 8-hour ozone standard of 75 ppb. The District's Governing Board approved the 2016 Plan for the 2008 8-Hour Ozone Standard on June 16, 2016. The comprehensive strategy in this plan will reduce NO_X emissions by over 60 percent between 2012 and 2031 and will bring the San Joaquin Valley into attainment of the EPA's 2008 8-hour ozone standard as expeditiously as practicable, no later than December 31, 2031. To ensure that the plan is approvable with the necessary contingencies, the plan includes a "Black Box" that will require implementation of new advanced technologies and controls prior to the 2031 deadline.

State ozone standards do not have an attainment deadline but require implementation of all feasible measures to achieve attainment at the earliest date possible. This is achieved through compliance with the federal deadlines and control measure requirements.

Figure 4: San Joaquin Valley NO_X Emissions Forecast



Particulate Matter Plans

The Air Basin was designated nonattainment of state and federal health-based air quality standards for PM_{10}. The Air Basin is also designated nonattainment of state and federal standards for $PM_{2.5}$.

To meet Clean Air Act requirements for the PM_{10} standard, the District adopted a PM_{10} Attainment Demonstration Plan (Amended 2003 PM_{10} Plan and 2006 PM_{10} Plan), which has an attainment date of 2010. The District adopted the 2007 PM_{10} Maintenance Plan in September 2007 to assure the San Joaquin Valley's continued attainment of the EPA's PM_{10} standard. The EPA designated the valley as an attainment/maintenance area for PM_{10} on September 25, 2008. Although the San Joaquin Valley has exceeded the standard since then, those days were considered exceptional events that are not considered a violation of the standard for attainment purposes.

The 2008 $PM_{2.5}$ Plan builds upon the comprehensive strategy adopted in the 2007 Ozone Plan to bring the Air Basin into attainment of the 1997 national standards for $PM_{2.5}$. The EPA has identified NO_X and SO_2as precursors that must be addressed in air quality plans for the 1997 $PM_{2.5}$ standards. The 2008 $PM_{2.5}$ Plan is a continuation of the District's strategy to improve the air quality in the Air Basin. The EPA issued final approval of the 2008 $PM_{2.5}$ Plan on November 9, 2011, which became effective on January 9, 2012. The EPA approved the emissions inventory, the reasonably available control measures/reasonably available control technology demonstration, reasonable further progress demonstration, attainment demonstration and associated air quality modeling, and the transportation conformity motor vehicle emissions budgets. The EPA also granted California's request to extend the attainment deadline for the San Joaquin Valley to April 5, 2015 and approved commitments to measures and reductions by the District and the ARB. Finally, it disapproved the State Implementation Plan's contingency provisions and issued a protective finding for transportation conformity determinations.

In December 2012, the District adopted the 2012 $PM_{2.5}$ Plan to bring the San Joaquin Valley into attainment of the EPA's 2006 24-hour $PM_{2.5}$ standard of 35 $\mu g/m^3$. The ARB approved the District's 2012 $PM_{2.5}$ Plan for the 2006 standard at a public hearing on January 24, 2013 (SJVAPCD 2012a). This

plan seeks to bring the Valley into attainment with the standard by 2019, with the expectation that most areas will achieve attainment before that time.

The 2015 Plan for the 1997 $PM_{2.5}$ Standard approved by the District Governing Board on April 16, 2015 will bring the Valley into attainment of the EPA's 1997 $PM_{2.5}$ standard as expeditiously as practicable, but no later than December 31, 2020. The plan was required to request reclassification to Serious nonattainment and to extend the attainment date from 2018 to 2020 (SJVAPCD 2015b).

The 2016 Moderate Area Plan for the 2012 $PM_{2.5}$ Standard was adopted on September 15, 2016. This plan includes an attainment impracticability demonstration and request for reclassification of the Valley from Moderate nonattainment to Serious nonattainment (SJVAPCD 2017b).

SJVAPCD Rules and Regulations

The SJVAPCD rules and regulations that may apply to projects that will occur during buildout of the project include, but are not limited to the following:

Rule 4102—Nuisance. The purpose of this rule is to protect the health and safety of the public and applies to any source operation that emits or may emit air contaminants or other materials.

Rule 4601—Architectural Coatings. The purpose of this rule is to limit Volatile Organic Compounds (VOC) emissions from architectural coatings. Emissions are reduced by limits on VOC content and providing requirements on coatings storage, cleanup, and labeling.

Rule 4641—Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations. The purpose of this rule is to limit VOC emissions from asphalt paving and maintenance operations. If asphalt paving will be used, then the paving operations will be subject to Rule 4641.

Regulation VIII—Fugitive PM_{10} Prohibitions. Regulation VIII, Rules 8011–8081 are designed to reduce PM_{10} emissions (predominantly dust/dirt) generated by human activity, including construction and demolition activities, road construction, bulk materials storage, paved and unpaved roads, carryout and trackout, etc. All development projects that involve soil disturbance are subject to at least one provision of the Regulation VIII series of rules.

Rule 9510—Indirect Source Review. This rule reduces the impact of NO_X and PM_{10} emissions from growth within the Air Basin. The rule places application and emission reduction requirements on development projects meeting applicability criteria in order to reduce emissions through on-site mitigation, off-site District-administered projects, or a combination of the two. This project must comply with Rule 9510 because it would develop more than 2,000 square feet of commercial space.

CEQA

The District has three roles under CEQA:

1. **Lead Agency:** Responsible for preparing environmental analyses for its own projects (adoption of rules, regulations, or plans) or permit projects filed with the District where the District has primary approval authority over the project.

2. **Responsible Agency:** The discretionary authority of a responsible agency is more limited than a lead agency; having responsibility for mitigating or avoiding only the environmental effects of those parts of the project which it decides to approve, carry out, or finance. The District defers to the lead agency for preparation of environmental documents for land use projects that also have discretionary air quality permits, unless no document is prepared by the lead agency and potentially significant impacts related to the permit are possible. The District regularly submits comments on documents prepared by lead agencies to ensure that District concerns are addressed.
3. **Commenting Agency:** The District reviews and comments on air quality analyses prepared by other public agencies (such as the project).

The District also provides guidance and thresholds for CEQA air quality and GHG analyses. The result of this guidance, as well as state regulations to control air pollution, is an overall improvement in the Air Basin. In particular, the District's 2015 GAMAQI states the following:

1. The District's Air Quality Attainment Plans include measures to promote air quality elements in county and city general plans as one of the primary indirect source programs. The general plan is the primary long-range planning document used by cities and counties to direct development. Since air districts have no authority over land use decisions, it is up to cities and counties to ensure that their general plans help achieve air quality goals. Section 65302.1 of the California Government Code requires cities and counties in the San Joaquin Valley to amend appropriate elements of their general plans to include data, analysis, comprehensive goals, policies, and feasible implementation strategies to improve air quality in their next housing element revisions.
2. The Air Quality Guidelines for General Plans (AQGGP), adopted by the District in 1994 and amended in 2005, is a guidance document containing goals and policy examples that cities and counties may want to incorporate into their General Plans to satisfy Section 65302.1. When adopted in a general plan and implemented, the suggestions in the AQGGP can reduce vehicle trips and miles traveled and improve air quality. The specific suggestions in the AQGGP are voluntary. The District strongly encourages cities and counties to use their land use and transportation planning authority to help achieve air quality goals by adopting the suggested policies and programs.

2.4.3 - Local

The City of Merced adopted its 2012 General Plan on January 3, 2012 (City of Merced 2012a). The City's applicable air quality goals and policies from the Air Quality section are listed below.

City of Merced Air Quality Goals and Policies

The General Plan lists the following policies that are supportive of improved air quality:

- **UE-1.2**. Foster compact and efficient development patterns to maintain a compact urban form.
- **UD-1.1**. Apply Transit-Ready Development or Urban Village design principles to new development in the City's new growth areas.

- **UD-1.4**. Promote and facilitate Urban Village residential area design principles.
- **L-3.2**. Encourage infill development and a compact urban for
- **SD-1.1** Accurately determine and fairly mitigate the local and regional air quality impacts of projects proposed in the City of Merced.
- **SD-1.2.** Coordinate local air quality programs with regional programs and those of neighboring jurisdictions.
- **SD-1.3.** Integrate land use planning, transportation planning, and air quality planning for the most efficient use of public resources and for a healthier environment.
- **SD-1.4.** Educate the public on the impact of individual transportation, lifestyle, and land use decisions on air quality.
- **SD-1.5.** Provide public facilities and operations which can serve as a model for the private sector in implementation of air quality programs.
- **SD-1.6.** Reduce emissions of PM_{10}, $PM_{2.5}$, and other particulates with local control potential.
- **SD-3.1**. Promote the use of Solar Energy technology and other Alternative Energy Resources.
- **SD-3.2**. Encourage the use of energy conservation features, low-emission equipment, and alternative energy sources for all new residential and commercial development.

City of Merced General Plan EIR

The General Plan Environmental Impact Report (EIR) (City of Merced 2012b) includes the following mitigation measures that should be considered for projects to reduce significant air quality impacts:

Mitigation Measure #3.3-1a

For any phase of construction in which an area greater than 22 acres, in accordance with Regulation VIII of the SJVAPCD, will be disturbed on any one day, the project developer(s) shall implement the following measures:

1. Basic fugitive dust control measures are required for all construction sites by SJVAPCD Regulation VIII.
2. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
3. Traffic speeds on unpaved roads shall be no greater than 15 mph.
4. Install wind breaks at windward side(s) of construction areas.

Mitigation Measure #3.3-1b

To reduce emissions and thus reduce cumulative impacts, the City of Merced shall consider adoption of an ordinance requiring the following measures to be implemented in conjunction with construction projects within the City:

1. The idling time of all construction equipment used in the plan area shall not exceed ten minutes when practicable.
2. The hours of operation of heavy-duty equipment shall be minimized when practicable.
3. All equipment shall be properly tuned and maintained in accord with manufacturer's specifications when practicable.

4. When feasible, alternative fueled or electrical construction equipment shall be used at the project site.
5. The minimum practical engine size for construction equipment shall be used when practicable.
6. When feasible, electric carts or other smaller equipment shall be used at the project site.
7. Gasoline-powered equipment shall be equipped with catalytic converters when practicable.

Mitigation Measure #3.3-2

The following BACT (Best Available Control Technology) installations and mitigation shall be considered for new discretionary permits, to the extent feasible as determined by the City:

- Trees shall be carefully selected and located to protect building(s) from energy consuming environmental conditions, and to shade paved areas when it will not interfere with any structures. Trees should be selected to shade paved areas that will shade 50% of the area within 15 years. Structural soil should be used under paved areas to improve tree growth.
- If transit service is available to a project site, development patterns and improvements shall be made to encourage its use. If transit service is not currently available, but is planned for the area in the future, easements shall be reserved to provide for future improvements such as bus turnouts, loading areas, route signs and shade structures.
- Multi-story parking facilities shall be considered instead of parking lots to reduce exposed concrete surface and save green space.
- Sidewalks and bikeways shall be installed throughout as much of any project as possible, in compliance with street standards, and shall be connected to any nearby existing and planned open space areas, parks, schools, residential areas, commercial areas, etc., to encourage walking and bicycling.
- Projects shall encourage as many clean alternative energy features as possible to promote energy self-sufficiency. Examples include (but are not limited to): photovoltaic cells, solar thermal electricity systems, small wind turbines, etc. Rebate and incentive programs are offered for alternative energy equipment.
- As many energy-conserving features as possible shall be included in the individual projects. Energy conservation measures include both energy conservation through design and operational energy conservation. Examples include (but are not limited to):
  - Increased energy efficiency (above California Title 24 Requirements)
  - Energy efficient widows (double pane and/or Low-E)
  - Use Low and No-VOC coatings and paints
  - High-albedo (reflecting) roofing material
  - Cool Paving. “Heat islands” created by development projects contribute to the reduced air quality in the valley by heating ozone precursors
  - Radiant heat barrier
  - Energy efficient lighting, appliances, heating and cooling systems
  - Install solar water-heating system(s)

  - Install photovoltaic cells
  - Install geothermal heat pump system(s)
  - Programmable thermostat(s) for all heating and cooling systems
  - Awnings or other shading mechanism for windows
  - Porch, patio and walkway overhangs
  - Ceiling fans, whole house fans
  - Utilize passive solar cooling and heating designs (e.g. natural convection, thermal flywheels)
  - Utilize daylighting (natural lighting) systems such as skylights, light shelves, interior transom windows, etc.
  - Electrical outlets around the exterior of the unit(s) to encourage use of electric landscape maintenance equipment

- Bicycle parking facilities for patrons and employees in a covered secure area. Bike storage should be located within 50' of the project's entrance. Construct paths to connect the development to nearby bikeways or sidewalks
- On-site employee cafeterias or eating areas
- Low or non-polluting landscape maintenance equipment (e.g. electric lawn mowers, reel mowers, leaf vacuums, electric trimmers and edger's, etc.)
- Pre-wire the unit(s) with high speed modem connections/DSL and extra phone lines
- Natural gas fireplaces (instead of wood-burning fireplaces or heaters)
- Natural gas lines (if available) and electrical outlets in backyard or patio areas to encourage the use of gas and/or electric barbecues
- Low or non-polluting incentives items should be provided with each residential unit (such items could include electric lawn mowers, reel mowers, leaf vacuums, gas or electric barbecues, etc.)

2.4.4 - Existing Sources of Toxic Emissions

No existing sources were identified that exceed ARB recommendations in its Air Quality Land Use Handbook for siting sensitive land uses impact the project.

2.4.5 - ARB Air Quality Land Use Handbook

Table 6 lists the following ARB advisory recommendations that address the issue of siting "sensitive land uses" near specific sources of air pollution (ARB 2005):

- High traffic freeways and roads
- Distribution centers
- Rail yards
- Ports
- Refineries
- Chrome plating facilities
- Dry cleaners
- Large gas dispensing facilities

The analysis examines the area around the site to determine if potential sources of TAC emissions may impact the project, based on the ARB recommended screening distances.

Table 6: Recommendations on Siting New Sensitive Land Uses

Source Category	Advisory Recommendations
Freeways and High-Traffic Roads	Avoid siting new sensitive land uses within 500 feet of a freeway, urban roads with 100,000 vehicles/day, or rural roads with 50,000 vehicles/day.
Distribution Centers	Avoid siting new sensitive land uses within 1,000 feet of a distribution center (that accommodates more than 100 trucks per day, more than 40 trucks with operating transport refrigeration units [TRUs] per day, or where TRU unit operations exceed 300 hours per week). Take into account the configuration of existing distribution centers and avoid locating residences and other new sensitive land uses near entry and exit points.
Rail Yards	Avoid siting new sensitive land uses within 1,000 feet of a major service and maintenance rail yard. Within one mile of a rail yard, consider possible siting limitations and mitigation approaches.
Ports	Avoid siting of new sensitive land uses immediately downwind of ports in the most heavily impacted zones. Consult local air districts or the ARB on the status of pending analyses of health risks.
Refineries	Avoid siting new sensitive land uses immediately downwind of petroleum refineries. Consult with local air districts and other local agencies to determine an appropriate separation.
Chrome Platers	Avoid siting new sensitive land uses within 1,000 feet of a chrome plater.
Dry Cleaners Using Perchloroethylene	Avoid siting new sensitive land uses within 300 feet of any dry-cleaning operation. For operations with two or more machines, provide 500 feet. For operations with three or more machines, consult with the local air district. Do not site new sensitive land uses in the same building with perchloroethylene dry cleaning operations.
Gasoline Dispensing Facilities	Avoid siting new sensitive land uses within 300 feet of a large gas station (defined as a facility with a throughput of 3.6 million gallons per year or greater). A 50-foot separation is recommended for typical gas dispensing facilities.
Note: These recommendations are advisory. Land use agencies have to balance other considerations, including housing and transportation needs, economic development priorities, and other quality of life issues.	

SECTION 3: CLIMATE CHANGE SETTING

3.1—Climate Change

Climate change is a change in the average weather of the earth that is measured by alterations in wind patterns, storms, precipitation, and temperature. These changes are assessed using historical records of temperature changes occurring in the past, such as during previous ice ages. Many of the concerns regarding climate change use this data to extrapolate a level of statistical significance, specifically focusing on temperature records from the last 150 years (the Industrial Age) that differ from previous climate changes in rate and magnitude.

The United Nations Intergovernmental Panel on Climate Change (IPCC) constructed several emission trajectories of GHGs needed to stabilize global temperatures and climate change impacts. In its Fourth Assessment Report, the IPCC predicted that the global mean temperature change from 1990 to 2100, given six scenarios, could range from 1.1 degrees Celsius (°C) to 6.4°C. Regardless of analytical methodology, global average temperatures and sea levels are expected to rise under all scenarios (IPCC 2007a). The report also concluded that "[w]arming of the climate system is unequivocal," and that "[m]ost of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations."

An individual project cannot generate enough GHG emissions to cause a discernible change in global climate. However, the project participates in the potential for global climate change by its incremental contribution of GHGs—and when combined with the cumulative increase of all other sources of GHGs—constitute potential influences on global climate change.

3.1.1 - Consequences of Climate Change in California

In California, climate change may result in consequences such as the following (from CCCC 2006 and Moser et al. 2009):

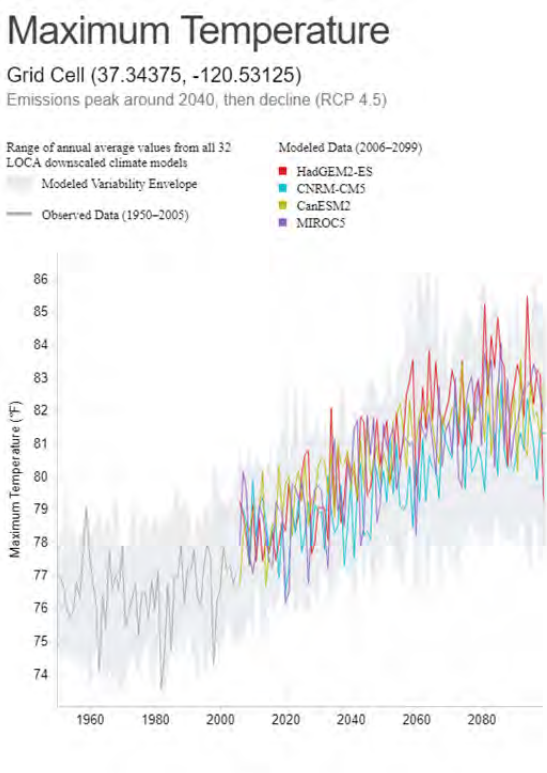
- **A reduction in the quality and supply of water from the Sierra snowpack.** If heat-trapping emissions continue unabated, more precipitation will fall as rain instead of snow, and the snow that does fall will melt earlier, reducing the Sierra Nevada spring snowpack by as much as 70 to 90 percent. This can lead to challenges in securing adequate water supplies. It can also lead to a potential reduction in hydropower.
- **Increased risk of large wildfires.** If rain increases as temperatures rise, wildfires in the grasslands and chaparral ecosystems of southern California are estimated to increase by approximately 30 percent toward the end of the 21st century because more winter rain will stimulate the growth of more plant "fuel" available to burn in the fall. In contrast, a hotter, drier climate could promote up to 90 percent more northern California fires by the end of the century by drying out and increasing the flammability of forest vegetation.
- **Reductions in the quality and quantity of certain agricultural products.** The crops and products likely to be adversely affected include wine grapes, fruit, nuts, and milk.

- **Exacerbation of air quality problems.** If temperatures rise to the medium warming range, there could be 75 to 85 percent more days with weather conducive to ozone formation in Los Angeles and the San Joaquin Valley, relative to today's conditions. This is more than twice the increase expected if rising temperatures remain in the lower warming range. This increase in air quality problems could result in an increase in asthma and other health-related problems.
- **A rise in sea levels resulting in the displacement of coastal businesses and residences.** During the past century, sea levels along California's coast have risen about seven inches. If emissions continue unabated and temperatures rise into the higher anticipated warming range, sea level is expected to rise an additional 22 to 35 inches by the end of the century. Elevations of this magnitude would inundate coastal areas with salt water, accelerate coastal erosion, threaten vital levees and inland water systems, and disrupt wetlands and natural habitats.
- **An increase in temperature and extreme weather events.** Climate change is expected to lead to increases in the frequency, intensity, and duration of extreme heat events and heat waves in California. More heat waves can exacerbate chronic disease or heat-related illness.
- **A decrease in the health and productivity of California's forests.** Climate change can cause an increase in wildfires, an enhanced insect population, and establishment of non-native species.

Consequences of Climate Change in the Merced Area

Figure 5 displays a chart of measured historical and projected annual average temperatures in the City of Merced area. As shown in the figure, temperatures are expected to rise in the low and high GHG emissions scenarios. The results indicate that temperatures are predicted to increase by 3.7 degrees Fahrenheit (°F) under the low emission scenario and 6.5°F under the high emissions scenario (CalAdapt 2018).

Figure 5: Observed and Projected Temperatures for Climate Change in the City of Merced Area



Source: CalAdapt 2018.

Water Supply

The City of Merced Water Division would provide water for the project. The City relies on groundwater and treated surface water for potable water supplies. The availability of surface water and the rate of groundwater recharge could decline if climate change were to result in reduced snowpack in the Sierra Nevada.

Wildfires

The project site is within an urbanizing area with limited fuels that would be subject to a wildfire. Foothill and mountain areas located to the north and east of the Merced area are subject to wildfire. The potential for increased temperatures and drought conditions due to climate change would result in increased risk from wildfire in those areas.

Human Health Effects of GHG Emissions

GHG emissions from development projects would not result in concentrations that would directly impact public health. However, the cumulative effects of GHG emissions on climate change have the potential to cause adverse effects to human health.

In its report, Global Climate Change Impacts in the U.S. (2009), the U.S. Global Change Research Program has analyzed the degree to which impacts on human health are expected to impact the United States.

Potential effects of climate change on public health include:

- Direct Temperature Effects: Climate change may directly affect human health through increases in average temperatures, which are predicted to increase the incidence of heat waves and hot extremes.
- Extreme Events: Climate change may affect the frequency and severity of extreme weather events, such as hurricanes and extreme heat and floods, which can be destructive to human health and well-being.
- Climate-Sensitive Diseases: Climate change may increase the risk of some infectious diseases, particularly those diseases that appear in warm areas and are spread by mosquitoes and other insects, such as malaria, dengue fever, yellow fever, and encephalitis.
- Air Quality: Respiratory disorders may be exacerbated by warming-induced increases in the frequency of smog (ground-level ozone) events and particulate air pollution (EPA 2009a).

Although there could be health effects resulting from changes in the climate and the consequences that can occur, inhalation of GHGs at levels currently in the atmosphere would not result in adverse health effects, with the exception of ozone and aerosols (particulate matter). The potential health effects of ozone and particulate matter are discussed in criteria pollutant analyses. At very high indoor concentrations (not at levels existing outside), carbon dioxide, methane, sulfur hexafluoride, and some chlorofluorocarbons can cause suffocation as the gases can displace oxygen (CDC 2010 and OSHA 2003).

3.2—Greenhouse Gases

Gases that trap heat in the atmosphere are referred to as GHGs. The effect is analogous to the way a greenhouse retains heat. Common GHGs include water vapor, carbon dioxide, methane, NO_X, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, ozone, and aerosols. Natural processes and human activities emit GHGs. The presence of GHGs in the atmosphere affects the earth's temperature. It is believed that emissions from human activities, such as electricity production and vehicle use, have elevated the concentration of these gases in the atmosphere beyond the level of naturally occurring concentrations.

Climate change is driven by forcings and feedbacks. Radiative forcing is the difference between the incoming energy and outgoing energy in the climate system. Positive forcing tends to warm the surface while negative forcing tends to cool it. Radiative forcing values are typically expressed in watts per square meter. A feedback is a climate process that can strengthen or weaken a forcing. For example, when ice or snow melts, it reveals darker land underneath which absorbs more radiation and causes more warming. The global warming potential is the potential of a gas or aerosol to trap heat in the atmosphere. The global warming potential of a gas is essentially a measurement of the radiative forcing of a GHG compared with the reference gas, CO_2.

Individual GHG compounds have varying global warming potential and atmospheric lifetimes. CO_2, the reference gas for global warming potential, has a global warming potential of one. The global warming potential of a GHG is a measure of how much a given mass of a GHG is estimated to contribute to global warming. To describe how much global warming a given type and amount of GHG

may cause, the carbon dioxide equivalent is used. The calculation of the carbon dioxide equivalent is a consistent methodology for comparing GHG emissions since it normalizes various GHG emissions to a consistent reference gas, CO_2. For example, CH_4's warming potential of 21 indicates that CH_4 has 21 times greater warming effect than CO_2 on a molecule-per-molecule basis. A carbon dioxide equivalent is the mass emissions of an individual GHG multiplied by its global warming potential. GHGs defined by Assembly Bill (AB) 32 (see the Climate Change Regulatory Environment section for a description) include CO_2, CH_4, NO_X, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. They are described in Table 7. A seventh GHG, nitrogen trifluoride (NF_3), was added to Health and Safety Code section 38505(g)(7) as a GHG of concern. The global warming potential amounts are from IPCC Second Assessment Report (SAR). IPCC Fourth Assessment Report (AR4) introduced updated global warming potentials. The new amounts have not been used in order to remain consistent with the amounts used to develop the ARB Scoping Plan and SJVAPCD thresholds.

Table 7: Description of Greenhouse Gases

Greenhouse Gas	Description and Physical Properties	Sources
Nitrous oxide	Nitrous oxide (laughing gas) is a colorless GHG. It has a lifetime of 114 years. Its global warming potential is 310.	Microbial processes in soil and water, fuel combustion, and industrial processes.
Methane	Methane is a flammable gas and is the main component of natural gas. It has a lifetime of 12 years. Its global warming potential is 21.	Methane is extracted from geological deposits (natural gas fields). Other sources are landfills, fermentation of manure, and decay of organic matter.
Carbon dioxide	Carbon dioxide (CO_2) is an odorless, colorless, natural GHG. Carbon dioxide's global warming potential is 1. The concentration in 2005 was 379 parts per million (ppm), which is an increase of about 1.4 ppm per year since 1960.	Natural sources include decomposition of dead organic matter; respiration of bacteria, plants, animals, and fungus; evaporation from oceans; and volcanic outgassing. Anthropogenic sources are from burning coal, oil, natural gas, and wood.
Chlorofluorocarbons	These are gases formed synthetically by replacing all hydrogen atoms in methane or ethane with chlorine and/or fluorine atoms. They are nontoxic, nonflammable, insoluble, and chemically unreactive in the troposphere (the level of air at the earth's surface). Global warming potentials range from 3,800 to 8,100.	Chlorofluorocarbons were synthesized in 1928 for use as refrigerants, aerosol propellants, and cleaning solvents. They destroy stratospheric ozone. The Montreal Protocol on Substances that Deplete the Ozone Layer prohibited their production in 1987.
Perfluorocarbons	Perfluorocarbons have stable molecular structures and only break down by ultraviolet rays about 60 kilometers above Earth's surface. Because of this, they have long lifetimes, between 10,000 and 50,000 years. Global warming potentials range from 6,500 to 9,200.	Two main sources of perfluorocarbons are primary aluminum production and semiconductor manufacturing.

Table 7 (cont.): Description of Greenhouse Gases

Greenhouse Gas	Description and Physical Properties	Sources
Sulfur hexafluoride	Sulfur hexafluoride (SF_6) is an inorganic, odorless, colorless, and nontoxic, nonflammable gas. It has a lifetime of 3,200 years. It has a high global warming potential of 23,900.	This gas is man-made and used for insulation in electric power transmission equipment, in the magnesium industry, in semiconductor manufacturing, and as a tracer gas.
Nitrogen trifluoride	Nitrogen trifluoride (NF_3) was added to Health and Safety Code section 38505(g)(7) as a GHG of concern. It has a high global warming potential of 17,200.	This gas is used in electronics manufacture for semiconductors and liquid crystal displays.
Sources: Compiled from a variety of sources, primarily Intergovernmental Panel on Climate Change 2007a and 2007b.		

The State has begun the process of addressing pollutants referred to as short-lived climate pollutants. Senate Bill (SB) 605, approved by the governor on September 14, 2014 required the ARB to complete a comprehensive strategy to reduce emissions of short-lived climate pollutants by January 1, 2016. ARB was required to complete an emission inventory of these pollutants, identify research needs, identify existing and potential new control measures that offer co-benefits, and coordinated with other state agencies and districts to develop measures. The Short-Lived Climate Pollutant Strategy was approved by the ARB on March 24, 2017. The strategy calls for reductions of 50 percent from black carbon, 40 percent from methane, and 40 percent from HFCs from the 2030 Business as Usual (BAU) inventory for these pollutants (ARB 2017b).

The short-lived climate pollutants include three main components: black carbon, fluorinated gases, and methane. Fluorinated gases and methane are described in Table 7 and are already included in the California GHG inventory. Black carbon has not been included in past GHG inventories; however, ARB will include it in its comprehensive strategy (ARB 2015c).

Ozone is another short-lived climate pollutant that will be part of the strategy. Ozone affects evaporation rates, cloud formation, and precipitation levels. Ozone is not directly emitted, so its precursor emissions, volatile organic compounds (VOC) and oxides of nitrogen (NO_X) on a regional scale and CH_4 on a hemispheric scale will be subject of the strategy (ARB 2015c).

Black carbon is a component of fine particulate matter. Black carbon is formed by incomplete combustion of fossil fuels, biofuels, and biomass. Sources of black carbon within a jurisdiction may include exhaust from diesel trucks, vehicles, and equipment, as well as smoke from biogenic combustion. Biogenic combustion sources of black carbon include the burning of biofuels used for transportation, the burning of biomass for electricity generation and heating, prescribed burning of agricultural residue, and natural and unnatural wildfires. Black carbon is not a gas but an aerosol—particles or liquid droplets suspended in air. Black carbon only remains in the atmosphere for days to weeks, whereas other GHGs can remain in the atmosphere for years. Black carbon can be deposited on snow, where it absorbs sunlight, reduces sunlight reflectivity, and hastens snowmelt. Direct effects include absorbing incoming and outgoing radiation; indirectly, black carbon can also affect cloud reflectivity, precipitation, and surface dimming (cooling).

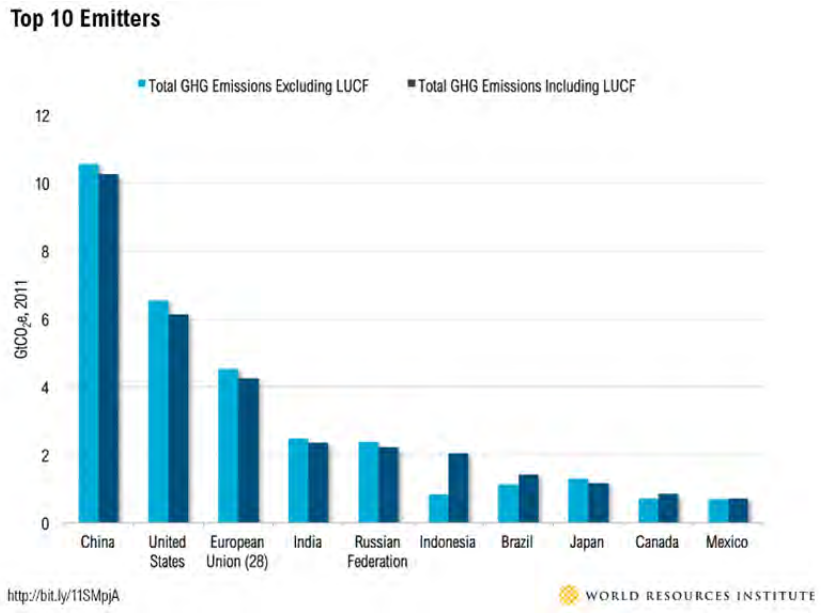
Global warming potentials for black carbon were not defined by the IPCC in its Fourth Assessment Report. The ARB has identified a global warming potential of 3,200 using a 20-year time horizon and 900 using a 100-year time horizon from the IPCC Fifth Assessment. Sources of black carbon are already regulated by ARB, and air district criteria pollutant and toxic regulations that control fine particulate emissions from diesel engines and other combustion sources (ARB 2015d). Additional controls on the sources of black carbon specifically for their GHG impacts beyond those required for toxic and fine particulates are not likely to be needed.

Water vapor is also considered a GHG. Water vapor is an important component of our climate system and is not regulated. Increasing water vapor leads to warmer temperatures, which causes more water vapor to be absorbed into the air. Warming and water absorption increase in a spiraling cycle. Water vapor feedback can also amplify the warming effect of other GHGs, such that the warming brought about by increased carbon dioxide allows more water vapor to enter the atmosphere (NASA 2015b).

3.2.1 - Emissions Inventories

An emissions inventory is a database that lists, by source, the amount of air pollutants discharged into the atmosphere of a geographic area during a given time period. Emissions worldwide were approximately 43,286 million metric tons of carbon dioxide equivalents ($MMTCO_2e$) in 2012. As shown in Figure 6, China was the largest GHG emitter with over 10 billion metric tons of CO_2e, and the United States was the second-largest GHG emitter with over 6 billion metric tons of CO_2e (WRI 2014).

Figure 6: Greenhouse Gas Emissions by Geographic Area

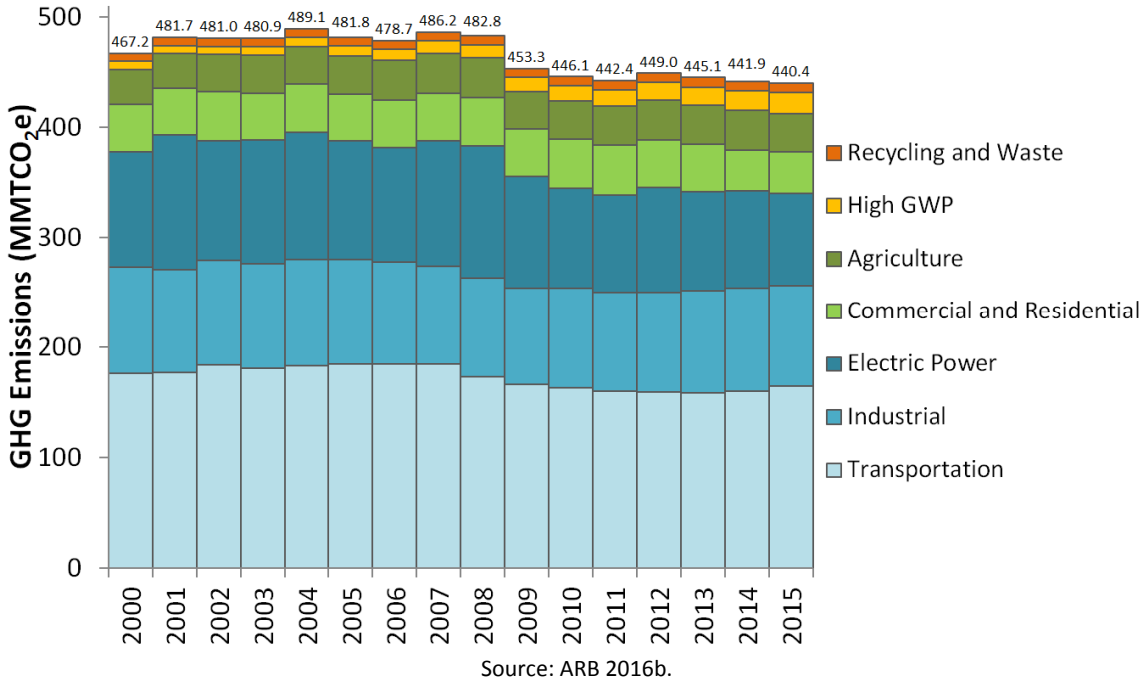


Source: WRI 2014.

Figure 7 shows the contributors of GHG emissions in California between years 2000 and 2015 by Scoping Plan category. The main contributor was transportation. The second highest sector was industrial, which includes sources from refineries, general fuel use, oil and gas extraction, cement

plants, and cogeneration heat output. ARB reported that California's GHG emissions inventory was 440.4 $MMTCO_2e$ in 2015 (ARB 2016b).

Figure 7: Greenhouse Gas Emission Trends by Scoping Plan Category in California



Source: ARB 2016b.

3.3—Regulatory Environment

3.3.1 - International

International organizations, such as the ones discussed below, have made substantial efforts to reduce GHGs. Preventing human-induced climate change will require the participation of all nations in solutions to address the issue.

Intergovernmental Panel on Climate Change. In 1988, the United Nations and the World Meteorological Organization established the Intergovernmental Panel on Climate Change. The panel was tasked with assessing the scientific, technical, and socioeconomic information relevant to understanding the scientific basis of risk of human-induced climate change, its potential impacts, and options for adaptation and mitigation.

United Nations Framework Convention on Climate Change (Convention). On March 21, 1994, the United States joined a number of countries around the world in signing the Convention. Under the Convention, governments gather and share information on GHG emissions, national policies, and best practices; launch national strategies for addressing GHG emissions and adapting to expected impacts, including the provision of financial and technological support to developing countries; and cooperate in preparing for adaptation to the impacts of climate change.

Kyoto Protocol. The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change. The major feature of the Kyoto Protocol is that it sets

binding targets for 37 industrialized countries and the European community for reducing GHG emissions at average of five percent against 1990 levels over the 5-year period from 2008–2012. The Convention (as discussed above) encouraged industrialized countries to stabilize emissions; however, the Protocol commits them to do so. Developed countries have contributed more emissions over the last 150 years; therefore, the Protocol places a heavier burden on developed nations under the principle of "common but differentiated responsibilities."

In 2001, President George W. Bush indicated that he would not submit the treaty to the U.S. Senate for ratification, which effectively ended American involvement in the Kyoto Protocol. In December 2009, international leaders met in Copenhagen to address the future of international climate change commitments post-Kyoto. No binding agreement was reached in Copenhagen; however, the Committee identified the long-term goal of limiting the maximum global average temperature increase to no more than 2°C above pre-industrial levels, subject to a review in 2015. The UN Climate Change Committee held additional meetings in Durban, South Africa in November 2011; Doha, Qatar in November 2012; and Warsaw, Poland in November 2013. The meetings are gradually gaining consensus among participants on individual climate change issues.

On September 23, 2014, more than 100 heads of state and government, along with leaders from the private sector and civil society met at the Climate Summit in New York hosted by the United Nations. At the Summit, heads of government, business, and civil society announced actions in areas that would have the greatest impact on reducing emissions, including: climate finance, energy, transport, industry, agriculture, cities, forests, and building resilience.

Paris Agreement. Parties to the United Nations Framework Convention on Climate Change (UNFCCC) reached a landmark agreement on December 12, 2015 in Paris, charting a fundamentally new course in the two-decade-old global climate effort. Culminating in a 4-year negotiating round, the new treaty ends the strict differentiation between developed and developing countries that characterized earlier efforts, replacing it with a common framework that commits all countries to put forward their best efforts and to strengthen those efforts in the years ahead. This includes, for the first time, requirements that all parties report regularly on their emissions and implementation efforts and undergo international review.

The agreement and a companion decision by parties were the key outcomes of the conference, known as the 21st session of the UNFCCC Conference of the Parties, or COP 21. Together, the Paris Agreement and the accompanying COP decision:

- Reaffirm the goal of limiting global temperature increase well below 2 degrees Celsius, while urging efforts to limit the increase to 1.5 degrees;
- Establish binding commitments by all parties to make "nationally determined contributions" (NDCs), and to pursue domestic measures aimed at achieving them;
- Commit all countries to report regularly on their emissions and "progress made in implementing and achieving" their NDCs, and to undergo international review;
- Commit all countries to submit new NDCs every five years, with the clear expectation that they will "represent a progression" beyond previous ones;

- Reaffirm the binding obligations of developed countries under the UNFCCC to support the efforts of developing countries, while for the first time encouraging voluntary contributions by developing countries too;
- Extend the current goal of mobilizing $100 billion a year in support by 2020 through 2025, with a new, higher goal to be set for the period after 2025;
- Extend a mechanism to address "loss and damage" resulting from climate change, which explicitly will not "involve or provide a basis for any liability or compensation";
- Require parties engaging in international emissions trading to avoid "double counting"; and
- Call for a new mechanism, similar to the Clean Development Mechanism under the Kyoto Protocol, enabling emission reductions in one country to be counted toward another country's NDC (C2ES 2015a).

On June 1, 2017, President Trump announced the decision for the United States to withdraw from the Paris Climate Accord (White House 2017). California remains committed to combating climate change through programs designed to reduce GHGs.

3.3.2 - Federal Regulations

Prior to the last decade, there were no concrete federal regulations of GHGs or major planning for climate change adaptation. Since then, federal activity has increased. The following are actions regarding the federal government, GHGs, and fuel efficiency.

Greenhouse Gas Endangerment. *Massachusetts v. EPA* (Supreme Court Case 05-1120) was argued before the United States Supreme Court on November 29, 2006, in which it was petitioned that the EPA regulate four GHGs, including carbon dioxide, under Section 202(a)(1) of the Clean Air Act. A decision was made on April 2, 2007, in which the Supreme Court found that GHGs are air pollutants covered by the Clean Air Act. The Court held that the Administrator must determine whether emissions of GHGs from new motor vehicles cause or contribute to air pollution, which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. On December 7, 2009, the EPA Administrator signed two distinct findings regarding GHGs under section 202(a) of the Clean Air Act:

- Endangerment Finding: The Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride—in the atmosphere threaten the public health and welfare of current and future generations.
- Cause or Contribute Finding: The Administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution, which threatens public health and welfare.

These findings do not impose requirements on industry or other entities. However, this was a prerequisite for implementing GHG emissions standards for vehicles, as discussed in the section "Clean Vehicles" below. After a lengthy legal challenge, the United States Supreme Court declined to review an Appeals Court ruling upholding the EPA Administrator findings (EPA 2009c).

Clean Vehicles. Congress first passed the Corporate Average Fuel Economy law in 1975 to increase the fuel economy of cars and light duty trucks. The law has become more stringent over time. On May 19, 2009, President Obama put in motion a new national policy to increase fuel economy for all new cars and trucks sold in the United States. On April 1, 2010, the EPA and the Department of Transportation's National Highway Safety Administration announced a joint final rule establishing a national program that would reduce GHG emissions and improve fuel economy for new cars and trucks sold in the United States.

The first phase of the national program applies to passenger cars, light-duty trucks, and medium-duty passenger vehicles, covering model years 2012 through 2016. They require these vehicles to meet an estimated combined average emissions level of 250 grams of CO_2 per mile, equivalent to 35.5 miles per gallon; that is, if the automobile industry were to meet this CO_2 level solely through fuel economy improvements. Together, these standards would cut CO_2 emissions by an estimated 960 million metric tons and 1.8 billion barrels of oil over the lifetime of the vehicles sold under the program (model years 2012–2016). The EPA and the National Highway Safety Administration issued final rules on a second-phase joint rulemaking, establishing national standards for light-duty vehicles for model years 2017 through 2025 in August 2012 (EPA 2012b). The new standards for model years 2017 through 2025 apply to passenger cars, light-duty trucks, and medium duty passenger vehicles. The final standards are projected to result in an average industry fleetwide level of 163 grams/mile of CO_2 in model year 2025, which is equivalent to 54.5 miles per gallon if achieved exclusively through fuel economy improvements.

The EPA and the U.S. Department of Transportation issued final rules for the first national standards to reduce GHG emissions and improve fuel efficiency of heavy-duty trucks and buses on September 15, 2011, which became effective November 14, 2011. For combination tractors, the agencies are proposing engine and vehicle standards that began in the 2014 model year and achieve up to a 20-percent reduction in CO_2 emissions and fuel consumption by the 2018 model year. For heavy-duty pickup trucks and vans, the agencies are proposing separate gasoline and diesel truck standards, which phase in starting in the 2014 model year and achieve up to a 10-percent reduction for gasoline vehicles, and a 15-percent reduction for diesel vehicles by 2018 model year (12 and 17 percent respectively if accounting for air conditioning leakage). Lastly, for vocational vehicles, the engine and vehicle standards would achieve up to a 10-percent reduction in fuel consumption and CO_2 emissions from the 2014 to 2018 model years.

Mandatory Reporting of Greenhouse Gases. The Consolidated Appropriations Act of 2008, passed in December 2007, requires the establishment of mandatory GHG reporting requirements. On September 22, 2009, the EPA issued the Final Mandatory Reporting of Greenhouse Gases Rule, which became effective January 1, 2010. The rule requires reporting of GHG emissions from large sources and suppliers in the United States and is intended to collect accurate and timely emissions data to inform future policy decisions. Under the rule, suppliers of fossil fuels or industrial GHGs, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of GHG emissions are required to submit annual reports to the EPA.

New Source Review. The EPA issued a final rule on May 13, 2010 that establishes thresholds for GHGs, which will define when permits under the New Source Review Prevention of Significant Deterioration and Title V Operating Permit programs are required for new and existing industrial

facilities. This final rule "tailors" the requirements of these Clean Air Act permitting programs to limit which facilities will be required to obtain Prevention of Significant Deterioration and Title V permits. In the preamble to the revisions to the federal code of regulations, the EPA states:

> This rulemaking is necessary because without it the Prevention of Significant Deterioration and Title V requirements would apply, as of January 2, 2011, at the 100 or 250 tons per year levels provided under the Clean Air Act, greatly increasing the number of required permits, imposing undue costs on small sources, overwhelming the resources of permitting authorities, and severely impairing the functioning of the programs. EPA is relieving these resource burdens by phasing in the applicability of these programs to greenhouse gas sources, starting with the largest greenhouse gas emitters. This rule establishes two initial steps of the phase-in. The rule also commits the agency to take certain actions on future steps addressing smaller sources, but excludes certain smaller sources from Prevention of Significant Deterioration and Title V permitting for greenhouse gas emissions until at least April 30, 2016.

The EPA estimates that facilities responsible for nearly 70 percent of the national GHG emissions from stationary sources will be subject to permitting requirements under this rule. This includes the nation's largest GHG emitters—power plants, refineries, and cement production facilities.

Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units. As required by a settlement agreement, the EPA proposed new performance standards for emissions of carbon dioxide for new, affected, fossil fuel-fired electric utility generating units on March 27, 2012. New sources greater than 25 megawatts would be required to meet an output based standard of 1,000 pounds of carbon dioxide per megawatt-hour, based on the performance of widely used natural gas combined cycle technology. President Trump signed the Executive Order on Energy Independence (E.O. 13783), which calls for a review of the Clean Power Plan. On October 16, 2017, the EPA issued the proposed rule Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units an Energy Independence (EPA 2017).

Cap-and-Trade. Cap-and-trade refers to a policy tool where emissions are limited to a certain amount and can be traded or provides flexibility on how the emitter can comply. There is no federal GHG cap-and-trade program currently; however, some states have joined to create initiatives to provide a mechanism for cap-and-trade.

The Regional Greenhouse Gas Initiative is an effort to reduce GHGs among the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. Each state caps carbon dioxide emissions from power plants, auctions carbon dioxide emission allowances, and invests the proceeds in strategic energy programs that further reduce emissions, save consumers money, create jobs, and build a clean energy economy. The Initiative began in 2008.

The Western Climate Initiative partner jurisdictions have developed a comprehensive initiative to reduce regional GHG emissions to 15 percent below 2005 levels by 2020. The partners are California, British Columbia, Manitoba, Ontario, and Quebec. Currently only California and Quebec are participating in the cap-and-trade program (C2ES 2015).

3.3.3 - California

Legislative Actions to Reduce GHGs

The State of California legislature has enacted a series of bills that constitute the most aggressive program to reduce GHGs of any state in the nation. Some legislation such as the landmark AB 32 California Global Warming Solutions Act of 2006 was specifically enacted to address GHG emissions. Other legislation such as Title 24 and Title 20 energy standards were originally adopted for other purposes such as energy and water conservation, but also provide GHG reductions. This section describes the major provisions of the legislation.

AB 32. The California State Legislature enacted AB 32, the California Global Warming Solutions Act of 2006. AB 32 requires that GHGs emitted in California be reduced to 1990 levels by the year 2020. "Greenhouse gases" as defined under AB 32 include carbon dioxide, methane, NO_X, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Since AB 32 was enacted, a seventh chemical, nitrogen trifluoride, has also been added to the list of GHGs. The ARB is the state agency charged with monitoring and regulating sources of GHGs. AB 32 states the following:

> Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

The ARB approved the 1990 GHG emissions level of 427 $MMTCO_2e$ on December 6, 2007 (ARB 2007). Therefore, to meet the State's target, emissions generated in California in 2020 are required to be equal to or less than 427 $MMTCO_2e$. Emissions in 2020 in a BAU scenario were estimated to be 596 $MMTCO_2e$, which do not account for reductions from AB 32 regulations (ARB 2008a). At that rate, a 28 percent reduction was required to achieve the 427 $MMTCO_2e$ 1990 inventory. In October 2010, ARB prepared an updated 2020 forecast to account for the effects of the 2008 recession and slower forecasted growth. The 2020 inventory without the benefits of adopted regulation is now estimated at 545 $MMTCO_2e$. Therefore, under the updated forecast, a 21.7 percent reduction from BAU is required to achieve 1990 levels (ARB 2010a).

Progress in Achieving AB 32 Targets and Remaining Reductions Required

The State has made steady progress in implementing AB 32 and achieving targets included in Executive Order S-3-05. The progress is shown in updated emission inventories prepared by ARB for 2000 through 2012 to show progress achieved to date (ARB 2014a). The State has also achieved the Executive Order S-3-05 target for 2010 of reducing GHG emissions to 2000 levels. The 2017 Scoping Plan Update includes projections indicating that the State will meet or exceed the 2020 target with adopted regulations (ARB 2017c).

ARB Scoping Plan. The ARB's Climate Change Scoping Plan (Scoping Plan) contains measures designed to reduce the State's emissions to 1990 levels by the year 2020 to comply with AB 32 (ARB

2008). The Scoping Plan identifies recommended measures for multiple GHG emission sectors and the associated emission reductions needed to achieve the year 2020 emissions target—each sector has a different emission reduction target. Most of the measures target the transportation and electricity sectors. As stated in the Scoping Plan, the key elements of the strategy for achieving the 2020 GHG target include:

- Expanding and strengthening existing energy efficiency programs as well as building and appliance standards;
- Achieving a statewide renewables energy mix of 33 percent;
- Developing a California cap-and-trade program that links with other Western Climate Initiative partner programs to create a regional market system;
- Establishing targets for transportation-related GHG emissions for regions throughout California and pursuing policies and incentives to achieve those targets;
- Adopting and implementing measures pursuant to existing State laws and policies, including California's clean car standards, goods movement measures, and the Low Carbon Fuel Standard; and
- Creating targeted fees, including a public goods charge on water use, fees on high global warming potential gases, and a fee to fund the administrative costs of the State's long-term commitment to AB 32 implementation.

In addition, the Scoping Plan differentiates between "capped" and "uncapped" strategies. Capped strategies are subject to the proposed cap-and-trade program. The Scoping Plan states that the inclusion of these emissions within the cap-and trade program will help ensure that the year 2020 emission targets are met despite some degree of uncertainty in the emission reduction estimates for any individual measure. Implementation of the capped strategies is calculated to achieve a sufficient amount of reductions by 2020 to achieve the emission target contained in AB 32. Uncapped strategies that will not be subject to the cap-and-trade emissions caps and requirements are provided as a margin of safety by accounting for additional GHG emission reductions (ARB 2008).

Cap-and-Trade Program. The Cap-and-Trade Program is a key element of the Scoping Plan. It sets a statewide limit on sources responsible for 85 percent of California's GHG emissions and establishes a price signal needed to drive long-term investment in cleaner fuels and more efficient use of energy. The program is designed to provide covered entities the flexibility to seek out and implement the lowest cost options to reduce emissions. The program conducted its first auction in November 2012. Compliance obligations began for power plants and large industrial sources in January 2013. Other significant milestones include linkage to Quebec's cap-and-trade system in January 2014 and starting the compliance obligation for distributors of transportation fuels, natural gas, and other fuels in January 2015 (ARB 2015d).

The Cap-and-Trade Program provides a firm cap, ensuring that the 2020 statewide emission limit will not be exceeded. An inherent feature of the Cap-and-Trade program is that it does not guarantee GHG emissions reductions in any discrete location or by any particular source. Rather, GHG

emissions reductions are guaranteed only on an accumulative basis. As summarized by ARB in the First Update:

> The Cap-and-Trade Regulation gives companies the flexibility to trade allowances with others or take steps to cost-effectively reduce emissions at their own facilities. Companies that emit more have to turn in more allowances or other compliance instruments. Companies that can cut their GHG emissions have to turn in fewer allowances. But as the cap declines, aggregate emissions must be reduced. In other words, a covered entity theoretically could increase its GHG emissions every year and still comply with the Cap-and-Trade Program if there is a reduction in GHG emissions from other covered entities. Such a focus on aggregate GHG emissions is considered appropriate because climate change is a global phenomenon, and the effects of GHG emissions are considered cumulative (ARB 2014b).

The Cap-and-Trade Program works with other direct regulatory measures and provides an economic incentive to reduce emissions. If California's direct regulatory measures reduce GHG emissions more than expected, then the Cap-and-Trade Program will be responsible for relatively fewer emissions reductions. If California's direct regulatory measures reduce GHG emissions less than expected, then the Cap-and-Trade Program will be responsible for relatively more emissions reductions. Thus, the Cap-and-Trade Program assures that California will meet its 2020 GHG emissions reduction mandate:

> The Cap-and-Trade Program establishes an overall limit on GHG emissions from most of the California economy—the "capped sectors." Within the capped sectors, some of the reductions are being accomplished through direct regulations, such as improved building and appliance efficiency standards, the [Low Carbon Fuel Standard] LCFS, and the 33 percent [Renewables Portfolio Standard] RPS. Whatever additional reductions are needed to bring emissions within the cap is accomplished through price incentives posed by emissions allowance prices. Together, direct regulation and price incentives assure that emissions are brought down cost-effectively to the level of the overall cap. The Cap-and-Trade Regulation provides assurance that California's 2020 limit will be met because the regulation sets a firm limit on 85 percent of California's GHG emissions. In sum, the Cap-and-Trade Program will achieve aggregate, rather than site specific or project-level, GHG emissions reductions. Also, due to the regulatory architecture adopted by ARB in AB 32, the reductions attributed to the Cap-and-Trade Program can change over time depending on the State's emissions forecasts and the effectiveness of direct regulatory measures (ARB 2014b).

AB 398. The Governor signed AB 398 on July 25, 2017 to extend the Cap-and-Trade Program to 2030. The legislation includes provisions to ensure that offsets used by sources are limited to 4 percent of their compliance obligation from 2021 through 2025 and 6 percent from 2026 through 2030. AB 398 also prevents Air Districts from adopting or implementing emission reduction rules from stationary sources that are also subject to the Cap-and-Trade Program (CAR 2017).

SB 32. The Governor signed SB 32 on September 8, 2016. SB 32 giving ARB the statutory responsibility to include the 2030 target previously contained in Executive Order B-30-15 in the 2017

Scoping Plan Update. SB 32 states that "In adopting rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions authorized by this division, the state [air resources] board shall ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide greenhouse gas emissions limit no later than December 31, 2030." The 2017 Climate Change Scoping Plan Update addressing the SB 32 targets was adopted on December 14, 2017. The major elements of the framework proposed to achieve the 2030 target are as follows:

1. SB 350
   - Achieve 50 percent Renewables Portfolio Standard (RPS) by 2030.
   - Doubling of energy efficiency savings by 2030.
2. Low Carbon Fuel Standard (LCFS)
   - Increased stringency (reducing carbon intensity 18 percent by 2030, up from 10 percent in 2020).
3. Mobile Source Strategy (Cleaner Technology and Fuels Scenario)
   - Maintaining existing GHG standards for light- and heavy-duty vehicles.
   - Put 4.2 million zero-emission vehicles (ZEVs) on the roads.
   - Increase ZEV buses, delivery and other trucks.
4. Sustainable Freight Action Plan
   - Improve freight system efficiency.
   - Maximize use of near-zero emission vehicles and equipment powered by renewable energy.
   - Deploy over 100,000 zero-emission trucks and equipment by 2030.
5. Short-Lived Climate Pollutant (SLCP) Reduction Strategy
   - Reduce emissions of methane and hydrofluorocarbons 40 percent below 2013 levels by 2030.
   - Reduce emissions of black carbon 50 percent below 2013 levels by 2030.
6. SB 375 Sustainable Communities Strategies
   - Increased stringency of 2035 targets.
7. Post-2020 Cap-and-Trade Program
   - Declining caps, continued linkage with Québec, and linkage to Ontario, Canada.
   - ARB will look for opportunities to strengthen the program to support more air quality co-benefits, including specific program design elements. In Fall 2016, ARB staff described potential future amendments including reducing the offset usage limit, redesigning the allocation strategy to reduce free allocation to support increased technology and energy investment at covered entities and reducing allocation if the covered entity increases criteria or toxics emissions over some baseline.
8. 20 percent reduction in greenhouse gas emissions from the refinery sector.
9. By 2018, develop Integrated Natural and Working Lands Action Plan to secure California's land base as a net carbon sink (ARB 2017c).

SB 375—The Sustainable Communities and Climate Protection Act of 2008. SB 375 was signed into law on September 30, 2008. According to SB 375, the transportation sector is the largest contributor of GHG emissions, which emits over 40 percent of the total GHG emissions in California. SB 375 states, "Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32." SB 375 does the following: (1) requires metropolitan planning organizations to include sustainable community strategies in their regional transportation plans for reducing GHG emissions, (2) aligns planning for transportation and housing, and (3) creates specified incentives for the implementation of the strategies.

Concerning CEQA, SB 375—as codified in Public Resources Code Section 21159.28—states that CEQA findings determinations for certain projects are not required to reference, describe, or discuss (1) growth-inducing impacts or (2) any project-specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network if the project:

1. Is in an area with an approved Sustainable Communities Strategy or an alternative planning strategy that the ARB accepts as achieving the greenhouse gas emission reduction targets;
2. Is consistent with that strategy (in designation, density, building intensity, and applicable policies); and
3. Incorporates the mitigation measures required by an applicable prior environmental document.

The ARB has prepared the Proposed Update to the SB 375 Greenhouse Gas Emission Reduction Targets. The update includes an increase in the 2035 target for Merced County from 10 percent to 14 percent (ARB 2018).

AB 1493—Pavley Regulations and Fuel Efficiency Standards. California AB 1493, enacted on July 22, 2002, required the ARB to develop and adopt regulations that reduce GHGs emitted by passenger vehicles and light duty trucks. Implementation of the regulation was delayed by lawsuits filed by automakers and by the EPA's denial of an implementation waiver. The EPA subsequently granted the requested waiver in 2009, which was upheld by the by the U.S. District Court for the District of Columbia in 2011 (ARB 2013d).

The standards were phased in during the 2009 through 2016 model years. When fully phased in, the near-term (2009–2012) standards resulted in an approximately 22 percent reduction compared with the 2002 fleet, and the mid-term (2013–2016) standards resulted in about a 30 percent reduction. Several technologies stand out as providing significant reductions in emissions at favorable costs. These include discrete variable valve lift or camless valve actuation to optimize valve operation, rather than relying on fixed valve timing and lift as has historically been done; turbocharging to boost power and allow for engine downsizing; improved multi-speed transmissions; and improved air conditioning systems that operate optimally, leak less, and/or use an alternative refrigerant (ARB 2013e).

The second phase of the implementation for the Pavley bill was incorporated into Amendments to the Low-Emission Vehicle Program referred to as LEV III or the Advanced Clean Cars program. The Advanced Clean Car program combines the control of smog-causing pollutants and GHG emissions into a single coordinated package of requirements for model years 2017 through 2025. The

regulation will reduce GHGs from new cars by 34 percent from 2016 levels by 2025. The new rules will reduce pollutants from gasoline and diesel-powered cars, and deliver increasing numbers of zero-emission technologies, such as full battery electric cars, newly emerging plug-in hybrid electric vehicles, and hydrogen fuel cell cars. The regulations will also ensure adequate fueling infrastructure is available for the increasing numbers of hydrogen fuel cell vehicles planned for deployment in California (ARB 2011a).

SB 1368—Emission Performance Standards. In 2006, the State Legislature adopted SB 1368, which was subsequently signed into law by the governor. SB 1368 directs the California Public Utilities Commission to adopt a performance standard for GHG emissions for the future power purchases of California utilities. SB 1368 seeks to limit carbon emissions associated with electrical energy consumed in California by forbidding procurement arrangements for energy longer than 5 years from resources that exceed the emissions of a relatively clean, combined cycle natural gas power plant. Because of the carbon content of its fuel source, a coal-fired plant cannot meet this standard because such plants emit roughly twice as much carbon as natural gas, combined cycle plants. Accordingly, the new law effectively prevents California's utilities from investing in, otherwise financially supporting, or purchasing power from new coal plants located in or out of the State. The California Public Utilities Commission adopted the regulations required by SB 1368 on August 29, 2007. The regulations implementing SB 1368 establish a standard for baseload generation owned by, or under long-term contract to publicly owned utilities, of 1,100 lbs. CO_2 per megawatt-hour (MWh).

SB 1078—Renewable Electricity Standards. On September 12, 2002, Governor Gray Davis signed SB 1078, requiring California to generate 20 percent of its electricity from renewable energy by 2017. SB 107 changed the due date to 2010 instead of 2017. On November 17, 2008, Governor Arnold Schwarzenegger signed Executive Order S-14-08, which established a Renewable Portfolio Standard target for California requiring that all retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Governor Schwarzenegger also directed the ARB (Executive Order S-21-09) to adopt a regulation by July 31, 2010, requiring the State's load serving entities to meet a 33 percent renewable energy target by 2020 The ARB approved the Renewable Electricity Standard on September 23, 2010 by Resolution 10-23. In 2011, the state legislature adopted this higher standard in SB X1-2. Renewable sources of electricity include wind, small hydropower, solar, geothermal, biomass, and biogas.

SB 350—Clean Energy and Pollution Reduction Act of 2015. The legislature recently approved and the governor signed SB 350, which reaffirms California's commitment to reducing its GHG emissions and addressing climate change. Key provisions include an increase in the RPS, higher energy efficiency requirements for buildings, initial strategies towards a regional electricity grid, and improved infrastructure for electric vehicle charging stations. Provisions for a 50 percent reduction in the use of petroleum statewide were removed from the Bill because of opposition and concern that it would prevent the Bill's passage. Specifically, SB 350 requires the following to reduce statewide GHG emissions:

- Increase the amount of electricity procured from renewable energy sources from 33 percent to 50 percent by 2030, with interim targets of 40 percent by 2024, and 25 percent by 2027.

- Double the energy efficiency in existing buildings by 2030. This target will be achieved through the California Public Utility Commission (CPUC), the California Energy Commission (CEC), and local publicly owned utilities.
- Reorganize the Independent System Operator (ISO) to develop more regional electricity transmission markets and improve accessibility in these markets, which will facilitate the growth of renewable energy markets in the western United States (California Leginfo 2015).

SBX 7-7—The Water Conservation Act of 2009. The legislation directs urban retail water suppliers to set individual 2020 per capita water use targets and begin implementing conservation measures to achieve those goals. Meeting this statewide goal of 20 percent decrease in demand will result in a reduction of almost 2 million acre-feet in urban water use in 2020.

Executive Orders Related to GHG Emissions

California's Executive Branch has taken several actions to reduce GHGs through the use of executive orders. Although not regulatory, they set the tone for the State and guide the actions of state agencies.

Executive Order S-3-05. On June 1, 2005, former California Governor Arnold Schwarzenegger announced through Executive Order S-3-05, the following reduction targets for GHG emissions:

- By 2010, reduce greenhouse gas emissions to 2000 levels.
- By 2020, reduce greenhouse gas emissions to 1990 levels.
- By 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels.

The 2050 reduction goal represents what some scientists believe is necessary to reach levels that will stabilize the climate. The 2020 goal was established to be a mid-term target. Because this is an executive order, the goals are not legally enforceable for local governments or the private sector.

Executive Order B-30-15. On April 29, 2015, Governor Edmund G. Brown Jr. issued an executive order to establish a California GHG reduction target of 40 percent below 1990 levels by 2030. The Governor's executive order aligns California's GHG reduction targets with those of leading international governments ahead of the United Nations Climate Change Conference in Paris late 2015. The executive order sets a new interim statewide GHG emission reduction target to reduce GHG emissions to 40 percent below 1990 levels by 2030 in order to ensure California meets its target of reducing GHG emissions to 80 percent below 1990 levels by 2050 and directs the ARB to update the Climate Change Scoping Plan to express the 2030 target in terms of $MMTCO_2e$. The executive order also requires the State's climate adaptation plan to be updated every three years and for the State to continue its climate change research program, among other provisions. As with Executive Order S-3-05, this executive order is not legally enforceable against local governments and the private sector. Legislation that would update AB 32 to provide post-2020 targets was signed by the Governor in 2016. SB 32 includes a 2030 mandate matching the requirements of the Executive Order.

Executive Order S-01-07—Low Carbon Fuel Standard. The governor signed Executive Order S 01-07 on January 18, 2007. The order mandates that a statewide goal shall be established to reduce the carbon intensity of California's transportation fuels by at least 10 percent by 2020. In particular, the

executive order established a Low Carbon Fuel Standard (LCFS) and directed the Secretary for Environmental Protection to coordinate the actions of the California Energy Commission, the ARB, the University of California, and other agencies to develop and propose protocols for measuring the "life-cycle carbon intensity" of transportation fuels. This analysis supporting development of the protocols was included in the State Implementation Plan for alternative fuels (State Alternative Fuels Plan adopted by California Energy Commission on December 24, 2007) and was submitted to ARB for consideration as an "early action" item under AB 32. The ARB adopted the Low Carbon Fuel Standard on April 23, 2009.

The Low Carbon Fuel Standard was subject to legal challenge in 2011. Ultimately, ARB was required to bring a new LCFS regulation to the Board for consideration in February 2015. The proposed LCFS regulation was required to contain revisions to the 2010 LCFS as well as new provisions designed to foster investments in the production of the low-carbon fuels, offer additional flexibility to regulated parties, update critical technical information, simplify and streamline program operations, and enhance enforcement. The Office of Administrative Law (OAL) approved the regulation on November 16, 2015 (ARB 2015e).

Executive Order S-13-08. Executive Order S-13-08 states that "climate change in California during the next century is expected to shift precipitation patterns, accelerate sea level rise and increase temperatures, thereby posing a serious threat to California's economy, to the health and welfare of its population and to its natural resources." Pursuant to the requirements in the order, the 2009 California Climate Adaptation Strategy (California Natural Resources Agency 2009) was adopted, which is the ". . . first statewide, multi-sector, region-specific, and information-based climate change adaptation strategy in the United States." Objectives include analyzing risks of climate change in California, identifying and exploring strategies to adapt to climate change, and specifying a direction for future research.

California Regulations and Building Codes

California has a long history of adopting regulations to improve energy efficiency in new and remodeled buildings. These regulations have kept California's energy consumption relatively flat even with rapid population growth.

Title 20—Appliance Efficiency Regulations. California Code of Regulations, Title 20: Division 2, Chapter 4, Article 4, Sections 1601–1608: Appliance Efficiency Regulations regulates the sale of appliances in California. The Appliance Efficiency Regulations include standards for both federally regulated appliances and non-federally regulated appliances. Twenty-three categories of appliances are included in the scope of these regulations. The standards within these regulations apply to appliances that are sold or offered for sale in California, except those sold wholesale in California for final retail sale outside the State and those designed and sold exclusively for use in recreational vehicles or other mobile equipment. The regulations were last revised in December 2018 (CEC 2018a).

Title 24—Energy Efficiency Standards. California Code of Regulations Title 24 Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficient

technologies and methods. Energy efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases GHG emissions. The most current 2016 Building Energy Efficiency Standards went into effect on January 1, 2017 (CEC 2016). The 2019 Building Energy Efficiency Standards are scheduled to go into effect on January 1, 2020 (CEC 2018b)

Title 24—California Green Building Standards Code (California Code of Regulations Title 24, Part 11 code) is a comprehensive and uniform regulatory code for all residential, commercial, and school buildings that went in effect January 1, 2011. The code is updated on a regular basis, with the most recent update consisting of the 2013 California Green Building Code Standards that became effective January 1, 2014. Local jurisdictions are permitted to adopt more stringent requirements, as state law provides methods for local enhancements. The Code recognizes that many jurisdictions have developed existing construction and demolition ordinances and defers to them as the ruling guidance provided they provide a minimum 50-percent diversion requirement. The code also provides exemptions for areas not served by construction and demolition recycling infrastructure. State building code provides the minimum standard that buildings need to meet in order to be certified for occupancy, which is generally enforced by the local building official.

The California Green Building Standards Code (California Code of Regulations Title 24, Part 11 code) requires:

- **Short-term bicycle parking**. If a commercial project is anticipated to generate visitor traffic, provide permanently anchored bicycle racks within 200 feet of the visitors' entrance, readily visible to passers-by, for five percent of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack (5.106.4.1.1).
- **Long-term bicycle parking**. For buildings with over 10 tenant-occupants, provide secure bicycle parking for five percent of tenant-occupied motorized vehicle parking capacity, with a minimum of one space (5.106.4.1.2).
- **Designated parking**. Provide designated parking in commercial projects for any combination of low-emitting, fuel-efficient and carpool/van pool vehicles as shown in Table 5.106.5.2 (5.106.5.2).
- **Recycling by Occupants**. Provide readily accessible areas that serve the entire building and are identified for the depositing, storage, and collection of nonhazardous materials for recycling. (5.410.1).
- **Construction waste**. A minimum 50-percent diversion of construction and demolition waste from landfills, increasing voluntarily to 65 and 80 percent for new homes and 80-percent for commercial projects. (5.408.1, A5.408.3.1 [nonresidential], A5.408.3.1 [residential]). All (100 percent) of trees, stumps, rocks and associated vegetation and soils resulting from land clearing shall be reused or recycled (5.408.3).
- **Wastewater reduction**. Each building shall reduce the generation of wastewater by one of the following methods:
    1. The installation of water-conserving fixtures or
    2. Using nonpotable water systems (5.303.4).

- **Water use savings**. Twenty percent mandatory reduction in indoor water use with voluntary goal standards for 30, 35, and 40 percent reductions (5.303.2, A5303.2.3 [nonresidential]).
- **Water meters**. Separate water meters for buildings in excess of 50,000 square feet or buildings projected to consume more than 1,000 gallons per day (5.303.1).
- **Irrigation efficiency**. Moisture-sensing irrigation systems for larger landscaped areas (5.304.3).
- **Materials pollution control**. Low-pollutant emitting interior finish materials such as paints, carpet, vinyl flooring, and particleboard (5.404).
- **Building commissioning**. Mandatory inspections of energy systems (i.e., heat furnace, air conditioner, mechanical equipment) for nonresidential buildings over 10,000 square feet to ensure that all are working at their maximum capacity according to their design efficiencies (5.410.2).

Model Water Efficient Landscape Ordinance. The Model Water Efficient Landscape Ordinance (Ordinance) was required by AB 1881 Water Conservation Act. The bill required local agencies to adopt a local landscape ordinance at least as effective in conserving water as the Model Ordinance by January 1, 2010. Reductions in water use of 20 percent consistent with (SBX-7-7) 2020 mandate are expected for the ordinance. Governor Brown's Drought Executive Order of April 1, 2015 (E.O. B-29-15) directed DWR to update the ordinance through expedited regulation. The California Water Commission approved the revised ordinance on July 15, 2015, which became effective on December 15, 2015. New development projects that include landscaped areas of 500 square feet or more are subject to the ordinance. The update requires:

- More efficient irrigation systems
- Incentives for graywater usage
- Improvements in on-site stormwater capture
- Limiting the portion of landscapes that can be planted with high water use plants
- Reporting requirements for local agencies.

SB 97 and the CEQA Guidelines Update. Passed in August 2007, SB 97 added Section 21083.05 to the Public Resources Code. The code states: "(a) On or before July 1, 2009, the Office of Planning and Research shall prepare, develop, and transmit to the Resources Agency guidelines for the mitigation of GHG emissions or the effects of GHG emissions as required by this division, including, but not limited to, effects associated with transportation or energy consumption. (b) On or before January 1, 2010, the Resources Agency shall certify and adopt guidelines prepared and developed by the Office of Planning and Research pursuant to subdivision (a)."

Section 21097 was also added to the Public Resources Code. This provided an exemption until January 1, 2010 for transportation projects funded by the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, or projects funded by the Disaster Preparedness and Flood Prevention Bond Act of 2006—in stating that the failure to analyze adequately the effects of GHGs would not violate CEQA. The Natural Resources Agency completed the approval process and the Amendments became effective on March 18, 2010.

The 2010 CEQA Amendments provide guidance to public agencies regarding the analysis and mitigation of the effects of GHG emissions in CEQA documents. The CEQA Amendments fit within the existing CEQA framework by amending existing CEQA Guidelines to reference climate change.

Section 15064.4(b) of the CEQA Guidelines provides direction for lead agencies for assessing the significance of impacts of GHG emissions:

- The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
- Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; or
- The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such regulations or requirements must be adopted by the relevant public agency through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

The CEQA Guidelines amendments do not identify a threshold of significance for GHG emissions, nor do they prescribe assessment methodologies or specific mitigation measures. Instead, they call for a "good-faith effort, based on available information, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project." The amendments encourage lead agencies to consider many factors in performing a CEQA analysis and preserve lead agencies' discretion to make their own determinations based upon substantial evidence. The amendments also encourage public agencies to make use of programmatic mitigation plans and programs from which to tier when they perform individual project analyses.

Also amended were CEQA Guidelines Sections 15126.4 and 15130, which address mitigation measures and cumulative impacts, respectively. GHG mitigation measures are referenced in general terms, but no specific measures are championed. The revision to the cumulative impact discussion requirement (Section 15130) simply directs agencies to analyze GHG emissions in an EIR when a project's incremental contribution of emissions may be cumulatively considerable; however, it does not answer the question of when emissions are cumulatively considerable.

Section 15183.5 permits programmatic GHG analysis and later project-specific tiering, as well as the preparation of Greenhouse Gas Reduction Plans. Compliance with such plans can support a determination that a project's cumulative effect is not cumulatively considerable, according to Section 15183.5(b).

In addition, the amendments revised Appendix F of the CEQA Guidelines, which focuses on energy conservation. The sample environmental checklist in Appendix G was amended to include GHG questions.

CEQA emphasizes that the effects of GHG emissions are cumulative and should be analyzed in the context of CEQA's requirements for cumulative impacts analysis (see CEQA Guidelines Section 15130(f)).

California Supreme Court GHG Ruling

A November 30, 2015 ruling, the *California Supreme Court in Center for Biological Diversity (CBD) v. California Department of Fish and Wildlife (CDFW)* on the Newhall Ranch project, concluded that whether the project was consistent with meeting statewide emission reduction goals is a legally permissible criterion of significance, but the significance finding for the project was not supported by a reasoned explanation based on substantial evidence. The Court offered potential solutions on pages 25 to 27 of the ruling to address this issue summarized below.

Specifically, the Court advised that:

- **Substantiation of Project Reductions from BAU**. A lead agency may use a BAU comparison based on the Scoping Plan's methodology if it also substantiates the reduction a particular project must achieve to comply with statewide goals. The Court suggested a lead agency could examine the "data behind the Scoping Plan's business-as-usual model" to determine the necessary project-level reductions from new land use development at the proposed location (p. 25).
- **Compliance with Regulatory Programs or Performance Based Standards**. "A lead agency might assess consistency with A.B. 32's goal in whole or part by looking to compliance with regulatory programs designed to reduce greenhouse gas emissions from particular activities. (See Final Statement of Reasons, supra, at p. 64 [greenhouse gas emissions 'may be best analyzed and mitigated at a programmatic level.'].) To the extent a project's design features comply with or exceed the regulations outlined in the Scoping Plan and adopted by the Air Resources Board or other state agencies, a lead agency could appropriately rely on their use as showing compliance with 'performance based standards' adopted to fulfill 'a statewide . . . plan for the reduction or mitigation of greenhouse gas emissions.' (CEQA Guidelines § 15064.4(a)(2), (b)(3); see also id., § 15064(h)(3) [determination that impact is not cumulatively considerable may rest on compliance with previously adopted plans or regulations, including 'plans or regulations for the reduction of greenhouse gas emissions'].)" (p. 26).
- **Compliance with GHG Reduction Plans or Climate Action Plans (CAPs)**. A lead agency may utilize "geographically specific GHG emission reduction plans" such as climate action plans or greenhouse gas emission reduction plans to provide a basis for the tiering or streamlining of project-level CEQA analysis (p. 26).
- **Compliance with Local Air District Thresholds**. A lead agency may rely on "existing numerical thresholds of significance for greenhouse gas emissions" adopted by, for example, local air districts (p. 27).

Therefore, consistent with CEQA Guidelines Appendix G, the three factors identified in CEQA Guidelines Section 15064.4 and the recently issued Newhall Ranch opinion, the GHG impacts would be considered significant if the project would:

- Conflict with a compliant GHG Reduction Plan if adopted by the lead agency;
- Exceed the SJVAPCD GHG Reduction Threshold; or
- Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emission of GHGs.

3.3.4 - San Joaquin Valley Air Pollution Control District

Climate Change Action Plan

On August 21, 2008, the SJVAPCD Governing Board approved a proposal called the Climate Change Action Plan (CCAP). The CCAP began with a public process bringing together stakeholders, land use agencies, environmental groups, and business groups to conduct public workshops to develop comprehensive policies for CEQA guidelines, a carbon exchange bank, and voluntary GHG emissions mitigation agreements for the Board's consideration. The CCAP contains the following goals and actions:

- Develop GHG significance thresholds to address CEQA projects with GHG emission increases.
- Develop the San Joaquin Valley Carbon Exchange for banking and trading GHG reductions.
- Authorize use of the SJVAPCD's existing inventory reporting system to allow use for GHG reporting required by AB 32 regulations.
- Develop and administer GHG reduction agreements to mitigate proposed emission increases from new projects.
- Support climate protection measures that reduce greenhouse gas emissions as well as toxic and criteria pollutants. Oppose measures that result in a significant increase in toxic or criteria pollutant emissions in already impacted areas.

On December 17, 2009, the SJVAPCD Governing Board adopted "Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA," and the policy "District Policy—Addressing GHG Emission Impacts for Stationary Source Projects Under CEQA When Serving as the Lead Agency." The SJVAPCD concluded that the existing science is inadequate to support quantification of the impacts that project-specific GHG emissions have on global climatic change. The SJVAPCD found the effects of project-specific emissions to be cumulative, and without mitigation, their incremental contribution to global climatic change could be considered cumulatively considerable. The SJVAPCD found that this cumulative impact is best addressed by requiring all projects to reduce their GHG emissions, whether through project design elements or mitigation.

The SJVAPCD's approach is intended to streamline the process of determining if project-specific GHG emissions would have a significant effect. Projects exempt from the requirements of CEQA, and projects complying with an approved plan or mitigation program would be determined to have a less than significant cumulative impact. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources and must have a certified final CEQA document.

For non-exempt projects, those projects for which there is no applicable approved plan or program, or those projects not complying with an approved plan or program, the lead agency must evaluate

the project against performance-based standards and would require the adoption of design elements, known as a Best Performance Standard, to reduce GHG emissions. The Best Performance Standards (BPS) have not yet fully been established, though they must be designed to achieve a 29 percent reduction when compared with the BAU projections identified in ARB's AB 32 Scoping Plan.

BAU represents the emissions that would occur in 2020 if the average baseline emissions during the 2002–2004 period were grown to 2020 levels, without control. Thus, these standards would carry with them pre-quantified emissions reductions, eliminating the need for project-specific quantification. Therefore, projects incorporating BPS would not require specific quantification of GHG emissions, and automatically would be determined to have a less than significant cumulative impact for GHG emissions.

For stationary source permitting projects, BPS means, "The most stringent of the identified alternatives for control of GHG emissions, including type of equipment, design of equipment and operational and maintenance practices, which are achieved-in-practice for the identified service, operation, or emissions unit class." The SJVAPCD has identified BPS for the following sources: boilers; dryers and dehydrators; oil and gas extraction; storage, transportation, and refining operations; cogeneration; gasoline dispensing facilities; volatile organic compound control technology; and steam generators.

For development projects, BPS means, "Any combination of identified GHG emission reduction measures, including project design elements and land use decisions that reduce project-specific GHG emission reductions by at least 29 percent compared with business as usual."

Projects not incorporating BPS would require quantification of GHG emissions and demonstration that BAU GHG emissions have been reduced or mitigated by 29 percent. As stated earlier, ARB's adjusted inventory reduced the amount required by the State to achieve 1990 emission levels from 29 percent to 21.7 percent to account for slower growth experienced since the 2008 recession. According to SJVAPCD guidance, quantification of GHG emissions would be required for all projects for which the lead agency has determined that an environmental impact report is required, regardless of whether the project incorporates BPS. The SJVAPCD has not yet adopted BPS for development projects, so quantification of project emissions is required.

San Joaquin Valley Carbon Exchange

The SJVAPCD initiated work on the San Joaquin Valley Carbon Exchange in November 2008. The purpose of the carbon exchange is to quantify, verify, and track voluntary GHG emissions reductions generated within the San Joaquin Valley. However, the SJVAPCD has pursued an alternative strategy that incorporates the GHG emissions into its existing Rule 2301—Emission Reduction Credit Offset Banking that formerly only addressed criteria pollutants. The SJVAPCD is also participating with the California Air Pollution Control Officers Association (CAPCOA), of which it is a member, in the CAPCOA Greenhouse Gas Reduction Exchange (GHG Rx). The GHG Rx is operated cooperatively by air districts that have elected to participate. Participating districts have signed a Memorandum of Understanding (MOU) with CAPCOA and agree to post only those credits that meet the Rx standards for quality. The objective is to provide a secure, low-cost, high-quality greenhouse gas exchange for credits created in California. The GHG Rx is intended to help fulfill compliance obligations or mitigation needs of local projects subject to environmental review, reducing the uncertainty of using

credits generated in distant locations. The SJVAPCD currently has no credits posted to the GHG Rx website as of this writing (CAPCOA 2018).

Rule 2301

While the Climate Change Action Plan indicated that the GHG emission reduction program would be called the San Joaquin Valley Carbon Exchange, the District incorporated a method to register voluntary GHG emission reductions into its existing Rule 2301—Emission Reduction Credit Banking through amendments of the rule. Amendments to the rule were adopted on January 19, 2012. The purposes of the amendments to the rule include the following:

- Provide an administrative mechanism for sources to bank voluntary GHG emission reductions for later use.
- Provide an administrative mechanism for sources to transfer banked GHG emission reductions to others for any use.
- Define eligibility standards, quantitative procedures, and administrative practices to ensure that banked GHG emission reductions are real, permanent, quantifiable, surplus, and enforceable.

Merced County Association of Governments

2018 Regional Transportation Plan

The Merced County Association of Governments (MCAG) is the Regional Transportation Planning Agency (RTPA) for the Merced County region. MCAG adopted the 2018 Regional Transportation Plan/Sustainable Community Strategy (RTP) on August 16, 2018. The 2018 RTP is a planning document in cooperation with the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), the California Department of Transportation (Caltrans), and other stakeholders, including transportation system users. SB 375 includes the following findings related to the RTP/Sustainable Communities Strategy (SCS) development process:

- The ARB is required to develop regional GHG emission reduction targets for cars and light trucks for each of the 18 MPOs in California, including MCAG. ARB approved targets for the San Joaquin Valley in January 2013. The target for Merced County was a per capita reduction in GHG emissions from passenger vehicle travel of five percent by 2020 and 10 percent by 2035 relative to 2005 levels (ARB 2018b). However, the 2018 RTP/SCS indicates that it expects to achieve a 10 percent reduction by 2020 and a 25 percent reduction by 2035 relative to 2005 levels exceeding the target reductions (MCAG 2018).
- SB 375 required the preparation of an SCS. MCAG included a SCS that specifies how the GHG emission reduction target set by ARB will be achieved in the RTP
- Streamlines CEQA requirements for specific residential and mixed-use developments that are consistent with the Merced County SCS or APS (as determined by ARB) to achieve regional GHG emissions reduction target.

3.3.5 - Local

The City of Merced adopted a Climate Action Plan (CAP) in 2012 that includes strategies that would help reduce GHG emissions associated with GHG emissions from development projects. The CAP used the General Plan as the basis for its land use and transportation related policies to reduce GHG emissions.

Climate Action Plan

The City of Merced CAP includes the following applicable strategies to reduce climate change impacts in Table 8. For details regarding the actions to implement each strategy see CAP Appendix E: CAP Strategies for New Developments.

Table 8: Consistency with Climate Action Plan Strategies

Climate Action Plan Strategy	Consistency Analysis
Strategy EM 1.1: Site Design Planning Increase percentage of citizens that travel by walking, cycling, and by using transit services.	**Consistent**. The project is connected by sidewalks and local roads to neighboring uses encouraging walking and bicycling. The project within 0.25 mile of the nearest bus stop on Merced Transit Route M1.
Strategy EM 1.4: Pedestrian Planning and Projects. Build Enticing Pedestrian Corridors	**Consisten**t. The project is served by streets with sidewalks and street trees providing an enticing corridor.
Strategy SC 2.1: Compact Urban Form/Infill. Foster Compact and Efficient Development Patterns to Maintain a Compact Urban Form	**Consistent**. The project increases overall density in the area with its 16.4 dwelling-units-per-acre density.
Strategy WR 5.1: Reduce, Reuse, and Recycle. Continue Efforts to Increase the City's Waste Diversion Rate, and Aim to achieve a 65 percent Diversion Rate by 2020	**Consistent**. The project residents will participate in recycling and diversion programs operated by the solid waste provider.
Strategy BE 7.2: Energy Efficiency in New Development. Encourage new development to reduce significant GHG emission impacts through energy efficient building designs and siting.	**Consistent**. The project will comply with the latest Title 24 Building Energy Efficient Standards that are over 46 percent more efficient than were in place when the CAP was adopted.
Strategy WC 3.1: Water Conservation and Technology. Reduce per capita water use by 20% by 2020, in part, through Water Conservation Efforts**.**	**Consistent**. The project will comply with CalGreen Building Code indoor water conservation requirements and MWELO outdoor water conservation requirements.
Strategy WC 3.3: Water Efficient Landscapes. Reduce per capita water use by 20% by 2020, in part, through water efficient landscapes	**Consistent**. The project will comply with MWELO outdoor water conservation requirements for landscapes included in the project.
Strategy AR 4.1 Reduced Vehicle Trips: Reduce per capita Vehicle Miles Travelled by 5% by 2020**.**	**Consistent**. The project's pedestrian infrastructure and connections to offsite pedestrian facilities and the presence of transit within 0.25 mile is expected to reduce VMT by at least 5%.

Table 8 (cont.): Consistency with Climate Action Plan Strategies

Climate Action Plan Strategy	Consistency Analysis
Strategy RE 6.1: Renewable Energy Systems. Increase Reliance on Local Renewable Energy Sources and Reduce Emissions by 50,000 CO2 Equivalent Tons through this Strategy by 2020.	**Consistent**. The project will be subject to mandatory solar panel requirements of 2019 Title 24 if building permits are issued after January 1, 2020.
Strategy BE 7.5: Urban Forestry/Heat Island Effect. Improve and Expand the City's Urban Forest (General Plan Policy OS-1.4).	**Consistent**. The project will install trees and other landscaping consistent with city landscaping requirements.
Source: City of Merced Climate Action Plan 2012.	

City of Merced Vision 2030 General Plan EIR

The General Plan EIR relies on General Plan goals and policies to mitigate GHG emissions to the extent feasible. The policies are similar to the strategies and actions included in CAP. The following policies are applicable to the project:

- **L-3.1** Create land use patterns that will encourage people to walk, bicycle, or use public transit for an increased number of their daily trips.
- **L-3.2** Encourage infill development and a compact urban form.
- **L-3.3** Promote site designs that encourage walking, cycling, and transit use.
- **T-2.2** Support and enhance the use of public transit.
- **T-2.5** Provide convenient bicycle support facilities to encourage bicycle use.
- **T-2.7** Maintain a pedestrian-friendly environment.
- **SD-1.1** Accurately determine and fairly mitigate the local and regional air quality impacts of projects proposed in the City of Merced.
- **H-1.1** Support increased densities in residential areas.

Waste Diversion

With the passage of SB 1016, the Per Capita Disposal Measurement System, only per capita disposal rates are measured. Targets are based on the per capita disposal rates. The City's disposal rate annual reports are under review by CalRecyle and not currently available (CalRecycle 2016a).

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SECTION 4: MODELING PARAMETERS AND ASSUMPTIONS

4.1—Model Selection and Guidance

Air pollutant emissions can be estimated by using emission factors and a level of activity. Emission factors represent the emission rate of a pollutant given the activity over time; for example, grams of NO_X per horsepower-hour or grams of NO_X per vehicle mile traveled. The ARB has published emission factors for on-road mobile vehicles/trucks in the EMFAC mobile source emissions model and emission factors for off-road equipment and vehicles in the OFFROAD emissions model. An air emissions model (or calculator) combines the emission factors and the various levels of activity and outputs the emissions for the various pieces of equipment.

The California Emissions Estimator Model (CalEEMod) version 2016.3.2 was developed by the South Coast Air Quality Management District in cooperation with other air districts throughout the State. CalEEMod is designed as a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and GHG emissions associated with construction and operation from a variety of land uses.

The modeling follows District guidance where applicable from its GAMAQI. The models used in this analysis are summarized as follows:

- Construction emissions: CalEEMod, version 2016.3.2
- Operational emissions: CalEEMod, version 2016.3.2

4.2—Air Pollutants and GHGs Assessed

4.2.1 - Criteria Pollutants Assessed

The following air pollutants are assessed in this analysis:

- Reactive organic gases (ROG)
- Nitrogen oxides (NO_X)
- Carbon monoxide (CO)
- Sulfur dioxide (SO_2)
- Particulate matter less than 10 microns in diameter (PM_{10})
- Particulate matter less than 2.5 microns in diameter ($PM_{2.5}$)

Note that the project would emit ozone precursors ROG and NO_X. However, the project would not directly emit ozone, since it is formed in the atmosphere during the photochemical reaction of ozone precursors. Other criteria pollutants such as vinyl chloride, hydrogen sulfide, lead, and sulfates were not included because of their low levels of emissions from the project.

As noted previously, the project would emit ultrafine particles. However, there is currently no standard separate from the $PM_{2.5}$ standards for ultrafine particles and there is no accepted methodology to quantify or assess the significance of such particles.

4.2.2 - Greenhouse Gases Assessed

This analysis is restricted to GHGs identified by AB 32, which include: carbon dioxide, methane, NO_X, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. The project would generate a variety of GHGs, including several defined by AB 32 such as carbon dioxide, methane, and NO_X.

The project may emit GHGs that are not defined by AB 32. For example, the project may generate aerosols through emissions of DPM from the vehicles and trucks that would access the project site. Aerosols are short-lived particles, as they remain in the atmosphere for about one week. Black carbon is a component of aerosol. Studies have indicated that black carbon has a high global warming potential; however, the Intergovernmental Panel on Climate Change states that it has a low level of scientific certainty (IPCC 2007a).

Water vapor could be emitted from evaporated water used for landscaping, but this is not a significant impact because water vapor concentrations in the upper atmosphere are primarily due to climate feedbacks rather than emissions from project-related activities.

The project would emit nitrogen oxides and volatile organic compounds, which are ozone precursors. Ozone is a GHG; however, unlike the other GHGs, ozone in the troposphere is relatively short-lived and can be reduced in the troposphere on a daily basis. Stratospheric ozone can be reduced through reactions with other pollutants.

Certain GHGs defined by AB 32 would not be emitted by the project. Perfluorocarbons and sulfur hexafluoride are typically used in industrial applications, none of which would be used by the project. Therefore, it is not anticipated that the project would emit perfluorocarbons or sulfur hexafluoride.

4.3—Construction Modeling Assumptions

Construction emissions can vary substantially from day to day, depending on the level of activity, the specific type of operation, and prevailing weather conditions. Construction emissions result from on-site and off-site activities. On-site emissions principally consist of exhaust emissions from the activity levels of heavy-duty construction equipment, motor vehicle operation, and fugitive dust (mainly PM_{10}) from disturbed soil. Additionally, paving operations and application of architectural coatings would release VOC emissions. Off-site emissions are caused by motor vehicle exhaust from delivery vehicles, worker traffic, and road dust (PM_{10} and $PM_{2.5}$).

4.3.1 - Project Schedule

The project was assumed to begin construction in January 2020 with full buildout completed by January 2021. It is anticipated that the complex would begin operations in January 2021. The analysis uses the CalEEMod default construction schedule and equipment list with the length of time reduced to reflect a one-year construction schedule. The default construction list is very conservative because the model assumes that all equipment is operated continuously for every day of each construction phase when in reality some equipment is used for a portion of a phase or only periodically during each day. The detailed construction schedule and other modeling assumptions can be reviewed in the modeling results included in Appendix A of this report.

4.3.2 - Construction Equipment Emission Factors

CalEEMod contains an inventory of construction equipment that incorporates estimates of the number of equipment, age, horsepower, and equipment emission control level or tier from which rates of emissions are developed. The CalEEMod default equipment assumptions were used in this analysis for the estimation of emissions from on-site construction equipment. CalEEMod's off-road emission factors and load factors are from the ARB OFFROAD model.

4.3.3 - Demolition

No demolition is required.

4.3.4 - Site Preparation

Site preparation involves clearing vegetation and removing stones and other unwanted material or debris prior to grading. During site preparation, emissions are generated from the use of diesel construction equipment. Fugitive dust is generated during soil-disturbing activities and truck loading and unloading.

4.3.5 - Grading

During grading activities, fugitive dust can be generated from the movement of dirt on the project site. CalEEMod estimates dust from dozers moving dirt around, dust from graders or scrapers leveling the land, and loading or unloading dirt into haul trucks. The grading phase includes trenching for underground utilities and building pad preparation. Each activity is calculated differently in CalEEMod, based on the number of acres traversed by the grading equipment.

Only some pieces of equipment generate fugitive dust in CalEEMod. The CalEEMod manual identifies various equipment and the acreage disturbed in an 8-hour day:

- Crawler tractors, graders, and rubber-tired dozers: 0.5 acre per 8-hour day
- Scrapers: 1 acre per 8-hour day

Therefore, the following acres are the total quantities disturbed per day, according to the acreage disturbed quantities listed above:

- Site preparation = 1.5 acres per day
- Grading = 3 acres per day

The project is estimated to import 4,887 cubic yards of material during grading.

4.3.6 - Building Construction, Paving, and Architectural Coatings

The analysis uses the default modeling assumptions from CalEEMod for construction equipment during building construction, paving, and application of architectural coatings. The emission factors for architectural coatings were revised to reflect compliance with SJVAPCD Rule 4601 Architectural Coatings.

4.3.7 - Construction Off-site Trips

Worker trips are accounted for during the construction phases, based on 1.25 trips per piece of equipment (the CalEEMod default). The CalEEMod default worker trip length of 10.8 miles was retained. The CalEEMod default vehicle fleet (LD Mix) was used for construction worker trips.

Vendor trips for the building construction phase are calculated from a study performed by the Sacramento Metropolitan Air Quality Management District (SMAQMD) based on land use and size. The CalEEMod defaults for vendor trips, trip length, and vehicle fleet (Heavy Duty Truck Vehicle Fleet Mix) were used.

4.4—Operation

Operational emissions are those emissions that occur when the project is occupied by the future residents. The major sources are summarized below.

4.4.1 - Motor Vehicles

Motor vehicle emissions refer to exhaust and road dust emissions from the automobiles that would travel to and from the project site.

The analysis uses CalEEMod 2016.2 default trip generation rates for low-rise apartments.

A pass-by trip accounts for vehicles already on the roadway network that stop at the project site as they pass-by; the pass-by trips are existing vehicle trips in the community. CalEEMod default rates of four percent pass-by trips were used in this analysis.

The vehicle fleet mix is defined as the mix of motor vehicle classes active during the operation of the project. Emission factors are assigned to the expected vehicle mix as a function of vehicle class, speed, and fuel use (gasoline and diesel-powered vehicles). The CalEEMod default vehicle fleet mix overstates the percentage of heavy-duty trucks for residential development projects; therefore, the SJVAPCD-approved Residential Fleet Mix was used in the analysis.

4.4.2 - Architectural Coatings (Painting)

Paints release VOC emissions during application and drying. The buildings in the project would be repainted on occasion. The project is required to comply with the SJVAPCD Rule 4601—Architectural Coatings. The rule requires flat paints to meet a standard of 50 grams per liter (g/l) and gloss paints 100 g/l by 2012 for an average rate of 65 g/l. Most of the coatings used for residential projects are flat paints.

4.4.3 - Consumer Products

Consumer products are various solvents used in non-industrial applications, which emit VOCs during their product use. “Consumer Product” means a chemically formulated product used by household and institutional consumers, including but not limited to: detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products. It does not include other paint

products, furniture coatings, or architectural coatings (ARB 2011b). The default emission factor developed for CalEEMod was used.

4.4.4 - Landscape Equipment

CalEEMod estimated the landscaping equipment using the default assumptions in the model.

4.4.5 - Electricity

Electricity used by the project (for lighting, etc.) would result in emissions from the power plants that would generate electricity distributed on the electrical power grid. Electricity emissions estimates are only used in the GHG analysis. CalEEMod was used to estimate these emissions from the project.

Electricity Emission Factor

The default CalEEMod emission factors for Pacific Gas & Electric (from the CEC's year 2006 data) are as follows:

- Carbon dioxide: 641.35 pounds per megawatt hour (lbs/MWh)
- Methane: 0.029 lb/MWh
- Nitrous oxide: 0.006 lb/MWh

It is assumed that the Renewable Electricity Standards would have taken effect by 2020. The Renewable Electricity Standard requires that electricity providers include a minimum of 33 percent renewable energy in their portfolios by the year 2020. Pacific Gas & Electric provides estimates of its emission factor per megawatt hour of electricity delivered to its customers. The Pacific Gas and Electric Company (PG&E) emissions factor for 2020 for CO_2 is provided below. No projections have been made by PG&E for later years, so the 2020 rate is used for 2030 modeling. The rates for methane and nitrous oxide are based on compliance with the Renewable Portfolio Standard.

- Carbon dioxide: 290 lbs/MWh
- Methane: 0.022 lb/MWh
- Nitrous oxide: 0.005 lb/MWh

4.4.6 - Electricity Consumption

CalEEMod has three categories for electricity consumption: electricity that is impacted by Title 24 regulations, non-Title 24 electricity, and lighting. The Title 24 uses are defined as the major building envelope systems covered by California's Building Code Title 24 Part 6, such as space heating, space cooling, water heating, and ventilation. Lighting is separate since it can be both part and not part of Title 24. Since lighting is not considered as part of the building envelope energy budget, CalEEMod does not consider lighting to have any further association with Title 24 references in the program. Non-Title 24 includes everything else such as appliances and electronics. Total electricity consumption in CalEEMod is divided into the three categories. The percentage for each category is determined by using percentages derived from the CalEEMod default electricity intensity factors. The percentages are then applied to the electricity consumption to result in the values used in the analysis.

4.4.7 - Natural Gas

The project would generate emissions from the combustion of natural gas for water heaters, heat, etc. CalEEMod has two categories for natural gas consumption: Title 24 and non-Title 24. CalEEMod defaults were used.

4.4.8 - Water and Wastewater

GHG emissions are emitted from the use of electricity to pump water to the project and to treat wastewater. CalEEMod defaults were used.

4.4.9 - Refrigerants

During operation, there may be leakage of refrigerants (hydrofluorocarbons) from air conditioners and the refrigeration system. Hydrofluorocarbons are typically used for refrigerants, which are long-lived GHGs. Residential uses of refrigerants are minor; therefore, they were not estimated.

4.4.10 - Solid Waste

GHG emissions would be generated from the decomposition of solid waste generated by the project. CalEEMod was used to estimate the GHG emissions from this source. The CalEEMod default for the mix of landfill types is as follows:

- Landfill no gas capture: 6%
- Landfill capture gas flare: 94%
- Landfill capture gas energy recovery: 0%

4.4.11 - Vegetation

There is currently some carbon sequestration occurring on-site from existing landscaping, including an existing grass field. The project would plant trees and integrate landscaping into the project design, which would provide carbon sequestration. However, the number of trees to be planted is unknown and data are insufficient to accurately determine the impact that existing plants have on carbon sequestration. For this analysis, it was assumed that the loss and addition of carbon sequestration that are due to the project would be balanced; therefore, emissions due to carbon sequestration were not included.

SECTION 5: AIR QUALITY IMPACT ANALYSIS

This section calculates the expected emissions from construction and operation of the project as a necessary requisite for assessing the regulatory significance of project emissions on a regional and localized level.

5.1—CEQA Guidelines

The CEQA Guidelines define a significant effect on the environment as "a substantial, or potentially substantial, adverse change in the environment." To determine if a project would have a significant impact on air quality, the type, level, and impact of emissions generated by the project must be evaluated.

The following air quality significance thresholds are contained in Appendix G of the CEQA Guidelines. A significant impact would occur if the project would:

a) Conflict with or obstruct implementation of the applicable air quality plan;

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation;

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable national or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors);

d) Expose sensitive receptors to substantial pollutant concentrations; or

e) Create objectionable odors affecting a substantial number of people.

While the final determination of whether a project is significant is within the purview of the lead agency pursuant to Section 15064(b) of the CEQA Guidelines, the District recommends that its quantitative air pollution thresholds be used to determine the significance of project emissions. If the lead agency finds that the project has the potential to exceed these air pollution thresholds, the project should be considered to have significant air quality impacts. The applicable District thresholds and methodologies are contained under each impact statement below.

5.2—Impact Analysis

5.2.1 - Consistency with Air Quality Plan

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan.

Impact Analysis

The CEQA Guidelines indicate that a significant impact would occur if the project would conflict with or obstruct implementation of the applicable air quality plan. The GAMAQI does not provide specific

guidance on analyzing conformity with the Air Quality Plan (AQP). Therefore, this document proposes the following criteria for determining project consistency with the current AQPs:

1. Will the project result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the AQPs? This measure is determined by comparison to the regional and localized thresholds identified by the District for Regional and Local Air Pollutants.
2. Will the project comply with applicable control measures in the AQPs? The primary control measures applicable to development projects is Regulation VIII—Fugitive PM_{10} Prohibitions and Rule 9510 Indirect Source Review.

Contribution to Air Quality Violations

A measure for determining if the project is consistent with the air quality plans is if the project would not result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the air quality plans. Regional air quality impacts and attainment of standards are the result of the cumulative impacts of all emission sources within the air basin. Individual projects are generally not large enough to contribute measurably to an existing violation of air quality standards. Therefore, the cumulative impact of the project is based on its cumulative contribution. Because of the region's nonattainment status for ozone, $PM_{2.5}$, and PM_{10}—if project-generated emissions of either of the ozone precursor pollutants (ROG and NO_X), PM_{10}, or $PM_{2.5}$ would exceed the District's significance thresholds—then the project would be considered to contribute to violations of the applicable standards and conflict with the attainment plans.

As discussed in Impact AIR-2 below, emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$ associated with the construction and operation of the project would not exceed the District's significance thresholds. As shown in Impact AIR-2, the project would not result in CO hotspots that would violate CO standards. Therefore, the project would not contribute to air quality violations.

Compliance with Applicable Control Measures

The AQP contains a number of control measures, which are enforceable requirements through the adoption of rules and regulations. A description of rules and regulations that apply to this project is provided below.

SJVAPCD Rule 9510—Indirect Source Review is a control measure in the 2006 PM_{10} Plan that requires NO_x and PM_{10} emission reductions from development projects in the San Joaquin Valley. The NO_x emission reductions help reduce the secondary formation of PM_{10} in the atmosphere (primarily ammonium nitrate and ammonium sulfate) and also reduce the formation of ozone. Reductions in directly emitted PM_{10} reduce particles such as dust, soot, and aerosols. Rule 9510 is also a control measure in the 2016 Plan for the 2008 8-Hour Ozone Standard. Developers of projects subject to Rule 9510 must reduce emissions occurring during construction and operational phases through on-site measures, or pay off-site mitigation fees. The project is required to comply with Rule 9510.

Regulation VIII—Fugitive PM_{10} Prohibitions is a control measure that is one main strategies from the 2006 PM_{10} for reducing the PM_{10} emissions that are part of fugitive dust. Projects over 10 acres are required to file a Dust Control Plan (DCP) containing dust control practices sufficient to comply with Regulation VIII. The project is required to prepare a DCP to comply with Regulation VIII.

Other control measures that apply to the project are Rule 4641—Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operation that requires reductions in volatile organic compounds (VOC) emissions during paving and Rule 4601—Architectural Coatings that limits the VOC content of all types of paints and coatings sold in the San Joaquin Valley.

The project would comply with all applicable SJVAPCD rules and regulations. Therefore, the project complies with this criterion and would not conflict with or obstruct implementation of the applicable air quality attainment plan.

General Plan Mitigation Measures

The City of Merced Vision 2030 General Plan EIR includes three mitigation measures to reduce air quality impacts due to significant project and cumulative impacts and because of the San Joaquin Valley's attainment status. The air quality mitigation measures from the General Plan EIR and a discussion of project compliance with each measure are provided in Table 9.

Table 9: Compliance with General Plan EIR Mitigation Measures

Mitigation Measure	Project Compliance
Mitigation Measure #3.3-1a: For any phase of construction in which an area greater than 22 acres, in accordance with Regulation VIII of the SJVAPCD, will be disturbed on any one day, the project developer(s) shall implement the following measures: 1. Basic fugitive dust control measures are required for all construction sites by SJVAPCD Regulation VIII. 2. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. 3. Traffic speeds on unpaved roads shall be no greater than 15 mph. 4. Install wind breaks at windward side(s) of construction areas.	**Regulation VIII.** The project is required to prepare a Dust Control Plan that must be approved by the SJVAPCD prior to commencing construction activities that disturb the soil. The DCP allows the developer or construction contractor to select measures appropriate for the site. Regulation VIII prohibits visible emissions exceeding 20 percent opacity. If controls included in the DCP prove to be inadequate, the developer or contractor must add additional controls sufficient to reduce visible emissions below 20 percent opacity and to halt construction activities when necessary. In effect, compliance with Regulation VIII is more stringent than this mitigation measure and provides a framework for compliance and SJVAPCD enforcement.
Mitigation Measure #3.3-1b: To reduce emissions and thus reduce cumulative impacts, the City of Merced shall consider adoption of an ordinance requiring the following measures to be implemented in conjunction with construction projects within the City: 1 The idling time of all construction equipment used in the plan area shall not exceed ten minutes when practicable.	**Construction Equipment.** The intent of this mitigation measure is to reduce combustion related emissions from construction equipment operated at project sites. This measure is accomplished through compliance with ARB regulations on new offroad equipment that reduce emissions as old equipment is retired and new equipment is introduced into the fleet. Contractors minimize construction equipment idling to save fuel and operations costs so are incentivized to minimize unnecessary idling.

Table 9 (cont.): Compliance with General Plan EIR Mitigation Measures

Mitigation Measure	Project Compliance
2 The hours of operation of heavy-duty equipment shall be minimized when practicable. 3 All equipment shall be properly tuned and maintained in accord with manufacturer's specifications when practicable. 4 When feasible, alternative fueled or electrical construction equipment shall be used at the project site. 5 The minimum practical engine size for construction equipment shall be used when practicable. 6 When feasible, electric carts or other smaller equipment shall be used at the project site. 7 Gasoline-powered equipment shall be equipped with catalytic converters when practicable.	Emissions from construction equipment varies with workload. Equipment that is sized too small may operate at near 100 percent load and emit the same or more as a larger piece of equipment at 50 percent load. Contractors tend to choose the size and horsepower of equipment to most efficiently perform the work. Electric- and battery-powered small equipment is becoming increasingly common on construction sites, but is still not available for heavy equipment. Offroad gasoline equipment is also subject to increasingly stringent ARB regulations.
Mitigation Measure #3.3-2: The following BACT (Best Available Control Technology) installations and mitigation shall be considered for new discretionary permits, to the extent feasible as determined by the City:	**BACT.** This measure lists BACT to reduce emissions that the City shall consider for discretionary projects. The project includes many of the items as described below.
• Trees shall be carefully selected and located to protect building(s) from energy consuming environmental conditions, and to shade paved areas when it will not interfere with any structures. Trees should be selected to shade paved areas that will shade 50% of the area within 15 years. Structural soil should be used under paved areas to improve tree growth.	**Trees.** Trees will meet city landscaping requirements. The main parking area is transited by power lines and is not suitable for tree planting.
• If transit service is available to a project site, development patterns and improvements shall be made to encourage its use. If transit service is not currently available, but is planned for the area in the future, easements shall be reserved to provide for future improvements such as bus turnouts, loading areas, route signs and shade structures.	**Transit.** The project is within 0.25 mile of the nearest transit stop and provides a safe route with sidewalks to the stop.
• Multi-story parking facilities shall be considered instead of parking lots to reduce exposed concrete surface and save green space.	**Multi-story Parking.** Not feasible due to site design which uses transmission right of way for parking.
• Sidewalks and bikeways shall be installed throughout as much of any project as possible, in compliance with street standards, and shall be connected to any nearby existing and planned open space areas, parks, schools, residential areas, commercial areas, etc., to encourage walking and bicycling.	**Sidewalks and Bikeways.** The project design includes concrete walks throughout and connecting to the sidewalks connecting off-site locations. Local streets are suitable for bicycling.

Table 9 (cont.): Compliance with General Plan EIR Mitigation Measures

Mitigation Measure	Project Compliance
• Projects shall encourage as many clean alternative energy features as possible to promote energy self-sufficiency. Examples include (but are not limited to): photovoltaic cells, solar thermal electricity systems, small wind turbines, etc. Rebate and incentive programs are offered for alternative energy equipment.	**Alternative Energy.** The project will be subject to CalGreen Building Code requirements for electric vehicle chargers and may be subject to new Title 24 solar panel requirements.
As many energy-conserving features as possible shall be included in the individual projects. Energy conservation measures include both energy conservation through design and operational energy conservation. Examples include (but are not limited to): • Increased energy efficiency (above California Title 24 Requirements) • Energy efficient widows (double pane and/or Low-E) • Use Low and No-VOC coatings and paints • High-albedo (reflecting) roofing material • Cool Paving. "Heat islands" created by development projects contribute to the reduced air quality in the valley by heating ozone precursors • Radiant heat barrier • Energy efficient lighting, appliances, heating and cooling systems • Install solar water-heating system(s) • Install photovoltaic cells • Install geothermal heat pump system(s) • Programmable thermostat(s) for all heating and cooling systems • Awnings or other shading mechanism for windows • Porch, patio and walkway overhangs • Ceiling fans, whole house fans • Utilize passive solar cooling and heating designs (e.g. natural convection, thermal flywheels) • Utilize daylighting (natural lighting) systems such as skylights, light shelves, interior transom windows, etc. • Electrical outlets around the exterior of the unit(s) to encourage use of electric landscape maintenance equipment	**Energy Conserving Features.** The project is required to comply with Title 24 Energy Efficiency Standards. Title 24 has been updated 3 times since the mitigation measure was adopted making residences more than 50 percent more efficient. Most measures listed are now required by Title 24, CalGreen, and Title 20 Appliance and Lighting Standards. Low VOC coatings and paints are required by SJVAPCD Rule 4601 Architectural Coatings. The passive design features appropriate for the project, if any, will be incorporated into the building architectural plans, but are not needed in order to make the project very energy efficient. Exterior electric outlets are required by the State Building Code.
• Bicycle parking facilities for patrons and employees in a covered secure area. Bike storage should be located within 50' of the project's entrance. Construct paths to connect the development to nearby bikeways or sidewalks	**Bicycle Parking.** Not applicable. This measure is intended for commercial developments.
• On-site employee cafeterias or eating areas	**Cafeterias.** Not applicable. This measure is intended for larger commercial projects.

Table 9 (cont.): Compliance with General Plan EIR Mitigation Measures

Mitigation Measure	Project Compliance
• Low or non-polluting landscape maintenance equipment (e.g. electric lawn mowers, reel mowers, leaf vacuums, electric trimmers and edgers, etc.)	**Landscape Equipment**. Not applicable. Apartment complexes utilize commercial landscape maintenance services.
• Pre-wire the unit(s) with high speed modem connections/DSL and extra phone lines	**High-speed Internet.** This has become a standard feature for all projects.
• Natural gas fireplaces (instead of wood-burning fireplaces or heaters)	**Fireplaces.** The project will not include wood burning devices.
• Natural gas lines (if available) and electrical outlets in backyard or patio areas to encourage the use of gas and/or electric barbecues	**Barbecues.** Apartments do not allow charcoal barbecues due to fire danger.
• Low or non-polluting incentives items should be provided with each residential unit (such items could include electric lawn mowers, reel mowers, leaf vacuums, gas or electric barbecues, etc.)	**Incentives for Low-Polluting Equipment.** The SJVAPCD offers incentives for electric lawnmowers, but this measure is more targeted to single-family projects.
Source: City of Merced Vision 2030 General Plan EIR.	

Conclusion

The project's emissions are less than significant for all criteria pollutants and would not result in inconsistency with the AQP for this criterion. The project proposes a land use designation that would provide densities and development patterns consistent with the land use policies of the City of Merced Vision 2030 General Plan. The project complies with all applicable policies, implementation actions, and mitigation measures of the General Plan; therefore, the project is consistent with the AQP, and the impact would be less than significant.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

Less than significant impact.

5.2.2 - Potential for Air Quality Standard Violation

Impact AIR-2: The project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.

Impact Analysis

Regional Emissions

Air pollutant emissions have both regional and localized effects. This analysis assesses the regional effects of the project's criteria pollutant emissions in comparison to SJVAPCD thresholds of significance for short-term construction activities and long-term operation of the project. Localized emissions from project construction and operation are also assessed using concentration-based thresholds that determine if the project would result in a localized exceedance of any ambient air quality standards or would make a cumulatively considerable contribution to an existing exceedance.

The primary pollutants of concern during project construction and operation are ROG, NO_X, PM_{10}, and $PM_{2.5}$. The SJVAPCD GAMAQI adopted in 2015 contains thresholds for CO, NO_X, ROG, SO_X, PM_{10}, and $PM_{2.5}$.

Ozone is a secondary pollutant that can be formed miles from the source of emissions, through reactions of ROG and NO_X emissions in the presence of sunlight. Therefore, ROG and NO_X are termed ozone precursors. The Air Basin often exceeds the state and national ozone standards. Therefore, if the project emits a substantial quantity of ozone precursors, the project may contribute to an exceedance of the ozone standard. The Air Basin also exceeds air quality standards for PM_{10}, and $PM_{2.5}$; therefore, substantial project emissions may contribute to an exceedance for these pollutants. The District's annual emission significance thresholds used for the project define the substantial contribution for both operational and construction emissions as follows:

- 100 tons per year CO
- 10 tons per year NO_X
- 10 tons per year ROG
- 27 tons per year SO_X
- 15 tons per year PM_{10}
- 15 tons per year $PM_{2.5}$

The project does not contain sources that would produce substantial quantities of SO_2 emissions during construction and operation. Modeling conducted for the project show that SO_2 emissions are well below the SJVAPCD GAMAQI thresholds, as shown in the modeling results contained in Appendix A. No further analysis of SO_2 is required.

Construction Emissions

No firm construction schedule has been established. For analysis purposes, construction of the project is expected to begin in January 2020 with project completion in December 2020. First occupancy is expected as early as January 2021. Construction emissions associated with the project are shown in Table 10. The emissions from all phases of construction were added for comparison with the significance threshold. For assumptions in estimating the emissions, please refer to Section 4, Modeling Parameters and Assumptions. As shown in Table 10, the emissions are below the significance thresholds. Therefore, the emissions would be less than significant on a project basis.

Table 10: Construction Air Pollutant Emissions Summary (Unmitigated)

Year	Emissions (tons per year)				
	ROG	NO_X	CO	PM_{10}	$PM_{2.5}$
Construction 2020	1.25	3.24	2.79	0.50	0.28
Significance threshold (tons/year)	10	10	100	15	15
Exceed threshold—significant impact?	No	No	No	No	No

Notes:
PM_{10} and $PM_{2.5}$ emissions are from the mitigated output to reflect compliance with Regulation VIII—Fugitive PM_{10} Prohibitions.
ROG = reactive organic gases NO_X = nitrogen oxides PM_{10} and $PM_{2.5}$ = particulate matter
Calculations use unrounded numbers.
Source: CalEEMod output (Appendix A).

Although mitigation is not required when projects do not exceed significance thresholds, the project is subject to SJVAPCD Regulation VIII—Fugitive PM_{10} Prohibitions. Regulation VIII compliance is mandatory and would result in reductions of fugitive dust during construction. Regulation VIII requires residential construction sites 10 acres and larger to prepare a DCP to identify specific measures to implement at a project site. The DCP applies to the following activities:

- Excavation, demolition, and other earthmoving activities
- Bulk material handling, storage and transport
- Carryout and trackout
- Vacant land
- Paved and unpaved roads
- Unpaved vehicle traffic areas

The applicant may choose the control techniques most suitable for their site and circumstances. Common fugitive dust controls include:

- Install wind barriers.
- During high winds, cease outdoor activities that disturb the soil.
- Keep bulk materials sufficiently wet when handling.
- Store and handle materials in a three-sided structure.
- When storing bulk materials, apply water to the surface or cover the storage pile with a tarp
- Don’t overload haul trucks. Overloaded trucks are likely to spill bulk materials.
- Cover haul trucks with a tarp or other suitable cover. Or, wet the top of the load enough to limit visible dust emissions.
- Clean the interior of cargo compartments on emptied haul trucks prior to leaving a site
- Prevent trackout by installing a trackout control device.
- Clean up trackout at least once a day. If along a busy road or highway, clean up trackout immediately.

The project must prevent dust from exceeding a 20 percent opacity limit, and if the standard is exceeded the contractors must apply additional controls necessary to reduce emissions, and to stop soil disturbing activities until control is achieved.

The project would not exceed the SJVAPCD annual construction emission thresholds for any pollutant. Therefore, the project would be less than significant. No mitigation beyond compliance with existing regulations is required.

Operational Emissions

Operational emissions occur over the lifetime of the project and are from two main sources: area sources and motor vehicles, or mobile sources. The SJVAPCD considers construction and operational emissions separately when making significance determinations.

For assumptions in estimating the emissions, please refer to Section 4, Modeling Parameters and Assumptions. The emissions modeling results for project operation are summarized in Table 11.

As shown in Table 11, the emissions are below the SJVAPCD significance thresholds prior to application of mitigation measures or taking credit for project design features that would reduce project emissions and, therefore, would result in a less than significant impact.

Table 11: Operational Air Pollutant Emissions (Unmitigated)

Source	Emissions (tons per year)				
	ROG	NO_X	CO	PM_{10}	$PM_{2.5}$
Area	1.09	0.08	1.34	0.01	0.01
Energy	0.01	0.11	0.05	0.01	0.01
Mobile	0.42	1.46	5.09	1.28	0.35
Total Project Emissions	**1.53**	**1.66**	**6.48**	**1.30**	**0.37**
Significance threshold	10	10	100	15	15
Exceed threshold—significant impact?	No	No	No	No	No

Notes:
ROG = reactive organic gases NO_X = nitrogen oxides PM_{10} and $PM_{2.5}$ = particulate matter
Area source emissions include emissions from natural gas, landscape, and painting.
Source: CalEEMod output (Appendix A).

Localized Pollutant Analysis

Emissions occurring at or near the project have the potential to create a localized impact, also referred to as an air pollutant hotspot. Localized emissions are considered significant if, when combined with background emissions, they would result in exceedance of any health-based air quality standard. The impact from localized pollutants is based on the impact to the nearest sensitive receptor; therefore, the analysis of localized pollutants is included under Impact AIR-4: Sensitive Receptors.

Carbon Monoxide Hot Spot Analysis

Localized high levels of CO are associated with traffic congestion and idling or slow-moving vehicles. The SJVAPCD provides screening criteria to determine when to quantify local CO concentrations based on impacts to the level of service (LOS) of intersections in the project vicinity.

Construction of the project would result in minor increases in traffic for the surrounding road network during the duration of construction. Motor vehicles accessing the site when it becomes operational would result in a minor increase in daily trips that would not substantially reduce the LOS on roads serving the site. The highest background 8-hour average CO concentration during the latest year it was monitored is 2.06 ppm, which is 78 percent lower than the CAAQS of 9.0 ppm or the NAAQS of 9 ppm. Therefore, the project would not significantly contribute to an exceedance of state or federal CO standards.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

Less than significant impact.

5.2.3 - Cumulative Impacts

Impact AIR-3: **The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).**

Impact Analysis

To result in a less than significant impact, the following criteria must be true:

1. Regional analysis: emissions of nonattainment pollutants must be below the District's regional significance thresholds. This is an approach recommended by the District in its GAMAQI.
2. Summary of projections: the project must be consistent with current air quality attainment plans including control measures and regulations. This is an approach consistent with Section 15130(b) of the CEQA Guidelines.
3. Cumulative health impacts: the project must result in less than significant cumulative health effects from the nonattainment pollutants. This approach correlates the significance of the regional analysis with health effects, consistent with the court decision, *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1219-20.

Step 1: Regional Analysis

If an area is in nonattainment for a criteria pollutant, then the background concentration of that pollutant has historically exceeded the ambient air quality standard. It follows that if a project exceeds the regional threshold for that nonattainment pollutant, then it would result in a cumulatively considerable net increase of that pollutant and result in a significant cumulative impact.

The Air Basin is in nonattainment for PM_{10}, $PM_{2.5}$, and ozone. Therefore, if the project exceeds the regional thresholds for PM_{10}, or $PM_{2.5}$, then it contributes to a cumulatively considerable impact for those pollutants. If the project exceeds the regional threshold for NO_X or ROG, then it follows that the project would contribute to a cumulatively considerable impact for ozone.

Regional emissions include those generated from all on-site and off-site activities. Regional significance thresholds have been established by the District because emissions from projects in the Air Basin can potentially contribute to the existing emission burden and possibly affect the attainment and maintenance of ambient air quality standards. Projects within the Air Basin region with regional emissions in excess of any of the thresholds presented previously are considered to have a significant regional air quality impact.

The criteria pollutant emissions analysis assessed whether the project would exceed the District's thresholds of significance. As shown in Table 10 and Table 11, criteria pollutant emissions would not exceed any threshold of significance during project construction or operation. Therefore, the combination of unmitigated project emissions with the criteria pollutants from other sources within the Air Basin would not cumulatively contribute to a significant impact according to this criterion.

Step 2: Plan Approach

Section 15130(b) of the CEQA Guidelines states the following:

> The following elements are necessary to an adequate discussion of significant cumulative impacts: 1) Either: (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or (B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact.

In accordance with CEQA Guidelines 15130(b), this analysis of cumulative impacts is based on a summary of projections analysis. The District attainment plans are based on a summary of projections that accounts for projected growth throughout the Air Basin, and the controls needed to achieve ambient air quality standards. This analysis considers the current CEQA Guidelines, which includes the amendments approved by the Natural Resources Agency, effective on March 18, 2010. The Air Basin is in nonattainment or maintenance status for ozone and particulate matter (PM_{10} and $PM_{2.5}$), which means that concentrations of those pollutants currently exceed the ambient air quality standards for those pollutants, or that the standards have recently been attained in the case of pollutants with maintenance status. When concentrations of ozone, PM_{10}, or $PM_{2.5}$ exceed the ambient air quality standard, then those sensitive to air pollution (such as children, the elderly, and the infirm) could experience health effects such as: decrease of pulmonary function and localized

lung edema in humans and animals; increased mortality risk; and risk to public health, implied by altered connective tissue metabolism, altered pulmonary morphology in animals after long-term exposures, and pulmonary function decrements in chronically exposed humans. See Section 2.3—Existing Air Quality Conditions for additional correlation of the health impacts with the existing pollutant concentrations experienced in the Merced area.

Under the amended CEQA Guidelines, cumulative impacts may be analyzed using other plans that evaluate relevant cumulative effects. The geographic scope for cumulative criteria pollution from air quality impacts is the Air Basin, because that is the area in which the air pollutants generated by the sources within the Air Basin circulate and are often trapped. The SJVAPCD is required to prepare and maintain air quality attainment plans and a State Implementation Plan to document the strategies and measures to be undertaken to reach attainment of ambient air quality standards. While the SJVAPCD does not have authority over land use decisions, it is recognized that changes in land use and circulation planning would help the Air Basin achieve clean air mandates. The District evaluated emissions from land uses and transportation in the entire Air Basin when it developed its attainment plans. Emission inventories used to predict attainment of NAAQS must be based on the latest planning assumptions for mobile sources.

In accordance with CEQA Guidelines Section 15064, subdivision (h)(3), a lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements in a previously approved plan or mitigation program.

The history and development of the SJVAPCD's current Ozone Attainment Plan is described in Section 2.4, Air Quality Plans. The 2007 8-Hour Ozone Plan contains measures to achieve reductions in emissions of ozone precursors, and sets plans towards attainment of ambient ozone standards by 2023. The 2012 $PM_{2.5}$ Plan and the 2015 $PM_{2.5}$ Plan for the 1997 $PM_{2.5}$ Standard require fewer NO_X reductions to attain the $PM_{2.5}$ standard than the Ozone Plan, so the Ozone Plan is considered the applicable plan for reductions of the ozone precursors NO_X and ROG. The 2012 $PM_{2.5}$ Plan requires reductions in directly emitted $PM_{2.5}$ from combustion sources, such as diesel engines and fireplaces, and from fugitive dust to attain the ambient standard and is the applicable plan for $PM_{2.5}$ emissions. $PM_{2.5}$ is also formed in secondary reactions in the atmosphere involving NO_X and ammonia to form nitrate particles. Reductions in NO_X required for ozone attainment are also sufficient for $PM_{2.5}$ attainment. As discussed in Impact AIR-1, the project is consistent with all applicable control measures in the air quality attainment plans. The project would comply with any District rules and regulations that may pertain to implementation of the AQPs. Therefore, impacts would be less than significant with regard to compliance with applicable rules and regulations.

The Merced Vision 2030 General Plan EIR found cumulative impacts to be significant and unavoidable because the cumulative impacts of development in accordance with the General Plan and other projects and plans within the SJVAPCD are significant, and the projects implementing the General Plan make an incremental contribution to this impact that itself is cumulatively considerable. The application of SJVAPCD Rule 9510, and implementation of the General Plan policies and mitigation measures listed under Impact AIR-1 would reduce impacts to the extent feasible. Therefore, the cumulative effects of developing the project site were considered in the EIR. This project does not exceed SJVAPCD thresholds and will reduce its cumulative impact through

compliance with Rule 9510; therefore, the project is considered less than significant for this criterion.

Step 3: Cumulative Health Impacts

The Air Basin is in nonattainment for ozone, PM_{10} (State only), and $PM_{2.5}$, which means that the background levels of those pollutants are at times higher than the ambient air quality standards. The air quality standards were set to protect public health, including the health of sensitive individuals (such as children, the elderly, and the infirm). Therefore, when the concentration of those pollutants exceeds the standard, it is likely that some sensitive individuals in the population would experience health effects that were described in Table 1. However, the health effects are a factor of the dose-response curve. Concentration of the pollutant in the air (dose), the length of time exposed, and the response of the individual are factors involved in the severity and nature of health impacts. If a significant health impact results from project emissions, it does not mean that 100 percent of the population would experience health effects. Table 2, Table 3, and Table 4 relate the pollutant concentration experienced by residents using air quality data for the nearest air monitoring station to the health impacts ascribed to those concentrations by the EPA Air Quality Index. This provides a more detailed look at the actual impacts currently experienced by area residents.

Since the Basin is nonattainment for ozone, PM_{10}, and $PM_{2.5}$, it is considered to have an existing significant cumulative health impact without the project. When this occurs, the analysis considers whether the project's contribution to the existing violation of air quality standards is cumulatively considerable. The SJVAPCD regional thresholds for NO_X, VOC, PM_{10}, or $PM_{2.5}$ are applied as cumulative contribution thresholds. Projects that exceed the regional thresholds would have a cumulatively considerable health impact. As shown in Table 10 and Table 11, the regional analysis of construction and operational emissions indicates that the project would not exceed the District's significance thresholds and the project is consistent with the applicable Air Quality Attainment Plan. Therefore, the project would not result in significant cumulative health impacts.

The SJVAPCD Air Quality Attainment Plans predict that nonattainment pollutant emissions will continue to decline each year as regulations adopted to reduce these emissions are implemented, accounting for growth projected for the region. Therefore, the cumulative health impact will also decline even with the project's emission contribution.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

Less than significant impact.

5.2.4 - Sensitive Receptors

Impact AIR-4: The project would not expose sensitive receptors to substantial pollutant concentrations.

Impact Analysis

Sensitive Receptors

Those who are sensitive to air pollution include children, the elderly, and persons with pre-existing respiratory or cardiovascular illness. The District considers a sensitive receptor a location that houses or attracts children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Examples of sensitive receptors include hospitals, residences, convalescent facilities, and schools. The project site is bounded by existing residences to the north and east, vacant land to the south, and farmland, rural residential, and a PG&E substation to the west, across State Route 59. The closest sensitive receptors are existing residences located adjacent to northern boundary of the project site.

Impacts to On-site Workers

The project is not a commercial or industrial operation that would have on-site workers. Therefore, a health risk assessment for on-site workers is not required or recommended.

Off-site Sensitive Receptors

The project is not a significant source of TAC emissions. Construction activities produce short term emissions that would not contribute substantially to cancer risk, which is estimated based on a 70-year exposure period. For criteria pollutants, impacts to receptors located outside the project focused on emissions during construction for comparison to SJVAPCD daily screening thresholds.

Construction: ROG

ROG is emitted during the application of architectural coatings (painting). The amount emitted is dependent on the amount of ROG (or VOC) in the paint. ROG emissions are typically an indoor rather than an outdoor air quality health hazard concern. Therefore, exposure to ROG during architectural coatings would be a less than significant health impact.

There are three types of asphalt that are typically used in paving: asphalt cements, cutback asphalts, and emulsified asphalts. However, SJVAPCD Rule 4641 prohibits the use of the following types of asphalt: rapid cure cutback asphalt; medium cure cutback asphalt; slow cure asphalt that contains more than one-half (0.5) percent of organic compounds that evaporate at 500 degrees Fahrenheit (°F) or lower; and emulsified asphalt containing organic compounds, in excess of 3 percent by volume, that evaporate at 500°F or lower. An exception to this is medium cure asphalt when the National Weather Service official forecast of the high temperature for the 24-hour period following application is below 50°F.

The acute (short-term) health effects from worker direct exposure to asphalt fumes include irritation of the eyes, nose, and throat. Other effects include respiratory tract symptoms and pulmonary function changes. The studies were based on occupational exposure of fumes. Residents are not in the immediate vicinity of the fumes; therefore, they would not be subjected to concentrations high enough to evoke a negative response. In addition, the restrictions that are placed on asphalt in the

San Joaquin Valley reduce ROG emissions from asphalt and exposure. The impact to nearby sensitive receptors from ROG during construction would be less than significant.

Localized Pollutant Screening Analysis

The SJVAPCD's GAMAQI includes screening thresholds for identifying projects that need detailed analysis for localized impacts. Projects with on-site emission increases from construction activities or operational activities that exceed the 100 pounds per day screening level of any criteria pollutant after compliance with Rule 9510 and implementation of all enforceable mitigation measures would require preparation of an ambient air quality analysis. The criteria pollutants of concern for localized impact in the San Joaquin Valley Air Basin are PM_{10}, $PM_{2.5}$, NO_X, and CO. There is no localized emission standard for ROG and most types of ROG are not toxic and have no health-based standard; however, ROG was included for informational purposes only.

The highest daily emissions during construction for ROG would occur during application of architectural coatings. Highest NO_X and CO emissions occur during site grading activities, while highest PM_{10}, and $PM_{2.5}$ occur during site preparation activities. The results of the construction screening analysis are presented in Table 12. The project would not exceed SJVAPCD daily thresholds for localized impacts of construction emissions; therefore, the project impact is less than significant for this criterion.

Table 12: Maximum Daily Air Pollutant Emissions during Construction

Maximum Daily Emissions	Maximum On-site Emissions (pounds per day)				
	ROG	NO_X	CO	PM_{10}	$PM_{2.5}$
2020	88.13	44.98	33.53	20.41	11.99
Screening Thresholds (pounds/day)	—	100	100	100	100
Exceed screening threshold?	**No**	**No**	**No**	**No**	**No**

Notes:
NO_X = nitrogen oxides CO = carbon monoxide PM_{10} and $PM_{2.5}$ = particulate matter
N/A = Not applicable
Winter emissions were higher for NO_X, PM_{10}, and $PM_{2.5}$ and differ minimally from summer emissions. There is no ambient air quality standard for ROG, but ROG is shown for informational purposes.
Source: CalEEMod output (Appendix A).

Maximum Daily Operational Emissions

An analysis of maximum daily emissions during operation was conducted to determine if emissions would exceed 100 pounds per day for any pollutant of concern. Operational emissions include emissions generated on-site by area sources such as natural gas combustion and landscape maintenance, and off-site by motor vehicles accessing the project. Most motor vehicle emissions would occur distant from the site and would not contribute to a violation of ambient air quality standards; therefore, operational emissions only reflect the emissions within one half mile of the project site. The results of the screening analysis are presented in Table 13.

Table 13: Maximum Daily Air Pollutant Emissions during Operations

Maximum Daily Emissions per Source Category and Phase	Emissions (pounds per day)				
	ROG	NO_X	CO	PM_{10}	$PM_{2.5}$
Area	5.73	1.77	15.24	0.21	0.21
Energy	0.07	0.63	0.27	0.05	0.05
Mobile	0.22	0.62	2.29	0.54	0.15
Total	6.02	3.02	17.79	0.80	0.41
Screening threshold	—	100	100	100	100
Exceed screening threshold?	**—**	**No**	**No**	**No**	**No**

Notes:
NO_X = nitrogen oxides CO = carbon monoxide PM_{10} and $PM_{2.5}$ = particulate matter
N/A = Not applicable
Winter emissions were higher for NO_X, PM_{10}, and $PM_{2.5}$ and differ minimally from summer emissions. There is no ambient air quality standard for ROG.
Mobile emissions reduced to count only localized emissions at the site using a 0.5-mile trip length
Source: CalEEMod output (Appendix A).

The project would not exceed SJVAPCD screening thresholds for localized operational criteria pollutant impacts; therefore, the project's localized criteria pollutant impacts would be less than significant.

Operation: ROG

During operation, ROG would be emitted primarily from motor vehicles. Direct exposure to ROG from project motor vehicles would not result substantial increase in concentrations because the emissions are distributed along the full length of the trip and are not concentrated at a single location. There is no health based ambient air quality standard for ROG emissions; however, some components of ROG such as benzene from gasoline are toxic. Residential land uses are not considered a significant source of toxics. The concentrations would not be great enough to result in direct health effects.

Operation: PM_{10}, $PM_{2.5}$, CO, NO_2

As shown in Table 13, localized concentrations of PM_{10}, $PM_{2.5}$, CO, and NO_2 would not exceed the screening thresholds at full project build-out. Residential development is an insignificant source of these pollutants, except for projects that allow wood burning devices that emit PM_{10}, $PM_{2.5}$ in wood smoke. The project will include only natural gas-fueled fireplaces and inserts that are insignificant sources of $PM_{2.5}$ and PM_{10}. Therefore, the project would not expose sensitive receptors to substantial criteria air pollutant concentrations during operation.

Operation: Toxic Air Contaminants

The ARB Air Quality and Land Use Handbook contains recommendations that will "help keep California's children and other vulnerable populations out of harm's way with respect to nearby sources of air pollution" (ARB 2005), including recommendations for distances between sensitive receptors and certain land uses. In the *California Building Industry Association v. Bay Area Air Quality*

Management District [*CBIA v. BAAQMD*], 62 Cal.4th 369 (2015) (Case No. S213478) the California Supreme Court held that "agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users. In those specific instances, it is the project's impact on the environment—and not the environment's impact on the project—that compels an evaluation of how future residents or users could be affected by exacerbated conditions." Although the Court ruled that impacts from the existing environment on projects are not required to be addressed under CEQA, land uses such as gasoline stations, dry cleaners, distribution centers, and auto body shops can expose residents to high levels of TAC emissions if they are in proximity of the project site. Information regarding the location of existing TAC sources is provided for disclosure purposes only and not as a measure of the project's significance under CEQA.

Consistency with these recommendations is assessed as follows:

- Heavily traveled roads. ARB recommends avoiding new sensitive land uses within 500 feet of a freeway, urban roads with 100,000 vehicles per day, or rural roads with 50,000 vehicles per day. Epidemiological studies indicate that the distance from the roadway and truck traffic densities were key factors in the correlation of health effects, particularly in children. The project is located on the east side of State Route 59, north of West Yosemite Avenue. The traffic volume on State Route 59 at this location is estimated at 12,500 trips per day in 2020. No roads serving the project would exceed this criterion (Caltrans 2013).
- Distribution centers. ARB also recommends avoiding siting new sensitive land uses within 1,000 feet of a distribution center. The project is not located within 1,000 feet of a distribution center.
- Fueling stations. ARB recommends avoiding new sensitive land uses within 300 feet of a large fueling station (a facility with a throughput of 3.6 million gallons per year or greater). ARB recommends a 50-foot separation is recommended for typical gas dispensing facilities. The nearest gas station is approximately 1.2 miles southeast of the site at R Street and West Olive.
- Dry cleaning operations. ARB recommends avoiding siting new sensitive land uses within 300 feet of any dry-cleaning operation that uses perchloroethylene. For operations with two or more machines, ARB recommends a buffer of 500 feet. For operations with three or more machines, ARB recommends consultation with the local air district. The nearest dry-cleaning operation is approximately 2.1 miles east of the project site at 1755 E. Yosemite Avenue in Merced.
- Auto body shops. Auto body shops have the potential to emit TACs related to painting. The nearest auto body shop is approximately 1.9 miles south of the project site at 1440 West 18th Street in Merced, which is beyond the distance that would result in a measurable impact.

The project is not among those uses considered potential sources of TAC emissions. Therefore, no additional analysis is required to determine that this impact would be less than significant.

Valley Fever

Valley fever, or coccidioidomycosis, is an infection caused by inhalation of the spores of the fungus, *Coccidioides immitis* (*C. immitis*). The spores live in soil and can live for an extended time in harsh environmental conditions. Activities or conditions that increase the amount of fugitive dust contribute to greater exposure, and they include dust storms, grading, and recreational off-road activities.

The San Joaquin Valley is considered an endemic area for Valley fever. By geographic region, hospitalizations for Valley fever in the San Joaquin Valley increased from 230 (6.9 per 100,000 population) in 2000 to 701 (17.7 per 100,000 population) in 2007. Within the region, Kern County reported the highest hospitalization rates, increasing from 121 (18.2 per 100,000 population) in 2000 to 285 (34.9 per 100,000 population) in 2007, and peaking in 2005 at 353 hospitalizations (45.8 per 100,000 population). The Centers for Disease Control and Prevention indicates that 752 of the 8,657 persons (8.7 percent) hospitalized in California between 2000 and 2007 for Valley fever died (CDC 2009). California experienced 7,466 new cases of Valley fever in 2017. 47 Valley fever cases reported in Merced County in 2017 for a rate of 17.0 per 100,000 people (CDPH 2018).

The distribution of *C. immitis* within endemic areas is not uniform and growth sites are commonly small (a few tens of meters) and widely scattered. Known sites appear to have some ecological factors in common suggesting that certain physical, chemical, and biological conditions are more favorable for *C. immitis* growth. Avoidance, when possible, of sites favorable for the occurrence of *C. immitis* is a prudent risk management strategy. Listed below are ecologic factors and sites favorable for the occurrence of *C. immitis*:

1) Rodent burrows (often a favorable site for *C. immitis*, perhaps because temperatures are more moderate and humidity higher than on the ground surface)
2) Old (prehistoric) Indian campsites near fire pits
3) Areas with sparse vegetation and alkaline soils
4) Areas with high salinity soils
5) Areas adjacent to arroyos (where residual moisture may be available)
6) Packrat middens
7) Upper 30 centimeters of the soil horizon, especially in virgin undisturbed soils
8) Sandy, well-aerated soil with relatively high water-holding capacities

Sites within endemic areas less favorable for the occurrence of *C. immitis* include:

1) Cultivated fields
2) Heavily vegetated areas (e.g., grassy lawns)
3) Higher elevations (above 7,000 feet)
4) Areas where commercial fertilizers (e.g., ammonium sulfate) have been applied

5) Areas that are continually wet
6) Paved (asphalt or concrete) or oiled areas
7) Soils containing abundant microorganisms
8) Heavily urbanized areas where there is little undisturbed virgin soil (USGS 2000).

The project site is situated in a city growth area. It includes urbanization of a site that is currently vacant and has been previously graded for farming. Therefore, implementation of the project would have a low probability of the site having *C. immitis* growth sites and exposure to the spores from disturbed soil.

Construction activities would generate fugitive dust that could contain *C. immitis* spores. The project will minimize the generation of fugitive dust during construction activities by complying with the District's Regulation VIII. Therefore, this regulation, combined with the relatively low probability of the presence of *C. immitis* spores, would reduce Valley fever impacts to less than significant.

During operations, dust emissions are anticipated to be negligible, because most of the project area would be occupied by buildings, pavement, and landscaped areas. This condition would preclude the possibility of the project from providing habitat suitable for *C. immitis* spores and for generating fugitive dust that may contribute to Valley fever exposure. Impacts would be less than significant.

Naturally Occurring Asbestos

According to a map of areas where naturally occurring asbestos in California are likely to occur (U.S. Geological Survey 2011), there are no such areas in the project area. Therefore, development of the project is not anticipated to expose receptors to naturally occurring asbestos. Impacts would be less than significant.

In summary, the project does not exceed SJVAPCD screening thresholds for localized criteria pollutant impacts on sensitive receptors. The project would not result in significant impacts from operational TAC emissions and Valley fever. Therefore, the project's impact on sensitive receptors would be less than significant.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

Less than significant impact.

5.2.5 - Objectionable Odors

Impact AIR-5: The project would not create objectionable odors affecting a substantial number of people.

Impact Analysis

Thresholds of Significance

Odor impacts on residential areas and other sensitive receptors, such as hospitals, day-care centers, schools, etc. warrant the closest scrutiny, but consideration should also be given to other land uses where people may congregate, such as recreational facilities, worksites, and commercial areas.

Two situations create a potential for odor impact. The first occurs when a new odor source is located near an existing sensitive receptor. The second occurs when a new sensitive receptor locates near an existing source of odor. According to the *CBIA v. BAAQMD* ruling, impacts of existing sources of odors on the project are not subject to CEQA review. Therefore, the following analysis is provided for information only. The District has determined the common land use types that are known to produce odors in the Air Basin. These types are shown in Table 14.

Table 14: Screening Levels for Potential Odor Sources

Odor Generator	Screening Distance
Wastewater Treatment Facilities	2 miles
Sanitary Landfill	1 mile
Transfer Station	1 mile
Composting Facility	1 mile
Petroleum Refinery	2 miles
Asphalt Batch Plant	1 mile
Chemical Manufacturing	1 mile
Fiberglass Manufacturing	1 mile
Painting/Coating Operations (e.g., auto body shop)	1 mile
Food Processing Facility	1 mile
Feed Lot/Dairy	1 mile
Rendering Plant	1 mile
Source: SJVAPCD 2015.	

According to the SJVAPCD GAMAQI, analysis of potential odor impacts should be conducted for the following two situations:

- **Generators:** projects that would potentially generate odorous emissions proposed to locate near existing sensitive receptors or other land uses where people may congregate, and
- **Receivers:** residential or other sensitive receptor projects or other projects built for the intent of attracting people located near existing odor sources.

As stated earlier, with the *CBIA v. BAAQMD* ruling, analysis of odor impacts on receivers is not required for CEQA compliance. Therefore, the following analysis is provided for information only.

Project Analysis

Land uses that are typically identified as sources of objectionable odors include landfills, transfer stations, sewage treatment plants, wastewater pump stations, composting facilities, feed lots, coffee roasters, asphalt batch plants, and rendering plants. The project would not engage in any of these activities. Therefore, the project would not be considered a generator of objectionable odors during operations.

During construction, the various diesel-powered vehicles and equipment in use on-site would create localized odors. These odors would be temporary and would not likely be noticeable for extended periods of time beyond the project's site boundaries. The potential for diesel odor impacts would therefore be less than significant.

As a residential development, the project has the potential to place sensitive receptors near existing odor sources. There are no odor generating sources (as listed in Table 13) within screening distance of the site. Therefore, the uses in the vicinity of the project would not cause substantial odor impacts to the project.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

Less than significant impact.

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SECTION 6: GREENHOUSE GAS IMPACT ANALYSIS

6.1—CEQA Guidelines

CEQA Guidelines define a significant effect on the environment as "a substantial, or potentially substantial, adverse change in the environment." To determine if a project would have a significant impact on GHGs, the type, level, and impact of emissions generated by the project must be evaluated.

The following GHG significance thresholds are contained in Appendix G of the CEQA Guidelines, which were amendments adopted into the Guidelines on March 18, 2010, pursuant to SB 97. A significant impact would occur if the project would:

(a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or

(b) Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases.

6.2—Impact Analysis

6.2.1 - Greenhouse Gas Inventory

Impact GHG-1: The project would generate direct and indirect greenhouse gas emissions; however, these emissions would not result in a significant impact on the environment.

Impact Analysis

Threshold of Significance

Section 15064.4(b) of the CEQA Guidelines' amendments for GHG emissions states that a lead agency may take into account the following three considerations in assessing the significance of impacts from GHG emissions.

- **Consideration #1**: The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting.
- **Consideration #2**: Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.
- **Consideration #3**: The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such regulations or requirements must be adopted by the relevant public agency through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

The City of Merced has not adopted its own GHG thresholds for determining project significance; however, the Vision 2030 General Plan EIR includes reference to the SJVAPCD's *Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA* (SJVAPCD 2009b). Under the SJVAPCD guidance projects meeting one of the following would have a less than significant impact on climate change:

- Exempt from CEQA;
- Complies with an approved GHG emission reduction plan or GHG mitigation program;
- Project achieves 29 percent GHG reductions by using approved Best Performance Standards; and
- Project achieves AB 32 targeted 29 percent GHG reductions compared with "business as usual".

The 29 percent GHG reduction level is based on the target established by ARB's AB 32 Scoping Plan, approved in 2008. The GHG reduction level for the State to reach 1990 emission levels by 2020 was reduced to 21.7 percent from BAU in 2020 in the 2014 First Update to the Scoping Plan to account for slower than projected growth after the 2008 recession (ARB 2014). In addition, the State has reported that the 2016 greenhouse gas inventory was below the 2020 target for the first time (ARB 2018). Furthermore, the 2017 Scoping Plan states that California is on track to achieve the 2020 target (ARB 2017c). First occupancy at the project site is expected to occur in 2021, which is the first year after the AB 32 target year. Until a new threshold or BPS are identified for projects constructed after-2020, significance is based on making continued progress toward the SB 32 2030 goal.

The project analysis addresses the criteria recommended by the SJVAPCD and the three considerations provided in the CEQA Guidelines. The project is not exempt from CEQA, and the Merced CAP does not meet the requirements for use of the CEQA streamlining provisions. The BPS approach and the reduction from BAU approach are discussed below in relationship to the three considerations.

A quantitative analysis was prepared for this project to determine the extent to which it may increase or reduce greenhouse gas emissions as compared to the existing environmental setting to fulfill Consideration 1.

Consideration 2 requires the identification of BPS that are determined to meet the 29 percent reduction from BAU. The SJVAPCD intended to develop a list of BPS for development projects that were pre-determined to achieve a 29 percent reduction from BAU, but has not completed the list. However, since the SJVAPCD guidance was adopted in 2009, regulations on sources of GHG emissions applicable to development projects have been implemented that will achieve in excess of a 29 percent reduction from BAU for most projects. A BAU analysis is provided to demonstrate that the project would exceed a 29 percent reduction.

The City of Merced CAP includes goals and policies that will reduce GHG emissions, but it does not contain quantitative targets or other methods that meet the definition of a qualified CAP that could

be used for streamlining project analysis under CEQA described under Consideration 3. However, an analysis was prepared to demonstrate the project's consistency with the CAP goals and policies.

The analysis also addresses consistency with the SB 32 targets and the 2017 Scoping Plan Update with an assessment of the project's reduction from BAU based on emissions in 2030 compared with the 29 percent reduction and with a consistency analysis. This approach provides estimates of project emissions in the new 2030 milestone year with the existing threshold to address Considerations 1 and 2 above.

The ARB adopted the 2017 Scoping Plan Update on December 14, 2017. The plan provides the State's strategy to achieve the SB 32 2030 target of a 40 percent reduction in emissions compared to 1990 levels. The plan includes existing and new measures that when implemented are expected to achieve the SB 32 2030 target. The 2017 Scoping Plan achieves substantial reductions beyond 2020 through continued implementation of existing regulations. Other regulations will be adopted to implement recently enacted legislation including SB 350, which requires an increase in renewable energy from 33 percent to 50 percent and doubling the efficiency of existing buildings by 2030. The Legislature extended the Cap-and-Trade Program through 2030. Cap-and-Trade provides a mechanism to make up shortfalls in other strategies if they occur (ARB 2017c). In addition, the strategy relies on reductions achieved in implementing the ARB Short-Lived Climate Pollutant (SLCP) Reduction Strategy to reduce pollutants not previously controlled for climate change such as black carbon, methane, and hydrofluorocarbons (ARB 2017b).

Newhall Ranch

On November 30, 2015, the California Supreme Court issued its decision in *Newhall Ranch,* invalidating the GHG analysis for a large master planned residential development in Los Angeles County consisting of over 20,000 residential dwelling units and other uses. In particular, the Court upheld: (1) use of the statewide emissions reduction goal in AB 32 as a significance criterion (pp. 15–19), (2) use of the Scoping Plan's BAU model "as a comparative tool for evaluating efficiency and conservation efforts" of the Project (pp. 18–19), and (3) a comparison of the project's expected emissions to a BAU model rather than a baseline of pre-project conditions (pp. 15–19). The Court invalidated the GHG analysis on the grounds that the "administrative record discloses no substantial evidence that the Newhall Ranch's project-level reduction of 31 percent in comparison to [BAU] is consistent with achieving AB 32's statewide goal of a 29 percent reduction from [BAU]." The Court indicated that a lead agency may use a BAU comparison based on the Scoping Plan's methodology if it also substantiates the reduction a particular project must achieve to comply with statewide goals. The Court suggested a lead agency could examine the "data behind the Scoping Plan's business-as-usual model" to determine the necessary project-level reductions from new land use development at the proposed location (p. 25). A lead agency "might assess consistency with A.B. 32's goal in whole or part by looking to compliance with regulatory programs designed to reduce greenhouse gas emissions from particular activities."

The substantial evidence needed to support a project BAU threshold can be derived from data used to develop the Scoping Plan inventory and control strategy, and from analysis conducted by the ARB to track progress in achieving the AB 32 2020 target. The critical factor in determining the appropriate project threshold is whether the State requires additional reductions beyond those achieved by existing regulations in order to achieve its target. If no additional reductions are

required from individual projects, no nexus exists to require a project to mitigate its emissions. In that case, the percentage reductions achieved by projects through compliance with regulations and design features is the amount needed to reach the AB 32 target.

The State's regulatory program implementing the 2008 Scoping Plan is now fully mature. All regulations envisioned in the Scoping Plan have been adopted by the responsible agencies and the effectiveness of those regulations have been estimated by the agencies during the adoption process and then are tracked to verify their effectiveness after implementation. The combined effect of this successful effort is that the State now projects that it will meet the 2020 target and achieve continued progress toward meeting post-2020 targets. Governor Brown, in the introduction to Executive Order B-30-15, states "California is on track to meet or exceed the current target of reducing greenhouse gas emissions to 1990 levels by 2020, as established in the California Global Warming Solutions Act of 2006 (AB 32)."

The Supreme Court was concerned that new development may need to do more than existing development to reduce GHGs to demonstrate that it is doing its fair share of reductions. As will be shown below, new development does do more than existing development and, because of the nature of the sources of GHG emissions related to development, existing development is equally responsible for reducing emissions from the most important sources of emissions. It is important to note that most of the State's regulatory program applies to both new and existing development.

The 2008 Scoping Plan reduction from BAU accounts for growth projected in the State and assumes that existing development would continue to emit GHGs at the same rate that occurred in the base year (2002-2004 average). The California Department of Finance (DOF) Report E-5 predicts that population growth in California from 2005 to 2020 will be 13.2 percent. This means that development that existed in 2005 will produce nearly 87 percent of the State's emissions in 2020. Conversely, new development is only responsible for about 13 percent of the emissions generated during this timeframe. If measures to reduce emissions from existing development were not available, new development could not provide sufficient reductions to reach the 2020 target even if their emissions were reduced to zero. This continues to apply to the 2030 target. The DOF forecasts California's population will grow by 8.1 percent between 2020 and 2030, so existing development will be responsible for 92 percent of the emissions that occur in 2030.

The State's regulatory program is able to target both new and existing development because the two most important strategies—motor vehicle fuel efficiency and emissions from electricity generation—obtain reductions equally from existing and new sources. This is because all vehicle operators use cleaner low carbon fuels and buy vehicles subject to the fuel efficiency regulations, and all building owners or operators purchase cleaner energy from the grid that is produced by increasing percentages of renewable fuels. This includes regulations on mobile sources such as: The Pavley standards that apply to all vehicles purchased in California, the Low Carbon Fuel Standard (LCFS) that applies to all fuel used in California, and the Renewable Portfolio Standard and Renewable Energy Standard that apply to utilities providing electricity to all California homes and businesses. The reduction strategy where new development is required to do more than existing development is building energy efficiency and energy use related to water conservation regulations. For example, new projects are subject to Title 24 Energy Efficiency standards and CALGreen Code and Model Water Efficient Landscape Ordinance (MWELO) water conservation requirements. Residential

buildings constructed to the 2013 Title 24 standards use 25 percent less energy than buildings complying with the 2008 standards. The 2016 Title 24 standards January 1, 2017 improves energy efficiency in residential buildings by 28 percent compared to the 2013 Title 24 standards and 46 percent compared with 2008 Title 24 standards. The 2019 Title 24 standards are expected to improve efficiency by 7 percent and require installation of solar panels to further reduce GHG emissions. New buildings and landscapes are much more energy efficient and water efficient than the development that has been built over the past decades and will require much less energy. The project's buildings would be constructed in 2020 and would be required to comply with 2019 Title 24 standards if building permits are issued after January 1, 2020.

As suggested by the Court, a project BAU analysis was prepared for this project that assesses "consistency with AB 32's goal in whole or part by looking to compliance with regulatory programs designed to reduce greenhouse gas emissions from particular activities." The analysis shows the extent to which the project complies with adopted regulations and the additional amount that will be achieved through project design features. At this point in time, no additional reductions are required from new development beyond regulations for the State to achieve its 2020 target. The recently adopted 2030 target will require a reduction from 431 $MTCO_2e$ to 260 $MTCO_2e$ or 40 percent from 1990 levels. After accounting for projected growth of approximately 0.8 percent per year, an average decrease of 5.2 percent per year from the State GHG inventory will be required to achieve the target. The 2017 Scoping Plan Update includes a strategy for achieving the needed reductions but does not identify an amount required specifically from new development. However, all GHG emission sources within development projects are subject to GHG regulations.

Therefore, this analysis demonstrates consistency with the existing 2020 target and shows progress toward achieving the 2030 target. The quantitative analysis prepared for the project provides the reduction from BAU in the 2030 target year to show the progress anticipated prior to applying reductions from new strategies contained in the 2017 Scoping Plan Update. The new reduction strategies from the plan are designed to close the gap between existing commitments and those needed to achieve the 2030 target, but many of the strategies must go through a regulatory process to be implemented. Therefore, the amount of reductions needed from new development beyond regulations, if any, is uncertain.

The analysis prepared for the project also includes qualitative assessments of compliance with 2008 Scoping Plan, the 2017 Scoping Plan Update, and Merced CAP measures to support GHG significance findings under Impact GHG-2. There are no measures that identify specific requirements on development projects, but the analysis shows how the applicable measures affect project emission sources.

To determine significance, the analysis first quantifies project-related GHG emissions under a BAU scenario, and then compares these emissions with emissions that would occur when all project-related design features are accounted for, and when compliance with applicable regulatory measures is assumed. The standard and methodology is explained in further detail below.

Impact Analysis

Construction

Total GHG emissions generated during all phases of construction were combined and are presented in Table 15. The SJVAPCD does not recommend assessing the significance of construction-related emissions. However, other jurisdictions, such as the SCAQMD and the SMAQMD, have concluded that construction emissions should be included since they may remain in the atmosphere for years after construction is complete. In order to account for the construction emissions, the total emissions generated during construction were amortized based on the life of the development (residential—30 years) and added to the operational emissions.

Table 15: Construction Greenhouse Gas Emissions

Activity	On-site $MTCO_2e$ per year	Off-site $MTCO_2e$ per year	Total $MTCO_2e$ per year
2020			
Site Preparation	17.22	0.64	17.86
Grading	84.21	2.14	86.36
Paving	20.64	1.07	21.71
Building Construction (2020)	96.70	41.99	138.70
Architectural Coating	2.56	0.48	3.04
		Total	**636.25**
		Amortized over 30 years	*21.21*

Notes:
Calculation totals use unrounded numbers from CalEEMod output.
$MTCO_2e$ = metric tons of carbon dioxide equivalents
Source: CalEEMod output (Appendix A).

Operation

Operational or long-term emissions occur over the life of the project. Sources of emissions include motor vehicles and trucks, energy usage, water usage, waste generation, and area sources, such as landscaping activities and residential wood burning in homes that have wood burning devices.

Business As Usual Operational Emissions

Operational emissions under the BAU scenario were modeled using CalEEMod 2016.3.2. Modeling assumptions for the year 2005 were used to represent 2020 and 2030 BAU conditions (without the benefit of regulations adopted to reduce GHG emissions). The SJVAPCD guidance recommends using emissions in 2002–2004 in the baseline scenario to represent conditions—as if regulations had not been adopted—to allow the effect of projected growth on achieving reduction targets to be clearly defined. CalEEMod defaults were used for project energy usage, water usage, waste generation, and area sources (architectural coating, consumer products, and landscaping). Full assumptions and CalEEMod model outputs are provided in Appendix A.

2020 and 2030 Operational Emissions

Operational emissions were modeled for the year 2020 and 2030 target year using CalEEMod. CalEEMod assumes compliance with some, but not all, applicable rules and regulations regarding energy efficiency, vehicle fuel efficiency, renewable energy usage, and other GHG reduction policies, as described in the CalEEMod User's Guide (SCAQMD 2017). The reductions obtained from each regulation and the source of the reduction amount used in the analysis are described below.

Emissions Accounting for Applicable Regulations

The following regulations are incorporated into the CalEEMod emission factors:

- Pavley I and Pavley II (LEV III) motor vehicle emission standards
- ARB Medium and Heavy-Duty Vehicle Regulation
- 2005, 2008, 2013, and 2016 Title 24 Energy Efficiency Standards

The following regulations have not been incorporated into the CalEEMod emission factors and require alternative methods to account for emission reductions provided by the regulations:

- Renewable Portfolio Standards (RPS)
- Low Carbon Fuel Standard (LCFS)
- Green Building Code Standards (indoor water use)
- California Model Water Efficient Landscape Ordinance (Outdoor Water)

Pavley II/LEV III standards have been incorporated in the latest version of CalEEMod. ARB estimates a 19 percent reduction from the vehicle categories subject to the regulation by 2030 (ARB 2010b and ARB 2013d).

The ARB GHG Regulation for Medium and Heavy-Duty Engines and Vehicles applies to trucks that will be accessing the project site. The benefits of the regulation were incorporated into CalEEMod 2016.3.2. The ARB estimates that this regulation will reduce GHG emissions from the affected vehicles by 7.2 percent (ARB 2013f).

The Low Carbon Fuel Standard is expected to achieve a 10 percent reduction in emissions by 2020 and 18 percent by 2030 (ARB 2017c).

Title 24 reductions for 2013 and 2016 updates were added to CalEEMod 2016.3.2. The California Energy Commission (CEC) estimates that 2013 Title 24 standards would result in an increase in energy efficiency of 25 percent in residential buildings compared to 2008 Title 24 (CEC 2014a). An additional 28 percent reduction from the 2008 standards have been claimed for compliance with 2016 Title 24. This results in a combined reduction of 46 percent (CEC 2015). Compliance with 2019 Title 24 is expected to reduce residential energy use by 7 percent beyond 2016 Title 24 (CEC 2018).

RPS is not accounted for in CalEEMod 2016.3.2. Reductions from RPS are addressed by revising the electricity emission intensity factor in CalEEMod to account for the utility RPS rate forecast for 2020 (CPUC 2016). PG&E provides emission factors for the electricity it provides to customers and projections for its energy portfolio for 2020 that is used to estimate project emissions. No data to reflect compliance in 2030 was included in the PG&E projections. The utilities will be required by new

legislation to increase the use of renewable energy sources to 50 percent, but details on individual utility compliance have not been determined.

Energy savings from water conservation resulting from the Green Building Code Standards for indoor water use and California Model Water Efficient Landscape Ordinance for outdoor water use are not included in CalEEMod. The Water Conservation Act of 2009 mandates a 20 percent reduction in urban water use that is implemented with these regulations (CDWR 2013). Benefits of the water conservation regulations are applied in the CalEEMod mitigation component.

Reductions in emissions from solid waste are based on the City achieving the CalRecycle 75 Percent Initiative by 2020 compared with a 50 percent baseline for 2005. Reductions are taken using the CalEEMod mitigation component.

Regulations applicable to project sources and the percent reduction anticipated from each source are shown in Table 16. The percentage reductions are only applied to the specific sources subject to the regulations. For example, the Pavley LEV Standards apply only to light duty cars and trucks.

Table 16: Reductions from Greenhouse Gas Regulations in 2030

Regulation	Project Applicability	Reduction Source	Percent Reduction in 2030
Pavley Low Emission Vehicle Standards	Light duty cars and trucks accessing the site are subject to the regulation.	CalEEMod defaults (Pavley I)	25.1[1]
		CalEEMod defaults (Pavley II/LEV III)	19.5%[2]
Truck and Bus Regulation	Heavy duty trucks accessing the site for deliveries and services are subject to the regulation.	CalEEMod defaults	7.2%[3]
Low Carbon Fuel Standard (LCFS)	Vehicles accessing the site will use fuel subject to the LCFS.	CalEEMod defaults and offline calculations	18%[1]
Title 24 Energy Efficiency Standards	Project buildings will be constructed to meet the latest version of Title 24 (currently 2016). Reduction applies only to energy consumption subject to the regulation.	CalEEMod defaults	46%[4,5]
Green Building Code Standards	The project will include water conservation features required by the standard.	CalEEMod mitigation component	20%[6]
Water Efficient Land Use Ordinance	The project landscaping will comply with the regulation.	CalEEMod mitigation component	20%[7]
Renewable Portfolio Standard (RPS)	Electricity purchased for use at the project site is subject to the 33 percent RPS mandate.	CalEEMod adjusted energy intensity factors with PG&E emission factors that show the company will exceed the 33 percent mandate.	54.5%[8]

Table 16 (cont.): Reductions from Greenhouse Gas Regulations in 2030

Regulation	Project Applicability	Reduction Source	Percent Reduction in 2030
Solid waste	The solid waste service provider will need to provide programs to increase diversion and recycling to meet the 75 percent mandate.	CalEEMod mitigation component	25%[9]

Notes:
Regulations are described in Section 2.3 Regulatory Environment. The source of the percentage reductions from each measure are from the following sources:
1 Pavley 1 + Low Carbon Fuel Standard Postprocessor Version 1.0 User's Guide (ARB 2010b) and (ARB 2017c)
2 ARB Staff Report for LEV III Amendments (ARB 2013e)
3 ARB Staff Report for GHG Regulations for Medium and Heavy-Duty Engines and Vehicles (ARB 2013f)
4 California Energy Commission News Release: New Title 24 Standards Will Cut Residential Energy Use by 25 Percent, Save Water, and Reduce Greenhouse Gas Emissions (CEC 2014b)
5 California Energy Commission Adoption Hearing Presentation: 2016 Buildings Energy Efficiency Standards (CEC 2015)
6 2013 California Green Building Standards Code Section 5.303.2
7 California Water Plan Update 2013 (CDWR 2013)
8 Based on CalEEMod default PG&E rate for 2005 and PG&E projected emission factor for 2020
9 CalRecycle 75 Percent Initiative: Defining the Future (2016b)

In addition to rules and regulations, the project would incorporate design features and would obtain benefits from its location and infrastructure that would reduce project VMT compared with default values. The project would construct pedestrian infrastructure connecting to adjacent land uses. In addition, the project site is located approximately 0.25 mile to the nearest transit stop and 3.6 miles to existing development in Downtown Merced.

Note that CalEEMod nominally treats these design elements and conditions as "mitigation measures," despite their inclusion in the project description. Therefore, reported operational emissions are considered to represent unmitigated project conditions. Full assumptions and model outputs are provided in Appendix A and results of this analysis are presented in Table 17 for 2020 and Table 18 for 2030.

Table 17: Project Operational Greenhouse Gases 2020

Source	Emissions ($MTCO_2e$ per year)		
	Business as Usual	2020 (with Regulation and Design Features)	Percent Reduction
Area	2.19	2.19	0%
Energy	373.99	234.59	37.3%
Mobile	1,514.64	1,071.41	29.3%
Waste	40.71	30.54	25.0%
Water	41.12	21.74	47.1%
Amortized Construction Emissions	1,972.65	1,360.47	0%
Total	16.75	16.75	30.8%

Table 17 (cont.): Project Operational Greenhouse Gases 2020

Source	Emissions ($MTCO_2e$ per year)		
	Business as Usual	2020 (with Regulation and Design Features)	Percent Reduction
Reduction from BAU		612.19	—
Percent Reduction		30.8%	—
Significance Threshold		29%	—
Are emissions significant?		**No**	

Notes:
$MTCO_2e$ = metric tons of carbon dioxide equivalents
The project achieves the SJVAPCD 29 percent reduction from BAU threshold and the 21.7 percent required to show consistency with AB 32 targets. No new target has been set for 2030.
Source: CalEEMod output (Appendix A).

As shown in Table 17 and Table 18, the project would achieve a reduction of 30.8 percent from BAU by the year 2020 and 46.8 percent by the year 2030 with adopted regulations and design features incorporated. This is above the 29 percent reduction required by the SJVAPCD threshold, and the 21.7 percent average reduction from all sources of GHG emissions now required to achieve AB 32 targets. The ARB originally identified a reduction of 29 percent from BAU as needed to achieve AB 32 targets. The 2008 recession and slower growth in the years since 2008 have reduced the growth forecasted for 2020, and the amount needed to be reduced to achieve 1990 levels as required by AB 32.

Table 18: Project Operational Greenhouse Gases 2030

Source	Emissions ($MTCO_2e$ per year)		
	Business as Usual	2030 (with Regulation and Design Features)	Percent Reduction
Area	2.19	2.19	0
Energy	373.99	234.59	37.3
Mobile	1,514.64	752.93	50.3
Waste	40.71	30.54	25.0
Water	41.12	21.74	47.1
Amortized Construction Emissions	16.75	16.75	0
Total	1,972.65	1,041.99	46.8
Reduction from BAU		930.66	—
Percent Reduction		46.8	—
Significance Threshold		29%	—
Are emissions significant?		**No**	

Notes:
$MTCO_2e$ = metric tons of carbon dioxide equivalents
The project achieves the SJVAPCD 29 percent reduction from BAU threshold and the 21.7 percent required to show consistency with AB 32 targets. No new target has been set for 2030.
Source: CalEEMod output (Appendix A).

The project includes design features that would result in reductions in energy use and support walking and bicycling. Measures that are part of the project design do not require additional mitigation measures to ensure they are accomplished.

The 30.8 percent reduction from BAU is 9.1 percent beyond the average reduction required by the State from all sources to achieve the AB 32 2020 target and therefore addresses the concern expressed in Newhall Ranch that projects should likely do more than the average to ensure they are providing a fair share of emission reductions. By 2030, the project would achieve a 46.8 percent reduction from BAU or 25.1 percent beyond the 21.7 percent reduction required to reach the 2020 target.

The project operations would begin in 2021; therefore, additional analysis is included to show consistency with post-2020 State legislative GHG goals. The Newhall ruling states, "nevertheless, over time consistency with year 2020 goals will become a less definitive guide, especially for long term projects that will not begin operations for several years. An EIR taking a goal-consistency approach to CEQA significance may in the near future need to consider the project's effects on meeting longer term emissions reduction targets." The SB 32 goal of 40 percent below 1990 emission levels by 2030 is the target addressed by the 2017 Scoping Plan Update. The following discussion addresses the project's impact on meeting the 2030 target and shows reasonable progress toward the SB 32 2030 target.

The analysis presented above does not include new strategies proposed in the 2017 Scoping Plan Update. The update was adopted in December 2017. The update provides alternatives in terms of their likelihood of implementation and ranges of reduction from the strategies. Measures already authorized by legislation are highly likely to be implemented, while measures requiring new legislation are less likely to go forward. The State is highly likely to incorporate zero net energy buildings in future updates to Title 24. A new round of motor vehicle fuel efficiency standards beyond 2025 when LEV III standards are at their maximum reduction level is highly likely. Changing heavy-duty trucks and off-road equipment to alternative fuels face greater technological hurdles and are less likely to provide dramatic reductions by 2030.

The 2030 emission limit is 260 $MMTCO_2e$. The ARB estimates that the 2030 BAU (reference) Inventory will be 392 $MMTCO_2e$—a reduction of 132 $MMCO_2e$, including existing policies and programs but not including known commitments that are already underway. The 2017 Scoping Plan Update includes the estimated GHG emissions by sector compared with 1990 levels that is presented in Table 19. The proposed plan would achieve the bulk of the reductions from electric power, industrial fuel combustion, and transportation. Cap-and-Trade would provide between 10 to 20 percent of the required reductions depending on the amounts achieved by the other reduction measures.

Table 19: 2030 Scoping Plan Update Estimated Change in GHG Emissions by Sector

Scoping Plan Sector	Emissions ($MMTCO_2e$ per year)		
	1990	2030 Proposed Plan Ranges	Percent Change form 1990
Agriculture	26	24–25	-4 to -8
Residential and Commercial	44	38–40	-9 to -14
Electric Power	108	42–62	-43 to -61
Agriculture	26	24–25	-4 to -8
Residential and Commercial	44	38–40	-9 to -14
Electric Power	108	42–62	-43 to -61
High GWP	3	8–11	167 to 267
Industrial	98	77–87	-11 to -21
Recycling and Waste	7	8–9	14 to 29
Transportation (including transportation, communications and Utilities (TCU))	152	103–111	-27 to -32
Net Sink	-7	TBD	TBD
Subtotal	**431**	**300–345**	**-20 to -30**
Cap-and-Trade Program	N/A	40–85	N/A
Total	**431**	**260**	**-40**
Source: ARB 2030 Scoping Plan Update (ARB 2017c).			

Although 2030 Scoping Plan Update focuses on state agency actions necessary to achieve the 2030 GHG limit, the ARB considers local governments essential partners in achieving California's goals to reduce GHG emissions. The 2030 target will require an increase in the rate of emission reductions compared to what was needed to achieve the 2020 limit, and this will require action and collaboration at all levels, including local government action to complement and support State-level actions. For individual projects, the 2030 Scoping Plan Update suggests that all new land use development implement all feasible measures to reduce GHG emissions. The Scoping Plan does not define all feasible measures or attribute an amount of reductions required from new development beyond compliance with regulations. When requiring mitigation of a project's fair share of a cumulative impact, the Lead Agency must show the nexus between the project contribution and its fair share of mitigation to reduce the impact to less than cumulatively considerable. A threshold based on local support and collaboration with state actions as described in the 2017 Scoping Plan Update does not lend itself to a quantitative determination of fair share. Requiring developers and project tenants of the development to fully mitigate emissions without accounting for compliance with regulations would result in double mitigation, first by the developer and then by the project operators and customers purchasing electricity, fuel, and vehicles compliant with regulations in effect at the time of purchase and beyond that would violate constitutional nexus requirements.

In conclusion, the project would achieve reductions 9.1 percent beyond the ARB 2020 21.7 percent target and 1.8 percent beyond the SJVAPCD 29 percent reduction from BAU requirements. No new threshold has been adopted by the City for the SB 32 2030 target. Now that the 2030 Scoping Plan Update is in place, a process to develop a reasonable fair-share contribution should be considered by the City for new development projects. The fair share may very well be achieved through compliance with increasingly stringent State regulations that apply to new development, such as Title 24 and CalGreen; regulations on energy production, fuels, and motor vehicles that apply to both new and existing development; and voluntary actions to improve energy efficiency in existing development. In addition, compliance with the VMT targets adopted to comply with SB 375 and implemented through the RTP/SCS may be considered to adequately address GHG emissions from passenger cars and light-duty trucks. As shown in Table 19, the State strategy relies on the Cap-and-Trade Program to make up any shortfalls that may occur from the other regulatory strategies. The costs of Cap-and-Trade emission reductions will ultimately be passed on to the consumers of fuels, electricity, and products produced by regulated industries which include future residents and other purchasers of products and services. Therefore, the impact in terms of Considerations 1 and 2 would be less than significant.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

Less than significant impact.

6.2.2 - Greenhouse Gas Reduction Plans

Impact GHG-2: The project would not conflict with any applicable plan, policy, or regulation of an agency adopted to reduce the emissions of greenhouse gases.

Impact Analysis

The following analysis assesses the project's compliance with Consideration 3 regarding consistency with adopted plans to reduce GHG emissions. The City of Merced adopted its CAP in 2012; however, it does not meet all of the requirements of CEQA Guidelines 15064.4(b)(3) that would allow the project to take advantage of the streamlining provisions contained in the CEQA Guidelines amendments adopted for SB 97. The SJVAPCD has adopted a CAP, but it does not contain measures that are applicable to development projects. Therefore, the SJVAPCD CAP cannot be applied to the project. Since no other local or regional CAP is in place, the project is assessed for its consistency with ARB's adopted Scoping Plans. This would be achieved with an assessment of the project's compliance with Scoping Plan measures contained in the 2008 Scoping Plan and the 2017 Scoping Plan Update.

Although the City of Merced Climate Action does not meet the CEQA Guidelines 15064.4(b)(3) requirements for an applicable plan to reduce GHG emissions, it contains strategies intended to

reduce vehicle travel and energy use that would provide GHG reductions. Therefore, the project's consistency with the CAP is also assessed.

AB 32 Scoping Plan

The California State Legislature adopted AB 32 in 2006. AB 32 focuses on reducing GHGs (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) to 1990 levels by the year 2020. Pursuant to the requirements in AB 32, the ARB adopted the Climate Change Scoping Plan (Scoping Plan) in 2008, which outlines actions recommended to obtain that goal. The Scoping Plan calls for an "ambitious but achievable" reduction in California's GHG emissions, cutting approximately 30 percent from BAU emission levels projected for 2020, or about 10 percent from 2008 levels. On a per-capita basis, that means reducing annual emissions of 14 tons of carbon dioxide for every man, woman, and child in California down to about 10 tons per person by 2020. As stated earlier, the ARB has updated its emission inventory forecasts and now estimates a reduction of 21.7 percent is required from BAU in 2020 to achieve AB 32 targets.

The Scoping Plan contains a variety of strategies to reduce the State's emissions. As shown in Table 20, the project is consistent with most of the strategies, while others are not applicable to the project. As discussed earlier, the 2017 Scoping Plan Update strategies primarily rely on increasing the stringency of existing regulations for which the project would continue to comply with and support through the project's design and implementation of the General Plan goals and policies.

Table 20: Project Consistency with AB 32 Scoping Plan

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
Transportation	California Cap-and-Trade Program Linked to Western Climate Initiative	Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanism October 20, 2015 (CCR 95800)	**Consistent.** The Cap-and-Trade Program applies to large industrial sources such as power plants, refineries, and cement manufacturers. However, the regulation indirectly affects people who use the products and services produced by these industrial sources when increased cost of products or services (such as electricity and fuel) are transferred to the consumers. The Cap-and-Trade Program covers the GHG emissions associated with electricity consumed in California, whether generated in-state or imported. Accordingly, GHG emissions associated with CEQA projects' electricity usage are covered by the Cap-and-Trade Program. The Cap-and-Trade Program also covers fuel suppliers (natural gas and propane fuel providers and transportation fuel providers) to address emissions from such fuels and from combustion of other fossil fuels not directly covered at large sources in the Program's first compliance period.
	California Light-Duty Vehicle Greenhouse Gas Standards	Pavley I 2005 Regulations to Control GHG Emissions from Motor Vehicles	**Consistent**. This measure applies to all new vehicles starting with model year 2012. The project would not conflict with its implementation as it would apply to all new passenger vehicles purchased in California. Passenger vehicles, model year 2012 and later, associated with construction and operation of the project would be required to comply with the Pavley emissions standards.
		2012 LEV III Amendments to the California Greenhouse Gas and Criteria Pollutant Exhaust and Evaporative Emission Standards	
	Low Carbon Fuel Standard.	2009 readopted in 2015. Regulations to Achieve Greenhouse Gas Emission Reductions Subarticle 7. Low Carbon Fuel Standard CCR 95480	**Consistent.** This measure applies to transportation fuels utilized by vehicles in California. The project would not conflict with implementation of this measure. Motor vehicles associated with construction and operation of the project would utilize low carbon transportation fuels as required under this measure.

Table 20 (cont.): Project Consistency with AB 32 Scoping Plan

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
Transportation (*cont.*)	Regional Transportation-Related Greenhouse Gas Targets.	SB 375. Cal. Public Resources Code §§ 21155, 21155.1, 21155.2, 21159.28	**Consistent**. The project will provide development in the region that is consistent with the growth projections in the 2018 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The project is not within an SCS priority area and so is not subject to requirements applicable to those areas.
	Goods Movement	Goods Movement Action Plan January 2007.	**Not applicable**. The project does not propose any changes to maritime, rail, or intermodal facilities or forms of transportation.
	Medium/Heavy-Duty Vehicles	2010 Amendments to the Truck and Bus Regulation, the Drayage Truck Regulation and the Tractor-Trailer Greenhouse Gas Regulation	**Consistent**. This measure applies to medium- and heavy-duty vehicles that operate in the State. The project would not conflict with implementation of this measure. Medium- and heavy-duty vehicles associated with construction and operation of the project would be required to comply with the requirements of this regulation.
	High Speed Rail	Funded under SB 862	**Not applicable**. This is a statewide measure that cannot be implemented by a project applicant or lead agency.
Electricity and Natural Gas	Energy Efficiency	Title 20 Appliance Efficiency Regulation	**Consistent.** The project would not conflict with implementation of this measure. The project will comply with the latest energy efficiency standards and incorporate applicable energy efficiency features designed to reduce project energy consumption.
		Title 24 Part 6 Energy Efficiency Standards for Residential and Non-Residential Building	
		Title 24 Part 11 California Green Building Code Standards	
Electricity and Natural Gas (*cont.*)	Renewable Portfolio Standard/Renewable Electricity Standard.	2010 Regulation to Implement the Renewable Electricity Standard (33% 2020)	**Consistent**. PG&E obtained 33 percent of its power supply from renewable sources such as solar and geothermal in 2017, and about 70 percent of the electricity it delivers is carbon-free, including nuclear and large hydroelectric facilities. The owners of residences within the project would purchase power that consists of a greater percentage of renewable sources and could install renewable solar power
		SB 350 Clean Energy and Pollution Reduction Act of 2015 (50% 2030)	

Table 20 (cont.): Project Consistency with AB 32 Scoping Plan

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
			systems that will assist the utility in achieving the mandate.
	Million Solar Roofs Program	Tax incentive program	**Consistent.** This measure is intended to increase solar energy generation throughout California by means of a variety of electricity providers and existing solar programs. The project will be able to take advantage of incentives that are in place at the time of construction. The project will meet the "solar ready" requirements of the Green Building Code Standards.
Water	Water	Title 24 Part 11 California Green Building Code Standards	**Consistent.** The project will comply with the California Green Building Standards Code, which requires a 20 percent reduction in indoor water use. The project will also comply with the MWELO as required by the City's development code.
		SBX 7-7—The Water Conservation Act of 2009	
		Model Water Efficient Landscape Ordinance	
Green Buildings	Green Building Strategy	Title 24 Part 11 California Green Building Code Standards	**Consistent.** The CalGreen Code will increase the use of green building practices. The project would implement required green building strategies through existing regulation that requires the project to comply with various CALGreen requirements.
Industry	Industrial Emissions	2010 ARB Mandatory Reporting Regulation	**Not applicable.** The project is not an industrial land use.
Recycling and Waste Management	Recycling and Waste	Title 24 Part 11 California Green Building Code Standards	**Consistent.** The project would not conflict with implementation of these measures. The project is required to achieve the recycling mandates via compliance with the CALGreen code. The project would utilize City of Merced recycling services.
		AB 341 Statewide 75 Percent Diversion Goal	

Table 20 (cont.): Project Consistency with AB 32 Scoping Plan

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
Forests	Sustainable Forests	Cap-and-Trade Offset Projects	**Not applicable.** The project site is in an area designated for urban uses. No forested lands exist on-site.
High Global Warming Potential	High Global Warming Potential Gases	ARB Refrigerant Management Program CCR 95380	**Not applicable**. The regulations are applicable to refrigerants used by large air conditioning systems and large commercial and industrial refrigerators and cold storage system. Homes do not use large systems subject to the refrigerant management regulations adopted by ARB.
Agriculture	Agriculture	Cap-and-Trade Offset Projects for Livestock and Rice Cultivation	**Not applicable**. The project site is designated for urban development. No grazing, feedlot, or other agricultural activities that generate manure occur currently exist on-site or are proposed to be implemented by the project.
Source of ARB Scoping Plan Reduction Measures: California Air Resources Board 2008.			

Merced Climate Action Plan Consistency Analysis

The City of Merced adopted the Merced CAP in 2012. The CAP contains a large number of strategies that will reduce GHG emissions. As shown in Table 21, the project is consistent with the feasible and applicable strategies.

Table 21: Consistency with Climate Action Plan Strategies

Climate Action Plan Policy	Project Consistency
Strategy EM 1.1: Site Design Planning Increase percentage of citizens that travel by walking, cycling, and by using transit services.	**Consistent**. The project is connected by sidewalks and local roads to neighboring uses encouraging walking and bicycling. The project within ¼ mile of the nearest bus stop on Merced Transit Route M1.
Strategy EM 1.4: Pedestrian Planning and Projects. Build Enticing Pedestrian Corridors	**Consisten**t. The project is served by streets with sidewalks and street trees providing an enticing corridor.
Strategy SC 2.1: Compact Urban Form/Infill. Foster Compact and Efficient Development Patterns to Maintain a Compact Urban Form	**Consistent**. The project increases overall density in the area with its 16.4 dwelling units per acre density.
Strategy WR 5.1: Reduce, Reuse, and Recycle. Continue Efforts to Increase the City's Waste Diversion Rate, and Aim to achieve a 65 percent Diversion Rate by 2020	**Consistent**. The project residents will participate in recycling and diversion programs operated by the solid waste provider.
Strategy BE 7.2: Energy Efficiency in New Development. Encourage new development to reduce significant GHG emission impacts through energy efficient building designs and siting.	**Consistent**. The project will comply with the latest Title 24 Building Energy Efficient Standards that are over 46 percent more efficient than were in place when the CAP was adopted.
Strategy WC 3.1: Water Conservation and Technology. Reduce per capita water use by 20% by 2020, in part, through Water Conservation Efforts**.**	**Consistent**. The project will comply with CalGreen Building Code indoor water conservation requirements and MWELO outdoor water conservation requirements.
Strategy WC 3.3: Water Efficient Landscapes. Reduce per capita water use by 20% by 2020, in part, through water efficient landscapes	**Consistent**. The project will comply with MWELO outdoor water conservation requirements for landscapes included in the project.
Strategy AR 4.1 Reduced Vehicle Trips: Reduce per capita Vehicle Miles Travelled by 5% by 2020**.**	**Consistent**. The project's pedestrian infrastructure and connections to off-site pedestrian facilities and the presence of transit within ¼ mile is expected to reduce VMT by at least 5%.
Strategy RE 6.1: Renewable Energy Systems. Increase Reliance on Local Renewable Energy Sources and Reduce Emissions by 50,000 CO2 Equivalent Tons through this Strategy by 2020.	**Consistent**. The project will be subject to mandatory solar panel requirements of 2019 Title 24 if building permits are issued after January 1, 2020.
Strategy BE 7.5: Urban Forestry/Heat Island Effect. Improve and Expand the City's Urban Forest (General Plan Policy OS-1.4).	**Consistent**. The project will install trees and other landscaping consistent with City Landscaping requirements.
Source: City of Merced CAP 2012	

In summary, the project incorporates a number of features that would minimize GHG emissions. These features are consistent with project-level strategies identified by the ARB's Scoping Plan and the City of Merced CAP. As demonstrated in the impact analysis above, the project would achieve an approximately 30.8 percent reduction from the BAU inventory by 2021 and, therefore, would not significantly hinder or delay the State's ability to meet the reduction targets contained in AB 32 or conflict with implementation of the Scoping Plan. The project promotes the goals of the Scoping Plan through implementation of design measures that reduce energy consumption, water consumption, and reduction in VMT. Therefore, the project does not conflict with any plans to reduce GHG emissions. The impact would be less than significant.

Consistency with Executive Orders S-3-05 and B-30-15

At the state level, Executive Orders S-3-05 and B-30-15 are orders from the State's executive branch for the purpose of reducing GHG emissions. The goal of Executive Order S-3-05 is to reduce GHG emissions to 1990 levels by 2020 was codified by the Legislature as the 2006 Global Warming Solutions Act (AB 32). The project, as analyzed above, is consistent with AB 32. Therefore, the project does not conflict with this component of Executive Order S-3-05.

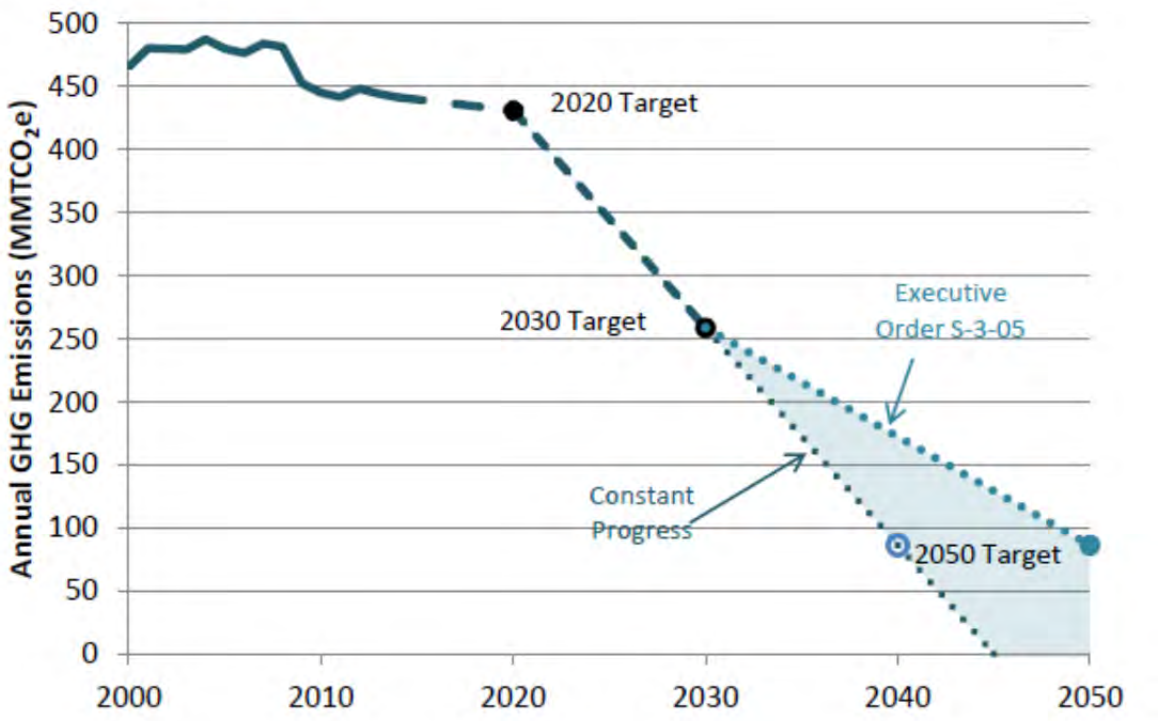
The Executive Orders also establish goals to reduce GHG emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2030 goal was recently codified under SB 32 and is now addressed by the 2017 Scoping Plan Update. The new plan provides a strategy that is capable of reaching the SB 32 target if the measures included in the plan are implemented and achieve reductions within the ranges expected. Under the Scoping Plan Update, local government plays a supporting role through its land use authority and control over local transportation infrastructure. The Plan Update includes reductions from implementation of SB 375 that applies to VMT from passenger vehicles. Merced County targets for SB 375 are a 5 percent reduction by 2020 and a 10 percent reduction by 2035. MCAG has proposed to increase the 2020 target to 10 percent and the 2035 target to 25 percent (MCAG 2018). SB 375 is implemented with the MCAG Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The RTP/SCS envisions an increase in development density that would encourage fewer and shorter trips and more trips by transit, walking, and bicycling.

Now that the 2017 Scoping Plan has been adopted, additional time is required for the City of Merced to assess the Update to determine the fair-share contributions City development projects would need to make to achieve the 2030 target. The City has begun preparing a new Programmatic CAP that will meet CAP requirements to allow CEQA streamlining. In the meantime, the discussion under "Consistency with SB 32" below addresses the consistency of the proposed project with SB 32, which provides the statutory underpinning of the 2017 Scoping Plan. The SB 32 target requires GHG emissions to be reduced from 1990 levels.

Studies have shown that in order to meet the 2050 targets, aggressive pursuit of technologies in the transportation and energy sectors, including electrification and the decarbonization of fuel, will be required. Because of the technological shifts required and the unknown parameters of the regulatory framework in 2050, quantitatively analyzing the proposed project's impacts further relative to the 2050 goals is speculative for purposes of CEQA (ARB 2014).

The required emission trajectory to achieve the 2030 and the 2050 goal is shown in Figure 8.

Figure 8 California's Path to Achieving the 2050 Target



Source: ARB 2017 Scoping Plan Update (ARB 2017c).

The 2008 Scoping Plan recognized that AB 32 established an emissions reduction trajectory that will allow California to achieve the more stringent 2050 target: "These [greenhouse gas emission reduction] measures also put the State on a path to meet the long-term 2050 goal of reducing California's GHG emissions to 80 percent below 1990 levels. This trajectory is consistent with the reductions that are needed globally to stabilize the climate." In addition, ARB's First Update "lays the foundation for establishing a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050," and many of the emission reduction strategies recommended by ARB would serve to reduce the proposed project's post-2020 emissions level to the extent applicable by law:

- **Energy Sector**: Continued improvements in California's appliance and building energy efficiency programs and initiatives, such as the State's zero net energy building goals, would serve to reduce the proposed project's emissions level. Additionally, further additions to California's renewable resource portfolio would favorably influence the proposed project's emissions level.
- **Transportation Sector**: Anticipated deployment of improved vehicle efficiency, zero emission technologies, lower carbon fuels, and improvement of existing transportation systems all will serve to reduce the proposed project's emissions level.
- **Water Sector**: The proposed project's emissions level will be reduced as a result of further desired enhancements to water conservation technologies.

- **Waste Management Sector**: Plans to further improve recycling, reuse and reduction of solid waste will beneficially reduce the proposed project's emissions level.

In his January 2015 inaugural address, Governor Brown expressed a commitment to achieve "three ambitious goals" that he would like to see accomplished by 2030 to reduce the State's GHG emissions:

- Increasing the State's Renewable Portfolio Standard from 33 percent in 2020 to 50 percent in 2030;
- Cutting the petroleum use in cars and trucks in half; and
- Doubling the efficiency of existing buildings and making heating fuels cleaner.

These expressions of executive branch policy may be manifested in adopted legislative or regulatory action through the state agencies and departments responsible for achieving the State's environmental policy objectives, particularly those relating to global climate change (Brown 2015). Further, recent studies show that the State's existing and proposed regulatory framework will allow the State to reduce its GHG emissions level to 40 percent below 1990 levels by 2030, and to 80 percent below 1990 levels by 2050. Even though these studies did not provide an exact regulatory and technological roadmap to achieve the 2030 and 2050 goals, they demonstrated that various combinations of policies could allow the statewide emissions level to remain very low through 2050, suggesting that the combination of new technologies and other regulations not analyzed in the studies could allow the State to meet the 2050 target (Energy and Economics 2015).

Given the proportional contribution of mobile source-related GHG emissions to the State's inventory, recent studies also show that relatively new trends—such as the increasing importance of web-based shopping, the emergence of different driving patterns by the "millennial" generation, and the increasing effect of web-based applications on transportation choices—are beginning to substantially influence transportation choices and the energy used by transportation modes. These factors have changed the direction of transportation trends in recent years and will require the creation of new models to effectively analyze future transportation patterns and the corresponding effect on GHG emissions. For the reasons described above, the proposed project's post-2020 emissions trajectory is expected to follow a declining trend, consistent with the 2030 and 2050 targets.

Consistency with SB 32

The 2017 Climate Change Scoping Plan Update (2017 Scoping Plan) includes the strategy that the State intends to pursue to achieve the 2030 targets of Executive Order S-3-05 and SB 32. The 2017 Scoping Plan includes the following summary of its overall strategy for reaching the 2030 target:

- SB 350
  - Achieve 50 percent Renewables Portfolio Standard (RPS) by 2030.
  - Doubling of energy efficiency savings by 2030.
- Low Carbon Fuel Standard (LCFS)
  - Increased stringency (reducing carbon intensity 18 percent by 2030, up from 10 percent in 2020).

- Mobile Source Strategy (Cleaner Technology and Fuels Scenario)
  - Maintaining existing GHG standards for light- and heavy-duty vehicles.
  - Put 4.2 million zero-emission vehicles (ZEVs) on the roads.
  - Increase ZEV buses, delivery and other trucks.
- Sustainable Freight Action Plan
  - Improve freight system efficiency.
  - Maximize use of near-zero emission vehicles and equipment powered by renewable energy.
  - Deploy over 100,000 zero-emission trucks and equipment by 2030.
- Short-Lived Climate Pollutant (SLCP) Reduction Strategy
  - Reduce emissions of methane and hydrofluorocarbons 40 percent below 2013 levels by 2030.
  - Reduce emissions of black carbon 50 percent below 2013 levels by 2030.
- SB 375 Sustainable Communities Strategies
  - Increased stringency of 2035 targets.
- Post-2020 Cap-and-Trade Program
  - Declining caps, continued linkage with Québec, and linkage to Ontario, Canada.
  - ARB will look for opportunities to strengthen the program to support more air quality co-benefits, including specific program design elements. In Fall 2016, ARB staff described potential future amendments including reducing the offset usage limit, redesigning the allocation strategy to reduce free allocation to support increased technology and energy investment at covered entities and reducing allocation if the covered entity increases criteria or toxics emissions over some baseline.
- By 2018, develop Integrated Natural and Working Lands Action Plan to secure California's land base as a net carbon sink.

Table 22 provides an analysis of the project's consistency with the 2017 Scoping Plan Update measures.

Table 22: Consistency with SB 32 2017 Scoping Plan Update

Scoping Plan Measure	Project Consistency
SB 350 50% Renewable Mandate. Utilities subject to the legislation will be required to increase their renewable energy mix from 33% in 2020 to 50% in 2030.	**Consistent**: The project will purchase electricity from a utility subject to the SB 350 Renewable Mandate.
SB 350 Double Building Energy Efficiency by 2030. This is equivalent to a 20 percent reduction from 2014 building energy usage compared to current projected 2030 levels	**Not Applicable**. This measure applies to existing buildings. New structures are required to comply with Title 24 Energy Efficiency Standards that are expected to increase in stringency until residential housing and commercial development achieves zero net energy.
Low Carbon Fuel Standard. This measure requires fuel providers to meet an 18 percent reduction in carbon content by 2030.	**Consistent**. Vehicles accessing the project site will use fuel containing lower carbon content as the fuel standard is implemented.

Table 22 (cont.): Consistency with SB 32 2017 Scoping Plan Update

Scoping Plan Measure	Project Consistency
Mobile Source Strategy (Cleaner Technology and Fuels Scenario) Vehicle manufacturers will be required to meet existing regulations mandated by the LEV III and Heavy-Duty Vehicle programs. The strategy includes a goal of having 4.2 million ZEVs on the road by 2030 and increasing numbers of ZEV trucks and buses.	**Consistent**. Future residents can be expected to purchase increasing numbers of more fuel efficient and zero emission cars and trucks each year. The 2016 CalGreen Code requires electrical service in new single-family housing and apartment parking areas to be EV charger-ready. Home deliveries will be made by increasing numbers of ZEV delivery trucks.
Sustainable Freight Action Plan The plan's target is to improve freight system efficiency 25 percent by increasing the value of goods and services produced from the freight sector, relative to the amount of carbon that it produces by 2030. This would be achieved by deploying over 100,000 freight vehicles and equipment capable of zero emission operation and maximize near-zero emission freight vehicles and equipment powered by renewable energy by 2030.	**Not Applicable**. The measure applies to owners and operators of trucks and freight operations. However, home deliveries are expected to be made by increasing number of ZEV delivery trucks.
Short-Lived Climate Pollutant (SLCP) Reduction Strategy. The strategy requires the reduction of SLCPs by 40 percent from 2013 levels by 2030 and the reduction of black carbon by 50 percent from 2013 levels by 2030.	**Consistent**. The project will include only natural gas heating that produce very little black carbon compared to wood burning fireplaces and heaters.
SB 375 Sustainable Communities Strategies. Requires Regional Transportation Plans to include a sustainable communities strategy for reduction of per capita vehicle miles traveled.	**Consistent**. The project will provide housing in the region that is consistent with the growth projections in the 2018 RTP/SCS. The project is not within an SCS priority area and so is not subject to requirements applicable to those areas.
Post-2020 Cap-and-Trade Program. The Post 2020 Cap-and-Trade Program continues the existing program for another 10 years. The Cap-and-Trade Program applies to large industrial sources such as power plants, refineries, and cement manufacturers.	**Consistent.** The post-2020 Cap-and-Trade Program indirectly affects people who use the products and services produced by the regulated industrial sources when increased cost of products or services (such as electricity and fuel) are transferred to the consumers. The Cap-and-Trade Program covers the GHG emissions associated with electricity consumed in California, whether generated in-state or imported. Accordingly, GHG emissions associated with CEQA projects' electricity usage are covered by the Cap-and-Trade Program. The Cap-and-Trade Program also covers fuel suppliers (natural gas and propane fuel providers and transportation fuel providers) to address emissions from such fuels and from combustion of other fossil fuels not directly covered at large sources in the program's first compliance period.

Table 22 (cont.): Consistency with SB 32 2017 Scoping Plan Update

Scoping Plan Measure	Project Consistency
Natural and Working Lands Action Plan. The ARB is working in coordination with several other agencies at the federal, state, and local levels, stakeholders, and with the public, to develop measures as outlined in the Scoping Plan Update and the governor's Executive Order B-30-15 to reduce GHG emissions and to cultivate net carbon sequestration potential for California's natural and working land.	**Not Applicable**. The project is a residential subdivision development and would not be considered natural or working lands.
Source: ARB 2017c Scoping Plan Update.	

Regarding goals for 2050 under Executive Order S-3-05, at this time it is not possible to quantify the emissions savings from future regulatory measures, as they have not yet been developed; nevertheless, it can be anticipated that operation of the project would comply with whatever measures are enacted that state lawmakers decide would lead to an 80 percent reduction below 1990 levels by 2050. In its 2008 Scoping Plan, ARB acknowledged that the "measures needed to meet the 2050 are too far in the future to define in detail." In the First Scoping Plan Update; however, ARB generally described the type of activities required to achieve the 2050 target: "energy demand reduction through efficiency and activity changes; large scale electrification of on-road vehicles, buildings, and industrial machinery; decarbonizing electricity and fuel supplies; and rapid market penetration of efficiency and clean energy technologies that requires significant efforts to deploy and scale markets for the cleanest technologies immediately."

Accordingly, taking into account the proposed project's emissions, project design features, and the progress being made by the State towards reducing emissions in key sectors such as transportation, industry, and electricity, the project would be consistent with State GHG Plans and would further the State's goals of reducing GHG emissions to 1990 levels by 2020, 40 percent below 1990 levels by 2030, and 80 percent below 1990 levels by 2050, and does not obstruct their attainment.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

Less than significant impact.

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NOTICE OF PUBLIC HEARING
FOR GENERAL PLAN AMENDMENT #18-03, REVISION #4 TO THE FAHRENS CREEK SPECIFIC PLAN, AND SITE UTILIZATION PLAN REVISION #6 TO PLANNED DEVELOPMENT (P-D) #46, AND NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

A public hearing will be held by the Merced City Planning Commission on Wednesday, January 23, 2019, at 7:00 p.m., or as soon thereafter as may be heard in the City Council Chambers located at 678 W. 18th Street, Merced, CA, concerning General Plan Amendment #18-03, Revision #4 To the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46. This application was initiated by M & B Bruno Family LP, property owners. The application is a request to change the General Plan designation for approximately 10.73 acres of land on the west side of San Augustine, approximately 980 feet north of Yosemite Avenue, from Business Park (BP) to High Medium Density Residential (HMD). The request also involves a Revision to the Fahrens Creek Specific Plan and a Site Utilization Plan Revision to Planned Development (P-D) #46 to change the land use designation from "mini-storage" to "multi-family". The property is more particularly described as: Lot 123 as shown on the Final Subdivision Map for Sunrise at Compass Pointe, recorded in Volume 60, Pages 12-18, of Merced County Records; also known as Assessor's Parcel Number: 206-050-017.

An environmental review checklist has been filed for this project, and a draft negative declaration has been prepared (i.e., no further environmental review would be required) under the California Environmental Quality Act. A copy of this staff evaluation ("Initial Study") is available for public inspection at the City of Merced Planning Department during regular business hours, at 678 West 18th Street, Merced, CA. A copy of this document can also be purchased at the Planning Department for the price of reproduction.

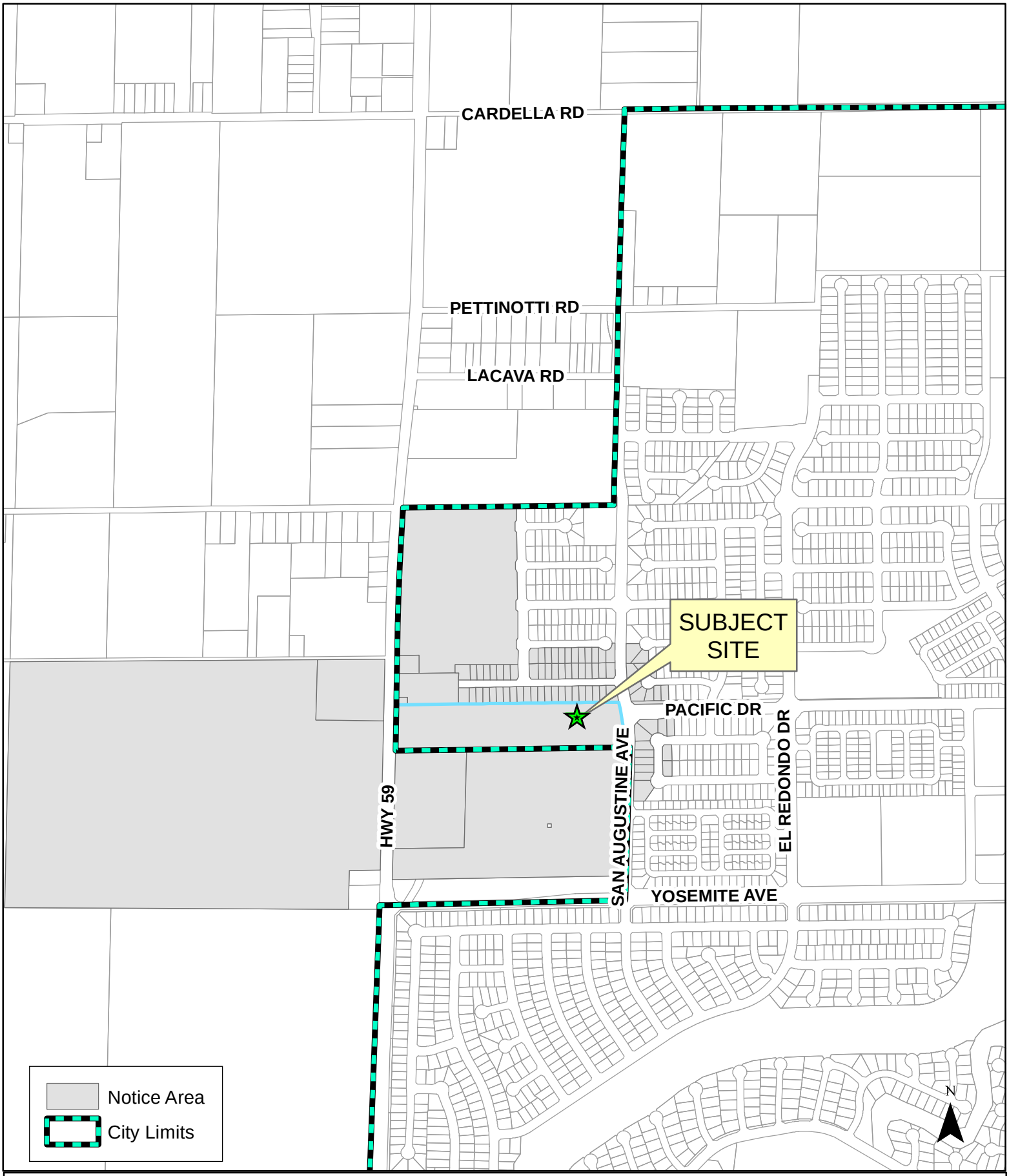
All persons in favor of, opposed to, or in any manner interested in this request for a General Plan Amendment, Specific Plan Revision and Site Utilization Plan Revision, are invited to attend this public hearing or forward written comments to the Director of Development Services, City of Merced, 678 W. 18th Street, Merced, CA 95340. The public review period for the environmental determination begins on January 3, 2019, and ends on January 23, 2019. Please feel free to call the Planning Department at (209) 385-6858 for additional information. If you challenge the decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Merced at, or prior to, the public hearing.

After the Planning Commission makes its decision on this matter, the General Plan Amendment, Specific Plan Revision, and Site Utilization Plan Revision will also be considered at a public hearing before the City Council. A separate notice of that public hearing will also be given.

/s/ Kim Espinosa

December 28, 2018

Kim Espinosa,
Planning Manager



Disclaimer: This document was prepared for general inquiries only.The City of Merced is not liable for errors or ommissions that might occur.Official information concerning specific parcels should be obtained from recorded or adopted City documents.

General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, Site Utilization Plan Revision #6 to Planned Development (P-D) #46

CITY OF MERCED
Planning Commission

Resolution #4013

WHEREAS, the Merced City Planning Commission at its regular meeting of January 23, 2019, held a public hearing and considered **General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan**, initiated by M & B Bruno Family LP, property owners. The application is a request to change the General Plan designation for approximately 10.73 acres of land on the west side of San Augustine, approximately 980 feet north of Yosemite Avenue, from Business Park (BP) to High Medium Density Residential (HMD). The request also involves a Revision to the Fahrens Creek Specific Plan and a Site Utilization Plan Revision to Planned Development (P-D) #46 to change the land use designation from "mini-storage" to "multi-family"; also known as Assessor's Parcel No. 206-050-017; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #19-05; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Initial Study #18-60, and approval of General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner CAMPER, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina
NOES: None
ABSENT: None
ABSTAIN: None

Adopted this 23rd day of January 2019

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:GPA #18-03/SUP Rev #6 to PD #46/Rev #4 to Fahrens Creek Specific Plan

Conditions of Approval
Planning Commission Resolution # 4013
General Plan Amendment #18-03, Site Utilization Plan #6 to Planned Development (PD) #46, and Revision #4 to Fahrens Creek Specific Plan

1. The proposed project shall be constructed/designed in substantial compliance with the Revised Site Plan (Attachment E of Planning Commission Staff Report #19-05) and the building elevations and floor plans (Attachments C and D of Planning Commission Staff Report #19-05), except as modified by the conditions. The Site Plan Review Committee shall approve the final design for the project, and may approve up to 176 units.
2. The Project shall comply with the applicable conditions set forth in Planning Commission Resolution #2675 (Attachment F of Planning Commission Staff Report #19-05) for Annexation Application #00-03, Pre-Zone Application #00-03, General (including Specific) Plan Amendment #00-09, and Environmental Review #00-31 (including the Mitigation Monitoring Program found at Attachment G of Planning Commission Staff Report #19-05) previously approved for this project, except as amended by this action.
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. Approval of the General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision are subject to the applicant's entering into a written (legislative action) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

6. 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.

7. 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.

8. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before the issueance of the first building permit. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.

9. In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #46.

10. All public improvements shall be installed along the project frontage to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited, to sidewalk curb, gutter, street trees, and street lights. All public improvements shall be installed along the SR 59 property frontage in compliance with Caltrans Standards, as well as City of Merced Standards. This may include sidewalk, curb, gutter, street lights, and landscaping along the SR 59 street frontage.

11. Street trees shall be planted along the project frontage on San Augustine Avenue in compliance with City Standards.

12. The project applicant shall contribute to the cost of the future traffic signal at San Augustine Avenue and Yosemite Avenue. This amount shall be determined by the City Engineer based on the proportion of vehicle trips generated by this project expected to utilize the intersection. This amount shall be paid or bonded for prior to the issuance of the first building permit.

13. The project shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).

14. The project shall extend the sewer line in San Augustine Avenue, south across the entire property frontage or as required by the City Engineer.

15. All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer.

16. All new utilities shall be installed underground.

17. The fire access lanes shall be constructed to withstand the weight of a fire truck, but still provide green space and pedestrian access. The use of a turf-block material is recommended or another similar type material, approved by the Fire Department and Site Plan Review Committee.

18. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.

19. Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.

20. An Emergency Vehicle Access from SR 59 onto the project site shall be granted prior to the issuance of a building permit. This access shall be constructed to meet Fire Department Standards. This access shall be gated to only allow emergency vehicle access and shall be equipped with a knox-box or other device approved by the Fire Department.

21. The property owner shall dedicate an additional 14 feet of right-of-way along SR 59 prior to the issuance of a building permit, unless otherwise approved by the City Engineer and City Land Surveyor, based on Caltrans requirements.

22. The drive aisles through the parking lot shall be posted as "no parking," unless otherwise approved by the City Fire Department.

23. The applicant shall provide written documentation from PG&E agreeing to allow the proposed parking spaces within their easement area. This documentation shall be provided with the submittal of the first building permit that includes the parking in this area.

24. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.

25. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

26. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.

27. All landscaping shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping.

28. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.

29. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.

30. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of 1 tree for every 6 parking spaces. No trees shall be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees may be required at the discretion of the Development Services Director. Trees within the PG&E easement shall comply with the regulations of this easement which limits the height of trees to a maximum of 15 feet at full maturity.

31. The on-site landscape design shall include the use of xeriscape landscaping and comply with all California Building Code regulations or other applicable state and/or local requirements as well as Chapter 20.36 of the City's Zoning Ordinance.

32. The median between the driveways shall be provided with low-lying landscaping. Nothing in this area shall be taller than 2 ½ feet.

33. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.

34. All parking lot and other exterior lighting shall be oriented in such a way so that is does not spillover onto adjacent properties.

35. All mechanical equipment shall be screened from public view.

36. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall

be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks.

37. The developer may install carports over some or all of the required parking spaces.

38. All signs shall comply with the requirements of the North Merced Sign Ordinance and Merced Municipal Code (MMC) Section 17.36.572 – Apartments or Condominiums. No free-standing A-Frame or sandwich board-type signs shall be allowed. All other moveable temporary signs are prohibited as well. Temporary banners may be installed on a building wall in compliance with the City's Sign Ordinance and after obtaining a Temporary Banner Permit from the Planning Department. A building permit shall be obtained for all permanent signs.

n:shared:planning:PC Resolutions:GPA#18-03/SUP Rev#6 to PD #46/Rev #4 to Fahrens Creek Specific Plan Exhibit A

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT:	**#19-05**	**AGENDA ITEM:**	**4.1**
FROM:	Kim Espinosa, Planning Manager	**PLANNING COMMISSION MEETING DATE:**	**Jan. 23, 2019**
PREPARED BY:	Julie Nelson, Associate Planner	**CITY COUNCIL MEETING DATE:**	**Mar. 4, 2019 (Tentatively)**

SUBJECT: **General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46,** initiated by M & B Bruno Family LP, property owners. The application is a request to change the General Plan designation for approximately 10.73 acres of land on the west side of San Augustine, approximately 980 feet north of Yosemite Avenue, from Business Park (BP) to High Medium Density Residential (HMD). The request also involves a Revision to the Fahrens Creek Specific Plan and a Site Utilization Plan Revision to Planned Development (P-D) #46 to change the land use designation from "mini-storage" to "multi-family." *PUBLIC HEARING*

ACTION: PLANNING COMMISSION:

Recommendation to City Council

1) Environmental Review #18-60 (Negative Declaration)
2) General Plan Amendment #18-03
3) Revision #4 to the Fahrens Creek Specific Plan
4) Site Utilization Plan Revision #6 to Planned Development (P-D) #46

CITY COUNCIL:

Approve/Disapprove/Modify

1) Environmental Review #18-60 (Negative Declaration)
2) General Plan Amendment #18-03
3) Revision #4 to the Fahrens Creek Specific Plan
4) Site Utilization Plan Revision #6 to Planned Development (P-D) #46

SUMMARY

The proposed project site is approximately 10.73 acres and is located on the west side of San Augustine Avenue at Pacific Drive (Attachment A). The proposal would allow the change in the General Plan Land Use designation from Business Park (BP) to High Medium Density Residential (HMD), a revision to the Fahrens Creek Specific Plan, and a Site Utilization Plan Revision to

Planning Development (P-D) #46 changing the land use designation for both the Specific Plan and the Site Utilization Plan from "mini-storage" to "multi-family." The proposed changes would allow the construction of an apartment complex, a community building, swimming pool, children's play area, dog park, and associated parking for the complex (refer to the site plan at Attachment B).

The proposed apartment complex was originally supposed to consist of 176 units with a mixture of one and two bedroom apartments within 24 buildings. Currently, there are two types of buildings – Building A and Building B. Each Building A would be a two-story building with a total of 8 units per building consisting of a mixture of one and two bedroom units. Each Building B would also be a two-story building with four units per building consisting of only two bedroom units. Building elevations and floor plans are included with Attachments C and D. Due to some site plan changes, there may be a third building type that would have a total of six units. When the site plan was modified to accommodate the required fire lanes, some of the 8-unit buildings were reduced to 4-unit buildings. Due to time constraints, the design team was unable to modify the building and site design to show a six-unit building. However, they have requested that the approval be based on the original 176 units to allow them some flexibility with the final site plan design. The revised site plan showing the fire lane and a total of 164 units is provided at Attachment E.

Once the applicant has determined the final site details, building design, and unit count, a Site Plan Review application would be required to finalize the project details (Condition #9). Staff is recommending approval.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval of: 1) Environmental Review #18-60 (Negative Declaration); 2) General Plan Amendment #18-03, 3) Revision #4 to the Fahrens Creek Specific Plan, and 4) Site Utilization Plan Revision #6 to Planned Development (P-D) #46 (including the adoption of the Resolution at Attachment I), subject to the following conditions:

*1) The proposed project shall be constructed/designed in substantial compliance with the Revised Site Plan (Attachment E of Planning Commission Staff Report #19-05) and the building elevations and floor plans (Attachments C and D of Planning Commission Staff Report #19-05), except as modified by the conditions. The Site Plan Review Committee shall approve the final design for the project, and may approve up to 176 units.

*2) The Project shall comply with the applicable conditions set forth in Planning Commission Resolution #2675 (Attachment F of Planning Commission Staff Report #19-05) for Annexation Application #00-03, Pre-Zone Application #00-03, General (including Specific) Plan Amendment #00-09, and Environmental Review #00-31 (including the Mitigation Monitoring Program found at Attachment G of Planning Commission Staff Report #19-05) previously approved for this project, except as amended by this action.

*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) Approval of the General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision are subject to the applicant's entering into a written (legislative action) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

*6) 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.

*7) 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.

*8) Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before the issueance of the first building permit. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.

*9) In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #46.

Public Improvements/Infrastructure

*10) All public improvements shall be installed along the project frontage to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited, to sidewalk curb, gutter, street trees, and street lights. All public improvements shall be installed along the SR 59 property frontage in compliance with Caltrans Standards, as well as City of Merced Standards. This may include sidewalk, curb, gutter, street lights, and landscaping along the SR 59 street frontage.

*11) Street trees shall be planted along the project frontage on San Augustine Avenue in compliance with City Standards.

*12) The project applicant shall contribute to the cost of the future traffic signal at San Augustine Avenue and Yosemite Avenue. This amount shall be determined by the City Engineer based on the proportion of vehicle trips generated by this project expected to utilize the intersection. This amount shall be paid or bonded for prior to the issuance of the first building permit.

*13) The project shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).

14) The project shall extend the sewer line in San Augustine Avenue, south across the entire property frontage or as required by the City Engineer.

15) All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer.

16) All new utilities shall be installed underground.

Site/Building Design

17) The fire access lanes shall be constructed to withstand the weight of a fire truck, but still provide green space and pedestrian access. The use of a turf-block material is recommended or another similar type material, approved by the Fire Department and Site Plan Review Committee.

*18) A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.

*19) Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.

20) An Emergency Vehicle Access from SR 59 onto the project site shall be granted prior to the issuance of a building permit. This access shall be constructed to meet Fire Department Standards. This access shall be gated to only allow emergency vehicle access and shall be equipped with a knox-box or other device approved by the Fire Department.

21) The property owner shall dedicate an additional 14 feet of right-of-way along SR 59 prior to the issuance of a building permit, unless otherwise approved by the City Engineer and City Land Surveyor, based on Caltrans requirements.

22) The drive aisles through the parking lot shall be posted as "no parking," unless otherwise approved by the City Fire Department.

23) The applicant shall provide written documentation from PG&E agreeing to allow the proposed parking spaces within their easement area. This documentation shall be provided with the submittal of the first building permit that includes the parking in this area.

Air Quality and Noise

*24) Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.

*25) The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

26) All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.

Landscaping

*27) All landscaping shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping.

28) Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.

29) All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.

*30) Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of 1 tree for every 6 parking spaces. No trees shall be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees may be required at the discretion of the Development Services Director. Trees within the PG&E easement shall comply with the regulations of this easement which limits the height of trees to a maximum of 15 feet at full maturity.

31) The on-site landscape design shall include the use of xeriscape landscaping and comply with all California Building Code regulations or other applicable state and/or local requirements as well as Chapter 20.36 of the City's Zoning Ordinance.

32) The median between the driveways shall be provided with low-lying landscaping. Nothing in this area shall be taller than 2 ½ feet.

Safety and Lighting

33) All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.

*34) All parking lot and other exterior lighting shall be oriented in such a way so that is does not spillover onto adjacent properties.

General Conditions

35) All mechanical equipment shall be screened from public view.

36) Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks.

37) The developer may install carports over some or all of the required parking spaces.

*38) All signs shall comply with the requirements of the North Merced Sign Ordinance and Merced Municipal Code (MMC) Section 17.36.572 – Apartments or Condominiums. No free-standing A-Frame or sandwich board-type signs shall be allowed. All other moveable temporary signs are prohibited as well. Temporary banners may be installed on a building wall in compliance with the City's Sign Ordinance and after obtaining a Temporary Banner Permit from the Planning Department. A building permit shall be obtained for all permanent signs.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The proposed project consists of a General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and a Site Utilization Plan Revision to Planned Development (P-D) #46. The table below outlines the proposed land use changes:

	Current Land Use Designation	Proposed Land Use Designation
General Plan	Business Park (BP)	High/Medium Density Residential (HMD)
Fahrens Creek Specific Plan	Mini-storage	Multi-family Residential
Site Utilization Plan for Planned Development (P-D) #46	Mini-storage	Multi-family Residential

If the above land uses are approved, the owner would develop an apartment complex with 164 to 176 units, a community building, swimming pool, children's play area, dog park, and associated parking for the complex (refer to the site plans at Attachments B and E).

The project site is situated between San Augustine Avenue and SR 59 with frontage on both roadways. The proposed apartment complex would have access from San Augustine Drive. This driveway access on San Augustine Avenue would be a divided driveway separating the entrance side from the exit side. An emergency vehicle access (EVA) would be provided off of SR 59. The EVA would be paved, but would be gated off to prohibit the use of this driveway as an additional access point for the general public or residents of the complex. The EVA would be equipped with a knox-box or "click-to-enter" technology to allow emergency vehicles access to the site.

There are five PG&E transmission towers that sit near the middle of the site. The project has been designed to locate the parking area underneath the transmission lines and around the transmission towers (refer to the Revised Site Plan at Attachment E). PG&E maintains an 80-foot-wide easement underneath the transmission lines. This easement would allow the parking to be located in this area, but no structures could be built in the area. Therefore, the parking for this complex would be uncovered.

The proposed apartment complex would have a mixture of one and two bedroom apartments within 24 buildings. Currently there are two types of buildings being proposed – Building A and Building B. Building A would have a total of 8 units in each building and Building B would have a total of 4 units in each building. Due to the changes to the site plan, it's possible that a third building type could be added which would have 6 units in each building. The number of buildings in the complex and the number of units may vary due to the recent site changes. Currently, the revised site plan shows 164 units, but the developers would like to increase the number back up closer to the original 176 units proposed. These details would be approved by the Site Plan Review Committee. Building elevations and floor plans are included with Attachments C and D.

Surrounding Uses
(Attachment A)

Surrounding Land	Existing Use of Land	Zoning Designation	City General Plan Land Use Designation
North	Single Family Residential	P-D #46	Low Density Residential (LD)
South	Vacant	Merced County	Business Park (BP)
East	Single Family Residential (across San Augustine Avenue)	P-D #46	Low Density Residential (LD)
West	Single Family/Ag Land (across SR 59)	Merced County	Industrial

BACKGROUND

The project site was annexed into the City in January 2003, as part of an approximately 273.6-acre area that created the Fahrens Creek Specific Plan and established Planned Development (P-D) #46. The Fahrens Creek Specific Plan includes the area bounded by Highway 59 to the west, Lehigh Drive (extended) to the north, R Street to the east, and Yosemite Avenue to the south (with the exception of the northeast corner of Highway 59 and Yosemite Avenue which remains in the County). Planned Development (P-D) #46 is within those same boundaries. At the time of annexation, the site was given a land use designation of Business Park (BP). The owners have looked at alternatives for the site and given the City's need for multi-family housing, they decided to request the land use changes to be able to develop a multi-family apartment complex.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

A) The proposed project would comply with the General Plan designation of High-Medium Density Residential (HMD) and the zoning designation of Planned Development (P-D) #46 if the requested General Plan Amendment, Specific Plan Amendment, and Site Utilization Plan Amendment are approved.

The following Land Use Goals and Policies would be achieved with the approval of this request:

Goal Area L-1: Residential & Neighborhood Development

- *A Wide Range of Residential Densities and Housing Types in the City*
- *Quality Residential Environments*

Implementing Action 1.7a *Designate areas adjoining arterial streets, major transportation routes, and commercial areas for multi-family development.*

Traffic/Circulation

B) The project site is located on the west side of San Augustine Avenue at Pacific Drive. The site abuts SR 59 to the west. San Augustine Avenue and Pacific Drive are both designated as Collector Roads on the City's Circulation Plan. Both roadways are two lane roads. San Augustine Avenue connects to Yosemite Avenue (an arterial roadway) approximately one-quarter mile south of the project site. Pacific Drive connects to R Street (an arterial roadway) just over one-half mile east of the project site. Access to the project site would be from San Augustine Avenue with an entrance only driveway providing access into the site and an exit-only driveway leaving the site (refer to the Revised Site Plan at Attachment E).

The intersection of Yosemite Avenue and San Augustine Avenue would be signalized in the future (this development is conditioned to pay a percentage of the cost for this traffic signal – refer to Condition #12). Currently, the intersection has a four-way stop. The City is currently working on a project to widen Yosemite Avenue from San Augustine Avenue west to SR 59.

Access from Pacific Drive onto R Street would allow right turns only. A U-turn could be made at Yosemite Avenue. However, R Street currently dead-ends just north of Pacific Drive. In the future, R Street would be extended north to Bellevue Road and ultimately further north to the end of the City Limit.

Access to Yosemite Avenue could also be made using El Redondo Drive and Compass Pointe Avenue. El Redondo Drive is a north/south collector road approximately one-quarter mile east of the site off of Pacific Drive. The intersection of El Redondo Drive and Yosemite Avenue is signalized. Compass Pointe Avenue is approximately one-half mile from the site and is also a collector road. Access to Yosemite Avenue at this intersection is restricted to right-turns only.

San Augustine Avenue will eventually extend north to intersect with Cardella Road which would provide additional access to the north, east, and west.

In addition to the Class I bike path near the site, Class III bicycle lanes are provided on San Augustine Avenue, Pacific Drive, El Redondo Drive, Yosemite Avenue, and R Street. There is also a bus stop located at El Redondo Drive and Aurora Drive less than one-quarter mile from the project site.

The Institute of Transportation Engineers (ITE) Trip Generation Rates Manual (8th Edition) is used to estimate the number of trips generated by a particular use. The Manual lists the number of estimated average daily trips (ADT's) based on the total gross square feet of storage area. Using the calculation above of 227,430 s.f. of storage area, the total ADT's for a mini-storage use at this location would be 569 average daily trips. In comparison, the proposed apartment project would generate 1,170 ADT's. However, given the proximity of the project site to a bus stop and easy access to bicycle lanes, it's expected that the total ADT's would be reduced by at least 10%. Additionally, given the fact that the project is adjacent to two collector streets which provide easy access to arterial roadways, the additional traffic is not expected to have a significant impact to the area.

Parking

C) Parking for multi-family dwellings is calculated based on the number of units, the number of bedrooms, and the number of bathrooms per the Zoning Ordinance. The total number of spaces required for the apartment complex would be 272 spaces (based on 176 units). As proposed, the site would provide 296 stalls.

The majority of the parking for the project would be provided on the north side of the apartment buildings, underneath the PG&E power lines. No structures could be built in this area, therefore, the parking spaces would be uncovered. However, consistent with City Standards for Parking Lots and as required by Condition #30, parking lot trees would be required at a ratio of one tree for every six parking spaces. There are a few parking spaces that would be closer to the buildings which could possibly be covered. This area would accommodate the required handicap accessible parking stalls in addition to about 40 other stalls.

Public Improvements/City Services

D) The street and curb and gutter have already been constructed along the property frontage on San Augustine Avenue. Sidewalk, street trees, and streetlights would need to be installed with the future development (Conditions #10 and #11). All missing improvements along the SR 59 frontage shall be installed per Caltrans and City of Merced Standards. This may include sidewalk, curb, gutter, street lights, and landscaping along the SR 59 street frontage.

Water and sewer lines are located in San Augustine Avenue which would serve this project. As required by Condition #14, the project would be required to extend the sewer line south across the full frontage of the project site, or as required by the City Engineer.

The project would be required to connect to the City's storm drain system that exists in San Augustine Avenue. An on-site storm water basin is proposed at the western end of the site. Additionally, a storm water basin/swale would be constructed along the northern edge of the site.

Building Design

E) There would be a mixture of building types on the site – Building A and Building B. Building A would consist of 8 units within the building, Building B would have 4 units per building. Both building types would be two-story buildings. The units are a mixture of one and two bedroom units, ranging in size from 764 s.f. to 1,175 s.f.. The building floor plans are provided at Attachment D

The exterior of the buildings would be a cement plaster finish with a concrete tile roof. The windows would have architectural trim or shutters. The proposed building elevations are provided at Attachment C. A possible Building C, consisting of 6-units may be utilized in the future to adjust to the revised site plan at Attachment E.

Site Design

F) As previously described, the site is located on the west side of San Augustine Avenue at Pacific Drive. The site abuts SR 59 to the west. The primary access to the site would be from San Augustine Avenue. Only an emergency vehicle access would be allowed on SR 59. The driveway into the site would be split with an entrance-only driveway and an exit-only driveway. This design allows the exit-only driveway to align with the eastbound travel lane on Pacific Drive. There would be a median between the driveways, but an area to allow a turn-around would be provided just beyond the driveways to prevent vehicles from having to travel into the site to turn around. The parking spaces are primarily underneath the PG&E power lines in a long row extending the length of the parcel. There are five breaks in the parking rows to allow access to the opposite drive aisle (refer to the Revised Site Plan at Attachment E.

In order to provide sufficient circulation through the site for fire trucks, the original site plan (Attachment B) was revised (Attachment E) to provide fire access throughout the site. These areas are to be constructed with a material that can withstand the weight of a fire truck, but would also provide an open space feel and pedestrian access. Condition #17 requires the material be approved by the Fire Department and Site Plan Review Committee.

The building layout may change slightly as the owners work to increase the number of units back up to the originally proposed 176 units. They are currently working to determine if additional buildings could be added or if some of the 4-unit buildings could be modified to 6-unit buildings.

Landscaping

G) Landscaping would be provided throughout the site through the use of ground cover, shrubs, and trees. As previously described, parking lot trees would be required throughout the parking area. Additionally, trees are proposed between the buildings, throughout the complex. The storm water swale on the northern side of the property would provide an open space area with grass, but no other landscaping would be placed in this area. Conditions #28 through #32 address the landscaping on site. Additionally, Condition #17 requires the fire access lanes to be constructed with a material that provides the look of green space, but could withstand the weight of a fire truck.

Neighborhood Impact/Interface

H) The proposed land use change and subsequent apartment complex would increase the number of people in the area as well as the traffic in the area. However, as previously described, given the project location and easy access to collector and arterial streets, as well as public transit and bicycle lanes, the traffic is not expected to over-burden the area.

Additional light and glare would be created from the site. Condition #34 requires that all exterior lighting be oriented so that it does not spillover onto adjacent properties.

The two-story apartment buildings would be approximately 120 feet from the residential properties to the north. There are several two-story homes along the northern property line, facing La Sierra Court. All of the adjacent homes to the north have at least a ten-foot

setback from the rear property line, bringing the distance between the closest apartment building to 130 feet. The homes along Pacific Drive are slightly closer at 100 feet away, but have a collector street separating them from the apartments which would help reduce any potential impacts.

Public hearing notices were sent out to all property owners within 300 feet of the site. To date, staff has not received any comments or concerns regarding this project.

Signage

B) No specific signs have been proposed with this project. All signs would be required to comply with the North Merced Sign Ordinance and MMC Section 17.36.572 – Apartments or Condominiums (Condition #38).

Land Use/Density Issues

C) The proposed General Plan land use designation change to High/Medium Density (HMD) Residential allows 12 to 24 units per acres. The proposal of 176 units would have a density of 16 units per acre and if the project is reduced to 164 units, the density would be 15 units per acre. The density from both scenarios fall within the allowable density for the General Plan designation of High/Medium Density (HMD) Residential and would be compatible with the nearby residential uses.

Environmental Clearance

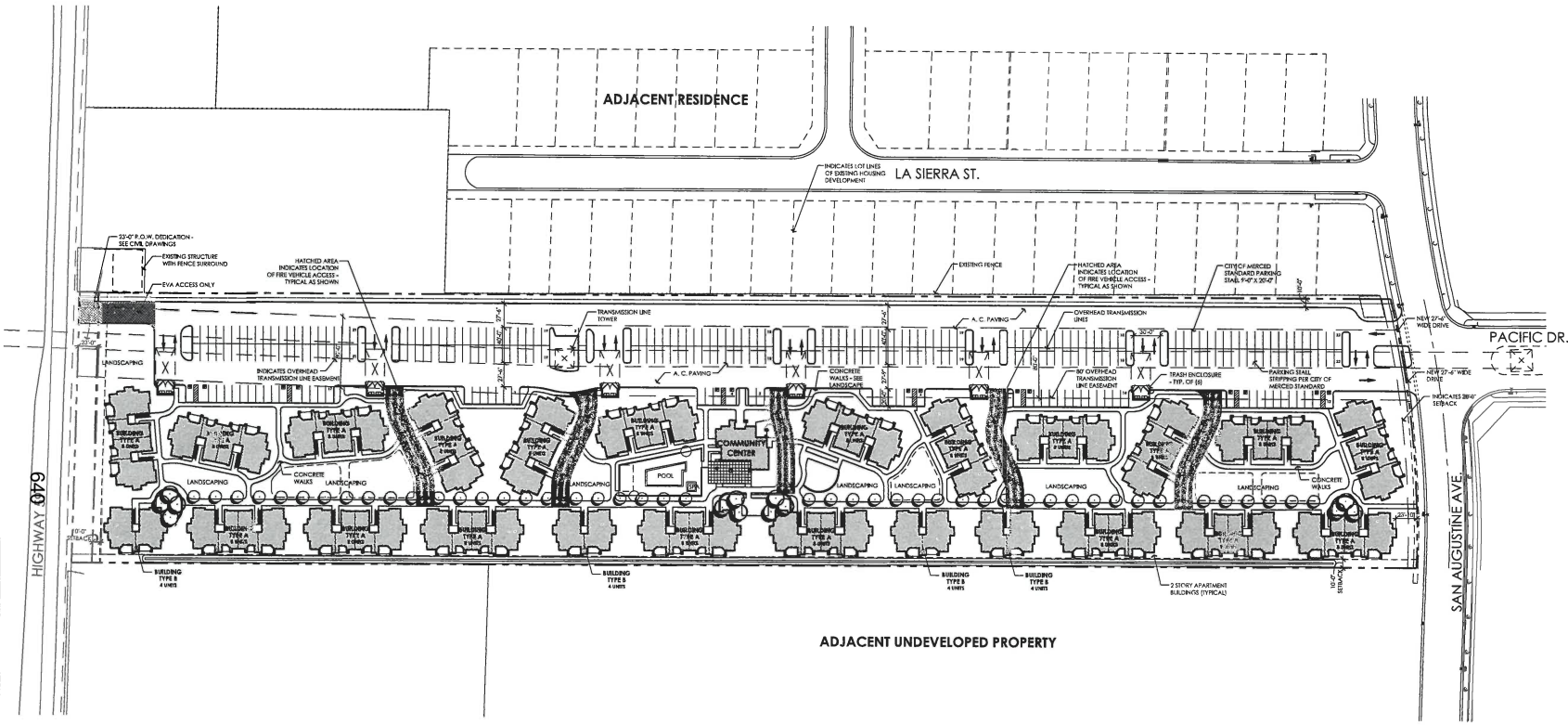
D) The Planning staff has conducted an environmental review (Initial Study # 18-60) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Negative Declaration (i.e., no significant adverse environmental effects have been found) is being recommended (Attachment H).

Attachments:

Refer to Attachments 1 through 4 of Administrative Report for Attachments A, C, D, and E, and Attachment 7 for Attachment H.

A) Location Map
B) Original Site Plan
C) Elevations
D) Floor Plans
E) Revised Site Plan
F) Planning Commission Resolution #2675
G) Mitigation Monitoring Program for Initial Study #00-31
H) Initial Study #18-60
I) Draft Planning Commission Resolution

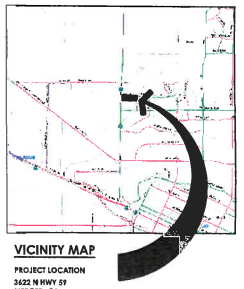
Ref: *N:\SHARED\PLANNING\STAFFREP\SR2019\SR 19-05 GPA #18-03 SUP Rev #6 to P-D #46 (Bruno).docx*



OVERALL SITE PLAN

SCALE: 1" = 60'-0"

NORTH



VICINITY MAP

PROJECT LOCATION
3422 N HWY 59
MERCED, CA

PROJECT TEAM

OWNER:
BRUNO M & B FAMILY LP
PO BOX 1530
TURLOCK, CA 95381
PHONE: (209) 668-7985
CONTACTS: TONY BRUNO
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MODESTO, CA 95355
PHONE: (209) 568-9300
CONTACTS: RICK MUMMERT
rmummert@bineng.net

ARCHITECT:
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MODESTO, CA 95356
(209) 577-4661
CONTACT: JOSEPH L. SMITH
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LANDSCAPE:
KLA, INC.
151 N. NORLIN ST.
SONORA, CA 95370
(209) 532-2856
CONTACT: TOM HOLLOWAY
tom@kla-ca.com

SITE DATA

ASSESSORS PARCEL NUMBER:	206-060-017-000
PROPERTY AREA:	± 10.73 ACRES (NET)
BUILDING AREA:	
APARTMENT BUILDINGS:	215,764 SQ. FT.
COMMUNITY BUILDING:	3,045 SQ. FT.
TOTAL:	218,809 SQ. FT.
BUILDING COVERAGE:	
APARTMENT BUILDINGS:	100,689 SQ. FT.
COMMUNITY BUILDING:	3,045 SQ. FT.
TOTAL:	103,734 SQ. FT.
ONSITE LANDSCAPING:	± 34,996 SQ.FT.
MAXIMUM BUILDING HEIGHT:	± 28'-6"
EXISTING ZONING:	SP - SPECIFIC PLAN
DENSITY:	16.4 DU/ACRE (NET)
PAVING / HARDSCAPE:	± 216,639 SQ.FT.

BUILDING DATA

BUILDING/ UNIT DATA

	1 BDRM	2 BDRM	# OF UNITS/BLDG	# OF BLDGS	STORIES	BLDG AREA	BLDG AREA TOTAL
BUILDING A	4	4	8	20	2	±9,646 SQ.FT.	±192,920 SQ.FT.
BUILDING B	0	4	4	4	2	±5,711 SQ.FT.	±22,844 SQ.FT.
COMMUNITY	N/A	N/A	N/A	1	1	±3,045 SQ.FT.	
			TOTAL UNIT				
UNIT TYPE TOTAL	80	96	176			TOTAL AREA	±215,764 SQ.FT.

PARKING DATA

PARKING REQUIRED : TOWNHOME, CONDOMINIUM, AND APARTMENT

1.75 SPACES PER UNIT (1 AND 2 BEDROOM) UP TO 30 UNITS
1.5 SPACES PER UNIT THEREAFTER

1.75 SPACE PER UNIT (UP TO 30)	= 53 STALLS
1.5 SPACE PER UNIT (146 UNITS)	= 219 STALLS
TOTAL	= 272 STALLS

PARKING PROVIDED:

TOTAL	= 296 STALLS

PROPOSED NEW DEVELOPEMENT:

PACIFIC APARTMENTS

Pacific Drive
Merced, CA.

PLANNING
ARCHITECTURE

api

ARCHITECTURE PLUS INC.
4335-B NORTH STAR WAY
MODESTO, CA 95356

ph. 209.577.4661
fx. 209.577.0213

www.apiarc.com

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CITY OF MERCED
Planning Commission

Resolution #2675

AMENDED by Planning Commission 2-4-2015
AMENDED by City Council 12-17-2001

WHEREAS, the Merced City Planning Commission at its regular meeting of December 5, 2001, held a public hearing and considered **Annexation Application #00-03, Pre-Zone Application #00-03, General (including Specific) Plan Amendment #00-09, and Environmental Review #00-31**, initiated by O'Dell Engineering, agent for Morgan Capital, Mathew & Barbara Bruno, and Mary Genevieve Reinero, Trustee, property owners; and Golden Valley Engineering, agent for Doris Gonella and August & Lillian Dal Porto, property owners, for an approximate 273.6 acre portion of the Fahrens Creek Specific Plan Area, located generally west of "R" Street (extended) and north of Yosemite Avenue (extended); also known as Assessor's Parcel Numbers 057-160-30 and 31, 057-160-81 through 84 and 057-190-01 ; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through R of Staff Report #01-33; and,

WHEREAS, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does hereby recommend to City Council adoption of a Mitigated Negative Declaration regarding Expanded Initial Study #00-31, subject to the mitigation measures outlined in Attachment A and the Mitigation Monitoring Program as seen in Appendix E of Expanded Initial Study #00-31; and approval of Annexation/Prezoning Application #00-03, General Plan Amendment (Specific Plan Establishment) #00-09, and Fahrens Creek Conceptual Specific Plan (Northern Half), subject to the following conditions:

1. Approval of the General Plan Amendment/Annexation/Prezoning is subject to the applicants entering into a written (development) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes or assessments, which are in effect at the time the building permits are issued, which may include traffic impact fees, a Parsons Avenue impact fee, Mello-Roos, etc.; said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the Engineering Department.

3. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.

4. The development of the project shall conform with an adopted Phasing Plan to be submitted by the applicants and adopted as part of this approval process. Due to the

potential long-range development of the project, changes in the phasing plan, consistent with City Codes, may be approved by the City's Director of Development Services (DDS), without need for review by the Planning Commission or City Council. Any decision of the DDS to change the adopted Phasing Plan may be appealed to the Planning Commission.

5. The project shall conform to all mitigation measures in Expanded Initial Study #00-31 for Fahrens Creek Annexation (Appendix E to Attachment E of Staff Report #01-33). This includes modification to two measures as follows: F-3: (eliminate the last sentence, pertaining to a possible noise study; a construction traffic plan approved by the City will provide sufficient mitigation); and N-1: The applicants shall be required to provide a level of accessibility and rangeland management (firebreaks and/or disking) for fire suppression that is acceptable to the City of Merced.

6. Prior to City Council approval of the Fahrens Creek Annexation request, the applicants shall sign a waiver regarding Proposition 218 proceedings (Attachment F of Staff Report #01-33).

7. The proposed Fahrens Creek Specific Plan Master Design shall be modified as shown on the proposed plan (Attachment B) and Exhibit 1 of Staff Report #01-33; three copies of the Specific Plan, as ultimately approved, shall be provided to the City.

Amended – see Page 4

8. Adopted City of Merced ordinances shall be utilized to address densities, intensities, setbacks and heights, unless otherwise adapted as part of the planned development standards for this specific plan area. General architectural character and appearance will be at a design level consistent with Attachment C to this report (City of Merced Staff Report #01-33).

9. The Merced Village Design Guidelines shall be utilized for more detail on architectural features and design {Chapter 6: Urban Design (General Plan)}. The underlying zoning standards of the City of Merced ordinances consistent with each land use shall apply unless otherwise modified or exempted. Examples of acceptable building materials for single family homes include stucco, masonry, and architectural grade wood siding; roof material examples include tile, wood shake, and architectural composition shingles.

10. Village Residential (VR) areas will contain an average minimum gross density of 10 dwelling units per acre; this may involve a mix of small lot single-family, single family with ancillary carriage houses or other types of second units, townhouses, multiple-family units, etc., and may be supplemented by upper level residential within the Core Commercial Area. Acceptable building materials include stucco, masonry and architectural grade wood siding; examples of acceptable roofs materials include tile, wood shake and architectural composition shingles.

11. Building materials used in construction within the Village Center/Core commercial area should convey durability and permanence, be suited to Merced's climate, and to the greatest extent possible involve concrete, stucco, masonry, tile, stone and wood, with accents of tile and glass. Acceptable roof materials include tile, wood shake, standing seam metal, and architectural composition shingle.

12. No new, permanent access directly to Highway 59 will be allowed from any parcel within the annexation; over time, existing access to 59 from individual parcels will be subject to relocation at the direction of the City of Merced, when reasonable, alternative means of access becomes available to these parcels with construction of the future Reverse Frontage Road (RFR) to the east of them.

13. A six-foot high decorative, solid wall shall be constructed along the east side of the north-south collector located one-quarter mile east of and parallel to Highway 59, and designated a Reverse Frontage Road (RFR) Collector on the Fahrens Creek Specific Plan; this wall and any associated landscaping between the wall and the RFR shall be part of a maintenance district. Design details for the wall and landscape plan for adjacent common areas shall be required as part of any tentative subdivision map or conditional use permit approval process involving any of this frontage area.

14. Approval of the Annexation of those parcels located west of the designated Reverse Frontage Road (RFR) Collector, which are currently outside the North Merced Sewer District, is subject to: a) approval from the City Council for sewer services from the Sewer District; and b) respective property owners entering into agreements with the City of Merced to pay all sewer connection costs within their property, pursuant to Chapter 15.16 of the Merced Municipal Code.

15. City policy now anticipates the foreseeable requirement of stop signs at both the southeast and southwest corners of the school site (on Lehigh Drive extended). These will be the responsibility of the first developer through a final development approval process (subdivision map, conditional use permit, etc.) involving this portion of Lehigh, with appropriate reimbursement from later, adjacent (across the street) development.

16. ~~Prior to alteration or removal of the existing YVRR roadbed within the project area, the responsible property owner(s), on the basis of the analysis required by Mitigation Measure C-2 (*Expanded Initial Study #00-31 For Fahrens Creek Annexation to the City of Merced*), will, as necessary, enter into an agreement with any other affected property owner, to eliminate or otherwise address in a manner acceptable to both parties any identified impact to such other property, to the degree to which such impact(s) exceeds flood protection regulations that exist at the time the roadbed is removed. Any costs associated with the study, or related changes to the federal flood map series, shall be the responsibility of the owner of the property involved~~.

Amended – See Page 5

17. At least in residential areas, designated collector streets will be designed consistent with the cross-section design at Attachment B-3 (to allow wider park strips and the opportunity for larger trees) to Merced City Staff Report #01-33.

Upon motion by Commissioner Burr, seconded by Commissioner Pollard, and carried by the following vote:

AYES: Commissioners Burr, Osorio, Riordan, Eisenhart, Pollard, and Chairman Love
NOES: None
ABSENT: Commissioner Lopez

Adopted this 5th day of December, 2001

/s/ David Love
Chairman, Planning Commission of the City of Merced, California

ATTEST:

/s/ Jack Lesch
Secretary

Attachment A – Mitigation Measures

tll/P.RES.#2675

December 17, 2001: At their regularly scheduled meeting of December 17, 2001, the City Council approved Pending Annexation #00-03, General Plan Amendment #00-09, and Prezoning Application #00-03, subject to the conditions of this Resolution, amending Condition #7 as follows:

7. The proposed Fahrens Creek Specific Plan Master Design shall be modified as shown on the proposed plan (Attachment B) and Exhibit 1 of Staff Report #01-33; three copies of the Specific Plan, as ultimately approved, shall be provided to the City.

   The elimination (relocation) of residential lots from the northwest corner of the central (Village Core) park shown on Attachment B1 (of Staff Report #01-33) may be brought up for further discussion by the applicant with the city at the time of subsequent processing of a subdivision map for this area.

The City Council also approved an Agreement [affecting the property located between Hwy 59 and R Street from Yosemite Avenue (Extended) to a half mile south of Cardella Road], which amended Condition #16 and added Condition #18 as follows:

16. Prior to alteration or removal of the existing Yosemite Valley Railroad (YVRR) roadbed within the project area, a study must be conducted in accordance with Mitigation Measure C-2 (Expanded Initial Study #00-31 for Fahrens Creek Annexation to the City of Merced), to determine the impact alteration or removal of the roadbed might have with regard to flooding of the project area, the surrounding properties, and any other property that might be impacted by a change. Any negative impact that is identified by such study must be eliminated or otherwise addressed and mitigated in a manner that is acceptable to the City and all parties affected by any negative impact. Any costs associated with the study of impacts of roadbed alteration or removal, related changes to the federal flood map series, and any costs for mitigation measures shall be the responsibility of the party or parties whose development plans in the project are directly dependent on alteration or removal of the existing YVRR roadbed within the project area. If more than one party is involved, such parties shall enter into an agreement specifying the percentage of costs that each individual party shall be responsible for.

~~18. No approvals will be adopted or permits issued by the City of Merced, for actual construction on the portion of the Fahrens Creek Specific Plan depicted on Attachment 3* and Exhibit 1*, as further described as that portion outlined by heavy dashed line, until authorization has been received from, or a waiver acceptable to the City has been granted by, the U.S. Army Corps of Engineers (the "Corps") regarding flood control measures to be taken to comply with that portion of the Merced Streams Group Project located within the Fahrens Creek Specific Plan. If the Corps does not authorize construction in that portion of the property, or grant a satisfactory waiver by December 31, 2005, the applicant may request review of this condition by the City Planning Commission to determine whether, at that time, an extension of this condition is necessary or advisable (*Attachment 3 to City Manager Administrative Report on Fahrens Creek Specific Plan Adoption, dated December 10, 2001; and Planning Commission/City Council Exhibit 1: Fahrens Creek Specific Plan.)~~

Deleted- See Page 5

Secretary's Note: The actions that took place at the City Council Meeting on December 17, 2001, as noted above, are referenced in the Developer Agreement between the City of Merced and Sequoia Land Investments; Matthew and Barbara Bruno; Doris Gonella; Lillian Dal Porto; and Edith M. Nahas that was recorded on April 4, 2002 (Instrument No. 16796, Volume 4414, Page 998, of the Official Records of Merced County, California).

February 4, 2015: At their regularly scheduled meeting of February 4, 2015, the Planning Commission considered and recommended to the City Council the approval of General Plan Amendment #14-05, Revision #2 to Fahrens Creek Specific Plan, Site

Utilization Plan Revision #4 to Planned Development (P-D) #4, subject to the Conditions set forth in Staff Report #15-05 (which included the deletion of Condition #18 of this Resolution as shown above) and the Mitigation Monitoring Program, Attachment L of Attachment H (Initial Study #14-26) of Staff Report #15-05.

EXPANDED INITIAL STUDY #00-31
for
FAHRENS CREEK ANNEXATION #00-03
and
GENERAL PLAN AMENDMENT #00-09

Mitigation Measures

A. EARTH

PROJECT SPECIFIC MITIGATION MEASURES:

A-1 **Grading and excavation shall be conducted according to City of Merced standards to reduce the effects of disruptions, displacement, compactions, and over-covering of soils.**

A-2 **The Project applicants shall prepare grading plans for individual projects for review and approval by the City of Merced Inspection Services, Engineering, and Public Works Departments prior to approval of building permits. The grading plans shall include the nature and extent of work proposed, phasing, and minimize the effects of disruptions, displacement, compaction, and over-covering of soils.**

A-3 **Prior to approval of any improvement or building plans, the City shall review plans for drainage and storm water run-off control systems and their component facilities, as required, to ensure that these systems are non-erosive in design.**

A-4 **Upon completion of construction, subsequent Projects shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods, subject to the approval of the City.**

A-5 **Projects under review shall be required to submit temporary erosion control plans for construction activities.**

A-6 **Prior to the issuance of a building permit, the applicant shall design all structures according to the Uniform Building Code Seismic Section 3.**

A-7 **A soils report shall be prepared by a qualified soils or civil engineer, consistent with the provisions of the State Subdivision Map Act, prior to approval of a final subdivision map or building permit, if applicable as required by Merced Municipal Code.**

A-8 **Building plans shall be reviewed by a registered engineer specializing in geo-technical assessments to ensure that the soils can support the load.**

B. AIR

PROJECT SPECIFIC MITIGATION MEASURES:

B-1 **All active portions of construction sites, earthen access roads, and material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used.**

B-2 **All clearing, grading, earth moving, or excavation activities shall cease during periods of winds greater than 20 miles per hour averaged over one hour.**

B-3 **All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.**

B-4 **The area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of disking for weed control and seeding and watering inactive portions of the construction site until grass is evident, if construction time frames warrant.**

B-5 **Construction site vehicle speeds shall be limited to 15 miles per hour.**

B-6 **If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.**

B-7 **Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.**

B-8 **All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.**

B-9 **When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.**

B-10 **Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.**

B-11 **Prior to issuance of a grading permit, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads),**

and Rule 8070 (Parking , Shipping, Receiving, Transfer, Fueling, and Service Areas).

B-12 At the City Planner's discretion, subsequent projects within the Project boundaries may be required to submit an air quality analysis to the City prior to construction. Such studies shall outline any impacts associated with specific processes or activities to be present on-site.

C. WATER

PROJECT SPECIFIC MITIGATION MEASURES:

C-1 Prior to approval of a Final Map or subsequent development projects, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and that improvements are consistent with the Merced County Critical Area Flooding and Drainage Plan and any updates.

C-2 Prior to alteration or removal of the existing elevated YVRR roadbed in the eastern portion of the project area, the property owner shall demonstrate, through competent analysis acceptable to the City of Merced, what effect removal of the roadbed will have on area flood waters delineated in the Special Flood Hazard Area identified on the east side of the roadbed, including impacts to other properties.

C-3 Prior to approval of subsequent development projects, the applicants shall demonstrate to the City that temporary erosion control measures will be followed during construction.

C-4 As individual projects are determined, the applicants shall provide detailed information to the City regarding projected water usage. The applicants shall provide all water system needs (including wells, water mains, etc.) for individual projects or pay equivalent fees to insure the construction of the necessary water infrastructure.

C-5 Industrial users shall recycle their own water if feasible and implement water conservation measures and techniques as determined for individual projects.

C-6 Areas within 100-year flood plains will be required to comply with all pertinent provisions of the City's Flood Damage Prevention Ordinance (MMC 17.48) and all updates.

APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR:

2-a) When site-specific development proposals with direct discharge into the area's surface water system are submitted to the City for review and action, Best Management options should be evaluated to determine need and feasibility.

2-b) Water conservation policy of the City should be periodically reviewed to determine need, appropriateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.

E. ANIMAL LIFE

APPLICABLE MITIGATION MEASURES OF THE SPECIAL-STATUS SPECIES ASSESSMENT:

E-1 **If any future development takes place during the Swainson's Hawk nesting season (late March through July), a pre-construction survey should be conducted by a qualified biologist to determine whether nesting activities are taking place within appropriate portions of the project area covered by this species assessment (Fahrens Creek corridor from the west edge of "R" Street to the north edge of Yosemite Avenue).**

E-2 **With regard to the Giant Garter Snake, for any development taking place in proximity to the Fahrens Creek corridor, from the west edge of "R" Street to the north edge of Yosemite Avenue: a) provide environmental awareness training to contractors doing work in this area; b) restrict construction along the Creek to only the snake's active season (May 1 through September 30); and c) have a qualified biologist conduct pre-construction surveys 24 hours in advance of construction activities.**

F. NOISE

PROJECT SPECIFIC MITIGATION MEASURES:

F-1 **A 6 foot or higher sound wall or earthen berm (or combination of both), or some other acceptable method for achieving comparable noise reduction, may need to be constructed to meet the City's outdoor noise level standards of DNL 60dB for new residential development adjacent to perimeter arterials (Yosemite Avenue and "R" Street). Depending upon the DNLs and the acoustical shielding provided by the first row of buildings (if any), existing and new residential development located a greater distance from the perimeter arterials may require lower sound walls or a combination of sound attenuation measures. As an alternative to sound walls, new dwelling units may be oriented so that the outdoor use areas would be shielded by the building.**

As necessary detailed noise projections should be prepared to corroborate earlier noise studies/projections and actual height requirements for sound walls, prior to recordation of final maps for each phase of residential development falling within applicable noise zones.

F-2 **Project residential developments constructed within pertinent noise zones in proximity to Yosemite Avenue and "R" Street would require sound-rated windows, as well as sound-rated exterior wall assemblies where necessary, or other acceptable methods of sound attenuation to achieve comparable noise reductions, to be consistent with the 45 dB interior noise level maximum.**

F-3 **Trucks used for the development of Fahrens Creek will be required to use the City's designated truck routes, to be demonstrated by the project applicant through the submittal of a construction traffic plan to the City Engineer prior to the issuance of grading permits. ~~A noise study may be required if trucks and heavy equipment are routed along roads that pass existing residential land uses~~.** (modified by Planning Commission action of December 5, 2001)

F-4 **All construction activity shall be conducted in accordance with City of Merced standards for times of operation.**

F-5 **Grading and construction activity shall be limited to daylight hours (between 7 a.m. and 7 p.m.) in areas where noise sensitive receptors are located.**

F-6 **In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.**

G. LIGHT and GLARE

PROJECT SPECIFIC MITIGATION MEASURE:

G-1 **The applicants shall utilize lighting fixtures of minimal wattage necessary to provide adequate lighting for security, commercial/industrial operations, and circulation. Light spill shall be controlled by baffles, cut-off lenses, and fixture height necessary to minimize spill-over onto adjacent properties. Prior to building permit approvals, lighting plans shall be submitted for review by the City which specifies lighting type, location, and methods for minimizing spill.**

M. TRANSPORTATION/CIRCULATION

PROJECT SPECIFIC MITIGATION MEASURES:

M-1 **The Project shall pay all fees as required under the City's Public Facilities Impact Fees (Chapter 17.62 of the Merced Municipal Code).**

M-2 **The developer shall construct all collector, local, or cul-de-sac streets within the Project boundaries to their ultimate right-of-way with full frontage improvements as defined by the *City of Merced Standard Designs for all Engineering Structures* and the *Merced Vision 2015 General Plan* and any amendments thereto. This will include its proportional share of the proposed Reverse Frontage Road North-South Collector to be located along the west boundary of AREA A, and the east boundary of AREA B (and, if included, AREA C). The timing of construction of the improvements are to be governed by the Subdivision Map Act and/or local ordinance.**

M-3 **The developer shall dedicate half the required right-of-way for all arterial and higher order streets adjacent to the Project boundaries as**

defined in the *Merced Vision 2015 General Plan*. This includes both Yosemite Avenue and "R" Street (each adjacent to AREA A), as well as Highway 59 (currently several design concepts are under study/evaluation by Caltrans) adjacent to AREA B (and, if included, AREA C).

Consistent with Mitigation Measure 7.b of the *Merced Vision 2015 General Plan EIR*, where the extent of right-of-way dedication exceeds the City's development standards for a collector street (currently 74 feet for a collector street located entirely within the Project and 37 feet for a collector abutting the Project), then the developer is eligible for reimbursements in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional dedication.

M-4 The developer shall construct the "collector equivalent" (74 feet) portion of the right-of-way, along with full frontage improvements along the Project boundaries and at least one travel lane in each direction, for all arterial and higher order streets within the Project boundaries. Consistent with Mitigation Measure 7.b of the *Merced Vision 2015 General Plan EIR*, where the extent of street improvements exceeds one-half of a "collector equivalent" street for a project fronting only one side of the street, the project is eligible for reimbursement for the cost of improvements exceeding the one-half "collector equivalent" in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional improvements.

M-5 The owner of each adjacent corner within Area A shall be responsible for one-quarter of the cost of a traffic signal, to City standards and the satisfaction of the City Engineer, at each quarter-mile/half-mile collector intersection with Yosemite Avenue, as well as the intersection of Lehigh Drive (extended) with "R" Street, whenever warrants are met in the judgment of the City Engineer. In such a case, installation of an intersection traffic signal by one developer could even be required at any of these locations by the City Engineer prior to full build-out of adjacent properties, if warrants are met, subject to adopted reimbursement requirements. Security shall be determined at the time of first subdivision map or other discretionary action.

APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR:

7a) Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection levels of service below "D." (Note: Studies are not anticipated, based upon current projections, but could be required in the event of future changes).

7b) The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.

N. PUBLIC SERVICES

PROJECT SPECIFIC MITIGATION MEASURE:

N-1 The applicants shall be required to provide a level of accessibility and ~~infrastructure support~~ rangeland management (firebreaks and/or disking) for fire suppression that is acceptable to and approved by the City of Merced. (modified by Planning Commission action of December 5, 2001)

SITE SPECIFIC ISSUES OF A MORE SIGNIFICANT NATURE THAN OTHERWISE IDENTIFIED BY PREVIOUS ENVIRONMENTAL REVIEW:

N-2 Careful coordination is required between City, developer(s), and School District regarding phasing of infrastructure improvements within the general area, to achieve safe, adequate access for both school construction and operation.

N-3 Prior to the issuance of building permits, the applicant shall be responsible for the payment of school facility impact fees as adopted by the Merced City School District and Merced Union High School District.

T. CULTURAL RESOURCES

PROJECT SPECIFIC MITIGATION MEASURES:

T-1 If evidence of archaeological artifacts is discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.

T-2 On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.

EXPANDED INITIAL STUDY #00-31
for
FAHRENS CREEK ANNEXATION
TO THE CITY OF MERCED

Appendix C
Mitigation Monitoring Program

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own "Mitigation Monitoring and Reporting Program" (MMC 19.28). The City's program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor's Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

1) The requirements of the adopted mitigation monitoring program for the Fahrens Creek Annexation shall run with the real property that is the subject of Annexation Application #00-31 to the City of Merced. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City's construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Fahrens Creek Annexation Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

Fahrens Creek Annexation to the City of Merced
Expanded Initial Study #00-31: Mitigation Monitoring Program (2)

General Plan Mitigation Measures

As a second tier environmental document, the *Expanded Initial Study for the Fahrens Creek Annexation to the City of Merced* incorporates some mitigation measures adopted as part of the *Merced Vision 2015 General Plan Program Environmental Impact Report* (SCH# 95082050), as mitigation for potential impacts of the Project. Therefore, following the Fahrens Creek Annexation Mitigation Monitoring Checklist (starting on page A-15) is a list of these relevant General Plan mitigation measures along with the General Plan Mitigation Monitoring Checklists (Forms A and B) to be used to verify that the General Plan mitigation measures have been met.

Noncompliance Complaints

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the City Planner in written form providing specific information on the asserted violation. The City Planner shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the City Planner shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

Monitoring Matrix

The following pages provide a series of tables identifying the mitigation measures proposed specifically for the Fahrens Creek Annexation. The columns within the tables are defined as follows:

Mitigation Measure: Summarizes the Mitigation Measure (referenced by number) identified in Expanded Initial Study #00-31.

Timing: Identifies at what point in time or phase of the project that the mitigation measure will be completed.

Agency/Department Consultation: This column references any public agency or City department with which coordination is required to satisfy the identified mitigation.

Verification: These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

Fahrens Creek Annexation
Mitigation Monitoring Checklist

Project Name:_____
File Number:_____
Approval Date:_____
Project Location_

Brief Project Description _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

	Mitigation Measure	*Timing*	*Agency or Department Consultation*	*City Verification (date and initials)*
	A. EARTH			
A-1	Grading and excavation shall be conducted according to City of Merced standards to reduce the effects of disruptions, displacement, compactions, and over-covering of soils.	*Building Permits*	*City Inspection Services, Engineering, & Public Works*	
A-2	The Project applicants shall prepare grading plans for individual projects for review and approval by the City of Merced Inspection Services, Engineering, and Public Works Departments prior to approval of building permits. The grading plans shall include the nature and extent of work proposed, phasing, and minimize the effects of disruptions, displacement, compaction, and over-covering of soils.	*Building Permits*	*City Inspection Services, Engineering, & Public Works*	
A-3	Prior to approval of any improvement or building plans, the City shall review plans for drainage and storm water run-off control systems and their component facilities, as required, to ensure that these systems are non-erosive in design.	*Tentative Map* *Building Permit*	*City Engineering & Public Works*	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
A-4	Upon completion of construction, subsequent Projects shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods, subject to the approval of the City.	*Certificate of Occupancy*	*City Inspection Services*	
A-5	Projects under review shall be required to submit temporary erosion control plans for construction activities.	*Building Permits*	*City Inspection Services*	
A-6	Prior to the issuance of a building permit, the applicant shall design all structures according to the Uniform Building Code Seismic Section 3.	*Building permits*	*City Inspection Services*	
A-7	A soils report shall be prepared by a qualified soils or civil engineer, consistent with the provisions of the State Subdivision Map Act, prior to approval of a final subdivision map or building permit, if applicable as required by Merced Municipal Code.	*Final Maps*	*City Engineering & Public Works*	
A-8	Building plans shall be reviewed by a registered engineer specializing in geo-technical assessments to ensure that the soils can support the load.	*Building Permits*	*City Inspection Services, Engineering, & Public Works*	
	B. AIR			
B-1	All active portions of construction sites, earthen access roads, and material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used.	*Building Permits*	*City Inspection Services*	
B-2	All clearing, grading, earth moving, or excavation activities shall cease during periods of winds greater than 20 miles per hour averaged over one hour.	*Building Permits*	*City Inspection Services*	
B-3	All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.	*Building Permits*	*City Inspection Services*	
B-4	The area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of disking for weed control and seeding and watering inactive portions of the construction site until grass is evident, if construction time frames warrant.	*Building Permits*	*City Inspection Services*	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
B-5	Construction site vehicle speeds shall be limited to 15 miles per hour.	*Building Permits*	*City Inspection Services*	
B-6	If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.	*Building Permits*	*SJVUAPCD*	
B-7	Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.	*Building Permits*	*City Inspection Services*	
B-8	All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.	*Building Permits*	*City Inspection Services*	
B-9	When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.	*Building Permits*	*City Inspection Services*	
B-10	Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.	*Building Permits*	*City Inspection Services*	
B-11	Prior to issuance of a grading permit, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads), and Rule 8070 (Parking , Shipping, Receiving, Transfer, Fueling, and Service Areas).	*Building Permits*	*SJVUAPCD*	
B-12	At the City Planner's discretion, subsequent projects within the Project boundaries may be required to submit an air quality analysis to the City prior to construction. Such studies shall outline any impacts associated with specific processes or activities to be present on-site.	*Site Plan Approval*	*City Planning*	
(B-13)	(General Plan 1-d) Development construction activity shall implement appropriate dust (PM10) suppression techniques as required by the SJVRAPCD.	*Building Permit/Construction*	*City Inspection Services*	

Mitigation Measure	*Timing*	*Agency or Department Consultation*	*City Verification (date and initials)*
C. WATER			
C-1 Prior to approval of a Final Map or subsequent development projects, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and that improvements are consistent with the *Merced County Critical Area Flooding and Drainage Plan* and any updates.	*Tentative Maps*	*City Engineering & Public Works*	
C-2 Prior to alteration or removal of the existing elevated YVRR roadbed in the eastern portion of the project area, the property owner shall demonstrate, through competent analysis acceptable to the City of Merced, what effect removal of the roadbed will have on area flood waters delineated in the Special Flood Hazard Area identified on the east side of the roadbed, including impacts to other properties.	*Tentative Maps* *Building Permits* *Conditional Use Permits/Site Plan Approvals*	*City Engineering & Public Works*	
C-3 Prior to approval of subsequent development projects, the applicants shall demonstrate to the City that temporary erosion control measures will be followed during construction.	*Building Permits*	*City Inspection Services*	
C-4 As individual projects are determined, the applicants shall provide detailed information to the City regarding projected water usage. The applicants shall provide all water system needs (including wells, water mains, etc.) for individual projects or pay equivalent fees to insure the construction of the necessary water infrastructure.	*Building Permits/ Parcel Maps*	*City Engineering & Public Works*	
C-5 Industrial users shall recycle their own water if feasible and implement water conservation measures and techniques as determined for individual projects.	*Building Permits*	*City Engineering & Public Works*	
C-6 Areas within 100-year flood plains will be required to comply with all pertinent provisions of the City's Flood Damage Prevention Ordinance (MMC 17.48) and all updates. (C-7) (General Plan 2-a) When site-specific development proposals with direct discharge into the area's surface water system are submitted to the City for review and action, Best Management options should be evaluated to determine need and feasibility.	*Building Permits* *Subdivision maps/Parcel maps/ Building permits*	*City Inspection Services & Engineering Engineering*	
(C-8) (General Plan 2-b) Water conservation policy of the City should be periodically reviewed to determine need, appropri- ateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.	*Subdivision maps/Parcelmaps/ Conditional Use Permits*	*Engineering/Public Works/ City Planning*	

	Mitigation Measure	*Timing*	*Agency or Department Consultation*	*City Verification (date and initials)*
	E. ANIMAL LIFE			
E-1	If any future development takes place during the Swainson's Hawk nesting season (late March through July), a pre-construction survey should be conducted by a qualified biologist to determine whether nesting activities are taking place within appropriate portions of the project area covered by this species assessment (Appendix A) (Fahrens Creek corridor from the west edge of "R" Street to the north edge of Yosemite Avenue).	*Final Maps* *Building Permits*	*City Planning* *CA Dept of Fish & Game*	
E-2	With regard to the Giant Garter Snake, for any development taking place in proximity to the Fahrens Creek corridor, from the west edge of "R" Street to the north edge of Yosemite Avenu: a) provide environmental awareness training to contractors doing work in this area; b) restrict construction along the Creek to only the snake's active season (May 1 through September 30); and c) have a qualified biologist conduct pre-construction surveys 24 hours in advance of construction activities.	*Final Maps* *Building Permits*	*City Planning* *CA Dept of Fish & Game*	
	F. NOISE			
F-1	A 6 foot or higher sound wall or earthen berm (or combination of both), or some other acceptable method for achieving comparable noise reduction, may need to be constructed to meet the City's outdoor noise level standards of DNL 60dB for new residential development adjacent to perimeter arterials (Yosemite Avenue and "R" Street). Depending upon the DNLs and the acoustical shielding provided by the first row of buildings (if any), existing and new residential development located a greater distance from the perimeter arterials may require lower sound walls or a combination of sound attenuation measures. As an alternative to sound walls, new dwelling units may be oriented so that the outdoor use areas would be shielded by the building. As necessary detailed noise projections should be prepared to corroborate earlier noise studies/projections and actual height requirements for sound walls, prior to recordation of final maps for each phase of residential development falling within applicable noise zones.	*Final Maps* *Building Permits*	*City Planning*	

Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
F-2 Project residential developments constructed within pertinent noise zones in proximity to Yosemite Avenue and "R" Street would require sound-rated windows, as well as sound-rated exterior wall assemblies where necessary, or other acceptable methods of sound attenuation to achieve comparable noise reductions, to be consistent with the 45 dB interior noise level maximum.	*Final Maps* *Building Permits*	*City Planning*	
F-3 Trucks used for the development of Fahrens Creek will be required to use the City's designated truck routes, to be demonstrated by the project applicant through the submittal of a construction traffic plan to the City Engineer prior to the issuance of grading permits.		*City Planning* *City Inspection Services*	
F-4 All construction activity shall be conducted in accordance with City of Merced standards for times of operation.	*Building Permits*	*City Inspection Services*	
F-5 Grading and construction activity shall be limited to daylight hours(between 7 a.m. and 7 p.m.) in areas where noise sensitive receptors are located.	*Building Permits*	*City Inspection Services*	
F-6 In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.	*Building Permits*	*City Inspection Services*	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
	G. LIGHT AND GLARE			
G-1	The applicants shall utilize lighting fixtures of minimal wattage necessary to provide adequate lighting for security, industrial operations, and circulation. Light spill shall be controlled by baffles, cut-off lenses, and fixture height necessary to minimize spill-over onto adjacent properties. Prior to building permit approvals, lighting plans shall be submitted for review by the City which specifies lighting type, location, and methods for minimizing spill.	*Building Permits*	*City Planning*	
	M. TRANSPORTATION /CIRCULATION			
M-1	The Project shall pay all fees as required under the City's Public Facilities Impact Fees (Chapter 17.62 of the Merced Municipal Code).	Certificate of Occupancy	City Planning & City Engineer	
M-2	The developer shall construct all collector, local, or cul-de-sac streets within the Project boundaries to their ultimate right-of-way with full frontage improvements as defined by the City of Merced Standard Designs for all Engineering Structures and the Merced Vision 2015 General Plan and any amendments thereto. This will include its proportional share of the proposed Reverse Frontage Road North-South Collector to be located along the west boundary of AREA A/east boundary of AREA B (and, if included, along the east boundary of AREA C), and any new interior streets within the Project boundaries. The timing of construction of the improvements is to be governed by the Subdivision Map Act and/or local ordinance.	Tentative Maps/ Parcel Maps/ Site Plan Reviews	City Planning & Engineering	
M-3	The developer shall dedicate half the required right-of-way for all arterial and higher order streets adjacent to the Project boundaries as defined in the *Merced Vision 2015 General Plan*. This includes both Yosemite Avenue and "R" Street (each adjacent to AREA A), as well as Highway 59 (currently several design concepts are under study/evaluation by Caltrans) adjacent to AREA B (and, if included, AREA C). Consistent with Mitigation Measure 7.b of the Merced Vision 2015 General Plan EIR, where the extent of right-of-way dedication exceeds the City's development standards for a collector street (currently 74 feet for a collector street located entirely within the Project and 37 feet for a collector abutting the Project), then the developer is eligible for reimbursements in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional dedication.	Tentative Maps/Site Plan Reviews	City Planning & Engineering	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
M-4	The developer shall construct the "collector equivalent" (74 feet) portion of the right-of-way, along with full frontage improvements along the Project boundaries and at least one travel lane in each direction, for all arterial and higher order streets within the Project boundaries. Consistent with Mitigation Measure 7.b of the Merced Vision 2015 General Plan EIR, where the extent of street improvements exceeds one-half of a "collector equivalent" street for a project fronting only one side of the street, the project is eligible for reimbursement for the cost of improvements exceeding the one-half "collector equivalent" in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional improvements.	Tentative Maps/ Parcel Maps/ Site Plan Reviews	City Planning & Engineering	
M-5	The owner of each adjacent corner within AREA A shall be responsible for one-quarter of the cost of a traffic signal, to City standards and the satisfaction of the City Engineer, at each quarter mile/half-mile collector intersection with Yosemite Avenue, as well as the intersection of Lehigh Drive (extended) with "R" Street, whenever warrants are met in the judgment of the City Engineer. In such a case, installation of an intersection traffic signal by one developer could even be required at any of these locations by the City Engineer prior to full build-out and adjacent properties, if warrants are met, subject to adopted reimbursement requirements. Security shall be determined at the time of first subdivision map or other discretionary action.	Tentative Maps/ Parcel Maps/ Site Plan Reviews	City Planning & Engineering	
(M-6)	(General Plan 7a) Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection level of service below "D." (Note: Studies are not anticipated, based upon current projections, but could be required in the event of furture changes).	Subdivision Map/ Conditional Use Permit	Engineering	
(M-7)	(General Plan 7b) The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.	Subdivision Map/ Conditional Use Permit	Engineering/Planning/ Finance	

	N. PUBLIC SERVICES			
	FIRE			
N-1	The applicants shall be required to provide a level of accessibility and rangeland management (firebreaks and/or disking) for fire suppression that is acceptable to the City of Merced.	Tentative Maps/ Parcel Maps Building Permits	City Planning & Fire	
	SCHOOLS			
N-2	Careful coordination is required between City, developer(s), and School District regarding phasing of infrastructure improvements within the general area, to achieve safe, adequate access for both school construction and operation.	Tentative Maps/ Parcel Maps Building Permits	Planning staff, City Engineer, and City School District	
N-3	Prior to the issuance of building permits, the applicant shall be responsible for the payment of school facility impact fees as adopted by the Merced City School District and Merced Union High School District.	Building Permits	City School District and MUHSD	
(N-4)	(General Plan 8-c) Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.	Tentative Maps/ Parcel Maps/ Conditional Use Permits	Planning staff, City Engineer, and City School District	
(N-5)	(General Plan 8-d) Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.	Building Permit	Planning Staff/ Finance	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
	T. CULTURAL RESOURCES			
T-1	If evidence of archaeological artifacts is discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.	*Building Permits*	*City Inspection Services*	
T-2	On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.	*Building Permits*	*City Inspection Services*	

Copies of This Form Distributed To:

_____ City Council _____ City Manager _____ City Planner _____ Public Works Dir._____ City Engineer _____ Fire Chief
_____ Police Chief _____ Leisure Serv. Dir. _____ County of Merced (Dept. _____) _____ Other (List_____)
_____ Responsible Agency: (List _____)

I hereby certify that I have inspected the project site and that the above information is true to the best of my knowledge.

Name: (Print) _____Representing: (Agency/Firm) _____

Signature: _____Date:_____

Planning Commission Minutes Excerpt
JANUARY 23, 2019

4.1 General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan, initiated by M & B Bruno Family LP, property owners. The application is a request to change the General Plan designation for approximately 10.73 acres of land on the west side of San Augustine, approximately 980 feet north of Yosemite Avenue, from Business Park (BP) to High Medium Density Residential (HMD). The request also involves a Revision to the Fahrens Creek Specific Plan and a Site Utilization Plan Revision to Planned Development (P-D) #46 to change the land use designation from "mini-storage" to "multi-family.".

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #19-05.

Public testimony was opened at 7:13 p.m.

Speaker from the Audience in Favor:

RICK MUMMERT, Benchmark Engineering, representative for Applicant, Modesto, CA

Mr. MUMMERT took time to thank City staff for their input and guidance regarding the project and gave a brief overview of the project.

The Commission asked questions regarding architecture style and parking layout.

Speaker from the Audience (Neutral):

JOEL MOSES, Merced

MR. MOSES inquired on the capacity of existing sewer services and if there was a need for expanding the capacity for this project. He also had clarifying questions regarding the project's traffic safety.

Associate Planner NELSON addressed Mr. MOSES' questions.

Commissioner RASHE voiced a concern of the project's impact on traffic in regards to Highway 59.

Commissioner CAMPER asked Mr. MUMMERT to clarify the anticipated timeline of the construction project.

No one spoke in opposition to the project.

Public testimony was completed at 7:25 p.m.

M/S PADILLA-CAMPER, and carried by the following vote, , to recommend to City Council adoption of a Negative Declaration regarding Initial Study #18-60, and approval of General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan, subject to the Findings and thirty-eight (38) Conditions set forth in Staff Report #19-05 (RESOLUTION #4013):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina
NOES: None
ABSENT: None
ABSTAIN: None

RESOLUTION NO. 2019-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING A NEGATIVE DECLARATION FOR GENERAL PLAN AMENDMENT #18-03, REVISION #4 TO THE FAHRENS CREEK SPECIFIC PLAN, AND SITE UTILIZATION PLAN REVISION #6 TO PLANNED DEVELOPMENT (P-D) #46 FOR 10.73 ACRES OF LAND GENERALLY LOCATED ON THE WEST SIDE OF SAN AUGUSTINE AVENUE AT PACIFIC DRIVE AND APPROVING GENERAL PLAN AMENDMENT #18-03 FOR THE SAME PROPERTY CHANGING THE GENERAL PLAN DESIGNATION FROM BUSINESS PARK (BP) TO HIGH-MEDIUM DENSITY RESIDENTIAL (HMD) AND APPROVING REVISION #4 TO THE FAHRENS CREEK SPECIFIC PLAN CHANGING THE LAND USE DESIGNATION FROM "MINI-STORAGE" TO "MULTI-FAMILY"

WHEREAS, the City is processing an application for a General Plan Amendment, Revision to the Fahrens Creek Specific Plan and Site Utilization Plan Revision to Planned Development (P-D) #46 for 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive, and more particularly described in Exhibit A and shown on the map at Exhibit B, both attached hereto and incorporated herein by this reference, where an environmental review was required; and

WHEREAS, the Planning Commission of the City of Merced held a noticed public hearing on January 23, 2019, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the application; and

WHEREAS, after hearing all of the evidence and testimony, the Planning Commission adopted Resolution #4013, attached hereto as Exhibit C, and incorporated herein by reference, recommending that the City Council approve the General Plan Amendment and Environmental Review (Negative Declaration); and

WHEREAS, The City Council held a noticed public hearing on March 4, 2019, 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.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCED AS FOLLOWS:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT. Based upon the evidence and testimony in the record at the City Council public hearing, the City Council exercising its independent judgment and review, hereby adopts and approves the Negative Declaration following Environmental Review #18-60 pursuant to the provisions of the California Environmental Quality Act.

SECTION 2. GENERAL PLAN AMENDMENT ADOPTION. The General Plan of the City of Merced is hereby amended by approving General Plan Amendment #18-03, which changes the General Plan designation of 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive from Business Park (BP) to High-Medium Density Residential (HMD) as shown on Exhibit D, attached hereto and incorporated herein by this reference.

SECTION 3. ADOPTION OF REVISION TO FAHRENS CREEK SPECIFIC PLAN. The Fahrens Creek Specific Plan is hereby revised by approving Revision #4 to the Fahrens Creek Specific Plan, for 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive, which changes the land use designation from Mini-Storage to Apartments as shown on Exhibit E, attached hereto and incorporated herein by this reference.

SECTION 4. APPROVAL OF LEGISLATIVE ACTION AGREEMENT. The Legislative Action Agreement between the City of Merced and M & B Bruno Family, L.P., a California Limited Partnership, pertaining to the approvals granted herein and the development of the property subject to these approvals is hereby approved. The approvals granted herein are contingent upon the property owner executing and returning the Legislative Action Agreement and the documents being recorded. The City Manager or Assistant City Manager is hereby authorized to execute the Legislative Action Agreement on behalf of the City of Merced.

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2019, 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

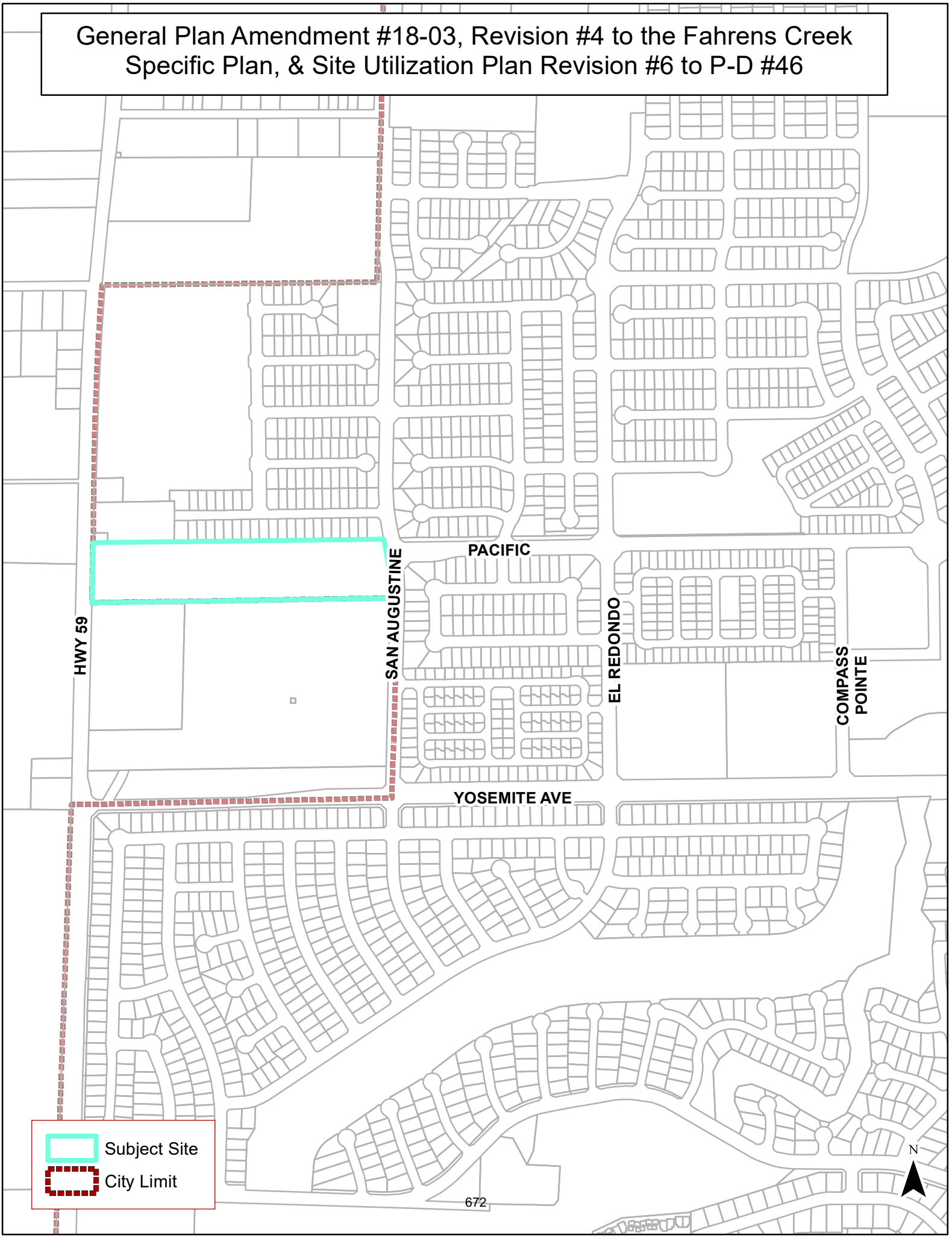
EXHIBIT A
LEGAL DESCRIPTION

Lot 123 of Sunrise at Compass Pointe, County of Merced, State of California, according to the Map thereof Recorded on September 18, 2001, in Volume 60 at Page 12, Official Records of Merced County.

APN: 206-050-017

EXHIBIT A

General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, & Site Utilization Plan Revision #6 to P-D #46



CITY OF MERCED
Planning Commission

Resolution #4013

WHEREAS, the Merced City Planning Commission at its regular meeting of January 23, 2019, held a public hearing and considered **General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan,** initiated by M & B Bruno Family LP, property owners. The application is a request to change the General Plan designation for approximately 10.73 acres of land on the west side of San Augustine, approximately 980 feet north of Yosemite Avenue, from Business Park (BP) to High Medium Density Residential (HMD). The request also involves a Revision to the Fahrens Creek Specific Plan and a Site Utilization Plan Revision to Planned Development (P-D) #46 to change the land use designation from "mini-storage" to "multi-family"; also known as Assessor's Parcel No. 206-050-017; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #19-05; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Initial Study #18-60, and approval of General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner CAMPER, and carried by the following vote:

AYES:	Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina
NOES:	None
ABSENT:	None
ABSTAIN:	None

EXHIBIT C

Adopted this 23rd day of January 2019

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:GPA #18-03/SUP Rev #6 to PD #46/Rev #4 to Fahrens Creek Specific Plan

Conditions of Approval
Planning Commission Resolution # 4013
General Plan Amendment #18-03, Site Utilization Plan #6 to Planned Development (PD) #46, and Revision #4 to Fahrens Creek Specific Plan

1. The proposed project shall be constructed/designed in substantial compliance with the Revised Site Plan (Attachment E of Planning Commission Staff Report #19-05) and the building elevations and floor plans (Attachments C and D of Planning Commission Staff Report #19-05), except as modified by the conditions. The Site Plan Review Committee shall approve the final design for the project, and may approve up to 176 units.
2. The Project shall comply with the applicable conditions set forth in Planning Commission Resolution #2675 (Attachment F of Planning Commission Staff Report #19-05) for Annexation Application #00-03, Pre-Zone Application #00-03, General (including Specific) Plan Amendment #00-09, and Environmental Review #00-31 (including the Mitigation Monitoring Program found at Attachment G of Planning Commission Staff Report #19-05) previously approved for this project, except as amended by this action.
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. Approval of the General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision are subject to the applicant's entering into a written (legislative action) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

6. 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.

7. 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.

8. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before the issueance of the first building permit. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.

9. In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #46.

10. All public improvements shall be installed along the project frontage to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited, to sidewalk curb, gutter, street trees, and street lights. All public improvements shall be installed along the SR 59 property frontage in compliance with Caltrans Standards, as well as City of Merced Standards. This may include sidewalk, curb, gutter, street lights, and landscaping along the SR 59 street frontage.

11. Street trees shall be planted along the project frontage on San Augustine Avenue in compliance with City Standards.

12. The project applicant shall contribute to the cost of the future traffic signal at San Augustine Avenue and Yosemite Avenue. This amount shall be determined by the City Engineer based on the proportion of vehicle trips generated by this project expected to utilize the intersection. This amount shall be paid or bonded for prior to the issuance of the first building permit.

13. The project shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).

14. The project shall extend the sewer line in San Augustine Avenue, south across the entire property frontage or as required by the City Engineer.

15. All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer.

16. All new utilities shall be installed underground.

17. The fire access lanes shall be constructed to withstand the weight of a fire truck, but still provide green space and pedestrian access. The use of a turf-block material is recommended or another similar type material, approved by the Fire Department and Site Plan Review Committee.

18. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.

19. Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.

20. An Emergency Vehicle Access from SR 59 onto the project site shall be granted prior to the issuance of a building permit. This access shall be constructed to meet Fire Department Standards. This access shall be gated to only allow emergency vehicle access and shall be equipped with a knox-box or other device approved by the Fire Department.

21. The property owner shall dedicate an additional 14 feet of right-of-way along SR 59 prior to the issuance of a building permit, unless otherwise approved by the City Engineer and City Land Surveyor, based on Caltrans requirements.

22. The drive aisles through the parking lot shall be posted as "no parking," unless otherwise approved by the City Fire Department.

23. The applicant shall provide written documentation from PG&E agreeing to allow the proposed parking spaces within their easement area. This documentation shall be provided with the submittal of the first building permit that includes the parking in this area.

24. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.

25. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

26. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.

27. All landscaping shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping.

28. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.

29. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.

30. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of 1 tree for every 6 parking spaces. No trees shall be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees may be required at the discretion of the Development Services Director. Trees within the PG&E easement shall comply with the regulations of this easement which limits the height of trees to a maximum of 15 feet at full maturity.

31. The on-site landscape design shall include the use of xeriscape landscaping and comply with all California Building Code regulations or other applicable state and/or local requirements as well as Chapter 20.36 of the City's Zoning Ordinance.

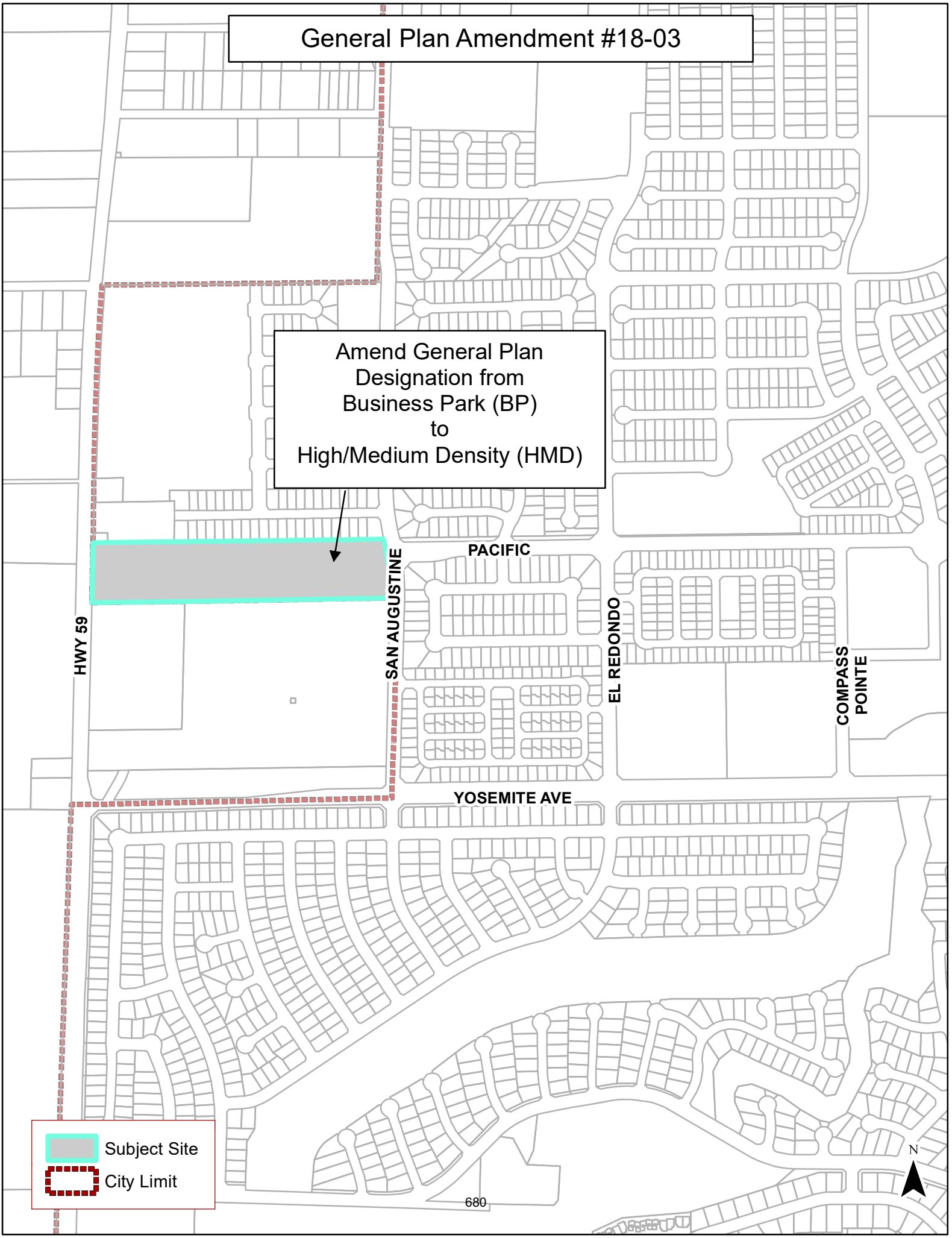
32. The median between the driveways shall be provided with low-lying landscaping. Nothing in this area shall be taller than 2 ½ feet.

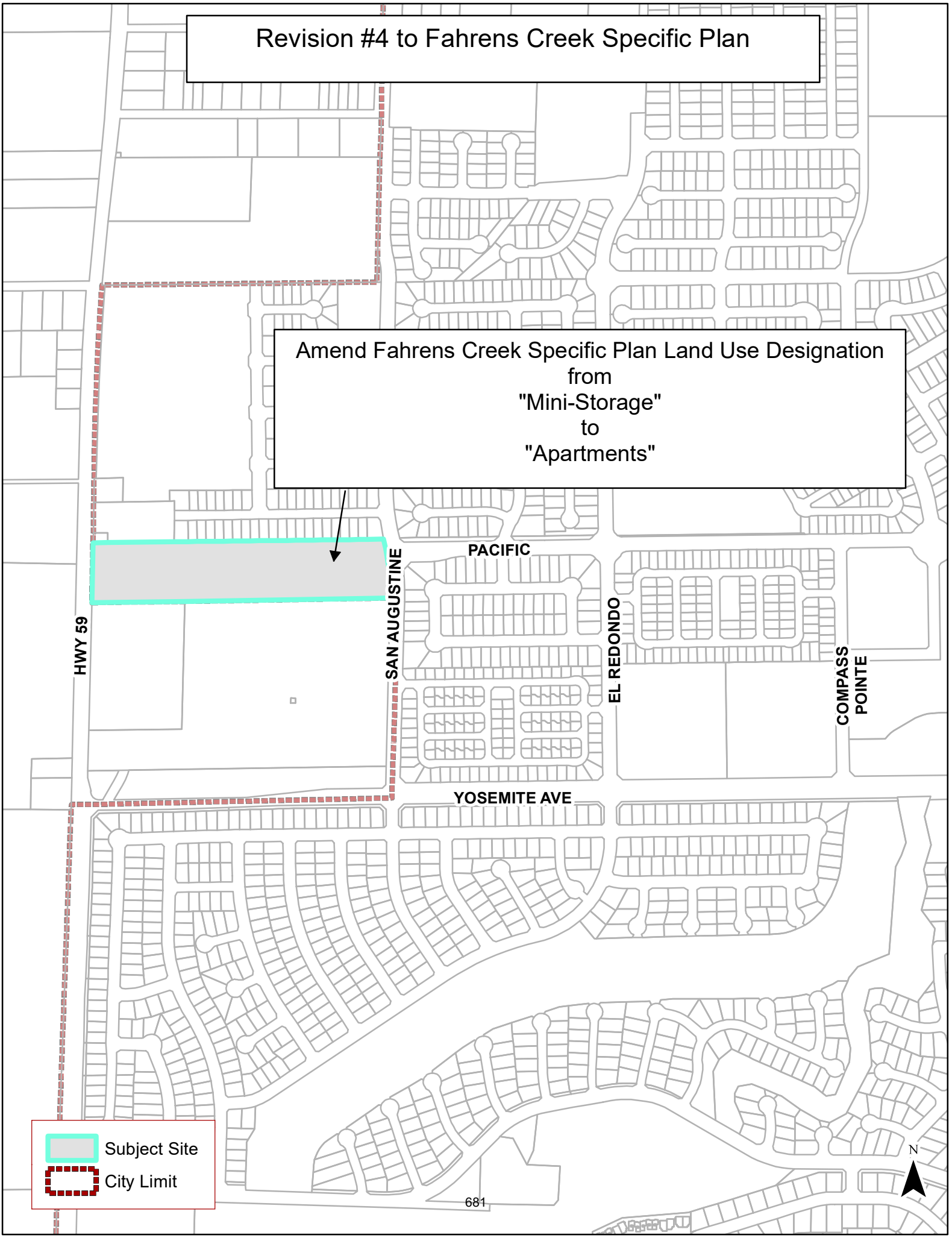
33. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.

34. All parking lot and other exterior lighting shall be oriented in such a way so that is does not spillover onto adjacent properties.

35. All mechanical equipment shall be screened from public view.

36. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall


General Plan Amendment #18-03
Amend General Plan Designation from Business Park (BP) to High/Medium Density (HMD)
PACIFIC
HWY 59
SAN AUGUSTINE
EL REDONDO
COMPASS POINTE
YOSEMITE AVE
680
Subject Site
City Limit
N


Revision #4 to Fahrens Creek Specific Plan
Amend Fahrens Creek Specific Plan Land Use Designation
from
"Mini-Storage"
to
"Apartments"
HWY 59
SAN AUGUSTINE
PACIFIC
EL REDONDO
COMPASS POINTE
YOSEMITE AVE
Subject Site
City Limit
N
681

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING SITE UTILIZATION PLAN REVISION #6 TO PLANNED DEVELOPMENT (P-D) #46 CHANGING THE LAND USE DESIGNATION FROM "BUSINESS PARK" (BP) TO "HIGH-MEDIUM DENSITY RESIDENTIAL" (HMD) FOR 10.73 ACRES OF LAND GENERALLY LOCATED ON THE WEST SIDE OF SAN AUGUSTINE AVENUE AT PACIFIC DRIVE

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT TO CODE. The property described in Exhibit A and shown on the map at Exhibit B, attached hereto, and by reference made a part of this Ordinance, is hereby re-designated as shown on said Official Site Utilization Plan from "Business Park" (BP) to "High-Medium Density Residential" (HMD).

SECTION 2. CHANGE OF MAP. The Director of Development Services is hereby directed to make the appropriate markings on the Official Site Utilization Plan for Planned Development #46 in conformance with this Ordinance and the provisions of Title 20 of the Merced Municipal Code.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 4. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

_____
Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
City Attorney Date

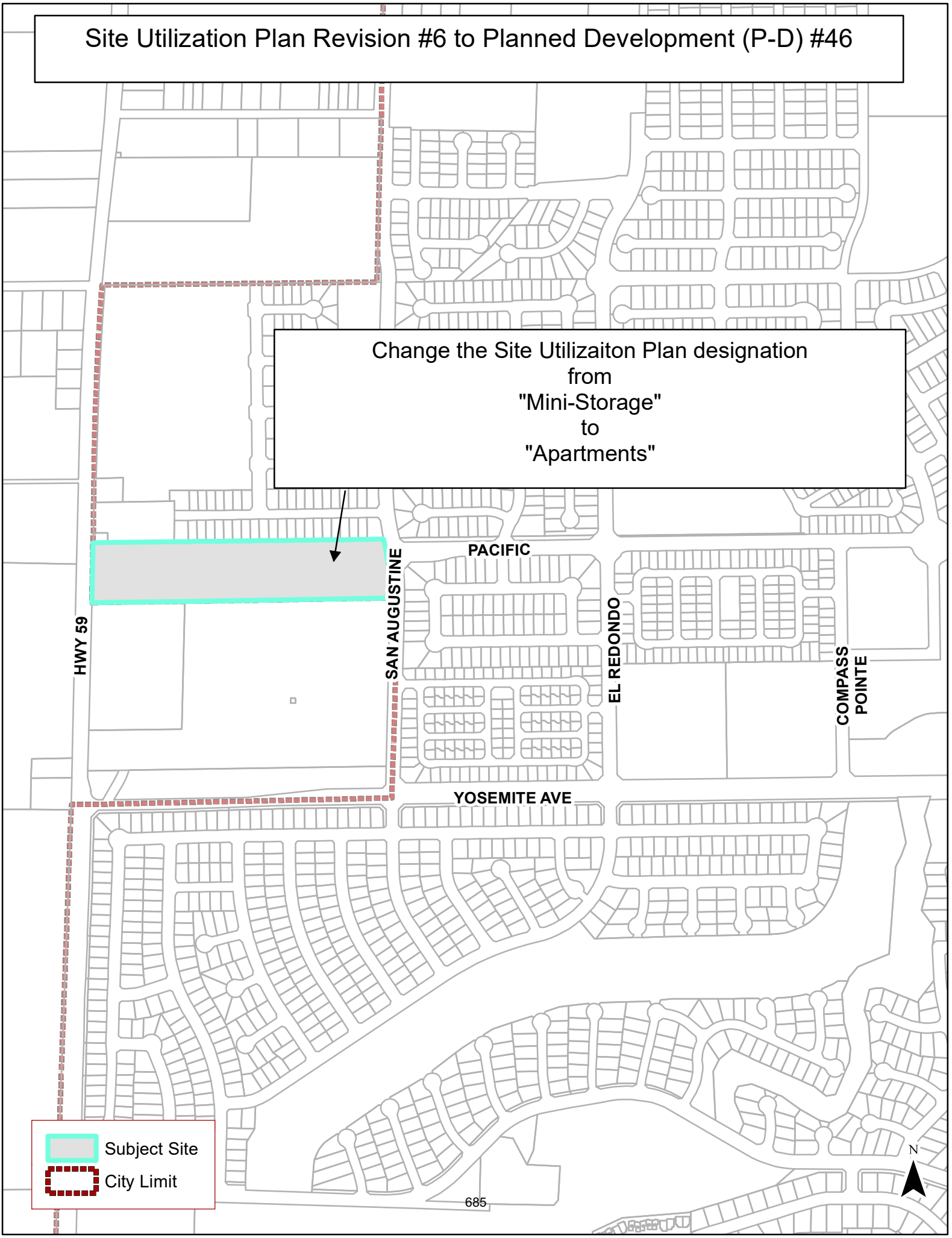
X:\Ordinances\2019\Planning\SUP Revision - San Augustine at Pacific Dr.doc

EXHIBIT A
LEGAL DESCRIPTION

Lot 123 of Sunrise at Compass Pointe, County of Merced, State of California, according to the Map thereof Recorded on September 18, 2001, in Volume 60 at Page 12, Official Records of Merced County.

APN: 206-050-017

Site Utilization Plan Revision #6 to Planned Development (P-D) #46



RECORDING REQUESTED BY:

City of Merced, A California charter municipal corporation

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 West 18th Street
Merced, California 95340

(Above for Recorder's Use Only)

LEGISLATIVE ACTION AGREEMENT

THIS AGREEMENT is made and entered into as of this _____ day of _____ 2019, by and between the City of Merced, a California Charter Municipal Corporation ("City") and M & B Bruno Family, L.P., a California Limited Partnership ("Owner").

W I T N E S S E T H

WHEREAS, Owner has applied to the City for General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision to Planned Development (P-D #46 (the "Entitlements") for the property generally located on the west side of San Augustine Avenue at Pacific Drive, and as legally described on Exhibit "A" and shown on the map at Exhibit "B," attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, City is willing to consider the Owner's request provided that certain conditions are met; and

WHEREAS, the Owner is willing to enter into this Legislative Action Agreement with respect to the Property and the project contemplated by the Entitlements (the "Project") should the Entitlements be approved or conditionally approved by the City.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the parties hereto agree as follows:

1. The Owner, for themselves and all successors thereto, agree to pay all City and school district fees, taxes, and/or assessments applicable to the Property and the Project in effect on the date of subdivision and/or permit approval, any increase in those fees, taxes, and/or assessments, and any new fees, taxes, and/or assessments which are in effect at the time building permits are issued, which may include public facility impact fees, other impact fees as applicable, and any Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc., and to comply with the additional conditions set forth in Planning Commission Resolution #4013, Exhibit "C" attached hereto and incorporated herein by this reference. Payment shall be made at the time of building permit issuance unless an Ordinance or other requirement of the City mandates or permits payment of such fees, taxes, and/or assessments at an earlier or subsequent time. The foregoing obligation shall apply to each Owner with respect to the portion of the Property owned by that Owner at the time payment or performance is due.

2. The Owner desires to comply with the conditions of approval set forth on Exhibit "C" and within this Agreement with respect to development of the Project and acknowledges that the conditions are necessary to mitigate the environmental impact caused by the Owner's development of the Project on the Property or are necessary to offset the costs to the City generated by the Owner's development of the Project including sewer connection costs pursuant to Chapter 15.16 of the Merced Municipal Code. The foregoing obligation shall apply to each

Owner with respect to the portion of the Property owned by that Owner at the time compliance is required.

3. The Owner agrees to pay all sewer connection costs imposed by the City as delineated in Section 15.16.070 of the Merced Municipal Code and to pay all other costs required by Chapter 15.16 of the Merced Municipal Code.

4. The Owner shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and its/their officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments (hereinafter "Claims") against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul the approval of the Entitlements by 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 Entitlements. Furthermore, the Owner 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 another governmental entity in which the Owner'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 Owner 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 Owner 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.

5. City, on its part, agrees to approve the Entitlements in accordance with Exhibits "D" and "E".

6. No building permit or other permit shall be issued for the Project that is not in compliance with this Agreement.

7. It is expressly agreed that this Agreement is not intended to limit the power of the City to impose other requirements, limitations, or fees, etc., as a condition of development, and does not relieve the Owner from complying with all other requirements that may be imposed as a condition of development, whether now in existence or hereinafter imposed by the City whether by zone change, subdivision map approval, ordinance, resolution, use permit, or otherwise. The parties agree that this Paragraph does not apply to the approval of the final map and issuance of building permits for project(s) subject to this Agreement on the property described in Exhibit "A" and shown on Exhibit "B."

8. To the extent allowed by law, the conditions of this Agreement constitute covenants running with the land, and shall be enforceable by the City or by any present or future owner of any of the land described in Exhibit "A" and shown on Exhibit "B."

9. The Owner agrees to comply with and abide by all conditions set forth by the City relating to the development of the property subject to this Agreement.

10. In the event of default by the Owner, and in addition to any other remedy available to the City, the City shall have the right to rezone the land back to its original designation.

11. In the event that either City or the Owner shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

12. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

13. This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

14. This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____ 2-6-19
City Attorney Date

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ACCOUNT DATA:

BY: _____
Verified by Finance Officer

OWNER
M & B BRUNO FAMILY, L.P.,
A California Limited Partnership

By: _____
Anthony M. Bruno

Its: Manager

TAX PAYER ID: _____

ADDRESS: 1819 S. Walnut Road
Turlock, CA 95380

TELEPHONE: 209-667-6455
FAX: _____
EMAIL: tony@tdr-inc.com

{SIGNATURES MUST BE NOTARIZED}

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Stanislaus)

On February 26, 2019 before me, V. Miranda, Notary Public
(insert name and title of the officer)

personally appeared Anthony M Bruno,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature V. Miranda (Seal)

V. MIRANDA
Commission # 2130128
Notary Public - California
Stanislaus County
My Comm. Expires Nov 11, 2019

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ **(Seal)**

EXHIBIT A
LEGAL DESCRIPTION

Lot 123 of Sunrise at Compass Pointe, County of Merced, State of California, according to the Map thereof Recorded on September 18, 2001, in Volume 60 at Page 12, Official Records of Merced County.

APN: 206-050-017

General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, & Site Utilization Plan Revision #6 to P-D #46

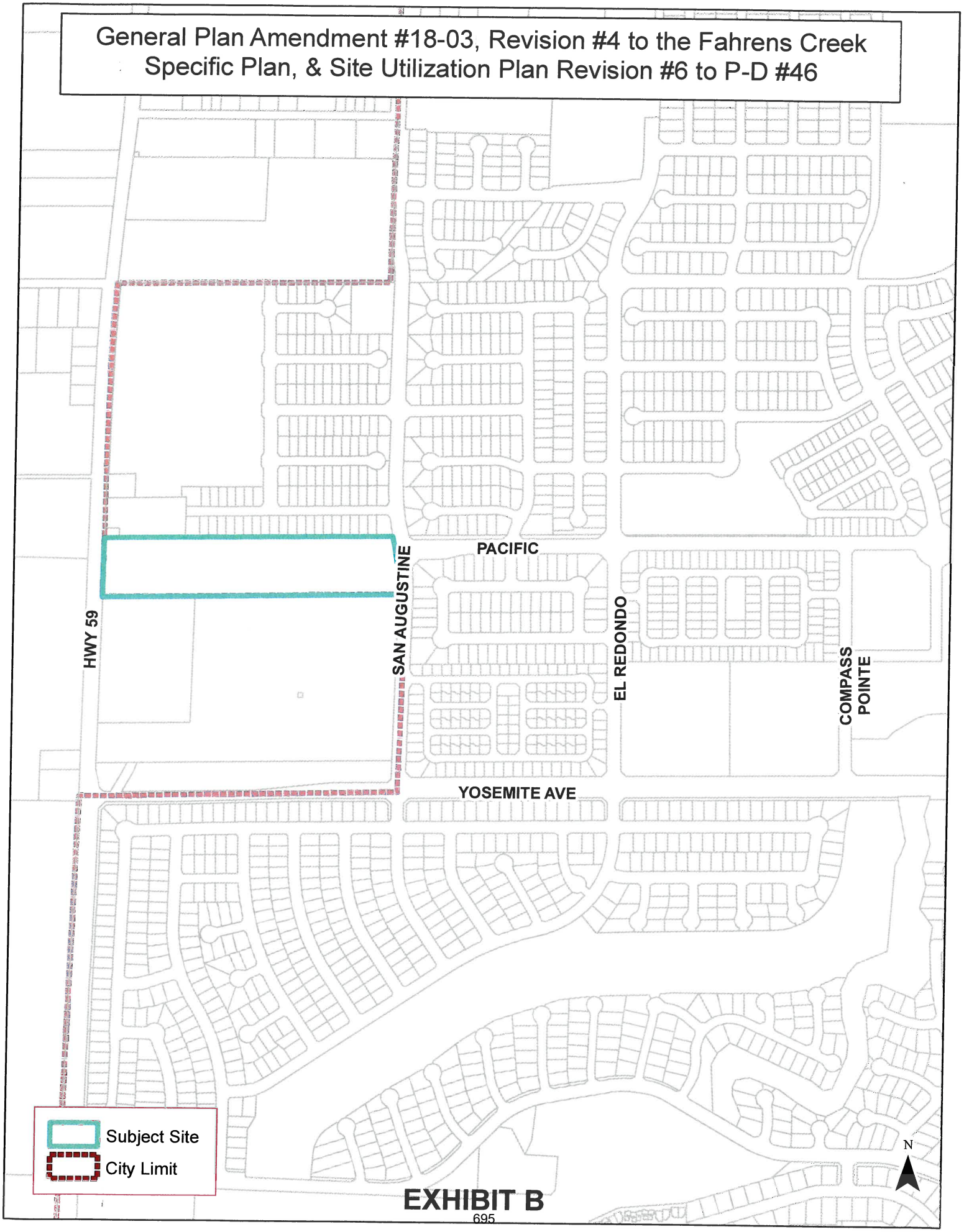


EXHIBIT B

CITY OF MERCED
Planning Commission

Resolution #4013

WHEREAS, the Merced City Planning Commission at its regular meeting of January 23, 2019, held a public hearing and considered **General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan**, initiated by M & B Bruno Family LP, property owners. The application is a request to change the General Plan designation for approximately 10.73 acres of land on the west side of San Augustine, approximately 980 feet north of Yosemite Avenue, from Business Park (BP) to High Medium Density Residential (HMD). The request also involves a Revision to the Fahrens Creek Specific Plan and a Site Utilization Plan Revision to Planned Development (P-D) #46 to change the land use designation from "mini-storage" to "multi-family"; also known as Assessor's Parcel No. 206-050-017; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #19-05; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Initial Study #18-60, and approval of General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner CAMPER, and carried by the following vote:

AYES:	Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina
NOES:	None
ABSENT:	None
ABSTAIN:	None

EXHIBIT C

Adopted this 23rd day of January 2019

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:GPA #18-03/SUP Rev #6 to PD #46/Rev #4 to Fahrens Creek Specific Plan

Conditions of Approval
Planning Commission Resolution # 4013
General Plan Amendment #18-03, Site Utilization Plan #6 to Planned Development (PD) #46, and Revision #4 to Fahrens Creek Specific Plan

1. The proposed project shall be constructed/designed in substantial compliance with the Revised Site Plan (Attachment E of Planning Commission Staff Report #19-05) and the building elevations and floor plans (Attachments C and D of Planning Commission Staff Report #19-05), except as modified by the conditions. The Site Plan Review Committee shall approve the final design for the project, and may approve up to 176 units.

2. The Project shall comply with the applicable conditions set forth in Planning Commission Resolution #2675 (Attachment F of Planning Commission Staff Report #19-05) for Annexation Application #00-03, Pre-Zone Application #00-03, General (including Specific) Plan Amendment #00-09, and Environmental Review #00-31 (including the Mitigation Monitoring Program found at Attachment G of Planning Commission Staff Report #19-05) previously approved for this project, except as amended by this action.

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. Approval of the General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision are subject to the applicant's entering into a written (legislative action) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

6. 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.

7. 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.

8. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before the issueance of the first building permit. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.

9. In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #46.

10. All public improvements shall be installed along the project frontage to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited, to sidewalk curb, gutter, street trees, and street lights. All public improvements shall be installed along the SR 59 property frontage in compliance with Caltrans Standards, as well as City of Merced Standards. This may include sidewalk, curb, gutter, street lights, and landscaping along the SR 59 street frontage.

11. Street trees shall be planted along the project frontage on San Augustine Avenue in compliance with City Standards.

12. The project applicant shall contribute to the cost of the future traffic signal at San Augustine Avenue and Yosemite Avenue. This amount shall be determined by the City Engineer based on the proportion of vehicle trips generated by this project expected to utilize the intersection. This amount shall be paid or bonded for prior to the issuance of the first building permit.

13. The project shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).

14. The project shall extend the sewer line in San Augustine Avenue, south across the entire property frontage or as required by the City Engineer.

15. All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer.

16. All new utilities shall be installed underground.

17. The fire access lanes shall be constructed to withstand the weight of a fire truck, but still provide green space and pedestrian access. The use of a turf-block material is recommended or another similar type material, approved by the Fire Department and Site Plan Review Committee.

18. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.

19. Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.

20. An Emergency Vehicle Access from SR 59 onto the project site shall be granted prior to the issuance of a building permit. This access shall be constructed to meet Fire Department Standards. This access shall be gated to only allow emergency vehicle access and shall be equipped with a knox-box or other device approved by the Fire Department.

21. The property owner shall dedicate an additional 14 feet of right-of-way along SR 59 prior to the issuance of a building permit, unless otherwise approved by the City Engineer and City Land Surveyor, based on Caltrans requirements.

22. The drive aisles through the parking lot shall be posted as "no parking," unless otherwise approved by the City Fire Department.

23. The applicant shall provide written documentation from PG&E agreeing to allow the proposed parking spaces within their easement area. This documentation shall be provided with the submittal of the first building permit that includes the parking in this area.

24. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.

25. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

26. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.

27. All landscaping shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping.

28. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.

29. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.

30. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of 1 tree for every 6 parking spaces. No trees shall be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees may be required at the discretion of the Development Services Director. Trees within the PG&E easement shall comply with the regulations of this easement which limits the height of trees to a maximum of 15 feet at full maturity.

31. The on-site landscape design shall include the use of xeriscape landscaping and comply with all California Building Code regulations or other applicable state and/or local requirements as well as Chapter 20.36 of the City's Zoning Ordinance.

32. The median between the driveways shall be provided with low-lying landscaping. Nothing in this area shall be taller than 2 ½ feet.

33. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.

34. All parking lot and other exterior lighting shall be oriented in such a way so that is does not spillover onto adjacent properties.

35. All mechanical equipment shall be screened from public view.

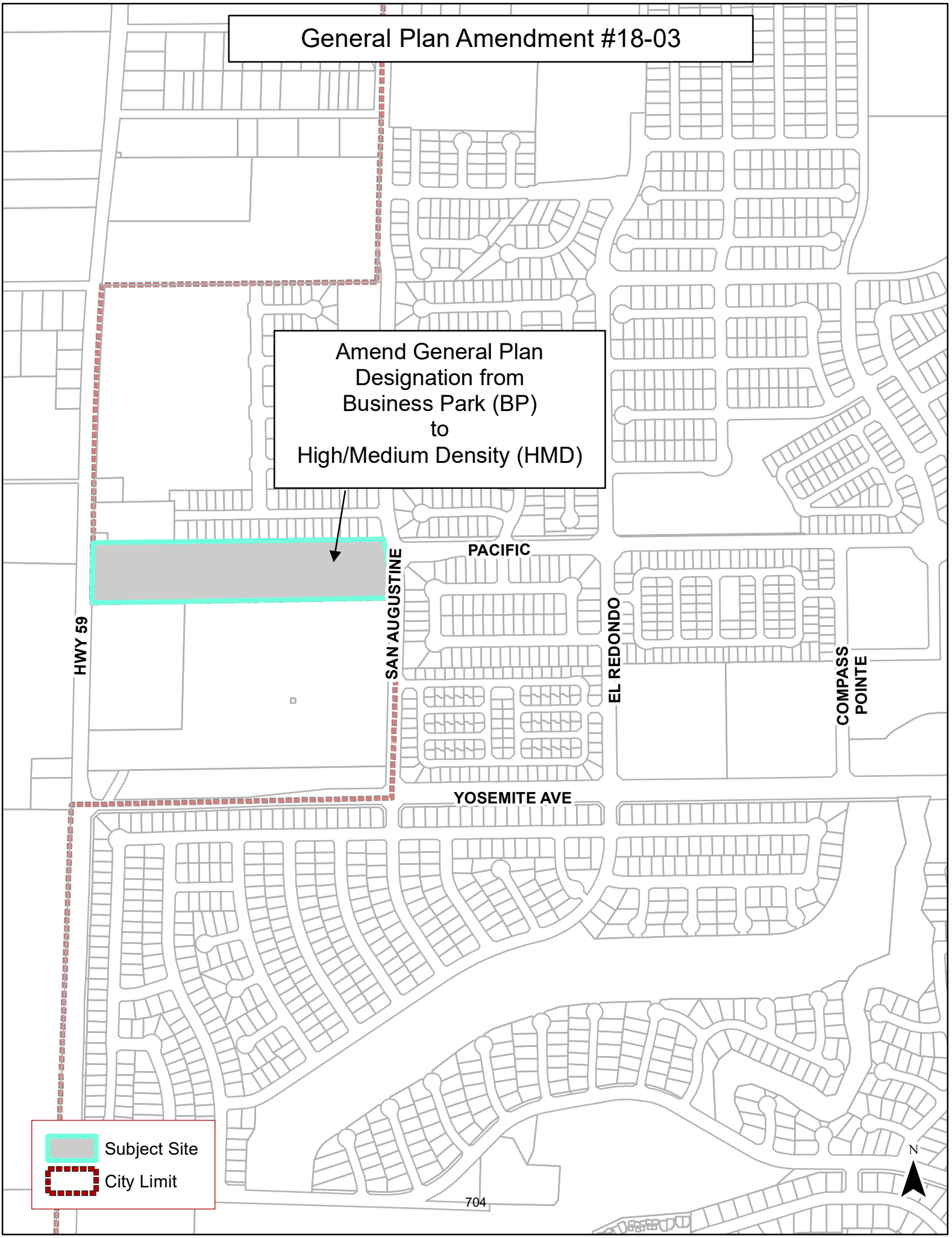
36. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall

be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks.

37. The developer may install carports over some or all of the required parking spaces.

38. All signs shall comply with the requirements of the North Merced Sign Ordinance and Merced Municipal Code (MMC) Section 17.36.572 – Apartments or Condominiums. No free-standing A-Frame or sandwich board-type signs shall be allowed. All other moveable temporary signs are prohibited as well. Temporary banners may be installed on a building wall in compliance with the City's Sign Ordinance and after obtaining a Temporary Banner Permit from the Planning Department. A building permit shall be obtained for all permanent signs.

n:shared:planning:PC Resolutions:GPA#18-03/SUP Rev#6 to PD #46/Rev #4 to Fahrens Creek Specific Plan Exhibit A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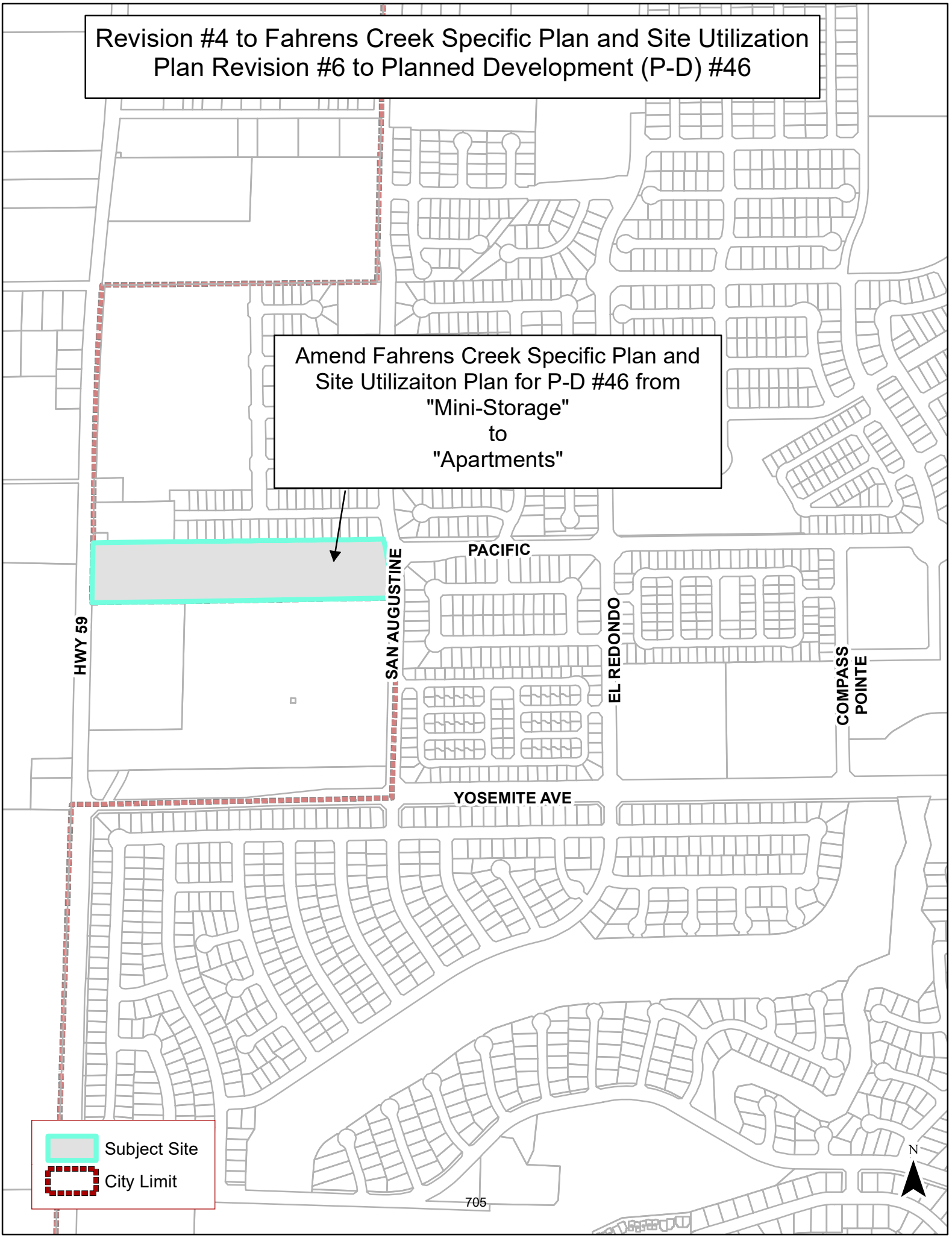
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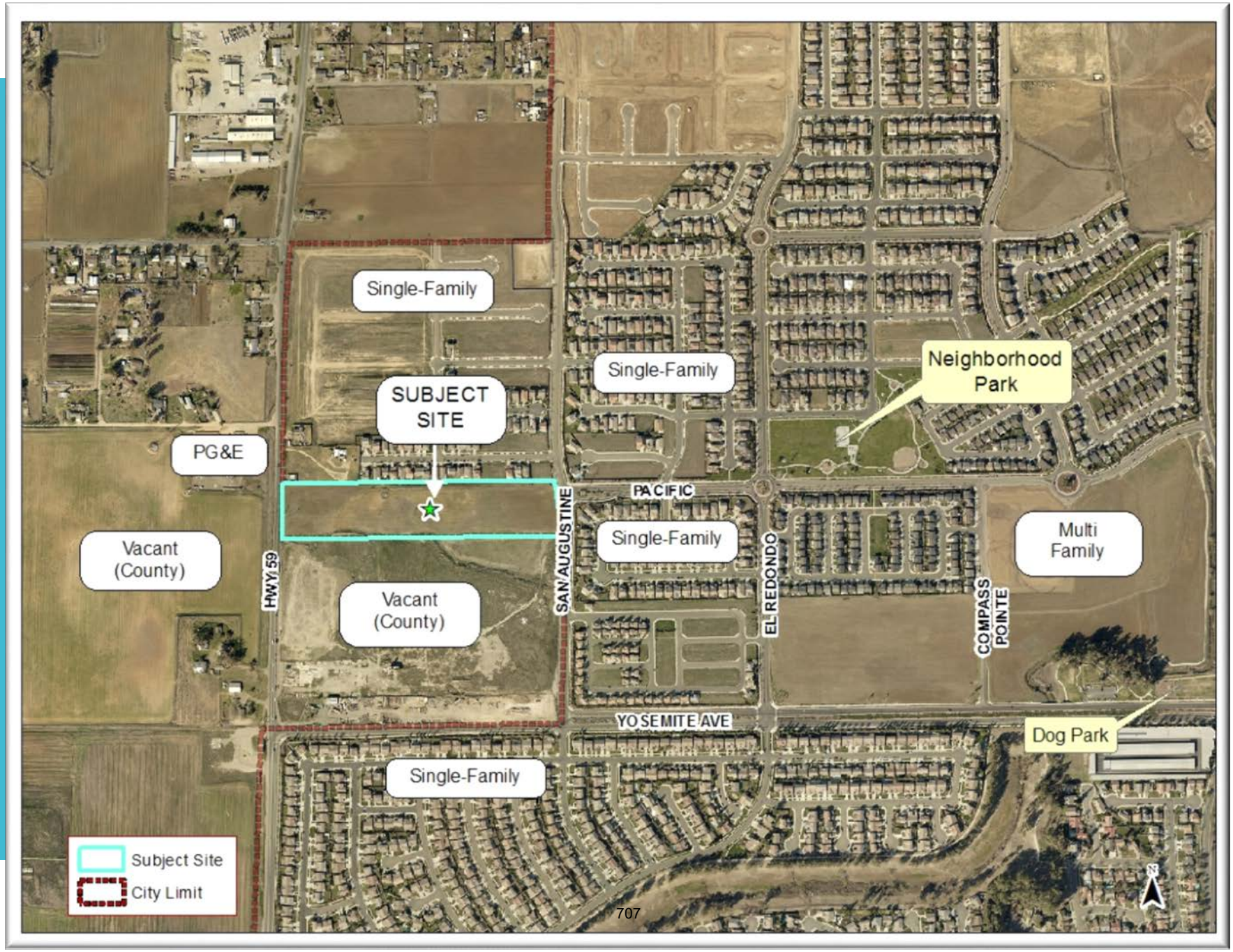
N

GPA #18-03

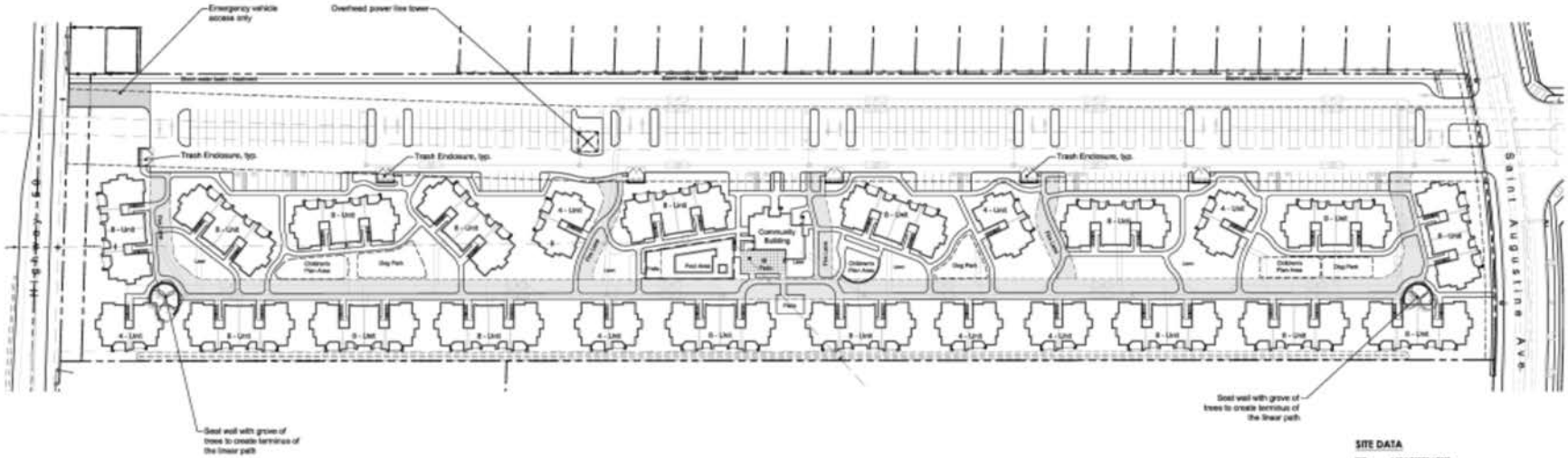
Revision #4 to the Fahrens Creek Specific Plan

SUP Revision #6 to P-D #46

West side of San Augustine at Pacific Drive


Single-Family
Single-Family
SUBJECT SITE
Neighborhood Park
PG&E
PACIFIC
Vacant (County)
HWY 59
Vacant (County)
SAN AUGUSTINE
Single-Family
EL REDONDO
Multi Family
COMPASS POINTE
YOSEMITE AVE
Dog Park
Single-Family
Subject Site
City Limit

OVERALL SITE PLAN



164 Units

SITE DATA

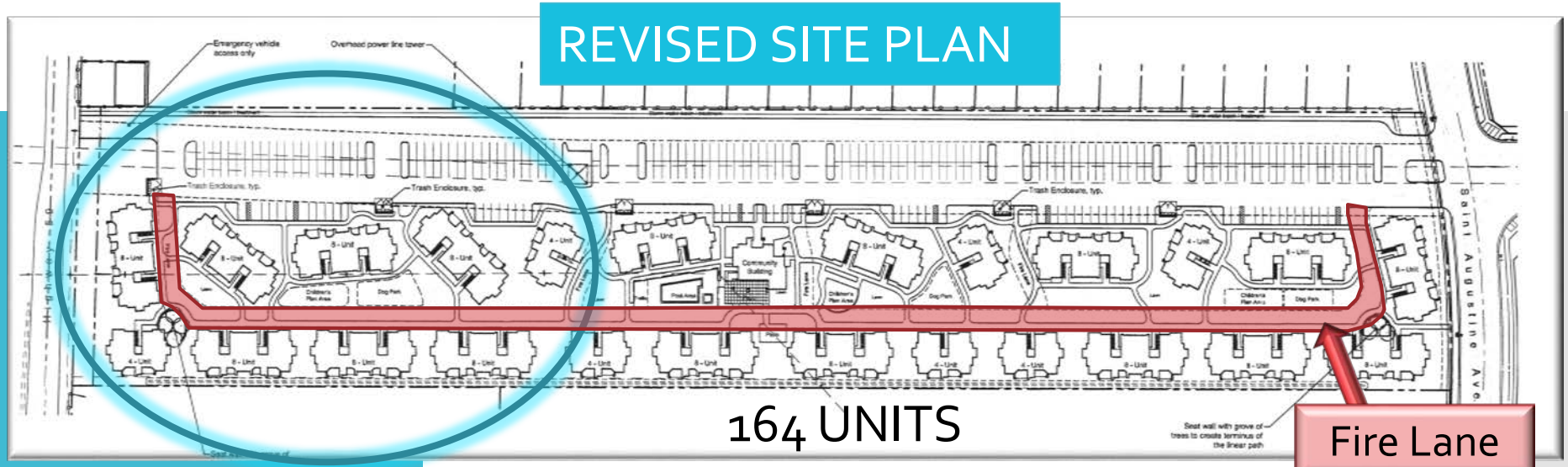
BUILDING DATA

PARKING DATA

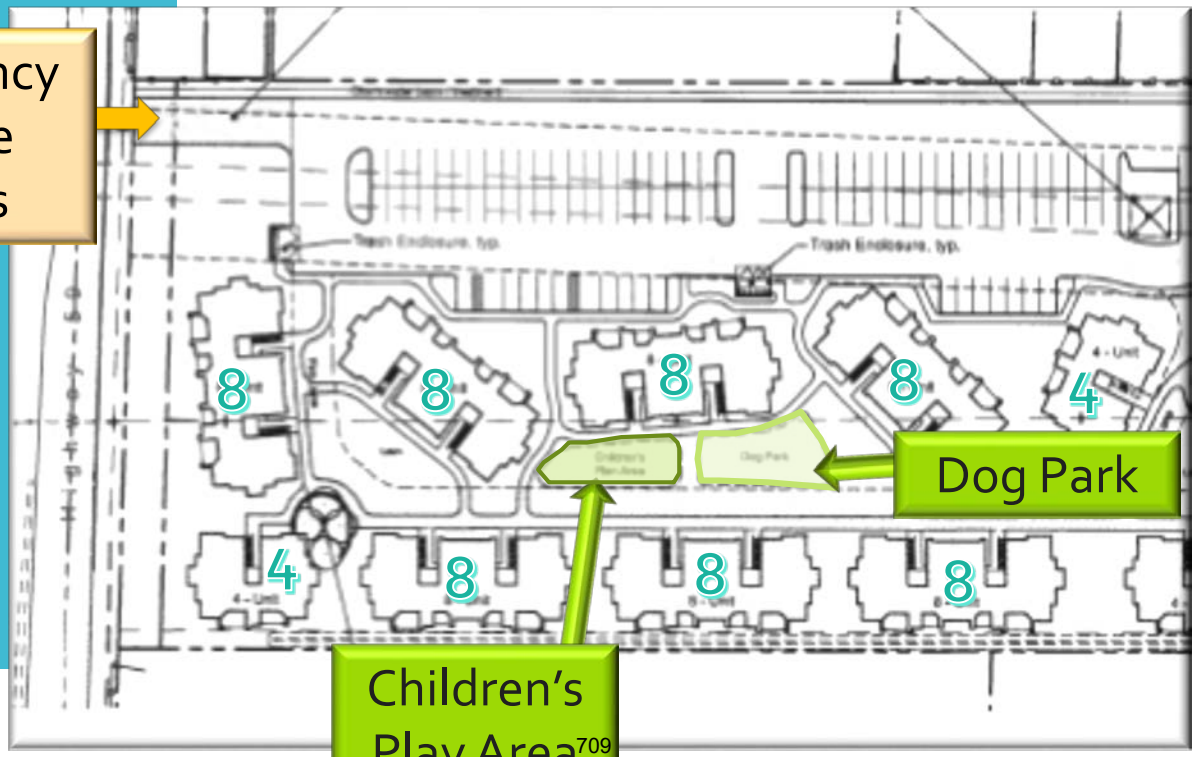
Bruno Multi-Family - Merced, CA

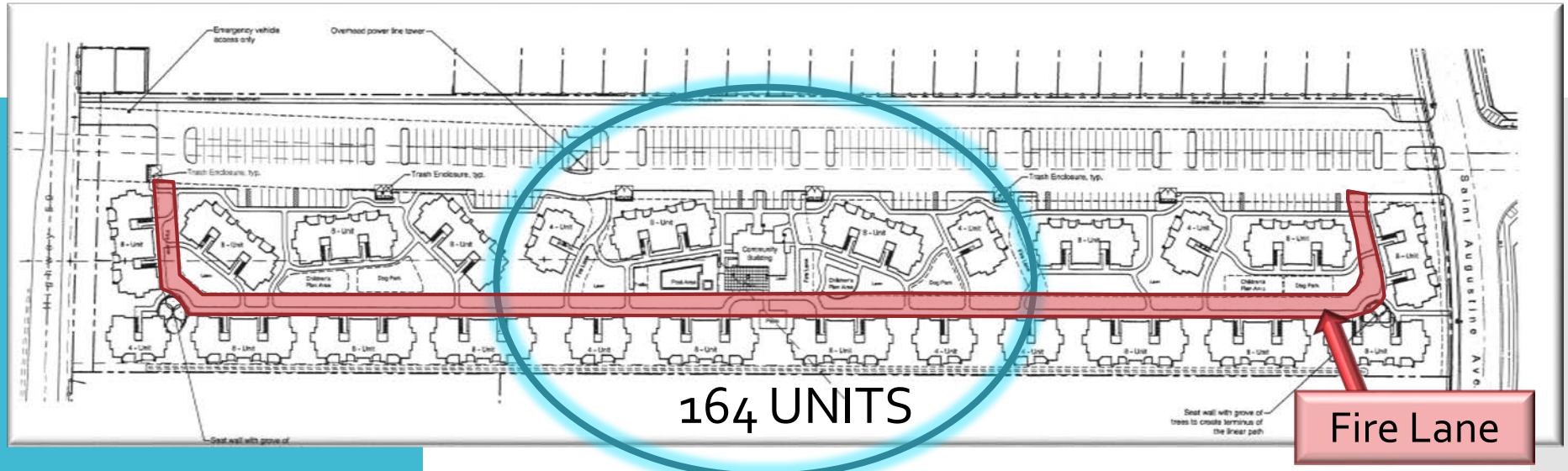
Schematic Site Plan

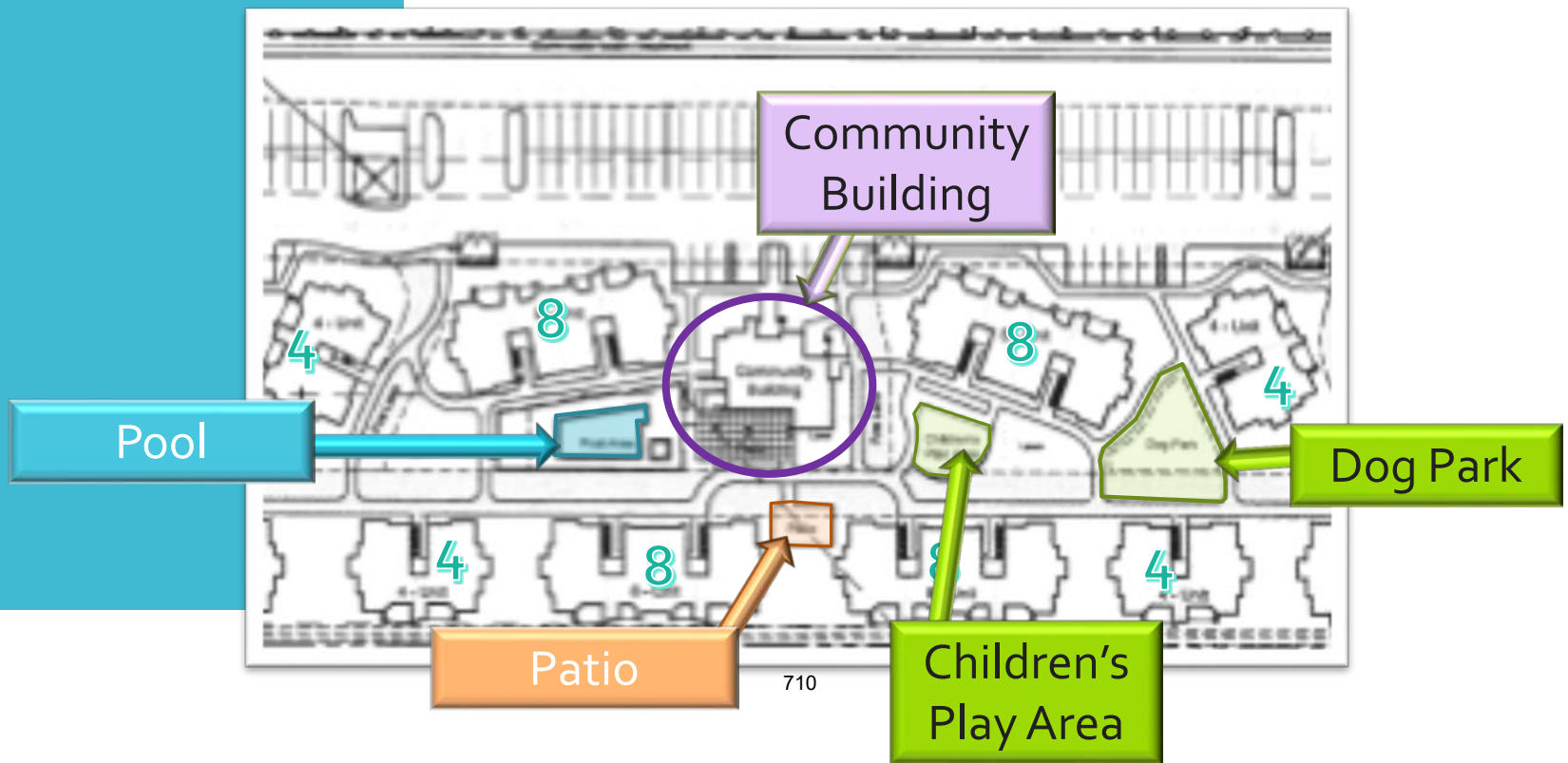
REVISED SITE PLAN

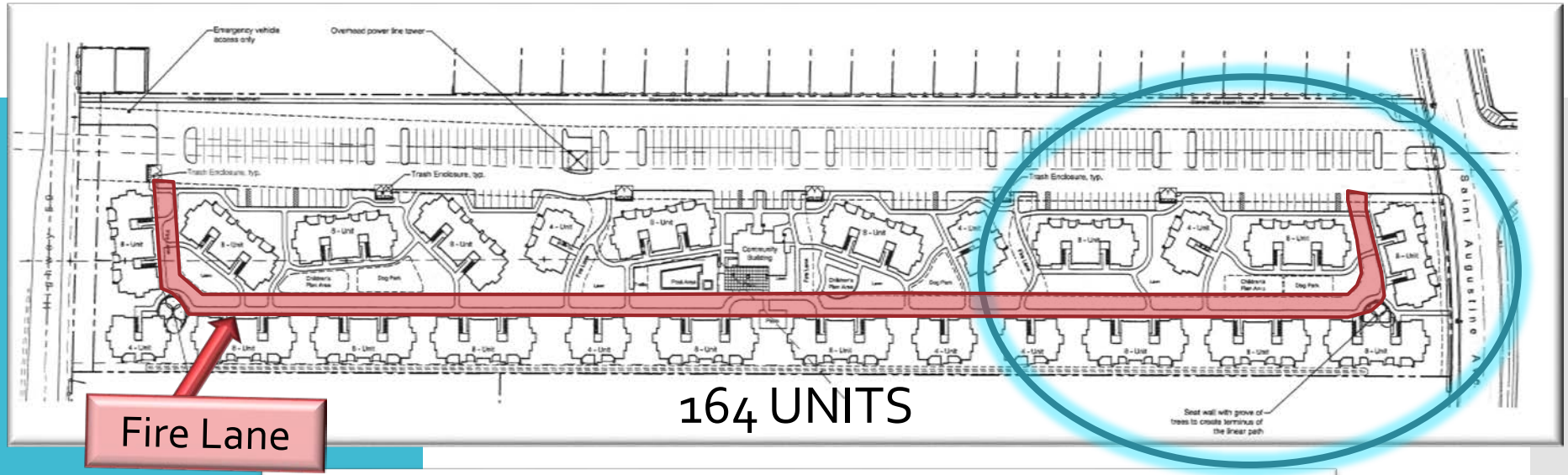


Emergency Vehicle Access



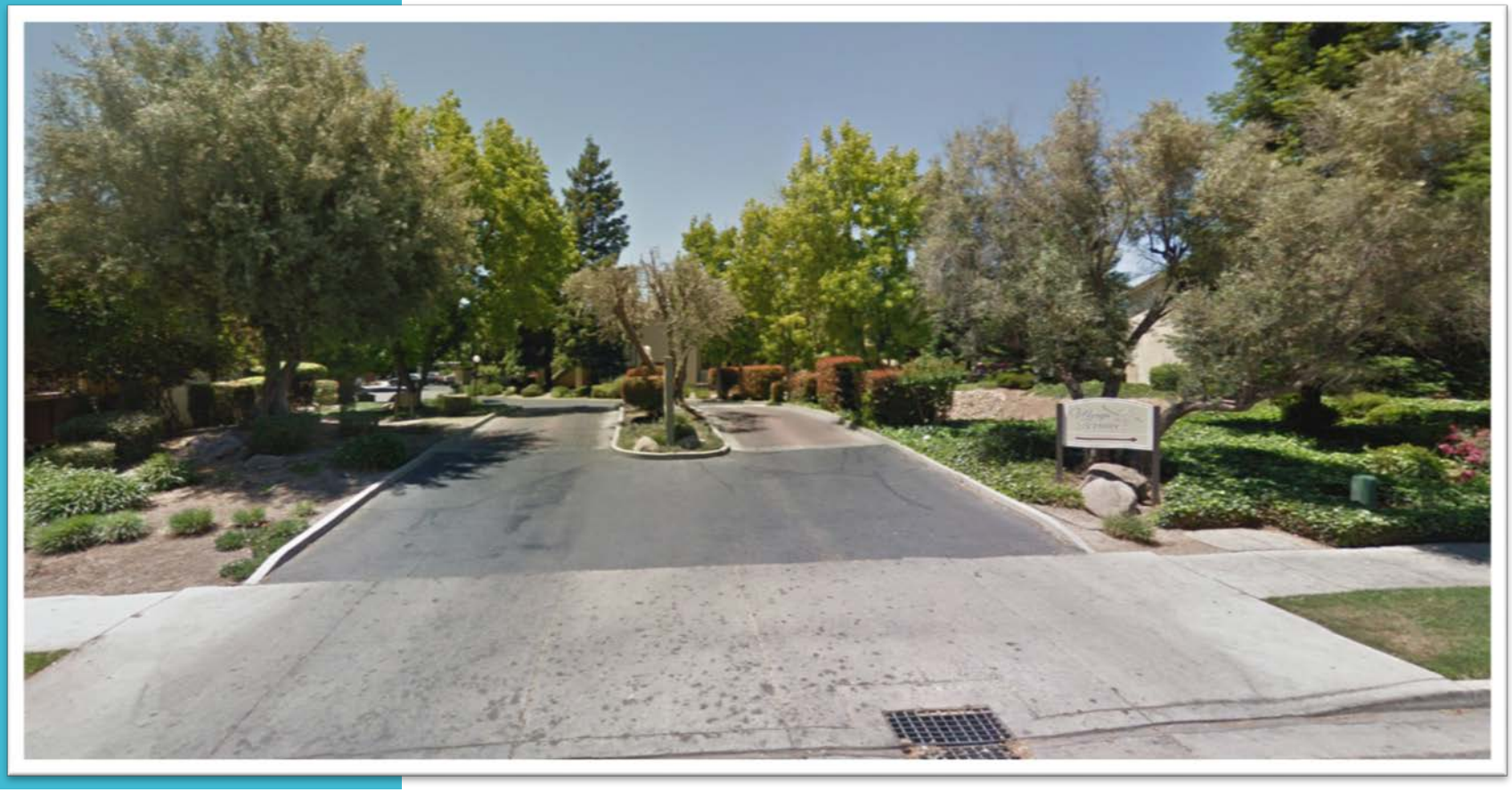

Emergency vehicle access only
Overhead power line tower
Trash Enclosure, typ.
Trash Enclosure, typ.
Trash Enclosure, typ.
Saint Augustine Ave
164 UNITS
Fire Lane


Community Building
Pool
Dog Park
Patio
Children's Play Area
8
4
8
4
4
8
4


Fire Lane
164 UNITS

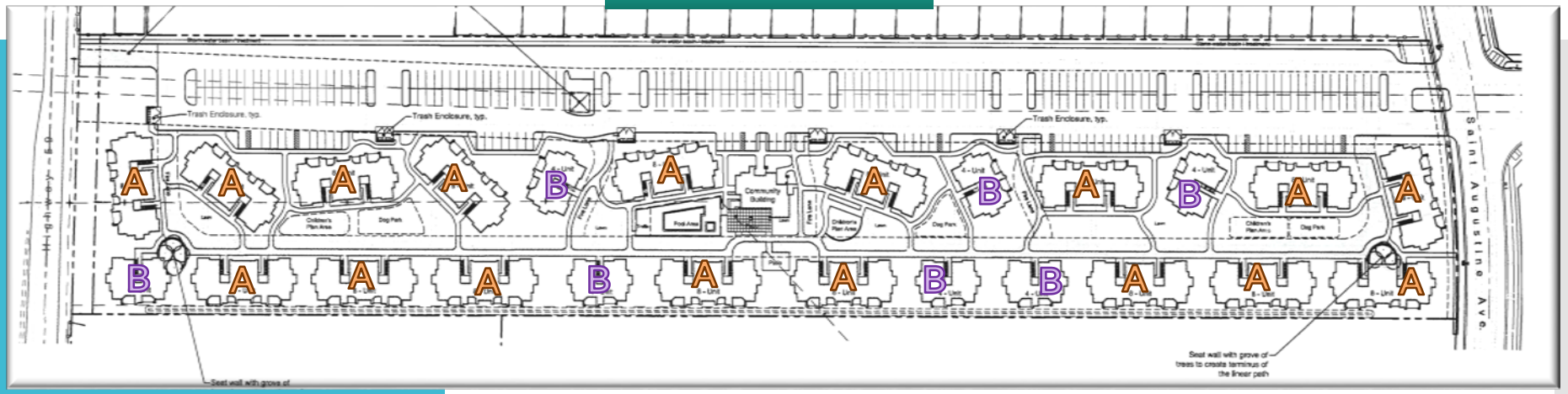

Entrance
Exit
Dog Park
Children's Play Area

Example of Main Entrance on San Augustine Avenue



Village Landing Apartments Entrance on San Jose Drive

Unit Design



Apartment Buildings
Building Type A – 2 Story – 4 Units Per Floor = 8 Units Per Building
(4-1 Bedroom; 4-2 Bedroom)

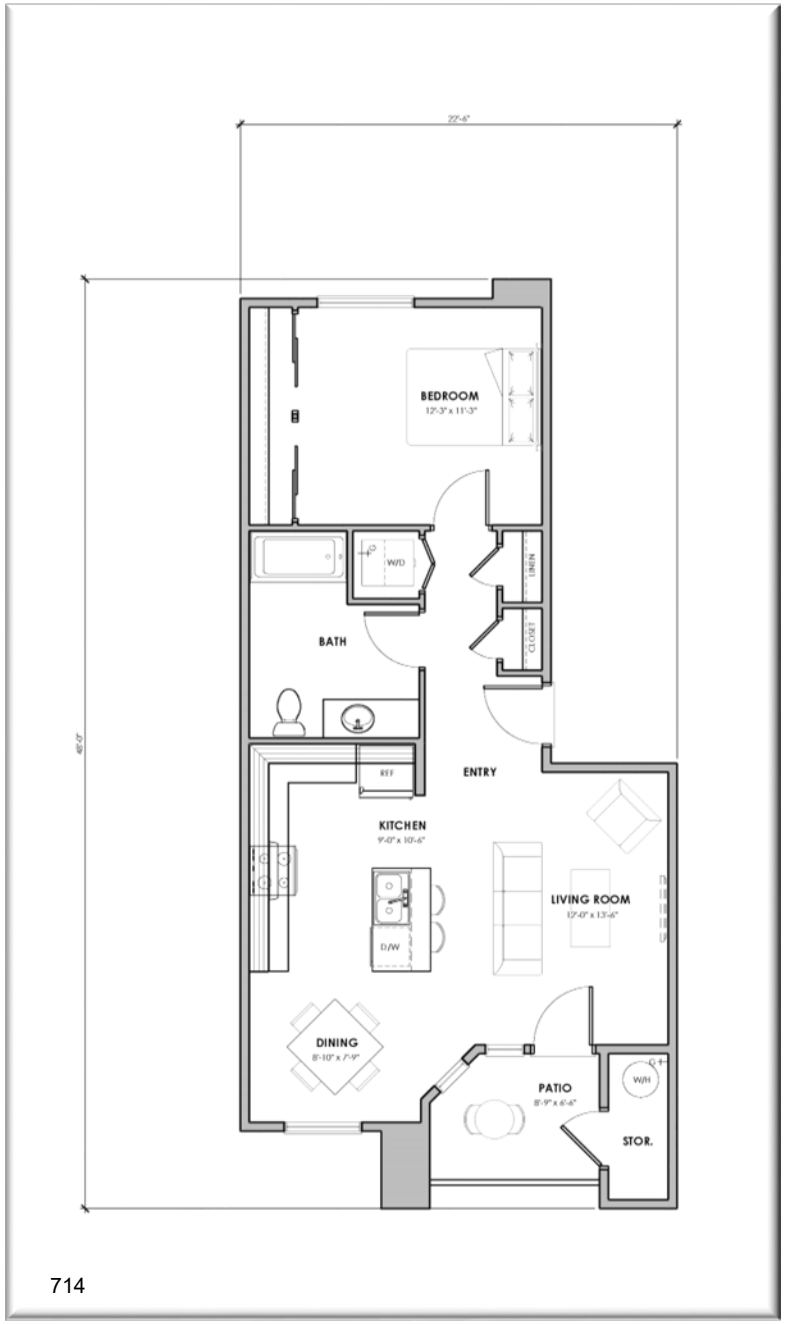
Building Type B – 2 Story – 2 Units Per Floor = 4 Units Per Building
(2-1 Bedroom; 2-2 Bedroom)

Totals
Building Type A - 8 units x 17 = 136 Units
Building Type B – 4 Units x 7 = 28 Units
TOTAL = 164 Units

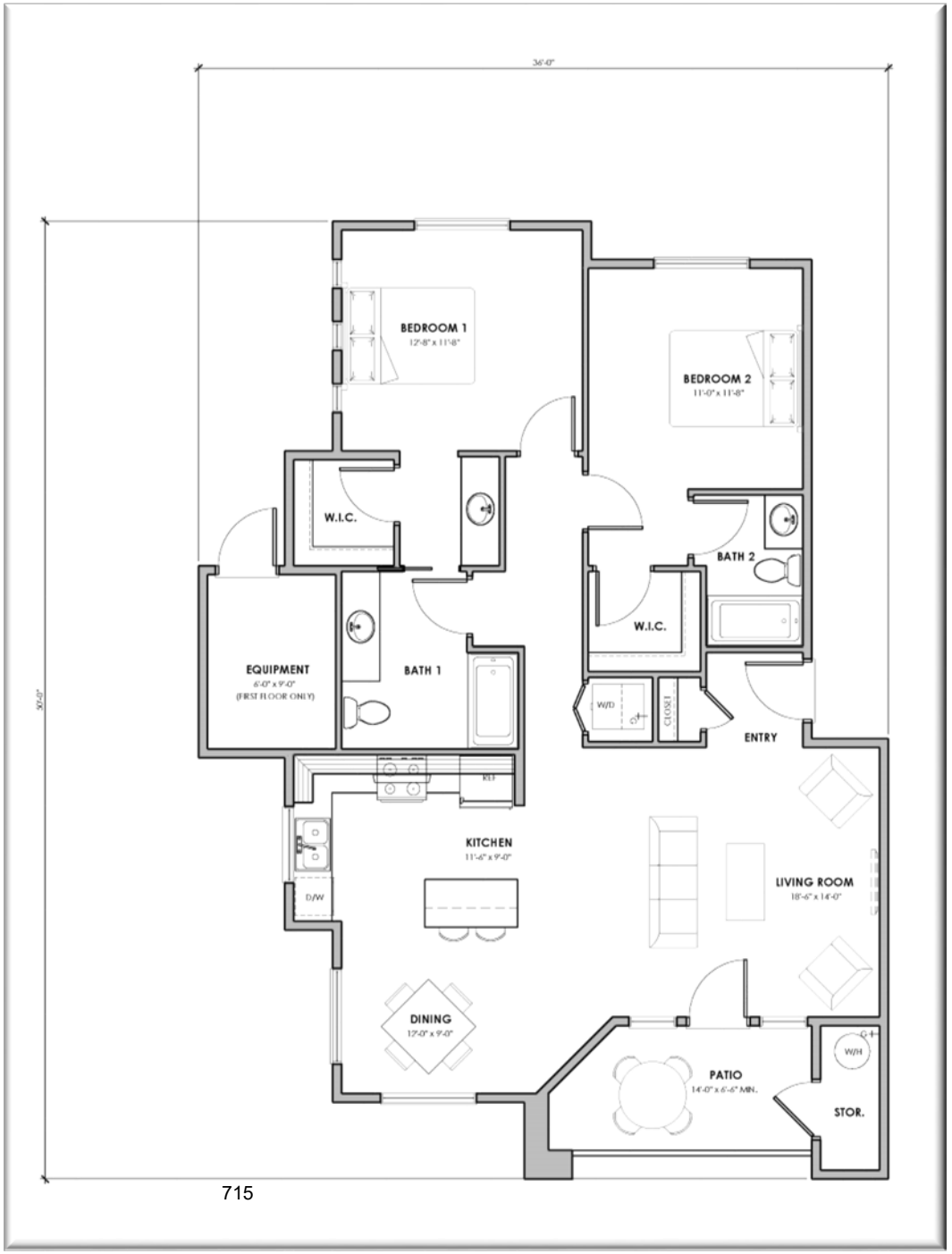
Plan may be modified to have a building with 6 units.

Unit A
1 Bed/1 Bath
764 s.f.

136 units

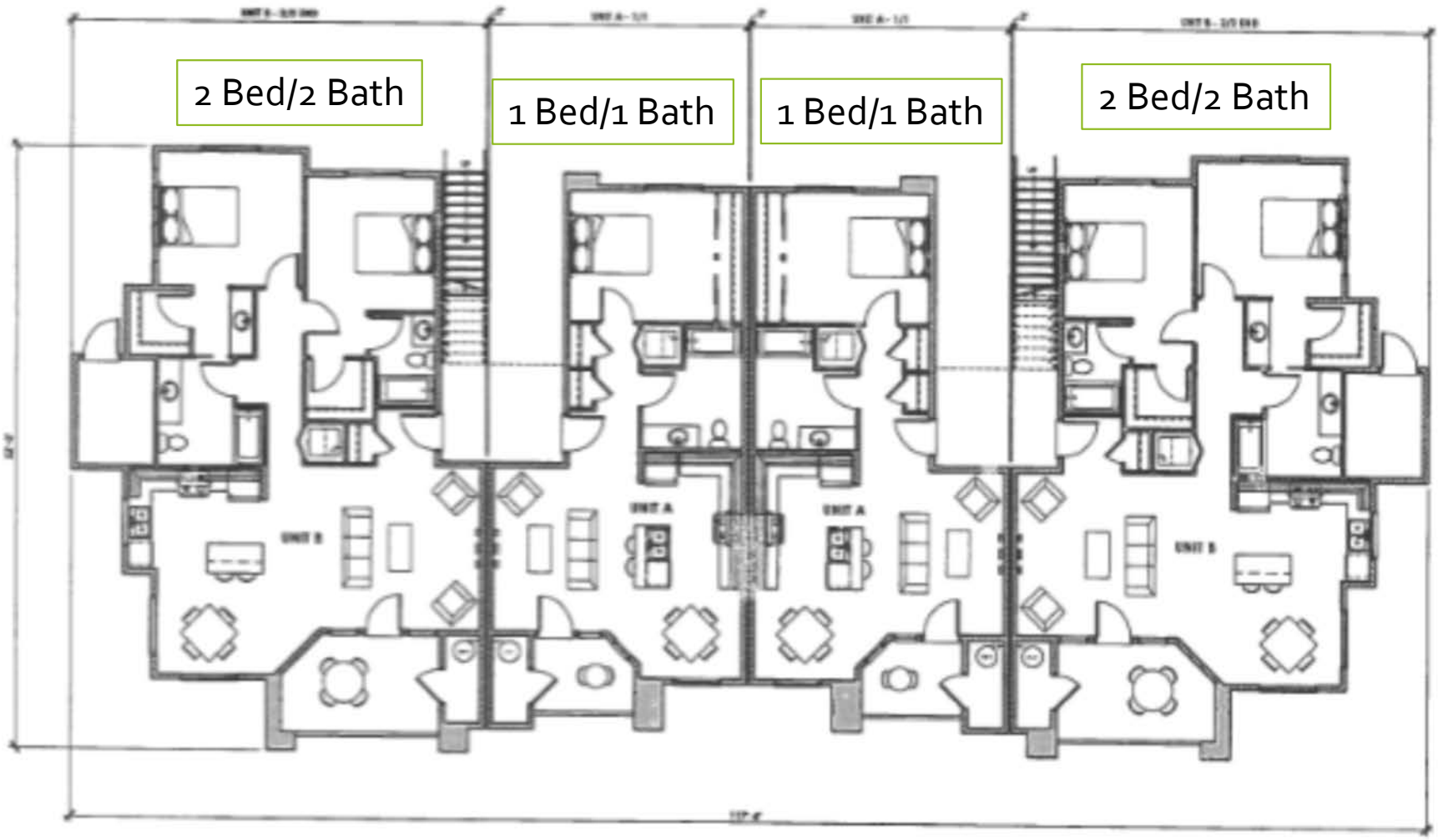


Unit B
2 Bed/2 Bath
1,175 s.f.



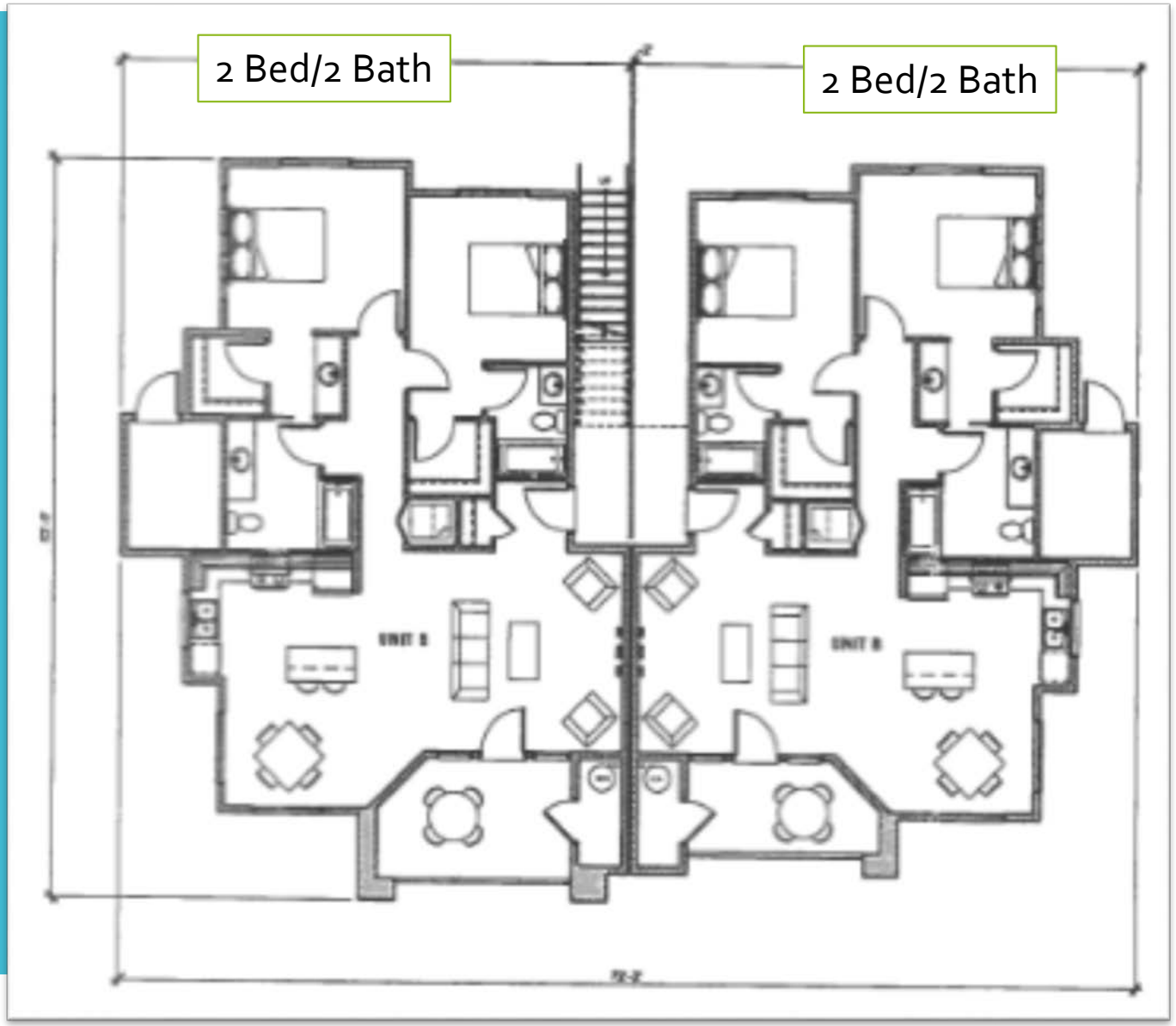
28 units

Building Type "A" – 8 units



2 Story – 4 Units on Each Floor

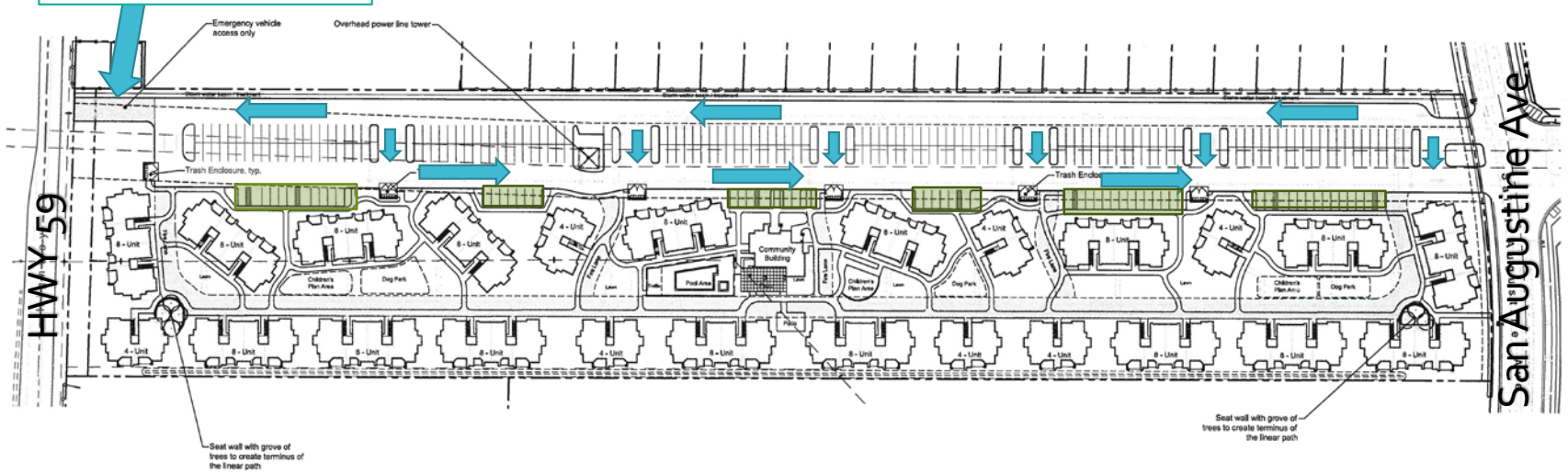
Building Type "B" – 4 units



2 Story – 2 Units on Each Floor

REVISED SITE PLAN

Emergency Vehicle Access





Parking:
286 spaces provided
256 spaces required

58 Spaces Adjacent to Buildings

Building A Elevations



BUILDING A - EXTERIOR ELEVATION - FRONT



BUILDING A - EXTERIOR ELEVATION - REAR



BUILDING A - EXTERIOR ELEVATION - LEFT SIDE



BUILDING A - EXTERIOR ELEVATION - RIGHT SIDE

Building B Elevations



BUILDING B - EXTERIOR ELEVATION - FRONT



BUILDING B - EXTERIOR ELEVATION - LEFT SIDE



BUILDING B - EXTERIOR ELEVATION - RIGHT SIDE

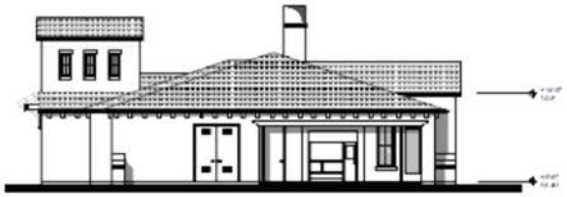


BUILDING B - EXTERIOR ELEVATION - REAR

Community Building Elevations



NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION

Neighborhood Impact

- Email from neighboring property owner expressing concerns regarding light, noise, graffiti, and traffic.
- The buildings are approximately 120 feet from the residential properties to the north and approximately 100 feet from the properties to the east (across San Augustine Avenue).
- Condition included to require lights to be shielded to avoid spilling onto adjacent properties.

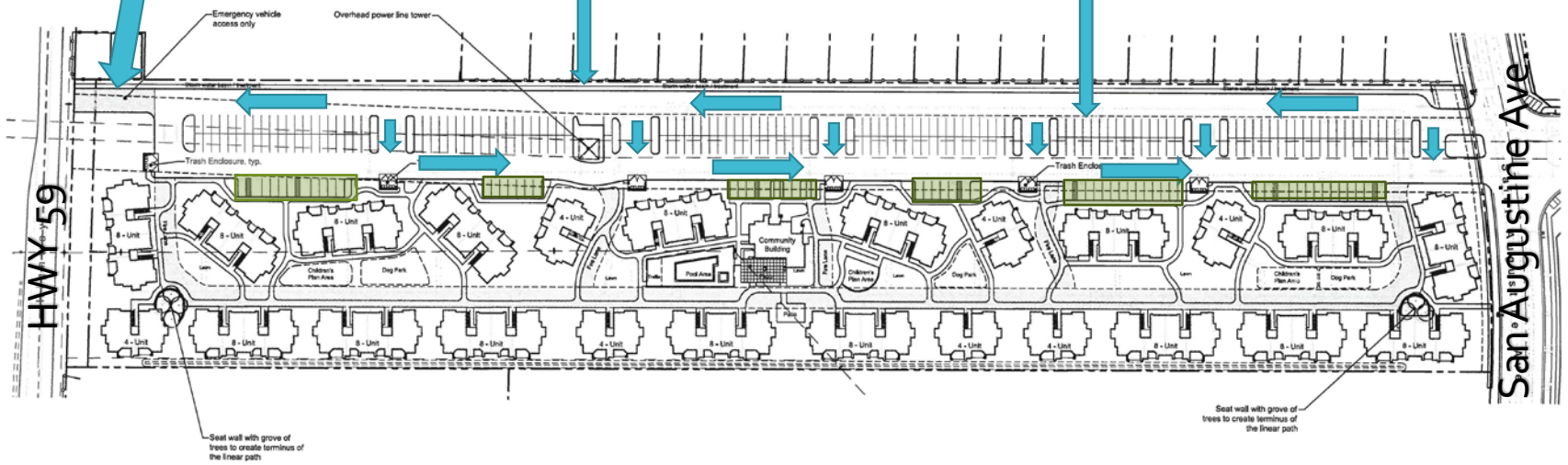
Neighborhood Impact

- Traffic to the area would increase.
- Traffic entering the site would use the drive aisle closest to the residential homes to the north (approximately 10 feet from rear property line).
- Parking lot would be approximately 30 feet from rear property line and approximately 45 feet from the dwellings to the north.

Emergency Vehicle Access

10-foot-setback to drive aisle

30-foot-setback to parking lot





Parking:
286 spaces provided
256 spaces required

58 Spaces Adjacent to Buildings

Planning Commission Action

- On January 23, 2019, the Planning Commission held a duly noticed public hearing on this matter.
- The applicant spoke in favor of the project.
- No one spoke in opposition to the project.
- The Planning Commission voted unanimously to recommend approval of this project to the City Council.

Planning Commission Resolution, Staff Report, and Minutes are provided at Attachments 8, 9, and 10 of Administrative Report.

Environmental Review

- Initial Study #18-60 prepared.
- Negative Declaration recommended.

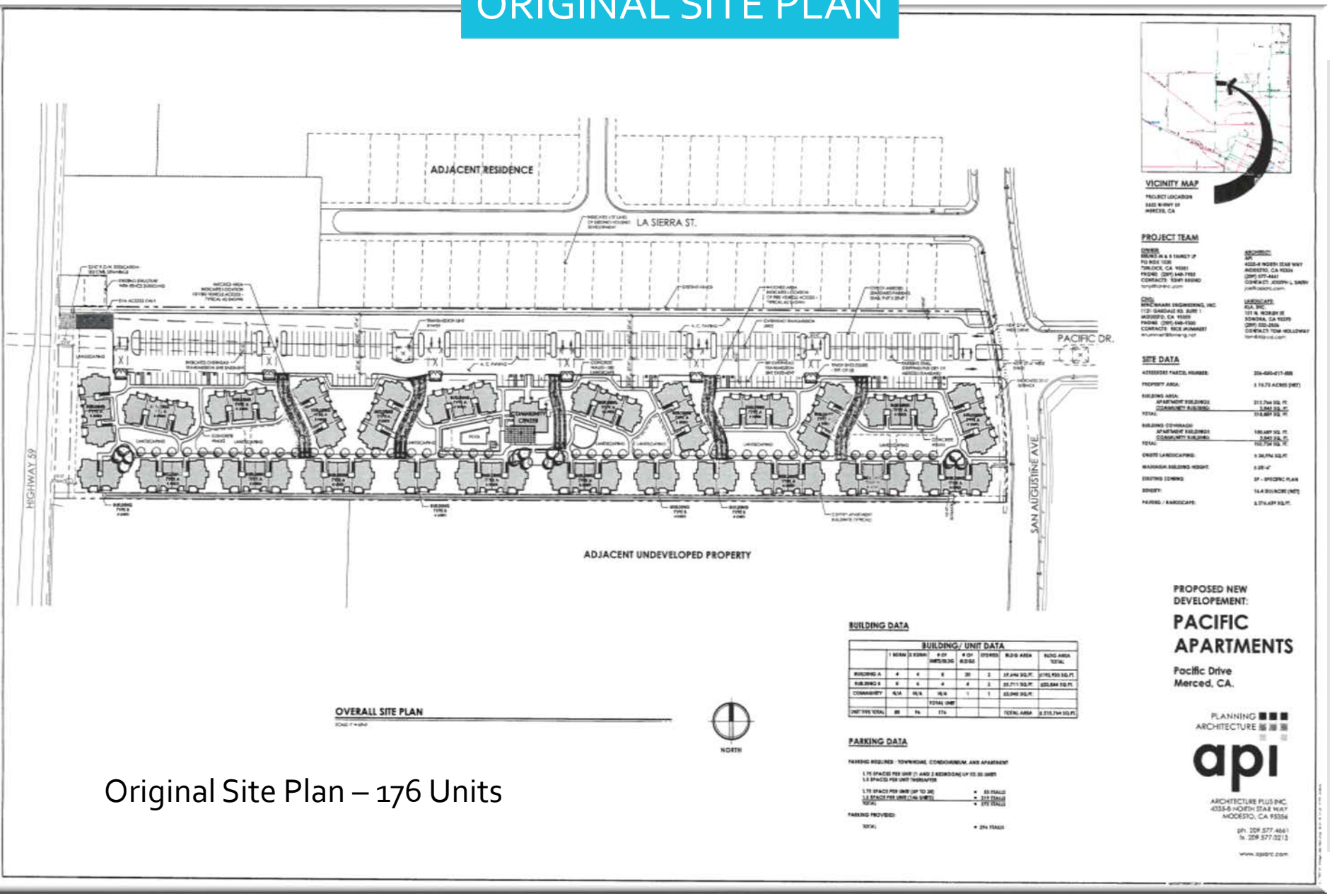


City Council Action

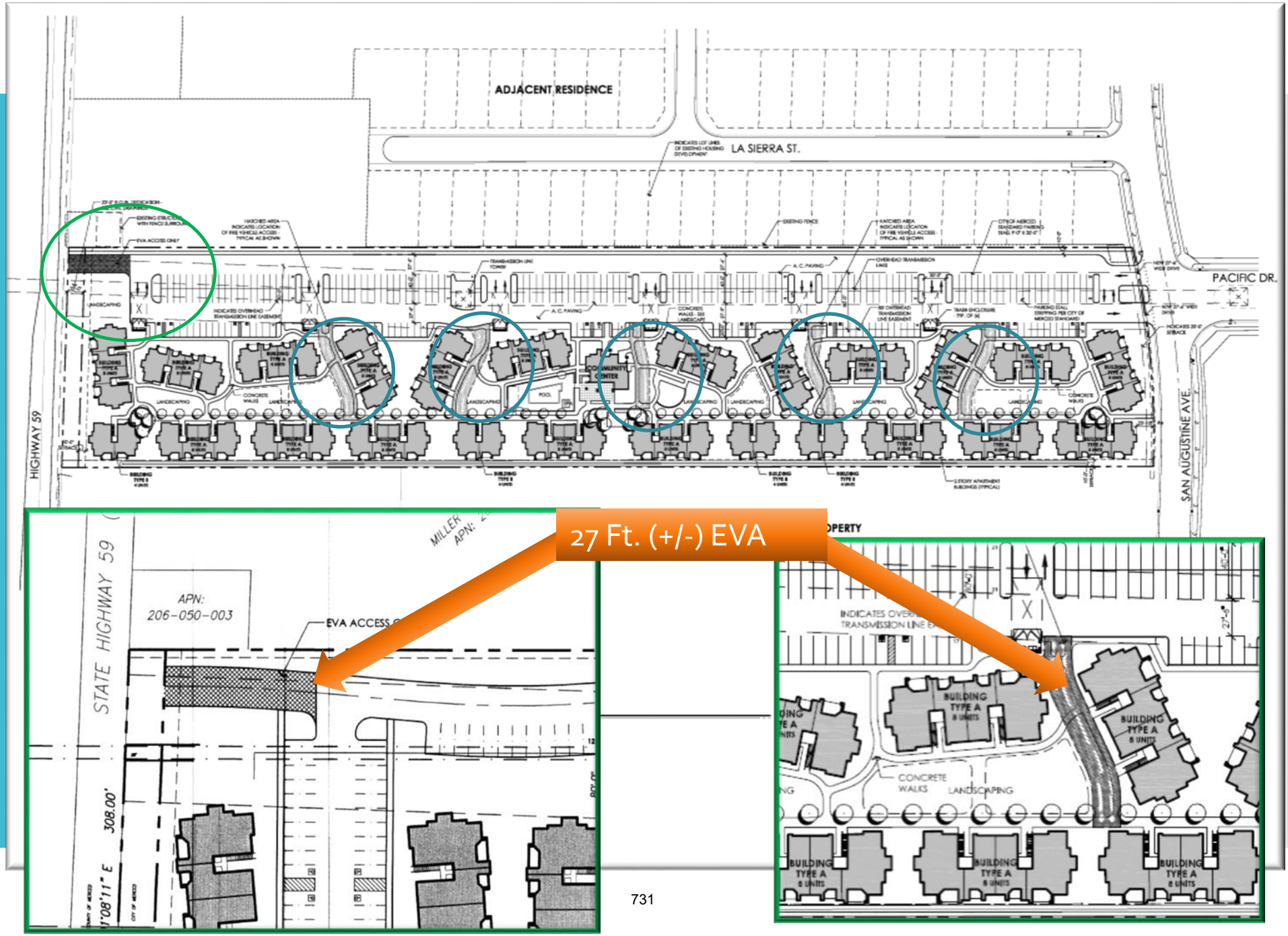
- Adopt Resolution Approving:
  - Environmental Review #18-60 (Negative Declaration)
  - General Plan Amendment #18-03
  - Revision #4 to the Fahrens Creek Specific Plan
- Introduction of Ordinance Approving:
  - Site Utilization Plan Revision #6 to Planned Development (P-D) #46



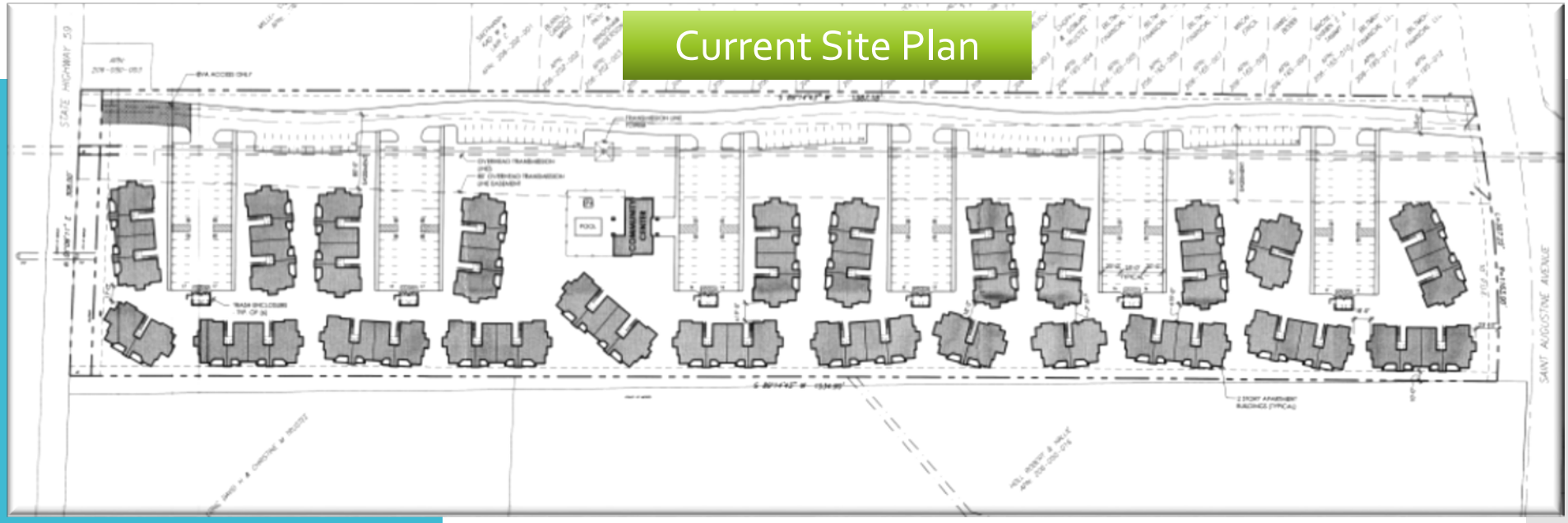
ORIGINAL SITE PLAN



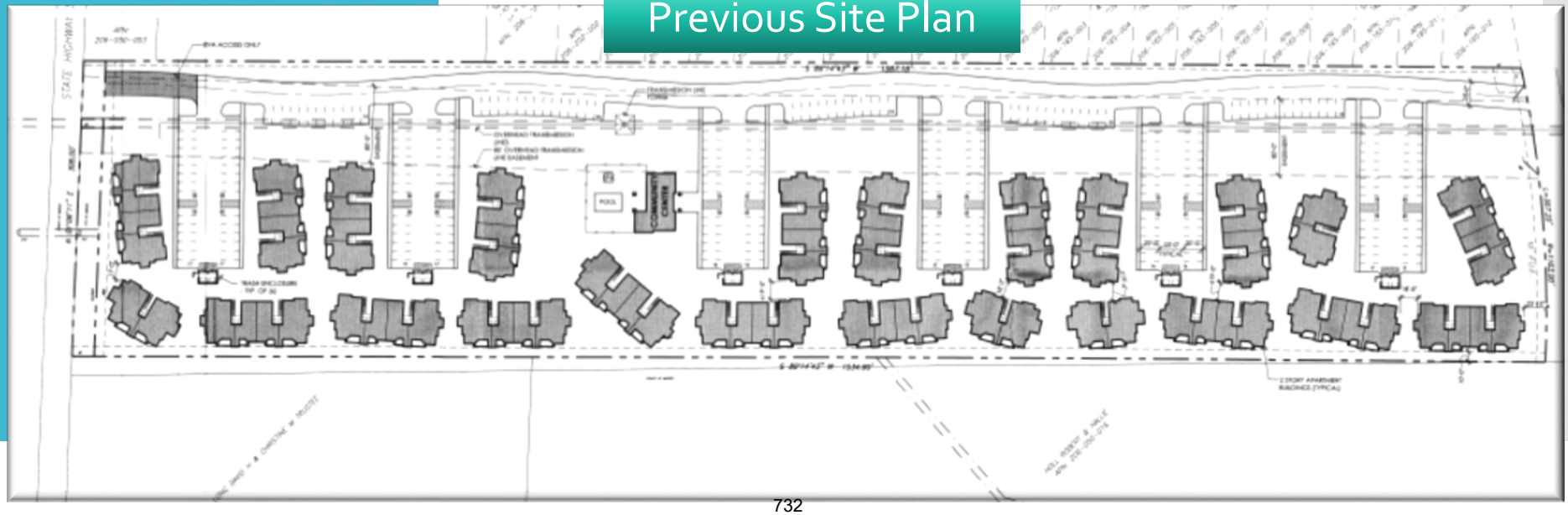
Original Site Plan – 176 Units


ADJACENT RESIDENCE
LA SIERRA ST.
PACIFIC DR.
HIGHWAY 59
SAN AUGUSTINE AVE.
27 Ft. (+/-) EVA
APN:
206-050-003
STATE HIGHWAY 59
308.00'
BUILDING TYPE A
8 UNITS
CONCRETE WALKS
LANDSCAPING

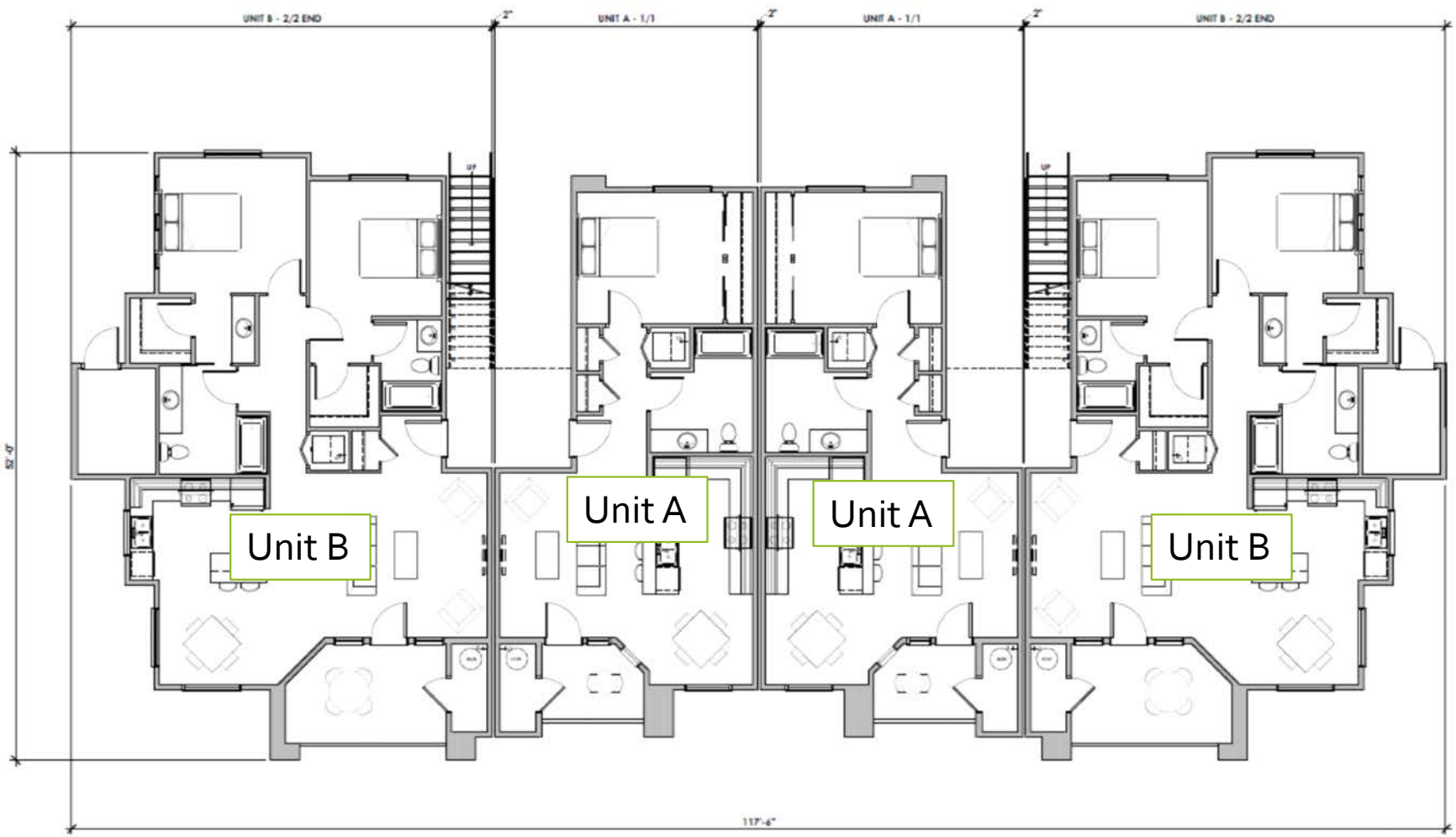
Current Site Plan



Previous Site Plan



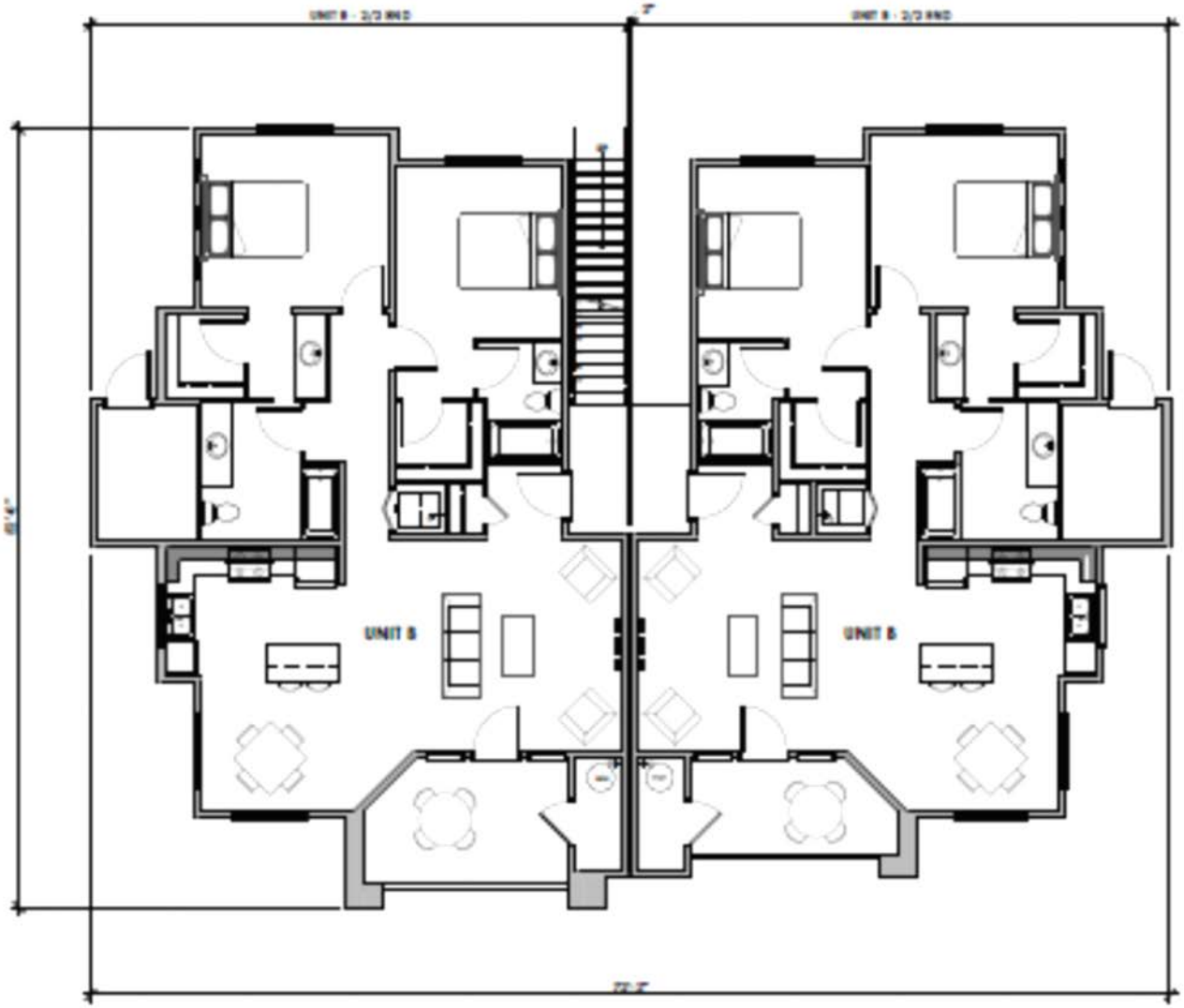
8-Unit Building



BUILDING TYPE A FIRST FLOOR PLAN - SECOND FLOOR SIMILAR

20 Building in the complex

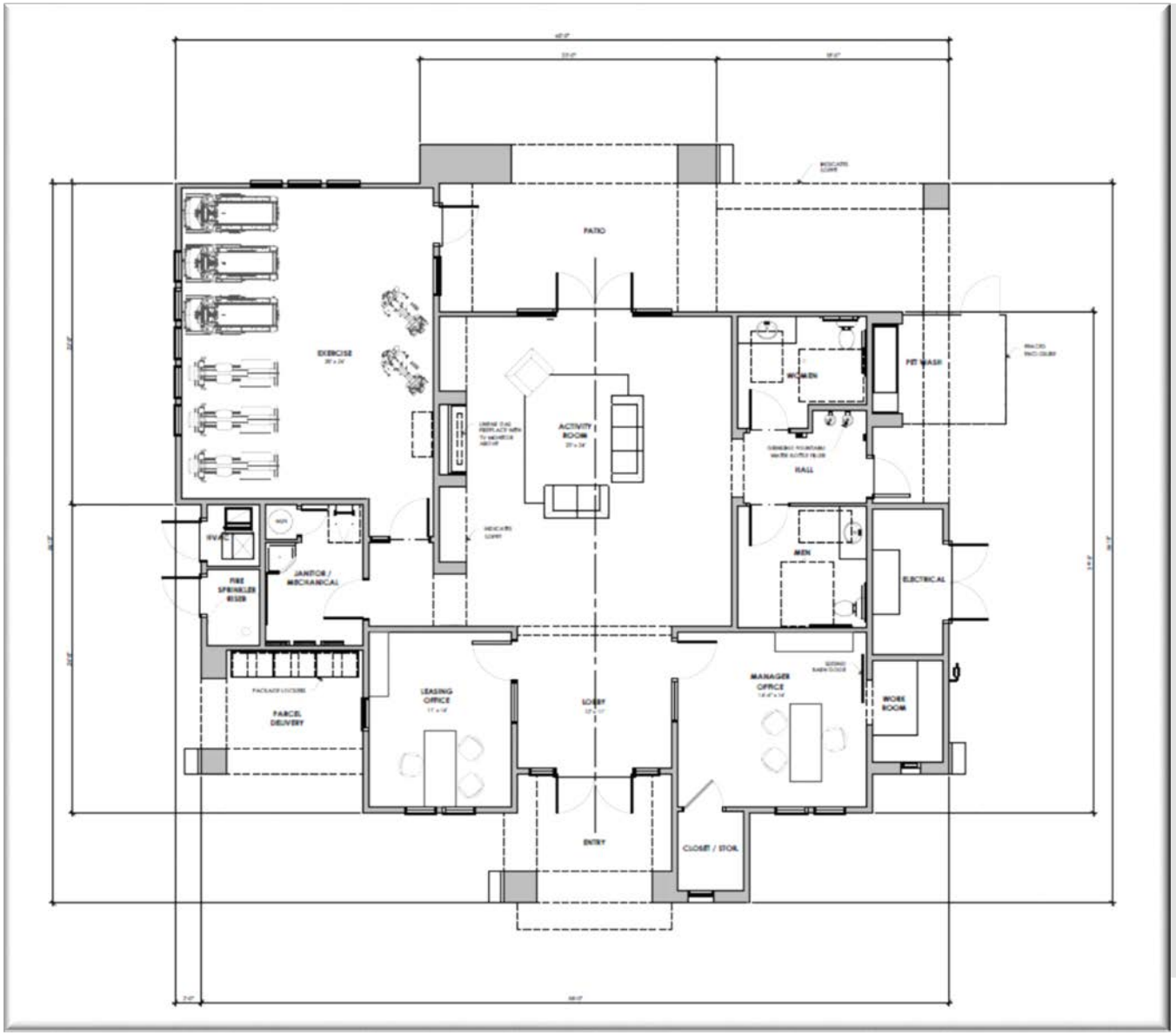
4-Unit Building

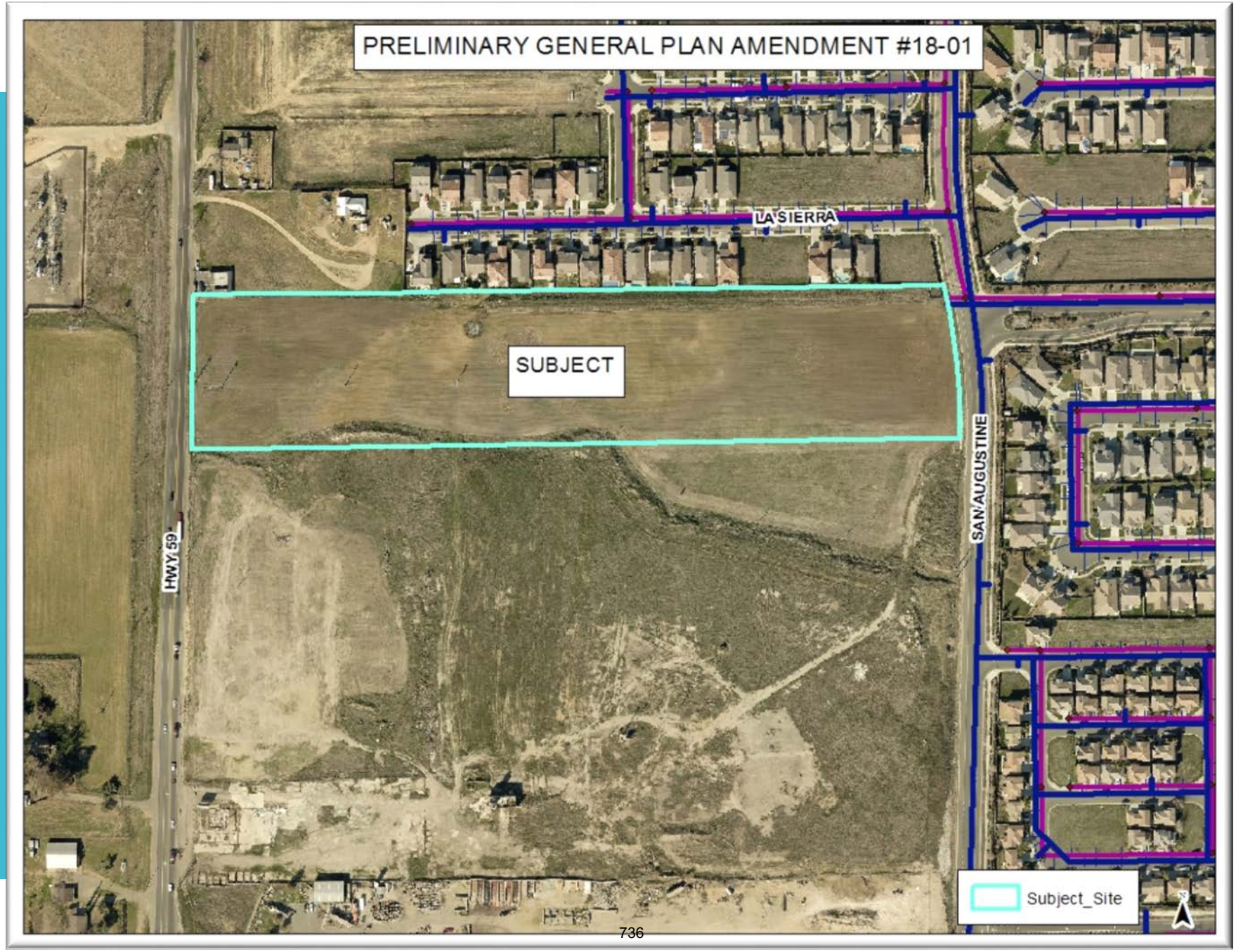


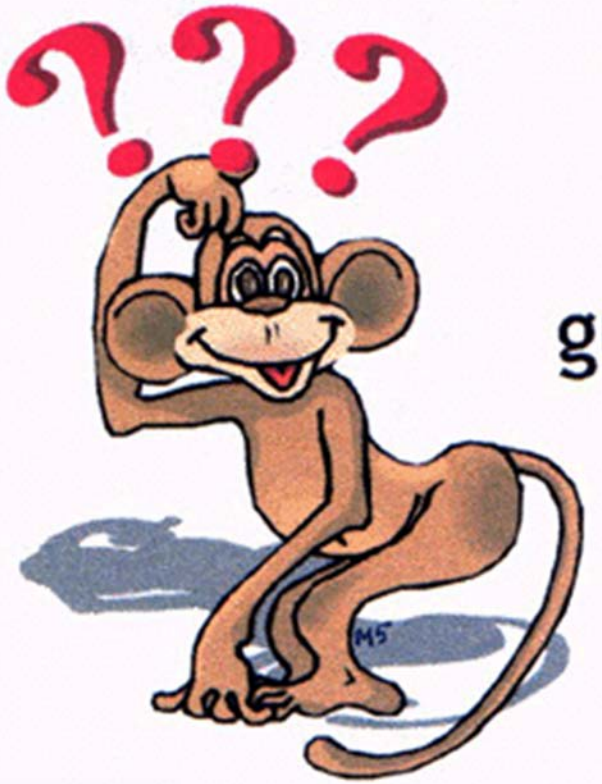
BUILDING TYPE B FIRST FLOOR PLAN - SECOND FLOOR SIMILAR

4 Building in the complex

Community Building 2,115 s.f.




PRELIMINARY GENERAL PLAN AMENDMENT #18-01
LA SIERRA
SUBJECT
SAN AUGUSTINE
HWY 59
Subject_Site



Questions
are
guaranteed in
life;
Answers
aren't.

ADMINISTRATIVE REPORT

Agenda Item J.2. Meeting Date: 3/18/2019

Report Prepared by: Julie Nelson, Associate Planner, Development Services Department

SUBJECT: Continued Public Hearing - Vacation No. 18-03 for the Adoption of Resolution Ordering the Vacation of a 20-Foot Wide Temporary Access Easement Located on a Portion of 7 Lots within the Summer Creek Subdivision

REPORT IN BRIEF

The City Council will consider approving a Resolution ordering the vacation of a 20-foot wide temporary access easement located on a portion of 7 lots within the Summer Creek Subdivision, generally located west of McKee Road at Silverstone Drive.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-07**, a Resolution of the City Council of the City of Merced, California, ordering the vacation of a 20-foot-wide Temporary Emergency Access Easement on Lots 5, 6, 7, 17, 18, 29, and 130 within the Summer Creek, Phase One Subdivision (Vacation #18-03).

ALTERNATIVES

1. Approve as recommended by staff; or,
2. Approve, subject to modifications by the City Council; or,
3. Deny; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
5. Continue to a future meeting (date and time to be specified in motion).

AUTHORITY

Section 8335 of the Streets and Highways Code authorizes the City Council to vacate a right-of-way or easement by adopting a resolution of vacation. Section 8336 of that Code requires the City Clerk to record a certified copy of the resolution of vacation. Additionally, City of Merced Administrative Policy A-6 provides direction to staff for processing vacation requests, and City Resolution 76-80 establishes a policy concerning costs associated with the vacation.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

Vesting Tentative Subdivision Map #1247 for the Summer Creek Subdivision was approved by the Planning Commission with the condition that a Temporary Emergency Access Easement (EVA) be

provided along Lots 5, 6, 7, 17, 18, 29, and 130 (Attachment 1). The Temporary EVA was dedicated by Final Map # 5282. Bright Development, Inc. is the owner of Lots 6, 7, 17, 18, 29, and 130. Lot 5 has been sold to Chris and Hassan Curtis and a home has been constructed on this lot.

Bright Development is requesting the Vacation/Abandonment of the 20-foot-wide temporary emergency vehicle access easement along the north property lines of Lots 6, 7, 17, 18, and 29 and along the southeast property line of Lot 130 within the Summer Creek Subdivision (see Location Map at Attachment 1). Chris and Hassan Curtis are requesting the Vacation/Abandonment of the temporary emergency vehicle access for Lot 5 of the Summer Creek Phase One Subdivision.

This item originally came before the City Council on December 17, 2018. At that time, the Council expressed concerns with access to the Summer Creek and Moraga Subdivisions and were hesitant to relinquish the temporary access easement between McKee Road and Whitewater Way (adjacent to Lots 5, 6, 7, 17, 18, and 29 of the Summer Creek Subdivision). The vacation request was continued to the January 7, 2019, City Council Meeting.

At the January 7, 2019, Council meeting, staff provided information on access to the area and explained the past Council actions that had precluded additional access from Whitewater Way to Yosemite Avenue. Staff reported that Bright Development was working with MID to possibly deed the easement area to MID, and MID would in turn, allow the City to maintain the emergency vehicle access easement. However, MID has since determined they did not want to own the land in fee, so this is no longer a viable option.

Staff continued to review the request for abandonment of the easement, and determined that MID has a distribution box located near the northeast corner of the easement area between McKee Road and Whitewater Way (refer to the aerial photo at Attachment 2). Because of this box, if a house was built on Lot 29, emergency vehicles would no longer have enough room to maneuver through the area and get to Whitewater Way. Therefore, the easement would no longer be usable. City staff has spoken with MID regarding relocating the distribution box and determined relocation is not feasible. Because the City cannot prohibit the development of Lot 29 without purchasing the lot from Bright Development, the EVA could not be used once Lot 29 is developed.

Planning staff has met with the Fire Chief and Police Chief and determined the EVA is not needed for emergency access. Since the purpose of the access was for emergency vehicles only, staff recommends the EVA be vacated. This action would mean the easement area would remain a part of each of the individual lots and the property owners would be responsible for upkeep and maintenance. It should be noted that MID has indicated that they would not allow the easement area adjacent to Lots 5, 6, 7, 17, 18, and 29 to be fenced since they still have an easement for their underground facilities in this area.

Other options that the Council could consider are:

1. Grant the vacation and reconsider the access from Whitewater Way to Yosemite Avenue to provide additional access to the area.

2. Grant the vacation and work to obtain access to Whitewater Way with an east/west road that

would align with Silverado Avenue to the west of McKee Road, providing additional access to the area.

3. Deny the vacation.

Although denial is an option, the original approval for the subdivision is clear that the emergency vehicle access was intended to be a temporary access until the other roads through the Moraga Subdivision were constructed.

If the Council chooses to grant the vacation of the Emergency Access easement on these 7 lots, the Council should adopt a motion approving the Draft Resolution at Attachment 3, thereby vacating the EVA on Lots 6, 7, 17, 18, 29, and 130.

History and Past Actions

On May 21, 2003, the Planning Commission approved Tentative Map #1247 for the Summer Creek Subdivision. As a condition of approval, a temporary access was required from McKee Road.

On November 19, 2018, the City Council set a public hearing for December 17, 2018, to consider the vacation of the temporary access easement along Lots 5, 6, 17, 18, and 29, and Lot 130 within the Summer Creek Subdivision.

On December 17, 2018, the City Council held a public hearing on this matter and expressed some concerns regarding access to the area. Additionally, two people who own property in the area expressed concerns with abandoning the temporary access easement between McKee Road and Whitewater Way. As a result of this concern, the item was continued to the January 7, 2019, City Council meeting to allow staff time to prepare information regarding the access to the area.

At the January 7, 2019, Council meeting, staff provided information on the access to the area and explained the past Council actions that had precluded additional access from Whitewater Way to Yosemite Avenue. Because Bright Development was working with MID to deed the property to MID, staff recommended the item be continued to the February 19, 2019, City Council meeting. After hearing public testimony regarding this item, the City Council voted to continue the item to February 19, 2019.

On February 19, 2019, staff advised Council that they had been informed that MID was not willing to accept the easement area. Therefore, staff needed more time to work out the issues related to the vacation request. The City Council opened the public hearing for this item and three speakers addressed the Council regarding the proposed vacation. Although some of the speakers expressed preference for maintaining the EVA, there was little support expressed for providing additional access to the area from Whitewater Way.

Recommendation

Staff is recommending the City Council take action to approve the vacation for Lots 5, 6, 7, 17, 18, 29, and 130 by adopting the Resolution at Attachment 3 or provide direction to staff regarding the

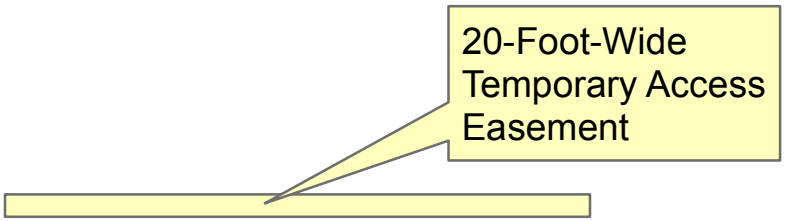
vacation for these lots.

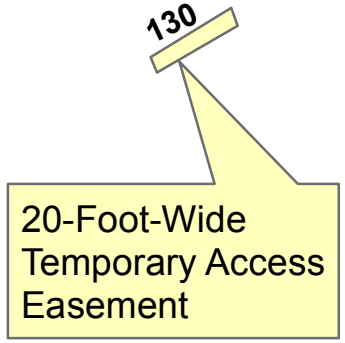
IMPACT ON CITY RESOURCES

There would be no impact on City resources as a result of this action.

ATTACHMENTS

1. Location Map
2. Aerial Photo
3. Draft City Council Resolution for Lots 5, 6, 7, 17, 18, 29, and 130
4. Presentation


20-Foot-Wide
Temporary Access
Easement


130
20-Foot-Wide
Temporary Access
Easement

N


MID Distribution Box

RESOLUTION NO. 2019-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA ORDERING THE VACATION OF A 20-FOOT-WIDE TEMPORARY EMERGENCY ACCESS EASEMENT ON LOTS 5, 6, 7, 17, 18, 29 AND 130 WITHIN SUMMER CREEK, PHASE ONE SUBDIVISION (VACATION #18-03)

WHEREAS, Bright Development, Inc. is the owner of lots 6, 7, 17, 18, 29 and 130 of the Summer Creek Phase 1 Subdivision, and Lot 5 of the Summer Creek Phase 1 Subdivision is privately owned by Chris and Hassan Curtis (collectively "Owners"); and

WHEREAS, the Owners have applied for the vacation of the 20-foot-wide Temporary Emergency Vehicle Access (EVA) Easement on Lots 5, 6, 7, 17, 18, 29 and 130 as described in Exhibits "A" and "A-1" attached hereto and incorporated herein and shown on the map shown in Exhibits "B" and "B-1" attached hereto and incorporated herein; and

WHEREAS, by adoption of Resolution No. 2018-75 on November 19, 2018, the City Council declared its intention to consider the vacation of a 20-foot-wide temporary emergency access easement on 7 lots, including Lots 5, 6, 7, 17, 18, 29 and 130 within Summer Creek, Phase One Subdivision, as described in Exhibits "A" and "A-1" and shown on the map at Exhibits "B" and "B-1" attached hereto; and

WHEREAS, Resolution No. 2018-75 fixed a time and place for hearing all persons interested in or objecting to the proposed vacation to wit: On Monday, December 17, 2018, at the hour of 6:00 p.m. of said day, in the Council Chambers of the City Council, 678 West 18th Street, Merced, California, which said time was not less than fifteen (15) days from the above-mentioned date and passage of Resolution No. 2018-75; and

WHEREAS, Resolution No. 2018-75 was published in the manner prescribed by Section 8320 of the Streets and Highways Code of the State of California; and

WHEREAS, the public hearing was held on December 17, 2019, and was continued to January 7, 2019, at which time the public hearing was held and continued to February 19, 2019, at which time the public hearing was held and continued to March 18, 2019; and

WHEREAS, on November 21, 2018, notices were conspicuously posted along the lines of the property proposed to be vacated, not more than three hundred (300) feet apart, which notices consisted of copies of Resolution No. 2018-75 and,

WHEREAS, the vacation of the public right-of-way as proposed by Resolution No. 2018-75 was submitted to the Planning Commission on October 3, 2018, which found the proposed vacation to be in conformity with the general plan.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council finds from all of the evidence submitted that the temporary emergency access easement for Lots 5, 6, 7, 17, 18, 29 and 130 of the Summer Creek, Phase One Subdivision, as described in Exhibits "A" and "A-1" and shown on the map at Exhibits "B" and "B-1" is unnecessary for emergency vehicle access.

SECTION 2. It is hereby ordered that the temporary emergency access easement for Lots 5, 6, 7, 17, 18 and 29 within Summer Creek, Phase One Subdivision lying within the above described territory be and the same is hereby abandoned and vacated, pursuant to the provisions of Part 3, Division 9, of the Streets and Highways Code of the State of California, being the Public Streets, Highways, and Services Easements Vacation Law.

SECTION 3. The City Clerk is directed to cause a certified copy of this resolution, attested under seal of the City of Merced, to be recorded in the Office of the County Recorder of Merced County.

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ of _____, 2019, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

_____
Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____ 3-4-19
City Attorney Date

EXHIBIT 'A'

Legal Description for
Abandonment of 20' Wide Temporary Emergency Access Easement
Summer Creek Phase 1 (A.P.N. 008-391-005, 006, 007, 017, 018 and 029)

The north 20.00 feet of Lots 5, 6, 7, 17, 18 and 29 as shown on the map of Summer Creek Phase 1 filed in Book 62 of Official Plats, at Pages 43 through 47, inclusive, Merced County Records, lying in Section 16, Township 7 South, Range 14 East, Mount Diablo Base and Meridian, in the City of Merced, County of Merced, State of California.

This real property description was prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.



S Harp 5/1/2018
Sean Harp, P.L.S. 7823 Date

EXHIBIT A

EXHIBIT A-1

Legal Description for
Abandonment of 20' Wide Temporary Access Easement
Summer Creek Phase 1 (A.P.N. 008-403-004)

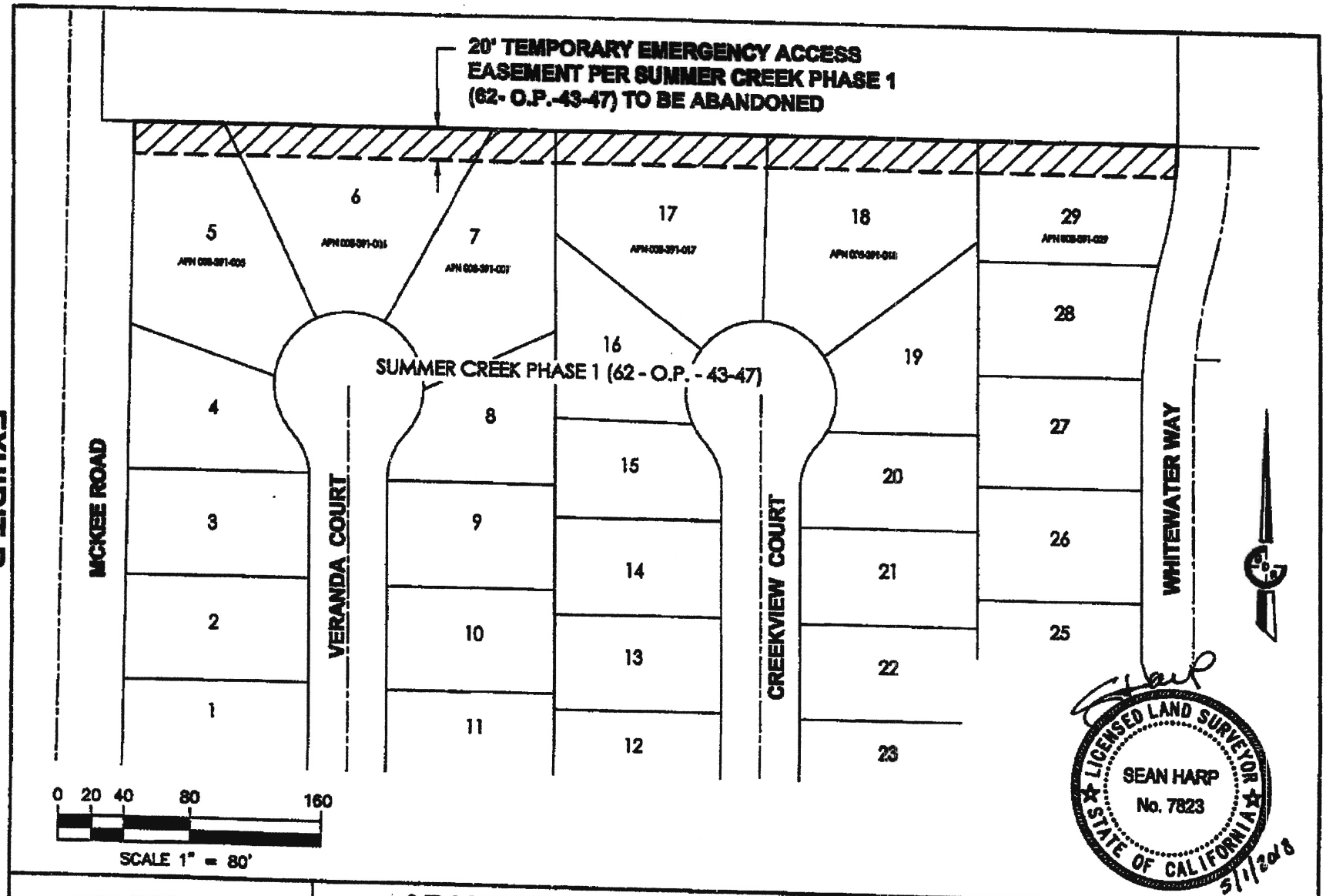
The southeasterly 20.00 feet of Lot 130 as shown on the map of Summer Creek Phase 1 filed in Book 62 of Official Plats, at Pages 43 through 47, inclusive, Merced County Records, lying in Section 16, Township 7 South, Range 14 East, Mount Diablo Base and Meridian, in the City of Merced, County of Merced, State of California.

This real property description was prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.



Sean Harp, P.L.S. 7823 — Date 5/1/2018

EXHIBIT B

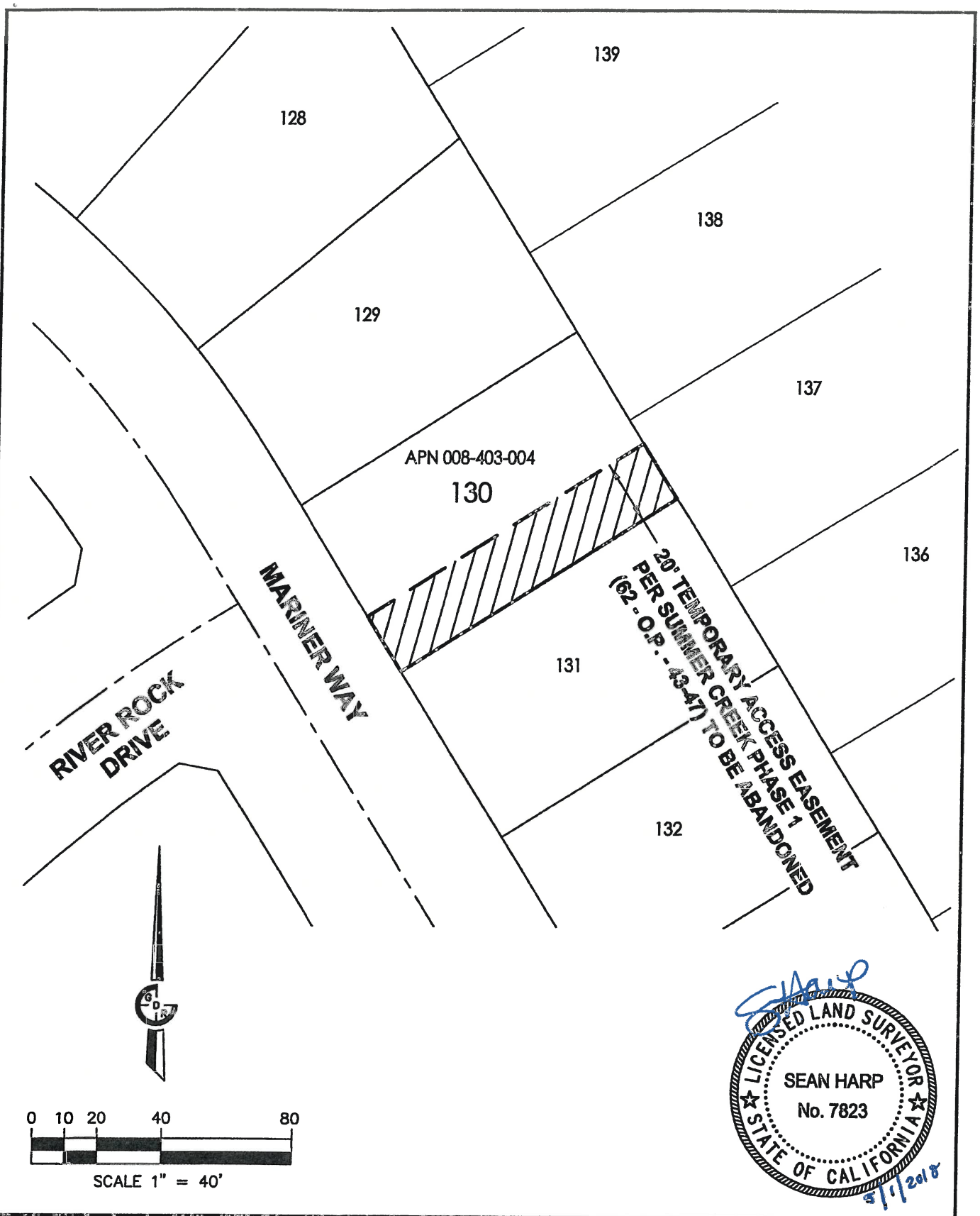


GDR ENGINEERING, Inc.
ENGINEERING/SURVEYING/PLANNING
3625 Mitchell Road, Ste. 2, Ceres, CA 95307
PH: (209) 538-3360
www.gdrengineering.com

ABANDONMENT OF TEMPORARY EMERGENCY ACCESS EASEMENT FOR SUMMER CREEK PHASE 1

CITY OF MERCED, COUNTY OF MERCED, CALIFORNIA

JOB NO.:18022
APRIL, 2018
SHEET 1 OF 1



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ABANDONMENT OF TEMPORARY ACCESS EASEMENT FOR SUMMER CREEK PHASE 1

CITY OF MERCED, COUNTY OF MERCED, CALIFORNIA

JOB NO.:18022
APRIL, 2018
SHEET 1 OF 1

EXHIBIT B-1

Vacation #18-03

Vacation of Emergency Vehicle Access in Summer Creek Subdivision

City Council
3/18/2019


20-Foot-Wide
Temporary Access
Easement
5
6
7
17
18
29
130
20-Foot-Wide
Temporary Access
Easement
N

Vacation Area – Closer Look



- Lot 5 is occupied and privately owned.
- Lots 6, 7, 17, 18, and 29 vacant and owned by Bright Development.

Status of Vacation Request

(EVA – Emergency Vehicle Access)

- MID determined they do not want to accept ownership of the easement area.
- MID easement would remain after the City vacates the EVA.
- MID stated they would not allow any fences to be built over the easement area.
- Staff has determined the EVA would not be accessible once a home is built on Lot 29.


Lot 29
MID Distribution Box


This Area Not Dedicated to MID
5
6
7
17
18
29

Options

- Grant the Vacation and reconsider the access from Whitewater Way to Yosemite Avenue to provide additional access to the area;
- Grant the Vacation and work to obtain access to Whitewater Way with an east/west road that would align with Silverado Avenue to the west of McKee Road;
- Deny the Vacation.

Past Actions

- The City Council heard testimony on this matter at the December 17, 2018, January 7, 2019, and February 19, 2019, Council meetings.
- Some speakers have expressed preference for maintaining the EVA between McKee and Whitewater Way (Lots 5, 6, 7, 17, 18, and 29).
- There has been little support for additional access to the area from Whitewater Way.

Recommendation

- Approve Vacation for Lots 5, 6, 7, 17, 18, 29, and 130; OR,
- Provide direction according to Options in Admin Report; OR,
- Provide other direction to staff.

City Council Action

- Open Public Hearing;
- Take action on vacation of Lots 5, 6, 7, 17, 18, 29, and 130.



Questions...

CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

Agenda Item K.1. Meeting Date: 3/18/2019

Report Prepared by: Stephanie Dietz, Assistant City Manager

SUBJECT: Approving the City Council FY 2019/20 Goals and Priorities

REPORT IN BRIEF
Staff will provide a summary overview of initial comments received from Council to approve the FY 2019/20 Goals and Priorities.

RECOMMENDATION
City Council - Adopt a motion approving FY 2019/20 Goals and Priorities.

DISCUSSION
On February 26th, 27th and 28th the City Council held Town Hall meetings in Central, North and South Merced to hear from the residents of Merced on outstanding issues and areas for investment for development of the FY 2019/20 Budget. On March 4, 2019, Council provided their initial input on potential Goals and Priorities for the FY 2019/20 Budget. Staff will be providing a summary of the comments received from Council on March 4th and seeking direction on how to integrate these into the upcoming budget.

ATTACHMENTS
1. Updated Goals and Priorities

FY 2019/20 Council Goals & Priorities

1 Staffing (General Fund)

* Measure C Transition - Sunsets in 2026
* Code Enforcement/Dispatchers/Police Officers
* Parks Maintenance Workers
* Employee Compensation

2 Youth Programs (General Fund)

* Youth/Recreation Programs
* Community Outreach - Mobilize Volunteers
* Additional Programs with Partnerships/Voucher Program (new)
* 27th & K

Support for the Zoo

Fahren's Park Bike Project

3 City Beautification (One-time/General Fund)

* Parks Maintenance & Equipment
* Public Art
* Blighted Property/Refuse Collection
* Welcome Signs/Entry Points

Public Spaces

4 Local Streets (Measure V/STP/Local Transportation)

* Overall Streets, Sidewalks, and Street Lights
* Safe Routes to School - Childs Ave.
* Parsons Ave.

Regional Projects - Hwy 59

Regular Updates to community on projects

Traffic/Pedestrian Safety

5 Future Planning

* Police Station/Fire Stations/Public Works Yard/Park Restrooms
* Future Annexations/Growth of City/Sewer Master Plan
* Economic Development/Industrial Park/Yosemite Travel
* Quiet Zones/Rail Safety

Growing General Fund Reserves

* Infill Development

City Outskirts Services/County Islands

6 Downtown

* Code Enforcement/Store Fronts

Housing

Bob Hart Square Extension

Consistent foot patrols

Enhanced Infrastructure Financing District (EIFD)

7 Regional Transportation

* High Speed Rail
* ACE Train
* Amtrak

Campus Parkway/Merced Loop

6 Water

SGMA/IRWM Implementation

Flood Prevention

Groundwater Recharge

Sub-Committee

Surface Water Projects

8 Homelessness

Childs & B Street Project (119 units)

Gateway Terrace II Apartments (50)

Single-family/Tri-plex opportunities

First-time Home Buyer Education Program

9 Charter Review Committee

Remove Charter Cash-basis Fund ($4 mil)

Mayor Term

10 Community Wellness

16th Street/Motel Drive Issues

Neighborhood Watch

Expanded Citizen's Police Academy

11 Agency Partnerships

Homeless Court

County Navigation Center

UC Merced Internships

Regional Plan for Services - Continuum of Care

Drug Prevention (County)

Public Health (County)

Youth Programs (County & Schools)

Job Training (Merced College & County)

* Multi-Year Priority

ADMINISTRATIVE REPORT

Agenda Item K.2. Meeting Date: 3/18/2019

SUBJECT: Mayor Murphy's Request to Discuss Amending the City of Merced Charter

REPORT IN BRIEF

This item is in response to Mayor Murphy's request to discuss amending the City of Merced Charter pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.