

RESOLUTION NO. 2024 - _____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
ACKNOWLEDGING THE OCTOBER 28, 2021,
ENVIRONMENTAL MONITORING REPORT
FINDINGS AND CORRECTIVE ACTIONS
REQUIRED BY THE U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT (HUD)
TO REGAIN AND ENSURE CURRENT AND
FUTURE COMPLIANCE WITH THE
PROVISIONS OF THE NATIONAL
ENVIRONMENTAL POLICY ACT (NEPA) AND
ALL ASSOCIATED REGULATIONS.**

WHEREAS, the City of Merced is recognized by HUD as an “Entitlement Community” under the Community Development Block Grant (CDBG) Entitlement Program and is a “Participating Jurisdiction (PJ)” under the HOME Investment Partnership Program (HOME) to receive annual allocations of federal funding and carry out eligible activities in a compliant and responsible manner; and,

WHEREAS, the City of Merced is the Responsible Entity (RE) under Part 58 of Title 24 of the Code of Federal Regulations (“Part 58”) that assumes HUD’s own regulatory responsibility to implement the National Environmental Policy Act (NEPA) for all HUD-administered allocations of funding distributed to HUD Grantees in Merced City, including the City’s CDBG, CDBG-CV, HOME, and HOME-ARP Program allocations and the Housing Authority’s Public Housing Voucher Programs; and,

WHEREAS, therefore, the City of Merced must ensure that all its activities that are HUD-assisted, in total and in part, are in compliance with NEPA, the Council of Environmental Quality (CEQ) regulations implementing NEPA, and HUD’s environmental regulations at Part 58, as well as correct procedures and technical compliance with other related regulations, laws, and authorities; and,

WHEREAS, monitoring is used as the principle means by which HUD ensures that the City’s HUD-assisted programs and technical activities are carried out efficiently, effectively, and that the programs comply with related regulations,

laws, and authorities; is an effective tool for providing technical assistance focused on improving the quality of the City's environmental reviews; and, to inform the City, as RE under Part 58, of new guidance and strategies to make the review process more efficient; and,

WHEREAS, in January 2020, HUD conducted an on-site environmental monitoring of CDBG and HOME programs for Plan Years 2014 to 2018 to assess performance and compliance with applicable Federal requirements; and,

WHEREAS on October 28, 2021, HUD issued its Environmental Monitoring Report, which determined that the City had generally ensured that CDBG and HOME funds were compliant with NEPA and applicable environmental laws, Executive Orders, and other requirements. However, the Report identified two Findings of deficiency in program performance of which sanctions or other corrective actions are required; and,

WHEREAS, the two findings were: 1) Finding 1 – in four separate projects (five activities), HUD program funds were committed to a choice-limiting action prior to submission of the Request for Release of Funds and Certification, a statutory violation of Section 104(g)(2) of the Housing and Community Development Act of 1974 and Section 288(b) Title II of the Cranston-Gonzales National Affordable Housing Act, and which also were regulatory violations of Part 58; and, 2) Finding 2 - the City failed to retain the written records of the Tier 1 broad level review of its Tiered environmental review approach for the 2015 Homeowner Rehabilitation Program; and,

WHEREAS, since the October 2021 Environmental Monitoring Report, HUD Representatives have been working with City staff to rectify and resolve the identified deficiencies while preserving the integrity and intent of the projects involved in the findings and have identified amenable paths forward that will enable affected projects to remain viable and/or move forward, which includes assignment and assumption of previous CDBG and/or HOME deed restrictions, affordability requirements, loan agreements, and related other agreements to a non-Federal/Local funding source.

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

SECTION 1. That the City Council of the City of Merced acknowledges the Findings as provided in the October 28, 2021, U.S Department of Housing and Urban Development Environmental Monitoring Report, Exhibit A; and,

SECTION 2. That the City Council of the City of Merced, in completing required corrective actions for Finding 1, does hereby prohibit the pledge of future or additional CDBG and HOME funds to any of the projects identified in Finding 1; however, this action does not prohibit the City or an associated developer from seeking to obtain a waiver of the §58.22(a) violation from HUD, as described in Exhibit A, that could potentially enable use of other HUD funding sources, such as, but not limited to, project based vouchers through the Public Housing Programs under Title I of the U.S. Housing Act of 1937; and,

SECTION 3. That the City Council of the City of Merced, in completing further required corrective actions for Finding 1, does hereby authorize the use of Housing Successor Agency Low-Moderate Income (LMI) Asset Funds to be utilized as the non-Federal/local funding source that is required for repayment of the previous expenditure of CDBG and HOME funds that were in violation, as described in Exhibit A; and,

SECTION 4. That the City Manager is authorized to execute any and all documents as necessary to implement the intent of the City Council on this matter.

SECTION 5. That the Finance Officer is authorized to perform the necessary budget adjustments, appropriation of funds, repayment, and other related actions needed to address the required corrective actions identified in the October 28, 2021, Environmental Monitoring Report.

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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 _____ 2024, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:
MATTHEW SERRATTO, MAYOR

Mayor

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

 3/25/2024
City Attorney Date