



CITY OF MERCED
Amended
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**

Tuesday, January 16, 2018

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. [18-012](#) **SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Employee Organization: American Federation of State, County, and Municipal Employees (AFSCME) Council 57; Local 2703; International Association of Fire Fighters, Local 1479; Merced Association of City Employees (MACE). AUTHORITY: Government Code Section 54957.6**

B.2. [18-011](#) **SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Unrepresented**

Management AUTHORITY: Government Code Section 54957.6

B.3. [18-024](#) **SUBJECT: PUBLIC EMPLOYMENT - Title: City Attorney; Authority: Government Code Section 54957**

B.4. [18-025](#) **SUBJECT: CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION: Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Section 54956.9: 2 Cases**
Second case added late

B.5. [18-013](#) **SUBJECT: PUBLIC EMPLOYEE APPOINTMENT - Title: Finance Officer; AUTHORITY: Government Code 54957**

C. CALL TO ORDER

C.1. Invocation - Bruce Metcalf, Rescue Mission

C.2. Pledge 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. WRITTEN PETITIONS AND COMMUNICATIONS

G. 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.

H. 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.

H.1. [18-026](#) **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.

H.2. [18-032](#) **SUBJECT: City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of December 18, 2017**

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

City Council/Public Financing and Economic Development/Parking Authority - Adopt a motion approving the meeting minutes of December 18, 2017.

H.3. [17-507](#) **SUBJECT: Maintenance Districts Assessment Ballot Proceeding - Northwood Village, East College Homes, Moss Landing & Ridgeview Meadows**

REPORT IN BRIEF

Consider authorizing an assessment ballot proceeding and setting a public hearing for Monday, March 19, 2018, for the Northwood Village, East College Homes, Moss Landing, and Ridgeview Meadows Maintenance Districts, to obtain property owner approval in advance of increase in annual levy assessments.

RECOMMENDATION

City Council - Adopt a Motion:

A. Adopting **Resolution 2018-04**, a Resolution of the City Council of the

City of Merced, California authorizing an assessment ballot proceeding for the Northwood Village, East College Homes, Moss Landing, and Ridgeview Meadows Maintenance Districts, and;

B. Setting the public hearing for Monday, March 19, 2018, to obtain property owner approval prior to the increase in annual assessment levy to cover operation and maintenance costs to each identified District; and,

C. Approving a supplemental budget appropriation from the Unreserved Fund Balance of the General Fund in the amount not to exceed \$1,990, to cover the assessment balloting noticing costs.

H.4. [17-601](#)

SUBJECT: Vacation #17-02 - Setting a Public Hearing to Vacate a 40-Foot-Wide "Avenue" Generally Located Along the East Property Line of Two Parcels Generally Located at the Northeast Corner of Childs Avenue and Kibby Road and the Southeast Corner of East Highway 140 and Kibby Road

REPORT IN BRIEF

Set a public hearing for February 20, 2018, to vacate a 40-foot-wide "Avenue" on two parcels generally located at the northeast corner of Childs Avenue and Kibby Road and the southeast corner of East Highway 140 and Kibby Road.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2018-03**, a Resolution of the City Council of the City of Merced, California declaring its intention to vacate a 40-foot-wide "Avenue" located along the eastern property line of three parcels generally located at the northeast corner of Childs Avenue and Kibby Road and the southeast corner of East Highway 140 and Kibby Road (Vacation #17-02) setting time and place for public hearing.

H.5. [18-023](#)

SUBJECT: Consideration of the Second Amendment to the Berliner Cohen, LLP Contract for Interim City Attorney and Interim Legal Services

REPORT IN BRIEF

Consider authorizing a Second Amendment to the Agreement with Berliner Cohen, LLP to provide Interim City Attorney Services.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the Second Amendment to the Agreement for Interim Legal Services for Interim City Attorney Services with Berliner Cohen, LLP, and;
- B. Approving a Supplemental Appropriation from the General Fund unencumbered, unreserved Fund Balance and authorizing the Interim Finance Officer to make the necessary budget adjustments, and;
- C. Authorizing the City Manager or Assistant City Manager to execute the Second Amendment to the Agreement for Interim Legal Services with Berliner Cohen, LLP.

I. 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.

- I.1. [17-629](#) **SUBJECT:** Vacation #17-01 - Submitted by Janet W. Bloed, Trustee, for the Abandonment of an Old Public Utilities Easement at 1297 Ahwahnee Drive.

REPORT IN BRIEF

The City Council will consider the abandonment of an old 5-foot-wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2018-02**, a Resolution of the City Council of the City of Merced, California, ordering the vacation of a 5-foot-wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive, approximately 850 feet east of Joerg Avenue (Vacation #17-01).

J. REPORTS

- J.1. [18-022](#) **SUBJECT:** Applegate Park Rose Garden Improvements

REPORT IN BRIEF

Requests Council direction on proposed improvements, including replacing irrigation lines, replanting rose bushes and repairing Laura's

Fountain at the Rose Garden located at Applegate Park.

RECOMMENDATION

Provide direction to staff on how to proceed with the proposed Rose Garden improvements.

J.2. [18-018](#)

SUBJECT: Adoption of Merit-Based Selection Criteria for Commercial Cannabis Business Permits (Limited Number of Permits Available)

REPORT IN BRIEF

The City Council is being asked to adopt, by resolution, the Merit-Based Selection Criteria for Commercial Cannabis Business Permits for which there are a limited number of permits available. Dispensaries/retail sales are limited to four in the recently adopted Ordinance.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2018-01**, a Resolution of the City Council of the City of Merced, California, approving Merit-Based Selection Criteria for Scoring Commercial Cannabis Business Permit Applications for which there are a limited number of permits available.

J.3. [18-033](#)

SUBJECT: Report on Local Business Preference Policy

REPORT IN BRIEF

Consider Council direction to have a policy that allows for a local preference when purchasing goods and services from vendors.

RECOMMENDATION

Provide staff direction on the attached draft ordinance and draft resolution regarding a Local Business Preference Policy concerning purchasing goods and services from local vendors.

J.4. [18-034](#)

SUBJECT: Update on Public Facilities Projects

REPORT IN BRIEF

At the request of Council Member Belluomini, staff are presenting an update on the Public Facilities projects and next steps moving into 2018.

RECOMMENDATION

Provide staff with further direction on Public Facilities Projects.

K. BUSINESS

K.1. Request to Add Item to Future Agenda

K.2. City Council Comments

L. ADJOURNMENT



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.1.

Meeting Date: 1/16/2018

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Employee Organization: American Federation of State, County, and Municipal Employees (AFSCME) Council 57; Local 2703; International Association of Fire Fighters, Local 1479; Merced Association of City Employees (MACE). AUTHORITY: Government Code Section 54957.6



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.2.

Meeting Date: 1/16/2018

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Unrepresented Management AUTHORITY: Government Code Section 54957.6



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.3.

Meeting Date: 1/16/2018

SUBJECT: PUBLIC EMPLOYMENT - Title: City Attorney; Authority: Government Code Section 54957



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.4.

Meeting Date: 1/16/2018

SUBJECT: CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION: Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Section 54956.9: 1 Case



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.5.

Meeting Date: 1/16/2018

**SUBJECT: PUBLIC EMPLOYEE APPOINTMENT - Title: Finance Officer; AUTHORITY:
Government Code 54957**



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item H.1.

Meeting Date: 1/16/2018

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 H.2.

Meeting Date: 1/16/2018

SUBJECT: City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of December 18, 2017

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

City Council/Public Financing and Economic Development/Parking Authority - Adopt a motion approving the meeting minutes of December 18, 2017.

ALTERNATIVES

1. Approve as recommended; or,
2. Approve, subject to amendments.

ATTACHMENTS

1. Minutes of December 18, 2017



CITY OF MERCED

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

Minutes

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

Monday, December 18, 2017

6:00 PM

A. CLOSED SESSION ROLL CALL

Present: 7 - Council Member Michael Belluomini, Council Member Anthony Martinez, Mayor Pro Tempore Jill McLeod, Council Member Joshua Pedrozo, Council Member Matthew Serratto, Mayor Mike Murphy, and Council Member Kevin Blake

Absent: 0

B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:02 PM.

Clerk's Note: Council Member PEDROZO arrived to the Closed Session at 5:03 PM.

B.1.

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Employee Organization: American Federation of State, County, and Municipal Employees (AFSCME) Council 57; Local 2703; International Association of Fire Fighters, Local 1479; Merced Association of City Employees (MACE). AUTHORITY: Government Code Section 54957.6

B.2.

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Unrepresented Management AUTHORITY: Government Code Section 54957.6

Clerk's Note: Council adjourned from Closed Session at 5:59 PM.

C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:05 PM.

C.1. Invocation - David Sherrill, Kingdom Ranch Ministries' Cowboy Church of Merced

The invocation was delivered by Pastor David SHERRILL from the Kingdom Ranch Ministries' Cowboy Church of Merced.

C.2. Pledge of Allegiance to the Flag

Mayor MURPHY led the Pledge of Allegiance to the Flag.

D. ROLL CALL

Present: 7 - Council Member Michael Belluomini, Council Member Anthony Martinez, Mayor Pro Tempore Jill McLeod, Council Member Joshua Pedrozo, Council Member Matthew Serratto, Mayor Mike Murphy, and Council Member Kevin Blake

Absent: 0

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

There was no report.

F. CEREMONIAL MATTERS

F.1. **SUBJECT:** Donation of Funds by the International Association of Fire Fighters (IAFF) Local #1479 to UC Davis Cancer Center

REPORT IN BRIEF

The City of Merced International Association of Fire Fighters Local #1479, will donate funds from their annual Breast Cancer Awareness T-Shirt sales to the UC Davis Cancer Center.

The City of Merced International Association of Fire Fighters presented a donation of funds from their annual Breast Cancer Awareness T-Shirt sales to the UC Davis Cancer Center.

G. WRITTEN PETITIONS AND COMMUNICATIONS

The Clerk's Office received letters from Clarence CHANCE and Richard HARRIMAN for items listed on the agenda and placed them on the dais.

H. ORAL COMMUNICATIONS

Jorge GARIBAY, Merced - spoke on the issues he is having at Stephen Leonard Park.

Debbie MACIAS, AFSCME Council 57, introduced herself to Council.

I. CONSENT CALENDAR

Items I.9. Consulting and Professional Services Contracts for as Needed

Plan Checking, Inspection, and Other Building Related Services: 4 Leaf Inc., Bureau Veritas of Northern America, CSG Consultants Inc., and Interwest Consulting Group, I.12. Renewal of Lease Agreement with Rachele Abril/MOJO for McNamara Park Community Center Building, I.15. Approve Budget Transfer to Support Professional Services Agreements to Facilitate a Public Opinion Survey, I.18. Professional Services Agreement with Davey Resource Group Inc., to Prepare an Urban Forest Tree Inventory and Management Plan, I.21. Approval of an Agreement with PMAM Corporation for Management and Administration of the City's Burglar Alarm Systems and False Alarm Ordinance, and I.22. Introduction of Ordinance Amending Chapter 8.28 of the Merced Municipal Code Pertaining to Burglar Alarm and False Alarms, were pulled for separate consideration.

Approval of the Consent Agenda

A motion was made by Mayor Pro Tempore Blake, seconded by Council Member Serratto, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

I.1. 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.

This Consent Item was approved.

I.2. SUBJECT: Information Only - Traffic Committee Minutes of March 14, May 9, July 11, and September 12, 2017

RECOMMENDATION

For information only.

This Consent Item was approved.

- I.3. **SUBJECT:** Information Only - Recreation and Parks Commission
Minutes of October 23, 2017

REPORT IN BRIEF

For information only.

This Consent Item was approved.

- I.4. **SUBJECT:** City Council/Public Financing and Economic
Development/Parking Authority Meeting Minutes of November 16,
2017

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

**City Council/Public Financing and Economic
Development/Parking Authority** - Adopt a motion approving the
meeting minutes of November 16, 2017.

This Consent Item was approved.

- I.5. **SUBJECT:** Minimum Wage Increase

REPORT IN BRIEF

Approve minimum wage increase in accordance with Senate Bill 3.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2017-63**, a
Resolution of the City Council of the City of Merced, California,
amending the salary ranges for the temporary classifications of
Lifeguard I, Lifeguard II, Pool Manager, Recreation Coordinator,
Recreation Leader, and Recreation Specialist; and, authorizing the City
Manager or Assistant City Manager to execute the necessary
documents.

This Consent Item was approved.

- I.6. **SUBJECT:** Authorization of Signing Authority for City Bank
Accounts and Local Agency Investment Fund

REPORT IN BRIEF

Consider granting the City's Deputy Finance Officer signing authority for City bank accounts and Local Agency Investment Fund.

RECOMMENDATION

City Council/Public Financing and Economic Development Authority/Parking Authority - Adopt a motion:

A. Adopting **Resolution 2017-65**, a Resolution of the City Council of the City of Merced, California, authorizing signature of City checks; and,

B. Adopting **Resolution 2017-66**, a Resolution of the City Council of the City of Merced, California, authorizing investment of City of Merced monies in Local Agency Investment Fund; and,

C. Adopting Resolution **PFA 2017-09**, a Resolution of the City of Merced Public Financing and Economic Development Authority authorizing signature of Authority checks; and,

D. Adopting Resolution **PFA 2017-10**, a Resolution of the City of Merced Public Financing and Economic Development Authority authorizing investment of City of Merced monies in Local Agency Investment Fund; and,

E. Adopting Resolution **PA 2017-10**, a Resolution of the Parking Authority of the City of Merced, California, authorizing signature of Parking Authority checks; and,

F. Adopting Resolution **PA 2017-11**, a Resolution of the Parking Authority of the City of Merced, California authorizing investment of City of Merced monies in Local Agency Investment Fund.

This Consent Item was approved.

I.7.

SUBJECT: Set a Public Hearing for January 16, 2018 for Vacation #17-01: Abandonment of Old Public Utilities Easement at 1297 Ahwahnee Drive.

REPORT IN BRIEF

The City Council will be asked to set a public hearing for January 16, 2018, to abandon a 5-foot wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2017-68**, A Resolution of the City Council of the City of Merced, California, declaring its intention to vacate a 5-foot wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive, approximately 850 feet east of Joerg Avenue (Vacation #17-01) and setting time and place for public hearing.

This Consent Item was approved.

I.8.

SUBJECT: Urgency Ordinance and Introduction of Ordinance for the Reauthorization of State Franchise Holder PEG Fee

REPORT IN BRIEF

Consider adoption of an urgency and regular Ordinance amending the Merced Municipal Code to allow the reauthorization for the state Franchise Holder Fee per section 3.50.010.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Ordinance 2482**, an Ordinance of the City Council of the City of Merced, California, Amending Section 3.50.010, "Fee for Support of Local Cable Usage," of the Merced Municipal Code - Urgency; and,

B. Introducing **Ordinance 2483**, an Ordinance of the City Council of the City of Merced, California, Amending Section 30.50.010, "Fee for Support of Local Cable Usage," of the Merced Municipal Code.

This Consent Item was approved.

I.10.

SUBJECT: Funding Agreement with Merced County Association of Governments (MCAG) for a Pavement Management System

REPORT IN BRIEF

Considers approving a Funding Agreement with Merced County Association of Governments for a countywide Pavement Management System.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the Funding Agreement for Pavement Management

System with the Merced County Association of Governments (MCAG) in the amount not to exceed \$67,000; and, authorizing the City Manager or Assistant City Manager to execute the necessary documents; and,

B. Authorizing the Interim Finance Officer to make the necessary budget adjustment.

This Consent Item was approved.

I.11.

SUBJECT: Requesting a Supplemental Appropriation of Program Income from Fund 059 Neighborhood Stabilization in the Amount of \$251,186 to Close Out the Program

REPORT IN BRIEF

Consider Authorizing a Supplemental Appropriation to close out the Neighborhood Stabilization Program Grant with the State of California since the City is required to return all program income currently in Fund 059.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a supplemental appropriation in the amount of \$251,186 in Fund 059 Neighborhood Stabilization to allow forwarding funds to the State of California; and,

B. Authorizing the City Manager or Assistant City Manager to execute, and if necessary, make minor modifications to the requests described above as attached to this report and all associated documents; and,

C. Authorizing the Interim Finance Officer to make necessary budget adjustments.

This Consent Item was approved.

I.13.

SUBJECT: CP-42 Lease Agreement with Seth Rossow

REPORT IN BRIEF

Lease agreement with Seth Rossow to decrease amount of leasable land.

RECOMMENDATION

City Council - Adopt a motion approving the lease agreement with

Seth Rossow; and, authorizing the City Manager or Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

I.14.

SUBJECT: Approve Final Design for McNamara Park All Wheels/Skate Park

REPORT IN BRIEF

Asking Council to Consider Approval of the Final Design for McNamara Park All Wheels/Skate Park

RECOMMENDATION

Approve Final Design for McNamara Park All Wheels/Skate Park

This Consent Item was approved.

I.16.

SUBJECT: Professional Services Agreement with Stantec Consulting Services, Inc., for Water Rate Study

REPORT IN BRIEF

Consider approving a Professional Services Agreement with Stantec Consulting Services, Inc., to conduct a Water Rate Study.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a Professional Services Agreement with Stantec Consulting Services, Inc., in the amount of \$69,931, to prepare a comprehensive water rate study for water service charges, water connection charges, and related services; and,

B. Authorize the City Manager or Assistant City Manager to sign the necessary documents.

This Consent Item was approved.

I.17.

SUBJECT: Card-Lock Fuel Station Service Agreement with Tesei Petroleum, Inc., and Fuel Delivery Services Agreement with Pazin and Meyers, Inc.

REPORT IN BRIEF

Considers approval of separate three-year service agreements with

Tesei Petroleum, Inc., and Pazin and Myers, Inc., to provide fueling services for City vehicles.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a Service Agreement with Tesei Petroleum, Inc., to provide card-lock fueling services for City vehicles, and;

B. Approving a Service Agreement with Pazin and Myers, Inc., to provide fuel delivery services to all City dispensing stations or various generator sites, and;

C. Authorizing the City Manager or Assistant City Manager to sign the necessary documents and execute future amendments.

This Consent Item was approved.

I.19.

SUBJECT: Amendment to Agreement for the School Resource Officers With Merced Union High School District to Change the Language in the Indemnification/ Hold Harmless Provision

REPORT IN BRIEF

Considers approving an Amendment to the City's existing Memorandum of Understanding (MOU) with the Merced Union High School District.

RECOMMENDATION

City Council - Adopt a motion approving an addendum to the City's MOU with Merced Union High School District and authorizing the City Manager or Assistant City Manager to sign the necessary documents.

This Consent Item was approved.

I.20.

SUBJECT: Agreement with Merced County Office of Education for School Resource Officer Services

REPORT IN BRIEF:

Considers approving an Agreement between the City and the Merced County Office of Education (MCOE) for a School Resource Officer at Valley Community School.

RECOMMENDATION:

City Council - Adopt a motion:

A. Approving a contract between the City and Merced County Office of Education for an School Resource Officer at Valley Community School; and,

B. Authorizing the City Manager or Assistant City Manager to execute the agreement; and,

C. Authorizing the Interim Finance Officer to make the appropriate budget adjustments.

This Consent Item was approved.

I.23.

SUBJECT: Second Reading of an Ordinance Amending Merced Municipal Code Section 10.28.230 to Create No Parking Zones on Portions of Cypress Way and Park Avenue

REPORT IN BRIEF

Second reading of a previously introduced ordinance.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance No. 2481**, an Ordinance of the City Council of the City of Merced, California, Amending Section 10.28.230, "No Parking Zones," of the Merced Municipal Code.

This Consent Item was approved.

I.9.

SUBJECT: Consulting and Professional Services Contracts for As Needed Plan Checking, Inspection, and other Building Related Services: 4 Leaf Inc., Bureau Veritas of North America, CSG Consultants Inc., and Interwest Consulting Group

REPORT IN BRIEF

Consider approving four Consulting and Professional Services Contracts for consultants that provide services on as needed basis to the Inspection Services Division (Building Division) of the Development Services Department.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the Agreement with 4 Leaf Inc. to provide as needed Plan Checking, Inspection, and other Building Related Services for a term of two years, with a one year extension option, in an amount not to exceed funds available in the annual budget or as amended; and,

B. Approving the Agreement with Bureau Veritas of North America to provide as needed Plan Checking, Inspection, and other Building Related Services for a term of two years, with a one year extension option in an amount not to exceed funds available in the annual budget or as amended; and,

C. Approving the Agreement with CSG Consultants Inc. to provide as needed Plan Checking, Inspection, and other Building Related Services for a term of two years, with a one year extension option in an amount not to exceed funds available in the annual budget or as amended; and,

D. Approving the Agreement with Interwest Consulting Group to provide as needed Plan Checking, Inspection, and other Building Related Services for a term of two years, with a one year extension option in an amount not to exceed funds available in the annual budget or as amended; and,

E. Authorizing the Interim Finance Officer to make the necessary budget adjustments.

F. Authorizing the City Manager or Assistant City Manager to execute, and if necessary, make minor modifications to the agreements described above as attached to this report.

Council Member BELLUOMINI pulled this item to ask about hiring a full-time employee and recruiting for a Plan Check Inspector.

Community Services Director Scott MCBRIDE stated that using different firms allows the City to utilize a significant amount of resources. He also stated that the City is not currently recruiting for a Plan Check Inspector position.

Council Member SERRATTO asked about the percentage of fees that have paid for the cost of using consultants.

Mr. MCBRIDE stated that fees cover the cost.

A motion was made by Council Member Belluomini, seconded by Council Member McLeod, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

I.12.

SUBJECT: Renewal of Lease Agreement with Rachelle Abril/MOJO for McNamara Park Community Center Building.

REPORT IN BRIEF

Requesting approval for renewal of 7 month contract with Rachelle Abril/MOJO for afterschool programming at McNamara Park Community Center.

RECOMMENDATION

City Council - Adopt a motion to approving the renewal contract with Rachelle Abril/MOJO for afterschool programming at McNamara Park Community Center.

Mayor MURPHY pulled this item to have the contractors give a presentation on the programs they offer.

Kelly TURNER, Symple Equazion - gave a slide show presentation on the activities of the Symple Equazion and MOJO programs.

Rachelle ABRIL, MOJO - spoke on the impact the program has on her and the kids lives.

Council Member PEDROZO asked if staff has reached out to help provide assistance to the programs.

Ms. TURNER discussed a meeting she and Ms. ABRIL had with staff.

A motion was made by Mayor Pro Tempore Blake, seconded by Council Member Belluomini, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

- I.15. **SUBJECT:** Approve Budget Transfer to Support Professional Services Agreements to Facilitate a Public Opinion Survey

REPORT IN BRIEF

Consider approving an Amendment to the Service Agreement to the Public Opinion Survey contract to continue to draft Ballot Measure language and approving the necessary budget transfers from the Public Facilities Financing Fees - Police of \$70,500.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving an Amendment to the Service Agreement to the Public Opinion Survey contract to continue to draft Ballot Measure language, and

B. Approving transfers from Public Facilities Financing Fees - Police in the amount of \$35,250 from Fund 047, and \$35,250 from Fund 057 to Fund 449 Public Safety CIP, and appropriating the same amount to Project #116040 New Police Headquarters.

Clerk's Note: This item was pulled by staff to be moved to the January 2nd Council Meeting.

- I.18. **SUBJECT:** Professional Services Agreement with Davey Resource Group, Inc., to Prepare an Urban Forest Tree Inventory and Management Plan

REPORT IN BRIEF

Considers approving a professional services agreement for the preparation of an Urban Forest Tree Inventory and Management Plan as part of the Cal Fire grant.

RECOMMENDATION

City Council - Adopt a motion approving the Professional Services Agreement with Davey Resource Group, Inc., in the amount of \$461,085, for the preparation of an Urban Forest Tree Inventory and Management Plan, and authorizing the City Manager or Assistant City Manager to execute the necessary documents.

Council Member BELLUOMINI pulled this item to ask about funds and implementation of the plan and how it ties in with planting trees.

Mr. ELWIN discussed how the funds will be utilized and the City's in-kind match. He also explained that while the trees are being surveyed, they will be planting trees as well.

Council Member MCLEOD asked if the consultant will also find out what caused the trees to become unhealthy.

Mr. ELWIN stated that the consultant will look at tree health during the inventory.

Rick MCMILLION, Merced - spoke on the cost of trees that were planted in the past and the state in which they are now.

A motion was made by Council Member Belluomini, seconded by Council Member McLeod, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

I.21.

SUBJECT: Approval of an Agreement with PMAM Corporation for Management and Administration of the City's Burglar Alarm Systems and False Alarm Ordinance

REPORT IN BRIEF:

Authorizes the approval of an agreement with PMAM Corporation for the Management of the City's False Alarm Ordinance, including billing and collection of service fees, issuing permits, database maintenance, resident assistance and other administrative services.

RECOMMENDATION

City Council - Adopt a motion approving the Agreement with PMAM Corporation for management and administrative services relating to the City's Burglar Alarm Systems and False Alarm Ordinance; and, authorizing the City Manager or Assistant City Manager to execute the necessary documents.

Marvin DILLSAVER gave a slide show presentation on the agreement with PMAM Corporation.

Mayor MURPHY asked if the contract would reduce the number of false alarms.

Mr. DILLSAVER stated that the goal is a continued decrease in false alarms.

Assistant City Manager Stephanie DIETZ discussed the benefits of using PMAM Corporation to maintain false alarms.

Council and Staff discussed false alarm violators, decreasing the number of false alarms, and Police time.

Michael MARZOUK, PMAM Vendor - spoke on the scope of work his company does to reduce the number of false alarms.

Rick MCMILLION, Merced - spoke on a false alarm at Merced High School and the length of time it took police to clear the school.

Council and Staff discussed police response time for false alarms.

Jarrold RUSCOE, Merced - spoke on false alarms and the contract with PMAM.

Council and Staff discussed the responsibilities of the alarm companies.

Mayor MURPHY requested an update in a year to review the numbers.

A motion was made by Council Member Pedrozo, seconded by Council Member Serratto, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

I.22.

SUBJECT: Introduction of Ordinance Amending Chapter 8.28 of the Merced Municipal Code Pertaining to Burglar Alarm Systems and False Alarms

REPORT IN BRIEF

Considers the adoption of Ordinance No. 2484, which amends Chapter 8.28 pertaining to Burglar Alarm Systems and False Alarms by removing language applicable to public schools, which was subject to a sunset clause, and adding language providing employment protections to a City employee acting as the appeals officer under the ordinance.

RECOMMENDATION

City Council - Adopt a motion introducing **Ordinance No. 2484**, an Ordinance of the City Council of the City of Merced, California, adding chapter 8.28, "Burglar Alarm Systems and False Alarms," to the Merced Municipal Code.

Mayor MURPHY pulled this item because of its relation to item I.21.

A motion was made by Council Member Pedrozo, seconded by Mayor Pro Tempore Blake, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

J. PUBLIC HEARINGS

J.1.

SUBJECT: Public Hearing - Assembly Bill 1600 (AB 1600) Annual Compliance Report for Development Impact Fees

REPORT IN BRIEF

Consider adopting a Resolution of the City Council of the City of Merced accepting AB 1600 Annual Compliance Report for Development Impact Fees.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting the Annual Compliance Report for AB1600 Development Fees for Fiscal Year 2016/2017 and make findings related to unexpended balances as required by California Government Code Section 66001; and,

B. Adopting **Resolution 2017-70**, a Resolution of the City Council of the City of Merced, California, accepting the Development Impact Fees Fiscal Year 2016/2017 Annual Report and making findings related to unexpended developer deposits for public improvements as required by California Government Code Section 66001.

Deputy Public Works Director Steven SON gave a slide show presentation on Assembly Bill 1600.

Mayor MURPHY asked about the amount of funds and future impact fees.

Interim Finance Officer Venus RODRIGUEZ discussed the amount of funds in the account.

Interim City Attorney Jolie HOUSTON stated the restrictions on the use of impact fees.

Council Member BELLUOMINI and Mr. SON discussed the requirements of the law pertaining to projects, funds for projects, and timelines of project completions.

Mayor MURPHY opened and subsequently closed the Public Hearing at 8:05 PM due to lack of public comment.

A motion was made by Council Member Martinez, seconded by Council Member Serratto, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

J.2.

SUBJECT: Continued Public Hearing - Holding Election for Annexation No. 11 into Community Facilities District (CFD) No. 2003-2 (Services)

REPORT IN BRIEF

Hold a public hearing (continued from December 4, 2017) and election for annexation into Community Facilities District No. 2003-2 (Services) for the Compass Pointe Apartments located at the southeast corner of Pacific Drive and Compass Pointe Avenue.

RECOMMENDATION

City Council - Complete the following items in order:

A. Hold a Public Hearing on the annexation of certain property into the CFD and the levy of special taxes; and,

B. Adopt **Resolution 2017-59**, a Resolution of the City Council of the City of Merced, acting as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced determining the validity of prior proceedings, calling a special election related to Annexation No. 11; and,

C. Hold Election; and,

D. Adopt **Resolution 2017-60**, a Resolution of the City Council of the City of Merced acting as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced canvassing the results of the election held within Annexation No. 11 of said District; and,

E. Adopt **Resolution 2017-61**, a Resolution of the City Council of the City of Merced acting as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced annexing Annexation No. 11 to said district and authorizing the levy of a special tax within said Annexation No. 11.

Planning Manager Kim ESPINOSA gave a brief slide show presentation on the election for Annexation No. 11 into Community Facilities District (CFD) No. 2003-2 (Services).

Mayor MURPHY opened and subsequently closed the Public Hearing at 8:13 PM due to lack of public comment.

A motion was made by Council Member Pedrozo, seconded by Mayor Pro Tempore Blake, to approve Resolution 2017-59. The motion carried by the following vote:

Aye: 7 Council Member Belluomini, Council Member Martinez, Council Member McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Mayor Pro Tempore Blake

No: 0

Absent: 0

A motion was made by Mayor Pro Tempore Blake, seconded by Council Member Pedrozo, to approve Resolution 2017-60 and Resolution 2017-61. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

Clerk's Note: Council recessed at 8:16 PM and returned at 8:27 PM.

J.3. **SUBJECT: Public Hearing - Review and Adoption of the Amended
2015 Urban Water Management Plan**

REPORT IN BRIEF

Following a Public Hearing, City Council will consider approving the Amended 2015 Urban Water Management Plan including reviewer comments and authorizing submittal of the Final Amended Report to the Department of Water Resources.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2017-69**, a Resolution of the City Council of the City of Merced, California, approving the Amended 2015 Urban Water Management Plan including reviewer comments and authorizing submittal of the Final Amended Report to the Department of Water Resources.

Water Conservation Specialist Leah BROWN gave a brief report on the Amended 2015 Urban Water Management Plan.

Mayor MURPHY opened the Public Hearing at 8:30 PM.

Richard HARRIMAN, Merced Citizens for Responsible Planning, San Joaquin Valley Division Environmental Defense Center - spoke on decentralized wastewater treatment plants.

Mayor MURPHY closed the Public Hearing at 8:40 PM.

Council Member BELLUOMINI requested a future discussion regarding recycled tertiary treated water.

Mayor MURPHY discussed groundwater recharge.

A motion was made by Mayor Pro Tempore Blake, seconded by Council Member Pedrozo, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

J.4. **SUBJECT: Public Hearing - Adoption of New Application Fees for
Commercial Cannabis Business Permits and New Annual Regulatory**

Fees for Commercial Cannabis Businesses

REPORT IN BRIEF

The City Council will consider the adoption of a resolution establishing new application fees for Commercial Cannabis Business Permits and new annual regulatory fees for Commercial Cannabis Businesses as called for in the newly adopted Cannabis Ordinance.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2017-67**, "A Resolution of the City Council of the City of Merced, California, Approving Application Fees for Commercial Cannabis Business Permits and Annual Regulatory Fees for Commercial Cannabis Businesses."

Planning Manager Kim ESPINOSA gave a slide show presentation on the application fees for commercial cannabis business permits and annual regulatory fees for commercial cannabis businesses.

Council and Staff discussed merit-based versus non-merit-based selection criteria, application fees, staff training for inspections, appeals process fees, frequency of inspections, and development impact fees.

Mayor MURPHY opened the Public Hearing at 9:06 PM.

Kevin DAWKINS, Merced - spoke on the cannabis fees.

Javier CHAVEZ, Merced - spoke on cannabis fees and opportunities for veterans.

Jarrod RUSCOE, Merced - spoke on cannabis fees and the City benefiting from them.

Rosie RUPPEL, Ripon - requested a continuation of this item to the January 16th meeting. She also spoke about local preference.

Jesse KRAFT, Advantage Healing Inc. and Santa Cruz Veteran's Alliance, Sonora - asked if the fees differ between medical and recreation and if it is the same for delivery licenses.

Ms. ESPINOSA stated that the fees will be the same.

David VARAITY, Merced - spoke on the application fees and asked about the services the business owners receive from the fees paid.

Director of Development Services Scott MCBRIDE discussed the fees relative to the services the business receives.

Seth SMITH, Santa Cruz Veteran's Alliance - asked for clarification on the fees for dispensaries that sell both medical and recreational cannabis. He also spoke on the application process.

Mayor MURPHY closed the Public Hearing at 9:22 PM.

Council and Staff discussed tracking staff time spent on the application process and auditing the flow of cash.

A motion was made by Council Member McLeod, seconded by Mayor Pro Tempore Blake, to approve Resolution 2017-67. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

Clerk's Note: Council recessed at 9:37 PM and returned at 9:44 PM.

K. BUSINESS

K.1.

SUBJECT: Selection of Town Hall Dates

REPORT IN BRIEF

Request that Council Select Dates for Town Halls in North, Central and South Merced.

RECOMMENDATION

Provide Staff With Dates for Three Town Hall Meetings.

Assistant to the City Manager Mike CONWAY gave a brief report on picking dates for the Town Hall Meetings.

Council chose the following dates for the Town Hall Meetings:

February 13th at the Multicultural Arts Center
February 26th at Tenaya Middle School
February 27th at Rivera Middle School

K.2. **SUBJECT: Election of Mayor Pro Tempore**

REPORT IN BRIEF

Election of a Mayor Pro Tempore to a one-year term (conducted by the Mayor.)

RECOMMENDATION

City Council - Adopt a motion appointing a City Council Member as Mayor Pro Tempore of the City of Merced for a one-year term of office.

A motion was made by Mayor Murphy, seconded by Mayor Pro Tempore Blake, to appoint Council Member McLeod as the Mayor Pro Tempore. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

K.3. **SUBJECT: Local Preference Discussion**

REPORT IN BRIEF

During the November 20, 2017 Council Meeting, it was requested that information be provided to the Council regarding Local Preference when awarding contracts. Staff made a commitment to bring this topic back for Council discussion on December 18, 2017. The City Attorney will make a recommendation to the Council regarding options for Local Preference.

RECOMMENDATION

Provide Staff direction to explore Local Preference options for materials and supplies.

Interim City Attorney Jolie HOUSTON gave a brief report on local preference. She stated that the Charter specifically states the contract must be awarded to the lowest responsible bidder.

Mayor MURPHY requested to have staff look into other alternatives for local preference, excluding Public Works contracts.

Ms. HOUSTON stated she was researching the item and would report her

findings at a meeting in January.

K.4. Request to Add Item to Future Agenda

Council Member BELLUOMINI requested to add Public Works Project Construction Completion Improvement Schedule for the February 5th meeting.

K.5. City Council Comments

Council Member SERRATTO reported on attending the California League of Cities Dinner, presenting at a Kiwanis Club Lunch Meeting, ACE Overcomers Event, the Hmong New Year Celebration, and the City of Merced Employee Awards.

Mayor Pro Tempore BLAKE reported on attending the California League of Cities Dinner.

Council Member MCLEOD thanked Council for appointing her Mayor Pro Tempore.

Council Member MARTINEZ reported on attending the Merced Soccer Academy Event.

Council Member PEDROZO reported on attending the Hmong New Year Celebration and the California League of Cities Dinner.

Council Member BELLUOMINI reported on attending the City of Merced Employee Awards luncheon, singing with the Merced College Community Chorus, and singing at St. Patrick's Church.

Mayor MURPHY reported on attending the birthday celebration in honor of General Vang PAO, the UC Merced Holiday Party, the Pancake Breakfast for the El Capitan High School Baseball Team, the funeral service for Almetres HUDDLESTON, performance for Building Young Leaders, the Integrated Regional Water Board Meeting, the Hmong New Year Celebration, the ACE Overcomers Ribbon Cutting Ceremony, and the Lighting Ceremony at UC Merced.

L. ADJOURNMENT

Clerk's Note: The Regular Meeting adjourned at 10:20 PM.

A motion was made by Council Member Pedrozo, seconded by Mayor Pro Tempore Blake, to adjourn the Regular Meeting in honor of Benjamin Wells and John Dibbley. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Martinez, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0



ADMINISTRATIVE REPORT

Agenda Item H.3.

Meeting Date: 1/16/2018

Report Prepared by: Ken Elwin, Director of Public Works

SUBJECT: Maintenance Districts Assessment Ballot Proceeding - Northwood Village, East College Homes, Moss Landing & Ridgeview Meadows

REPORT IN BRIEF

Consider authorizing an assessment ballot proceeding and setting a public hearing for Monday, March 19, 2018, for the Northwood Village, East College Homes, Moss Landing, and Ridgeview Meadows Maintenance Districts, to obtain property owner approval in advance of increase in annual levy assessments.

RECOMMENDATION

City Council - Adopt a Motion:

- A. Adopting **Resolution 2018-04**, a Resolution of the City Council of the City of Merced, California authorizing an assessment ballot proceeding for the Northwood Village, East College Homes, Moss Landing, and Ridgeview Meadows Maintenance Districts, and;
- B. Setting the public hearing for Monday, March 19, 2018, to obtain property owner approval prior to the increase in annual assessment levy to cover operation and maintenance costs to each identified District; and,
- C. Approving a supplemental budget appropriation from the Unreserved Fund Balance of the General Fund in the amount not to exceed \$1,990, to cover the assessment balloting noticing costs.

ALTERNATIVES

- 1. Approve as recommended by the Public Works Director; or,
- 2. Refer back to staff for further study; or,
- 3. Deny.

AUTHORITY

Chapter 26 of Part 3 of Division 7 of the State of California Streets and Highway Code provides the applicable general law for Maintenance Districts; and,

Article I (alternative method for the levy of benefit assessments) of Title 13 Division VIII, of the Merced Municipal Code (MMC) dealing with Maintenance Districts, provides for subsequent modification to exiting Maintenance Districts; and,

Initiative Measure (Proposition 218, Sections 2,3,4,5, and 6) approved at the November 5, 1996 election, and also known as, the "Right to Vote on Taxes Act," provides for assessment ballot proceedings consideration.

DISCUSSION

After careful analysis of the budgets, it has been determined the Northwood Village, East College Homes, Moss Landing, and Ridgeview Meadows Maintenance Districts do not have sufficient fund balances required to cover the necessary maintenance and operational service costs to these Districts (see Attachment 1).

Public Works staff continues to be proactive in maximizing available revenue by turning off irrigation systems during non-summer months, suspending the monthly landscape maintenance services contract when funding dictates, reducing employee maintenance labor hours at each Districts' storm pump station, working with volunteer service groups when available, and utilizing City park personnel on occasion.

Although these austerity measures were adopted, an assessment ballot proceeding is necessary at this time to sustain existing landscaped areas and cover storm drain pump maintenance and operation expenses.

Listed below is a summary of the current Fiscal Year 2017/2018 annual assessment levy, per unit, and the proposed for Fiscal Year 2018/2019:

<u>DISTRICT NAME</u>	<u>CURRENT ASSESSMENT</u>	<u>PROPOSED ASSESSMENT</u>
Northwood Village	\$39.46	\$79.15
East College Homes	\$27.64	\$82.97
Moss Landing (residential)	\$18.38	\$42.49
Moss Landing (school)	\$1,074	\$2,482
Ridgeview Meadows	\$32.48	\$65.01

The associated District boundary maps are attached for your reference (see Attachment 3).

In order to increase property owner levies a special assessment ballot proceeding must be held to obtain property owner approval in advance of any increase in annual benefit assessment.

The process for Districts that require an increase in assessments are as follows:

- The Public Works Department prepares the engineer's reports and annual budget costs;
- City Council adopts a resolution authorizing an assessment ballot proceeding and sets date for Public Hearing;
- Council opens the public hearing to determine voter approval of increased assessments. Following the public hearing Council shall consider all objections or protests, if any;

- The public hearing is continued to a subsequent meeting to allow staff the required time necessary to open and tally sealed ballots;
- Following the continued public hearing Council adopts a resolution approving, confirming, and adopting the reports and budgets based on the results of the tallied ballots.

Ballot letters, notices, forms, and District boundary maps will be mailed to each identified property owner on record informing them of the proposed increase in levy and other prudent balloting information (see Attachment 4).

In addition, prior to the public hearing scheduled for Monday, March 19, 2018, staff will hold an informational meeting to answer questions from the public regarding the proposed assessment increase.

Voting is determined by the proportionate share of each ballot cast based on a property's assessed value of public improvement and services received. Law prohibits opening or tallying of the ballots prior to the close of the Public Hearing.

If ballots are successful, Council will adopt a resolution approving, confirming, and adopting the Engineer's Reports for that particular District, and the approved levy will appear on the property owners' Merced County tax bill for Fiscal Year 2018/2019.

If ballots are unsuccessful, there would be insufficient funds to cover costs associated with the operation of the District and the current level of service will be reduced to match existing revenue with the current annual levy remaining in effect.

IMPACT ON CITY RESOURCES

Balloting expenses are recovered in the approved assessment levy from the District's operating fund, if successful. Conversely, if unsuccessful the General Fund will cover the expense.

The City Attorney's office has prepared the necessary resolution authorizing an assessment ballot proceeding to increase levies to property owners on record within the Northwood Village, East College Homes, Moss Landing, and Ridgeview Meadows Maintenance Districts; and setting a public hearing for Monday, March 19, 2018 (see Attachment 5).

Council will have the opportunity to consider a motion on the various budgets following the close of the public hearing.

ATTACHMENTS

1. Budget Summaries
2. Proposed FY 18/19 Engineer's Reports
3. District Boundary Maps
4. Balloting Documents
5. Resolution 2018-04

PROPOSED BUDGET SUMMARIES

FISCAL YEAR 2018/2019

	Fiscal Year 2017/2018			Proposed Fiscal Year 2018/2019		Operating Reserves	Comments
District Name	Approved Budget	Approved Assessment	Reserve Funds Used	Proposed Budget	Proposed Assessment	Fund Balance as of 12/19/17	Consumer Price Index Adjustment
Northwood Village	11,611.00	6,629.00	4,982.00	13,298.00	13,298.00	11,431.00	No Previous Ballot
East College Homes	3,980.00	3,262.00	718.00	9,790.00	9,790.00	1,277.00	No Previous Ballot
Moss Landing	4,576.00	3,481.00	1,095.00	8,047.00	8,047.00	2,724.00	Ballot Failed 12/1/08
Ridgeview Meadows	13,610.00	11,464.00	2,146.00	22,947.00	22,947.00	1,712.00	No Previous Ballot
Total	\$33,777.00	\$24,836.00	\$8,941.00	\$54,082.00	\$54,082.00	\$17,144.00	N/A

**2018/2019 PROPOSED ENGINEER'S REPORT AND BUDGET
NORTHWOOD VILLAGE NO. 1 LANDSCAPE
MAINTENANCE DISTRICT
BUDGET ACCOUNT NO. 104**

ITEM	AMOUNT
MATERIALS, SUPPLIES & SERVICES	\$13,298
REPLACEMENT EXPENSE	\$0.00
TOTAL BUDGET	\$13,298
LESS CITY CONTRIBUTION	\$0.00
PRIOR YEAR ADJUSTMENT (Reserves)	\$0.00
DISTRICT ASSESSMENT	\$13,298
TOTAL ASSESSABLE UNITS	168
ASSESSMENT PER UNIT	\$79.15

**2018/2019 PROPOSED ENGINEER'S REPORT AND BUDGET
EAST COLLEGE HOMES STORM DRAINAGE
MAINTENANCE DISTRICT
BUDGET ACCOUNT NO. 107**

ITEM	AMOUNT
PERSONNEL SERVICES	\$0.00
MATERIALS, SUPPLIES & SERVICES	\$9,790
REPLACEMENT EXPENSE	\$0
TOTAL BUDGET	\$9,790
LESS CITY CONTRIBUTION	\$0
PRIOR YEAR ADJUSTMENT (Reserves)	\$0
DISTRICT ASSESSMENT	\$9,790
TOTAL ASSESSABLE UNITS	\$118
ASSESSMENT PER UNIT	\$82.97

**2018/2019 PROPOSED ENGINEER'S REPORT AND BUDGET
MOSS LANDING STORM DRAINAGE
MAINTENANCE DISTRICT
BUDGET ACCOUNT NO. 111**

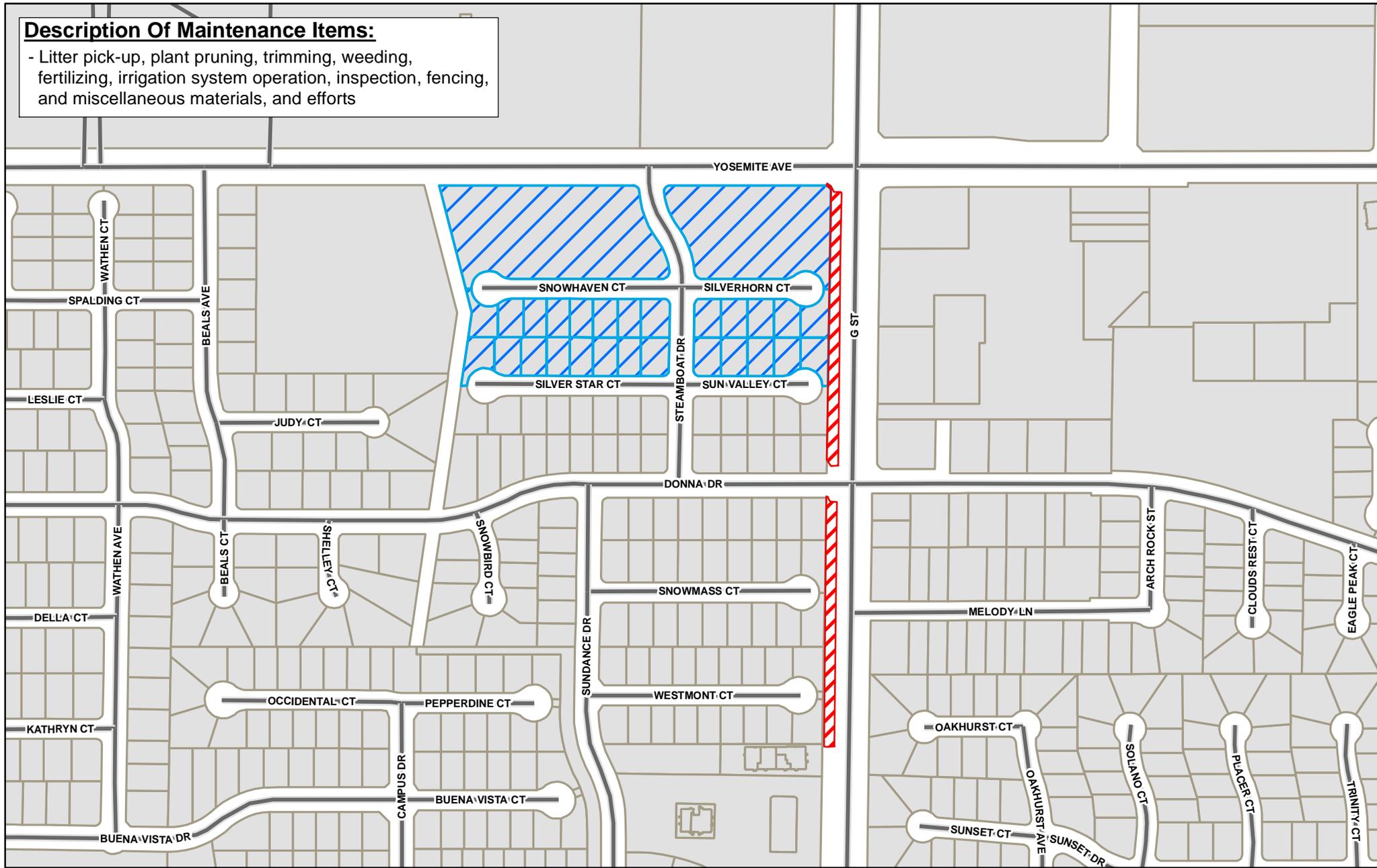
ITEM	AMOUNT		
PERSONNEL SERVICES	\$0.00		
MATERIALS, SUPPLIES & SERVICES	\$8,047.48		
REPLACEMENT EXPENSE	\$0.00		
TOTAL BUDGET	\$8,047.48		
LESS CITY CONTRIBUTION	\$0.00		
PRIOR YEAR ADJUSTMENT (Reserves)	\$0.00		
DISTRICT ASSESSMENT	\$8,047.48		
NON-RESIDENTIAL ACREAGE	9.90 =		30.84%
RESIDENTIAL ACREAGE	22.20 =		69.16%
TOTAL ASSESSABLE ACREAGE	32.10 =		100%
ASSESSMENT TO NON-RESIDENTIAL AREA	\$2,481.93		
ASSESSMENT PER ACREAGE	250.70		
ASSESSMENT TO RESIDENTIAL ACRES	\$5,565.55		
TOTAL ASSESSABLE RESIDENTIAL UNITS	131		
ASSESSMENT PER RESIDENTIAL UNIT	\$42.49		

**2018/2019 PROPOSED ENGINEER'S REPORT AND BUDGET
RIDGEVIEW MEADOWS
MAINTENANCE DISTRICT
BUDGET FUND NO. 121**

ITEM	AMOUNT
MATERIALS, SUPPLIES & SERVICES	\$22,947.26
REPLACEMENT EXPENSE	\$0.00
TOTAL BUDGET	\$22,947.26
LESS CITY CONTRIBUTION	\$0.00
PRIOR YEAR ADJUSTMENT (Reserves)	\$0.00
DISTRICT ASSESSMENT	\$22,947.26
TOTAL ASSESSABLE UNITS	353
ASSESSMENT PER UNIT	\$65.01

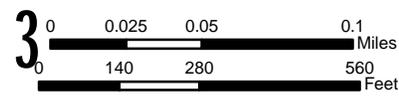
Description Of Maintenance Items:

- Litter pick-up, plant pruning, trimming, weeding, fertilizing, irrigation system operation, inspection, fencing, and miscellaneous materials, and efforts



Maintenace District - Northwood Village

- Legend**
- Northwood Village
 - Landscape Area

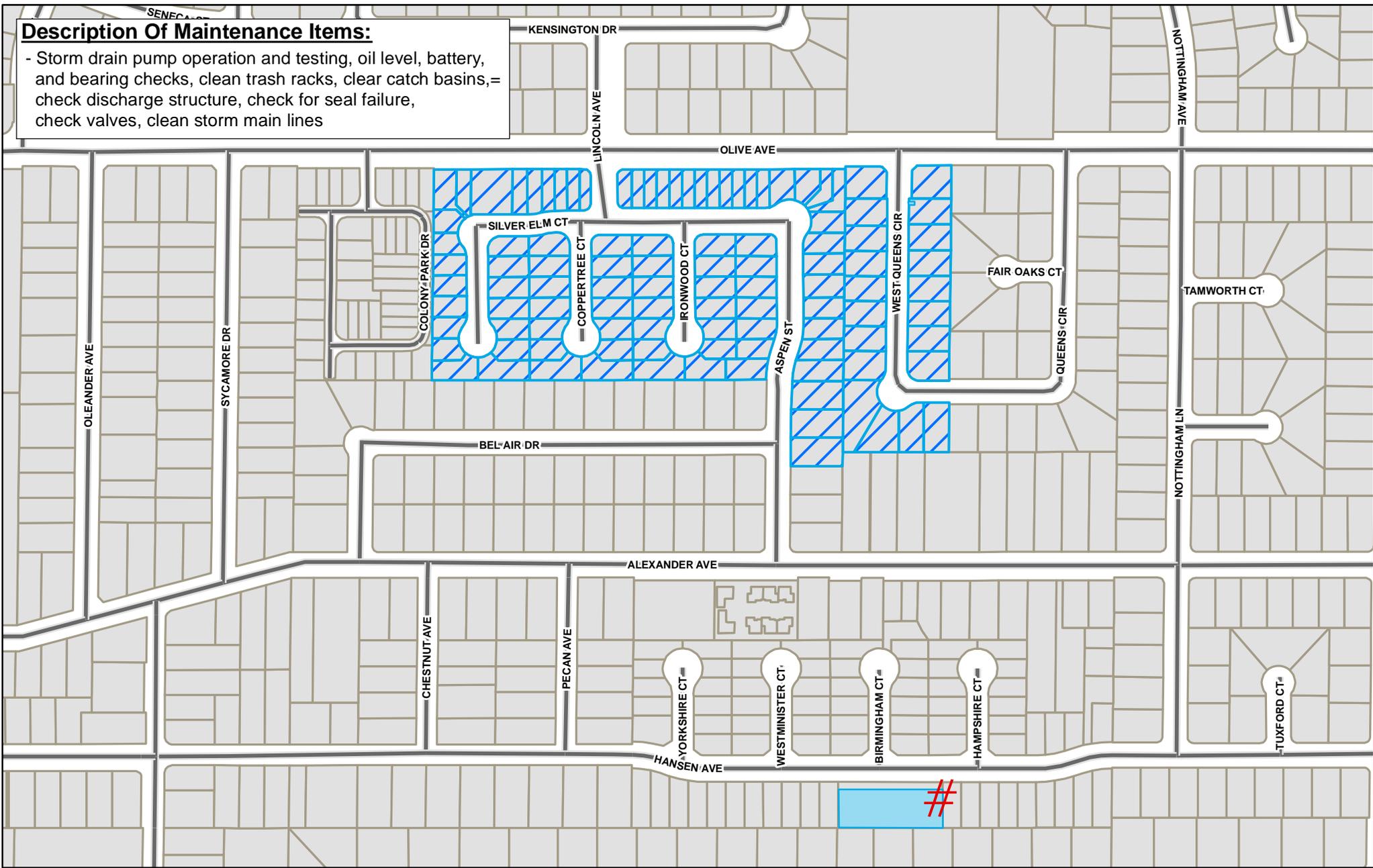


Date: 14/7/2018

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Description Of Maintenance Items:

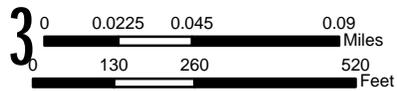
- Storm drain pump operation and testing, oil level, battery, and bearing checks, clean trash racks, clear catch basins,= check discharge structure, check for seal failure, check valves, clean storm main lines



Maintenance District - East College Homes

Legend

- East College Homes
- Pump Station
- Storm Drain Basin

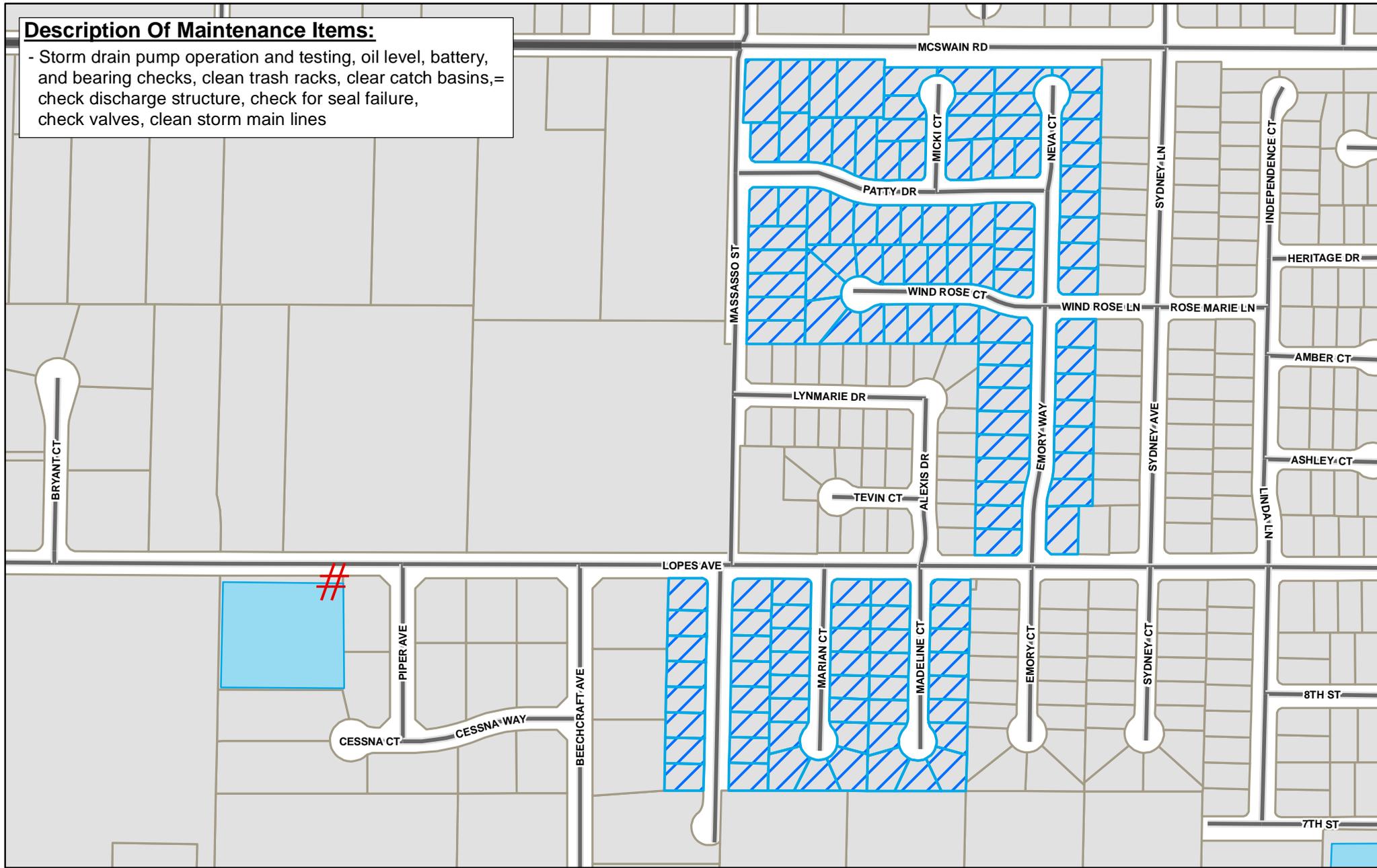


Date: 1482018

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Description Of Maintenance Items:

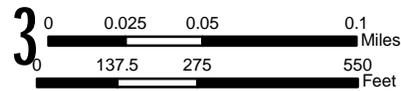
- Storm drain pump operation and testing, oil level, battery, and bearing checks, clean trash racks, clear catch basins,= check discharge structure, check for seal failure, check valves, clean storm main lines



Maintenace District - Moss Landing

Legend

-  Moss Landing
-  Pump Station
-  Storm Drain Basin

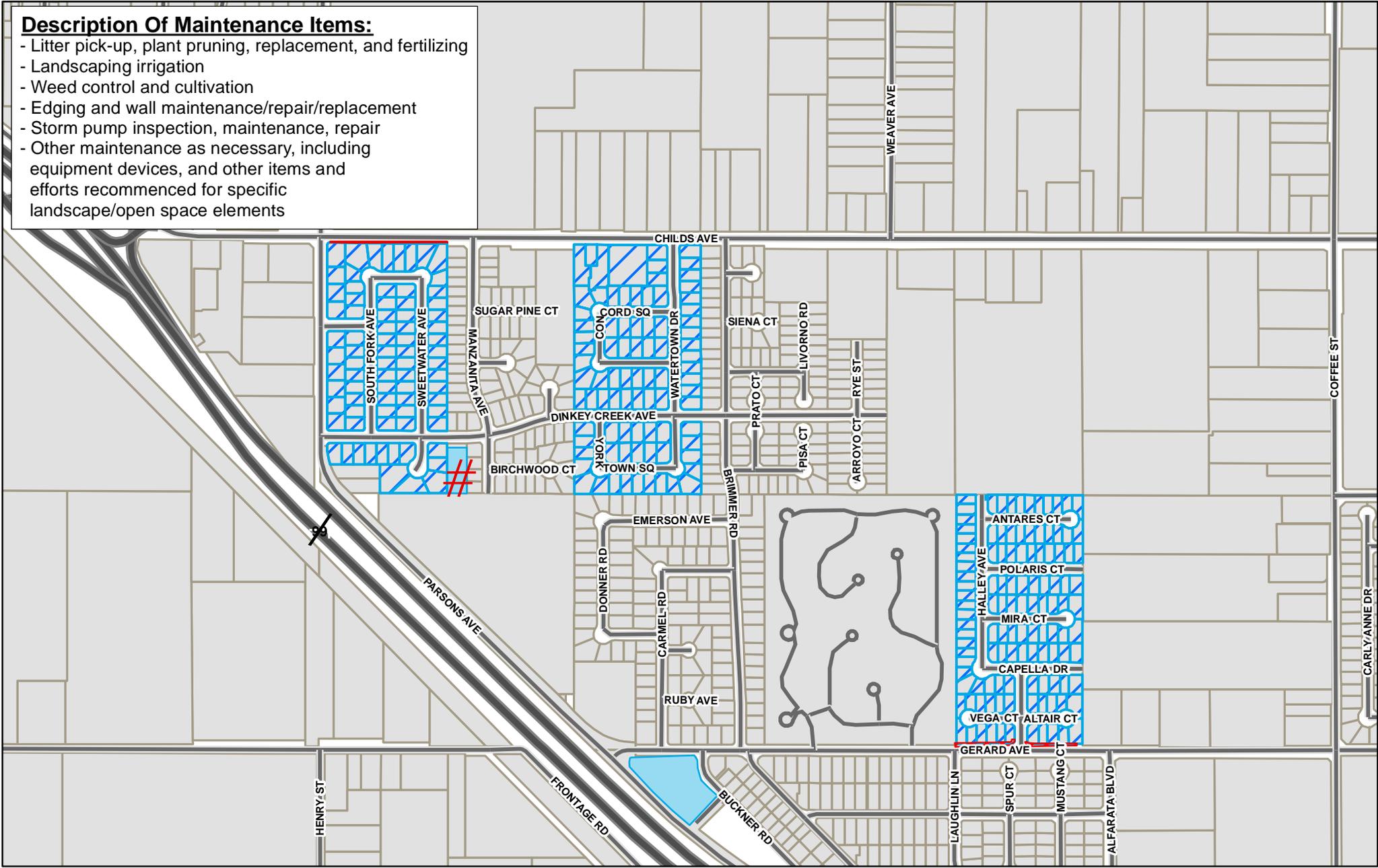


Date: 14/09/2018

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

Description Of Maintenance Items:

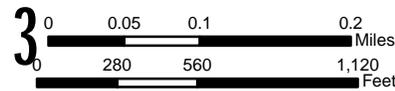
- Litter pick-up, plant pruning, replacement, and fertilizing
- Landscaping irrigation
- Weed control and cultivation
- Edging and wall maintenance/repair/replacement
- Storm pump inspection, maintenance, repair
- Other maintenance as necessary, including equipment devices, and other items and efforts recommended for specific landscape/open space elements



Maintenace District - Ridgeview Meadows

Legend

- Ridgeview Meadows
- Pump Station
- Storm Drain Basin
- Landscape Area



Date: 15/02/2018

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

CITY OF MERCED
"Gateway to Yosemite"



January 16, 2018

Mr. John Doe
678 W. 18th Street
Merced, CA 95340

Parcel # 000-00-0000

Dear Property Owner:

The Merced City Council at its regularly scheduled meeting held on Tuesday, January 16, 2018, authorized an assessment ballot proceeding to obtain voter approval prior to increasing annual benefit assessment levies to the Maintenance District property owners.

Your property located at 678 W. 18th Street, is in a Special Assessment Maintenance District managed by the City. This District is responsible for the maintenance of the street landscape plants/trees along the streets in your neighborhood. It is responsible to prune, fertilize and irrigate plants, remove weeds and mow public lawn areas. However, in your neighborhood this is not happening in an acceptable way.

The reason this street landscape maintenance is not happening in your neighborhood is because it is the District that pays for the maintenance. The District uses special assessment fees that are paid by you and your neighbors. The assessment fees collected are not enough to pay for the cost of maintenance.

The City Council wants to make sure that your street landscaping is well maintained. In order to raise enough money to adequately maintain the street landscaping in your neighborhood, the homeowners in the District will have to vote to increase their special assessments.

Therefore, the City Council has authorized an election ballot (enclosed) for you to vote whether you want to increase your special assessments for your street landscape maintenance. These special assessment fees are collected with your property taxes as more fully explained in this letter.

State law requires you have an opportunity to vote on proposed increases to your assessment prior to them becoming effective.

Your assessment is collected in two equal installments and is included with your tax bill. Funds collected through this assessment and any interest earned can only be used for this specified purpose and are kept in a separate fund account.

Currently, you are being levied an assessment of \$0.00 annually. We are proposing to increase your annual assessment to \$0.00. This equates to an annual increase of \$0.00 or \$0.00 monthly.

The proposed budget and engineer's report has been prepared to determine your proportionate share of the annual costs associated with maintaining the District at acceptable service levels. The total budget has been spread on a per unit basis.

An engineer's report is available at the City of Merced, City Clerk's office for your review describing the calculation used.

Your legal notice, ballot, and a postage-paid return envelope are enclosed. You may return your ballot in the enclosed envelope or hand deliver it to the City Clerk's Office in the Merced Civic Center, located at:

**678 W. 18th Street
1st Floor
Merced, CA 95340**

All ballots must be received (not postmarked) by the close of the public hearing scheduled for Monday, March 19, 2018. The public hearing will be held in conjunction with the normally scheduled Merced City Council meeting, held in the Council Chambers, which begin at 7:00 p.m.

If the ballot passes, the adjusted rate will appear on your next Merced County tax bill. If it fails, there would be insufficient funds available to cover costs associated with maintaining the existing public improvements.

The weight of the vote is proportional to the District assessment dollar amount. For example, a property with an annual assessment of \$100.00, carries twice the weight of a property with an annual assessment of \$50.00.

Your annual assessment may increase or decrease in future years, if operating costs change. In any event, assessment increases are limited annually to the maximum assessment amount (shown in the ballot document), adjusted by the Consumer Price Index (CPI). The CPI is a scale used to adjust costs for inflation.

Any increase above the CPI adjusted maximum level, would require a new ballot for your approval.

Only the ballots returned determine the outcome of the election. A non-response will not count for purposes of voter acceptance or opposition. Whether you are in favor of or in opposition to the increase in assessments, it is important for you to vote.

The following questions and answers are being provided to help you better understand the importance of the maintenance district to your property:

1. Why isn't my current property assessment adequate?

Answer: Due to increased costs in energy and services, specifically landscaping, the cost of operating the District has drastically increased. In past years operating reserves were used to make up for the shortfall of revenue; however, these funds are now minimum.

2. Why do we need a maintenance district?

Answer: Maintenance Districts have proven to be both fiscally dependable and effective in ensuring common landscaped areas are maintained aesthetically, as well as provide a healthy urban forest for our community. In addition, the flat nature of the San Joaquin Valley and the heavy clay soils common to the Merced area cause the need for storm water to be pumped to either natural or man-made waterways.

3. How long has my property been in the Maintenance District?

Answer: As a condition of approval for the subdivision in which you own property, the developer was required to form a storm drainage landscape maintenance district prior to building.

4. What happens if a majority of the ballots oppose the increased assessment?

Answer: There would be insufficient funds to cover the costs of operating the District. This could result in District maintenance not being performed to an acceptable level.

5. Do all property owners' votes count equally?

Answer: No, the weight of the vote is proportional to the amount of the assessment. For example, a property with a \$20 annual assessment carries twice the weight of a property with a \$10 annual assessment.

6. How do you determine my assessment?

Answer: The assessment is proportionally spread based on a per unit basis. An engineers' report is available in the office of the City Clerk for review that fully describes this calculation.

7. Will my assessment increase annually?

Answer: Your assessment will only increase if operating costs increase. In any event, assessment increases are limited annually to the current amount adjusted by the Consumer Price Index (CPI). The CPI is a scale used to adjust costs for inflation. Any increase above this would require a separate ballot for your consideration.

8. Can funds collected through this assessment be used for any purpose?

Answer: No, funds and any interest earned are kept in separate account solely for this purpose.

9. What if I don't return my ballot?

Answer: The outcome of the election is determined only by the ballots returned.

10. When must my ballot be returned?

Answer: You may return your ballot in the enclosed envelope or bring it to the City Clerk's Office in the Merced Civic Center. All ballots must be received (not postmarked) by the close of the public hearing schedule for **Monday, March 19, 2018**. The public hearing will be held in conjunction with the normally scheduled City Council meeting which begins at 7:00 p.m.

11. Whom may I contact if I have questions?

Answer: Please refer your questions to Michael Miller, Public Works Manager-Tax Services at (209) 385-6800.

Enclosure:

CITY OF MERCED

**NOTICE OF PROPOSED ASSESSMENT
AND
ASSESSMENT BALLOT PROCEEDING FOR**

Maintenance District

000-00-00
Mr. John Doe
678 W. 18th Street
Merced, CA 95340

Fiscal Year 2018/2019 Proposed Annual Assessment: \$000.00

REASON FOR PROPOSED ASSESSMENT

The Maintenance District (the “District”) annually levies an assessment on all property in the District based upon the special benefit conferred upon the property by the improvements described below. Article XIIC and D of the California Constitution requires the City allow all property owners to vote on any proposed increase in assessments to be levied.

DESCRIPTION OF IMPROVEMENTS

The District assessments are used to fund the maintenance of landscaping, storm drainage systems, street tree maintenance within public right-of-ways, public utility, drainage and facility easements, tree planting easements, and landscape easements within the District’s boundaries. It shall not fund the maintenance of additional items that may be placed or planted by individual lot owners such as, but not limited to, lawns, private sprinklers, front yard trees or bushes.

The following maintenance items shall be performed within the District boundaries:

- Litter pick-up, plant pruning, replacement, and fertilizing
- Landscape irrigation as needed to sustain optimum plant growth;
- Weed control and cultivation as needed to keep the area free of weeds;
- Inspect pump and motor
- Repair or replace parts as needed;
- Walls in landscaped areas
- Mow and edge turf,
- Other maintenance as necessary, including equipment, devices, and other items and efforts recommended for specific landscape/open space elements.

AMOUNT OF PROPOSED ASSESSMENT

A. Total Current District Assessment: \$00,000.00

The proposed total annual assessment for the entire District for Fiscal Year 2018/2019 is \$00,000.00. Subsequent assessments could be adjusted annually by the Consumer Price Index for All Urban Consumers (West).

B. Individual Parcel Assessment: \$000.00

The proposed annual assessment for your parcel for Fiscal Year 2018/2019 will be \$000.00, *per unit*. The maximum annual assessment ("cap") for your parcel could be adjusted annually, but not to exceed the increase in the Consumer Price Index for All Urban Consumers (West).

C. Duration of Assessment

The proposed assessment will be levied annually up to the maximum as stated above. The assessment may be increased in the future above the maximum amount, ONLY with the support of a majority of property owners using the process explained below.

BASIS FOR CALCULATING ASSESSMENTS

Each year the City determines how much it will cost to operate and maintain the specified improvements within the District. These costs are then spread among all of the assessable parcels on the basis of special benefit conferred upon each parcel on a per unit basis.

PROCEDURES FOR COMPLETING THE BALLOT

Accompanying this notice is a ballot, along with a self-addressed, postage paid return envelope. The ballot (or a facsimile thereof) may be completed by the property owner(s) of record and returned to the City to indicate the owner's support of or opposition to the proposed assessment. If a tenant is responsible for payment of the assessment, the ballot must be completed and returned by the tenant.

For your ballot to be counted, you must clearly mark the appropriate box, sign the ballot, and return it sealed in the enclosed envelope by the conclusion of the public hearing on **Monday, March 19, 2018**.

Ballots may be returned either by mail or delivered to the City Clerk at 678 West 18th Street, Merced, CA 95340, before the close of the public hearing. For properties with more than one owner on record, ballots will be accepted as valid if signed by at least one of the listed owners.

In the event that more than one of the record owners submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the City by documentation provided by you.

Regardless of the method of delivery, all ballots must be received at the address indicated, or at the public hearing, in order to be included. An assessment ballot may be submitted, changed, or withdrawn prior to the conclusion of the public hearing.

PUBLIC HEARING AND PROTEST PROCEDURE

The Merced City Council will hold a public hearing on **Monday, March 19, 2018**, to hear testimony regarding the proposed assessment, to accept assessment ballots and to determine whether there is a majority protest against the proposed assessment. The hearing will be held in conjunction with the normally scheduled Merced City Council meeting, which begin at **7:00 p.m.** The meeting (and hearing) will be held at the Civic Center located at 678 West 18th Street in Merced.

All ballots returned to the City will be tabulated and weighted according to the proportional financial obligation of the affected property. If the City Council determines that a majority of the ballots cast and as weighted according to the proportional financial obligation of the affected properties oppose imposition of the assessment, the proposed assessment will not be imposed. Instead, the previously approved assessment of \$00.00 (per residential unit) will continue.

QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed assessment or this process, please contact Michael Miller, Public Works Manager-Tax Services at (209) 385-6800.

ASSESSMENT BALLOT

CITY OF MERCED

Maintenance District

RECORD OWNER BALLOT-ASSESSMENT BALLOT PROCEEDING

Shall the annual assessment for Maintenance District be set as proposed?

YES

NO

Property Owner Name(s): Mr. John Doe

Property Address or Description: 678 W. 18th Street

Assessor Parcel Number: 000-00-000

I hereby certify under penalty of perjury that I am the legal property owner and/or person entitled to execute this ballot for the property shown above in assessment ballot proceedings.

Dated: _____

Signature

Printed Name

Once you have voted, please sign the ballot, place it in the enclosed pre-paid, self-addressed return envelope. The sealed envelope may be mailed or delivered to the City Clerk's office at the Merced Civic Center, located at 678 West 18th Street, Merced, CA or may be delivered at the public hearing. Your ballot will not be counted if you have not voted, signed the ballot and returned the envelope. All ballots must be received by the conclusion of the City Council's public hearing to be held on Monday, March 19, 2018, starting at 7:00 p.m. at the Merced Civic Center, located at the above address. You may submit a change or withdrawal of your vote prior to the conclusion of the public hearing. You may contact the City Clerk at the above address or at the public hearing if you desire to do so.

RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AUTHORIZING AN ASSESSMENT BALLOT
PROCEEDING FOR THE NORTHWOOD
VILLAGE, EAST COLLEGE HOMES, MOSS
LANDING AND RIDGEVIEW MEADOWS
MAINTENANCE DISTRICTS**

WHEREAS, the City Engineer has caused to be prepared a report, in writing, for the Northwood Village, East College Homes, Moss Landing and Ridgeview Meadows Maintenance Districts in accordance with Section 13.62.150 of the Merced Municipal Code and in accordance with Article XIII C and Article XIII D of the California Constitution; and

WHEREAS, the City Council proposes to conduct an assessment ballot proceeding by mailed ballots in accordance with Section 4000 of the Election Code and Sections 53739 et seq. of the Government Code; and

WHEREAS, in accordance with Government Code Section 53753, mailed notice to all property owners, including, as assessment ballot must be given and a public hearing held on any proposed assessment increase.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby approves the City Engineer's Reports and sets a public hearing for Monday, March 19, 2018, at the City Council Chambers, 678 West 18th St, Merced, California, to consider an increase in the assessments for the Northwood Village, East College Homes, Moss Landing and Ridgeview Meadows Maintenance Districts to raise sufficient revenue to provide the maintenance set forth in the Engineer's Reports.

SECTION 2. The City Clerk is directed to give notice by mail to the record owner of each identified parcel within the Northwood Village, East College Homes, Moss Landing and Ridgeview Meadows Maintenance Districts. Each such notice shall include the total amount of the proposed assessment chargeable to the entire district, the amount chargeable to the record owner's parcel, the duration of

the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time and location of the public hearing on the proposed assessment.

SECTION 3. In addition, each notice shall include, in a conspicuous place thereon, a summary of the proceedings for the completion, return, and tabulation of the assessment ballot described in Section 4 hereof, including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the formation of the district and the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property. The notice by mail shall be given at least forty (45) days prior to the date of the public hearing.

SECTION 4. Each notice given pursuant hereto shall contain an assessment ballot that includes the City's address for receipt of the form and place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. Each assessment ballot shall be signed and either mailed or otherwise delivered to the address indicated on the assessment ballot. Regardless of the method of delivery, all assessment ballots shall be received at the address indicated, or at the Council Chambers, 2nd floor, 678 West 18th St, in order to be included in a tabulation of majority protest.

SECTION 5. An assessment ballot may be submitted, changed, or withdrawn prior to the conclusion of the public testimony on the proposed assessment at the public hearing.

SECTION 6. The City Clerk is further directed to include a stamped, addressed envelope for the return of the assessment ballot with the notice to the record owners(s).

SECTION 7. Following the public hearing on the proposed assessment, the City Council shall consider all objections or protests, if any, to the proposed assessment. At the public hearing, any interested person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.

SECTION 8. At the conclusion of the public hearing, the City Council shall tabulate the assessment ballots submitted, and not withdrawn, in support of or

opposition to the proposed assessment. In the event that more than one of the record owner(s) of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interest or, if the ownership interests are not shown on the record, as established to the satisfaction of the City Council by documentation provided by those record owners.

SECTION 9. A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment increase, exceed the assessment ballots submitted, and not withdrawn, in its favor, weighing those assessment ballots by the amount of the proposed assessment to be imposed upon an identified parcel for which each assessment ballot was submitted.

SECTION 10. If there is a majority protest against the imposition of the increased assessment, the City Council will not impose the increase.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ___ day of _____ 2018, 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: K. Flores 1-2-18
City Attorney Date



ADMINISTRATIVE REPORT

Agenda Item H.4.

Meeting Date: 1/16/2018

Report Prepared by: Julie Nelson, Associate Planner, Development Services Department

SUBJECT: Vacation #17-02 - Setting a Public Hearing to Vacate a 40-Foot-Wide "Avenue" Generally Located Along the East Property Line of Two Parcels Generally Located at the Northeast Corner of Childs Avenue and Kibby Road and the Southeast Corner of East Highway 140 and Kibby Road

REPORT IN BRIEF

Set a public hearing for February 20, 2018, to vacate a 40-foot-wide "Avenue" on two parcels generally located at the northeast corner of Childs Avenue and Kibby Road and the southeast corner of East Highway 140 and Kibby Road.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2018-03**, a Resolution of the City Council of the City of Merced, California declaring its intention to vacate a 40-foot-wide "Avenue" located along the eastern property line of three parcels generally located at the northeast corner of Childs Avenue and Kibby Road and the southeast corner of East Highway 140 and Kibby Road (Vacation #17-02) setting time and place for public hearing.

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

Part 3, Chapter 3 of the Streets and Highways Code of the State of California authorizes the City Council to vacate a right-of-way or easement. The vacation shall be made by adoption of a resolution pursuant to Section 8335 of the Code, and shall be recorded pursuant to Section 8336. The City of Merced Administrative Policies and Procedures No. A-6 provides direction to staff for processing vacation requests, and City Council Resolution 86-90 establishes a policy concerning costs associated with the vacation.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

The proposed vacation involves right-of-way previously dedicated along the east side of three properties: 1704 Kibby Road, 4155 East Childs Avenue, and 4315 East Childs Avenue (see the location map at Attachment 1).

The owner of the parcels located at 4155 East Childs Avenue and 1704 Kibby Road (Lyons Land and Cattle, Inc.) is working to sell a portion of the properties to PG&E for future development. During this process, staff discovered that a 40-foot-wide "Avenue" had been dedicated by the original subdivision of this property (Grimes Subdivision No. 1 recorded on April 5, 1927). This "Avenue" was intended for roadway purposes at the time, but has never been used. City staff has determined that the "Avenue" is not needed, is not shown on the City's Circulation Plan, and will not be used in the future. Therefore, the right-of-way as shown on Attachment 2 should be abandoned.

Because the Avenue also affects the property owned by CVP Acquisitions, the City felt it would be more efficient to abandon the entire Avenue with one process. Therefore, CVP Acquisition also submitted an application requesting the abandonment of the Avenue on their property (4315 East Childs Avenue).

On December 6, 2017, the Planning Commission reviewed the proposed vacation and found it consistent with the General Plan.

The City Council's action would be to adopt the resolution at Attachment 3 setting the public hearing for Vacation #17-02 for February 20, 2018.

IMPACT ON CITY RESOURCES

There would be no impact on City resources as a result of this action.

ATTACHMENTS

1. Location Map
2. Abandonment area
3. Draft City Council Resolution

VACATION #17-02
CHILDS AVE & KIBBY RD

140

1704 KIBBY RD

Approximate Location
of Abandonment Area

KIBBY

TOWER

McLane
Pacific

4155 EAST
CHILDS AVE

4315 EAST
CHILDS AVE

CHILDS

GERARD

66



EXHIBIT 'B'

A.T. & S.F. RR



BOUNDARY LINES

- PROPERTY LINE _____
- SECTION LINE _____
- 40' AVENUE LINE PER VOL. 9 PG. 19 _____
- OLD LOT LINE PER VOL. 9 PG. 19 _____

LEGEND

- PM PARCEL MAP
- O.P. OFFICIAL PLATS
- ▨ ABANDONMENT AREA



H:\31420-Kibby Road\Drawings\31420-Road Abandonment.dwg 14:04:21 11/21/2017



1165 Scenic Drive, Suite A
Modesto, CA 95350
odellengineering.com

DESCRIPTION: ROAD ABANDONMENT

SCALE:	1"=400'	DATE:	NOV. 21, 2017
JOB NO.:	31420		
FILE:	31420-ROAD ABANDONMENT.DWG		

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RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
DECLARING ITS INTENTION TO VACATE A 40-
FOOT-WIDE “AVENUE” LOCATED ALONG THE
EASTERN PROPERTY LINE OF THREE
PARCELS GENERALLY LOCATED AT THE
NORTHEAST CORNER OF CHILDS AVENUE
AND KIBBY ROAD AND THE SOUTHEAST
CORNER OF EAST HIGHWAY 140 AND KIBBY
ROAD (VACATION #17-02) SETTING TIME AND
PLACE FOR PUBLIC HEARING**

WHEREAS, the City Engineer of the City of Merced has recommended that the hereinafter described portion of public right-of-way is unnecessary for prospective public purposes; and

WHEREAS, the City Engineer has filed maps or plans with the City Clerk of the City of Merced showing the portion of the public right-of-way to be vacated at a specific time that will be determined.

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

SECTION 1. The City Council of the City of Merced declares its intention to proceed under the provisions of Part 3 of the Streets and Highways Code of the State of California, being the Public Streets, Highways, and Service Easements Vacation Law, Chapter 3, to vacate a 40-foot-wide “Avenue” generally located along the eastern property line of three parcels generally located at the northeast corner of Childs Avenue and Kibby Road and the southeast corner of East Highway 140 and Kibby Road, as described in Exhibit “A” and shown on the map at Exhibit “B,” attached hereto and incorporated herein by this reference.

SECTION 2. Reference is made to the maps and plans which are filed in the office of the City Clerk of the City of Merced for further particulars as to the proposed vacation and reservation.

SECTION 3. February 20, 2018, at the hour of 6:00 p.m. of said day in the Council Chamber of the City Council, 678 West 18th Street, Merced, California, is fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation. Said hearing may be postponed or continued.

SECTION 4. The City Engineer is directed to post or cause to be posted at least two weeks before the date set for hearing not less than three (3) notices of vacation of a portion of public right-of-way, not more than three hundred (300) feet apart, conspicuously along the lines of said portion of the public street proposed to be vacated, stating adoption of this resolution and the time and place of the hearing herein called. Posting a copy of this resolution shall constitute the posting of the required notice.

SECTION 5. The City Clerk is directed to cause a copy of this Resolution to be published once each week for two successive weeks prior to the public hearing in the official newspaper.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

 12-6-2017
City Attorney Date

EXHIBIT 'A'

LEGAL DESCRIPTION FOR ROAD ABANDONMENT

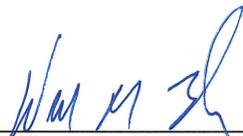
All that certain piece or parcel of land situated in the County of Merced, State of California, lying within the Southwest quarter of Section 26, Township 7 South, Range 14 East, Mount Diablo Meridian, described as follows:

All that certain 40 foot avenue which lies along the east side of Lots 1, 12 and 13 as said Lots and avenue are shown on the "Map of Grimes' Subdivision No. 1" filed for record in Volume 9 of Official Plats, at Page 19, Office of the Merced County Recorder, and extending from the north line of said Lot 1 to a line that is 47 feet north of the south line of said Section 26.

Parcel is as illustrated on the attached EXHIBIT 'B'.

END DESCRIPTION

This real property description has been prepared by me, or under my direction, in conformance with the requirements of the Professional Land Surveyor's Act.



William M. Koch
Professional Land Surveyor
California No. 8092



12-27-17
Date

EXHIBIT 'B'

A.T. & S.F. RR

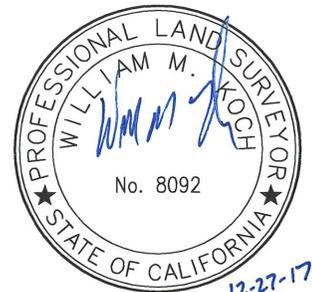


BOUNDARY LINES

- PROPERTY LINE _____
- SECTION LINE _____
- 40' AVENUE LINE PER VOL. 9 PG. 19 _____
- OLD LOT LINE PER VOL. 9 PG. 19 _____

LEGEND

- PM PARCEL MAP
- O.P. OFFICIAL PLATS
- /// ABANDONMENT AREA



H:\31420-Kibby Road\Drawings\31420-Road Abandonment.dwg 10:48:27 12/27/2017



1165 Scenic Drive, Suite A
Modesto, CA 95350
odellengineering.com

DESCRIPTION: ROAD ABANDONMENT			
SCALE:	1"=400'	DATE:	DEC. 27, 2017
JOB NO.:	31420		
FILE:	31420-ROAD ABANDONMENT.DWG		

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of
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ADMINISTRATIVE REPORT

Agenda Item H.5.

Meeting Date: 1/16/2018

Report Prepared by: Stephanie Dietz, Assistant City Manager

SUBJECT: Consideration of the Second Amendment to the Berliner Cohen, LLP Contract for Interim City Attorney and Interim Legal Services

REPORT IN BRIEF

Consider authorizing a Second Amendment to the Agreement with Berliner Cohen, LLP to provide Interim City Attorney Services.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the Second Amendment to the Agreement for Interim Legal Services for Interim City Attorney Services with Berliner Cohen, LLP, and;
- B. Approving a Supplemental Appropriation from the General Fund unencumbered, unreserved Fund Balance and authorizing the Interim Finance Officer to make the necessary budget adjustments, and;
- C. Authorizing the City Manager or Assistant City Manager to execute the Second Amendment to the Agreement for Interim Legal Services with Berliner Cohen, LLP.

ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Provide direction on specific revisions to the Agreement; or,
- 3. Request additional information; or,
- 4. Continue the matter to a certain date; or,
- 5. Decline to take action.

AUTHORITY

Charter of the City of Merced, Sections 200 and 603

CITY COUNCIL PRIORITIES

N/A

DISCUSSION

Following the departure of the former City Attorney, the City was in need of appointing a City Attorney

to provide the services required by Section 603 of the City Charter. Around the same time, the City's Senior Deputy City Attorney position became vacant, which left one attorney and two support staff members to staff the City Attorney's Office. On August 15, 2016, the City Council approved an Agreement with the law firm, Berliner Cohen, LLP (hereafter Berliner Cohen) to provide Interim City Attorney and legal Services for the City. Under the terms of this Agreement, Berliner Cohen Partner Jolie Houston was appointed Interim City Attorney and two attorneys from Berliner Cohen's Merced office, Jeff Kauffman, a Berliner Cohen Partner, and Kim Flores, a Senior Associate, were retained to provide interim legal services for the vacant Senior Deputy City Attorney position

On September 16, 2016, the City commenced an in-house recruitment for a City Attorney. The recruitment, which was open for more than 30 days, closed on October 21, 2016. Thereafter, the City Council decided to hire an in-house City Attorney. The City Council directed City staff to bring back an Amendment to the Berliner Cohen Agreement so that the interim legal services could be extended.

Berliner Cohen Partner Jolie Houston has been serving as the City's Interim City Attorney since her appointment in August 2016. Ms. Houston is an experienced attorney who specializes in Land Use and representing Cities and other government agencies as the agency's attorney. Notably, Ms. Houston has served on several committees for the League of California Cities, including the Municipal Law Handbook Committee, the City Attorney's Nominating Committee and the Public Records Act Committee, in which she served as the Committee Chairperson. She is currently sitting as the City Attorney for the City Council at their regular meetings and is handling a wide variety of critical City projects and legal issues. These high-level projects include assisting with the Gateway EIR, High Speed Rail and the relocation of the Merced Police Station site. In addition, Mr. Kaufman and Ms. Flores have been successfully serving the City by fulfilling the role of the Senior Deputy City Attorney. Both hold office hours at City Hall each week and each has his/her own workload and department clients that they advise. From Staff's perspective, the combination of the professional and quality legal work being provided by the Berliner Cohen attorneys as well as the in-house Chief Deputy City Attorney and support staff members is working very well for the operation of City business.

A First Amendment to the Agreement was approved by the Council on February 21, 2017 to extend the current interim legal services provided by the law firm, Berliner Cohen through January 31, 2018 in order to continue the following services: (1) the appointment of Jolie Houston to continue to serve as Interim City Attorney; (2) the staffing of the City Attorney's Office with Mr. Kaufman and Ms. Flores from Berliner Cohen's Merced office two days a week for eight hours a day (16 hours a week); and, (3) the performance of legal services as assigned. This amendment also allows for an increase of aggregate authorized hours from 100 to up to 120 per month. This increase in hours was necessary because the Berliner Cohen attorneys working for the City are working on long-term or complicated projects which, at times, require hours to be worked in addition to their regularly scheduled or allotted time. For example, at times, additional hours are required for the attorneys to attend meetings, make court appearances or draft time-sensitive court pleadings. The retainer amount was increased from \$29,000 to \$34,800 a month to compensate for the increase in aggregate hours to be provided. The cost of the Agreement was paid from the City Attorney's Office budget through salary savings related

to the vacant City Attorney and Senior Deputy City Attorney positions. Any hours worked over the 120-hour monthly limit were paid by the City at an applicable hourly rate only if Berliner Cohen obtains advanced authorization from the City to exceed the 120-hour monthly limit. First Amendment maintains all other terms and conditions of the original contract.

On December 4, 2017, the Council gave direction to begin recruiting for a City Attorney using the outside recruiting firm Avery & Associates. Since this time, staff have negotiated a contract and the recruitment process is underway. As a result of the estimated time this process will take, along with the expected need for the transition of projects between the newly appointed City Attorney and Berliner Cohen attorneys, staff are recommending that a second amendment to the Berliner Cohen, LLC contract be approved to allow for the same level of service to be provided to the City through June 30, 2018.

IMPACT ON CITY RESOURCES

The estimated cost through June 30, 2018 for the Second Amendment to the Berliner Cohen, LLP Contract is \$185,000. There is \$100,000 available from salary savings within the FY 2017-18 budget. The other \$85,000 will require a Supplemental Appropriation from the unreserved, unencumbered General Fund balance.

ATTACHMENTS

1. Second Amendment to the Agreement for Interim Legal Services
2. First Amendment to the Agreement for Interim Legal Services
3. Agreement for Interim Legal Services

**SECOND AMENDMENT TO AGREEMENT FOR
INTERIM LEGAL SERVICES**

THIS SECOND AMENDMENT TO AGREEMENT is made and entered into this ___ day of _____, 2018, by and between the City of Merced, a California Charter Municipal Corporation (“City”), and Berliner Cohen, LLP, Attorneys, a partnership (“Attorney”).

WHEREAS, City and Attorney have previously entered into an Agreement for Interim Legal Services (“Agreement”) dated August 15, 2016 and a First Amendment to Agreement for Interim Legal Services dated February 21, 2017; and,

WHEREAS, Attorney is providing interim legal services including representation of and advice to the Council, committees and commissions and all City officials in legal matters of municipal government; and,

WHEREAS, It is the desire of the City and Attorney to amend the term of the Agreement by extending the Agreement through June 30, 2018.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, agree as follows:

1. Section 2. Attorney’s Services and Scope of Work. The Agreement effective August 15, 2016, is amended to continue through June 30, 2018. Attorney shall be responsible for providing the services set forth in the Agreement as Exhibit “A” (“Basic Services”). Exhibit “A” is also attached to this Second Amendment.

2. Except as herein amended, the Agreement dated August 15, 2016 and First Amendment to Agreement dated February 21, 2017, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal Corporation

BY: _____
City Manager

ATTEST:
STEVEN CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: Kelly Fincher 11/9/17
City Attorney Date

ACCOUNT DATA:
001-0301-512.17-00 \$ _____
PO# 127594

BY: _____
Verified by Finance Officer

BERLINER COHEN LLP, Attorneys
A Limited Liability Partnership

By: 
Kimberly G. Flores

Title: Partner

EXHIBIT A

BASIC SERVICES

Basic services to be provided by the City Attorney shall include representation of and advice to the Council, committees and commissions and all City officials in legal matters of municipal government. This includes:

- a) Attendance at all City Council meetings (two per month), unless excused by Mayor or Council (attendance at special meetings or study sessions only upon request by City Manager or Mayor);
- b) City Hall office hours two days a week for eight hours (includes court appearances on behalf of the City) not to exceed 64 hours per month. Office hours may include projects assigned by the City Attorney's Office staff on an as-needed basis.
- c) Consultation with City Manager, City Staff, or authorized representatives to provide legal advice on City legal matters, including the Brown Act, Public Records Act and FPPC.
- d) Assistance with the preparation/review of all proposed ordinances, resolutions, contracts, proposed City policies and activities, and other documents pertaining to City business;
- e) Assistance with City code enforcement including filing complaints or administrative proceedings for litigation;
- f) Assistance with City personnel issues (excluding collective bargaining) requiring legal attention;
- g) Keeping the Council and City Manager informed of the status of litigation involving City. City Attorney shall also advise the City Council and City Manager of significant developments in litigation involving City as they occur;
- h) Providing written legal opinions when requested by any four Council members;
- i) Assisting City Council, City Manager and appropriate staff in continuing to identify feasible options toward implementing and achieving the goals, policies and objectives of the City Council;

FIRST AMENDMENT TO THE AGREEMENT FOR INTERIM LEGAL SERVICES

This document constitutes the First Amendment to that certain agreement entitled Agreement for Interim Legal Services between the City of Merced, a California Charter Municipal Corporation (“City”) and Berliner Cohen, LLP, Attorneys, (“BC”) effective on August 15, 2016, hereinafter referred to as “Agreement.”

RECITAL

WHEREAS, it is the desire the City and BC to amend certain terms of the Agreement to increase the number of hours of legal services and to extend the Agreement through January 31, 2018.

NOW, THEREFORE, in consideration of the foregoing recital and other consideration, the sufficiency of which is hereby acknowledged, City and BC hereby amend, modify and supplement the Agreement as follows:

Section 2. Attorney’s Services and Scope of Work.

The Agreement effective August 15, 2016, and continuing through January 31, 2018, BC shall be responsible for providing the services set forth in the Agreement as Exhibit “A” (“Basic Services”). Exhibit “A” is also attached to this First Amendment.

Section 3. Compensation.

Berliner Cohen proposes a flat-rate retainer of \$34,800 per month for up to 120 hours for the Basic Services. Hourly billing to apply after 120 hours per month or for special projects, and would be at a proposed hourly rate of \$300 per hour for Partners and \$220-\$240 for Associates.

General Provisions.

- A. This First Amendment shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
- B. Except as modified hereby, the terms and provisions of the Agreement shall remain unmodified and in full force and effect.
- C. All references in this First Amendment to the “Agreement” shall refer to the Agreement as modified by the First Amendment.
- D. Capitalized terms used in this First Amendment shall have the meaning ascribed to such terms in the Agreement, unless otherwise defined in this First Amendment.

- E. In case of any conflict between any term or provision of this First Amendment and any term of provision of the Agreement, the term or provision of this First Amendment shall govern.
- F. This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one agreement.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed as of the dates set forth besides their signatures below.

WITNESSETH:

BERLINER COHEN, LLP, ATTORNEYS

Dated: 2/8/2017

By: 
 Jeff Kaufman, Partner

CITY OF MERCED

a California Charter Municipal Corporation of the State of California

Dated: _____

By: _____
 Steve Carrigan
 City Manager

Approved as to form:

Dated: 2/8/17

By: 
 Kelly Fincher
 Chief Deputy City Attorney

ATTEST:
 STEVE CARRIGAN, CITY CLERK

By: _____
 Assistant/Deputy City Clerk

ACCOUNT DATA:

By: _____
 Verified by Finance Officer

AGREEMENT FOR INTERIM LEGAL SERVICES

This Agreement for Interim Legal services ("Agreement") is made and entered into this 15th day of August, 2016, by and between City of Merced, a California Charter Municipal Corporation (hereinafter referred to as the "City"), and Berliner Cohen, LLP, Attorneys, a partnership ("BC").

WITNESSES

WHEREAS, it is the desire of the parties hereto to enter into this Agreement and establish the terms and conditions for rendition of interim legal services to the City and the compensation therefor.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1.0 Appointment of Interim City Attorney ("City Attorney").

The City hereby retains BC to perform the professional services described herein. The City shall appoint Jolie Houston, a Partner in BC, as City Attorney to serve at the pleasure of the City. BC shall expend its best efforts to carry out the professional services described herein, and faithfully represent the interests of the City during the term of this Agreement.

2.0 Attorney's Services and Scope of Work.

Commencing August 15, 2016, BC shall be responsible for providing the services set forth in this Agreement as Exhibit "A" ("Basic Services").

3.0 Compensation.

Berliner Cohen proposes a flat-rate retainer of \$29,000 per month for up to 100 hours for the Basic Services. Hourly billing to apply after 100 hours per month or for special projects, and would be at a proposed hourly rate of \$300 per hour for Partners and \$220-\$240 for Associates.

The flat-rate retainer will include City Hall office hours two days a week for eight hours (includes court appearances on behalf of the City) not to exceed 64 hours per month. Only City business will be conducted during office hours.

As Interim City Attorney, Jolie Houston will work closely with the City Attorney's Office and the City Manager to manage the City's total legal costs to City approved budgets, including fees and costs paid to BC.

Reimbursable Expenses. Litigation costs and expenses for statutory fees, witness fees, reporters' per diem and stenographic transcriptions, photocopying, jury fees, electronic research, travel, and the expenses of serving process shall be advanced by BC and reimbursed by the City. Expert consultants and witnesses may be retained by BC on terms acceptable to City, approved in advance by email or letter by the City representative, in which case City shall reimburse BC or pay such consultants or experts directly.

4.0 Litigation and Special BC Projects.

In addition to the basic services, BC shall provide litigation and special project services at the request of the City. Litigation includes court and administrative proceedings of every type or nature, and litigation services includes client conferences, file and report reviews, interviews, legal research, site visits and discussions with witnesses and experts prior to formal proceedings. BC shall provide to the City Manager and City Council periodic reports of the status of all litigation assigned to it.

Special projects may include complex transactions and agreements, real estate matters, strategic advice, human resources or employment matters, assistance in negotiations and any other matter requested by the City.

Upon receipt of a request, BC shall provide a proposed engagement letter describing the scope of the engagement and estimated cost. If the request involves services that are outside the expertise of BC or that it cannot undertake because of conflicts or any other reason, BC shall recommend that the counsel be engaged to provide the services and, when permitted by applicable Rules of Professional Conduct, suggest specific firms or attorneys for consideration by the City. In cases of unusual significance or complexity, BC may recommend that the City retain other counsel in addition to, or in lieu of BC. In all cases, retention of counsel for litigation or special projects shall be at the discretion of the City; however, it is the expectation of the parties that BC will be engaged when it has the requisite experience, expertise and resources to perform the work.

4.1 Litigation by City.

All litigation in which the City is plaintiff shall be initiated only at the direction of the City.

4.2 Defense of Litigation.

Unless otherwise determined by the City, BC shall defend all actions and other proceedings brought against the City, its elected officials, appointed offices and agents (“City parties”).

4.3 Compensation for Litigation and Special Projects.

Advance approval by the City Council is required for special projects and litigation as defined in sections 4.1 and 4.2. In any event, except when precluded by a conflict of interest, BC shall provide representation until such time as the City has engaged BC or other counsel as directed by the City Manager and as necessary to maintain the status quo or prevent the entry of a default.

4.4 Billings.

The charges for litigation, special project services and basic services are to be billed and paid monthly. With its statement, BC shall provide an accounting of the number of hours billed for legal services. The billings will be reviewed by the City Manager, or his designee, and if in order, in his/her opinion, approved for payment. Any questions about billings that cannot

be mutually resolved between the City Manager and City Attorney may be referred to the City Council for resolution.

5.0 Duties of City Attorney.

City Attorney shall provide representation and advice to City as provided in this Agreement, either personally or by assigning and supervising other BC attorneys or by overseeing the performance and work of other attorneys who are engaged by the City (unless otherwise directed by the City Council). City Attorney shall review charges for services rendered by other attorneys to ensure that they are consistent with this Agreement and/or the terms of the specific engagement and otherwise reasonable. City Attorney shall monitor the work of other attorneys to ensure that it is done efficiently and competently and, when appropriate in her judgment, shall adjust charges for work by BC attorneys that does not meet these standards. As used in this paragraph, "other attorneys" shall include BC attorneys and, unless otherwise directed by the Board, other firms and attorneys who are retained by the City as provided herein.

City Attorney shall attend City Council meetings (2 per month) unless prevented by illness or vacation or excused by the Mayor or City Manager, in which case a BC Attorney shall attend unless excused by the Mayor or City Manager.

The BC Attorneys (a) shall assist the City Attorney as she directs, and (b) shall perform the duties of the City Attorney whenever she is unavailable due to illness, vacation or other reason approved by the City Attorney.

6.0 Priorities.

If there are more requests for service than can be accomplished in the time allowed, City Attorney or BC may request the City Manager to establish priorities. Otherwise, City Attorney shall respond in a reasonable time to all requests.

7.0 Termination.

This Agreement shall continue until terminated. BC understands that this is an interim position; therefore, this Agreement may be terminated by the City at any time and without cause. This Agreement may be terminated by BC, without cause, upon 60 days' written notice to the City. The City shall be required to pay only for services rendered and charges incurred before the effective date of termination and shall not be responsible for services rendered or charges incurred thereafter.

8.0 No Assignment.

This Agreement is entered into by the City and BC and the rights and obligations may not be assigned or delegated by BC to any other attorney without the express written consent of the City Council. This Agreement is not assignable.

9.0 Insurance.

BC shall, at its own expense, procure and maintain policies of insurance of the types and in the amounts set forth below, for the duration of this Agreement, including any extensions thereto. The policies shall state that they afford primary coverage. Failure to maintain required insurance at all times shall constitute a default and material breach of this Agreement. In such event, BC shall immediately notify the City and cease all performance under this Agreement until further directed by the City.

General Liability insurance shall be maintained with minimum limits of \$1,000,000 combined single limits written on an Insurance Services Office (ISO) Comprehensive General Liability "occurrence" form or its equivalent for coverage on an occurrence basis. Premises/Operations and Personal Injury coverage shall be included.

Professional errors and omissions liability insurance shall be maintained with minimum limits of \$1,000,000. If a claims-made policy is purchased, a "tail" of at least three years shall be purchased if non-renewed within three years of completion of performance of this Agreement. Applicable aggregates must be identified and claims history provided to determine amounts remaining under the aggregate.

The City Manager may modify or waive any of the specific requirements for the above insurance, except for the policy limits. Any such waiver may include substitute requirements and shall be confirmed by letter.

BC shall comply with the applicable portions of the California Labor Code concerning workers' compensation for injuries on the job.

10.0 Opinions.

All written opinions requested by the City Council and prepared by City Attorney or BC shall be provided to the City Manager and all City Council members.

11.0 Review.

The City Council may meet with City Attorney and review her performance. At this time, the parties may agree to changes or amendments hereto, including, but not limited to, changes in compensation provisions, which changes or amendments shall be evidenced by written amendment hereto.

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12.0 Delegation.

The City Council may delegate any of its duties, obligations, discretion or authority under this Agreement to its City Manager.

WITNESSETH:

BERLINER COHEN, LLP, ATTORNEYS

Dated: 8-10-16

By: [Signature]
Jolie Houston, Partner

CITY OF MERCED

a California Charter Municipal Corporation of the State of California

Dated: 8/24/16

By: [Signature]
Steve Carrigan
City Manager

Approved as to form:

Dated: 8/18/16

By: [Signature]
Kelly Fincher
Chief Deputy City Attorney

V-17677 300205 PO#: 124004
FUNDS/ACCOUNTS VERIFIED
[Signature] 8-23-16
FINANCE OFFICE DATE

Funds Available. Use 8/23/16
001-0301-512-17-00
\$174,000.00



ATTEST:
CITY CLERK

BY: [Signature]
Assistant/Deputy City Clerk

EXHIBIT A
BASIC SERVICES

Basic services to be provided by the City Attorney shall include representation of and advice to the Council, committees and commissions and all City officials in legal matters of municipal government. This includes:

- a) Attendance at all City Council meetings (two per month), unless excused by Mayor or Council (attendance at special meetings or study sessions only upon request by City Manager or Mayor);
- b) City Hall office hours two days a week for eight hours (includes court appearances on behalf of the City) not to exceed 64 hours per month. Office hours may include projects assigned by the City Attorney's Office staff on an as-needed basis.
- c) Consultation with City Manager, City Staff, or authorized representatives to provide legal advice on City legal matters, including the Brown Act, Public Records Act and FPPC.
- d) Assistance with the preparation/review of all proposed ordinances, resolutions, contracts, proposed City policies and activities, and other documents pertaining to City business;
- e) Assistance with City code enforcement including filing complaints or administrative proceedings for litigation;
- f) Assistance with City personnel issues (excluding collective bargaining) requiring legal attention;
- g) Keeping the Council and City Manager informed of the status of litigation involving City. City Attorney shall also advise the City Council and City Manager of significant developments in litigation involving City as they occur;
- h) Providing written legal opinions when requested by any four Council members;
- i) Assisting City Council, City Manager and appropriate staff in continuing to identify feasible options toward implementing and achieving the goals, policies and objectives of the City Council;



ADMINISTRATIVE REPORT

Agenda Item I.1.

Meeting Date: 1/16/2018

Report Prepared by: Francisco Mendoza-Gonzalez, Planner, Development Services

SUBJECT: Vacation #17-01 - Submitted by Janet W. Bloed, Trustee, for the Abandonment of an Old Public Utilities Easement at 1297 Ahwahnee Drive.

REPORT IN BRIEF

The City Council will consider the abandonment of an old 5-foot-wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2018-02**, a Resolution of the City Council of the City of Merced, California, ordering the vacation of a 5-foot-wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive, approximately 850 feet east of Joerg Avenue (Vacation #17-01).

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Approve, subject to modifications as conditioned by Council; or,
3. Deny based on specific findings; or,
4. Refer back to staff for reconsideration of specific items as requested by Council; or,
5. Continue to a future meeting (date and time to be specified in Council motion).

AUTHORITY

Part 3, Chapter 3 of the Streets and Highways Code of the State of California authorizes the City Council to vacate a right-of-way or easement. The vacation shall be made by adoption of a resolution pursuant to Section 8335 of the Code, and shall be recorded pursuant to Section 8336. The City of Merced Administrative Policies and Procedures No. A-6 provides direction to staff for processing vacation requests, and City Resolution 86080 establishes a policy concerning costs associated with the vacation.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

Request

The property owner is requesting the vacation of an old 5-foot-wide Public Utilities Easement (PUE)

at 1297 Ahwahnee Drive (Attachment 1). The easement runs north and south near the eastern portion of the property (Attachment 3). The subject site is a vacant 0.25-acre lot zoned Low Density Residential (R-1-6) and is designated for a single-family home. The applicant is in the process of selling this property to a buyer who would like to construct a home on this lot. However, the old PUE runs through the property and prohibits a developer from constructing any structures within 15 feet east of the old PUE. This results in over 1,500 square feet of undevelopable land and makes it difficult for a design professional to design a conventional and practical floor plan for this site. After contacting all utility companies in the area, it was determined that no utilities were located within this easement, and there are no plans to use this easement in the future. There is another 10-foot-wide PUE adjacent to the eastern property line which shall remain.

Background

This old PUE was originally included with the future extension of Cascade Road, which was planned to go north through the subject site towards Yosemite Avenue. However, in 2004, the City Council approved the Oakmont Village Unit No.8 Subdivision which resulted in a different street network than was originally planned. Because of this, the Cascade Road extension to Yosemite Avenue was no longer needed and the easements for portions of this road were abandoned. However, the abandonment of the old PUE was not recorded properly and the old easement stayed with this site. The applicant has submitted this application to re-confirm the abandonment of that old PUE. Approval of this easement abandonment would give the property owner more use of their property.

History and Past Actions

At the Planning Commission meeting of December 6, 2017, the Planning Commission reviewed the vacation for consistency with the City's General Plan and found, by unanimous vote of those present, that the proposed vacation does not conflict with any General Plan policies, text, or maps, and is, therefore, consistent with the General Plan.

On December 18, 2017, the City Council adopted a Resolution of Intention (Resolution #2017-68 - Attachment 4) and set January 16, 2018, as the date for the public hearing to consider Vacation #17-01.

Recommendation

Staff is recommending the adoption of the Resolution at Attachment 5 to abandon the 5-foot-wide public utilities easement as described above.

IMPACT ON CITY RESOURCES

The approval of the requested vacation would not result in any impacts on City resources.

ATTACHMENTS

1. Location Map
2. Legal Description
3. Parcel Map

4. City Council Resolution #2017-68
5. Draft City Council Resolution approving Vacation #17-01



Office Commercial
General Plan
Designation

General Location
of Old PUE

Low-Density
Residential Zone

EXHIBIT "A"

P.U.E. ABANDONMENT

Being a portion of Lot 5 as shown on "Oakmont Village Unit No. 8" recorded in Volume 65 of Official Plats, pages 22,23 and 24, Merced County Records, in the northeast quarter of section 17 Township 7 South, Range 14 East, M.D.B. & M, City of Merced, County of Merced, State of California, being more particularly described as follows:

All that portion of the 5' P.U.E. contained within Lot 5 of said map (previously dedicated by Parcel Map for "Wainwright Trusts" recorded in Volume 87 of Official Plats, Pages 45 and 46, M.C.R.).

Containing 538 square feet.

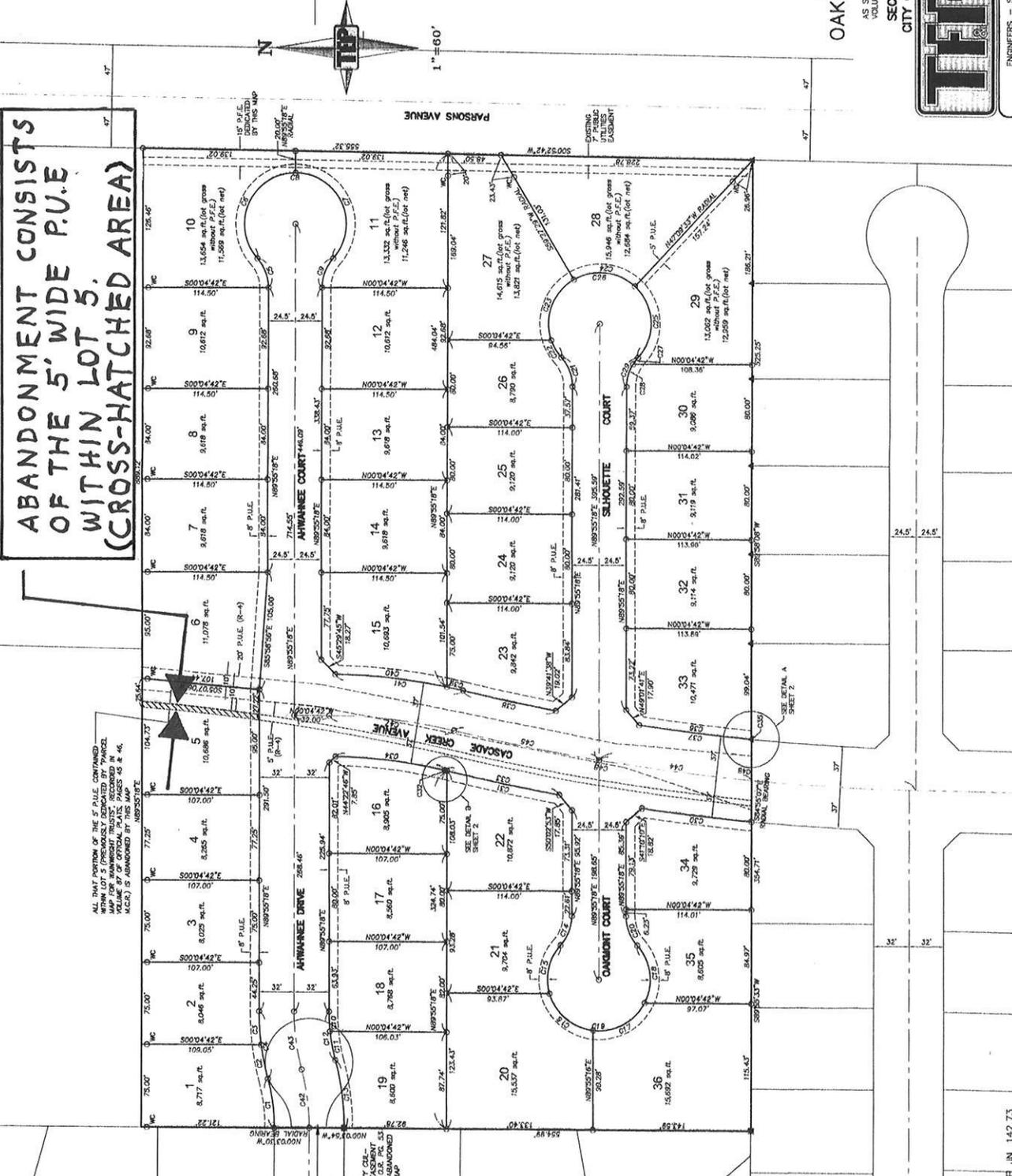


EXHIBIT B

- LEGEND**
- MONUMENT FOUND AS DESCRIBED AND ACCEPTED
 - MONUMENT SET 3/4" P.C. WITH R.C.E. 28159
 - 284.11 ALL MEASUREMENTS ARE IN FEET AND DECIMAL FRACTIONS THEREOF.
 - (R-1) REFERENCE DATA
 - M.C.R. MERCED COUNTY RECORDS
 - P.F.E. PUBLIC FACILITIES EASEMENT
 - P.U.E. PUBLIC UTILITIES EASEMENT
 - MONUMENT FOUND 3/4" I.P. W/ R.C.E. 10980 TAG, ACCEPTED.
 - BOUNDARY LINE
 - ▲ MONUMENT FOUND 3/4" I.P. W/ R.C.E. 28159 TAG, ACCEPTED.
 - WITNESS CORNER, 5' ON LINE FROM TRAIL CORNER UNLESS OTHERWISE SHOWN

48(R-1)

CURVE	LENGTH	RADIUS	DELTA	CHORD
C1	31.21	232.00	7.4230°	31.19
C2	30.44	232.00	7.2797°	30.29
C3	30.44	232.00	7.2797°	30.29
C4	30.44	232.00	7.2797°	30.29
C5	30.44	232.00	7.2797°	30.29
C6	30.44	232.00	7.2797°	30.29
C7	30.44	232.00	7.2797°	30.29
C8	30.44	232.00	7.2797°	30.29
C9	30.44	232.00	7.2797°	30.29
C10	30.44	232.00	7.2797°	30.29
C11	30.44	232.00	7.2797°	30.29
C12	30.44	232.00	7.2797°	30.29
C13	30.44	232.00	7.2797°	30.29
C14	30.44	232.00	7.2797°	30.29
C15	30.44	232.00	7.2797°	30.29
C16	30.44	232.00	7.2797°	30.29
C17	30.44	232.00	7.2797°	30.29
C18	30.44	232.00	7.2797°	30.29
C19	30.44	232.00	7.2797°	30.29
C20	30.44	232.00	7.2797°	30.29
C21	30.44	232.00	7.2797°	30.29
C22	30.44	232.00	7.2797°	30.29
C23	30.44	232.00	7.2797°	30.29
C24	30.44	232.00	7.2797°	30.29
C25	30.44	232.00	7.2797°	30.29
C26	30.44	232.00	7.2797°	30.29
C27	30.44	232.00	7.2797°	30.29
C28	30.44	232.00	7.2797°	30.29
C29	30.44	232.00	7.2797°	30.29
C30	30.44	232.00	7.2797°	30.29
C31	30.44	232.00	7.2797°	30.29
C32	30.44	232.00	7.2797°	30.29
C33	30.44	232.00	7.2797°	30.29
C34	30.44	232.00	7.2797°	30.29
C35	30.44	232.00	7.2797°	30.29
C36	30.44	232.00	7.2797°	30.29
C37	30.44	232.00	7.2797°	30.29
C38	30.44	232.00	7.2797°	30.29
C39	30.44	232.00	7.2797°	30.29
C40	30.44	232.00	7.2797°	30.29
C41	30.44	232.00	7.2797°	30.29
C42	30.44	232.00	7.2797°	30.29
C43	30.44	232.00	7.2797°	30.29
C44	30.44	232.00	7.2797°	30.29
C45	30.44	232.00	7.2797°	30.29
C46	30.44	232.00	7.2797°	30.29
C47	30.44	232.00	7.2797°	30.29
C48	30.44	232.00	7.2797°	30.29
C49	30.44	232.00	7.2797°	30.29
C50	30.44	232.00	7.2797°	30.29
C51	30.44	232.00	7.2797°	30.29
C52	30.44	232.00	7.2797°	30.29
C53	30.44	232.00	7.2797°	30.29
C54	30.44	232.00	7.2797°	30.29
C55	30.44	232.00	7.2797°	30.29
C56	30.44	232.00	7.2797°	30.29
C57	30.44	232.00	7.2797°	30.29
C58	30.44	232.00	7.2797°	30.29
C59	30.44	232.00	7.2797°	30.29
C60	30.44	232.00	7.2797°	30.29
C61	30.44	232.00	7.2797°	30.29
C62	30.44	232.00	7.2797°	30.29
C63	30.44	232.00	7.2797°	30.29
C64	30.44	232.00	7.2797°	30.29
C65	30.44	232.00	7.2797°	30.29
C66	30.44	232.00	7.2797°	30.29
C67	30.44	232.00	7.2797°	30.29
C68	30.44	232.00	7.2797°	30.29
C69	30.44	232.00	7.2797°	30.29
C70	30.44	232.00	7.2797°	30.29
C71	30.44	232.00	7.2797°	30.29
C72	30.44	232.00	7.2797°	30.29
C73	30.44	232.00	7.2797°	30.29
C74	30.44	232.00	7.2797°	30.29
C75	30.44	232.00	7.2797°	30.29
C76	30.44	232.00	7.2797°	30.29
C77	30.44	232.00	7.2797°	30.29
C78	30.44	232.00	7.2797°	30.29
C79	30.44	232.00	7.2797°	30.29
C80	30.44	232.00	7.2797°	30.29
C81	30.44	232.00	7.2797°	30.29
C82	30.44	232.00	7.2797°	30.29
C83	30.44	232.00	7.2797°	30.29
C84	30.44	232.00	7.2797°	30.29
C85	30.44	232.00	7.2797°	30.29
C86	30.44	232.00	7.2797°	30.29
C87	30.44	232.00	7.2797°	30.29
C88	30.44	232.00	7.2797°	30.29
C89	30.44	232.00	7.2797°	30.29
C90	30.44	232.00	7.2797°	30.29
C91	30.44	232.00	7.2797°	30.29
C92	30.44	232.00	7.2797°	30.29
C93	30.44	232.00	7.2797°	30.29
C94	30.44	232.00	7.2797°	30.29
C95	30.44	232.00	7.2797°	30.29
C96	30.44	232.00	7.2797°	30.29
C97	30.44	232.00	7.2797°	30.29
C98	30.44	232.00	7.2797°	30.29
C99	30.44	232.00	7.2797°	30.29
C100	30.44	232.00	7.2797°	30.29

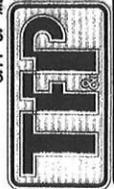


SUBDIVISION APPLICATION NO. 5283
OAKMONT VILLAGE UNIT NO. 8
 BEING A SUBDIVISION OF REMAINDER J
 AS SHOWN ON MAPS RECORDED IN
 VOLUME 54 OF OFFICIAL PLATS, PAGES 44, 45, 46, M.C.R.
 SECTION 17, T. 7 S., R. 14 E., M.D.B. & M.
 CITY OF MERCED, MERCED COUNTY, CALIFORNIA

TOLLADAY, FREMING
 & PARSON
 118 PARK AVENUE
 MERCED, CA 95348-7421
 TEL. (209) 723-2066

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 SHEET 3 OF 3

ENGINEERS - SURVEYORS - DESIGNERS - PLANNERS



RESOLUTION NO. 2017-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
DECLARING ITS INTENTION TO VACATE A 5-
FOOT WIDE PUBLIC UTILITIES EASEMENT
NEAR THE EASTERN PROPERTY LINE OF 1297
AHWAHNEE DRIVE, APPROXIMATELY 850
FEET EAST OF JORGE AVENUE (VACATION
#17-01) AND SETTING TIME AND PLACE FOR
PUBLIC HEARING**

WHEREAS, the City Engineer of the City of Merced has recommended that the hereinafter described portion of public utilities easement is unnecessary for prospective public purposes; and

WHEREAS, the City Engineer has filed maps or plans with the City Clerk of the City of Merced showing the portion of the public utilities easement to be vacated at a specific time that will be determined.

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

SECTION 1. The City Council of the City of Merced declares its intention to proceed under the provisions of Part 3 of the Streets and Highways Code of the State of California, being the Public Streets, Highways, and Service Easements Vacation Law, Chapter 3, to vacate a 5-foot wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive, generally located on the north side of Ahwahnee Drive, approximately 850 feet east of Jorge Avenue (Vacation #17-01) as described on Exhibits "A" and "B" and shown in Exhibits "A" and "B," attached hereto and incorporated herein by this reference.

SECTION 2. Reference is made to the maps and plans that are filed in the office of the City Clerk of the City of Merced for further particulars as to the proposed vacation and reservation.

SECTION 3. January 16, 2018, at the hour of 6:00 p.m. of said day in the Council Chamber of the City Council, 678 West 18th Street, Merced, California, is

fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation. Said hearing may be postponed or continued.

SECTION 4. The City Engineer is directed to post or cause to be posted at least two weeks before the date set for hearing not less than three (3) notices of vacation of a portion of public right-of-way, not more than three hundred (300) feet apart, conspicuously along the lines of said portion of the public street proposed to be vacated, stating adoption of this resolution and the time and place of the hearing herein called. Posting a copy of this resolution shall constitute the posting of the required notice.

SECTION 5. The City Clerk is directed to cause a copy of this Resolution to be published once each week for two successive weeks prior to the public hearing in the official newspaper.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2017, 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:

Kelley Truener 11/27/17
City Attorney Date

EXHIBIT "A"

P.U.E. ABANDONMENT

Being a portion of Lot 5 as shown on "Oakmont Village Unit No. 8" recorded in Volume 65 of Official Plats, pages 22,23 and 24, Merced County Records, in the northeast quarter of section 17 Township 7 South, Range 14 East, M.D.B. & M, City of Merced, County of Merced, State of California, being more particularly described as follows:

All that portion of the 5' P.U.E. contained within Lot 5 of said map (previously dedicated by Parcel Map for "Wainwright Trusts" recorded in Volume 87 of Official Plats, Pages 45 and 46, M.C.R.).

Containing 538 square feet.

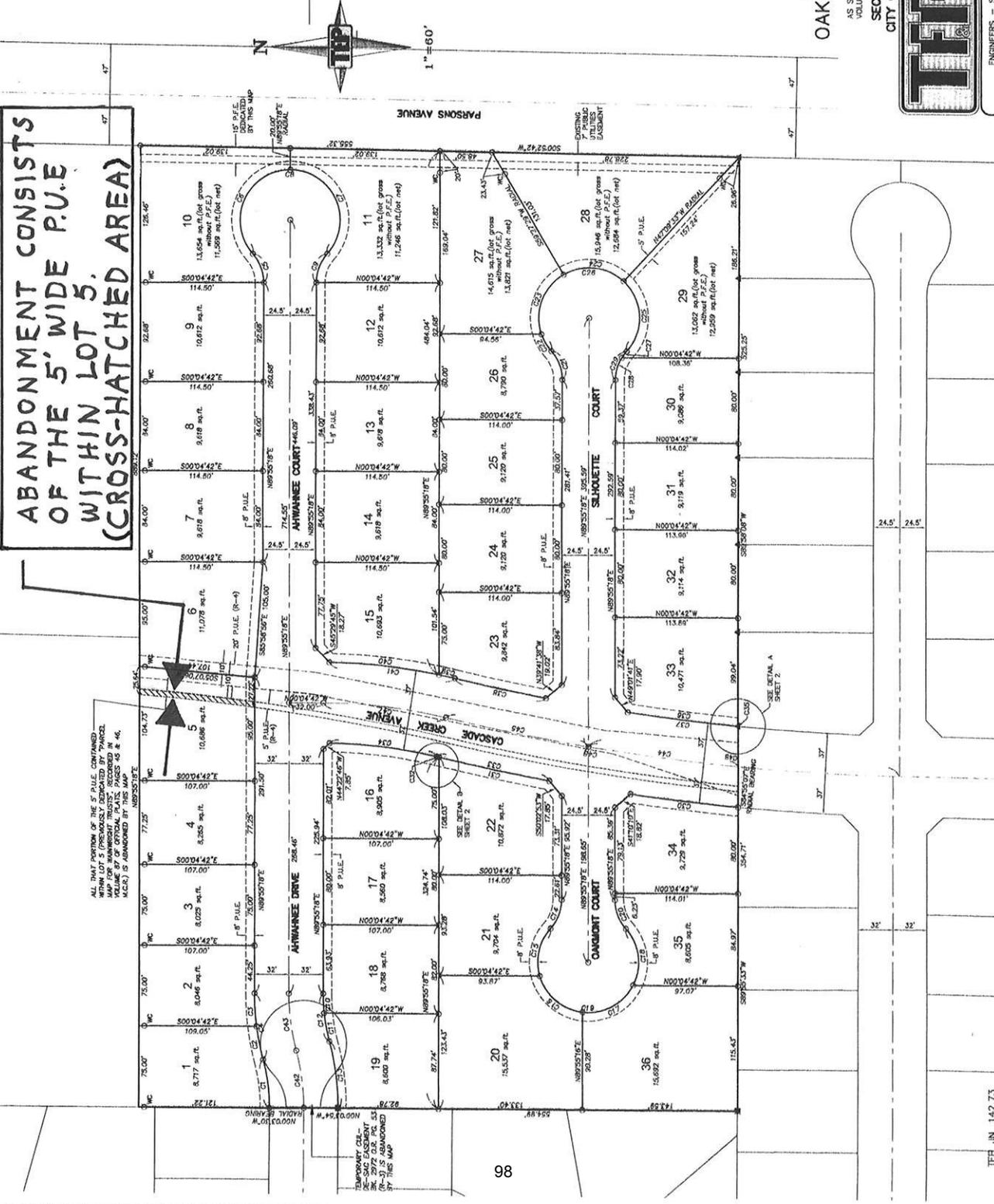


EXHIBIT B

- LEGEND**
- MONUMENT FOUND AS DESCRIBED AND ACCEPTED
 - MONUMENT SET 3/4" P.C. OR MORE WITH R.C.E. 28159
 - 284.11 ALL MEASUREMENTS ARE IN FEET AND DECIMAL FRACTIONS THEREOF.
 - (R-1) REFERENCE DATA
 - M.C.R. MERCED COUNTY RECORDS
 - P.F.E. PUBLIC FACILITIES EASEMENT
 - P.U.E. PUBLIC UTILITIES EASEMENT
 - MONUMENT FOUND 3/4" I.P. W/ R.C.E. 10980 TAG, ACCEPTED.
 - BOUNDARY LINE
 - ▲ MONUMENT FOUND 3/4" I.P. W/ R.C.E. 28159 TAG, ACCEPTED.
 - WITNESS CORNER, 5' ON LINE FROM TRAIL CORNER UNLESS OTHERWISE SHOWN

48(R-1)

CURVE	LENGTH	RADIUS	DELTA	CHORD
C1	31.21	232.00	7.6230°	31.19
C2	30.84	232.00	7.7207°	30.82
C3	30.47	232.00	7.8184°	30.45
C4	30.10	232.00	7.9161°	30.08
C5	29.73	232.00	8.0138°	29.71
C6	29.36	232.00	8.1115°	29.34
C7	28.99	232.00	8.2092°	28.97
C8	28.62	232.00	8.3069°	28.60
C9	28.25	232.00	8.4046°	28.23
C10	27.88	232.00	8.5023°	27.86
C11	27.51	232.00	8.5999°	27.49
C12	27.14	232.00	8.6976°	27.12
C13	26.77	232.00	8.7953°	26.75
C14	26.40	232.00	8.8930°	26.38
C15	26.03	232.00	8.9907°	26.01
C16	25.66	232.00	9.0884°	25.64
C17	25.29	232.00	9.1861°	25.27
C18	24.92	232.00	9.2838°	24.90
C19	24.55	232.00	9.3815°	24.53
C20	24.18	232.00	9.4792°	24.16
C21	23.81	232.00	9.5769°	23.79
C22	23.44	232.00	9.6746°	23.42
C23	23.07	232.00	9.7723°	23.05
C24	22.70	232.00	9.8700°	22.68
C25	22.33	232.00	9.9677°	22.31
C26	21.96	232.00	10.0654°	21.94
C27	21.59	232.00	10.1631°	21.57
C28	21.22	232.00	10.2608°	21.20
C29	20.85	232.00	10.3585°	20.83
C30	20.48	232.00	10.4562°	20.46
C31	20.11	232.00	10.5539°	20.09
C32	19.74	232.00	10.6516°	19.72
C33	19.37	232.00	10.7493°	19.35
C34	19.00	232.00	10.8470°	18.98
C35	18.63	232.00	10.9447°	18.61
C36	18.26	232.00	11.0424°	18.24
C37	17.89	232.00	11.1401°	17.87
C38	17.52	232.00	11.2378°	17.50
C39	17.15	232.00	11.3355°	17.13
C40	16.78	232.00	11.4332°	16.76
C41	16.41	232.00	11.5309°	16.39
C42	16.04	232.00	11.6286°	16.02
C43	15.67	232.00	11.7263°	15.65
C44	15.30	232.00	11.8240°	15.28
C45	14.93	232.00	11.9217°	14.91
C46	14.56	232.00	12.0194°	14.54
C47	14.19	232.00	12.1171°	14.17
C48	13.82	232.00	12.2148°	13.80
C49	13.45	232.00	12.3125°	13.43
C50	13.08	232.00	12.4102°	13.06
C51	12.71	232.00	12.5079°	12.69
C52	12.34	232.00	12.6056°	12.32
C53	11.97	232.00	12.7033°	11.95
C54	11.60	232.00	12.8010°	11.58
C55	11.23	232.00	12.8987°	11.21
C56	10.86	232.00	12.9964°	10.84
C57	10.49	232.00	13.0941°	10.47
C58	10.12	232.00	13.1918°	10.10
C59	9.75	232.00	13.2895°	9.73
C60	9.38	232.00	13.3872°	9.36
C61	9.01	232.00	13.4849°	8.99
C62	8.64	232.00	13.5826°	8.62
C63	8.27	232.00	13.6803°	8.25
C64	7.90	232.00	13.7780°	7.88
C65	7.53	232.00	13.8757°	7.51
C66	7.16	232.00	13.9734°	7.14
C67	6.79	232.00	14.0711°	6.77
C68	6.42	232.00	14.1688°	6.40
C69	6.05	232.00	14.2665°	6.03
C70	5.68	232.00	14.3642°	5.66
C71	5.31	232.00	14.4619°	5.29
C72	4.94	232.00	14.5596°	4.92
C73	4.57	232.00	14.6573°	4.55
C74	4.20	232.00	14.7550°	4.18
C75	3.83	232.00	14.8527°	3.81
C76	3.46	232.00	14.9504°	3.44
C77	3.09	232.00	15.0481°	3.07
C78	2.72	232.00	15.1458°	2.70
C79	2.35	232.00	15.2435°	2.33
C80	1.98	232.00	15.3412°	1.96
C81	1.61	232.00	15.4389°	1.59
C82	1.24	232.00	15.5366°	1.22
C83	0.87	232.00	15.6343°	0.85
C84	0.50	232.00	15.7320°	0.48
C85	0.13	232.00	15.8297°	0.11



SUBDIVISION APPLICATION NO. 5283
 OAKMONT VILLAGE UNIT NO. 8

BEING A SUBDIVISION OF REMAINDER J
 AS SHOWN ON MAPS RECORDED IN
 VOLUME 54 OF OFFICIAL PLATS, PAGES 44, 45, 46, M.C.R.

SECTION 17, T. 7 S., R. 14 E., M.D.B. & M.
 CITY OF MERCED, MERCED COUNTY, CALIFORNIA

TIP

TOLLADAY, FREMING & PARSON

118 PARK AVENUE
 MERCED, CA 95348-7421
 TEL: (209) 723-2066

ENGINEERS - SURVEYORS - DESIGNERS - PLANNERS

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RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MERCED, CALIFORNIA
ORDERING THE VACATION OF A 5-FOOT
WIDE PUBLIC UTILITIES EASEMENT
NEAR THE EASTERN PROPERTY LINE OF
1297 AHWAHNEE DRIVE,
APPROXIMATELY 850 FEET EAST OF
JORGE AVENUE (VACATION #17-01)**

WHEREAS, by adoption of Resolution No. 2017-68 on December 18, 2017, the City Council declared its intention to consider the vacation of a portion of an easement in the City of Merced, consisting of a 5-foot wide public utilities easement near the eastern property line of 1297 Ahwahnee Drive, approximately 850 feet east of Jorge Avenue (Vacation #17-01), and more particularly described in Exhibit A and shown in Exhibit B, attached hereto and incorporated herein by this reference, and set a public hearing thereon; and

WHEREAS, Resolution No. 2017-68 fixed a time and place for hearing all persons interested in or objecting to the proposed vacation to wit: On Tuesday, January 16, 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. 2017-68; and

WHEREAS, Resolution No. 2017-68 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 occurred on January 16, 2018; and

WHEREAS, On December 21, 2017, notices were conspicuously posted along the lines of the easement proposed to be vacated, not more than three hundred (300) feet apart, which notices consisted of copies of Resolution No. 2017-68; and

WHEREAS, the vacation of the public utilities easement as proposed by Resolution No. 2017-68 was submitted to the Planning Commission on December 6, 2017, 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 easement in the City of Merced, as described on Exhibit A and shown on Exhibit B, is unnecessary for present or prospective public utilities easement purposes.

SECTION 2. It is hereby ordered that the public right-of-way 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.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ of _____, 2018, 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:  _____ 12-20-2017
City Attorney Date

142.73
11/27/2017

EXHIBIT "A"

P.U.E. ABANDONMENT

Being a portion of Lot 5 as shown on "Oakmont Village Unit No. 8" recorded in Volume 65 of Official Plats, pages 22,23 and 24, Merced County Records, in the northeast quarter of section 17 Township 7 South, Range 14 East, M.D.B. & M, City of Merced, County of Merced, State of California, being more particularly described as follows:

All that portion of the 5' P.U.E. contained within Lot 5 of said map (previously dedicated by Parcel Map for "Wainwright Trusts" recorded in Volume 87 of Official Plats, Pages 45 and 46, M.C.R.).

Containing 538 square feet.



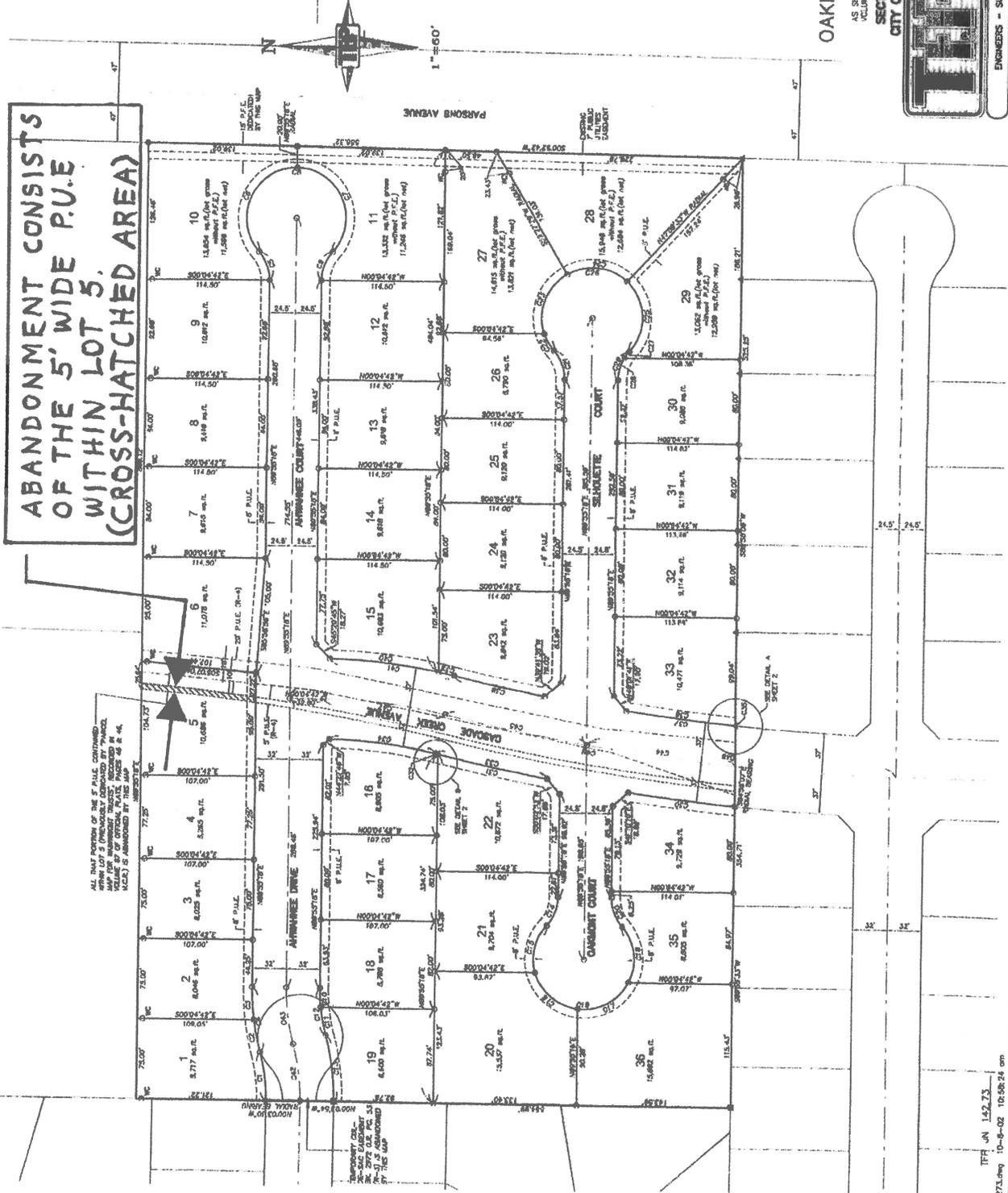
EXHIBIT B

LEGEND

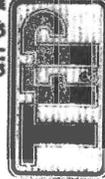
- MONUMENT FOUND AS DESCRIBED AND ACCEPTED
- MONUMENT SET 1/4" WITH P.C.E. 20030
- 204-11 ALL MEASUREMENTS ARE IN FEET AND DECIMAL FRACTIONS THEREOF
- (R-1) REFERENCE DATA
- M.C.R. MERCED COUNTY RECORDS
- P.F.E. PUBLIC FACILITIES EASEMENT
- P.U.E. PUBLIC UTILITIES EASEMENT
- MONUMENT FOUND 1/4" P.C.E. 10000 P.A.C. ACCEPTED.
- BOUNDARY LINE
- ▲ MONUMENT FOUND 1/4" P.C.E. 20030 P.A.C. ACCEPTED.
- WITNESS CORNER, S ON LINE
- W.C. WITNESS CORNER, UNLESS OTHERWISE SHOWN

CURVE ELEMENT	RADIUS	DELTA	CHORD
C1	31.29	172.00	57.28
C2	31.29	172.00	57.28
C3	31.29	172.00	57.28
C4	31.29	172.00	57.28
C5	31.29	172.00	57.28
C6	31.29	172.00	57.28
C7	31.29	172.00	57.28
C8	31.29	172.00	57.28
C9	31.29	172.00	57.28
C10	31.29	172.00	57.28
C11	31.29	172.00	57.28
C12	31.29	172.00	57.28
C13	31.29	172.00	57.28
C14	31.29	172.00	57.28
C15	31.29	172.00	57.28
C16	31.29	172.00	57.28
C17	31.29	172.00	57.28
C18	31.29	172.00	57.28
C19	31.29	172.00	57.28
C20	31.29	172.00	57.28
C21	31.29	172.00	57.28
C22	31.29	172.00	57.28
C23	31.29	172.00	57.28
C24	31.29	172.00	57.28
C25	31.29	172.00	57.28
C26	31.29	172.00	57.28
C27	31.29	172.00	57.28
C28	31.29	172.00	57.28
C29	31.29	172.00	57.28
C30	31.29	172.00	57.28
C31	31.29	172.00	57.28
C32	31.29	172.00	57.28
C33	31.29	172.00	57.28
C34	31.29	172.00	57.28
C35	31.29	172.00	57.28
C36	31.29	172.00	57.28
C37	31.29	172.00	57.28
C38	31.29	172.00	57.28
C39	31.29	172.00	57.28
C40	31.29	172.00	57.28
C41	31.29	172.00	57.28
C42	31.29	172.00	57.28
C43	31.29	172.00	57.28
C44	31.29	172.00	57.28
C45	31.29	172.00	57.28
C46	31.29	172.00	57.28
C47	31.29	172.00	57.28
C48	31.29	172.00	57.28
C49	31.29	172.00	57.28
C50	31.29	172.00	57.28

ABANDONMENT CONSISTS OF THE 5' WIDE P.U.E WITHIN LOT 5. (CROSS-HATCHED AREA)



SUBDIVISION APPLICATION NO. 52865
OAKMONT VILLAGE UNIT NO. 8
 BEING A SUBDIVISION OF REMAINDER J
 AS SHOWN ON "OAKMONT VILLAGE UNIT NO. 7" RECORDED IN
 VOLUME 54 OF OFFICIAL PLATS, PAGES 44, 45, & 46, M.C.R.
SECTION 17, T. 7 S., R. 14 E., M.D.B. & M.
CITY OF MERCED, MERCED COUNTY, CALIFORNIA



TOLLADAY, FREMMING & PARSON
 118 PARK AVENUE
 MERCED, CA 95354-1481
 TEL: (209) 723-2006

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ADMINISTRATIVE REPORT

Agenda Item J.1.

Meeting Date: 1/16/2018

Report Prepared by: Ken F. Elwin, PE, Director of Public Works

SUBJECT: Applegate Park Rose Garden Improvements

REPORT IN BRIEF

Requests Council direction on proposed improvements, including replacing irrigation lines, replanting rose bushes and repairing Laura's Fountain at the Rose Garden located at Applegate Park.

RECOMMENDATION

Provide direction to staff on how to proceed with the proposed Rose Garden improvements.

ALTERNATIVES

1. Direct staff to proceed with an option outlined in this report; or,
2. Refer to staff for reconsideration of specific items; or,
3. Deny.

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

On December 15, 2017, City staff met with representatives from the Merced Garden Club, Council members Belluomini and Pedrozo as well as other community stakeholders, to discuss improvements at the Applegate Rose Garden. These improvements include alterations to the irrigation lines, as well as replanting approximately 200 rose bushes and the repair of Laura's Fountain.

In 2016, as part of the Department of Water Resources Institutional Turf Replacement Program, approximately 150 older rose bushes were replaced, drip irrigation was installed in the newly planted areas, and over 10,000 square feet of decomposed granite was added. Last year, City staff made further improvements to the irrigation system in two of the existing rose beds and replanted some bare root roses. Unfortunately, the replacement rose bushes did not fare well over the past year and many already need to be replaced. To ensure future replacement bushes will survive, staff recommends improvements to the existing irrigation lines.

Staff is seeking direction from Council on how to proceed with the project. Possible options include (1) hiring a landscaping contractor to complete all work associated with irrigation improvements and planting roses, (2) purchasing the irrigation materials and roses directly and performing the work in-house, (3) City furnishing the irrigation materials and roses and hiring a contractor to complete the installation work, and (4) hiring a contractor to repair the fountain. Since the December 15, 2017 stakeholder meeting, staff have been working to obtain the necessary actual costs and quotes from contractors in the community. Below are estimated costs for each option. Updated information on contractor quotes will be provided at the Council meeting.

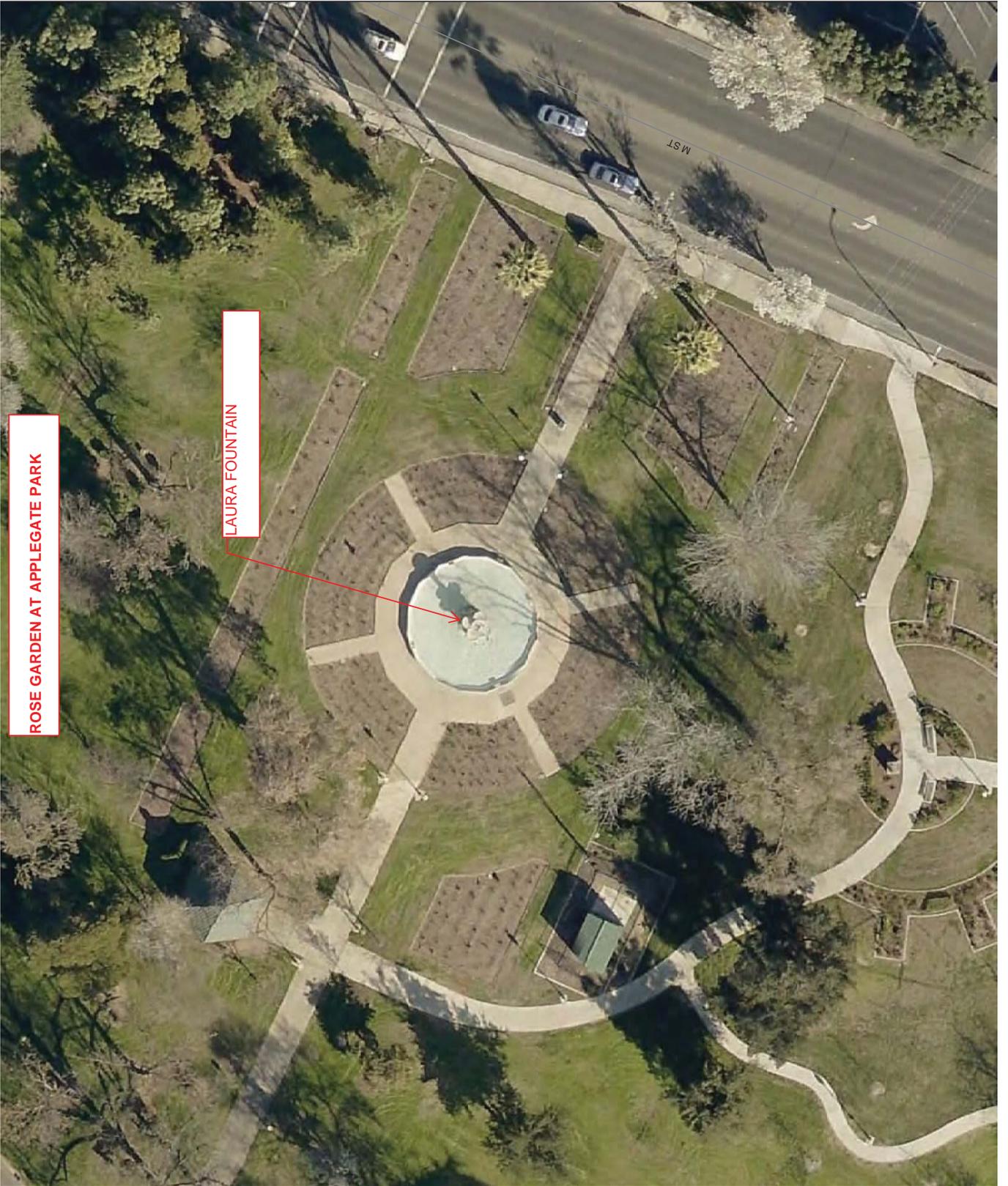
- All work and material by Contractor: \$ 14,500
- Materials & City labor: \$ 5,500
- City furnished Materials & Contractor labor: \$ 10,500
- Laura Fountain repair by Contractor: \$ 35,000

IMPACT ON CITY RESOURCES

Funding for the project as proposed was not budgeted in the FY 2017/18 Budget. Should the Council approve an option as proposed to the Rose Garden, a Supplemental Appropriation from the General Fund will be required to allow for the project to be completed.

ATTACHMENTS:

1. Location Map





ADMINISTRATIVE REPORT

Agenda Item J.2.

Meeting Date: 1/16/2018

Report Prepared by: Kim Espinosa, Planning Manager, Development Services Department

SUBJECT: Adoption of Merit-Based Selection Criteria for Commercial Cannabis Business Permits (Limited Number of Permits Available)

REPORT IN BRIEF

The City Council is being asked to adopt, by resolution, the Merit-Based Selection Criteria for Commercial Cannabis Business Permits for which there are a limited number of permits available. Dispensaries/retail sales are limited to four in the recently adopted Ordinance.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2018-01**, a Resolution of the City Council of the City of Merced, California, approving Merit-Based Selection Criteria for Scoring Commercial Cannabis Business Permit Applications for which there are a limited number of permits available.

ALTERNATIVES

1. Approve the resolution as recommended by City staff; or,
2. Approve a modified resolution as revised 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 City Council motion); or,
5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

Section 20.44.170(L)(c) of recently adopted Ordinance No. 2480 calls for the establishment of a merit-based scoring system to objectively award commercial cannabis business permits for which there are a limited number of permits available.

CITY COUNCIL PRIORITIES

On March 29, 2017, the City Council held a study session on priorities and medical marijuana regulations were listed under "City Administration-Current Projects."

DISCUSSION

Background

On November 20, 2017, the City Council introduced Ordinance No. 2480 which established regulations for Commercial Cannabis Businesses and the cultivation of cannabis for personal use in

the City of Merced. The Ordinance was adopted on December 4, 2017, and went into effect 30 days later on January 3, 2018.

Ordinance No. 2480 included Section 20.44.170(L)(c), which set forth that a merit-based scoring system is to be established to objectively award commercial cannabis business permits for which there are a limited number of permits available. Merced's Ordinance allows only four (4) Commercial Cannabis Business Permits for dispensaries/ retail sales.

With the adoption of Ordinance No. 2480, the City Council has requested that staff prepare a draft sales tax structure related to commercial cannabis activity within the City. On January 2, 2018, the Council approved an amendment with SCI Consulting to support this effort and develop a strategy for seeking voter approval of the proposed cannabis tax measure. An initial structure has been developed in partnership with SCI Consulting and will be presented to the Council for input and direction.

Draft Merit-Based Selection Criteria

Draft versions of the Merit-Based Selection Criteria were included in the Planning Commission staff report for its consideration of the Draft Ordinance on November 8, 2017, and in the City Council Administrative Report for its consideration of the Draft Ordinance on November 20, 2017. However, at that time, the Planning Commission and City Council were not asked to adopt the Criteria, but only to provide comments on the drafts. The only comments received from the Planning Commission and City Council were to try to provide a "local preference" in the Criteria. City staff also received some comments from members of the public and the cannabis industry relating to the Criteria.

Based on the input received and after extensive review by City staff (including Planning and City Attorney staff) and SCI Consulting, a revised draft of the Merit-Based Selection Criteria was presented to the City Council on January 2, 2018. Four letters/emails were received from the public with suggestions on how to change the criteria, which are included at Attachment 2, and five individuals testified at the January 2 meeting with various suggestions. The City Council reviewed the individual criteria and gave staff direction on specific revisions to the proposed criteria. The revised criteria is presented at Exhibit A of the City Council Resolution (Attachment 1).

With the additional Council input, SCI and City staff both believe that the revised Criteria provides a good balance between the desire to have highly successful cannabis businesses, to address neighborhood concerns, and to have preferences for local businesses. The City Council is being asked to review the Revised Criteria, provide any additional comments or suggestions, and then adopt the Resolution at Attachment 1.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed. However, adoption of the Ordinance (and the Merit-Based Selection Criteria) will likely increase the time commitments of City staff toward cannabis activities at the expense of other priorities or projects. Depending on the level of interest, the number of applications for Commercial Cannabis Business Permits may be significant, impacting mostly Planning Division staff, but will also impact the City Manager's office, the Police Department, Finance Department, and others. Ongoing resources will also need to be devoted to inspections and

regulatory and enforcement activities of approved Commercial Cannabis businesses.

On December 18, 2017, the City Council was asked to adopt application fees to cover the cost of processing the Commercial Cannabis Business Permits and annual regulatory fees to cover the costs of ongoing inspections. A ballot measure to consider a tax related to cannabis is also anticipated in 2018 to support enhanced City services.

ATTACHMENTS

1. City Council Resolution with Selection Criteria as Exhibit A
2. Correspondence Received on the Selection Criteria

RESOLUTION NO. 2018-____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING MERIT-BASED SELECTION
CRITERIA FOR SCORING COMMERCIAL
CANNABIS BUSINESS PERMIT APPLICATIONS
FOR WHICH THERE ARE A LIMITED NUMBER
OF PERMITS AVAILABLE**

WHEREAS, the City Council of the City of Merced held a noticed public hearing on November 20, 2017, on proposed Ordinance No. 2480, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding proposed Ordinance No. 2480, which amended the Zoning Ordinance (Title 20 of the Merced Municipal Code) to regulate all commercial cannabis activities and the cultivation of cannabis for personal use in the City of Merced; and

WHEREAS, after hearing all the evidence and testimony, on November 20, 2017, the City Council introduced Ordinance No. 2480. Ordinance No. 2480 was subsequently adopted on December 4, 2017, and will become effective 30 days later on January 3, 2018; and

WHEREAS, Ordinance No. 2480 included Section 20.44.170(L)(1), which sets forth a selection process for Commercial Cannabis Business Permits for Dispensaries/Retail Sales for which there is a limited number (4) of permits available. This selection process is based on the recommendations of a Selection Panel composed of the City Manager, Chief of Police, and Director of Development Services, or their designees, using a merit-based scoring system to be established by the City to objectively award permits to be used in the event that there are more applications than there are permits available.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCED AS FOLLOWS:

SECTION 1. That certain document entitled “Merit Based Selection Criteria for Commercial Cannabis Business Permits (Limited Number of Permits Available)”, attached hereto as Exhibit “A,” is hereby approved.

SECTION 2. The criteria herein shall become effective upon the date of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
CITY CLERK

BY: _____
Assistant Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

A. Jones 12/16/17
City Attorney Date

**Merit Based Selection Criteria for Commercial Cannabis Business Permits
(Limited Number of Permits Available)**

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 1: Prioritize Medicinal Cannabis Access		
a) Proposal for combined medicinal/adult use dispensary		4
b) Proposal for medicinal only dispensary		3
c) Proposal for non-medicinal/adult use dispensary only		0
d) Proposal includes Delivery Services		2
Section 1: Sub-Total of Points Possible		6
Section 2: Geographical Preference/Neighborhood Relations		
a) Proposed locations is within 1,200 feet of local public transportation		1
b) Proposal includes a process and schedule for at least two public outreach meetings per year that meet City approval		2
c) Business plan includes a schedule for communication and receiving feedback from all entities within 300 feet of the business at least two times a year		2
d) Proposal includes the appointment of an employee as a designated liaison with the neighborhood		1
e) Designated liaison employee is a City resident		1
Section 2: Sub-Total of Points Possible		7
Section 3: Facility Plan		
a) Business is formally associated with a non-retail cannabis or non-cannabis-related business in the City of Merced		2
b) Proposal includes daily inspection to ensure maintenance of the interior and exterior of the facility (i.e. free of trash, graffiti, etc.)		2
c) Location exceeds City parking requirements by 10% or more		1
d) Business is open more than five days a week at least 6 hours per day		1
e) Location exceeds minimum disabled parking requirements by 100% or more		1
f) Location is within an existing building or facility with an ability to be open for business within 6 months of approval of the CCBP by the City		1
Section 3: Sub-Total of Points Possible		8

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 4: Standards and Procedures for the Safe Operation of Facilities:		
a) Proposal includes documented employee safety training program		1
b) Proposal includes documented employee cannabis educational training program		1
c) Business Plan includes enhanced security measures, including at least three of the following: panic buttons, dye packets, bulletproof window film (with break strength of 400 lbs. per inch or better), a UL-approved safe with a fire rating that is 2-hour 1700 degrees F or better with a complex locking device; motion sensing lighting; or other enhanced security measures acceptable to the City. (0 to 4 points to be awarded at the discretion of the City Selection Committee.)		0 to 4
d) Proposal includes climate controlled environment		1
e) Proposal includes plan for disposal of all solid waste based on best practices of the State		1
f) Proposal includes a comprehensive documented process for 24-hour minimum response time to cannabis product recall notifications		2
g) Proposal includes more than one on-site security guard during business hours		2
h) Proposal includes plans and procedures for how all cannabis products on the premises or held by the applicant have met the testing requirements as defined by the State		1
i) Proposal includes a separate lobby area where identification is checked to ensure that only qualified individuals gain access to separate, locked areas where cannabis products are displayed		2
j) Proposal includes electronic storage of required records of sales, delivery manifests, patient information (if medicinal and required by State), inventory, etc., which can be provided to City personnel upon request		2
k) Proposal includes participation in web-based public safety application or equivalent that provides law enforcement with confirmation of local and state licenses		1
l) Proposal includes any proposed "green" business practices relating to energy and climate, water conservation, and materials/waste storage		1
m) Proposal includes secured loading/unloading area for deliveries		1
Section 4: Sub-Total of Points Possible		20

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 5: Prior Experience in Business Ownership and Management		
a) Combined prior experience of proposed owners is between 6 months to 3 years of verified successful management of a legal retail cannabis facility		1
b) Combined prior experience of proposed owners is more than 3 years of verified successful management of a legal retail cannabis facility		1
c) Combined prior experience of proposed owners is more than 3 years of verified successful management of any non-cannabis legal retail facility		2
d) Combined prior experience of proposed owners is more than 1 year and up to 3 years with a verified Mutual Benefit Non-Profit Corporation for cannabis in compliance with California law and with proof of payment of taxes		1
e) Combined prior experience of proposed owners is more than 3 years and up with a verified Mutual Benefit Non-Profit Corporation for cannabis in compliance with California law and with proof of payment of taxes		2
f) Above prior experience was obtained within the City or County of Merced		3
g) Above prior experience was obtained within 100 miles of the City of Merced		1
Section 5: Sub-Total of Points Possible		11
Section 6: Qualifications of Principals/Business Plan		
a) At least one owner is a military veteran with an honorable discharge		1
b) At least one owner is a full-time resident of the County of Merced		1
c) At least one owner is a full-time resident of the City of Merced		2
d) Does the business qualify as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation?		1
e) Does the business have documented proof of access to at least \$150,000 in capital (or enough capital to pay all startup costs plus at least 3 months of operating costs)?		3
f) Does the business have documented proof of access to at least \$300,000 in capital (or enough capital to pay all startup costs plus at least 6 months of operating costs)?		3
g) Business Plan contain a valid pro forma for at least 3 years of operation		2
h) Business has documented agreements with cannabis distributors to supply products to their business		2
Section 6: Sub-Total of Points Possible		15

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 7: Employee & Public Relations		
a) The business promotes local hiring or provides incentives for City/County of Merced residents to work with the business		2
b) The business provides employee health benefits for all employees		2
c) The business employs more than 5 people full-time, not counting the owners or security personnel		2
d) Proposal includes an ongoing public information program to inform City residents of cannabis issues and proper/safe/legal use of cannabis products		2
Section 7: Sub-Total of Points Possible		8
Section 8: Community Benefits		
a) Proposal includes benefits to the community, such as defined monetary contributions to local community organizations, or donating time to local community organizations, or any other proposed community benefit acceptable to the City. (0 to 5 points to be awarded at the discretion of the City Selection Committee.)		0 to 5
Section 8: Sub-Total of Points Possible		5
Section 9: Discretion of the City Selection Committee		
a) 0 to 10 additional points may be awarded to a proposal for outstanding features, measures, or programs (above and beyond the minimum requirements) proposed in the Commercial Cannabis Business Permit Application at the discretion of the City Selection Committee.		0 to 10
Section 9: Sub-Total of Points Possible		10
TOTAL POINTS POSSIBLE		90

DISCLAIMER:

Although the City welcomes the applicant to suggest how many points they believe should be awarded in the "Points Awarded" column above, please note that the FINAL determination of how many points are awarded is at the sole discretion of the City's Selection Committee, made up of the City Manager, Police Chief, and the Director of Development Services or their designees. Final scores of the Committee members will be combined and divided by three for an average score. In the event of any tied scores, a random drawing will be used to break the tie.

PLEASE NOTE THAT FAILURE OF THE PROPOSED OWNERS (ANYONE WITH OWNERSHIP INTEREST) TO SUCCESSFULLY PASS THE DETAILED PHASE 2 BACKGROUND CHECK TO THE SATISFACTION OF THE POLICE CHIEF WILL RESULT IN AUTOMATIC DISQUALIFICATION OF THE APPLICATION FROM FURTHER CONSIDERATION.

APPLICANT CERTIFICATION (REQUIRED)

Under penalty of perjury, I hereby declare that I have read and understood the criteria above and I have provided information relative to how my cannabis business addresses that criteria in the application or attached to this document. I declare that this information is completely true and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license, or revocation of a license issued.

Signed _____ Date _____

**Merced City Council
678 W 18th St.
Merced, CA 95340**

**Attn: Mayor Mike Murphy;
Mayor Pro Temore Jill McLeod;
Council Member Kevin Blake;
Council Member Michael Belluomini;
Council Member Josh Pedrozo;
Council Member Anthony Martinez;
Council Member Matthew Serratto**

**Cc: City Manager Steve Carrigan;
Economic Development Director Scott McBride;**

Dear Council,

I am writing in respect to your consideration of the merit based point system for the selection of commercial cannabis licensees in the City of Merced. While recognizing the difficulty of developing an objective metric under which applicants will be judged, I believe that various aspects of the proposed standard could be construed as arbitrary, or even subjective to select locations or applicants.

I commend City Staff and SCI for their inclusion of Section 5 (f) and (g), which recognizes the State's previously established standard for the safe and responsible establishment and management of a medical cannabis entity in California. However, Section 5 (a) (b) (c) (d) and (e) favors applicants from areas of California that have established experience in approved "legal" cannabis businesses for several years. No one has yet defined what "verified successful management of a legal retail facility" means. As you know, no entity or applicant in Merced, Madera or Stanislaus County would meet those criteria except for the few that have formed Mutual Benefit Non-Profit Corporation (Cannabis Collectives) under the 2008 Attorney General Guidelines for the Security and Non-Diversion of Marijuana grown for medical purposes. This, as well as proof of payment of taxes to the Board of Equalization from such entities are the only truly objective metric by which one could gauge 'legal experience' as a cannabis entity, keeping in mind the fact that until the present time there has never been an affirmative right to engage in cannabis activity under California Law, merely an affirmative defense in the event of prosecution.

The currently proposed standard for experience of 'verified successful management of a legal retail facility' lends itself to the assumption that applicants from areas outside of the San

Joaquin Valley Region in jurisdictions with a more historically tolerant political and legal atmosphere with respect to cannabis will be at an advantage in the selection process.

These businesses must pay for their impacts upon communities. But in addition to the tax and fee revenue that the city should receive from these businesses, the larger community should benefit like they do from other local businesses. The owners, operators and employees, who live here, go to restaurants here and to shop here would provide that greater benefit. That goal is enhanced with some of the criteria in this resolution, but most of Section 5 effectively erases what should be a strong local preference. It favors out of town interests at the cost of local interests.

I would therefore propose that Section 5, subsections (a-e) be eliminated.

Further, Section 2 (a) and (b) award points for a proposed location that is either between 1,600 to 2,000 or more than 2,000 ft. away from a school, respectively. The sensitive use standard set by the State of California for schools is 600 ft. In your discretion as a local governing body, you decided to extend this to 1,000 ft. per recommendation from the planning commission. This is the objective standard by which ALL applicants must abide in order to qualify as an applicant during phase one of the application process. For locations that are at least 1,000 ft. away from schools, there will undoubtedly be a number of streets, buildings, and physical and logistical barriers which render any type of relative interference or disturbance from the subject property a non-issue. Moreover, Section 3 (c), which awards points for available parking that exceeds that required by city ordinance, presents an unnecessary deprivation of points for prospective applicants who may otherwise be well-suited as recipients of a permit with facilities that pass muster for the nature of use under the City's zoning standard.

By proposing to award points for locations that exceed these objective standards, the city is essentially resuming its consideration of issues previously decided and depriving objectively suitable locations from the benefit of being awarded points despite having met the City's previously established standards. Accordingly, I would respectfully request that these provisions be eliminated from the scoring metric.

I appreciate your consideration in this matter.

Sincerely,



Zach Drivon

January 2, 2018

City Council of the City of Merced
678 West 18th Street
Merced, CA 95340

Dear Mr. Mayor and Honorable Councilmembers:

I am writing to voice my concerns related to the “Merit Based Selection Criteria for Scoring Commercial Cannabis Business Permit Applications” resolution before you at your January 2, 2018 City Council meeting. It is clear that the City’s goal is to make it known that these uses are expected to operate at a level that limits any community impact to the greatest extent possible – incentivizing only the “best” practices is of chief importance in this regard.

As a resident of the City and a professional land use planner, I applaud you and your staff’s efforts to address cannabis regulation efficiently and with deliberate thought to the effects of regulation on all residents of Merced. While I generally support the Council’s approach to regulation on cannabis retail within the City, I do have a number of concerns related to enforceability, neighborhood impacts, and consistency with community goals.

It is a truth experienced by other states and municipalities that have approved recreational cannabis use that the benefits of cannabis retail are partnered with relatively minor externalities on neighborhoods. Based on my own professional experience and review of documented experience from other permitting agencies, I humbly offer the below suggestions and questions for the Council’s consideration:

Section 1: Prioritize Medicinal Cannabis Access

Question: What assurance is in place that medicinal use applicants will fulfill the goals of this section for the lifetime of their operation? Consider that a given business may change its licensure with the State Bureau of Cannabis Control (BCC), and may change from operating medicinal and adult use retail to adult use retail only.

While the City would receive notice of such a licensure change from the BCC, it would occur after “merit based” selection takes place and the business may be in operation, and it does not appear that the approved ordinance would require (or allow) revocation of a permit with a change in licensure. The Council may wish to consider how to address such a situation, or incentivize medicinal cannabis access in a different manner.

Section 2: *Geographical Preference / Neighborhood Relations*

- *Item A: Proposed location is over 1,600 to 2,000 feet away from schools (City requires 1,000 feet)*
 - **Suggest:** Consider revising to include “day care center, youth center, library, or public park” as adopted in ordinance 2480 section 20.44.170(E)(3)(f).
 - **Suggest:** Consider incentivizing minimum separation distance between retailers. 1,000 feet is used in other jurisdictions.
 - **Suggest:** Consider incentivizing minimum separation between retail use and residentially-zoned property.
-

Section 3: *Facility Plan*

- *Item C: Location exceeds City Parking Requirements by 10% or more.*
 - It is well-documented that excessive parking requirements are an inefficient use of a City’s commercial spaces. Incentivizing excessive parking conflicts with the City’s goals for sustainable and efficient development.
 - In shopping centers and strip malls, development patterns and shared parking agreements typically make such an item unnecessary.
 - **Suggest:** Remove this requirement, incentivize the provision of bicycle parking within 100 feet of the storefront.
 - **Suggest:** Provide points for applicants providing signage details for a sign consistent with the City’s municipal code section 20.62 and a commitment for application to the City for design review of the signage consistent with section 20.68.030.
-

Section 4m – *Proposal includes any proposed “green” business practices relating to energy and climate, water conservation, and materials/waste storage.*

Suggest:

- Replace “green” with “sustainable.”
- The City may consider a “menu” of practices that would score points in this category, similar to practices commonly considered sustainable (see Policy SD-1.7, action 1.7.c from the City’s General Plan Sustainable Development element).
- If the City wishes to incentivize practices consistent with the Sustainable Development element, Council may wish to consider awarding more points to applicants undertaking a

minimum number of sustainable business practices. (i.e. 3+ practices = 2 points, 5+ practices = 3 points, etc.)

Section 7: *Employee Relations/Community Benefits*

- Item D – *Proposal includes and ongoing public information program to inform City residents of cannabis issues and proper/safe/legal use of cannabis products.*
 - **Question:** Is this expected to be a stand-alone effort by each business? How will this be audited/enforced? Will there be a City-run information program that individual businesses may contribute to?
- Item E - *Proposal includes benefits to the community, such as defined contributions or donating time to community organizations or charities.*
 - **Question:** How will community organizations be defined? How would this be enforced?

Thank you for your time and consideration of this important resolution. I welcome any questions related to my comments in advance of the meeting.

Sincerely,

Steven Maxey
steven.maxey@gmail.com

cc:
S. Carrigan
S. McBride

Dear Council,

We have done some further research and wanted to make clearer the issue of imbalance in the merit system if points are awarded for both “verified Mutual Benefit Non-profit Corporations” and those with “verified successful management of legal retail cannabis facility”.

In fact, an overwhelming majority of applicants from across the state whose former or existing operations might qualify as “verified successful management of a legal retail cannabis facility” are also “Mutual Benefit Non-Profit Corporations”. These are the appropriate entities through which medical marijuana collectives have been organized under the 2008 Attorney General Guidelines permitting such activity. Without that organizational structure, they could not have opened such a business and apprised themselves of protection from prosecution under state law.

If a local community somewhere in California permitted the sale of legal retail marijuana without such a designation we are unaware of it.

With rare and exclusive exception, none of the dispensaries that have operated in the Central Valley with the Mutual Benefit Non-Profit designation have been also granted local government approval for retail sales of marijuana. There are certainly none who've had the benefit of local government approval throughout Merced, Madera or Stanislaus County. Many of the dispensaries in other parts of the state, however, have been allowed to expand through local government action.

All applicants who seek permits should be granted points for having the state approved Mutual benefit non-profit Benefit Corporation status. However, granting additional points to entities that have that status and have also been allowed to operate more broadly by a local government jurisdiction, effectively creates an uneven playing field that penalizes Central Valley applicants.

We would respectfully suggest the council's merit based point system recognize this imbalance and not award any additional points to applicants with “verified successful management of a legal retail cannabis facility”. Such action would not exclude any applicant. It would simply give them no more, or no less points for following the law as declared by the state of California prior to the introduction of the regulatory structure for commercial cannabis businesses.

Respectfully Submitted,



Zach Drivon
Attorney

Community-sensitive 320 Point System

To the City of Merced,

Staff has done a great job in creating a merit-based system. However the Merit system should only be 1 leg in a 4 legged chair. The other 3 legs should consist of law enforcement and security, the real estate involved and its effects on the community, and the general concerns of the city as demonstrated by the council. The 3 people already chosen by the council are exactly that: security (Chief of Police), zoning (Planning Director), and general concerns of a city and the council (City Manager).

It's apparent that the staff and council have done their diligence installing this structure with great foresight. Still, I would use caution not to strip away the ability to make the proper decision at the last minute, where necessary. A checklist will not create a competitive environment and thus will not produce the best candidate. The city of Merced has said many times it wants to set and be the example. This should include having the best business operators to protect the community.

My suggestion would be to give equal discretion to each leg of the 4 legged chair. If the Merit-based system has 80 points then each of the 3 leaders of the community that you have chosen should also have 80 points totaling 320 points.

A Merit-based system only encourages people to do the bare minimum. Considering the city will partner themselves with these future business entities, it's imperative that the city be given the opportunity to choose the best candidates.

Under the current Merit only system:

It's possible and likely that someone will score 78 while superior candidates will score 77 or even 70. What happens if both are current operators within 100 miles of Merced and the higher score has spent \$50k on his storefront, does all the Merit-based items at a minimum, and produces BOE receipts that project a mere \$60,000 in annual city revenue. While the lower scoring entity invests \$400k in a storefront and has BOE receipts projecting \$800k annually for the city. Please keep in mind the volume of sales is a direct indicator as to what the community has chosen as their preferred place of business.

The Merit-based system will choose the wrong candidate. The 3 most qualified people that you have chosen have been stripped of their authority to help make the right decision. To discount their value to anything less than an equal amount of points is to discount all the work and concerns the council has presented over many city meetings.

I plead with the council to trust its prior decision. You have trusted professionals that you know are qualified and have been present to all the city meetings. They know security, zoning and the general concerns of the council and city better than anyone. Let's give them equal scoring.

Community-sensitive 320 Point System

Give each category 80 points:

80 Merit scoring system

80 Law enforcement

80 Planning

80 City Management

320 points in total

These points can be given subjectively to candidates who demonstrate or prove they will go above and beyond expectations and meet the community's needs.

Greater scoring ranges and leveraging intelligent and experienced city authorities also minimizes a situation where you have 40 candidates ending up in a tie while maximizing the ability to choose the most qualified candidates.

Respectfully,

Ron Roberts
Guaranty Holdings of California, Inc.
209-602-7444



ADMINISTRATIVE REPORT

Agenda Item J.3.

Meeting Date: 1/16/2018

Report Prepared by: Jolie Houston, Interim City Attorney, City Attorney's Office

SUBJECT: Report on Local Business Preference Policy

REPORT IN BRIEF

Consider Council direction to have a policy that allows for a local preference when purchasing goods and services from vendors.

RECOMMENDATION

Provide staff direction on the attached draft ordinance and draft resolution regarding a Local Business Preference Policy concerning purchasing goods and services from local vendors.

ALTERNATIVES

1. Provide direction as requested; or,
2. Continue to a future meeting; or,
3. Deny this item.

AUTHORITY

City of Merced Charter, Section 200.

CITY COUNCIL PRIORITIES

As it pertains to stimulating the local economy.

DISCUSSION

The City purchases a variety of supplies and services as a part of doing daily business. In addition to common items such as office supplies, the City purchases landscaping materials, hand tools and various parts and supplies. The City also requires the use of non-professional services such as minor construction, including fencing of properties, towing, signage, City automobile repair, miscellaneous facility repairs and more. While many of these purchases and services are not available from vendors in Merced, others are available locally. Staff currently seeks out local vendors whenever possible.

The City Council asked staff to prepare a policy that would require the City to consider and select local businesses, when appropriate, in an effort to support, stimulate, and boost the City of Merced's local economy. Strategies that promote the use of local vendors and service provider's help retain local dollars within the community and strengthen employment. In order to promote employment and business opportunities for local businesses and give preference to Merced businesses and consultants, staff is asking for direction from the Council on the attached draft ordinance amending

the City of Merced's Municipal Code Chapter 3.04 Purchasing System by adding a new section, Local Business Preference Policy, which will allow the Council to establish a Local Business Preference Policy by resolution. By having the Local Business Preference Policy adopted by resolution it may amended by the Council from time to time without the formalities of an ordinance.

The attached resolution and Local Business Preference Policy will give a competitive preference to local industries and/or companies doing business within the City by requiring that departments consider the locality of industries and/or businesses and their sub-consultants. When more than one business or service provider is considered and they are competitively matched in terms of other criteria, local service providers should be selected.

The resolution and Local Business Preference Policy provide that local businesses will be given a 5% local preference for purposes of quantitative comparisons when comparing the prices offered by bidders. Application of the Local Business Preference Policy will be for comparison purposes only when evaluating proposals and will not actually reduce the amount ultimately paid to the successful vendor. This policy will apply in all cases when the City is soliciting proposals for products or services, except as noted below:

- Services provided under a cooperative purchasing agreement.
- Contracts which are funded in whole or in part by a governmental entity, and the laws, regulations or policies governing such funding prohibit application of a local preference.
- Construction (public works) contracts or other contracts procured under authority which requires award to the lowest responsible bidder without an exception for a local preference criterion or which otherwise does not allow consideration of a local preference criterion.
- Contracts procured under emergency situations.
- Purchases not made through competitive bidding, pursuant to Section 3.04.210 of the Merced Municipal Code.
- When the City Manager determines that application of this policy would hinder the operational effectiveness or public benefit of the City.

The local business preference established in the policy will in no way inhibit, limit or restrict the right and obligation of the City to compare quality and fitness for use of services proposed for purchase and will compare the qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Nor will the preference established in this policy be construed to prohibit the right of the City from giving any other preference permitted by law. In addition, if the City will be paying sales tax on the purchase, the local business will have to possess a valid resale license from the State Board of Equalization showing evidence of a City of Merced address and the payment of the local share of the sales tax will have to go to the City of Merced. The local business cannot be in default or delinquent on any fee, tax or charge owed to the City of Merced.

The policy will require any vendor or consultant claiming to be a local business to provide a signed declaration when submitting their bid. The City will verify the accuracy of the declaration and will have sole discretion to determine if a consultant meets the definition of "Local Business." A Local Business will be defined as a business or consultant who meets all the following qualifications:

- Has a valid physical address located within the City of Merced from which the vendor or consultant operates or performs business on a day-to-day-basis;
- Has conducted business in the City of Merced for at least six months prior to submittal of a qualifying bid; and
- Holds a valid City of Merced business license for at least six months prior to submittal of a qualifying bid.

IMPACT ON CITY RESOURCES

N/A

ATTACHMENTS

1. Draft Ordinance
2. Draft Resolution

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING CHAPTER 3.04 BY ADDING
SECTION 3.04.215, "LOCAL BUSINESS
PREFERENCE POLICY," TO THE MERCED
MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. ADDITION TO CODE. Section 3.04.215, "Local Preference Policy," is hereby added to the Merced Municipal Code to read as follows:

"3.04.215 Local Business Preference Policy.

The Council may, by resolution, adopt a local business preference policy which otherwise complies with the regulations of this chapter."

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 _____, 2018, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2018, 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**

RESOLUTION NO. 2018-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, ADOPTING A LOCAL BUSINESS PREFERENCE POLICY

WHEREAS, the City Council of the City of Merced desires to find opportunities to support, stimulate, and boost the City of Merced's economy; and

WHEREAS, strategies that promote the use of local vendors and service providers help retain local dollars within the community and strengthen employment; and

WHEREAS, in order to promote employment and business opportunities for local businesses and give preference to Merced businesses and consultants; and

WHEREAS, a local business preference policy would give competitive preference to local industries and companies doing business with the City by requiring that when more than one business or service provider is considered and they are competitively matched in terms of other criteria, local service providers should be selected; and

WHEREAS, a local business preference policy would provide a 5% local preference for purposes of quantitative comparisons when comparing the prices offered by bidders; and

WHEREAS, Municipal Section Code 3.04.215 allows the City Council of the City of Merced to establish a Local Business Preference Policy by resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES RESOLVE AS FOLLOWS:

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SECTION 1. That certain document entitled "Local Business Preference Policy," attached hereto as Exhibit "A," is hereby approved.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST
STEVE CARRIGAN, CITY CLERK

BY: _____
Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney Date

**CITY OF MERCED
LOCAL BUSINESS PREFERENCE POLICY**

The City of Merced recognizes that strategies that promote the use of local vendors and services providers help create a sustainable economy and preserve local businesses. The use of local businesses helps retain local dollars within the community and strengthen employment. It is the policy of the City to promote employment and business opportunities for local businesses on all contracts and give preference to Merced businesses and consultants to the extent consistent with the law and interests of the public.

Local Service Provider

A Local Business is defined as a business or consultant who meets all the following qualifications:

1. Has a valid physical address located within Merced from which the vendor or consultant operates or performs business on a day-to-day-basis;
2. Has conducted business in Merced for at least six months prior to submittal of a qualifying bid; and
3. Holds a valid Merced business license for at least six months prior to submittal of a qualifying bid.

Preference Policy

Departments shall consider the locality of consultants or businesses and their sub-consultants when selecting business for purchases or service contracts. If there is more than one business or service provider being considered and the providers are competitively matched in terms of other criteria, local service providers should be selected.

When comparing the prices offered by bidders, Local Businesses shall be given a 5% local preference for purposes of quantitative comparisons. Application of the local preference is for comparison purposes only when evaluating proposals and does not actually reduce the amount ultimately paid to the successful vendor. This policy applies in all cases when the City is soliciting proposals for products or services, except as noted below.

Exceptions to Local Preference Policy

1. Services provided under a cooperative purchasing agreement.
2. Contracts which are funded in whole or in part by a governmental entity, and the laws, regulations or policies governing such funding prohibit application of a local preference.
3. Construction contracts or other contracts procured under authority which requires award to the lowest responsible bidder without an exception for a local preference criterion or which otherwise does not allow consideration of a local preference criterion.
4. Contracts procured under emergency situations.
5. Purchases not made through competitive bidding, pursuant to Section _____ of the Merced Municipal Code.
6. When the City Manager determines that application of this policy would hinder the operational effectiveness or public benefit of the City.

Quality and Fitness

The preference established in this policy shall in no way be construed to inhibit, limit or restrict the right and obligation of the City to compare quality and fitness for use of services proposed for purchase and compare the qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Nor shall the preference established in this policy be construed to prohibit the right of the City from giving any other preference permitted by law.

Other Criteria

Where the City will be paying sales tax on the purchase, the local business must possess a valid resale license from the State Board of Equalization showing evidence of a City of Merced address. The payment of the local share of the sales tax must go to the City of Merced.

The local business must not be in default or delinquent on any fee, tax or charge owed to the City of Merced or the County of Merced.

Verification of Local Business Preference Eligibility

Any vendor or consultant claiming to be a local business shall provide a signed declaration when submitting their bid. The City shall verify the accuracy of the declaration and shall have sole discretion to determine if a consultant meets the definition of “Local Business.”

DRAFT



ADMINISTRATIVE REPORT

Agenda Item J.4.

Meeting Date: 1/16/2018

SUBJECT: Update on Public Facilities Projects

REPORT IN BRIEF

At the request of Council Member Belluomini, staff are presenting an update on the Public Facilities projects and next steps moving into 2018.

RECOMMENDATION

Provide staff with further direction on Public Facilities Projects.

AUTHORITY

Article XI, Section 1108 of the Merced City Charter and Merced Municipal Code Chapter 13.66 Financing Facilities.

DISCUSSION

On August 21, 2017, the City Council provided staff direction to begin the process of pursuing a ballot measure to help fund public facility upgrades and improvements. As part of this direction, staff secured professional services to survey the community to test the viability of the projects as proposed. Council Member Belluomini has requested an update on the progress of these projects and to open up discussion on the design of the new police station.

ATTACHMENTS

1. Slide Presentation on Public Facilities Update

Public Facilities Update

CITY OF MERCED COUNCIL MEETING

JANUARY 16, 2018

Community Priorities

Provide rapid responses to neighborhood fires

Retain qualified personnel

Prevent gang activity in the City

Protect and maintain 9-1-1 emergency response times

Address homelessness

Maintain neighborhood-based safety efforts to make areas surrounding schools and parks safer

Proposed Timeline

September – October 2017

- Survey the public
- Analyze results and develop strategic recommendations

November – December 2017

- Release results of the survey
- Prepare to launch 2018 Public Facility Engagement Efforts
- Develop timeline for Community Presentations

January – May 2018

- Understand/Develop strategy for Cannabis Ballot Measure
- Town Hall Meetings/Goals & Priorities Setting Session – maximize outreach
- Community Presentations

June - July 2018

- Survey the public
- Discuss with Council on possibility of moving forward with Public Facilities measure

August – October 2018

- National Night Out Campaign
- Final outreach efforts and meetings

Recommended Next-Steps

Continue Outreach Efforts

- Solicit Committee volunteers
- Hold educational meetings
- Conduct second survey prior to call for election

Hire Project Manager (consultant)

- Re-evaluate Police Station needs assessment
- Develop police station design/drawings and construction options

Retain Financial Advisor to develop options/strategy

Direction to Staff

Input on Public Facilities Outreach Committee

Hiring of Project Manager and Architect for Police Station

Plan for follow up survey in June 2018

Investigate financing options and present at a future meeting