



CITY OF MERCED
Amended
Meeting Agenda

Amended Agenda
Agenda Item: J.7. Moved to L.1.

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

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

Monday, August 1, 2016

7:00 PM

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

Closed Session at 5:45 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 Chambers. 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 Chambers

A. CLOSED SESSION ROLL CALL

B. CLOSED SESSION

B.1. [16-363](#) **SUBJECT: PUBLIC EMPLOYMENT - Title: City Attorney; Authority: Government Code Section 54957**

B.2. [16-354](#) **SUBJECT: CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION: Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Section 54956.9: 1 Case**

C. CALL TO ORDER

C.1. Invocation - Pastor Greg Boyd, Calvary Chapel Merced

C.2. Pledge of Allegiance to the Flag

D. ROLL CALL

D.1. In accordance with Government Code 54952.3, it is hereby announced that the City Council sits either simultaneously or serially as the Parking Authority, and 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 Public Financing and Economic Development Authority receive no compensation.

E. REPORT OUT OF CLOSED SESSION

F. CEREMONIAL MATTERS

F.1. Proclamation - National Health Center Week

G. SPECIAL PRESENTATIONS

G.1. Revenue Sharing Update - City Manager Steve Carrigan

H. WRITTEN PETITIONS AND COMMUNICATIONS

I. 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. State law prohibits the City Council from acting at this meeting on any matter raised during the public comment period. The Mayor may, at his discretion, decrease the time allotted to speakers in order to accommodate as many speakers as possible. Members of the public who wish to speak on a matter this is listed on the agenda will be called upon to speak during discussion of that item.

J. CONSENT CALENDAR

Adoption of the Consent Calendar may be made by one motion of the City Council, provided that any Councilmember, 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.

J.1. [16-312](#) **SUBJECT: Information Only - Traffic Committee Minutes of May 10, 2016**

RECOMMENDATION

For information only.

- J.2. [16-323](#) **SUBJECT: Information Only - Planning Commission Minutes of June 8, 2016**

RECOMMENDATION

For information only

- J.3. [16-339](#) **SUBJECT: Information Only - Recreation & Parks Commission minutes of April 25, 2016 and May 23, 2016**

REPORT IN BRIEF

For Information Only.

- J.4. [16-350](#) **SUBJECT: Information-Only Contracts**

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$28,000 and of Public Works contracts under \$63,054.

AUTHORITY

Pursuant to the authority delegated to the City Manager on behalf of the City by Article XI, Section 1109, of the Merced City Charter to execute Public Works contracts under the adjusted FY 2015-2016 threshold of \$63,054.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2015-2016 threshold of \$28,000.00, the contracts listed on the attached table were entered into by the City.

- J.5. [16-347](#) **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.

- J.6. [16-334](#) **SUBJECT: Award Bid to Taylor Backhoe Service, Inc., for the CMAQ Sidewalk Infill on Alexander Avenue Project 114051**

REPORT IN BRIEF

Consider awarding a construction contract in the amount of \$247,121.90 for the construction of sidewalk infill along portions of Alexander Avenue.

RECOMMENDATION

City Council - Adopt a motion:

A. Awarding the bid for the CMAQ Sidewalk Infill on Alexander Avenue Project 114051, to Taylor Backhoe Service, Inc., in the amount of \$247,121.90; and,

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

J.7. This item has been moved to Reports L.1.

J.8. [16-302](#) **SUBJECT: Street Closure for First Responders 911 Memorial Parade**

REPORT IN BRIEF

Consider allowing the use of City streets on September 11, 2016 for the First Responders 911 Memorial Parade.

RECOMMENDATION

City Council - Adopt a motion approving the street closures of Calimyrna Avenue from E Main Street to E 18th Street, East Main Street, from "G" Street to Calimyrna Avenue; West Main Street, from "G" to "O" Streets; "H", "I", "K", and "N" Streets, from the north and south alleys of West Main Street; Canal Street, from the north alley of West Main Street to Bob Hart Square; and "O" Street, from the south alley of West Main to 20th Street; 20th Street to N Street. North on N Street to 21st Street where the parade will conclude at 21st and N Street as requested by Bill Baker, American Patriots Chrome Cowboys and Chrome Cowgirls for the 2016 First Responders 911 Memorial Parade on Sunday September 11, 2016. The street closures will be between 12:30 PM and 3:00 PM. The parade will commence at 2:00 PM; subject to the conditions outlined in the administrative report. If there are less than 40 entries for the parade then the street closure from Calimyrna Avenue and East Main to G Street will not be necessary.

J.9. [16-330](#) **SUBJECT: Accept and Appropriate Donated Funds for National Night Out Celebration**

REPORT IN BRIEF

Accept donation from McLane Company and appropriate funds to offset costs of National Night Out Celebration.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting the donation of \$2,000 from the McLane Company for National Night Out Celebration

B. Increasing Police revenue account #001-1001-360-02-01 by \$2,000 and appropriating the same in Fund #001-1037-522-29-00 for expenses related to National Night Out.

J.10. [16-353](#)

SUBJECT: Transfer All Parking Authority's Interests in Parking Lot #1 to Merced Designated Local Authority, Authorize the City Manager to Accept Such Assets on the City's Behalf, and Authorize the City Manager to Sign a Non-Exclusive Easement Over Parking Lot #1 for Access by Merced Lofts

REPORT IN BRIEF

Authorizes the Parking Authority of the City of Merced to transfer all of its interests in Parking Lot #1 to the Merced Designated Local Authority, authorizes the City Manager to accept and consent to the transfer of this asset to the City, and authorizes the City Manager to sign all necessary documents to convey a non-exclusive easement over Parking Lot #1 for access by Merced Lofts.

RECOMMENDATION

Parking Authority - Adopt **Resolution PA 2016-04**, a Resolution of the Parking Authority of the City of Merced authorizing the transfer of all of the Parking Authority's interests in Parking Lot #1 to the Merced Designated Local Authority.

City Council - Adopt **Resolution 2016-41**, a Resolution of the City Council of the City of Merced, California authorizing the City Manager to accept and consent on the City's behalf the transfer of Parking Lot #1.

City Council - Adopt a motion authorizing the City Manager to sign a non-exclusive easement agreement relating to Parking Lot #1 with Merced Lofts, LLC.

J.11. [16-346](#)

SUBJECT: Appropriation from the Economic Development Opportunity Fund (074-2002-617-65-00) to Line 074-2002-572-17-00 (Professional Services) for Appraisal and Other Consulting Services

REPORT IN BRIEF

The requested Appropriation transfers a total of \$10,000 in funds for appraisal and other consulting services to be used for the Merced Downtown Commons Project.

RECOMMENDATION:

Parking Authority - Adopt a Motion Appropriating \$10,000 to Line 074-2002-572-17-00 (Professional Services - Economic Development Opportunities Fund) for appraisals and other consulting services to be used for the Merced Downtown Commons Project.

J.12. [16-345](#)

SUBJECT: Accept and Appropriate Grant Funds from Pacific Gas and Electric for Mercy Gulch Days

REPORT IN BRIEF

Accept and appropriate grant funds (\$3,000) from Pacific Gas and Electric to be used for the 2015 Mercy Gulch Day community event.

RECOMMENDATION

City Council - Adopt a motion:

- A. Accepting the grant funds totaling \$3,000 from Pacific Gas and Electric into Fund 001-2002-360-02-01; and,
- B. Appropriating the same to Fund 001-2002-572-17-00 (Economic Development - Professional Services) to be used for the Mercy Gulch Days community event via the Agreement between the Greater Merced Chamber of Commerce and the City of Merced; and,
- C. Authorizing the City Manager to execute the necessary documents.

J.13. [16-351](#)

SUBJECT: Request to Set a Public Hearing for the Tax Equity and Fiscal Responsibility Act (TEFRA) Regarding the Facilitation of Bond Sales by the Statewide Communities Development Authority for the Gateway Terrace II Project

REPORT IN BRIEF

Request to set a public hearing for Monday, August 15, 2016, to consider the Tax Equity and Fiscal Responsibility Act (TEFRA) Regarding the Facilitation of Bond Sales by the Statewide Communities Development Authority for the Gateway Terrace II Project.

RECOMMENDATION

City Council - Adopt a motion setting a public hearing for Monday, August 15, 2016, to consider the Issuance of Multi-Family Housing Revenue Bonds for Gateway Terrace II Apartments.

J.14. [16-331](#)

SUBJECT: Agreement for Special Services with Liebert Cassidy Whitmore.

REPORT IN BRIEF

Authorizes an agreement for employment relations services with Liebert Cassidy Whitmore.

RECOMMENDATION

City Council - Adopt a motion approving an agreement for special services with Liebert Cassidy Whitmore in an amount not to exceed \$60,000 for labor relations services.

K. 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.

K.1. [16-319](#)

SUBJECT: Public Hearing - Holding Election for Annexation No. 9 into Community Facilities District 2003-2 (Services)

REPORT IN BRIEF

Hold a public hearing and election for annexation into Community Facilities District 2003-2 (Services) Annexation No. 9 for property located at the southeast corner of Mercy Avenue and Mansionette Drive (Mansionette Estates Unit No. 5).

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.

B. Adopt **Resolution 2016-37**, 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. 9.

C. Hold Election.

D. Adopt **Resolution 2016-38**, 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. 9 of said District.

E. Adopt **Resolution 2016-39**, 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. 9 to said district and authorizing the levy of a special tax within said Annexation No. 9.

K.2. [16-341](#)

SUBJECT: Zoning Ordinance Amendment #16-02 Regarding Medical Marijuana Dispensaries, Deliveries, and Cultivation for Qualified Patients

REPORT IN BRIEF

Consider adoption of an ordinance authorizing medical marijuana dispensaries (subject to specific conditions and requirements), delivery of medical marijuana from licensed dispensaries, and limited indoor cultivation of medical marijuana for qualified patients.

RECOMMENDATION

City Council - Adopt a motion to:

A. Adopt a Negative Declaration and Introduce **Ordinance 2464** that would allow medical marijuana dispensaries in the Professional/Commercial Office (C-O) zone with a conditional use permit once the City Council adopts additional regulations; allow delivery of medical marijuana from licensed dispensaries; and allow limited indoor growth of medical marijuana (up to 6 plants per lot) for qualified patients under specific circumstances:

“An Ordinance of the City Council of the City of Merced, California, Amending Chapter 20.84, “Medical Marijuana and Cultivation” and amending Sections 20.20.040 “Conditional Uses,” of the Merced Municipal Code regarding the zoning of medical marijuana dispensaries as conditional uses”.

AND

B. Approving a supplemental appropriation in Fund 017 in the amount of \$2,260 to pay for State filing fees for the Negative

Declaration and allowing the Finance Officer to make the necessary budget adjustments.

L. REPORTS

L.1. [16-307](#)

SUBJECT: Consideration of Roadway Projects for the 2015/2016 Regional Surface Transportation Program Exchange Funds Claim

REPORT IN BRIEF

Merced County Association of Governments (MCAG) has received a RSTP exchange contract from Caltrans for Fiscal year 2015/2016 and the City of Merced can claim, by simple resolution, its portion of the exchange funds.

RECOMMENDATION

OPTION 1:

City Council - Adopt a motion:

- A. Selecting “*Yosemite Avenue - San Augustine to Highway 59*” to be completed utilizing the FY 2015-2016 RSTP Exchange Funds; and,
- B. Directing staff to complete the 2015-2016 RSTP Claim Form by listing the selected projects and corresponding project costs; and,
- C. Adopting **Resolution 2016-40**, a Resolution of the City Council of the City of Merced California, authorizing the City Manager to file the Regional Surface Transportation Program (RSTP) Exchange Funds claim for Fiscal Year 2015-2016.

OPTION 2:

City Council - Adopt a motion:

- A. Selecting “*N Street - 8th Street to Childs Avenue*” and “*15th Street - R Street to O Street*” to be completed utilizing the FY 2015-2016 RSTP Exchange Funds; and,
- B. Directing staff to complete the 2015-2016 RSTP Claim Form by listing the selected projects and corresponding project costs; and,
- C. Adopting **Resolution 2016-40**, a Resolution of the City Council of the City of Merced California, authorizing the City Manager to file the Regional Surface Transportation Program (RSTP) Exchange Funds claim for Fiscal Year 2015-2016.

M. BUSINESS

- M.1.** [16-358](#) **SUBJECT: Council Member Murphy's Request to Discuss Recreation and Parks Unexpended Budget**

REPORT IN BRIEF

This item is in response to Council Member Murphy's request to discuss the unexpended budget of the Recreation and Parks Department pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

- M.2.** [16-360](#) **SUBJECT: Council Member Belluomini's Request to Discuss the Naming of City Streets after Veterans**

REPORT IN BRIEF

This item is in response to Council Member Belluomini's request to discuss the naming of City streets after veterans pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

- M.3.** [16-359](#) **SUBJECT: Mayor Thurston's Request to Discuss the Permit Application for Alarm Systems**

REPORT IN BRIEF

This item is in response to Mayor Thurston's request to discuss the permit application for the False Alarm Ordinance pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

- M.4.** [16-335](#) **SUBJECT: Designation of Voting Delegate and Alternates for the 2016 League of California Cities Annual Conference - Annual Business Meeting, October 5 - October 7, 2016, Long Beach**

REPORT IN BRIEF

To expedite the conduct of business at this important policy-making meeting, each City Council is asked to designate a voting representative and two alternates who will be present at the meeting.

RECOMMENDATION

City Council - Adopt a motion designating one voting delegate and two

alternate voting delegates to the League of California Cities Annual Conference General Business Meeting scheduled for Friday afternoon, October 7, 2016 in Long Beach.

M.5. Request to Add Item to Future Agenda

M.6. City Council Comments

N. ADJOURNMENT



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-363

Meeting Date: 8/1/2016

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

File #: 16-354

Meeting Date: 8/1/2016

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

File #: 16-312

Meeting Date: 8/1/2016

Report Prepared by: *Jamie Cruz, Secretary II - Engineering Department*

SUBJECT: Information Only - Traffic Committee Minutes of May 10, 2016

RECOMMENDATION

For information only.

ATTACHMENTS

1. Minutes of May 10, 2016

TRAFFIC COMMITTEE
MINUTES
May 10, 2016

A. CALL TO ORDER

The meeting was called to order at 2:00 p.m.

B. ROLL CALL

Present: Chairperson: Ken Elwin, Interim City Engineer
Committee Members: Shawn Henry, Fire Chief
Juan Olmos, Director of Public Works Designee
Jacob Struble, Police Chief Designee

Absent: Julie Nelson, Planning Manager Designee

C. ORAL COMMUNICATIONS

None.

D. CONSENT CALENDAR

1. Traffic Committee Minutes of March 8, 2016

RECOMMENDATION:

Approve and file.

Shawn Henry Moved, Ken Elwin Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

Clerk's Note: Staff recommendation approved.

E. REPORTS

1. Committee Member Reports

(At this time, it is appropriate for any Committee Member to give an informational report of any work completed, training, or other item to share with other members. Please be brief, and no action may be taken on these items.)

None.

2. Parking Enforcement at the Fire Hydrant Located on West 15th Street near Martin Luther King Jr. Blvd

(Two-month follow up of effectiveness of Police Department enforcing parking regulations at the requested location. This request was previously heard at the March 8, 2016 Traffic Committee meeting.)

Committee Member STRUBLE reported there have been no calls or complaints received by the Police Department and that he personally has not observed any vehicles blocking the fire hydrant during periodic visits.

Committee Member HENRY also affirmed that the Fire Department has not received any additional calls or complaints for this location.

F. BUSINESS

1. Request #15-022 – Request for Alteration of the Crosswalk at Loughborough Avenue and R Street (Elizabeth Lopez)

(Citizen is requesting the crosswalk be changed to a brick in-lay to better accommodate visually impaired individuals crossing the intersection. This request was previously heard at the September 8, 2015 Traffic Committee Meeting.)

Citizen ELIZABETH LOPEZ was present and explained her request was for a “landmark” along the crosswalk to assist visually impaired individuals; her preferred landmark would be a brick in-lay along the entire crosswalk.

Chairperson ELWIN informed Ms. Lopez that the brick in-lays are purely aesthetic and not designed as an ADA device. Mr. ELWIN stated the City could possibly re-stripe the crosswalk with a thicker thermoplastic material that would have a slight raised edge.

Committee Member OLMOS stated the last re-striping of the intersection was approximately 5 years ago and that the current fiscal year budget would not support a re-striping project.

Chairperson ELWIN stated the intersection re-striping could be added to the maintenance list for the upcoming FY 2016/2017 budget and would be completed sometime after the beginning of the Fiscal Year in July 2016.

MOTION: To add restriping of the crosswalk with thermoplastic material to the FY 16/17 maintenance list.

COUNCIL ACTION REQUIRED: None at this time.

Ken Elwin Moved, Juan Olmos Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

2. Request #16-011 – Request for Speed Bumps along Ironstone Drive (Adam Saxon)
(Citizen is requesting speed bump(s) along Ironstone Drive due to vehicles speeding through the neighborhood.)

Citizen ADAM SAXON was present and described his concerns of vehicles excessively speeding at approximately 45-50 MPH.

Committee Member HENRY suggested the Police Department speed trailer as a possible deterrent for a short-term solution and research into a different type of traffic calming device that would allow the Fire Department to not be impeded when responding to calls for service.

Chairperson ELWIN stated a larger area would need to be surveyed for support of the traffic calming device, and once Mr. SAXON completes the survey it would be reconsidered at a future Traffic Committee meeting. The survey area was defined as all property owners along Ironstone Drive, Round Hill Drive, Tudal Avenue, Mondavi Avenue, Sattui Court, and Talbott Court.

MOTION: To continue the item, pending a survey of the defined neighborhood area; addition of speed limit signs along Ironstone Drive; and requesting the Police Department to perform traffic enforcement in the area.

COUNCIL ACTION REQUIRED: None at this time.

Ken Elwin Moved, Jacob Struble Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

***Clerks Note:* This item was re-ordered at the meeting to be heard last per the request of Mr. Adam Saxon.

3. Request #16-012 – Request for No Parking Zone along a Portion of Loughborough Drive (Erik Ekizian)
(Citizen is requesting a no parking zone adjacent to the driveway entrance near 900 Loughborough Drive due to vehicles blocking the line of site for drivers making a westbound turn onto Loughborough Drive from the driveway.)

Citizen ERIK EKIZIAN explained his concerns with a van that continually blocks the line of site for vehicles turning westbound onto Loughborough Drive from the Mall Parking Lot near 900 Loughborough Drive.

Committee Member STRUBLE stated the Police Department often receives calls for vehicle accidents at the location and suggested a 20 foot no parking zone. Chairperson ELWIN and Committee Member HENRY agreed a 20 foot no parking zone would be appropriate.

MOTION: To approve a 20 foot no parking zone along the requested portion of Loughborough Drive.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to add the No Parking Zone along Loughborough Drive.

Shawn Henry Moved, Jacob Struble Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

4. Request #16-013 – Request for No Parking Zone along a Portion of Kibby Road (Carl Brown)
(City of Merced Water Department employee is requesting a no parking zone at a City water sample collection point due to semi-trucks blocking access to the site, creating an unsafe situation for employees during sample collection.)

Committee Member OLMOS stated there were already some sections painted red along Kibby Road. Chairperson ELWIN explained that City Water crews were having difficulty finding a safe place to park near the City's water collection site due to semi-trucks parking along the area, and suggested a 20 foot no parking zone.

MOTION: To approve a 20 foot no parking zone along the requested portion of Kibby Road.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to add the No Parking Zone along Kibby Road.

Juan Olmos Moved, Shawn Henry Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

5. Request #16-014 – Request for Residential Permit Parking Zone along a Portion of Beals Avenue (Randy Starkweather)
(Citizen is requesting a residential permit parking zone on a portion of Beals Avenue, directly across from Merced College, due to various issues including parking congestion, loitering, garbage, loud music, and jaywalking.)

Citizen STEVE BANDA was present and spoke on behalf of Mr. Starkweather who was unable to attend the meeting. Mr. BANDA explained the various issues the neighborhood faced due to their proximity to Merced College, including illegal drug use.

Committee Member STRUBLE explained that it is not against the law at this time to smoke marijuana in public if the citizen has a medical marijuana card; therefore even if the Police are able to respond quick enough to catch them in the act, they would not be able to prohibit them from smoking.

Committee Member STRUBLE went on to state the entire neighborhood (bounded by M Street to Beals Court and Yosemite Avenue to just south of Spalding Court) should be considered for the Residential No Parking Zone. Mr. STRUBLE stated if the committee were to approve only the requested section, it would probably result in the next street over experiencing similar issues.

Mr. BANDA questioned whether they could still proceed with the original request if they are unable to garner support from the larger defined area. The Committee affirmed they would re-consider the request at a future meeting, but the survey would still need to be completed prior to their consideration.

MOTION: To continue the item, pending a survey of the defined neighborhood area.

COUNCIL ACTION REQUIRED: None at this time.

Jacob Struble Moved, Ken Elwin Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

6. Request #16-015 – Request for No Parking Zone along a Portion of Parsons Avenue (Joel Svendsen)

(City of Merced Engineering Department employee is requesting a no parking zone along a portion of Parsons Avenue, south of Childs Avenue, due to the anticipated additional traffic generated from a proposed 3-story hotel development.)

Chairperson ELWIN described the location of the proposed development, including the required re-striping of Parsons Avenue to accommodate the anticipated traffic flow. Mr. ELWIN explained the parking would need to be eliminated to accommodate the bicycle lane and the width of the traffic lanes.

MOTION: To approve the no parking zone along the requested portion of Parsons Avenue.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to add the No Parking Zone along Parsons Avenue.

Shawn Henry Moved, Juan Olmos Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

7. Request #16-016 – Request for Alteration of Loading Zone along a Portion of East 20th Street (Greg Spicer / Lori Slaven)

(Charles Wright Elementary School is requesting the “Loading Only 9 AM to 5 PM” sign be altered to “Loading Only 7 AM to 4 PM” due to parents parking in the zone during the peak hours of 7:50-8:30 AM.)

Merced City School District Employee MATT ADAMS explained the school’s request to alter the designated time of the loading zone to better accommodate the “safety patrol” system they were planning on implementing at the adjacent crosswalk.

Chairperson ELWIN and Committee Member OLMOS agreed the Merced Municipal Code would need to be updated to reflect the designated time change and a new sign would need to be posted.

Mr. ADAMS stated the school would inform parents of the change in the loading zone time to alleviate any confusion from the change.

MOTION: To approve the request to change the freight and passenger loading zone along East 20th Street to the designated hours of 7 AM to 4 PM.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to change the freight and passenger loading zone along East 20th Street to the designated hours of 7 AM to 4 PM.

Ken Elwin Moved, Jacob Struble Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Jacob Struble

Absent: Julie Nelson

B. ADJOURNMENT

The meeting was adjourned at 3:18 pm.

By:



Jamie Cruz
Secretary II/Recording Secretary

Approved:



Ken Elwin
Interim City Engineer/Chairperson



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-323

Meeting Date: 8/1/2016

Report Prepared by: *Stephani Davis, Secretary I, Planning Division*

SUBJECT: Information Only - Planning Commission Minutes of June 8, 2016

RECOMMENDATION

For information only

ATTACHMENTS

1. PC minutes of 6-8-2016

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, June 8, 2016

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

ROLL CALL

Commissioners Present: Kurt Smoot, Kevin Smith, Bill Baker, Jill McLeod, and Robert Dylina,

Commissioners Absent: Peter Padilla (unexcused) and Chairperson Travis Colby (excused)

Staff Present: Planning Manager Espinosa, Planner Mendoza-Gonzalez, Senior Deputy City Attorney Rozell, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S SMITH-DYLINA, and carried by unanimous voice vote (2 absent), to approve the Agenda as amended.

2. **MINUTES**

M/S DYLINA-SMOOT, and carried by unanimous voice vote (2 absent), to approve the Minutes of May 18, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1212, initiated by Creative Products Unlimited, applicant for KB Colgreen, LLC, property owners. This application involves a request to replace an existing free-standing shopping center sign with a new 23-foot-tall internally illuminated pylon sign for the College Green Shopping Center located on the south side of Olive Avenue, approximately 450 west of G Street, in Planned Development (P-D) #4 with a Regional/Community Commercial (RC) General Plan designation.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #16-12.

There was no one present wishing to speak regarding this item; therefore, public testimony was opened and closed at 7:17 p.m.

M/S DYLINA-MCLEOD, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-13, and approve a Conditional Use Permit #1212, subject to the Findings and twelve (12) conditions set forth in Staff Report #16-12 (RESOLUTION #3070):

AYES: Commissioners Dylina, McLeod, Smith, Smoot, and Vice-Chairperson Baker

NOES: None

ABSENT: Commissioner Padilla and Chairperson Colby

ABSTAIN: None

- 4.2 Fiscal Year 2016-2017 Capital Improvement Program (CIP)

Planning Manager ESPINOSA discussed the function of the Planning Commission in review of the CIP. Interim City Engineer ELWIN was available to answer questions regarding the projects. For further information, refer to Staff Report #16-14.

M/S SMITH-DYLINA, and carried by the following vote, to find that the Fiscal Year 2016-2017 Capital Improvement Program is consistent with the General Plan:

AYES: Commissioners Dylina, McLeod, Smoot, Smith and Vice-Chairperson Baker

NOES: None

ABSENT: Commissioner Padilla and Chairperson Colby

ABSTAIN: None

4.3 Cancellation of June 22, 2016, Planning Commission Meeting due to lack of items

M/S SMOOT-DYLINA, and carried by the following vote, to cancel the Planning Commission meeting of June 22, 2016.

AYES: Commissioners Dylina, McLeod, Smith, Smoot, and Vice-Chairperson Baker

NOES: None

ABSENT: Commissioner Padilla and Chairperson Colby

ABSTAIN: None

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

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

6. ADJOURNMENT

There being no further business, Vice-Chairperson BAKER adjourned the meeting at 7:25 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary

Merced City Planning Commission

APPROVED:



BILL BAKER, Vice-Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3070

WHEREAS, the Merced City Planning Commission at its regular meeting of June 8, 2016, held a public hearing and considered **Conditional Use Permit #1212**, initiated by Creative Products Unlimited, applicant for KB Colgreen, LLC, property owners. This application involves a request to replace an existing free-standing shopping center sign with a new 23-foot-tall internally illuminated pylon sign for the College Green Shopping Center located on the south side of Olive Avenue, approximately 450 west of G Street, in Planned Development (P-D) #4 with a Regional/Community Commercial (RC) General Plan designation. ; also known as Assessor's Parcel Numbers 007-350-005, -006, and -007; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through H of Staff Report #16-12; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #16-13, and approve Conditional Use Permit #1212, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Dylina, seconded by Commissioner McLeod, and carried by the following vote:

AYES: Commissioners Dylina, McLeod, Smith, Smoot, and Acting Chairperson Baker
NOES: None
ABSENT: Commissioner Padilla and Chairperson Colby
ABSTAIN: None

June 8, 2016

Adopted this 8th day of June 2016



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3070
Conditional Use Permit #1212

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibits 2 (elevations) – Attachments B and C.
2. All conditions contained in Resolution #1249 (“Standard Conditional Use Permit Conditions”) shall apply.
3. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
4. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
5. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws

and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

6. The maximum height for the shopping center sign shall not exceed 23 feet.
7. The shopping center signs shall be located outside of the 10-foot visual corner at the driveway entrance on Olive Avenue and shall maintain a minimum 3-foot setback from all property lines.
8. The pylon sign's materials, colors, and design shall be compatible and consistent with the shopping center.
9. All exterior sign surfaces shall be regularly maintained. Any damage caused by weathering, vandalism, or other factors shall be repaired in keeping with approved materials, colors, and finishes.
10. A building permit shall be obtained prior to the installation of the pylon sign. Building permits shall also be obtained prior to the installation or replacement of signage on the pylon sign.
11. To qualify for more than 14 square feet of signage on the pylon sign, the applicant shall submit a revised signage calculation for the entire shopping center showing the subtraction of spaces between and within letters on the existing signs. Planning staff shall also consider the amount of signage removed from the existing freestanding sign in these calculations.
12. Pylon sign paint samples shall be reviewed and approved by Planning staff during the building permit stage. Appropriate colors are those that match or complement the existing buildings within the College Green Shopping Center.

n:shared:planning:PC Resolutions: CUP#1212 Exhibit A



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-339

Meeting Date: 8/1/2016

SUBJECT: Information Only - Recreation & Parks Commission minutes of April 25, 2016 and May 23, 2016

REPORT IN BRIEF

For Information Only.

ATTACHMENTS

1. Recreation & Parks Commission minutes from April 25, 2016
2. Recreation & Parks Commission minutes from May 23, 2016

**CITY OF MERCED
RECREATION AND PARKS COMMISSION MINUTES**

**COUNCIL CHAMBERS ROOM
MERCED CIVIC CENTER
678 WEST 18TH STREET
MERCED, CA**

**MONDAY
April 25, 2016**

A. CALL TO ORDER

Commissioner Nelson called the meeting to order at 5:30 PM.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Members Present: Jenkins, Nelson, Chavez, Warren
Staff Present: Conway, Chavez, Johnson

M/S/C- Jenkins/Nelson motioned to excuse Commissioners Lentz, Washington & Hassett

D. CEREMONIAL MATTERS

E. ORAL COMMUNICATIONS

-Lamguene Kindavong, Recreation Coordinator, introduced himself to the Commission and informed them of some of the projects he has been working on.

-Marilynn Mochelle announced that there will be a LGBT youth educational workshop on 5/26.

-Hector Ramirez of BHC announced that MCOE would be hosting a youth council workshop.

F. CONSENT ITEMS

1. MINUTES OF NOVEMBER 23, 2015 & MARCH 28, 2016

M/S/C- Jenkins/Chavez motioned to approve the minutes.

G. BUSINESS

1. UPDATE ON YOUTH COUNCIL ROAD MAPPING SESSION (VIZCAINO)

No action- information only

2. BUDGET SUBCOMMITTEE

(COMMISSIONERS)

M/S/C- Jenkins/Nelson motioned to replace Commissioners Hassett and Lentz with Commissioners Chavez and Warren as members of the budget subcommittee.

3. RECREATION PROGRAMMING

(COMMISSIONERS)

No action taken- information only

H. REPORTS

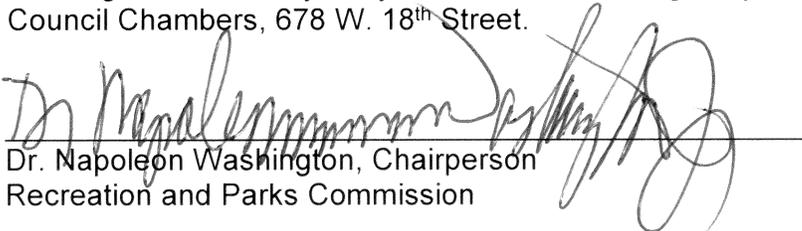
1. STAFF REPORTS

(CONWAY, JOHNSON)

No action required-information only

I. ADJOURNMENT

The Recreation and Parks Commission meeting was adjourned at 7:00 p.m. and will meet again on Monday, May 23, 2016 for their regularly scheduled meeting in the Council Chambers, 678 W. 18th Street.



Dr. Napoleon Washington, Chairperson
Recreation and Parks Commission

**CITY OF MERCED
RECREATION AND PARKS COMMISSION MINUTES**

COUNCIL CHAMBERS ROOM
MERCED CIVIC CENTER
678 WEST 18TH STREET
MERCED, CA

MONDAY
May 23, 2016

A. CALL TO ORDER

Commissioner Washington called the meeting to order at 5:33 PM.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Members Present: Chavez, Washington, Hassett & Warren
Staff Present: Conway, Chavez, Johnson

M/S/C- Hassett/Chavez motioned to excuse Commissioners Lentz, Jenkins & Nelson

D. CEREMONIAL MATTERS

E. ORAL COMMUNICATIONS

-Dave Hetland spoke about his maintenance concerns in Rahilly Park (dead trees, weed control, fences).

F. CONSENT ITEMS

1. MINUTES OF APRIL 25, 2016

M/S/C- Chavez/Hassett motioned to approve the minutes.

2. ATTENDANCE REPORT

M/S/C- Hassett/Chavez motioned to approve the attendance report.

G. BUSINESS

1. PROBLEMS AT KIDDIELAND

(KIWANIS CLUB)

M/S/C- Hassett/Chavez motioned for Kiddieland to work with staff to see what all the options and have more options for Commission to choose from.

2. BUDGET SUBCOMMITTEE

(COMMISSIONERS)

-Commissioners Warren, Chavez, and Jenkins would like to put together a directory of all the activities that are available in Merced and would like to formulate a set of questions to ask all agencies. The Commission agreed that this was a good idea.

3. RECREATION PROGRAMMING

(COMMISSIONERS)

-Commissioners brought up several park related issues- dead trees in Davenport Park, restrooms in Fahren's Park, McNamara Soccer Fields locked

H. REPORTS

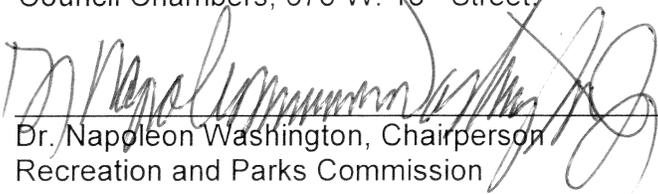
1. STAFF REPORTS

(CONWAY, JOHNSON)

No action required-information only

I. ADJOURNMENT

The Recreation and Parks Commission meeting was adjourned at 6:39 p.m. and will meet again on Monday, June 27, 2016 for their regularly scheduled meeting in the Council Chambers, 678 W. 18th Street.



Dr. Napoleon Washington, Chairperson
Recreation and Parks Commission



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-350

Meeting Date: 8/1/2016

Report Prepared by: Kirkland Greene, Records Clerk II

SUBJECT: Information-Only Contracts

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$28,000 and of Public Works contracts under \$63,054.

AUTHORITY

Pursuant to the authority delegated to the City Manager on behalf of the City by Article XI, Section 1109, of the Merced City Charter to execute Public Works contracts under the adjusted FY 2015-2016 threshold of \$63,054.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2015-2016 threshold of \$28,000.00, the contracts listed on the attached table were entered into by the City.

ATTACHMENTS

1. "Information-Only" Contracts Table for July 2016

Exhibit 1 – Table of Contracts

8/1/2016 City Council Meeting

Department/Division	Vendor	Purpose/Location	Amount
0301 – City Attorney	Merced Community College District	Memorandum of Understanding - Reimbursement Agreement for Police Capt. to Manage Police Department.	(No funds.)
1201 – Recreation and Parks	Merced County, on Behalf of First 5	Joint Funding Partnership Agreement to Accept a Donation for Swim Lessons. (Duration: 6/6/2016 - 7/21/2016.)	(No funds.)
0803 – Engineering	Technicon Engineering Services, Inc.	CDBG South Merced ADA Ramps (Project No. 116033) - Compaction testing for 6 concrete ramps and sidewalks. (Statement of Services PO #123308.)	\$ 1,521.00
0803 – Engineering	Technicon Engineering Services, Inc.	Black Rascal Creek Storm Drain Improvement (Project No. 116045) - Compaction testing for 78" corrugated steel pipe. (Statement of Services PO #123623.	\$ 2,231.00
0402 – Personnel	Liebert Cassidy Whitmore	FY 2016-17 Agreement for Supervisory Personnel Training Services to Assist with Employee Relations.	\$ 3,735.00
2002 – Economic Development	Valbridge Property Advisors	Professional Services Agreement (Proposal) for Appraisal of City-Owned Property Near Yosemite Ave. and East of "G" St. (4.56-acre parcel of land; APN: 231-040-021).	\$ 4,500.00
0701 – Finance	Seevers Jordan Ziegenmeyer, GP	Agreement for Professional Services to Refinance CFD No. 2003-1 (Bellevue Ranch East).	\$ 7,500.00
0701 – Finance	Goodwin Consulting Group, Inc.	Fourth Amendment - Tax Consulting Services for Project-Specific Analysis of Annexation No. 9 (Gateway Terrace).	\$ 8,000.00
0409 – Insurance	Old Republic Insurance Company	FY 2016-17 Renewal of Airport Liability and Hangar Keeper's Insurance.	\$ 8,285.00
0701 – Finance	Paquin Research, Inc. (DBA: The Gregory Group)	Agreement for Professional Services for Absorption Study and Market Analysis of Bellevue Ranch East MPD.	\$10,500.00
0803 – Engineering	Sequoia Ecological Consulting, Inc. (Approved by City Mgr. – 6/8/2016.)	Urgency Contract to Provide Biological Services - Black Rascal Creek Storm Drain Replacement (Project No. 116045; Statement of Services PO #123617).	\$16,939.00
1119 – Public Works - Facilities	Hoffman Electronic Systems	Security System Sale and Services Agreement to Provide Security Systems, Monitoring, and Maintenance for	\$19,860.00

Copies of all of the contracts listed above are available in the City Clerk's Office.



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-347

Meeting Date: 8/1/2016

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.



ADMINISTRATIVE REPORT

File #: 16-334

Meeting Date: 8/1/2016

Report Prepared by: John C. Sagin, Jr., AIA, Principal Architect, Engineering Dept.

SUBJECT: Award Bid to Taylor Backhoe Service, Inc., for the CMAQ Sidewalk Infill on Alexander Avenue Project 114051

REPORT IN BRIEF

Consider awarding a construction contract in the amount of \$247,121.90 for the construction of sidewalk infill along portions of Alexander Avenue.

RECOMMENDATION

City Council - Adopt a motion:

- A. Awarding the bid for the CMAQ Sidewalk Infill on Alexander Avenue Project 114051, to Taylor Backhoe Service, Inc., in the amount of \$247,121.90; and,
- B. Authorizing the City Manager to execute the necessary documents and to approve change orders not to exceed 10% of the total contract.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Article XI, Section 1109 - Contracts on Public Works, and Merced Municipal Code Chapter 3.04, Article IV - Public Works Contracts. Every project involving an expenditure of more than sixty-three thousand and fifty-four dollars (\$63,054) for the construction or improvements of public buildings, works, streets, drains, sewers, utilities, parks, and playgrounds shall be let by contract to the lowest responsive and responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids.

CITY COUNCIL PRIORITIES

As provided for in the 2016-17 Adopted Budget.

DISCUSSION

The work to be done consists, in general, of the installation of 6,000 feet of missing sidewalk, 35 driveway approaches, 6 ADA ramps, and miscellaneous curb and gutter. The project is located along Alexander Avenue, bounded by Bel Air Drive and Nottingham Lane, all within the City of Merced.

Staff prepared plans and specifications, and the project was advertised for bids. Bids were opened on June 16, 2016, with the following results:

1. Taylor Backhoe Service, Inc. (Merced, CA)	\$ 247,121.90
2. DOD Construction (Bakersfield, CA)	\$ 292,160.90
3. S & H Civilworks (Colton, CA)	\$ 298,741.00
4. Rolfe Construction (Atwater, CA)	\$ 303,630.00
5. Phase 1 Construction (Atwater, CA)	\$ 304,608.00
6. George Reed Construction (Modesto, CA)	\$ 311,934.00
7. Avison Construction (Madera, CA)	\$ 328,493.00
8. FBD Vanguard Construction (Livermore, CA)	\$ 338,885.50

The engineer's estimate for construction was \$315,000.00.

The following is the proposed budget for the project:

Construction (including Alternate)	\$ 247,121.90
Contingency	\$ 24,112.19
Engineering, Testing & Inspection	\$ 40,684.91
TOTAL:	\$ 311,919.00

HISTORY AND PAST ACTIONS

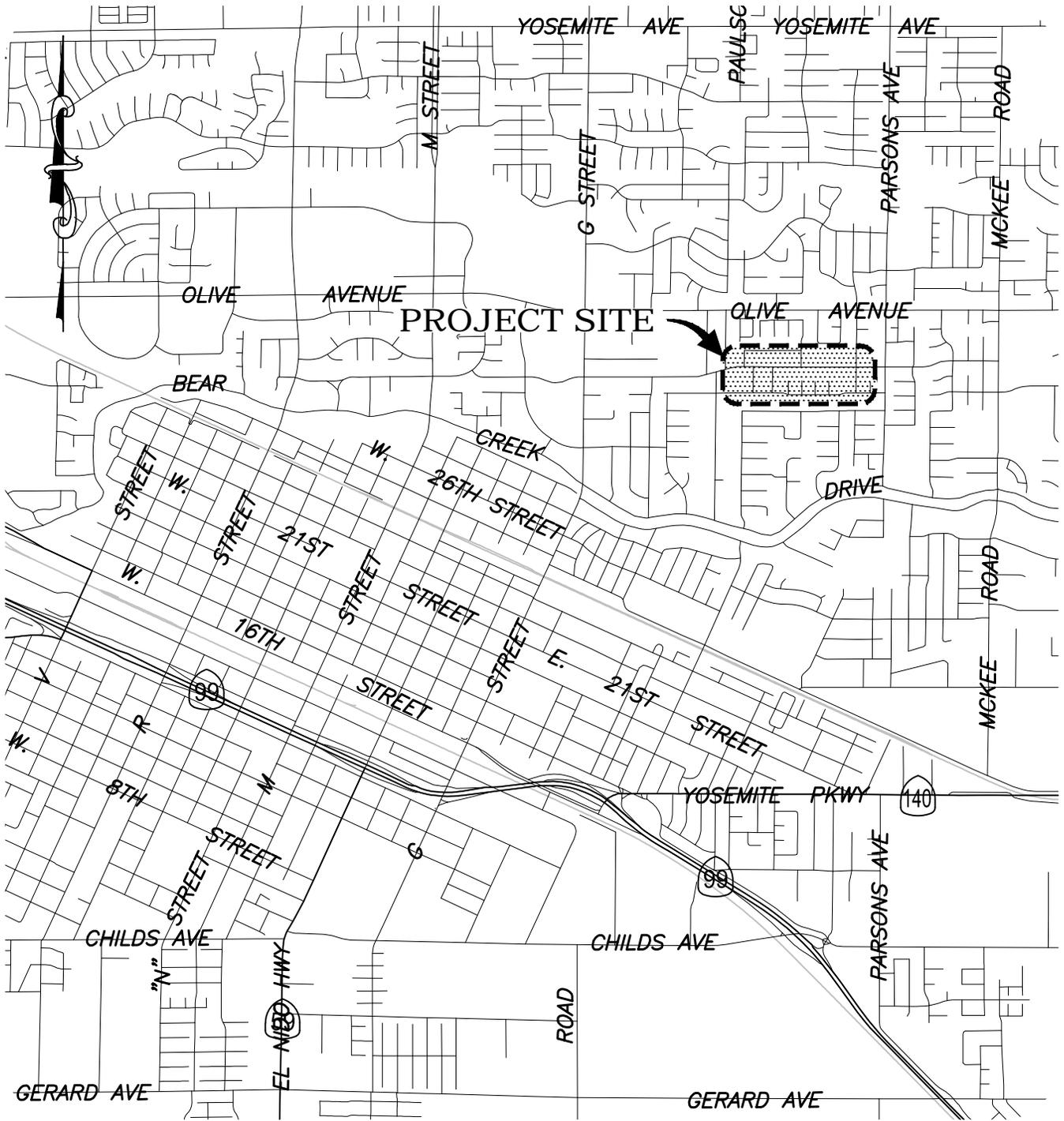
On March 21, 2016 Council accepted a grant from the Congestion Mitigation and Air Quality Improvement Program (CMAQ), increasing revenue account Streets/Lighting Capital Projects Funds in the amount of \$332,076 and appropriated the same to Project 114051, CMAQ Sidewalk Infill on Alexander Avenue, and approved the transfer of \$43,024 in matching funds for the construction of the project.

IMPACT ON CITY RESOURCES

This project was established as a Capital Improvement Project and account 450-1104-637.65-00-114051 contains sufficient funding to complete the project.

ATTACHMENTS

1. Location Map
2. Bid Results
3. Construction Contract



LOCATION MAP

SCALE: 1"=.5 mi.



City of Merced
"Gateway to Yosemite"

DEVELOPMENT SERVICES
ENGINEERING PROJECTS AND STANDARDS
678 W. 18th Street (209) 385-6846

PROJECT NO. 114051 (5085-041)
CMAQ SIDEWALK INFILL
ON ALEXANDER AVENUE

DR. BY: KGE
DATE: 6/3/15
CH. BY: SAGIN
DATE: 6/3/15
File No. 0929

SCALE: AS SHOWN

**CITY OF MERCED
PROJECT NO. 114051
CMAQ SIDEWALK INFILL
ALEXANDER AVENUE**

Bid Opening 6/16/2016

NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	Taylor Backhoe Service Merced, CA		DOD Construction Bakersfield, CA		S & H Civilworks Colton, CA		Rolfe Construction Atwater, CA		Phase 1 Construction Atwater, CA		George Reed Construction Modesto, CA		Avison Construction, Inc. Madera, CA		FBD Vanguard Construction Livermore, CA	
				UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
1	Permits, Bonds, Licenses and Insurance	LS	1	\$ 6,900.00	\$ 6,900.00	\$ 15,000.00	\$ 15,000.00	\$ 20,000.00	\$ 20,000.00	\$ 12,000.00	\$ 12,000.00	\$ 14,000.00	\$ 14,000.00	\$ 4,500.00	\$ 4,500.00	\$ 15,000.00	\$ 15,000.00	\$ 4,000.00	\$ 4,000.00
2	Water Pollution Control	LS	1	\$ 1,725.00	\$ 1,725.00	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00	\$ 5,000.00	\$ 7,000.00	\$ 7,000.00	\$ 4,000.00	\$ 4,000.00	\$ 2,000.00	\$ 2,000.00	\$ 500.00	\$ 500.00	\$ 3,700.00	\$ 3,700.00
3	Street Sweeping	LS	1	\$ 4,600.00	\$ 4,600.00	\$ 1,500.00	\$ 1,500.00	\$ 5,000.00	\$ 5,000.00	\$ 8,000.00	\$ 8,000.00	\$ 1,000.00	\$ 1,000.00	\$ 4,500.00	\$ 4,500.00	\$ 1,000.00	\$ 1,000.00	\$ 6,500.00	\$ 6,500.00
4	Public Convenience and Safety	LS	1	\$ 12,937.50	\$ 12,937.50	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00	\$ 5,000.00	\$ 7,000.00	\$ 7,000.00	\$ 5,000.00	\$ 5,000.00	\$ 15,000.00	\$ 15,000.00	\$ 6,000.00	\$ 6,000.00	\$ 13,600.00	\$ 13,600.00
5	Monumentation	EA	3	\$ 1,265.00	\$ 3,795.00	\$ 5,000.00	\$ 15,000.00	\$ 500.00	\$ 1,500.00	\$ 4,250.00	\$ 12,750.00	\$ 500.00	\$ 1,500.00	\$ 525.00	\$ 1,575.00	\$ 1,000.00	\$ 3,000.00	\$ 600.00	\$ 1,800.00
6	Remove Concrete	SF	2,614	\$ 3.30	\$ 8,626.20	\$ 3.10	\$ 8,103.40	\$ 2.00	\$ 5,228.00	\$ 6.00	\$ 15,684.00	\$ 2.00	\$ 5,228.00	\$ 3.50	\$ 9,149.00	\$ 5.00	\$ 13,070.00	\$ 5.00	\$ 13,070.00
7	Remove Curb and Gutter	LF	603	\$ 4.90	\$ 2,954.70	\$ 13.00	\$ 7,839.00	\$ 10.00	\$ 6,030.00	\$ 5.00	\$ 3,015.00	\$ 5.00	\$ 3,015.00	\$ 15.00	\$ 9,045.00	\$ 13.00	\$ 7,839.00	\$ 15.00	\$ 9,045.00
8	Remove Cross Gutter	SF	872	\$ 5.60	\$ 4,883.20	\$ 10.00	\$ 8,720.00	\$ 4.00	\$ 3,488.00	\$ 3.50	\$ 3,052.00	\$ 3.00	\$ 2,616.00	\$ 3.00	\$ 2,616.00	\$ 5.50	\$ 4,796.00	\$ 12.00	\$ 10,464.00
9	Remove AC Pavement	SF	2,065	\$ 4.20	\$ 8,673.00	\$ 3.10	\$ 6,401.50	\$ 3.00	\$ 6,195.00	\$ 3.00	\$ 6,195.00	\$ 1.00	\$ 2,065.00	\$ 3.00	\$ 6,195.00	\$ 4.00	\$ 8,260.00	\$ 5.00	\$ 10,325.00
10	Existing Highway Facilities	LS	1	\$ 23,000.00	\$ 23,000.00	\$ 12,000.00	\$ 12,000.00	\$ 5,000.00	\$ 5,000.00	\$ 15,900.00	\$ 15,900.00	\$ 1,000.00	\$ 1,000.00	\$ 10,000.00	\$ 10,000.00	\$ 7,500.00	\$ 7,500.00	\$ 3,900.00	\$ 3,900.00
11	Clearing and Grubbing	LS	1	\$ 4,374.60	\$ 4,374.60	\$ 20,000.00	\$ 20,000.00	\$ 15,000.00	\$ 15,000.00	\$ 30,000.00	\$ 30,000.00	\$ 2,500.00	\$ 2,500.00	\$ 12,600.00	\$ 12,600.00	\$ 25,000.00	\$ 25,000.00	\$ 35,000.00	\$ 35,000.00
12	Earthwork	LS	1	\$ 30,622.20	\$ 30,622.20	\$ 12,000.00	\$ 12,000.00	\$ 10,000.00	\$ 10,000.00	\$ 25,000.00	\$ 25,000.00	\$ 34,834.00	\$ 34,834.00	\$ 50,000.00	\$ 50,000.00	\$ 10,500.00	\$ 10,500.00	\$ 55,000.00	\$ 55,000.00
13	Concrete Sidewalk	SF	6,130	\$ 6.00	\$ 36,780.00	\$ 10.00	\$ 61,300.00	\$ 10.00	\$ 61,300.00	\$ 7.00	\$ 42,910.00	\$ 15.00	\$ 91,950.00	\$ 9.50	\$ 58,235.00	\$ 9.00	\$ 55,170.00	\$ 6.75	\$ 41,377.50
14	Concrete Curb and Gutter	LF	155	\$ 45.10	\$ 6,990.50	\$ 35.00	\$ 5,425.00	\$ 150.00	\$ 23,250.00	\$ 57.00	\$ 8,835.00	\$ 40.00	\$ 6,200.00	\$ 30.00	\$ 4,650.00	\$ 45.00	\$ 6,975.00	\$ 30.00	\$ 4,650.00
15	Concrete Cross Gutter	SF	850	\$ 10.80	\$ 9,180.00	\$ 12.00	\$ 10,200.00	\$ 30.00	\$ 25,500.00	\$ 12.00	\$ 10,200.00	\$ 25.00	\$ 21,250.00	\$ 16.00	\$ 13,600.00	\$ 12.00	\$ 10,200.00	\$ 12.00	\$ 10,200.00
16	Handicap Curb Ramp	SF	498	\$ 23.70	\$ 11,802.60	\$ 15.00	\$ 7,470.00	\$ 25.00	\$ 12,450.00	\$ 21.50	\$ 10,707.00	\$ 16.00	\$ 7,968.00	\$ 16.00	\$ 7,968.00	\$ 20.00	\$ 9,960.00	\$ 28.00	\$ 13,944.00
17	Concrete Driveway (Residential)	SF	4,277	\$ 8.30	\$ 35,499.10	\$ 12.00	\$ 51,324.00	\$ 10.00	\$ 42,770.00	\$ 9.00	\$ 38,493.00	\$ 18.00	\$ 76,986.00	\$ 15.00	\$ 64,155.00	\$ 19.00	\$ 81,263.00	\$ 11.00	\$ 47,047.00
18	Concrete Driveway (Commercial)	SF	544	\$ 13.10	\$ 7,126.40	\$ 12.00	\$ 6,528.00	\$ 20.00	\$ 10,880.00	\$ 16.00	\$ 8,704.00	\$ 19.00	\$ 10,336.00	\$ 16.00	\$ 8,704.00	\$ 15.00	\$ 8,160.00	\$ 12.00	\$ 6,528.00
19	Hot Mix Asphalt	TN	51	\$ 310.10	\$ 15,815.10	\$ 300.00	\$ 15,300.00	\$ 250.00	\$ 12,750.00	\$ 245.00	\$ 12,495.00	\$ 200.00	\$ 10,200.00	\$ 42.00	\$ 2,142.00	\$ 300.00	\$ 15,300.00	\$ 404.00	\$ 20,604.00
20	Aggregate Base	CY	7	\$ 86.30	\$ 604.10	\$ 150.00	\$ 1,050.00	\$ 200.00	\$ 1,400.00	\$ 970.00	\$ 6,790.00	\$ 80.00	\$ 560.00	\$ 500.00	\$ 3,500.00	\$ 500.00	\$ 3,500.00	\$ 80.00	\$ 560.00
21	Relocate Traffic Sign	EA	2	\$ 287.50	\$ 575.00	\$ 1,000.00	\$ 2,000.00	\$ 1,000.00	\$ 2,000.00	\$ 450.00	\$ 900.00	\$ 200.00	\$ 400.00	\$ 200.00	\$ 400.00	\$ 250.00	\$ 500.00	\$ 350.00	\$ 700.00
22	Restoration	LS	1	\$ 4,183.70	\$ 4,183.70	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00	\$ 5,000.00	\$ 15,000.00	\$ 15,000.00	\$ 1,500.00	\$ 1,500.00	\$ 19,500.00	\$ 19,500.00	\$ 30,000.00	\$ 30,000.00	\$ 23,592.00	\$ 23,592.00
23	Surveying Services	LS	1	\$ 5,474.00	\$ 5,474.00	\$ 2,000.00	\$ 2,000.00	\$ 14,000.00	\$ 14,000.00	\$ 3,000.00	\$ 3,000.00	\$ 500.00	\$ 500.00	\$ 1,900.00	\$ 1,900.00	\$ 5,000.00	\$ 5,000.00	\$ 3,279.00	\$ 3,279.00
				\$ 247,121.90		\$ 292,160.90		\$ 298,741.00		\$ 303,630.00		\$ 304,608.00		\$ 311,934.00		\$ 328,493.00		\$ 338,885.50	

GENERAL CONSTRUCTION CONTRACT

THIS CONTRACT made on _____ by and between the CITY OF MERCED, a municipal corporation of the State of California, hereinafter called the Owner, and TAYLOR BACKHOE SERVICE, INC., hereinafter called the Contractor:

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

1. THE CONTRACT DOCUMENTS. The complete CONTRACT consists of the following documents, to wit:

- (1) This Contract;
- (2) Plans for **PROJECT NUMBER 114051 (5085-041)**;
- (3) Special Provisions for **PROJECT NUMBER 114051 (5085-041)**;
- (4) Notice to Contractors;
- (5) Proposal to the City of Merced;
- (6) Caltrans Standard Specifications, dated 2010;
- (7) Caltrans Standard Plans, dated 2010;
- (8) The latest revisions to the General Prevailing Wage Rates;
- (9) The Federal Wage Rates dated 4/29/16; and,
- (10) Federal Requirements for Federal-Aid Construction Projects (FHWA-1273).

Any and all obligations of the Owner and the Contractor are fully set forth and described therein.

All of the above documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract are sometimes hereinafter referred to as the Contract Documents. In case of conflict between any of the documents, the documents first listed above shall prevail.

2. THE WORK. Said Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete in a good and workmanlike manner all work of improvement in accordance with Contract Documents as called for, and in the manner designated in, and in strict conformity with, the Project Plans for **PROJECT NUMBER 114051 (5085-041)**, prepared by the City Engineer, and adopted by the Owner, which said Plans are entitled, "PROJECT NUMBER 114051 (5085-041) - CMAQ SIDEWALK INFILL ON ALEXANDER AVENUE," project plans for construction in Merced County in Merced, awarded _____.

It is understood and agreed that said tools, equipment, apparatus, facilities, labor, transportation, and material shall be furnished and said work performed and completed as required in said Project Plans under the sole direction and control of the Contractor, and subject to inspection and approval of the Owner or its representative. The Owner hereby designates the City Engineer as its representative for the purpose of this Contract.

3. **CONTRACT PRICE.** The Owner agrees to pay, and the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and doing all work contemplated and embraced in this agreement to wit:

NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	ITEM TOTAL
1	Permits, Bonds, Licenses and Insurance	LS	1	\$ 6,900.00	\$ 6,900.00
2	Water Pollution Control	LS	1	\$ 1,725.00	\$ 1,725.00
3	Street Sweeping	LS	1	\$ 4,600.00	\$ 4,600.00
4	Public Convenience and Safety	LS	1	\$ 12,937.50	\$ 12,937.50
5	Monumentation	EA	3	\$ 1,265.00	\$ 3,795.00
6	Remove Concrete	SF	2,614	\$ 3.30	\$ 8,626.20
7	Remove Curb and Gutter	LF	603	\$ 4.90	\$ 2,954.70
8	Remove Cross Gutter	SF	872	\$ 5.60	\$ 4,883.20
9	Remove AC Pavement	SF	2,065	\$ 4.20	\$ 8,673.00
10	Existing Highway Facilities	LS	1	\$ 23,000.00	\$ 23,000.00
11	Clearing and Grubbing	LS	1	\$ 4,374.60	\$ 4,374.60
12	Earthwork	LS	1	\$ 30,622.20	\$ 30,622.20
13	Concrete Sidewalk	SF	6,130	\$ 6.00	\$ 36,780.00
14	Concrete Curb and Gutter	LF	155	\$ 45.10	\$ 6,990.50
15	Concrete Cross Gutter	SF	850	\$ 10.80	\$ 9,180.00
16	Handicap Curb Ramp	SF	498	\$ 23.70	\$ 11,802.60
17	Concrete Driveway (Residential)	SF	4,277	\$ 8.30	\$ 35,499.10
18	Concrete Driveway (Commercial)	SF	544	\$ 13.10	\$ 7,126.40
19	Hot Mix Asphalt	TN	51	\$ 310.10	\$ 15,815.10
20	Aggregate Base	CY	7	\$ 86.30	\$ 604.10
21	Relocate Traffic Sign	EA	2	\$ 287.50	\$ 575.00
22	Restoration	LS	1	\$ 4,183.70	\$ 4,183.70
23	Surveying Services	LS	1	\$ 5,474.00	\$ 5,474.00

TOTAL BID SCHEDULE ITEMS 1 THROUGH 22 \$ 247,121.90

4. **TERMINATION.** If the Contractor should be adjudged as bankrupt or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his subcontractors should violate any of the provisions of the Contract Documents, the Owner may serve written notice upon him and his surety of its intention to terminate the Contract; such notice to contain the reasons for such intention to terminate the Contract, and, unless within ten (10) days after serving of such notice such violation shall cease and satisfactory arrangements for correction thereof be made, the Contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided however, that if the surety within fifteen (15) days after the serving upon it of notice of termination does not give the Owner written notice of its intention to take over and perform the Contract or does not commence performance thereof within thirty (30) days from the date of the serving of such notice, the Owner may take

over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant, and other property belonging to the Contractor as may be on the site of the work and necessary therefore.

5. NOTICE AND SERVICE THEREOF. Any notice from one party to the other under the Contract shall be in writing and shall be dated and signed by the party giving such notice, or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in the following manner; namely, (a) if the notice is given to the Owner, per personal delivery thereof to the Director of Public Works of said Owner, or by depositing the same in the United States mails enclosed in a sealed envelope. addressed to the Owner, postage prepaid and registered; (b) if the notice is given to the Contractor, by personal delivery thereof to said Contractor or to his duly authorized representative at the site of the project, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to said Contractor at **1600 FALCON WAY, MERCED, CA 95341**, postage prepaid and registered; and (c) if the notice is given to the surety or any other person, by personal delivery to such surety or other person, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to such surety or person, as the case may be, at the address of such surety or person last communicated by him to the party giving the notice, postage prepaid and registered.

6. ASSIGNMENT OF CONTRACT. Neither the Contract nor any part thereof, nor moneys due, or to become due thereunder, may be assigned by the Contractor without the prior written approval of the Owner.

7. CONTRACT SECURITY. The Contractor shall furnish a surety bond in an amount at least equal to 100 percent of the contract price as security for the faithful performance of this Contract. The Contractor shall also furnish a separate surety bond in an amount at least equal to 100 percent of the contract price as security for the payment of all persons for furnishing materials, provisions, provender, or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for performing any work or labor thereon of any kind, and for the payment of amounts due under the Unemployment Insurance Code with respect to such work or labor in connection with this Contract, and for the payment of a reasonable attorney's fee to be fixed by the court in case suit is brought upon the bond.

8. INSURANCE. The Contractor shall not commence work under this Contract until he has obtained all insurance required and such insurance has been approved by the City Attorney of Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish the Owner with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract, and particularly paragraph 9 hereof. Said insurance obtained by the Contractor shall be primary and noncontributory as to any insurance maintained by owner. **Endorsement for additional insured shall be submitted on standard form CG 20101185. Endorsement forms CG 20101001 and CG 20371001, when used together, are acceptable in lieu of CG 20101185 for Public Works projects.** Any policy of insurance required of the Contractor under this Contract shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to the Owner of any pending change in the limits of liability or of any cancellation or modification of the policy.

The Contractor shall furnish the City a policy or certificate of liability insurance in which the City is the named insured or is named as an additional insured with the Contractor. Notwithstanding any inconsistent statement in the policy or any subsequent endorsement attached thereto, the City shall be the insured or named as an additional insured covering the work, whether liability is attributable to the Contractor or the

City. The policy shall insure the City, its officers, employees and agents while acting within the scope of their duties on the work, against all claims arising out of or in connection with the work.

The Contractor may file insurance acceptable to the City covering more than one project. The coverage shall provide the following minimum limits:

Bodily Injury...	\$500,000.00	each person
	\$1,000,000.00	each occurrence
	\$1,000,000.00	aggregate products and completed operations
Property Damage...	\$250,000.00	each occurrence
	\$500,000.00	aggregate

A combined single limit policy with aggregate limits in the amount of \$1,250,000.00 will be considered equivalent to the required minimum limits.

The Contractor will require all subcontractors to take out and maintain bodily injury liability and property damage liability in the amounts stated above.

The Contractor and subcontractors shall save, keep and hold harmless the City, its officers and agents from all damages, costs or expenses in law or equity that may at any time arise or be set up because of damages to property, or of personal injury received by reason of or in the course of performing work, which may be caused by any willful or negligent act or omission by the Contractor, any of the Contractors employees, or any subcontractor. The City will not be liable for any accident, loss or damage to the work prior to its completion and acceptance.

All liability insurance policies shall bear an endorsement or shall have attached a rider whereby it is provide that, in the event of expiration or proposed cancellation of such policies for any reason whatsoever, the Agency shall be notified by registered mail, return receipt requested, giving sufficient time before the date thereof to comply with the applicable law or statute, but in no event less than thirty (30) days before expiration or cancellation is effective.

All insurance required by this section shall be from a California admitted insurance company.

The cost of this insurance shall be included in the Contractor's bid.

CANCELLATION CLAUSE

NOTE: The standard form used by insurance carriers will not be acceptable unless the word "endeavor" is crossed out where the paragraph states, "The issuing company will (endeavor to) mail . . ." A portion of the last paragraph should be crossed out, which states, "but failure to mail such notice shall impose no obligation or liability of any kind upon the company."

9. **HOLD HARMLESS.** The contractor will indemnify, defend with counsel selected by the Owner, save, keep, and hold harmless, the Owner and all officers, employees, and agents thereof from all damages, costs, or expenses, in law or in equity, that may at any time arise or be set up because of personal injury or damage to property sustained by any person or persons by reason of, or in the course of the performance of said work, or by reason of any infringement or alleged infringement of the patent rights of any person or persons, firm or corporation, in consequence of the use in, on, or about said work, of any article or material supplied or installed under this Contract. It is understood that the duty of Contractor to indemnify and hold harmless

includes the duty to defend as set forth in Section 2778 of the California Civil Code. Notwithstanding the above, the Contractor shall, wherever it is necessary, keep and maintain at his sole cost and expense during the course of his operations under this Contract such warnings, signs, and barriers as may be required to protect the public. The provisions of the preceding sentence shall not impose any liability upon the Owner and are for the express benefit of the general public.

Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

It is expressly understood that Contractor is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Contractor shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should contractor desire any insurance protection, the Contractor is to acquire such protection at its expense.

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

10. ACCIDENT PREVENTION. Precaution shall be exercised at all times for protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions of the Construction Safety Orders issued by the Industrial Accident Commission of the State of California.

11. PAYMENT. The Owner will make partial and final payment to the Contractor except that the Owner will retain the five percent (5%) of the final payment amount until the expiration of thirty-five (35) days from the date of recording by Owner of notice of acceptance of completion of all work covered by this Contract, if such notice be recorded within ten (10) days after the acceptance of completion of such Contract; or, if such notice be not so recorded within ten (10) days, until the expiration of ninety-five (95) days after the acceptance of completion of such work of improvement, at which time and not before, Owner shall pay to Contractor the whole of the remaining five percent (5%) of said contract price so held back as provided.

The closure date for the purpose of making monthly progress payment will be the last calendar day of that month. The Contractor may request in writing that such monthly closure date be changed. The Engineer may approve such request when it is compatible with the Agency's payment procedure.

Each month, the Contractor will submit its own invoice for work performed to the closure date and the Engineer will make an approximate measurement of the work performed to the closure date and as a basis for making monthly payments, estimate its value based on the contract unit prices or as the Engineer deems appropriate. The owner will endeavor to, not later than twenty (20) working days after receipt of the Contractor's invoice, make partial payment to the Contractor, based on work performed and material incorporated in the project as of the closure date of the particular calendar month, providing that the Contractor's invoice for the work performed agrees with the Engineer's determination. If the Engineer's

determination differs from the Contractor's invoice, the Owner will make payment to the Contractor for those items or portions of items not in dispute not later than payment would have been made had no dispute occurred. Within ten (10) calendar days after agreement on disputed work is achieved between the Owner and the Contractor, the Owner shall pay the Contractor for any additional monies due as a result of settling any dispute. When the work has been satisfactorily completed, the Engineer will determine the quantity of work performed and prepare the final estimate.

The payment of progress payments by the Owner shall not be construed as an absolute acceptance of the work done up to the time of such payments, but the entire work is to be subjected to the inspection and approval of the Owner and subject to whatever inspection and approval may be required by law.

12. The statement of prevailing wages appearing in the General Prevailing Wage Rates is hereby specifically referred to and by this reference is made a part of this contract. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

13. ARTICLE VI. -- The improvements contemplated in the performance of this contract is a Federal-Aid improvement over which the State of California shall exercise general supervision. The State of California therefore shall have the right to assume full and direct control over this contract whenever the State of California, at its sole discretion, shall determine that its responsibility to the United States so requires. In such cases, the State Contract Act will govern.

14. By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

IN WITNESS WHEREOF, three (3) identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the day and year first herein written.

ATTEST:

CITY OF MERCED, a Municipal Corporation
(Herein called Owner)

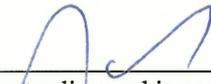
By: _____
Deputy City Clerk

By: _____
City Manager

APPROVED AS TO FORM:

TAYLOR BACKHOE SERVICE, INC.
(Herein called Contractor)

By: _____
City Attorney

By:  _____
Contractor licensed in accordance with an act providing for the registration of contractors.

ACCOUNT DATA:

LICENSE NO. **810520**

PROJECT NUMBER **114051 (5085-041)**

TAXPAYER I.D. NO. **77-0573963**

Contract No. _____

VENDOR NO. **9197**

Project Account No./Amount:

ADDRESS: **1600 FALCON WAY
MERCED, CA 95341**

450-1104-637.65-00-114051 \$ 247,121.90

PHONE: **(209) 384-8424**

FAX: **(209) 384-7629**

EMAIL: **janet@taylorbackhoe.com**

By: _____
Finance Officer Verification

(SEAL)



ADMINISTRATIVE REPORT

File #: 16-302

Meeting Date: 8/1/2016

Report Prepared by: *Lieutenant Don King*

SUBJECT: Street Closure for First Responders 911 Memorial Parade

REPORT IN BRIEF

Consider allowing the use of City streets on September 11, 2016 for the First Responders 911 Memorial Parade.

RECOMMENDATION

City Council - Adopt a motion approving the street closures of Calimyrna Avenue from E Main Street to E 18th Street, East Main Street, from "G" Street to Calimyrna Avenue; West Main Street, from "G" to "O" Streets; "H", "I", "K", and "N" Streets, from the north and south alleys of West Main Street; Canal Street, from the north alley of West Main Street to Bob Hart Square; and "O" Street, from the south alley of West Main to 20th Street; 20th Street to N Street. North on N Street to 21st Street where the parade will conclude at 21st and N Street as requested by Bill Baker, American Patriots Chrome Cowboys and Chrome Cowgirls for the 2016 First Responders 911 Memorial Parade on Sunday September 11, 2016. The street closures will be between 12:30 PM and 3:00 PM. The parade will commence at 2:00 PM; subject to the conditions outlined in the administrative report. If there are less than 40 entries for the parade then the street closure from Calimyrna Avenue and East Main to G Street will not be necessary.

ALTERNATIVES

1. Approve, as recommended by Staff; or,
2. Approve, subject to other than recommended by Staff; or,
3. Deny; or,
4. Refer to Staff for consideration of specific items.

AUTHORITY

City of Merced Charter Section 200
City of Merced Municipal Code Section 12.42.010
State of California Vehicle Code Section 21101(e)

CITY COUNCIL PRIORITIES

As provided for in the 2016-17 Adopted Budget

DISCUSSION

A request has been received from Bill Baker, American Patriots Chrome Cowboys and Chrome

Cowgirls to close East Main Street and West Main Street for the 2016 First Responders 911 Memorial Parade. The request is for the closure of the following streets:

East Main Street from "G" Street to Calimyrna Avenue (East Main Street will be closed for the parade assembly pending more than 40 entries).

Calimyrna Ave to E 18th Street

"D" Street to thru traffic at E. Main Street

"E" Street to thru traffic at E. Main Street

"K" Street from north and south alleys of West Main Street

"I" Street from north and south alleys of West Main Street

"H" Street from north and south alleys of West Main Street

Canal Street from north alley of West Main Street to Bob Hart Square

"N" Street from north and south alleys of West Main Street

West Main Street between "G" Street and "O" Street (This is for the parade route)

"O" Street from West Main Street to West 18th Street ("O" Street will be closed up to 21st Street for parade termination at 21st and N Street, Courthouse Park).

20th Street from M to "O" Street.

The date of this event is scheduled for Sunday, September 11, 2016 and the time of the street closure will be from 12:30 P.M. to 3:00 P.M. East Main Street from "G" Street to Calimyrna Avenue will be closed at 10:30 A.M. for parade staging and assembly. West Main Street from "G" Street to "O" Street will be closed from 11:30 A.M. until 3:00 P.M. for the parade (If the parade finishes prior to 3:00 P.M. West Main Street will be opened earlier at the completion of the parade). The Parade start time is approximately 2:00 P.M.

American Patriots Chrome Cowboys will take full responsibility for notifying the businesses and residences along the parade route, providing ample notification of the event. The posting of No Parking signs, along the parade route, shall be done no less than 24 hours prior to the event. The parade is expected to bring between 1000 to 1500 spectators.

The Merced Police Department will provide traffic control services during this event. The Merced Police Department will utilize sworn police officers, reserve police officers, explorer scouts, citizen volunteers and community service officers to provide traffic control. If other City services are needed beyond the assistance of the Merced Police Department, the request will be made separately and to the appropriate departments.

The Merced Police Department will utilize approximately two (2) Police Sergeants, one (1) Police Community Service Officers, six (6) Police Officers, one (1) Police Volunteer and thirty (30) Police Explorer Scouts to conduct traffic control for this event.

The 2016 First Responders 911 Memorial Parade would be held subject to the following conditions:

1. Event sponsors shall furnish a certificate of liability insurance with coverage of no less than \$500,000.00 and naming the City of Merced as additional insured.
2. Event sponsors shall contact all businesses and residences affected by the street closure, advising them of the hours, conditions and reason thereof.

3. Event sponsor shall be responsible for placing and removing all traffic barricades and posting of parking restrictions where streets are closed no less than 24 hours prior to the parade.
4. Event sponsor shall be responsible for disposing of any trash and debris generated from the event.
5. Event sponsor shall provide adequate supervision throughout the parade route as required by the Police Department.
6. Event sponsors shall agree to indemnify and hold harmless the City, its officers, agents, and employees from any and all liability, costs, damages, or injuries to persons or damage to property which might arise out of or in any way be connected with the use of an encroachment/street closure permit for this event.

IMPACT ON CITY RESOURCES

The Merced Police Department will utilize approximately two (2) Police Sergeants, six (6) Police Officers, one (1) Citizen Volunteers and thirty (30) Police Explorer Scouts to conduct traffic control for this event. Four (4) of these officers and one (1) sergeant will be working the detail on overtime with an approximate cost of \$4,141.65 (which includes salary and benefits). This cost does not include the thirty (30) Merced Police Explorer Scouts who volunteer to work the detail. The cost savings from the Explorer Scouts working the detail is equivalent to approximately \$7,997.25.

ATTACHMENTS

1. Street Closure Application
2. Certificate of Liability Insurance
3. Insurance Endorsement



STREET CLOSURE APPLICATION REQUIRING CITY COUNCIL APPROVAL (OVER 400 FEET).



\$303.00 FEE (Make check payable to City of Merced)

RECEIPT NO. _____

CHECKLIST:

Prior to submitting your application, please confirm by checking (☑) the boxes below that all the following have been completed.

- Have you completed the "Description of Event" below and signed the application on page 3? (Incomplete information may delay your application.)
- Have you allowed at least 8-10 weeks prior to the event for your application to be placed on a City Council agenda?
- Have you obtained the required insurance and do you have proof of that insurance to submit with your application? (See "Insurance" section on page 3 for details)
- Has the Indemnification Agreement on page 3 of this application been signed by an authorized representative of the sponsoring organization?

After obtaining approval from the City but prior to the event, please make sure you have done the following:

- Have you read the conditions of approval and is your event prepared to abide by all conditions?
- Will do Have you given public notice of the street closure to all the surrounding businesses within 1/2 mile at least 72 hours prior to the event as required in Condition #2 below? A form is provided at page 6 which can be used to inform the public. A copy of the form should be signed and returned to the Planning Division at least 24 hours before your event affirming that notice has been given per the above requirements.
- Will do Have you posted "No Parking" at least 24 hours prior to the event as required in Condition #1 below and using the standards outlined on page 5?
- Will do Have you arranged for "Special Event" City Refuse Service by calling 385-6800?
- Have you made arrangements for any temporary barricades? (The City does NOT provide the barricades for street closures.)
- Have you made arrangements for supplying any necessary electricity to your event? (Plugging outlets into City light poles is NOT allowed unless prior approval is obtained. Please call City Public Works at 385-6800 for additional information.)
- N/A If you are selling alcohol at your event, have you obtained an Alcoholic Beverage Control (ABC) license or permit for this event?

DESCRIPTION OF EVENT:

APPLICANT/EVENT SPONSOR AMERICAN PATRIOTS Chromcowboys & Chromcowgirls
 CONTACT PERSON BILL BAKER PHONE (209) 489-2278
 ADDRESS 3149 N. G STREET # 125-135, MERCED CA 95340
 DRIVER'S LICENSE NO. C2317231 E-MAIL homenet1507@att.net

DESCRIPTION OF EVENT (Continued):

DESCRIPTION OF EVENT (include equipment, obstructions, etc., to be placed in the encroachment area)

First Responders 9/11 Memorial Parade

THIS EVENT WILL SELL OR SERVE ALCOHOL: Yes _____ or No

ESTIMATED NUMBER OF PEOPLE IN ATTENDANCE 500-1500

DATE(S) OF EVENT 9-11-16 HOURS 12:30 - 3-pm START @ 2:00

LIST ALL STREETS PROPOSED FOR CLOSURE:

MAIN STREET STAGING FROM CALIMYENA TO G ST, FROM G STREET TO 10 STREET, NORTH TO 80TH, EAST TO "N" STREET, NORTH TO 21ST ST

(PLEASE ATTACH A MAP TO IDENTIFY PARADE ROUTES, STREET CLOSURES, AND ANY OBSTRUCTIONS TO BE PLACED WITHIN THE RIGHT-OF-WAY)

STANDARD CONDITIONS FOR STREET/PARKING LOT CLOSURES/PARADES

1. Event Sponsor shall be responsible for placing and removing traffic barricades and posting of parking restrictions. "No Parking" signs shall be posted at least twenty-four (24) hours prior to towing of vehicle(s) per California Vehicle Code Section 22651(m)—see page 5.
2. Event Sponsor shall contact all businesses affected by the street/parking lot closure or parade advising them of hours, conditions and reason thereof within one-half mile of the encroachment area at least seventy-two (72) hours prior to the event. Event Sponsor shall provide the City confirmation that the proper notification was given. (A form is provided on page 6 to help the applicant with this requirement.)
3. Event Sponsor must remove all equipment, trash and debris, including "no parking" signs, generated by the event prior to the expiration of the encroachment permit.
4. Street closures shall not include major arterial streets.
5. Supervision/security shall be provided by event sponsor to ensure the safety of event participants and the public if required by the Police Department.
6. Event Sponsor shall pay for any City services required for supervision/security.
7. Alcoholic beverages may be served or sold, subject to Alcoholic Beverage Control Licensing Requirements, and subject to the Liquor Liability Insurance Policy of the City (see page 4).
8. Provisions addressed in Ordinance #1941 Chapter 12.42 (Temporary Street Closures) shall apply.
9. Event Sponsor shall be responsible for insuring that all vendors involved with the event obtain a City of Merced business license.
10. The applicant shall arrange and pay for special event City Refuse service by contacting Public Works at (209) 385-6800.
11. The applicant shall comply with the Indemnification and Insurance provisions as outlined on page 3 of this application.
12. Event sponsor shall provide and maintain a minimum 22-foot-wide emergency vehicle access path into and through the closure area at all times via movable barriers. Fire hydrant access shall not be blocked at any time whatsoever.
13. _____
14. _____

(Additional conditions may be imposed as deemed necessary)

INDEMNIFICATION: Event Sponsor shall indemnify, protect, defend, (with counsel selected by the City) save and hold City, its officers, employees, agents, and volunteers harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Event Sponsor or Event Sponsor's officers, employees, agents, volunteers, and participants during performance of the Event, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Event Sponsor or its officers, employees, agents, volunteers, or participants, or resulting from the negligence of the City, its officers, employees, agents, and volunteers, except for loss caused solely by the gross negligence of the City. Acceptance by City of insurance certificates and endorsements required for this Event does not relieve Event Sponsor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

INSURANCE: Prior to engaging in the event, Event Sponsor shall complete and file with the City a special events, general liability and automobile policy of at least \$500,000 combined limit for bodily injury and property damage which covers the entire event. Said policy shall stipulate that this insurance will operate as primary insurance and that no other insurance will be called on to cover a loss covered thereunder. Additional insured endorsements evidencing this special events, general liability and automobile coverage, naming the City and its officers, agents, and employees as additional insureds, must be submitted to the City prior to the event. This certificate shall provide that thirty (30) days written notice of cancellation shall be given to the City.

REFUSAL OR REVOCATION OF PERMIT: Failure to comply with any law, rule or regulation applicable to the use of said streets shall be grounds to revoke any such permit and, in such circumstances, the Chief of Police shall immediately revoke said permit. The Event Sponsor or permit holder, in such case, shall have the right to appeal said revocation to the City Council.

The undersigned declares under penalty of perjury that he/she has the authority to sign for and bind the Event Sponsor to the conditions imposed by the City upon the granting of this Application.

Signature: 
Print Name: BILL BAKER
Date: June 9, 2016

OFFICE USE

APPLICATION APPROVED SUBJECT TO CONDITIONS _____

BY _____
Development Services Department (385-6858)

DATE _____

BY _____
Merced Police Department (385-6912)

DATE _____

BY _____
Merced Fire Department (385-6891)

DATE _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/07/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Leap Carpenter Kemp's Insurance Agency 3187 Collins Dr. Merced, CA 95348	CONTACT NAME: Melissa Matzenbacher PHONE (A/C, No, Ext): 2093840727 E-MAIL ADDRESS: mmatzenbacher@lckinsurance.c	FAX (A/C, No): 2093856115
	INSURER(S) AFFORDING COVERAGE	
INSURED American Patriots Chrome Cowboys 1507 W North Bear Creek Dr Merced, CA 95348	INSURER A: Fireman's Fund Insurance Company	NAIC # 21873
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Host Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	<input checked="" type="checkbox"/>		XXC80498440 NAEP069824	9/11/2016	09/12/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Additional Insured: City of Merced, its employees, officers, agents and volunteers.

CERTIFICATE HOLDER

City of Merced
 678 W 18th St
 Merced, CA 95340

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Robert V. Nuccio

Certificate Number: NAEP069824

Effective Dates: 9/11/2016 to 9/11/2016

**Additional Insured - Person, Organization or other Entity -
600002STEP 09 12**

Policy Amendment(s) Commercial General Liability

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage Part

Schedule

Name of Additional Insured Person(s) or Organization(s) or other Entity(ies)

City of Merced

City of Merced, its employees, officers, agents and volunteers.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

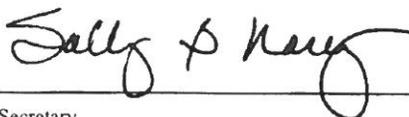
Section II - Who Is An Insured is amended to include as an insured the person, organization or other entity shown in the Schedule above but only to the extent that **bodily injury, property damage or personal and advertising injury** is caused by the sole negligence of the Memorandum of Insurance holder.

Any Additional Insured Person(s) or Organization(s) or other Entity(ies) covered under this policy is subject to the policy forms, terms, conditions, exclusions, limitations and provisions.

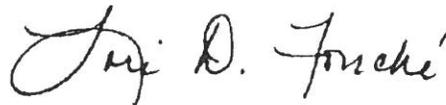
This Endorsement is otherwise subject to all the terms, conditions, exclusions, limitations, and provisions of the policy to which it is attached.

This Form must be attached to Change Endorsement when issued after the policy is written.

One of the **Fireman's Fund Insurance Companies** as named in the policy



Secretary



President



ADMINISTRATIVE REPORT

File #: 16-330

Meeting Date: 8/1/2016

Report Prepared by: Eugene Drummond, Community Liaison

SUBJECT: Accept and Appropriate Donated Funds for National Night Out Celebration

REPORT IN BRIEF

Accept donation from McLane Company and appropriate funds to offset costs of National Night Out Celebration.

RECOMMENDATION

City Council - Adopt a motion:

- A. Accepting the donation of \$2,000 from the McLane Company for National Night Out Celebration
- B. Increasing Police revenue account #001-1001-360-02-01 by \$2,000 and appropriating the same in Fund #001-1037-522-29-00 for expenses related to National Night Out.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

The donation of \$2,000 by the McLane Company is in line with the City Council 2016/2017 priorities of establishing Family Friendly Events and Enhancing the Communications and Neighborhood Watch efforts. These two priorities were both accomplished at the National Night Out Celebration, which celebrated law enforcement, neighborhood watch and the community.

DISCUSSION

The National Night Out Celebration is a national celebration that the Merced Police Department participates in annually. The celebration occurs on the first Tuesday in the month of August. This

year's celebration occurs on August 2, from 6 to 8 p.m. at Applegate Park. Night National Out is a celebration of law enforcement and the community. Neighborhood Watch is the program that is accented during the celebration.

The coordination of the celebration is done by the Merced Police Department. The back bones of this event are the volunteers from the Kiwanis Kiddie Land, Merced Police Department Explorers Scouts and VIPs. The event is also heavily support by the City of Merced Public Works Department (Trees, Parks, Water, and Building Maintenance).

This year's event received donations from the McLane Company, Safeway, TARGET, ADT, Foster Farms, Food4less, San Joaquin Valley Veterans Project and Merced County Community Action Agency. The event was also supported by over 30 local organizations and business such as: City of Merced Public Works Department, Lowe's, Milan Institute, Life Line for Healing, Boys & Girls Club, Golden Valley Health Center, Building Healthy Communities, Farmer Insurance, just to name a few.

The donation of \$2,000 by the McLane Company and the additional donations of food, water and candies will help tremendously in making this year's event successful. We greatly appreciate the generosity and support of McLane Company.

The Merced Police Department is also grateful to all the donors, volunteers, vendors, staff and citizens who help make the 2016 National Night Out Celebration a celebration Merced can be proud of and can look forward to for many years to come.

IMPACT ON CITY RESOURCES

Accept and increase revenue account line 001-1001-360-01-01 by \$2,000 and appropriate the same into account line 001-1037-522-29-00 for Fiscal year 2016/2017.

ATTACHMENTS

1. Event Flyer
2. Donation Agreement

NATIONAL NIGHT OUT



POLICE - COMMUNITY PARTNERSHIPS

Tuesday, August 2, 2016

6:00-8:00 P.M.

Applegate Park

(In Front of Kiwanis Kiddieland)

Free Kiddieland Rides



Food

FREE FUN FOR THE WHOLE FAMILY!!!

Police & Fire Vehicles * Face Painting * Free Hot Dogs
Recycling Info * Information on Community Resources
Kids Fingerprinting * Public Safety Displays

**Be Part of Making a Safer Community
JOIN NEIGHBORHOOD WATCH**

Join the Merced Police Department, Community Organizations and area Businesses to learn more about crime prevention and public safety awareness.



For Further information contact Eugene Drummond Community Liaison for the Merced Police Department
@385-6297/drummonde@cityofmerced.org

DONATION AGREEMENT

This DONATION AGREEMENT ("Agreement") is entered into effective as of August 1, 2016 ("Effective Date") by and between McLane Pacific, a _____ corporation, ("McLane") and City of Merced, ("Recipient"). McLane and Recipient shall also be referred to individually as "Party" and collectively as "Parties."

WHEREAS, McLane desires to donate to Recipient at no cost and on a non-exclusive basis, food and non-food products ("Donated Products") for charitable use; and

WHEREAS, Recipient desires to receive and distribute Donated Products in strict conformance with applicable federal, state and local laws which shall expressly include all laws which limit the liability of McLane in making such donations;

NOW THEREFORE, In consideration of the promises contained herein, the Parties agree as follows:

1. Donated Product Description and Condition. Recipient shall assume all responsibility to determine whether the Donated Products are fit for their intended use. McLane states that Donated Products may contain food items which no longer meets Federal, State and/or local quality and labeling standards, and that brand names may have been removed from, or obscured upon, labels associated with the Donated Products. Recipient acknowledges that it is knowledgeable of the applicable standards and capable of determining which Donated Products meet those standards. Furthermore, Recipient agrees that it is capable of and shall be solely responsible for the reconditioning of any Donated Products, if necessary.

2. Restrictions on Marketing, Sales and Use of Donated Products. Recipient agrees to observe and comply with the following restrictions governing marketing, sale, serving and use of Donated Products:

(a) Recipient will not publicly advertise, list or publicize the Donated Products as being products of McLane or any McLane customer.

(b) Recipient may provide Donated Products to subsequent donor organizations who serve the Donated Products to ultimate user, provided that 1) such subsequent donor organizations agree not to advertise or identify the Donated Products as belonging to McLane or any McLane customer, 2) notwithstanding a nominal fee collected by Recipient, all Donated Products shall be provided to the subsequent donor organization free of charge, and 3) the ultimate user of the Donated Products shall not be required to give anything of monetary value in exchange for the Donated Products.

(d) To the extent allowed by and strictly in accordance with applicable law or regulations, Recipient shall remove or permanently obscure any identifying logo, trademark or brand designation from the Donated Products before using them. McLane makes no representation that any law or regulation allows Recipient to remove or obscure such logos or designations, and Recipient hereby agrees to indemnify, defend and hold harmless McLane against any claim or assertion of any kind or character whatsoever that any such action is not or was not in accordance with any standard, regulation or other legal requirement.

(e) Recipient agrees that Donated Products will no longer be used at such time, if any, as they become unfit for consumption within a reasonably anticipated consumption period.

3. Destruction or Disposal. In the event Recipient or a permitted subsequent donor organization is unable to use the Donated Products within the requirements of this Agreement, Recipient or such subsequent donor organization shall be solely responsible for the destruction or disposal of the Donated Products at Recipient's or subsequent donor organization's sole expense, in a confidential and respectful manner that would bring no adverse publicity to McLane or any McLane customers. Such destruction or disposal shall be conducted in a lawful and responsible manner.

4. Product Recall. If a product defect requires McLane to make a product recall or to issue a product warning, Recipient shall assist McLane and shall take all measures which have been ordered by McLane and which the Recipient can reasonably be expected to perform. Recipient shall inform McLane without undue delay of any risks in the use of the Donated Products and possible product defects of which the Recipient becomes aware.

5. Independent Contractor. At all times during the term of this Agreement, Recipient and Recipient's employees will be considered independent contractors and not employees or agents of McLane. Neither Recipient nor its employees will hold themselves out as or attempt to function as an agent or employee of McLane. Nothing in this Agreement shall be construed as creating a partnership or joint venture of any kind between the Parties or as appointing either as agent for the other for any purpose and neither shall have the authority to bind the other or to contract in its name for any purpose.

6. Publicity. Each of the Parties may accurately publicize the fact that McLane is donating Donated Products to Recipient; provided, however, that Recipient shall obtain prior approval from McLane concerning the details of such publicity, and provided further, that McLane shall be entitled to make the first announcement of this relationship and the activities contemplated by this Agreement. Concerning such initial announcement, Recipient agrees to make all reasonable efforts to participate in the manner requested by McLane in a joint announcement, if so requested by McLane, and to make its representatives and facilities available as needed to conduct the joint announcement at any reasonable site designated by McLane.

7. Warranties by McLane. McLane warrants that it owns the Donated Products and has the unencumbered right to donate the Donated Products to Recipient upon the terms herein contained.

8. DISCLAIMER OF ALL OTHER WARRANTIES BY MCLANE. EXCEPT FOR THE EXPRESS WARRANTIES STATED HEREIN, MCLANE DISCLAIMS ALL WARRANTIES ON THE DONATED PRODUCTS FURNISHED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY,

SUITABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

9. Warranties by Recipient.

(a) **Necessary Skills.** Recipient warrants that it is knowledgeable of the standards to properly recondition the Donated Products and that it and each of its employees performing services hereunder has and shall maintain during the term of this Agreement the necessary training, skills, qualifications, licenses, permits and registrations required for Recipient and its employees to perform services.

(b) **Compliance with all Laws.** Recipient acknowledges and agrees that it is responsible for and that it shall ensure all services performed by Recipient's employees on property belonging to or under the control of McLane are in compliance with any and all applicable laws, including, but not limited to, the U.S. Department of Transportation ("DOT") and the Federal Motor Carrier Safety Administration ("FMCSA") regulations.

(c) **Non-Profit Status.** Recipient warrants that it is a non-profit, 501(c)(3) tax-exempt organization qualified to receive tax deductible contributions. Recipient further agrees that all Donated Products received shall be used solely for purposes related to its tax-exempt status. Recipient also warrants that all Donated Products shall be made available without requiring anything of monetary value from the ultimate user.

(d) **Reconditioning Donated Products.** Recipient agrees to recondition any and all Donated Products to comply with all federal, state and local quality and labeling standards prior to the distribution or use of any Donated Products.

10. Insurance. Recipient shall at all times during the term of this Agreement maintain, at its sole cost, the following insurance coverage with insurance companies satisfactory to McLane:

(a) Comprehensive General Liability Insurance, including contractual liability coverage, with minimum limits of \$1,000,000 per occurrence and in the aggregate;

(b) Automobile Liability Insurance, with minimum combined single limit of \$1,000,000; and

(c) Umbrella/Excess Liability Insurance. Recipient may meet any or all of the foregoing requirements in this Section 10 (a)-(b) via a primary policy or the combination of primary and umbrella/excess. Each policy shall specifically name McLane Company, Inc., its parent and all subsidiaries, affiliates and divisions, as an additional insured. Prior to providing McLane with any services under this Agreement, Recipient shall furnish to McLane a current written insurance certificate obtained from Recipient's insurance carriers showing that such insurance coverage has in fact been procured, and is being properly maintained. Each insurance policy maintained pursuant to this provision shall remain current and in force while Recipient is performing services for McLane. McLane shall have no duty to confirm the receipt or sufficiency of such insurance certificates.

11. RELEASE AND INDEMNITY. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, RECIPIENT SHALL, TO THE MAXIMUM EXTENT PERMITTED BY LAW, FULLY DEFEND, PROTECT, INDEMNIFY AND HOLD MCLANE, MCLANE COMPANY, INC., ITS PARENT, AND ALL THEIR

RESPECTIVE SUBSIDIARIES, AFFILIATES, AND DIVISIONS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (COLLECTIVELY, "MCLANE INDEMNITIES") HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, AGENCY CHARGES, DEMANDS, SUITS, CLAIMS MADE BY REGULATORY AUTHORITIES, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING JUDGMENTS, FINES, PENALTIES, DAMAGES, SETTLEMENT AMOUNTS, ATTORNEY'S FEES, COSTS OF INVESTIGATION AND LITIGATION, FOR INJURY TO OR DEATH OF, OR CLAIM BY, ANY PERSON, INCLUDING, BUT NOT LIMITED TO, RECIPIENT'S EMPLOYEES AND THIRD PARTIES, OR FOR DAMAGE TO OR LOSS OR DESTRUCTION OF ANY PROPERTY, CAUSED BY, ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY INCIDENTAL TO, (I) BREACH OF ANY PROVISION OF THIS AGREEMENT BY RECIPIENT OR RECIPIENT'S EMPLOYEES OR THIRD PARTIES (II) THE NEGLIGENCE OR WILLFUL MISCONDUCT OF RECIPIENT, ITS EMPLOYEES OR THIRD PARTIES, EXCEPT TO THE EXTENT CAUSED BY OR ARISING OUT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT OF MCLANE INDEMNITIES, OR (III) THE PROVISION OF ANY SERVICES BY RECIPIENT OR RECIPIENT'S EMPLOYEES UNDER THIS AGREEMENT. IF THE DONATED PRODUCTS AND/OR MCLANE'S ACTIVITIES ARE NOT TO ANY EXTENT IN COMPLIANCE WITH THE LAWS AT THE TIME DONATED PRODUCTS ARE RECEIVED BY RECIPIENT, THE INDEMNITY SHALL NEVERTHELESS APPLY EXCEPT TO THE EXTENT THAT, DESPITE RECIPIENT'S PERFORMANCE UNDER THIS AGREEMENT, SUCH LACK OF COMPLIANCE WAS THE SOLE CAUSE OF THE INDEMNITY OBLIGATIONS. THIS INDEMNITY OBLIGATION OF RECIPIENT SHALL APPLY TO ANY LIABILITY IMPOSED UPON MCLANE INDEMNITIES AS A RESULT OF ANY STATUTE, RULE, REGULATION OR THEORY OF STRICT LIABILITY. THE INDEMNITY PROVISIONS HEREOF ARE ENTIRELY SEPARATE AND DISTINCT FROM, AND INDEPENDENT OF, THE INSURANCE PROVISIONS HEREOF, AND IT IS NOT INTENDED THAT THE INDEMNITY AND INSURANCE PROVISIONS BE CONSTRUED TOGETHER, NOR IS IT INTENDED THAT THE INSURANCE PROVISIONS SHALL LIMIT, RESTRICT, DIMINISH OR OTHERWISE MODIFY THE INDEMNITY PROVISIONS, WHETHER BY LIMITATION OF THE EXTENT OF PROTECTION AFFORDED TO MCLANE INDEMNITIES OR OTHERWISE.

12. Term and Termination. The term of this Agreement is for a period of two years beginning on the Effective Date. This Agreement may be terminated by either Party at any time with seven (7) days prior written notice to the other Party.

13. Notice. Any notices required to be delivered under this Agreement shall be in writing and sent either (i) by certified mail, return receipt requested, (ii) by overnight courier service guaranteeing next business day delivery, or (iii) by confirmed fax, and all notices shall be addressed as follows:

If to Recipient:

If to McLane:

With a copy to:
McLane Company, Inc.
4747 McLane Parkway
Temple, Texas 76504
Attn: General Counsel

Either Party may change its address for notice purposes by giving written notice of such change as set forth above.

14. Survival. The warranties, insurance, release and indemnity, restrictions on marketing, sales and use of Donated Products, product recall, destruction or disposal and governing law provisions shall survive termination of this Agreement without limit as to time.

15. Severability. Should any provision of this Agreement or portion thereof be declared invalid, void or unenforceable, it shall not affect the validity or enforcement of the remaining provisions or portion thereof which shall remain in full force and effect as if this Agreement has been executed without such invalid, void or unenforceable provision or portion thereof having been included.

16. Waiver. No failure, forbearance, neglect or delay of any kind or extent on the part of McLane in connection with the

enforcement or exercise of any rights under this Agreement shall affect or diminish McLane's right to strictly enforce and take fully benefit of each provision of this Agreement at any time and for any purpose.

17. Entire Agreement; Modifications. This Agreement constitutes the entire agreement of the Parties with regard to its subject matter and supersedes all previous written or oral agreements and understandings between the Parties with regard to that subject matter. No modification of or amendment to this Agreement will be effective unless made in writing and signed by both Parties.

18. No Assignment. Recipient may not assign this Agreement without McLane's prior written consent and any attempted assignment without McLane's prior written consent shall be void. Recipient may not subcontract the provision of all or part of the services without the prior written consent of the McLane.

19. Governing Law. This Agreement shall be governed by the laws of the State of Texas without regard to the conflicts of laws principles that may be applicable.

20. Authority. The undersigned individual executing this Agreement on behalf of Recipient represents that he/she is an employee of Recipient and/or is duly authorized to enter into this Agreement for purposes of binding Recipient to the terms and conditions herein. The Parties agree that faxed transmissions are considered originals, including signatures.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date first stated above.

MCLANE Pacific, INC.

By: Chris Spera
Printed Name: Chris Spera
Title: Division President

RECIPIENT:

By: _____
Printed Name: _____
Title: _____

APPROVED AS TO FORM:
Kelly C. Fincher
KELLY C. FINCHER
Chief Deputy City Attorney



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-353

Meeting Date: 8/1/2016

Report Prepared by: *Kenneth Rozell, Senior Deputy City Attorney*

SUBJECT: Transfer All Parking Authority's Interests in Parking Lot #1 to Merced Designated Local Authority, Authorize the City Manager to Accept Such Assets on the City's Behalf, and Authorize the City Manager to Sign a Non-Exclusive Easement Over Parking Lot #1 for Access by Merced Lofts

REPORT IN BRIEF

Authorizes the Parking Authority of the City of Merced to transfer all of its interests in Parking Lot #1 to the Merced Designated Local Authority, authorizes the City Manager to accept and consent to the transfer of this asset to the City, and authorizes the City Manager to sign all necessary documents to convey a non-exclusive easement over Parking Lot #1 for access by Merced Lofts.

RECOMMENDATION

Parking Authority - Adopt **Resolution PA 2016-04**, a Resolution of the Parking Authority of the City of Merced authorizing the transfer of all of the Parking Authority's interests in Parking Lot #1 to the Merced Designated Local Authority.

City Council - Adopt **Resolution 2016-41**, a Resolution of the City Council of the City of Merced, California authorizing the City Manager to accept and consent on the City's behalf the transfer of Parking Lot #1.

City Council - Adopt a motion authorizing the City Manager to sign a non-exclusive easement agreement relating to Parking Lot #1 with Merced Lofts, LLC.

AUTHORITY

City of Merced Charter, Section 200

CITY COUNCIL PRIORITIES

Not Applicable

DISCUSSION

Parking Lot #1 (APN 031-141-020) was created in 2002 as part of a Merced Redevelopment Agency mixed used project along Main Street - the Merced Lofts. Parking Lot #1 was originally owned by the Merced Redevelopment Agency and is located off of the alley that runs between "M" Street and Canal Street adjacent to the McNamara Plaza parking lot. (See Attachment 1.)

In order to access the Merced Loft's parking lot, it is necessary for the tenants of the Merced Lots to drive across Parking Lot #1 in order to access the streets of downtown Merced. In addition, pedestrians exiting the Merced Lofts through the rear entrance must also walk across Parking Lot #1 in order to access the alleyway that gives access to downtown Merced. If there was no access across Parking Lot #1, then all access from the rear entrance and parking lot of the Merced Lofts would be cut off.

Although a non-exclusive easement agreement was drafted in 2003 between the former Merced Redevelopment Agency and the Merced Lofts, LLC to formalize the necessary easement across Parking Lot #1, this document was never finalized and recorded. However, for the past 13 years, access across Parking Lot #1 from the Merced Lofts has occurred as if such non-exclusive easement had been granted.

The current owner of the Merced Lofts is an escrow to sell the building to a third party. Because of the affordable housing component of the project, the City of Merced stands to receive as much as \$293,219 at the close of escrow to be used for other housing projects in the City. (The final amount will be determined once the transaction closes.) One of the conditions of the escrow is that the necessary access easement be obtained across Parking Lot #1.

Because Parking Lot #1 was formerly owned by the Merced Redevelopment Agency, the issue of granting this issue is complicated. In January 2011, the City of Merced and the Merced Redevelopment Agency took a series of steps to protect the important assets of the Merced Redevelopment Agency from a then pending effort by the State of California pursuant to AB 1x 26 and AB 1x 27 to take these assets for the benefit of the State of California.

Like a number of other redevelopment agencies around the State of California, the Merced Redevelopment Agency transferred a variety of assets to another entity. For Merced, it was the City of Merced Public Financing and Economic Development Authority ("PFEDA"), a joint powers authority. Until all redevelopment agencies in California were dissolved as of February 1, 2012, PFEDA continued acting on behalf of the Merced Redevelopment Agency in fulfilling the agency's mission - including the construction of affordable housing and much-needed public infrastructure within the City of Merced.

PFEDA subsequently transferred certain assets to the City of Merced that had been the housing assets of the Merced Redevelopment Agency. PFEDA also transferred some parking-related assets to the Parking Authority of the City of Merced and retained some of those assets on its books.

In August 2014, the City Council authorized staff to begin the process of turning over to the Merced Designated Local Authority (the "DLA") selected non-housing assets that had been owned by the Merced Redevelopment Agency. This asset transfer was, however, contingent upon the City and the State of California first resolving the amount of credit that PFEDA would receive for the redevelopment activities that were conducted by PFEDA between February 1, 2011 and February 1, 2012.

Although these issues are still outstanding, it is in the best interest of PFEDA, the Parking Authority and the City of Merced if their interests in specific assets are transferred to the DLA to help resolve this outstanding issue. (It should be noted that the City has strongly contested these claims by the

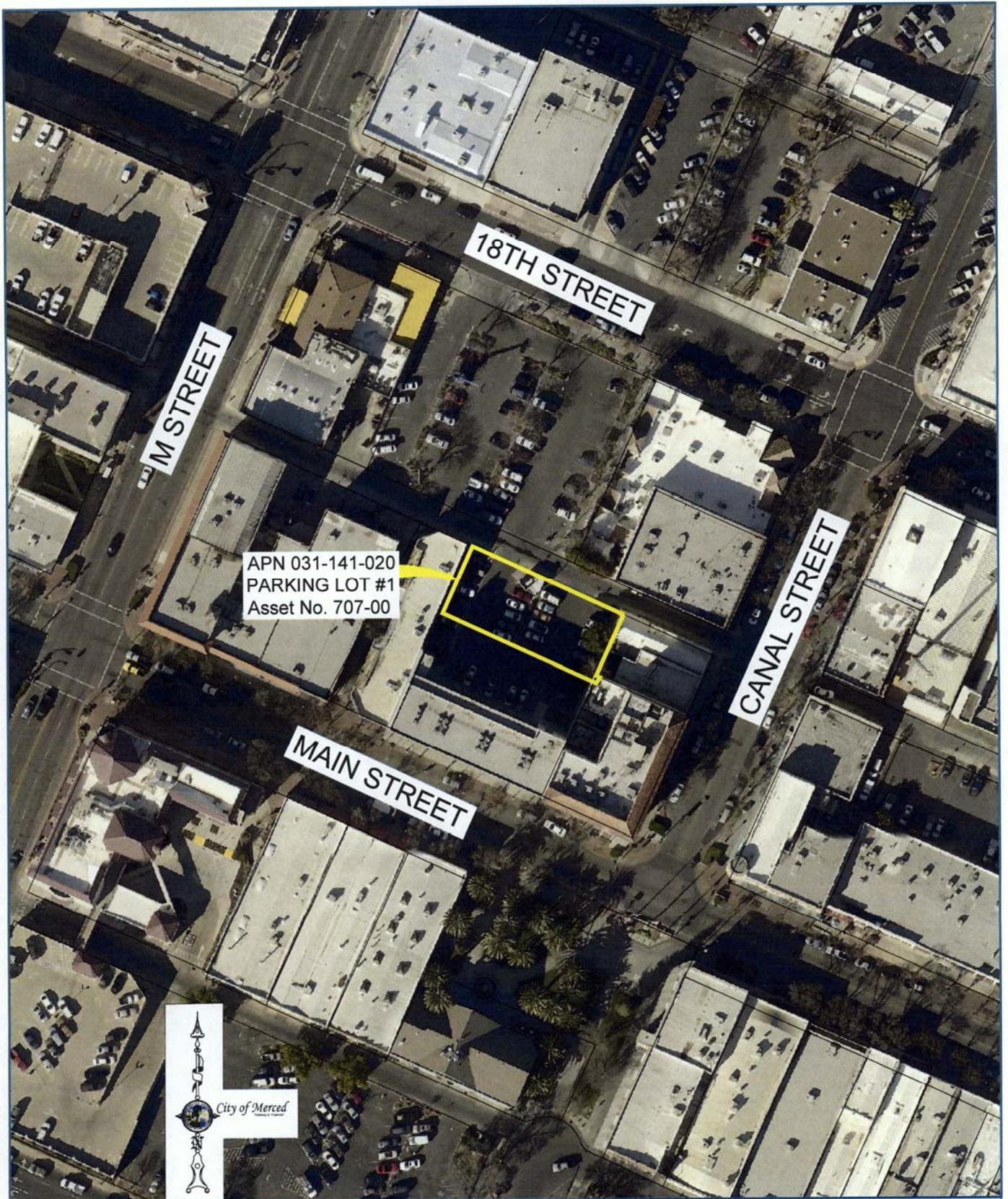
State of California on a number of occasions.)

At the July 28, 2016 meeting of the Oversight Board to the DLA, the DLA was scheduled to consider the transfer of Parking Lot #1 to the City of Merced as a governmental purpose property upon receipt by the DLA of a duly adopted and signed resolution of the Parking Authority offering this asset to the DLA. Assuming the DLA adopted the necessary resolution at its meeting, then the only action necessary for Parking Lot #1 to be transferred to the City of Merced is the Parking Authority's adoption of the necessary resolution.

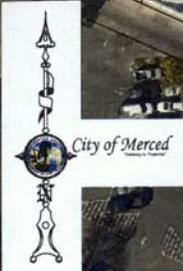
Once the Parking Authority resolution is adopted and the City Council authorizes the City Manager to accept Parking Lot #1, then the City Council is authorized to grant the non-exclusive easement the Merced Lofts, LLC - thus facilitating the sale of the property. Once this easement is granted, then the sale of the Merced Lofts can occur - thus generating as much as \$293,219 in funding for the City's housing programs.

ATTACHMENTS

1. Map showing Parking Lot #1
2. Parking Authority Resolution
3. City Council Resolution
4. Non-Exclusive Easement Agreement



APN 031-141-020
PARKING LOT #1
Asset No. 707-00



City of Merced
"Gateway to Yosemite"
DEVELOPMENT SERVICES
ENGINEERING PROJECTS AND STANDARDS
678 W. 18th Street (209) 385-6846

ATTACHMENT 1

DR. BY: CARDOZO
DATE: 7/13/16
CH. BY:
DATE:
File No.
SCALE: 1" = 100'

RESOLUTION NO: _____

**A RESOLUTION OF THE PARKING
AUTHORITY OF THE CITY OF MERCED
AUTHORIZING THE TRANSFER OF THE
PARKING AUTHORITY'S INTERESTS IN
PARKING LOT #1 TO THE MERCED
DESIGNATED LOCAL AUTHORITY**

WHEREAS, On January 31, 2011, the Redevelopment Agency of the City of Merced ("Agency") adopted Resolution No. RDA 698, which authorized the transfer of specific assets, liabilities, indemnification obligations and guarantees to the City of Merced Public Financing and Economic Development Authority ("PFEDA"); and

WHEREAS, On January 12, 2012, the City Council of the City of Merced exercised its right under AB 1x 26 and adopted Resolution No. 2012-6 electing that the City of Merced not be the successor agency of the Agency for non-housing purposes; and

WHEREAS, Pursuant to AB 1x 26, as modified by the California Supreme decision in *California Redevelopment Association v. Matosantos*, all redevelopment agencies in the State of California were dissolved effective February 1, 2012 (as amended to date, the "Dissolution Law"); and

WHEREAS, The Merced Designated Local Authority (the "DLA") subsequently became the successor agency to the Agency for non-housing purposes; and

WHEREAS, The California State Controller's Office ("SCO") performed a review of all assets transferred from the Agency to other public agencies after January 1, 2011; and

WHEREAS, On July 30, 2015, the SCO ordered all assets transferred by the Agency to PFEDA be transferred to the DLA, acknowledged that \$7,050,342 of the assets had been transferred to the City of Merced as the successor agency to the former Agency, and stated that \$35,014,913 in unallowable transfers must be turned over to the DLA; and

WHEREAS, In order to facilitate the sale of the Merced Lofts, the Parking Authority wishes to offer all to the DLA all of its interests, if any, in the Parking Lot #1 so that the DLA can transfer Parking Lot #1 to the City of Merced as a governmental purpose property.

NOW, THEREFORE, THE PARKING AUTHORITY OF CITY OF MERCED HEREBY FINDS, DETERMINES, ORDERS AND RESOLVES AS FOLLOWS:

SECTION 1. The Parking Authority hereby authorizes its Executive Director to execute a quitclaim deed to convey all of its interests (if any) in Parking Lot #1 (APN 031-141-020) located in the City of Merced to the DLA.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution, 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 Resolution. The Parking Authority hereby declares that it would have adopted this Resolution, 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 3. The Secretary shall certify as to the adoption of this Resolution, which shall be in full force and effect immediately upon its adoption.

PASSED AND ADOPTED by the Parking Authority of the City of Merced at a regular meeting held on the ____ day of August 2016, by the following vote:

AYES: Authority Members:

NOES: Authority Members:

ABSENT: Authority Members:

ABSTAIN: Authority Members:

APPROVED:

Chairman

ATTEST:
STEVE CARRIGAN, AUTHORITY SECRETARY

BY: _____
Assistant Authority Secretary

(SEAL)

APPROVED AS TO FORM:

Kent Rydell 7/26/16
Authority General Counsel Date

RESOLUTION NO. 2016-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA
AUTHORIZING THE CITY MANAGER TO
ACCEPT AND CONSENT ON THE CITY'S
BEHALF THE TRANSFER OF PARKING LOT #1**

WHEREAS, On January 31, 2011, the Redevelopment Agency of the City of Merced (“Agency”) adopted Resolution No. RDA 698, which authorized the transfer of specific assets, liabilities, indemnification obligations and guarantees to the City of Merced Public Financing and Economic Development Authority (“PFEDA”); and

WHEREAS, On January 12, 2012, the City Council of the City of Merced exercised its right under AB 1x 26 and adopted Resolution No. 2012-6 electing that the City of Merced not be the successor agency of the Agency for non-housing purposes; and

WHEREAS, Pursuant to AB 1x 26, as modified by the California Supreme decision in *California Redevelopment Association v. Matosantos*, all redevelopment agencies in the State of California were dissolved effective February 1, 2012; and

WHEREAS, The Merced Designated Local Authority (the “DLA”) subsequently became the successor agency to the Agency for non-housing purposes; and

WHEREAS, In order to facilitate the sale of the Merced Lofts, the Parking Authority of the City of Merced (the “Parking Authority”) is offering all of its interests, if any, in Parking Lot #1 (APN 031-141-020) to the DLA; and

WHEREAS, Once the Parking Authority has offered all of its interests in Parking Lot #1 to the DLA, the DLA shall make a determination if the DLA will take title and ownership of these assets or whether some of the assets will be offered to the City of Merced because of the existing governmental purposes of the assets; and

WHEREAS, Pursuant to Government Code Section 27281, deeds or grants conveying any interest in or easement upon real estate to the City shall not be

ATTACHMENT 3

accepted for recordation without the consent of the grantee evidenced by its certificate or resolution of acceptance attached to or printed on the deed or grant; and

WHEREAS, Pursuant to Government Code Section 27281, the City may authorize one or more officers or agents to accept and consent to such deeds or grants; and

WHEREAS, The City Council wishes to authorize the City Manager to accept and consent to such deeds or grants as it relates to specific enumerated former assets of the Merced Redevelopment Agency that were transferred to PFEDA.

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

SECTION 1. Pursuant to Government Code Section 27281, the City Council hereby authorizes the City Manager to accept and consent to the transfer of Parking Lot #1 (APN 031-141-020).

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2016, 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:

Ken Ryland 7/26/16
City Attorney Date

RECORDING REQUESTED BY:

City of Merced, A California Charter
Municipal Corporation

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 W. 18th Street
Merced, CA 95340

Exempt Recording Per Gov't Code Section 6103

(Above for Recorder's Use Only)

NON-EXCLUSIVE EASEMENT AGREEMENT

This NON-EXCLUSIVE EASEMENT AGREEMENT (this "Agreement") is entered into as of this ___ day of _____, 2016 by MERCED LOFTS, LLC, a California Limited Liability Company ("Merced Lofts") and CITY OF MERCED, a California Charter Municipal Corporation ("City").

WITNESSETH:

WHEREAS, City is the owner of certain real property (the "City Parcel") situated in the City of Merced, County of Merced, State of California legally described on Exhibit "A;" and

WHEREAS, Merced Lofts is the owner of certain real property (the "Lofts Parcel"), situated in the City of Merced, County of Merced, State of California, legally described on Exhibit "B," attached hereto and incorporated herein by this reference; and

WHEREAS, the City Parcel and the Lofts Parcel are adjoining parcels; and

WHEREAS, City desires to grant to Merced Lofts, and Merced Lofts (the "Benefited Parcel") desires to accept from City, a non-exclusive easement in portions of the City Parcel (the "Burdened Parcel") for access, ingress, and egress purposes, to and from the alley adjacent to City Parcel for common use of a commercial rubbish receptacle; for loading and unloading; for surface drainage; for handicap parking; and for utility service connections, facilities, improvements, and equipment so long as said easement is granted to the Benefited Parcel and not to a public utility.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, City and Merced Lofts do hereby agree as follows:

In addition to the words and terms defined elsewhere in this Agreement, the following words and terms shall, as used in this Agreement, have the following meanings:

ARTICLE I DEFINITIONS

Section 1.1 Party

“Party” means “Merced Lofts” or “City” and “Parties” means both of the foregoing, or any successor Person(s) acquiring any interest of a Party in or to any portion of such Party’s Parcel.

Section 1.2 Person

“Person” or “Persons” means individuals, partnerships, firms, associations, corporations, and any other form of business or governmental organization or entity, or one or more of them, as the context may require.

Section 1.3 Easement Areas

The “Easement Area” shall mean and refer to such portions of the Grantor’s (as defined below) Parcel as are now or hereafter from time to time set aside or intended to be set aside, maintained and authorized for the passage, access, ingress, and egress of vehicles and for pedestrian traffic incidental thereto.

Section 1.4 Grantor; Grantee

(a) A Party granting an easement is called the “Grantor,” it being intended that the grant shall thereby bind and include not only such Party but also its successors and assigns.

(b) A Party to whom the easement is granted is called the “Grantee,” it being intended that the grant shall benefit and include not only such Party but its

successors and assigns and its occupants or permittees, provided that no such use of the easement in excess of the use contemplated at the date of the creation of such easement shall occur.

(c) The word “in” with respect to an easement granted “in” a particular Parcel means, as the context may require, “in,” “to,” “on,” “over,” “through,” “upon,” “across,” and “under” or any one or more of the foregoing.

(d) The grant of any easement by a Grantor shall bind and burden its Parcel which shall, for the purpose of this Agreement, be deemed to be, the burdened Parcel; provided, however, that where only a portion of the Parcel is bound and burdened by the easement, only that portion shall be deemed to be the burdened Parcel.

(e) The grant of an easement to a Grantee shall benefit and bind its Parcel which shall, for the purpose of this Agreement, be deemed to be the benefited Parcel; provided, however, that where only a portion of the parcel is so benefited, only that portion shall be deemed to be the benefited Parcel.

(f) All easements granted herein are non-exclusive and are irrevocable and perpetual.

(g) All easements herein shall be easements appurtenant and not easements in gross.

ARTICLE 2 EASEMENT

Section 2.1 Grant of Easement

City hereby grants to Merced Lofts a non-exclusive easement for access, ingress, and egress across the City Parcel.

Section 2.2 Acceptance of Easement

Merced Lofts hereby accepts the grant of the non-exclusive easement granted by the City and agrees to be bound by the terms and conditions of this Agreement.

Section 2.3 Use of Easement Areas

The purpose of this Agreement is to provide only for vehicular and pedestrian access for ingress and egress to and from Lofts Parcel through and across the City Parcel in the Easement Area, to and from adjacent alley. Said Easement may also be used for common use of a commercial rubbish receptacle; for loading and unloading; for surface drainage; for handicapped parking; and for utility service connections, facilities, improvements, and equipment so long as said easement is granted to the Benefited Parcel and not a public utility. Merced Lofts agrees for itself and its agents, employees, and contractors to use the Easement Area in a manner fully complying with all laws and other legal requirements. City reserves the right to limit and regulate driving and walking in a commercially reasonable manner in the Easement Area. Notwithstanding anything in this Agreement to the contrary, the Parties do not intend that this Agreement permit or provide for reciprocal parking for the City Parcel and/or the Lofts Parcel.

Section 2.4 Limitation of Easement.

This Agreement is intended for the sole use of the present and future occupants, tenants, employees, invitees, permittees, and customers of the Merced Lofts and is not intended, nor shall it be construed, to create any rights in or for the benefit of the general public.

Section 2.5 Successors

This Agreement shall run with the land as respects burdens created herein and shall be binding upon all Persons having or acquiring an interest in the City Parcel, Lofts Parcel, or any portions of such Parcels. The benefits of this Agreement shall inure to the benefit of the respective "Parties" and successor "Parties" as herein defined.

Section 2.6 Covenants Run with the Land

It is intended that the covenants, easements, agreements, promises, and duties of each Party as set forth in this Agreement shall be construed as covenants and not

as conditions, and that, to the fullest extent legally possible, all such covenants shall run with the land and constitute equitable servitudes as between the Parcel of the respective covenantor, as the servient tenement, hereto for referenced as the Burdened Parcel and the Parcel of the respective covenantee, as the dominant tenement, hereto for as the Benefited Parcel binding upon the servient tenement and benefiting the dominant tenement; provided, however, that such benefits shall be enforceable only by the Party as to the dominant Parcel.

Section 2.7 Failure To Perform.

If either party hereto fails, refuses or neglects to perform adequately its duties hereunder or to honor its obligations hereunder, the other party may, in addition to whatever rights it may be entitled to pursue at law or in equity, give written notice of such failure and if the party receiving such notice fails to rectify or cure such failure within a commercially reasonable time as may be set forth in such notice, the other part may rectify or cure such failure and the noncomplying party shall promptly, upon presentation of an invoice therefore, reimburse the performing party for the costs incurred by it in performing such work, plus an additional ten percent (10%) of the total cost thereof for overhead and administrative purposes.

Section 2.8 Amendment.

This Agreement may not be amended, modified, terminated, or released without the prior written consent of all of the parties hereto, or the successors in interest, respectively, to the City Parcel and the Lofts Parcel.

Section 2.9 Severability.

If any term or provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, then such holding shall not affect any of the remaining terms and provisions of this Agreement, and the same shall continue to be effective to the fullest extent permitted by law.

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

CITY OF MERCED
A California Charter Municipal Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: _____
City Attorney

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

(Signatures Continued on Next Page)

MERCED LOFTS, LLC
A California Limited Liability Company

BY: _____
Jonathan A. Tolkin

Title: _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

E-MAIL: _____

Exhibit A

Exhibit B

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of Merced)

On _____, 2016, before me, _____,
a Notary Public, Personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Notary Public

(seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of Merced)

On _____, 2016, before me, _____,
a Notary Public, Personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Notary Public (seal)



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-346

Meeting Date: 8/1/2016

Report Prepared by: *Frank Quintero, Director of Economic Development, Office of Economic Development*

SUBJECT: Appropriation from the Economic Development Opportunity Fund (074-2002-617-65-00) to Line 074-2002-572-17-00 (Professional Services) for Appraisal and Other Consulting Services

REPORT IN BRIEF

The requested Appropriation transfers a total of \$10,000 in funds for appraisal and other consulting services to be used for the Merced Downtown Commons Project.

RECOMMENDATION:

Parking Authority - Adopt a Motion Appropriating \$10,000 to Line 074-2002-572-17-00 (Professional Services - Economic Development Opportunities Fund) for appraisals and other consulting services to be used for the Merced Downtown Commons Project.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200

CITY COUNCIL PRIORITIES

As provided for in the 2016-17 Adopted Budget

DISCUSSION

As part of the FY 16-17 budget process, the City Council created a new Fund (074 - Economic Development Opportunity Fund) combining funds from the General Fund (\$812,025) and Airport Industrial Park (\$1,086,577) for a total of \$1,898,602. The Economic Development Opportunity Fund was established in order to take advantage of business development and job creation opportunities.

Currently, the City is taking on business development opportunity through the Merced Downtown Commons project. Requests for Proposals have been issued for the mixed-use (retail, office, and apartment) project, and are due by August 26, 2016. The project calls for the construction of a mixed-use development on a 1.4-acre site bordered by W. 18th Street, N Street, and W. 19th Street. The

City owns four (Parking Lots) of the five parcels making up the project site. The parcel not owned by the City is owned by Fluetsch and Busby, Incorporated. One component of the Downtown Commons project calls for the acquisition of the Fluetsch and Busby building. To initiate the purchase of the Fluetsch and Busby building, an appraisal is necessary to establish a fair market value. The appraisal will also consider the value of the parking lots owned by the City of Merced.

Staff is now requesting the transfer of \$10,000 to move forward with the appraisal of the Fluetsch and Busby Building and to establish a value for the City-owned parking lots included in the Merced Downtown Commons project. The Downtown Commons project is the City's first major downtown revitalization project since the dissolution of Redevelopment by the State of California in 2012.

IMPACT ON CITY RESOURCES

Staff recommends appropriating \$10,000 from Fund 74 (Economic Development Opportunity Fund) to Line 074-2002-572-17-00 (Professional Services - Economic Development Opportunity Fund) for appraisal and consultant services relative to the Merced Downtown Commons project.

ATTACHMENTS

None



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-345

Meeting Date: 8/1/2016

Report Prepared by: Frank Quintero, Director of Economic Development, Office of Economic Development

SUBJECT: Accept and Appropriate Grant Funds from Pacific Gas and Electric for Mercy Gulch Days

REPORT IN BRIEF

Accept and appropriate grant funds (\$3,000) from Pacific Gas and Electric to be used for the 2015 Mercy Gulch Day community event.

RECOMMENDATION

City Council - Adopt a motion:

- A. Accepting the grant funds totaling \$3,000 from Pacific Gas and Electric into Fund 001-2002-360-02-01; and,
- B. Appropriating the same to Fund 001-2002-572-17-00 (Economic Development - Professional Services) to be used for the Mercy Gulch Days community event via the Agreement between the Greater Merced Chamber of Commerce and the City of Merced; and,
- C. Authorizing the City Manager to execute the necessary documents.

ALTERNATIVES

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

AUTHORITY

City of Merced Charter Section 200.

CITY COUNCIL PRIORITIES

Economic Development as provided for in the 2016-17 Adopted Budget.

DISCUSSION

The City of Merced made application to Pacific Gas and Electric (PG&E) for a local grant to be used

Merced Gulch Days community event. PG&E awarded a grant of \$3,000 to the City of Merced. Staff is requesting the City Council to accept the PG&E grant into Fund 001-2002-360-02-01 (Contributions - Economic Development), and appropriate the same into Fund 001-2002-572-17-00 (Professional Services - Economic Development.)

The City of Merced entered into a Professional Service Agreement with the Greater Merced Chamber of Commerce to organize Mercy Gulch in Spring 2017. The Agreement calls for \$5,500 to be paid to the Greater Chamber for expenses to put on Mercy Gulch with \$2,500 coming from Economic Development, and the remainder from the \$3,000 PG&E grant. Traditionally, Mercy Gulch is just before the Merced County Fair. Currently, the Greater Merced Chamber of Commerce is working on organizing the Cap and Town community event which is independent of the Mercy Gulch Professional Service Agreement.

IMPACT ON CITY RESOURCES

The appropriation to Fund 001-2002-572-17-00 (Economic Development) enables the City to use the grant funds for Mercy Gulch via the Agreement with the Chamber of Commerce.



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-351

Meeting Date: 8/1/2016

Report Prepared by: Mark E. Hamilton, Housing Program Supervisor, Housing Division, Development Services Department

SUBJECT: Request to Set a Public Hearing for the Tax Equity and Fiscal Responsibility Act (TEFRA) Regarding the Facilitation of Bond Sales by the Statewide Communities Development Authority for the Gateway Terrace II Project

REPORT IN BRIEF

Request to set a public hearing for Monday, August 15, 2016, to consider the Tax Equity and Fiscal Responsibility Act (TEFRA) Regarding the Facilitation of Bond Sales by the Statewide Communities Development Authority for the Gateway Terrace II Project.

RECOMMENDATION

City Council - Adopt a motion setting a public hearing for Monday, August 15, 2016, to consider the Issuance of Multi-Family Housing Revenue Bonds for Gateway Terrace II Apartments.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 405 and 411, et seq. of the City of Merced and as required by section 147(f) of the Internal Revenue Code of 1986, as amended, and California Government Code Section 6500, amended.

CITY COUNCIL PRIORITIES

As proposed for in the 2015-16 budget and appropriated to the City of Merced as a HUD entitlement community by the U.S. Department of Housing and Urban Development Annual Action Plan.

DISCUSSION

Staff is requesting Council to set a public hearing to consider the Tax Equity and Fiscal Responsibility Act (TEFRA) Regarding the Facilitation of Bond Sales by the Statewide Communities Development Authority for the Gateway Terrace II Project. The Merced Gateway Investors, LP, a limited

partnership established by the Central Valley Coalition for Affordable Housing (Coalition), submitted an application to the California Statewide Communities Development Authority (CSCDA) for tax exempt funds to construct a 50-unit multifamily housing development, "Gateway Terrace II." The project will be located at 13th and K Streets.

To finance the project, Merced Gateway Investors, LP, intends to use no more than \$9 million of tax-exempt bonds to finance construction, improvements, and equipping of the facility. The California Statewide Community Development Authority (the Authority) will issue the bonds. The City is not under any obligation to repay the bond indebtedness nor is there any liability in acting as facilitator of this public hearing.

In order for the Authority to issue bonds, the City must: (1) conduct a public hearing allowing members of the public to comment on the proposed project, and (2) approve of the Authority's issuance of bonds on behalf of the proposed financing. Although the Authority (not the City) will be the issuer of the tax-exempt revenue bonds, financing cannot proceed without the City being a member of the Authority, and, as the governmental entity having jurisdiction over the site, approve a resolution in favor of the Authority's issuance of indebtedness. The City of Merced is a member of the Authority.

IMPACT ON CITY RESOURCES

No appropriation of general funds is needed.

ATTACHMENTS

None



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-331

Meeting Date: 8/1/2016

Report Prepared by: *Deneen Proctor, Director of Support Services*

SUBJECT: Agreement for Special Services with Liebert Cassidy Whitmore.

REPORT IN BRIEF

Authorizes an agreement for employment relations services with Liebert Cassidy Whitmore.

RECOMMENDATION

City Council - Adopt a motion approving an agreement for special services with Liebert Cassidy Whitmore in an amount not to exceed \$60,000 for labor relations services.

ALTERNATIVES

1. Approve as recommended by staff; or,
2. Approve, subject to modification as conditioned by City Council; or,
3. Refer to staff for reconsideration of specific items; or,
4. Deny.

AUTHORITY

Charter of the City of Merced, Section 200 et. Seq.

Services with an estimated value greater than \$28,000 are made by written contract in accordance with Merced Municipal Code, Title 3 - Revenue and Finance, Chapter 3.04.

CITY COUNCIL PRIORITIES

As provided for in the 2016-2017 adopted budget.

DISCUSSION

The City has five represented bargaining units and four unrepresented groups. The City has had to deal with personnel matters in most of these groups and to be able to ensure compliance with all laws, rules, and regulations it is important to have legal counsel available to advise City staff. When possible, staff handles the issues internally, however when situations are more complex, outside legal counsel can provide their expertise to resolve the matter for the best outcome.

IMPACT ON CITY RESOURCES

No appropriation of Funds needed.

ATTACHMENTS

1. LCW Agreement

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation (“Attorney”), and the CITY OF MERCED, A Municipal Corporation (“City”).

1. Conditions

This Agreement will not take effect, and Attorney will have no obligation to provide services, until City returns a properly signed and executed copy of this Agreement.

2. Attorney’s Services

Attorney agrees to provide City with consulting, representational and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings, as requested by City or otherwise required by law.

3. Fees, Costs, Expenses

City agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including reasonable travel time billed one way, not to exceed \$60,000.00.

The current range of hourly rates for Attorney time is from Two Hundred to Three Hundred Thirty Dollars (\$200.00 - \$330.00), One Hundred Ninety-Five Dollars (\$195.00) for time of Labor Relations/HR Consultant and from Seventy-Five to One Hundred Sixty Dollars (\$75.00 - \$160.00) for time of paraprofessional and litigation support staff. Attorney reviews its hourly rates on an annual basis and, if appropriate, adjusts them effective July 1. Attorney will provide the City with written notification of

any adjustment in the range of rates. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour.

City agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of City. Attorney bills photocopying charges at Fifteen Cents (\$0.15) per page and facsimile charges at Fifty Cents (\$0.50) per page. A Public Agency Fee Schedule is attached to this Agreement.

Payment by City against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

4. Arbitration of Professional Liability or Other Claims

Disputes. If a dispute between City and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between City and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of

professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

5. File Retention

After our services conclude, Attorney will, upon City's request, deliver the file for the matter to City, along with any funds or property of City's in our possession. If City requests the file for the matter, Attorney will retain a copy of the file at the City's expense. If City does not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. If City does not request delivery of the file for this matter before the end of the seven (7) year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to City. At any point during the seven (7) year period, City may request delivery of the file.

6. Assignment:

This Agreement is not assignable without the written consent of City.

7. **Independent Contractor**

It is understood and agreed that Attorney, while engaged in performing the terms of this Agreement, is an independent contractor and not an employee of City.

8. **Authority**

The signators to this Agreement represent that they hold the positions set forth below their signatures, and that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

9. **Term**

This Agreement is effective July 1, 2016, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE,
A Professional Corporation

CITY OF MERCED,
A Municipal Corporation

By: [Signature]
 Name: Josiah Freeman
 Title: Mayor
 Date: 6.29.16

By: _____
 Name: _____
 Title: _____
 Date: _____

APPROVED AS TO FORM:

[Signature]
KELLY C. FINCHER
Chief Deputy City Attorney

I. PUBLIC AGENCY FEE SCHEDULE

Hourly Rates (As of Agreement Effective Date)

Partners	\$330.00
Senior Counsel	\$305.00
Associates	\$200.00 - \$285.00
Labor Relations/HR Consultant	\$195.00
Paraprofessionals & Litigation Support	\$75.00 - \$160.00

II. COST SCHEDULE

1. Photocopies	\$0.15 per copy
2. Facsimile Transmittal	\$0.50 per page



ADMINISTRATIVE REPORT

File #: 16-319

Meeting Date: 8/1/2016

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

SUBJECT: Public Hearing - Holding Election for Annexation No. 9 into Community Facilities District 2003-2 (Services)

REPORT IN BRIEF

Hold a public hearing and election for annexation into Community Facilities District 2003-2 (Services) Annexation No. 9 for property located at the southeast corner of Mercy Avenue and Mansionette Drive (Mansionette Estates Unit No. 5).

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.
- B. Adopt **Resolution 2016-37**, 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. 9.
- C. Hold Election.
- D. Adopt **Resolution 2016-38**, 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. 9 of said District.
- E. Adopt **Resolution 2016-39**, 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. 9 to said district and authorizing the levy of a special tax within said Annexation No. 9.

ALTERNATIVES

- 1. Hold the public hearing and approve the actions as recommended by staff; or,
- 2. Continue the public hearing and request modification or amendment of the documents and provide direction to City staff regarding the same; or,
- 3. Hold the public hearing and decline to authorize action as recommended.

AUTHORITY

Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code (the "Act"), commonly known as the "Mello-Roos Community Facilities Act of 1982," and the City's Policy on new development.

DISCUSSION

Pursuant to the Act and the City's policies, on July 18, 2016, the City Council, acting as the legislative body of the CFD, declared its intention to annex certain property to the Community Facilities District (CFD) No. 2003-2 (Services) for the ME-5, Incorporated development (Mansionette Estates Unit No. 5 - Attachment 1) who petitioned the City for annexation to the CFD (the "Development"). The services to be provided may include all or a portion of the following: police and fire protection services, maintenance of parks, landscaping, parkways, open space and storm drain maintenance and other services authorized or to be authorized by the Act and the City's Municipal Code. The annexation to the CFD is a condition of approval of recording the subdivision's map and is contained in the Subdivision Agreement of the developer.

In accordance with the Act, a map of the proposed boundaries of Annexation No. 9 was recorded with the City Clerk and filed with the County Recorder's Office.

A public hearing was properly noticed for this evening. Provided there is no majority protest at the close of the public hearing, the City Council may call a special election for this evening for the annexation to the CFD of Annexation No. 9. The Developer has submitted waivers regarding the election time. The special election will ask the Developer to authorize: (a) the annexation to the CFD of Annexation No. 9; and, (b) the levy of an annual special tax within Annexation No. 9. The Developer has submitted a sealed ballot to the City Clerk (the election official). Should the proposition pass with a two-thirds vote from the qualified voters (the landowner) as shown in the resolution canvassing the vote, the City may adopt the resolution of annexation.

The participating developer shall be responsible for the costs of annexation.

IMPACT ON CITY RESOURCES

The annexation of the property in CFD No. 2003-2 (Services) would allow a special tax to be levied on this property to cover the costs of landscape and storm drain maintenance and a portion of the costs for Police and Fire services to the area.

ATTACHMENTS

1. Location Map
2. Waiver from Developer
3. Draft Resolution determining the validity of the prior proceedings
4. Draft Resolution canvassing the results of the election
5. Draft Resolution annexing Annexation No. 9 into CFD No. 2003-2 (Services)

Mercy Hospital

DOMINICAN

Cruickshank Middle School

MERCY

Subject Site
Mansionette Estates
Unit No. 5

MANSIONETTE

ATTACHMENT 1



TO: CITY COUNCIL OF THE CITY OF MERCED
FROM: LANDOWNER REQUESTING ANNEXATION TO
COMMUNITY FACILITY DISTRICT 2003-2 (SERVICES)

**COMMUNITY FACILITY DISTRICT 2003-2 (SERVICES)
OF THE CITY OF MERCED
ANNEXATION NO. 9
(Improvement Area No. 33)**

**CONSENT AND WAIVER OF CERTAIN
PROCEDURES AND TIME REQUIREMENTS WITH RESPECT
TO PUBLIC HEARING AND LANDOWNER ELECTION**

The undersigned, on behalf of the landowner (the "Owner"), does hereby certify under penalty of perjury that the following statements are all true and correct:

1. The undersigned is authorized to represent the Owner identified below and is its designated representative to give the consent and waiver contained herein to the Community Facilities District No. 2003-2 of the City of Merced (the "CFD"), with respect to the inclusion of its properties within the CFD, to be annexed under the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act"), being Chapter 2.5 of Part 1 of Division 2 of title 5 (commencing with Section 53311) of the California Government Code.

2. The undersigned hereby certifies that as of the date indicated opposite his signature, the Owner listed herein is the owner of certain property within the proposed boundaries of the proposed Annexation No. 9 to the CFD described in Exhibit "A" hereto (the "Property"), which Property consists of approximately 5.92 acres of land. There are no registered voters residing within the Property, and there have been, and to the undersigned's best knowledge there will be, none during the 90-day period preceding the August 1, 2016 public hearing to be conducted by the City Council pursuant to Government Code Section 53339.3.

3. The Owner has had an opportunity to consult with legal counsel with respect to the matters contained herein and is fully and completely informed of and understands the matters contained herein.

4. The Owner hereby requests that the CFD conduct an annexation proceeding as soon as possible notwithstanding Section 53339.3(f) of the Act, hereby waives the requirement of Section 53339.3(f) of the Act requiring at least thirty days between adoption of the resolution of intention to annex and the holding of a public hearing, hereby consents to the legislative body of the CFD holding the public hearing on August 1, 2016, and hereby indemnifies the CFD and its officers, agents, successors and assigns from and against all claims, losses and damages, including legal fees and expenses, arising out of or due to Section 53339.3(f) of the Act.

5. On or about July 8, 2016, the Owner and the appropriate officers thereof were made aware of the August 1, 2016 public hearing to be held regarding the proposed annexation of the Property to the CFD and the imposition of the special tax. The Owner agrees that it received adequate notice of the hearing. The Owner and the appropriate officers thereof have received necessary and relevant information regarding the CFD and the imposition of the special tax and the City has made available to the Owner sufficient opportunity to obtain such information.

6. The Owner expressly waives all notice requirements relating to the public hearing to be conducted on August 1, 2016, whether by posting, publishing or mailing, and whether such requirements are found in the California Government Code or other laws or procedures.

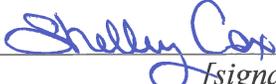
7. In accordance with the provisions of the Act, and specifically Sections 53339.7, 53326(a) and 53327(b) thereof allowing certain time and conduct requirements relative to a special landowner election to be waived with the unanimous consent of all the landowners to be included in Annexation No. 9 to the CFD and concurrence of the election official conducting the election, the Owner (i) expressly consents to the conduct of the special election at the earliest possible time following the adoption by the City Council of a resolution calling the election and (ii) expressly waives any requirement to have the special election conducted within the time periods specified in Section 53326 of the Act or in the California Elections Code.

8. The Owner waives any requirement for the mailing of the ballot for the special election and expressly agree that said election may be conducted by mailed or hand-delivered ballot to be returned as quickly as possible to the designated election official, being the office of the City Clerk of the City and the undersigned request that the results of said election be canvassed and reported to the City Clerk at the same meeting of the City as the public hearing on the annexation to the CFD or the next available meeting.

9. The Owner expressly waives all applicable waiting periods for the election and waives the requirement for analysis and arguments relating to the special election, as set forth in Section 53327 of the Act, and consents to not having such materials provided to the landowner in the ballot packet, and expressly waives any requirements as to the form of the ballot.

10. The Owner expressly waives all notice requirements relating to hearings and special elections, whether by posting, publishing or mailing, and whether such requirements are found in the California Elections Code, the California Government Code or other laws or procedures, including but not limited to any notice provided for by compliance with the provisions of Section 4101 of the California Elections Code.

11. The Owner hereby appoints Shelley Cox, as its authorized representative to vote in the election referred to herein and certifies that his or her true and exact signature is set forth below:



[signature]

12. The Owner hereby consents to and expressly waives any and all claims based on any irregularity, error, mistake or departure from the provisions of the Act or other laws of the State and any and all laws and requirements incorporated therein, and no step or action in any proceeding relative to the CFD or the special election therein shall be invalidated or affected by any such irregularity, error, mistake or departure.

IN WITNESS WHEREOF, I hereunto set my hand this 11 day of July, 2016.

OWNER:

ME-5, INC., a California corporation

By: *Della Wathen*

Name: Della Wathen

Title: President

12th FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MERCED THIS
DAY OF July, 2016.

Frank Quarta ACMP
City Clerk

EXHIBIT A

DESCRIPTION OF PROPERTY

APN(S): 231-040-001

The following described property is situated in the City of Merced, County of Merced, State of California:

Remainder Lot E as shown on that map entitled "Final Map for Mansionette Estates Unit 2," recorded in Volume 55, Page 12 of Merced County Records; also known as Assessor's Parcel Number (APN) 231-040-001.

RESOLUTION NO. _____

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. 9

WHEREAS, the City Council (the “Council”) of the City of Merced, California (the “City”), has heretofore formed the Community Facilities District No. 2003-2 (Services) of the City of Merced (the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (the “Act”);

WHEREAS, the City Council, acting as the legislative body of the District has heretofore adopted Resolution No. 2016-35 (the “Resolution of Intention to Annex”) stating its intention to annex certain property to the District (“Annexation No. 9”) pursuant to the Act; and

WHEREAS, a copy of the Resolution of Intention to Annex, incorporating a description and map of the proposed boundaries of Annexation No. 9 to the District and setting forth the amended rate and method of apportionment (the “Special Tax Formula”) and manner of collection of the special tax to be levied within the proposed Annexation No. 9, which will be used to finance certain public services, including but not limited to public safety services, landscape maintenance, park and parkway maintenance and flood control services and other services authorized pursuant to the Act (the “Services”) that are in addition to those provided in the territory within the proposed Annexation No. 9 prior to the annexation to the District and do not supplant services already available within the territory proposed to be included in the District, is on file with the City Clerk and incorporated herein by reference; and

WHEREAS, the Resolution of Intention to Annex set August 1, 2016, as the date of the public hearing on the annexation of proposed Annexation No. 9 to the District and this Council held said public hearing as required by law; and

WHEREAS, prior to the commencement of the hearing, there was filed with the City Council a Community Facilities Report prepared by Goodwin Consulting Group (the “CFD Report”) containing a boundary map of Annexation No. 9, a description of the services and maintenance, an estimate of the costs of the Services

and incidental expense to be financed by properties within the District, including Annexation No. 9, and the CFD Report has been reviewed by the Council and is incorporated herein and made a part of the record of the public hearing; and

WHEREAS, at said hearing all persons not exempt from the special tax desiring to be heard on all matters pertaining to the annexation of proposed Annexation No. 9 to the District were heard and a full and fair hearing was held; and

WHEREAS, at said hearing evidence was presented to the Council on said matters before it, and this Council at the conclusion of said hearing is fully advised in the premises; and

WHEREAS, this Council wishes to present to the qualified electors of Annexation No. 9 a proposition to levy special taxes on property within Annexation No. 9 pursuant to the Act;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MERCED, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2003-2 (SERVICES) OF THE CITY OF MERCED, AS FOLLOWS:

Section 1. Pursuant to Section 53339.7 of the Act, the Council finds and determines that the proceedings prior hereto were valid and in conformity with the requirements of the Act.

Section 2. Written protests against the annexation of Annexation No. 9 to the District, or against the furnishing of specified services or the levying of a specified special tax within Annexation No. 9, have not been filed by fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing within the existing District, or fifty percent (50%) or more of the registered voters or six registered voters, whichever is more, residing within Annexation No. 9, or by the owners of one-half or more of the area of land in the territory included in the existing District, or by the owners of one-half or more of the area of land in Annexation No. 9.

Section 3. The description and map of the boundaries of Annexation No. 9, on file in the City Clerk's office and as described in the Resolution of Intention to Annex, and incorporated herein by reference, shall be the boundaries of the Annexation No. 9. The map of the proposed amended boundaries of Annexation No. 9 has been recorded in the Office of the County Recorder of Merced County, California on July ____, 2016, in Book ____, pages _____ of the Book of Maps of Assessments and Community Facilities Districts (Instrument Number No. _____).

Section 4. Except where funds are otherwise available, there shall be levied annually in accordance with procedures contained in the Act on nonexempt property within Annexation No. 9, a special tax sufficient to finance the Services that are in addition to those provided in the territory within Annexation No. 9 prior to the annexation to the District and do not supplant services already available within the territory proposed to be included in the District and other costs, including but not limited to all costs of the tax levy. The amended rate and method of apportionment of the special tax and manner of collection is described in detail in Exhibit “A” attached hereto and incorporated herein by this reference. The Council hereby determines the Special Tax Formula to be reasonable. The special tax shall be utilized to pay for authorized Services and administrative expenses and to fund and replenish any reserve fund established for the District.

Section 5. Upon recordation of a notice of special tax lien pursuant to Section 3117.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in Annexation No. 9, and this lien shall continue in force and effect until the special tax obligation is prepaid or otherwise permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the District ceases.

Section 6. The Council finds that the proposed public services are necessary to meet the increased demand put upon the City as a result of the development within Annexation No. 9.

Section 7. The Council finds that there is not an ad valorem property tax currently being levied on property within the proposed Annexation No. 9 for the exclusive purpose of financing the Services.

Section 8. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the City Council hereby continues the following accountability measures pertaining to the levy by the District of the Special Tax described in Section 4 above:

A. Such Special Tax shall be levied for the specific purposes set forth in Section 7 hereof.

B. The proceeds of the levy of such Special Tax shall be applied only to the specific purposes set forth in Section 4 hereof.

C. The District shall establish an account or accounts into which the proceeds of such Special Tax shall be deposited.

D. The Finance Director, or his or her designee, acting for and on behalf of the District, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

Section 9. The Office of the Finance Director, 678 West 18th Street, Merced, California 95340, (209) 385-6844, or its designee, is designated to be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and for estimating future special tax levies pursuant to Section 53340.1 of the Government Code.

Section 10. Pursuant to Government Code Section 53353.5, the Council hereby submits to the qualified electors of Annexation No. 9 a proposition (the "Proposition") to annex into the District Annexation No. 9 and to levy special taxes on property within Annexation No. 9 in accordance with the Special Tax Formula. The Proposition is attached as Exhibit "B."

Section 11. A special election is hereby called for the Annexation No. 9 within the District on the Proposition set forth in Section 10 above.

Section 12. The Council hereby directs that the election be conducted by the City Clerk of the City of Merced, as the elections official.

Section 13. The City Clerk shall mail or hand deliver the ballot to the landowner immediately upon the adoption of this Resolution.

Section 14. The time for notice having been waived by the qualified electors, the date of the special election for the District on the proposition shall be on the 1st day of August, 2016. The voter ballot shall be returned to the City Clerk at 678 West 18th Street, Merced, California 95340, no later than 11:00 o'clock p.m. on August 1, 2016. The election may be closed with the concurrence of the City Clerk, as soon as all of the ballots are returned.

Section 15. The Council finds and determines that there were no registered voters residing within the territory of proposed Annexation No. 9 at the time of the protest hearing and ninety (90) days prior thereto. The requirements of Section 53326 of the Government Code having been waived by all of the landowners, the ballot for the special election shall be personally delivered to the landowners within the Annexation No. 9. Each landowner shall have one (1) vote for each acre or portion thereof that he or she owns within Annexation No. 9, as provided by Section 53326 of the Act.

Section 16. Annexation No. 9 within the District shall constitute a single election precinct for the purpose of holding said election.

Section 17. The Deputy City Clerk is directed to certify and attest to this Resolution.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Merced, acting as the legislative body for the District, this ____ day of _____, 2016 by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ASTAIN: Council Members:

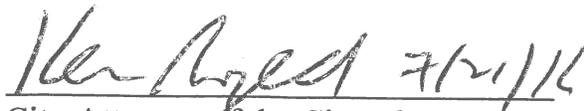
COMMUNITY FACILITIES DISTRICT
NO. 2003-2 (SERVICES) OF THE CITY
OF MERCED

By _____
Mayor

ATTEST:

Assistant/Deputy City Clerk

APPROVED AS TO FORM



City Attorney of the City of Merced

EXHIBIT A

**AMENDED RATE AND METHOD OF APPORTIONMENT
OF SPECIAL TAX**

EXHIBIT A

CITY OF MERCED COMMUNITY FACILITIES DISTRICT NO. 2003-2 (SERVICES)

AMENDED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX (as of August 1, 2016)

A Special Tax applicable to each Assessor Parcel in the City of Merced Community Facilities District No. 2003-2 (Services) shall be levied and collected according to the tax liability determined by the City of Merced or its designee, through the application of this Amended Rate and Method of Apportionment of Special Tax. All of the property in the CFD, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless otherwise provided for the annexed property.

SECTION A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor Parcel as shown on an Assessor Parcel map, or if the land area is not shown on an Assessor Parcel map, the land area shown on the applicable final map or other parcel map recorded with the County.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: the expenses of the CFD or the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, costs related to annexing property into the CFD, and all other costs and expenses of the CFD or the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the CFD or the City to administer the Special Tax according to the Rate and Method.

“Annexation #1” means the date the owners of Assessor Parcels in Improvement Area #3 and Improvement Areas #9 through #15 elected to annex into the CFD.

“Annexation #2” means the date the owners of Assessor Parcels in Improvement Area #7 elected to annex into the CFD.

“Annexation #3” means the date the owners of Assessor Parcels in Improvement Areas #16 through #22 elected to annex into the CFD.

“Annexation #4” means the date the owners of Assessor Parcels in Improvement Areas #23 through #25 and Improvement Area #27 elected to annex into the CFD.

“Annexation #5” means the date the owners of Assessor Parcels in Improvement Area #26 elected to annex into the CFD.

“Annexation #6” means the date the owners of Assessor Parcels in Improvement Area #28 elected to annex into the CFD.

“Annexation #7” means the date the owners of Assessor Parcels in Improvement Areas #29 through #31 elected to annex into the CFD.

“Annexation #8” means the date the owners of Assessor Parcels in Improvement Area #32 elected to annex into the CFD.

“Annexation #9” means the date the owners of Assessor Parcels in Improvement Area #33 elected to annex into the CFD.

“Assessor Parcel” means a lot or parcel with an assigned County Assessor’s Parcel number shown on a County Assessor’s Parcel map.

“Average Increase” means the annual average increase in the Indices that shall be applied to escalate the Maximum Special Tax each Fiscal Year. The Average Increase shall be calculated in January of each year by (1) referencing the Bureau of Labor Statistics Data to identify the annual percentage increase in each Index as of the end of the prior year, and (2) taking the average of these two percentages. If either Index decreases from one year to the next, the percentage change from the prior year shall be assumed to be zero for purposes of calculating the Average Increase.

“CFD” means the City of Merced Community Facilities District No. 2003-2.

“CFD Formation” means the date the owners of Assessor Parcels in Improvement Areas #1 through #6 elected to form the CFD.

“City” means the City of Merced.

“City Council” means the council of the City of Merced, acting as the legislative body of the CFD.

“County” means the County of Merced.

“Developed Property” means all Taxable Property in the CFD for which a building permit for new construction was issued by the City prior to May 1 of the preceding Fiscal Year.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Improvement Area” means one of the thirty-three (33) mutually exclusive geographic areas defined below and identified in Attachment 1 of this Rate and Method, and any subsequent Improvement Areas created to contain property annexed into the CFD after CFD Formation.

“Improvement Area #1” means the geographic area that, at CFD Formation and Annexation #2, was generally known as the Bellevue Ranch East (Phases 1 and 2) project and is specifically identified in Attachment 1 hereto as Improvement Area #1.

“Improvement Area #2” means the geographic area that, at CFD Formation, was generally known as the Compass Pointe project and is specifically identified in Attachment 1 hereto as Improvement Area #2.

“Improvement Area #3” means the geographic area that, at CFD Formation, Annexation #1, and Annexation #3, was generally known as the Sandcastle project and is specifically identified in Attachment 1 hereto as Improvement Area #3.

“Improvement Area #4” means the geographic area that, at CFD Formation and Annexation #2, was generally known as the Bright Development project and is specifically identified in Attachment 1 hereto as Improvement Area #4.

“Improvement Area #5” means the geographic area that, at CFD Formation and Annexation #2, was generally known as the Renaissance project and is specifically identified in Attachment 1 hereto as Improvement Area #5.

“Improvement Area #6” means the geographic area that, at CFD Formation, was generally known as the Big Valley project and is specifically identified in Attachment 1 hereto as Improvement Area #6.

“Improvement Area #7” means the geographic area that, at Annexation #2, was generally known as the Bellevue Ranch West project and is specifically identified in Attachment 1 hereto as Improvement Area #7.

“Improvement Area #8” is intentionally excluded.

“Improvement Area #9” means the geographic area that, at Annexation #1, was generally known as the University Park Residential project and is specifically identified in Attachment 1 hereto as Improvement Area #9.

“Improvement Area #10” means the geographic area that, at Annexation #1, was generally known as the Tuscany project and is specifically identified in Attachment 1 hereto as Improvement Area #10.

“Improvement Area #11” means the geographic area that, at Annexation #1, was generally known as the Provance project and is specifically identified in Attachment 1 hereto as Improvement Area #11.

"Improvement Area #12" means the geographic area that, at Annexation #1, was generally known as the Promenade project and is specifically identified in Attachment 1 hereto as Improvement Area #12.

"Improvement Area #13" means the geographic area that, at Annexation #1, was generally known as the Alfarata Ranch Unit 2 project and is specifically identified in Attachment 1 hereto as Improvement Area #13.

"Improvement Area #14" means the geographic area that, at Annexation #1 and Annexation #2, was generally known as the Franco project and is specifically identified in Attachment 1 hereto as Improvement Area #14.

"Improvement Area #15" means the geographic area that, at Annexation #1, was generally known as the Cottages project and is specifically identified in Attachment 1 hereto as Improvement Area #15.

"Improvement Area #16" means the geographic area that, at Annexation #3, was generally known as the Tuscany East project and is specifically identified in Attachment 1 hereto as Improvement Area #16.

"Improvement Area #17" means the geographic area that, at Annexation #3, was generally known as the Hartley Crossings project and is specifically identified in Attachment 1 hereto as Improvement Area #17.

"Improvement Area #18" means the geographic area that, at Annexation #3, was generally known as The Crossing at River Oaks project and is specifically identified in Attachment 1 hereto as Improvement Area #18.

"Improvement Area #19" means the geographic area that, at Annexation #3, was generally known as the Mohamed Apartments project and is specifically identified in Attachment 1 hereto as Improvement Area #19.

"Improvement Area #20" means the geographic area that, at Annexation #3, was generally known as the Sunnyview Apartments project and is specifically identified in Attachment 1 hereto as Improvement Area #20.

"Improvement Area #21" means the geographic area that, at Annexation #3, was generally known as the University Park II project and is specifically identified in Attachment 1 hereto as Improvement Area #21.

"Improvement Area #22" means the geographic area that, at Annexation #3, was generally known as the Moraga of Merced Lakemont Homes project and is specifically identified in Attachment 1 hereto as Improvement Area #22.

"Improvement Area #23" means the geographic area that, at Annexation #4, was generally known as the Mission Ranch project and is specifically identified in Attachment 1 hereto as Improvement Area #23.

“Improvement Area #24” means the geographic area that, at Annexation #4, was generally known as the Cypress Terrace (Phases 6 and 7) project and is specifically identified in Attachment 1 hereto as Improvement Area #24.

“Improvement Area #25” means the geographic area that, at Annexation #4, was generally known as the Cypress Terrace East project and is specifically identified in Attachment 1 hereto as Improvement Area #25.

“Improvement Area #26” means the geographic area that, at Annexation #5, was generally known as The Meadows project and is specifically identified in Attachment 1 hereto as Improvement Area #26.

“Improvement Area #27” means the geographic area that, at Annexation #4, was generally known as the Lantana Estates South project and is specifically identified in Attachment 1 hereto as Improvement Area #27.

“Improvement Area #28” means the geographic area that, at Annexation #6, was generally known as The Meadows #2 project and is specifically identified in Attachment 1 hereto as Improvement Area #28.

“Improvement Area #29” means the geographic area that, at Annexation #7, was generally known as the Paseo project and is specifically identified in Attachment 1 hereto as Improvement Area #29.

“Improvement Area #30” means the geographic area that, at Annexation #7, was generally known as the Highland Park project and is specifically identified in Attachment 1 hereto as Improvement Area #30.

“Improvement Area #31” means the geographic area that, at Annexation #7, was generally known as the Mercy Hospital project and is specifically identified in Attachment 1 hereto as Improvement Area #31.

“Improvement Area #32” means the geographic area that, at Annexation #8, was generally known as the Fahrens Park Plaza project and is specifically identified in Attachment 1 hereto as Improvement Area #32.

“Improvement Area #33” means the geographic area that, at Annexation #9, was generally known as the Mansionette Estates No. 5 project and is specifically identified in Attachment 1 hereto as Improvement Area #33.

“Index or Indices” means the Consumer Price Index (CPI) for the San Francisco All Urban Wage Earners Category and the National CPI.

“Industrial Property” means any Developed Property for which a building permit was issued for construction of a building that will be used primarily for warehousing, distribution, manufacturing, processing, or related activities, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Maximum Special Tax” means the greatest amount of Special Tax that can be levied in any Fiscal Year determined under this Rate and Method.

“Multi-Family Residential Property” means all Assessor Parcels of Developed Property for which a building permit was issued for construction of a residential structure with multiple Units, all of which are offered for rent to the general public and are not available for sale to individual owners.

“Office Property” means any Developed Property for which a building permit was issued for construction of a building that will be divided primarily into individual offices (including cubicles or other modular office space) for use by companies to conduct business, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Other Property” means any Developed Property that is not Single Family Residential Property, Multi-Family Residential Property, Retail Property, Office Property, or Industrial Property. Developed Property within Improvement Area #31 shall be categorized as Other Property.

“Proportionately” means, for Developed Property, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor Parcels of Developed Property.

“Public Property” means any CFD Assessor Parcels owned by or irrevocably offered for dedication to the United States of America, the State of California, the County, the City, or other local governments or public agencies.

“Rate and Method” means this Amended Rate and Method of Apportionment of Special Tax.

“Retail Property” means any Developed Property for which a building permit was issued for construction of a building that will include primarily commercial establishments which sell general merchandise, hard goods, personal services, and other items directly to consumers, including but not limited to travel agencies, hardware stores, food stores, automotive dealers, service stations, home furnishing stores, restaurants, bars, banks, repair shops, movie theaters, day care centers, and art galleries, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Services” means the services authorized to be financed, in whole or in part, by the Special Taxes in the CFD.

“Single Family Residential Property” means any Developed Property for which a building permit was issued for construction of: (i) a Unit that does not share a common wall with another Unit; or (ii) two or more Units that share common walls and are initially offered for sale to individual owners, including condominiums as defined under California Civil Code 1351.

“Special Tax” means any tax levied in the CFD pursuant to the Rate and Method.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to: (i) pay the cost of the Services; (ii) create a sinking fund for Services that could not otherwise be funded in a given Fiscal Year; (iii) cure any delinquencies in the payment of Special Taxes which have occurred in the prior Fiscal Year or, based on existing delinquencies in the payment of Special Taxes, are expected to occur in the Fiscal Year in which the tax will be collected; and (iv) pay Administrative Expenses.

“Square Foot,” “Square Footage,” or “Square Feet” means the floor area square footage reflected on the original construction building permit issued for construction of a Unit or a building of Retail Property, Office Property, Industrial Property, or Other Property and any Square Footage subsequently added to a Unit or a building of such Taxable Property after issuance of a building permit for expansion or renovation of such Unit or building.

“Taxable Property” means any Assessor Parcel within the CFD which is not exempt from the Special Tax by applicable law or Section F below.

“Unit” means a structure constructed primarily for human habitation, which may be an individual detached residential unit, an individual attached residential unit within a duplex, triplex, fourplex, townhome, or condominium structure, or an individual apartment unit.

SECTION B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor Parcel numbers of all Taxable Property. The Administrator shall also determine: (i) within which Improvement Area each Assessor Parcel is located; (ii) whether each Assessor Parcel is Developed Property; (iii) for Developed Property, which Assessor Parcels are Single Family Residential Property, Multi-Family Residential Property, Retail Property, Office Property, Industrial Property, and Other Property; (iv) also for Developed Property, the Unit or building Square Footage; and (v) the Special Tax Requirement.

SECTION C. MAXIMUM SPECIAL TAX

1. *Special Tax Rates, Improvement Area #1 – Bellevue Ranch East (Phases 1 & 2)*

Table 1 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #1 of the CFD.

**TABLE 1
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #1 – BELLEVUE RANCH EAST (PHASES 1 & 2)**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$548 per Unit
Multi-Family Residential Property	\$476 per Unit
Retail Property	\$64 per 1,000 Square Feet of Building
Office Property	\$59 per 1,000 Square Feet of Building
Industrial Property	\$40 per 1,000 Square Feet of Building
Other Property	\$64 per 1,000 Square Feet of Building

2. *Special Tax Rates, Improvement Area #2 – Compass Pointe*

Table 2 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #2 of the CFD.

**TABLE 2
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #2 – COMPASS POINTE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$644 per Unit
Multi-Family Residential Property	\$539 per Unit
Retail Property	\$110 per 1,000 Square Feet of Building
Office Property	\$103 per 1,000 Square Feet of Building
Industrial Property	\$68 per 1,000 Square Feet of Building
Other Property	\$110 per 1,000 Square Feet of Building

3. *Special Tax Rates, Improvement Area #3 - Sandcastle*

Table 3 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #3 of the CFD.

**TABLE 3
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #3 - SANDCASTLE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$593 per Unit
Multi-Family Residential Property	\$512 per Unit
Retail Property	\$80 per 1,000 Square Feet of Building
Office Property	\$76 per 1,000 Square Feet of Building
Industrial Property	\$48 per 1,000 Square Feet of Building
Other Property	\$80 per 1,000 Square Feet of Building

4. *Special Tax Rates, Improvement Area #4 - Bright Development*

Table 4 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #4 of the CFD.

**TABLE 4
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #4 – BRIGHT DEVELOPMENT**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$609 per Unit
Multi-Family Residential Property	\$520 per Unit
Retail Property	\$89 per 1,000 Square Feet of Building
Office Property	\$84 per 1,000 Square Feet of Building
Industrial Property	\$54 per 1,000 Square Feet of Building
Other Property	\$89 per 1,000 Square Feet of Building

5. *Special Tax Rates, Improvement Area #5 - Renaissance*

Table 5 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #5 of the CFD.

**TABLE 5
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #5 - RENAISSANCE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$489 per Unit
Multi-Family Residential Property	\$429 per Unit
Retail Property	\$43 per 1,000 Square Feet of Building
Office Property	\$37 per 1,000 Square Feet of Building
Industrial Property	\$29 per 1,000 Square Feet of Building
Other Property	\$43 per 1,000 Square Feet of Building

6. *Special Tax Rates, Improvement Area #6 - Big Valley*

Table 6 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #6 of the CFD.

**TABLE 6
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #6 – BIG VALLEY**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$524 per Unit
Multi-Family Residential Property	\$474 per Unit
Retail Property	\$40 per 1,000 Square Feet of Building
Office Property	\$40 per 1,000 Square Feet of Building
Industrial Property	\$22 per 1,000 Square Feet of Building
Other Property	\$40 per 1,000 Square Feet of Building

7. *Special Tax Rates, Improvement Area #7 – Bellevue Ranch West*

Table 7 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #7 of the CFD.

**TABLE 7
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #7 – BELLEVUE RANCH WEST**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$701 per Unit
Multi-Family Residential Property	\$600 per Unit
Retail Property	\$116 per 1,000 Square Feet of Building
Office Property	\$115 per 1,000 Square Feet of Building
Industrial Property	\$67 per 1,000 Square Feet of Building
Other Property	\$116 per 1,000 Square Feet of Building

8. *Special Tax Rates, Improvement Area #8 – Intentionally Excluded*

9. *Special Tax Rates, Improvement Area #9 – University Park Residential*

Table 9 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #9 of the CFD.

**TABLE 9
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #9 – UNIVERSITY PARK RESIDENTIAL**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$643 per Unit
Multi-Family Residential Property	\$544 per Unit
Retail Property	\$105 per 1,000 Square Feet of Building
Office Property	\$99 per 1,000 Square Feet of Building
Industrial Property	\$64 per 1,000 Square Feet of Building
Other Property	\$105 per 1,000 Square Feet of Building

10. *Special Tax Rates, Improvement Area #10 – Tuscany*

Table 10 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #10 of the CFD.

**TABLE 10
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #10 – TUSCANY**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$480 per Unit
Multi-Family Residential Property	\$427 per Unit
Retail Property	\$35 per 1,000 Square Feet of Building
Office Property	\$31 per 1,000 Square Feet of Building
Industrial Property	\$23 per 1,000 Square Feet of Building
Other Property	\$35 per 1,000 Square Feet of Building

11. *Special Tax Rates, Improvement Area #11 - Provance*

Table 11 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #11 of the CFD.

TABLE 11
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #11 - PROVANCE

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$638 per Unit
Multi-Family Residential Property	\$542 per Unit
Retail Property	\$101 per 1,000 Square Feet of Building
Office Property	\$96 per 1,000 Square Feet of Building
Industrial Property	\$61 per 1,000 Square Feet of Building
Other Property	\$101 per 1,000 Square Feet of Building

12. *Special Tax Rates, Improvement Area #12 - Promenade*

Table 12 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #12 of the CFD.

TABLE 12
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #12 – PROMENADE

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$438 per Unit
Multi-Family Residential Property	\$401 per Unit
Retail Property	\$14 per 1,000 Square Feet of Building
Office Property	\$12 per 1,000 Square Feet of Building
Industrial Property	\$10 per 1,000 Square Feet of Building
Other Property	\$14 per 1,000 Square Feet of Building

13. *Special Tax Rates, Improvement Area #13 – Alfarata Ranch Unit 2*

Table 13 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #13 of the CFD.

TABLE 13
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #13 – ALFARATA RANCH UNIT 2

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$593 per Unit
Multi-Family Residential Property	\$471 per Unit
Retail Property	\$116 per 1,000 Square Feet of Building
Office Property	\$100 per 1,000 Square Feet of Building
Industrial Property	\$80 per 1,000 Square Feet of Building
Other Property	\$116 per 1,000 Square Feet of Building

14. *Special Tax Rates, Improvement Area #14 – Franco*

Table 14 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #14 of the CFD.

TABLE 14
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #14 – FRANCO

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$504 per Unit
Multi-Family Residential Property	\$430 per Unit
Retail Property	\$57 per 1,000 Square Feet of Building
Office Property	\$49 per 1,000 Square Feet of Building
Industrial Property	\$40 per 1,000 Square Feet of Building
Other Property	\$57 per 1,000 Square Feet of Building

15. *Special Tax Rates, Improvement Area #15 – Cottages*

Table 15 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #15 of the CFD.

TABLE 15
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #15 – COTTAGES

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$631 per Unit
Multi-Family Residential Property	\$548 per Unit
Retail Property	\$87 per 1,000 Square Feet of Building
Office Property	\$86 per 1,000 Square Feet of Building
Industrial Property	\$50 per 1,000 Square Feet of Building
Other Property	\$87 per 1,000 Square Feet of Building

16. *Special Tax Rates, Improvement Area #16 – Tuscany East*

Table 16 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #16 of the CFD.

TABLE 16
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #16 – TUSCANY EAST

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$572 per Unit
Multi-Family Residential Property	\$486 per Unit
Retail Property	\$77 per 1,000 Square Feet of Building
Office Property	\$70 per 1,000 Square Feet of Building
Industrial Property	\$50 per 1,000 Square Feet of Building
Other Property	\$77 per 1,000 Square Feet of Building

17. *Special Tax Rates, Improvement Area #17 – Hartley Crossings*

Table 17 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #17 of the CFD.

TABLE 17
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #17 – HARTLEY CROSSINGS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$528 per Unit
Multi-Family Residential Property	\$438 per Unit
Retail Property	\$73 per 1,000 Square Feet of Building
Office Property	\$61 per 1,000 Square Feet of Building
Industrial Property	\$52 per 1,000 Square Feet of Building
Other Property	\$73 per 1,000 Square Feet of Building

18. *Special Tax Rates, Improvement Area #18 – The Crossing at River Oaks*

Table 18 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #18 of the CFD.

TABLE 18
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #18 – THE CROSSING AT RIVER OAKS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$639 per Unit
Multi-Family Residential Property	\$529 per Unit
Retail Property	\$110 per 1,000 Square Feet of Building
Office Property	\$100 per 1,000 Square Feet of Building
Industrial Property	\$71 per 1,000 Square Feet of Building
Other Property	\$110 per 1,000 Square Feet of Building

19. *Special Tax Rates, Improvement Area #19 – Mohamed Apartments*

Table 19 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #19 of the CFD.

TABLE 19
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #19 – MOHAMED APARTMENTS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$433 per Unit
Multi-Family Residential Property	\$408 per Unit
Retail Property	Not Applicable
Office Property	Not Applicable
Industrial Property	Not Applicable
Other Property	Not Applicable

20. *Special Tax Rates, Improvement Area #20 – Sunnyview Apartments*

Table 20 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #20 of the CFD.

TABLE 20
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #20 – SUNNYVIEW APARTMENTS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$433 per Unit
Multi-Family Residential Property	\$408 per Unit
Retail Property	Not Applicable
Office Property	Not Applicable
Industrial Property	Not Applicable
Other Property	Not Applicable

21. *Special Tax Rates, Improvement Area #21 – University Park II*

Table 21 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #21 of the CFD.

TABLE 21
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #21 – UNIVERSITY PARK II

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$691 per Unit
Multi-Family Residential Property	\$548 per Unit
Retail Property	\$149 per 1,000 Square Feet of Building
Office Property	\$133 per 1,000 Square Feet of Building
Industrial Property	\$98 per 1,000 Square Feet of Building
Other Property	\$149 per 1,000 Square Feet of Building

22. *Special Tax Rates, Improvement Area #22 – Moraga of Merced Lakemont Homes*

Table 22 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #22 of the CFD.

TABLE 22
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #22 – MORAGA OF MERCED LAKEMONT HOMES

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$752 per Unit
Multi-Family Residential Property	\$623 per Unit
Retail Property	\$147 per 1,000 Square Feet of Building
Office Property	\$140 per 1,000 Square Feet of Building
Industrial Property	\$89 per 1,000 Square Feet of Building
Other Property	\$147 per 1,000 Square Feet of Building

23. *Special Tax Rates, Improvement Area #23 – Mission Ranch*

Table 23 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #23 of the CFD.

TABLE 23
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #23 – MISSION RANCH

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$774 per Unit
Multi-Family Residential Property	\$595 per Unit
Retail Property	\$194 per 1,000 Square Feet of Building
Office Property	\$174 per 1,000 Square Feet of Building
Industrial Property	\$128 per 1,000 Square Feet of Building
Other Property	\$194 per 1,000 Square Feet of Building

24. *Special Tax Rates, Improvement Area #24 – Cypress Terrace (Phases 6 and 7)*

Table 24 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #24 of the CFD.

TABLE 24
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #24 – CYPRESS TERRACE (PHASES 6 AND 7)

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$728 per Unit
Multi-Family Residential Property	\$606 per Unit
Retail Property	\$137 per 1,000 Square Feet of Building
Office Property	\$130 per 1,000 Square Feet of Building
Industrial Property	\$83 per 1,000 Square Feet of Building
Other Property	\$137 per 1,000 Square Feet of Building

25. *Special Tax Rates, Improvement Area #25 – Cypress Terrace East*

Table 25 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #25 of the CFD.

TABLE 25
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #25 – CYPRESS TERRACE EAST

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$914 per Unit
Multi-Family Residential Property	\$737 per Unit
Retail Property	\$218 per 1,000 Square Feet of Building
Office Property	\$209 per 1,000 Square Feet of Building
Industrial Property	\$131 per 1,000 Square Feet of Building
Other Property	\$218 per 1,000 Square Feet of Building

26. *Special Tax Rates, Improvement Area #26 – The Meadows*

Table 26 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #26 of the CFD.

TABLE 26
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #26 – THE MEADOWS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$947 per Unit
Multi-Family Residential Property	\$743 per Unit
Retail Property	\$225 per 1,000 Square Feet of Building
Office Property	\$215 per 1,000 Square Feet of Building
Industrial Property	\$135 per 1,000 Square Feet of Building
Other Property	\$225 per 1,000 Square Feet of Building

27. *Special Tax Rates, Improvement Area #27 – Lantana Estates South*

Table 27 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #27 of the CFD.

TABLE 27
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #27 – LANTANA ESTATES SOUTH

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$834 per Unit
Multi-Family Residential Property	\$700 per Unit
Retail Property	\$166 per 1,000 Square Feet of Building
Office Property	\$164 per 1,000 Square Feet of Building
Industrial Property	\$95 per 1,000 Square Feet of Building
Other Property	\$166 per 1,000 Square Feet of Building

28. *Special Tax Rates, Improvement Area #28 – The Meadows #2*

Table 28 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #28 of the CFD.

TABLE 28
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #28 – THE MEADOWS #2

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$947 per Unit
Multi-Family Residential Property	\$743 per Unit
Retail Property	\$225 per 1,000 Square Feet of Building
Office Property	\$215 per 1,000 Square Feet of Building
Industrial Property	\$135 per 1,000 Square Feet of Building
Other Property	\$225 per 1,000 Square Feet of Building

29. *Special Tax Rates, Improvement Area #29 – Paseo*

Table 29 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #29 of the CFD.

**TABLE 29
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #29 – PASEO**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$1,008 per Unit
Multi-Family Residential Property	\$762 per Unit
Retail Property	\$294 per 1,000 Square Feet of Building
Office Property	\$271 per 1,000 Square Feet of Building
Industrial Property	\$186 per 1,000 Square Feet of Building
Other Property	\$294 per 1,000 Square Feet of Building

30. *Special Tax Rates, Improvement Area #30 – Highland Park*

Table 30 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #30 of the CFD.

**TABLE 30
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #30 – HIGHLAND PARK**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$650 per Unit
Multi-Family Residential Property	\$557 per Unit
Retail Property	\$97 per 1,000 Square Feet of Building
Office Property	\$93 per 1,000 Square Feet of Building
Industrial Property	\$58 per 1,000 Square Feet of Building
Other Property	\$97 per 1,000 Square Feet of Building

31. *Special Tax Rates, Improvement Area #31 – Mercy Hospital*

Table 31 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #31 of the CFD.

**TABLE 31
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #31 – MERCY HOSPITAL**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$172 per Unit
Multi-Family Residential Property	\$139 per Unit
Retail Property	\$59 per 1,000 Square Feet of Building
Office Property	\$62 per 1,000 Square Feet of Building
Industrial Property	\$30 per 1,000 Square Feet of Building
Other Property	\$59 per 1,000 Square Feet of Building

32. *Special Tax Rates, Improvement Area #32 – Fahrens Park Plaza*

Table 32 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #32 of the CFD.

**TABLE 32
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #32 – FAHRENS PARK PLAZA**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$988 per Unit
Multi-Family Residential Property	\$889 per Unit
Retail Property	\$161 per 1,000 Square Feet of Building
Office Property	\$181 per 1,000 Square Feet of Building
Industrial Property	\$71 per 1,000 Square Feet of Building
Other Property	\$181 per 1,000 Square Feet of Building

33. *Special Tax Rates, Improvement Area #33 – Mansionette Estates No. 5*

Table 33 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #33 of the CFD.

**TABLE 33
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #33 – MANSIONETTE ESTATES NO. 5**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$1,130 per Unit
Multi-Family Residential Property	\$957 per Unit
Retail Property	\$252 per 1,000 Square Feet of Building
Office Property	\$260 per 1,000 Square Feet of Building
Industrial Property	\$133 per 1,000 Square Feet of Building
Other Property	\$260 per 1,000 Square Feet of Building

¹ *The Maximum Special Taxes will be more than the amounts listed in the tables above due to the annual CPI adjustment identified in Section C.34.*

34. *Special Tax Increases*

In January 2004, and each January thereafter, all figures shown in Tables 1 through 15 above shall be adjusted by applying the Average Increase, if any, in the Indices. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

In January 2006, and each January thereafter, all figures shown in Tables 16 through 33 above shall be adjusted by applying the Average Increase, if any, in the Indices. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

SECTION D. METHOD OF LEVY

Each Fiscal Year, the Special Tax shall be levied on all Assessor Parcels of Developed Property, separately for each Improvement Area, according to the steps outlined below.

Step 1: Determine for an Improvement Area the Special Tax Requirement, as defined in Section A above, for the Fiscal Year in which the Special Tax will be collected;

Step 2: Calculate the total Special Tax revenues that could be collected from Developed Property in the Improvement Area based on application of the Maximum Special Tax rates determined pursuant to Section C above;

Step 3: If the amount determined in Step 1 is greater than or equal to the amount calculated in Step 2, levy the Maximum Special Tax on all Assessor Parcels of Developed Property in the Improvement Area;

Step 4: If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax Proportionately on each Assessor Parcel of Developed Property in the Improvement Area so the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

SECTION E. COLLECTION

Except as may be provided by the CFD or the City, and for delinquencies, the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes. The Special Tax obligation applicable to an Assessor Parcel in the CFD may not be prepaid and the obligation of the Assessor Parcel to pay the Special Tax may not be permanently satisfied.

SECTION F. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method, no Special Tax shall be levied on Public Property, except as otherwise provided in the Act.

SECTION G. INTERPRETATION

The Administrator may interpret this Rate and Method as necessary to clarify any inconsistency, vagueness, or ambiguity.

SECTION H. APPEALS

Appeals of any claim of incorrect computation of Special Tax or application of this Rate and Method may be made by the owner of an Assessor Parcel or such owner's duly-authorized representative by filing a written notice of appeal with the Administrator not later than thirty (30) days after having paid the disputed Special Tax. The Administrator shall promptly review the appeal and, if necessary, meet with the property owner (or representative), consider written and oral evidence regarding the amount of the Special Tax, and decide the appeal. If the property owner disagrees with the Administrator's decision, the owner may then file a written appeal with the Council, whose decision shall be final. If the decision of the Administrator or

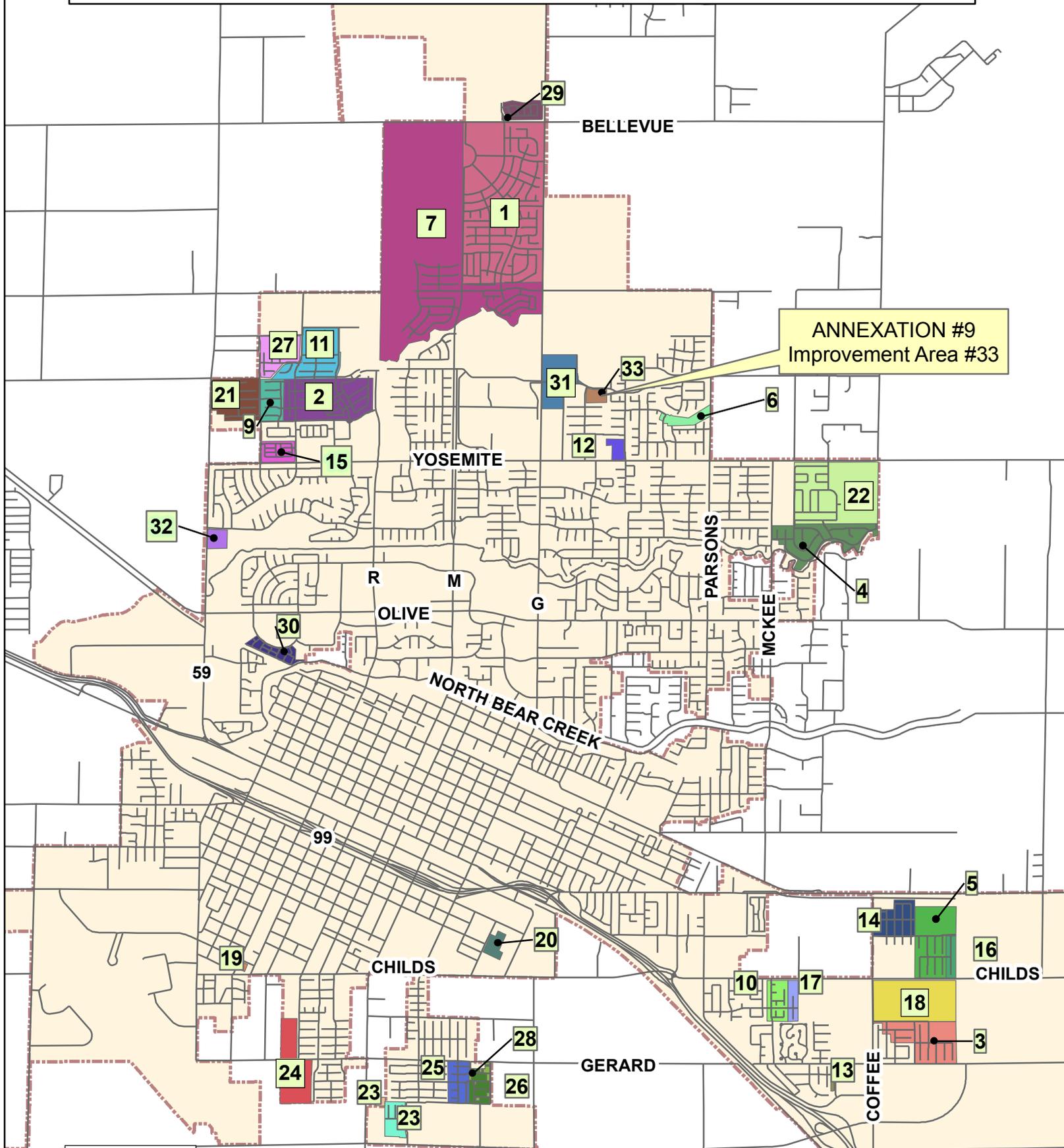
the Council requires the Special Tax to be modified or changed in favor of the property owner, no cash refund shall be made for prior years' Special Tax levies, but an adjustment shall be made to the next Special Tax levy(ies) as appropriate. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

ATTACHMENT 1

**BOUNDARY MAP
AND IMPROVEMENT AREAS OF
CITY OF MERCED
COMMUNITY FACILITIES DISTRICT NO. 2003-2
(SERVICES)**

(to come from City)

COMMUNITY FACILITIES DISTRICT 2003-2 (SERVICES) IMPROVEMENT AREAS

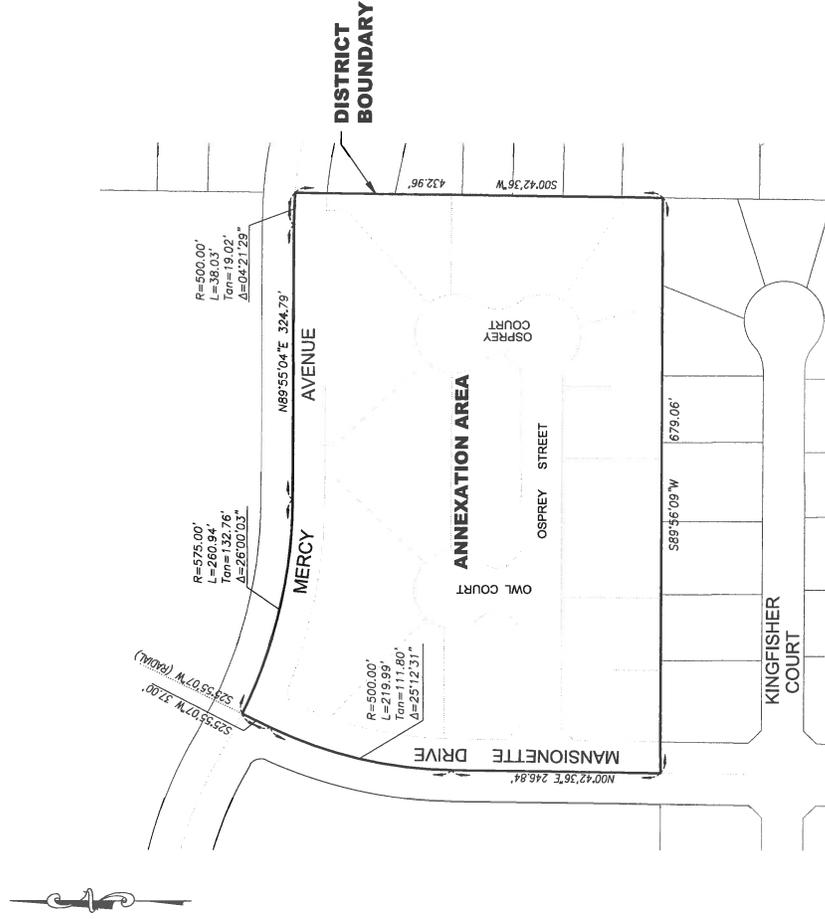


ANNEXATION #9
Improvement Area #33

LEGEND
City Limit

CITY OF MERCED
COUNTY OF MERCED
STATE OF CALIFORNIA

BOUNDARY MAP AND IMPROVEMENT AREAS OF THE CITY OF MERCED COMMUNITY FACILITIES DISTRICT NO. 2003-2 (SERVICES), ANNEXATION NO. 9



MANSIONETTE ESTATES UNIT 5
SCALE 1"=100'

Table 1
City of Merced Services CFD Annexation #9
Project Specific Analysis
Project Land Use and Services Data

Land Use	Mansionette Estates No. 5
<hr/>	
<u>Residential (Dwelling Units)</u>	
Single Family	20
Multi-Family	0
<u>Non-Residential (Square Feet)</u>	
Retail	0
Office	0
Industrial	0
<u>Other</u>	
Full Landscaped Acres	0.31
Basin/Partial Landscaped Acres	0.00
Storm Drainage Miles	0.04
Bike Path Square Footage	0
Street Lights	8

Sources: City of Merced; Goodwin Consulting Group, Inc.

6/28/2016

Table 2
City of Merced Services CFD Annexation #9
Project Specific Analysis
City Cost and Allocation Data

	Landscaping Maintenance	Storm Drainage Maintenance
Expenditures /1	\$341,749	\$464,196
Dwelling Unit Equivalentents (DUEs)		
<u>Residential DUEs (per Dwelling Unit)</u>		
Single Family	1.00	1.00
Multi-Family	0.88	0.33
<u>Non-Residential DUEs (per 1,000 SF)</u>		
Retail	0.28	0.77
Office	0.32	0.64
Industrial	0.12	0.55
Cost Factors /2		
Landscaped Acres	17	
Storm Drainage Miles		36
Annual Cost per Acre (Full Landscape)	\$26,134	
Annual Cost per Storm Drainage Mile		\$16,763
Additional Cost Factors /2		
Annual Cost per Acre (Basin/Partial Landscape) /3	\$19,600	
Annual Bike Path Maintenance Cost per Square Foot	\$0.25	
Annual Street Light Maintenance Cost per Street Light	\$136	
Annual Storm Pump Maintenance Cost		\$17,680
Annual Basin Maintenance Cost		\$5,200

/1 Expenditures include costs associated with the following budget categories: personnel, supplies and services, non-capital acquisitions, administrative, and interdepartmental services.

/2 A 30% factor is added to each cost to account for the effects of prevailing wage.

/3 Equals 75% of the cost per full landscaped acre.

Table 3
City of Merced Services CFD Annexation #9
Project Specific Analysis
Landscaping, Street Light, and Basin Maintenance

Mansionette Estates No. 5	
<hr/>	
Land Uses & DUEs	
<u>Residential (Dwelling Units)</u>	
Single Family	20
Multi-Family	0
<u>Non-Residential (Square Feet)</u>	
Retail	0
Office	0
Industrial	0
Dwelling Unit Equivalents	20
<hr/>	
Annual Costs	
Full Landscape	\$8,219
Street Light Maintenance	\$1,085
Basin/Partial Landscape	\$0
Bike Path Maintenance	\$0
Total Cost	\$9,304
Cost per DUE	\$465
Special Tax Rates	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$465
Multi-Family	\$409
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$130
Office	\$149
Industrial	\$56
<hr/>	
Annual Special Tax Revenue	
<u>Residential</u>	
Single Family	\$9,304
Multi-Family	\$0
<u>Non-Residential</u>	
Retail	\$0
Office	\$0
Industrial	\$0
Total Revenue	\$9,304

Table 4
City of Merced Services CFD Annexation #9
Project Specific Analysis
Storm Drainage Maintenance

	Mansionette Estates No. 5
<hr/>	
Land Uses & DUEs	
<u>Residential (Dwelling Units)</u>	
Single Family	20
Multi-Family	0
<u>Non-Residential (Square Feet)</u>	
Retail	0
Office	0
Industrial	0
Dwelling Unit Equivalents	20
<hr/>	
Annual Costs	
Storm Drain Maintenance	\$667
Share of Mansionette Storm Pump & Basin /1	<u>\$1,182</u>
Total Cost	\$1,848
Total Cost per DUE	\$92
Special Tax Rates	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$92
Multi-Family	\$30
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$71
Office	\$59
Industrial	\$51
<hr/>	
Annual Special Tax Revenue	
<u>Residential</u>	
Single Family	\$1,848
Multi-Family	\$0
<u>Non-Residential</u>	
Retail	\$0
Office	\$0
Industrial	<u>\$0</u>
Total Revenue	\$1,848

/1 5.2% of the storm pump and basin maintenance cost is associated with Mansionette Estates No. 5.

Table 5
City of Merced Services CFD Annexation #9
Project Specific Analysis
Total Special Taxes (FY 2005-06)

Land Use	Mansionette Estates No. 5
<hr/>	
Citywide Services	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$433
Multi-Family	\$408
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$0
Office	\$0
Industrial	\$0
<hr/>	
Project-Specific Services /1	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$697
Multi-Family	\$549
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$252
Office	\$260
Industrial	\$133
<hr/>	
Total - All Services	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$1,130
Multi-Family	\$957
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$252
Office	\$260
Industrial	\$133

/1 A 25% factor is added to each project specific special tax to account for a cost contingency and a sinking fund component to build a reserve for equipment and facility replacement, as well as annual administration.

EXHIBIT B

SAMPLE BALLOT

**COMMUNITY FACILITIES DISTRICT NO. 2003-2 (SERVICES)
OF THE CITY OF MERCED**

ANNEXATION NO. 9

SPECIAL TAX ELECTION

August 1, 2016

To vote, mark an “X” in the voting square after the word “YES” or after the word “NO.” All marks otherwise made are forbidden.

This ballot represents 6 votes.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Merced at 678 West 18th Street, Merced, California 95340.

PROPOSITION: Shall the Community Facilities District No. 2003-2 (Services) of the City of Merced (the “CFD”), annex property known as Annexation No. 9 to the CFD and be authorized to levy special taxes within Annexation No. 9 to the CFD pursuant to the amended rate and method of apportionment of special taxes (the “Special Tax Formula”) set forth in that certain resolution adopted on July 18, 2016 by the City Council of the City of Merced, acting as the legislative body of the CFD, to finance the authorized services and administrative expenses, all as provided in the Special Tax Formula?

YES	
NO	

RESOLUTION NO. _____

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. 9 OF SAID DISTRICT

WHEREAS, the City Council of the City of Merced, California (the “Council”), acting as the legislative body of the Community Facilities District No. 2003-2 (Services) of the City of Merced (the “District”), has previously conducted proceedings pertaining to the annexation of certain property to the District (“Annexation No. 9”), the levying of a special tax pursuant to an amended rate and method of apportionment to finance the cost of providing certain public services and maintenance within Annexation No. 9 and the calling of an election in regard to the foregoing; and

WHEREAS, on August 1, 2016, an election was held within Annexation No. 9 of the District regarding annexing the property within Annexation No. 9 to the District, and the levying of the proposed special tax pursuant to the amended rate and method of apportionment of such proposed special tax; and

WHEREAS, at such election the annexation of Annexation No. 9 to the District, and the proposal for the amended rate and method of apportionment and the manner of levying and collecting the special tax for Annexation No. 9 were approved by the qualified electors of Annexation No. 9;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MERCED, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2003-2 (SERVICES) OF THE CITY OF MERCED, AS FOLLOWS:

Section 1. It is hereby determined that the election conducted within Annexation No. 9 of the District was duly and validly conducted.

Section 2. The Council, acting as the legislative body of the District, is authorized to annex Annexation No. 9 to the District and to levy the special tax on behalf of the District on nonexempt property within Annexation No. 9.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Merced, acting as the legislative body of the District, this ____ day of _____, 2016 by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ASTAIN: Council Members:

COMMUNITY FACILITIES DISTRICT
NO. 2003-2 (SERVICES) OF THE CITY
OF MERCED

By _____
Mayor

ATTEST:

Assistant/Deputy City Clerk

APPROVED AS TO FORM



City Attorney of the City of Merced

RESOLUTION NO. _____

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.9 TO SAID DISTRICT AND AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN SAID ANNEXATION NO. 9

WHEREAS, on July 18, 2016, the City Council (the “ City Council”) of the City of Merced, California (the “City”), acting as the legislative body of the Community Facilities District No. 2003-2 (Services) of the City of Merced (the “District”), adopted Resolution No. 2016-35 stating its intention to annex certain property (“Annexation No. 9”) into the District pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (the “Act”); and

WHEREAS, notice was published as required by law relative to the intention of the City Council to annex into the District Annexation No. 9; and

WHEREAS, on August 1, 2016, this City Council held a duly noticed public hearing as required by law relative to the determination to proceed with the annexation into the District of Annexation No. 9, and the amended rate and method of apportionment and manner of collection of the special tax to be levied within Annexation No. 9 to finance certain public services; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the annexation into the District of Annexation No. 9 were heard and a full and fair hearing was held; and

WHEREAS, the City Council subsequent to said hearing adopted a resolution determining the validity of prior proceedings relative to the annexation into the District of Annexation No. 9 and the authorization of the levy of a special tax within Annexation No. 9 and called an election within Annexation No. 9 for August 1, 2016 on the proposition of annexing into the District and the levying of a special tax; and

WHEREAS, on August 1, 2016 an election was held within Annexation No. 9 in which the eligible electors approved by more than two-thirds vote the proposition of annexing into the District and the levying of a special tax within Annexation No. 9; and

WHEREAS, this Legislative Body, by the adoption of Ordinance No. 2144 (the "Ordinance"), as authorized by Section 53340 of the Act, has authorized the levy of such special taxes within the District and any annexations, including Annexation No. 9;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY 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, AS FOLLOWS:

Section 1. The above recitals are all true and correct.

Section 2. Annexation No. 9 is hereby annexed into the District and hereafter all references to the District shall include Annexation No. 9.

Section 3. A special tax shall be levied within the boundaries of Annexation No. 9 pursuant to the amended rate and method of apportionment set forth in Exhibit "A" attached hereto and incorporated by reference (the "Special Tax Formula"), in an amount necessary to finance all or a portion of the cost of providing certain public services and maintenance that are in addition to those provided in the territory within Annexation No. 9 prior to the annexation to the District, periodic costs, and costs of the tax levy and collection.

Section 4. This resolution shall constitute a Resolution of Annexation within the meaning of the Ordinance and Annexation No. 9 shall be subject to the terms of the Ordinance.

Section 5. The Special Tax Formula supercedes the previously approved rate and method of apportionment and shall constitute the rate and method of apportionment of special taxes within the District until such special tax may be modified or amended from time to time by a resolution of change or a resolution of annexation adopted pursuant to the provisions of the Act.

Section 6. This resolution shall become effective upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Merced, acting as the legislative body of the District, this ____ day of _____, 2016 by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ASTAIN: Council Members:

COMMUNITY FACILITIES DISTRICT
NO. 2003-2 (SERVICES) OF THE CITY
OF MERCED

By _____
Mayor

ATTEST:

Assistant/Deputy City Clerk

APPROVED AS TO FORM



City Attorney of the City of Merced

EXHIBIT A

**AMENDED RATE AND METHOD OF APPORTIONMENT
OF SPECIAL TAX**

EXHIBIT A

CITY OF MERCED COMMUNITY FACILITIES DISTRICT NO. 2003-2 (SERVICES)

AMENDED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX (as of August 1, 2016)

A Special Tax applicable to each Assessor Parcel in the City of Merced Community Facilities District No. 2003-2 (Services) shall be levied and collected according to the tax liability determined by the City of Merced or its designee, through the application of this Amended Rate and Method of Apportionment of Special Tax. All of the property in the CFD, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless otherwise provided for the annexed property.

SECTION A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor Parcel as shown on an Assessor Parcel map, or if the land area is not shown on an Assessor Parcel map, the land area shown on the applicable final map or other parcel map recorded with the County.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: the expenses of the CFD or the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, costs related to annexing property into the CFD, and all other costs and expenses of the CFD or the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the CFD or the City to administer the Special Tax according to the Rate and Method.

“Annexation #1” means the date the owners of Assessor Parcels in Improvement Area #3 and Improvement Areas #9 through #15 elected to annex into the CFD.

“Annexation #2” means the date the owners of Assessor Parcels in Improvement Area #7 elected to annex into the CFD.

“Annexation #3” means the date the owners of Assessor Parcels in Improvement Areas #16 through #22 elected to annex into the CFD.

“Annexation #4” means the date the owners of Assessor Parcels in Improvement Areas #23 through #25 and Improvement Area #27 elected to annex into the CFD.

“Annexation #5” means the date the owners of Assessor Parcels in Improvement Area #26 elected to annex into the CFD.

“Annexation #6” means the date the owners of Assessor Parcels in Improvement Area #28 elected to annex into the CFD.

“Annexation #7” means the date the owners of Assessor Parcels in Improvement Areas #29 through #31 elected to annex into the CFD.

“Annexation #8” means the date the owners of Assessor Parcels in Improvement Area #32 elected to annex into the CFD.

“Annexation #9” means the date the owners of Assessor Parcels in Improvement Area #33 elected to annex into the CFD.

“Assessor Parcel” means a lot or parcel with an assigned County Assessor’s Parcel number shown on a County Assessor’s Parcel map.

“Average Increase” means the annual average increase in the Indices that shall be applied to escalate the Maximum Special Tax each Fiscal Year. The Average Increase shall be calculated in January of each year by (1) referencing the Bureau of Labor Statistics Data to identify the annual percentage increase in each Index as of the end of the prior year, and (2) taking the average of these two percentages. If either Index decreases from one year to the next, the percentage change from the prior year shall be assumed to be zero for purposes of calculating the Average Increase.

“CFD” means the City of Merced Community Facilities District No. 2003-2.

“CFD Formation” means the date the owners of Assessor Parcels in Improvement Areas #1 through #6 elected to form the CFD.

“City” means the City of Merced.

“City Council” means the council of the City of Merced, acting as the legislative body of the CFD.

“County” means the County of Merced.

“Developed Property” means all Taxable Property in the CFD for which a building permit for new construction was issued by the City prior to May 1 of the preceding Fiscal Year.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Improvement Area” means one of the thirty-three (33) mutually exclusive geographic areas defined below and identified in Attachment 1 of this Rate and Method, and any subsequent Improvement Areas created to contain property annexed into the CFD after CFD Formation.

“Improvement Area #1” means the geographic area that, at CFD Formation and Annexation #2, was generally known as the Bellevue Ranch East (Phases 1 and 2) project and is specifically identified in Attachment 1 hereto as Improvement Area #1.

“Improvement Area #2” means the geographic area that, at CFD Formation, was generally known as the Compass Pointe project and is specifically identified in Attachment 1 hereto as Improvement Area #2.

“Improvement Area #3” means the geographic area that, at CFD Formation, Annexation #1, and Annexation #3, was generally known as the Sandcastle project and is specifically identified in Attachment 1 hereto as Improvement Area #3.

“Improvement Area #4” means the geographic area that, at CFD Formation and Annexation #2, was generally known as the Bright Development project and is specifically identified in Attachment 1 hereto as Improvement Area #4.

“Improvement Area #5” means the geographic area that, at CFD Formation and Annexation #2, was generally known as the Renaissance project and is specifically identified in Attachment 1 hereto as Improvement Area #5.

“Improvement Area #6” means the geographic area that, at CFD Formation, was generally known as the Big Valley project and is specifically identified in Attachment 1 hereto as Improvement Area #6.

“Improvement Area #7” means the geographic area that, at Annexation #2, was generally known as the Bellevue Ranch West project and is specifically identified in Attachment 1 hereto as Improvement Area #7.

“Improvement Area #8” is intentionally excluded.

“Improvement Area #9” means the geographic area that, at Annexation #1, was generally known as the University Park Residential project and is specifically identified in Attachment 1 hereto as Improvement Area #9.

“Improvement Area #10” means the geographic area that, at Annexation #1, was generally known as the Tuscany project and is specifically identified in Attachment 1 hereto as Improvement Area #10.

“Improvement Area #11” means the geographic area that, at Annexation #1, was generally known as the Provance project and is specifically identified in Attachment 1 hereto as Improvement Area #11.

“Improvement Area #12” means the geographic area that, at Annexation #1, was generally known as the Promenade project and is specifically identified in Attachment 1 hereto as Improvement Area #12.

“Improvement Area #13” means the geographic area that, at Annexation #1, was generally known as the Alfarata Ranch Unit 2 project and is specifically identified in Attachment 1 hereto as Improvement Area #13.

“Improvement Area #14” means the geographic area that, at Annexation #1 and Annexation #2, was generally known as the Franco project and is specifically identified in Attachment 1 hereto as Improvement Area #14.

“Improvement Area #15” means the geographic area that, at Annexation #1, was generally known as the Cottages project and is specifically identified in Attachment 1 hereto as Improvement Area #15.

“Improvement Area #16” means the geographic area that, at Annexation #3, was generally known as the Tuscany East project and is specifically identified in Attachment 1 hereto as Improvement Area #16.

“Improvement Area #17” means the geographic area that, at Annexation #3, was generally known as the Hartley Crossings project and is specifically identified in Attachment 1 hereto as Improvement Area #17.

“Improvement Area #18” means the geographic area that, at Annexation #3, was generally known as The Crossing at River Oaks project and is specifically identified in Attachment 1 hereto as Improvement Area #18.

“Improvement Area #19” means the geographic area that, at Annexation #3, was generally known as the Mohamed Apartments project and is specifically identified in Attachment 1 hereto as Improvement Area #19.

“Improvement Area #20” means the geographic area that, at Annexation #3, was generally known as the Sunnyview Apartments project and is specifically identified in Attachment 1 hereto as Improvement Area #20.

“Improvement Area #21” means the geographic area that, at Annexation #3, was generally known as the University Park II project and is specifically identified in Attachment 1 hereto as Improvement Area #21.

“Improvement Area #22” means the geographic area that, at Annexation #3, was generally known as the Moraga of Merced Lakemont Homes project and is specifically identified in Attachment 1 hereto as Improvement Area #22.

“Improvement Area #23” means the geographic area that, at Annexation #4, was generally known as the Mission Ranch project and is specifically identified in Attachment 1 hereto as Improvement Area #23.

“Improvement Area #24” means the geographic area that, at Annexation #4, was generally known as the Cypress Terrace (Phases 6 and 7) project and is specifically identified in Attachment 1 hereto as Improvement Area #24.

“Improvement Area #25” means the geographic area that, at Annexation #4, was generally known as the Cypress Terrace East project and is specifically identified in Attachment 1 hereto as Improvement Area #25.

“Improvement Area #26” means the geographic area that, at Annexation #5, was generally known as The Meadows project and is specifically identified in Attachment 1 hereto as Improvement Area #26.

“Improvement Area #27” means the geographic area that, at Annexation #4, was generally known as the Lantana Estates South project and is specifically identified in Attachment 1 hereto as Improvement Area #27.

“Improvement Area #28” means the geographic area that, at Annexation #6, was generally known as The Meadows #2 project and is specifically identified in Attachment 1 hereto as Improvement Area #28.

“Improvement Area #29” means the geographic area that, at Annexation #7, was generally known as the Paseo project and is specifically identified in Attachment 1 hereto as Improvement Area #29.

“Improvement Area #30” means the geographic area that, at Annexation #7, was generally known as the Highland Park project and is specifically identified in Attachment 1 hereto as Improvement Area #30.

“Improvement Area #31” means the geographic area that, at Annexation #7, was generally known as the Mercy Hospital project and is specifically identified in Attachment 1 hereto as Improvement Area #31.

“Improvement Area #32” means the geographic area that, at Annexation #8, was generally known as the Fahrens Park Plaza project and is specifically identified in Attachment 1 hereto as Improvement Area #32.

“Improvement Area #33” means the geographic area that, at Annexation #9, was generally known as the Mansionette Estates No. 5 project and is specifically identified in Attachment 1 hereto as Improvement Area #33.

“Index or Indices” means the Consumer Price Index (CPI) for the San Francisco All Urban Wage Earners Category and the National CPI.

“Industrial Property” means any Developed Property for which a building permit was issued for construction of a building that will be used primarily for warehousing, distribution, manufacturing, processing, or related activities, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Maximum Special Tax” means the greatest amount of Special Tax that can be levied in any Fiscal Year determined under this Rate and Method.

“Multi-Family Residential Property” means all Assessor Parcels of Developed Property for which a building permit was issued for construction of a residential structure with multiple Units, all of which are offered for rent to the general public and are not available for sale to individual owners.

“Office Property” means any Developed Property for which a building permit was issued for construction of a building that will be divided primarily into individual offices (including cubicles or other modular office space) for use by companies to conduct business, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Other Property” means any Developed Property that is not Single Family Residential Property, Multi-Family Residential Property, Retail Property, Office Property, or Industrial Property. Developed Property within Improvement Area #31 shall be categorized as Other Property.

“Proportionately” means, for Developed Property, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor Parcels of Developed Property.

“Public Property” means any CFD Assessor Parcels owned by or irrevocably offered for dedication to the United States of America, the State of California, the County, the City, or other local governments or public agencies.

“Rate and Method” means this Amended Rate and Method of Apportionment of Special Tax.

“Retail Property” means any Developed Property for which a building permit was issued for construction of a building that will include primarily commercial establishments which sell general merchandise, hard goods, personal services, and other items directly to consumers, including but not limited to travel agencies, hardware stores, food stores, automotive dealers, service stations, home furnishing stores, restaurants, bars, banks, repair shops, movie theaters, day care centers, and art galleries, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Services” means the services authorized to be financed, in whole or in part, by the Special Taxes in the CFD.

“Single Family Residential Property” means any Developed Property for which a building permit was issued for construction of: (i) a Unit that does not share a common wall with another Unit; or (ii) two or more Units that share common walls and are initially offered for sale to individual owners, including condominiums as defined under California Civil Code 1351.

“Special Tax” means any tax levied in the CFD pursuant to the Rate and Method.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to: (i) pay the cost of the Services; (ii) create a sinking fund for Services that could not otherwise be funded in a given Fiscal Year; (iii) cure any delinquencies in the payment of Special Taxes which have occurred in the prior Fiscal Year or, based on existing delinquencies in the payment of Special Taxes, are expected to occur in the Fiscal Year in which the tax will be collected; and (iv) pay Administrative Expenses.

“Square Foot,” “Square Footage,” or “Square Feet” means the floor area square footage reflected on the original construction building permit issued for construction of a Unit or a building of Retail Property, Office Property, Industrial Property, or Other Property and any Square Footage subsequently added to a Unit or a building of such Taxable Property after issuance of a building permit for expansion or renovation of such Unit or building.

“Taxable Property” means any Assessor Parcel within the CFD which is not exempt from the Special Tax by applicable law or Section F below.

“Unit” means a structure constructed primarily for human habitation, which may be an individual detached residential unit, an individual attached residential unit within a duplex, triplex, fourplex, townhome, or condominium structure, or an individual apartment unit.

SECTION B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor Parcel numbers of all Taxable Property. The Administrator shall also determine: (i) within which Improvement Area each Assessor Parcel is located; (ii) whether each Assessor Parcel is Developed Property; (iii) for Developed Property, which Assessor Parcels are Single Family Residential Property, Multi-Family Residential Property, Retail Property, Office Property, Industrial Property, and Other Property; (iv) also for Developed Property, the Unit or building Square Footage; and (v) the Special Tax Requirement.

SECTION C. MAXIMUM SPECIAL TAX

1. *Special Tax Rates, Improvement Area #1 – Bellevue Ranch East (Phases 1 & 2)*

Table 1 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #1 of the CFD.

**TABLE 1
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #1 – BELLEVUE RANCH EAST (PHASES 1 & 2)**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$548 per Unit
Multi-Family Residential Property	\$476 per Unit
Retail Property	\$64 per 1,000 Square Feet of Building
Office Property	\$59 per 1,000 Square Feet of Building
Industrial Property	\$40 per 1,000 Square Feet of Building
Other Property	\$64 per 1,000 Square Feet of Building

2. *Special Tax Rates, Improvement Area #2 – Compass Pointe*

Table 2 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #2 of the CFD.

**TABLE 2
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #2 – COMPASS POINTE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$644 per Unit
Multi-Family Residential Property	\$539 per Unit
Retail Property	\$110 per 1,000 Square Feet of Building
Office Property	\$103 per 1,000 Square Feet of Building
Industrial Property	\$68 per 1,000 Square Feet of Building
Other Property	\$110 per 1,000 Square Feet of Building

3. *Special Tax Rates, Improvement Area #3 - Sandcastle*

Table 3 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #3 of the CFD.

**TABLE 3
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #3 - SANDCASTLE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$593 per Unit
Multi-Family Residential Property	\$512 per Unit
Retail Property	\$80 per 1,000 Square Feet of Building
Office Property	\$76 per 1,000 Square Feet of Building
Industrial Property	\$48 per 1,000 Square Feet of Building
Other Property	\$80 per 1,000 Square Feet of Building

4. *Special Tax Rates, Improvement Area #4 - Bright Development*

Table 4 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #4 of the CFD.

**TABLE 4
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #4 – BRIGHT DEVELOPMENT**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$609 per Unit
Multi-Family Residential Property	\$520 per Unit
Retail Property	\$89 per 1,000 Square Feet of Building
Office Property	\$84 per 1,000 Square Feet of Building
Industrial Property	\$54 per 1,000 Square Feet of Building
Other Property	\$89 per 1,000 Square Feet of Building

5. *Special Tax Rates, Improvement Area #5 - Renaissance*

Table 5 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #5 of the CFD.

**TABLE 5
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #5 - RENAISSANCE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$489 per Unit
Multi-Family Residential Property	\$429 per Unit
Retail Property	\$43 per 1,000 Square Feet of Building
Office Property	\$37 per 1,000 Square Feet of Building
Industrial Property	\$29 per 1,000 Square Feet of Building
Other Property	\$43 per 1,000 Square Feet of Building

6. *Special Tax Rates, Improvement Area #6 - Big Valley*

Table 6 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #6 of the CFD.

**TABLE 6
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #6 – BIG VALLEY**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$524 per Unit
Multi-Family Residential Property	\$474 per Unit
Retail Property	\$40 per 1,000 Square Feet of Building
Office Property	\$40 per 1,000 Square Feet of Building
Industrial Property	\$22 per 1,000 Square Feet of Building
Other Property	\$40 per 1,000 Square Feet of Building

7. *Special Tax Rates, Improvement Area #7 – Bellevue Ranch West*

Table 7 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #7 of the CFD.

**TABLE 7
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #7 – BELLEVUE RANCH WEST**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$701 per Unit
Multi-Family Residential Property	\$600 per Unit
Retail Property	\$116 per 1,000 Square Feet of Building
Office Property	\$115 per 1,000 Square Feet of Building
Industrial Property	\$67 per 1,000 Square Feet of Building
Other Property	\$116 per 1,000 Square Feet of Building

8. *Special Tax Rates, Improvement Area #8 – Intentionally Excluded*

9. *Special Tax Rates, Improvement Area #9 – University Park Residential*

Table 9 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #9 of the CFD.

**TABLE 9
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #9 – UNIVERSITY PARK RESIDENTIAL**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$643 per Unit
Multi-Family Residential Property	\$544 per Unit
Retail Property	\$105 per 1,000 Square Feet of Building
Office Property	\$99 per 1,000 Square Feet of Building
Industrial Property	\$64 per 1,000 Square Feet of Building
Other Property	\$105 per 1,000 Square Feet of Building

10. *Special Tax Rates, Improvement Area #10 – Tuscany*

Table 10 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #10 of the CFD.

**TABLE 10
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #10 – TUSCANY**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$480 per Unit
Multi-Family Residential Property	\$427 per Unit
Retail Property	\$35 per 1,000 Square Feet of Building
Office Property	\$31 per 1,000 Square Feet of Building
Industrial Property	\$23 per 1,000 Square Feet of Building
Other Property	\$35 per 1,000 Square Feet of Building

11. *Special Tax Rates, Improvement Area #11 - Provance*

Table 11 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #11 of the CFD.

**TABLE 11
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #11 - PROVANCE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$638 per Unit
Multi-Family Residential Property	\$542 per Unit
Retail Property	\$101 per 1,000 Square Feet of Building
Office Property	\$96 per 1,000 Square Feet of Building
Industrial Property	\$61 per 1,000 Square Feet of Building
Other Property	\$101 per 1,000 Square Feet of Building

12. *Special Tax Rates, Improvement Area #12 - Promenade*

Table 12 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #12 of the CFD.

**TABLE 12
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #12 – PROMENADE**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$438 per Unit
Multi-Family Residential Property	\$401 per Unit
Retail Property	\$14 per 1,000 Square Feet of Building
Office Property	\$12 per 1,000 Square Feet of Building
Industrial Property	\$10 per 1,000 Square Feet of Building
Other Property	\$14 per 1,000 Square Feet of Building

13. *Special Tax Rates, Improvement Area #13 – Alfarata Ranch Unit 2*

Table 13 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #13 of the CFD.

TABLE 13
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #13 – ALFARATA RANCH UNIT 2

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$593 per Unit
Multi-Family Residential Property	\$471 per Unit
Retail Property	\$116 per 1,000 Square Feet of Building
Office Property	\$100 per 1,000 Square Feet of Building
Industrial Property	\$80 per 1,000 Square Feet of Building
Other Property	\$116 per 1,000 Square Feet of Building

14. *Special Tax Rates, Improvement Area #14 – Franco*

Table 14 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #14 of the CFD.

TABLE 14
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #14 – FRANCO

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$504 per Unit
Multi-Family Residential Property	\$430 per Unit
Retail Property	\$57 per 1,000 Square Feet of Building
Office Property	\$49 per 1,000 Square Feet of Building
Industrial Property	\$40 per 1,000 Square Feet of Building
Other Property	\$57 per 1,000 Square Feet of Building

15. *Special Tax Rates, Improvement Area #15 – Cottages*

Table 15 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #15 of the CFD.

TABLE 15
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #15 – COTTAGES

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2003-04¹</i>
Single Family Residential Property	\$631 per Unit
Multi-Family Residential Property	\$548 per Unit
Retail Property	\$87 per 1,000 Square Feet of Building
Office Property	\$86 per 1,000 Square Feet of Building
Industrial Property	\$50 per 1,000 Square Feet of Building
Other Property	\$87 per 1,000 Square Feet of Building

16. *Special Tax Rates, Improvement Area #16 – Tuscany East*

Table 16 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #16 of the CFD.

TABLE 16
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #16 – TUSCANY EAST

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$572 per Unit
Multi-Family Residential Property	\$486 per Unit
Retail Property	\$77 per 1,000 Square Feet of Building
Office Property	\$70 per 1,000 Square Feet of Building
Industrial Property	\$50 per 1,000 Square Feet of Building
Other Property	\$77 per 1,000 Square Feet of Building

17. *Special Tax Rates, Improvement Area #17 – Hartley Crossings*

Table 17 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #17 of the CFD.

TABLE 17
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #17 – HARTLEY CROSSINGS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$528 per Unit
Multi-Family Residential Property	\$438 per Unit
Retail Property	\$73 per 1,000 Square Feet of Building
Office Property	\$61 per 1,000 Square Feet of Building
Industrial Property	\$52 per 1,000 Square Feet of Building
Other Property	\$73 per 1,000 Square Feet of Building

18. *Special Tax Rates, Improvement Area #18 – The Crossing at River Oaks*

Table 18 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #18 of the CFD.

TABLE 18
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #18 – THE CROSSING AT RIVER OAKS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$639 per Unit
Multi-Family Residential Property	\$529 per Unit
Retail Property	\$110 per 1,000 Square Feet of Building
Office Property	\$100 per 1,000 Square Feet of Building
Industrial Property	\$71 per 1,000 Square Feet of Building
Other Property	\$110 per 1,000 Square Feet of Building

19. *Special Tax Rates, Improvement Area #19 – Mohamed Apartments*

Table 19 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #19 of the CFD.

TABLE 19
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #19 – MOHAMED APARTMENTS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$433 per Unit
Multi-Family Residential Property	\$408 per Unit
Retail Property	Not Applicable
Office Property	Not Applicable
Industrial Property	Not Applicable
Other Property	Not Applicable

20. *Special Tax Rates, Improvement Area #20 – Sunnyview Apartments*

Table 20 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #20 of the CFD.

TABLE 20
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #20 – SUNNYVIEW APARTMENTS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$433 per Unit
Multi-Family Residential Property	\$408 per Unit
Retail Property	Not Applicable
Office Property	Not Applicable
Industrial Property	Not Applicable
Other Property	Not Applicable

21. *Special Tax Rates, Improvement Area #21 – University Park II*

Table 21 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #21 of the CFD.

TABLE 21
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #21 – UNIVERSITY PARK II

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$691 per Unit
Multi-Family Residential Property	\$548 per Unit
Retail Property	\$149 per 1,000 Square Feet of Building
Office Property	\$133 per 1,000 Square Feet of Building
Industrial Property	\$98 per 1,000 Square Feet of Building
Other Property	\$149 per 1,000 Square Feet of Building

22. *Special Tax Rates, Improvement Area #22 – Moraga of Merced Lakemont Homes*

Table 22 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #22 of the CFD.

TABLE 22
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #22 – MORAGA OF MERCED LAKEMONT HOMES

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$752 per Unit
Multi-Family Residential Property	\$623 per Unit
Retail Property	\$147 per 1,000 Square Feet of Building
Office Property	\$140 per 1,000 Square Feet of Building
Industrial Property	\$89 per 1,000 Square Feet of Building
Other Property	\$147 per 1,000 Square Feet of Building

23. *Special Tax Rates, Improvement Area #23 – Mission Ranch*

Table 23 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #23 of the CFD.

TABLE 23
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #23 – MISSION RANCH

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$774 per Unit
Multi-Family Residential Property	\$595 per Unit
Retail Property	\$194 per 1,000 Square Feet of Building
Office Property	\$174 per 1,000 Square Feet of Building
Industrial Property	\$128 per 1,000 Square Feet of Building
Other Property	\$194 per 1,000 Square Feet of Building

24. *Special Tax Rates, Improvement Area #24 – Cypress Terrace (Phases 6 and 7)*

Table 24 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #24 of the CFD.

TABLE 24
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #24 – CYPRESS TERRACE (PHASES 6 AND 7)

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$728 per Unit
Multi-Family Residential Property	\$606 per Unit
Retail Property	\$137 per 1,000 Square Feet of Building
Office Property	\$130 per 1,000 Square Feet of Building
Industrial Property	\$83 per 1,000 Square Feet of Building
Other Property	\$137 per 1,000 Square Feet of Building

25. *Special Tax Rates, Improvement Area #25 – Cypress Terrace East*

Table 25 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #25 of the CFD.

TABLE 25
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #25 – CYPRESS TERRACE EAST

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$914 per Unit
Multi-Family Residential Property	\$737 per Unit
Retail Property	\$218 per 1,000 Square Feet of Building
Office Property	\$209 per 1,000 Square Feet of Building
Industrial Property	\$131 per 1,000 Square Feet of Building
Other Property	\$218 per 1,000 Square Feet of Building

26. *Special Tax Rates, Improvement Area #26 – The Meadows*

Table 26 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #26 of the CFD.

TABLE 26
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #26 – THE MEADOWS

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$947 per Unit
Multi-Family Residential Property	\$743 per Unit
Retail Property	\$225 per 1,000 Square Feet of Building
Office Property	\$215 per 1,000 Square Feet of Building
Industrial Property	\$135 per 1,000 Square Feet of Building
Other Property	\$225 per 1,000 Square Feet of Building

27. *Special Tax Rates, Improvement Area #27 – Lantana Estates South*

Table 27 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #27 of the CFD.

TABLE 27
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #27 – LANTANA ESTATES SOUTH

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$834 per Unit
Multi-Family Residential Property	\$700 per Unit
Retail Property	\$166 per 1,000 Square Feet of Building
Office Property	\$164 per 1,000 Square Feet of Building
Industrial Property	\$95 per 1,000 Square Feet of Building
Other Property	\$166 per 1,000 Square Feet of Building

28. *Special Tax Rates, Improvement Area #28 – The Meadows #2*

Table 28 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #28 of the CFD.

TABLE 28
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #28 – THE MEADOWS #2

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$947 per Unit
Multi-Family Residential Property	\$743 per Unit
Retail Property	\$225 per 1,000 Square Feet of Building
Office Property	\$215 per 1,000 Square Feet of Building
Industrial Property	\$135 per 1,000 Square Feet of Building
Other Property	\$225 per 1,000 Square Feet of Building

29. *Special Tax Rates, Improvement Area #29 – Paseo*

Table 29 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #29 of the CFD.

TABLE 29
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #29 – PASEO

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$1,008 per Unit
Multi-Family Residential Property	\$762 per Unit
Retail Property	\$294 per 1,000 Square Feet of Building
Office Property	\$271 per 1,000 Square Feet of Building
Industrial Property	\$186 per 1,000 Square Feet of Building
Other Property	\$294 per 1,000 Square Feet of Building

30. *Special Tax Rates, Improvement Area #30 – Highland Park*

Table 30 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #30 of the CFD.

TABLE 30
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #30 – HIGHLAND PARK

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$650 per Unit
Multi-Family Residential Property	\$557 per Unit
Retail Property	\$97 per 1,000 Square Feet of Building
Office Property	\$93 per 1,000 Square Feet of Building
Industrial Property	\$58 per 1,000 Square Feet of Building
Other Property	\$97 per 1,000 Square Feet of Building

31. *Special Tax Rates, Improvement Area #31 – Mercy Hospital*

Table 31 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #31 of the CFD.

**TABLE 31
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #31 – MERCY HOSPITAL**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$172 per Unit
Multi-Family Residential Property	\$139 per Unit
Retail Property	\$59 per 1,000 Square Feet of Building
Office Property	\$62 per 1,000 Square Feet of Building
Industrial Property	\$30 per 1,000 Square Feet of Building
Other Property	\$59 per 1,000 Square Feet of Building

32. *Special Tax Rates, Improvement Area #32 – Fahrens Park Plaza*

Table 32 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #32 of the CFD.

**TABLE 32
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #32 – FAHRENS PARK PLAZA**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$988 per Unit
Multi-Family Residential Property	\$889 per Unit
Retail Property	\$161 per 1,000 Square Feet of Building
Office Property	\$181 per 1,000 Square Feet of Building
Industrial Property	\$71 per 1,000 Square Feet of Building
Other Property	\$181 per 1,000 Square Feet of Building

33. *Special Tax Rates, Improvement Area #33 – Mansionette Estates No. 5*

Table 33 below identifies the Maximum Special Taxes for Taxable Property within Improvement Area #33 of the CFD.

**TABLE 33
MAXIMUM SPECIAL TAXES
IMPROVEMENT AREA #33 – MANSIONETTE ESTATES NO. 5**

<i>Type of Property</i>	<i>Maximum Special Tax Fiscal Year 2005-06¹</i>
Single Family Residential Property	\$1,130 per Unit
Multi-Family Residential Property	\$957 per Unit
Retail Property	\$252 per 1,000 Square Feet of Building
Office Property	\$260 per 1,000 Square Feet of Building
Industrial Property	\$133 per 1,000 Square Feet of Building
Other Property	\$260 per 1,000 Square Feet of Building

¹ *The Maximum Special Taxes will be more than the amounts listed in the tables above due to the annual CPI adjustment identified in Section C.34.*

34. *Special Tax Increases*

In January 2004, and each January thereafter, all figures shown in Tables 1 through 15 above shall be adjusted by applying the Average Increase, if any, in the Indices. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

In January 2006, and each January thereafter, all figures shown in Tables 16 through 33 above shall be adjusted by applying the Average Increase, if any, in the Indices. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

SECTION D. METHOD OF LEVY

Each Fiscal Year, the Special Tax shall be levied on all Assessor Parcels of Developed Property, separately for each Improvement Area, according to the steps outlined below.

Step 1: Determine for an Improvement Area the Special Tax Requirement, as defined in Section A above, for the Fiscal Year in which the Special Tax will be collected;

Step 2: Calculate the total Special Tax revenues that could be collected from Developed Property in the Improvement Area based on application of the Maximum Special Tax rates determined pursuant to Section C above;

Step 3: If the amount determined in Step 1 is greater than or equal to the amount calculated in Step 2, levy the Maximum Special Tax on all Assessor Parcels of Developed Property in the Improvement Area;

Step 4: If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax Proportionately on each Assessor Parcel of Developed Property in the Improvement Area so the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

SECTION E. COLLECTION

Except as may be provided by the CFD or the City, and for delinquencies, the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes. The Special Tax obligation applicable to an Assessor Parcel in the CFD may not be prepaid and the obligation of the Assessor Parcel to pay the Special Tax may not be permanently satisfied.

SECTION F. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method, no Special Tax shall be levied on Public Property, except as otherwise provided in the Act.

SECTION G. INTERPRETATION

The Administrator may interpret this Rate and Method as necessary to clarify any inconsistency, vagueness, or ambiguity.

SECTION H. APPEALS

Appeals of any claim of incorrect computation of Special Tax or application of this Rate and Method may be made by the owner of an Assessor Parcel or such owner's duly-authorized representative by filing a written notice of appeal with the Administrator not later than thirty (30) days after having paid the disputed Special Tax. The Administrator shall promptly review the appeal and, if necessary, meet with the property owner (or representative), consider written and oral evidence regarding the amount of the Special Tax, and decide the appeal. If the property owner disagrees with the Administrator's decision, the owner may then file a written appeal with the Council, whose decision shall be final. If the decision of the Administrator or

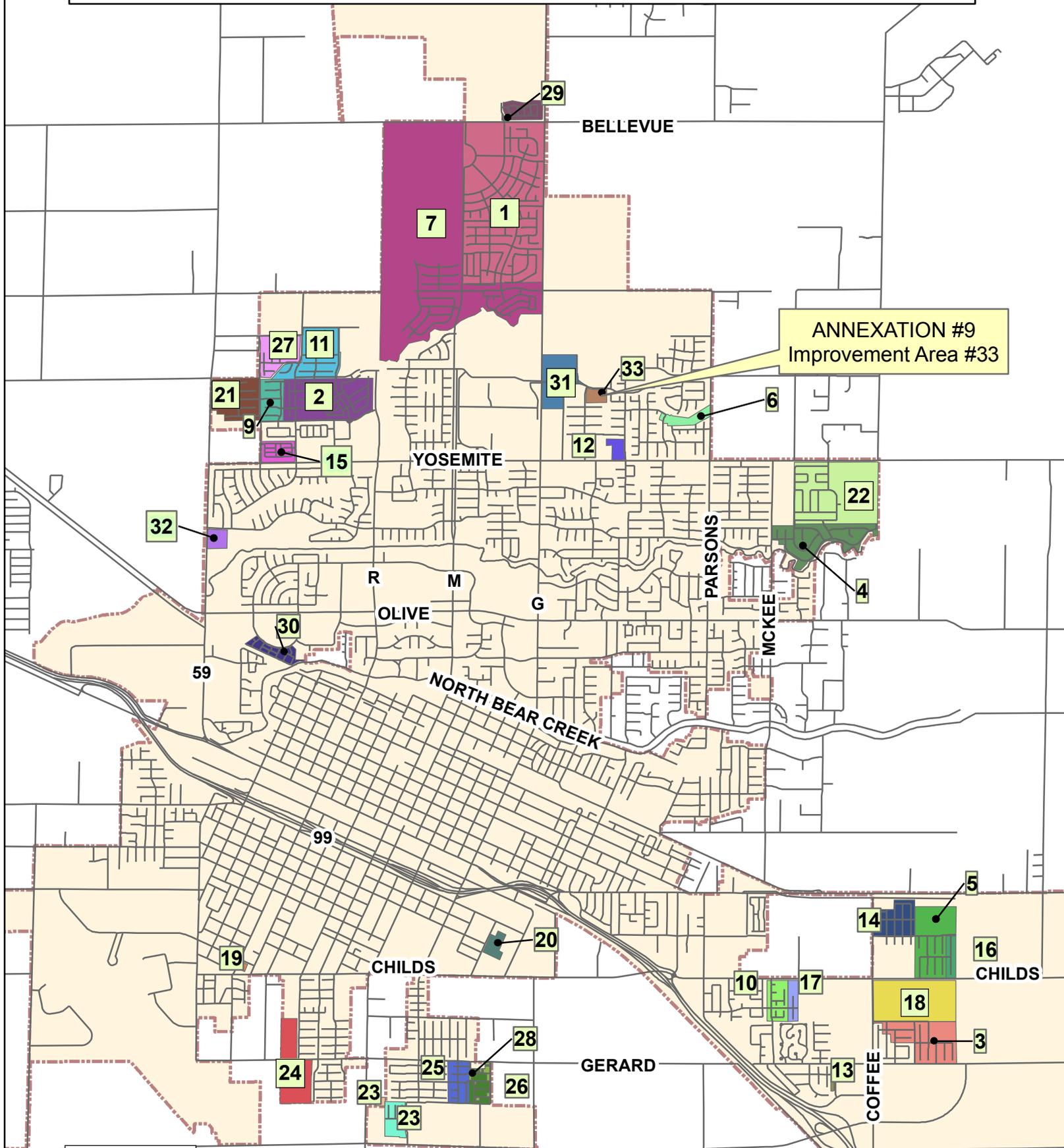
the Council requires the Special Tax to be modified or changed in favor of the property owner, no cash refund shall be made for prior years' Special Tax levies, but an adjustment shall be made to the next Special Tax levy(ies) as appropriate. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

ATTACHMENT 1

**BOUNDARY MAP
AND IMPROVEMENT AREAS OF
CITY OF MERCED
COMMUNITY FACILITIES DISTRICT NO. 2003-2
(SERVICES)**

(to come from City)

COMMUNITY FACILITIES DISTRICT 2003-2 (SERVICES) IMPROVEMENT AREAS



ANNEXATION #9
Improvement Area #33

LEGEND
City Limit

Table 1
City of Merced Services CFD Annexation #9
Project Specific Analysis
Project Land Use and Services Data

Land Use	Mansionette Estates No. 5
<hr/>	
<u>Residential (Dwelling Units)</u>	
Single Family	20
Multi-Family	0
<u>Non-Residential (Square Feet)</u>	
Retail	0
Office	0
Industrial	0
<u>Other</u>	
Full Landscaped Acres	0.31
Basin/Partial Landscaped Acres	0.00
Storm Drainage Miles	0.04
Bike Path Square Footage	0
Street Lights	8

Sources: City of Merced; Goodwin Consulting Group, Inc.

6/28/2016

Table 2
City of Merced Services CFD Annexation #9
Project Specific Analysis
City Cost and Allocation Data

	Landscaping Maintenance	Storm Drainage Maintenance
Expenditures /1	\$341,749	\$464,196
Dwelling Unit Equivalentents (DUEs)		
<u>Residential DUEs (per Dwelling Unit)</u>		
Single Family	1.00	1.00
Multi-Family	0.88	0.33
<u>Non-Residential DUEs (per 1,000 SF)</u>		
Retail	0.28	0.77
Office	0.32	0.64
Industrial	0.12	0.55
Cost Factors /2		
Landscaped Acres	17	
Storm Drainage Miles		36
Annual Cost per Acre (Full Landscape)	\$26,134	
Annual Cost per Storm Drainage Mile		\$16,763
Additional Cost Factors /2		
Annual Cost per Acre (Basin/Partial Landscape) /3	\$19,600	
Annual Bike Path Maintenance Cost per Square Foot	\$0.25	
Annual Street Light Maintenance Cost per Street Light	\$136	
Annual Storm Pump Maintenance Cost		\$17,680
Annual Basin Maintenance Cost		\$5,200

/1 Expenditures include costs associated with the following budget categories: personnel, supplies and services, non-capital acquisitions, administrative, and interdepartmental services.

/2 A 30% factor is added to each cost to account for the effects of prevailing wage.

/3 Equals 75% of the cost per full landscaped acre.

Table 3
City of Merced Services CFD Annexation #9
Project Specific Analysis
Landscaping, Street Light, and Basin Maintenance

Mansionette Estates No. 5	
<hr/>	
Land Uses & DUEs	
<u>Residential (Dwelling Units)</u>	
Single Family	20
Multi-Family	0
<u>Non-Residential (Square Feet)</u>	
Retail	0
Office	0
Industrial	0
Dwelling Unit Equivalents	20
<hr/>	
Annual Costs	
Full Landscape	\$8,219
Street Light Maintenance	\$1,085
Basin/Partial Landscape	\$0
Bike Path Maintenance	\$0
Total Cost	<hr/> \$9,304
Cost per DUE	\$465
Special Tax Rates	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$465
Multi-Family	\$409
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$130
Office	\$149
Industrial	\$56
<hr/>	
Annual Special Tax Revenue	
<u>Residential</u>	
Single Family	\$9,304
Multi-Family	\$0
<u>Non-Residential</u>	
Retail	\$0
Office	\$0
Industrial	\$0
Total Revenue	<hr/> \$9,304

Table 4
City of Merced Services CFD Annexation #9
Project Specific Analysis
Storm Drainage Maintenance

	Mansionette Estates No. 5
<hr/>	
Land Uses & DUEs	
<u>Residential (Dwelling Units)</u>	
Single Family	20
Multi-Family	0
<u>Non-Residential (Square Feet)</u>	
Retail	0
Office	0
Industrial	0
Dwelling Unit Equivalents	20
<hr/>	
Annual Costs	
Storm Drain Maintenance	\$667
Share of Mansionette Storm Pump & Basin /1	<u>\$1,182</u>
Total Cost	\$1,848
Total Cost per DUE	\$92
Special Tax Rates	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$92
Multi-Family	\$30
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$71
Office	\$59
Industrial	\$51
<hr/>	
Annual Special Tax Revenue	
<u>Residential</u>	
Single Family	\$1,848
Multi-Family	\$0
<u>Non-Residential</u>	
Retail	\$0
Office	\$0
Industrial	<u>\$0</u>
Total Revenue	\$1,848

/1 5.2% of the storm pump and basin maintenance cost is associated with Mansionette Estates No. 5.

Table 5
City of Merced Services CFD Annexation #9
Project Specific Analysis
Total Special Taxes (FY 2005-06)

Land Use	Mansionette Estates No. 5
<hr/>	
Citywide Services	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$433
Multi-Family	\$408
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$0
Office	\$0
Industrial	\$0
<hr/>	
Project-Specific Services /1	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$697
Multi-Family	\$549
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$252
Office	\$260
Industrial	\$133
<hr/>	
Total - All Services	
<u>Residential (per Dwelling Unit)</u>	
Single Family	\$1,130
Multi-Family	\$957
<u>Non-Residential (per 1,000 SF)</u>	
Retail	\$252
Office	\$260
Industrial	\$133

/1 A 25% factor is added to each project specific special tax to account for a cost contingency and a sinking fund component to build a reserve for equipment and facility replacement, as well as annual administration.



ADMINISTRATIVE REPORT

File #: 16-341

Meeting Date: 8/1/2016

Report Prepared by: *Kenneth Rozell, Senior Deputy City Attorney, City Attorney's Office, and Kim Espinosa, Planning Manager, Development Services Department*

SUBJECT: Zoning Ordinance Amendment #16-02 Regarding Medical Marijuana Dispensaries, Deliveries, and Cultivation for Qualified Patients

REPORT IN BRIEF

Consider adoption of an ordinance authorizing medical marijuana dispensaries (subject to specific conditions and requirements), delivery of medical marijuana from licensed dispensaries, and limited indoor cultivation of medical marijuana for qualified patients.

RECOMMENDATION

City Council - Adopt a motion to:

A. Adopt a Negative Declaration and Introduce **Ordinance 2464** that would allow medical marijuana dispensaries in the Professional/Commercial Office (C-O) zone with a conditional use permit once the City Council adopts additional regulations; allow delivery of medical marijuana from licensed dispensaries; and allow limited indoor growth of medical marijuana (up to 6 plants per lot) for qualified patients under specific circumstances:

“An Ordinance of the City Council of the City of Merced, California, Amending Chapter 20.84, “Medical Marijuana and Cultivation” and amending Sections 20.20.040 “Conditional Uses,” of the Merced Municipal Code regarding the zoning of medical marijuana dispensaries as conditional uses”.

AND

B. Approving a supplemental appropriation in Fund 017 in the amount of \$2,260 to pay for State filing fees for the Negative Declaration and allowing the Finance Officer to make the necessary budget adjustments.

ALTERNATIVES

1. Deny the request; or,
2. Refer back to staff for reconsideration of specific items (specific items to be addressed in City Council motion); or,
3. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

City of Merced Charter, Section 200.

CITY COUNCIL PRIORITIES

Not Applicable.

DISCUSSION

At the meeting of July 18, 2016, the City Council by a 4 to 3 vote adopted a motion directing that an ordinance be drafted for consideration at the August 1, 2016 meeting that would:

1. Allow medical marijuana dispensaries as a conditional use in the C-O (Commercial Office) District;
2. Allow the indoor growth of six marijuana plants for qualified patients; and
3. Allow deliveries of medical marijuana from licensed dispensaries.

The motion also included language stating that the applications for medical marijuana dispensaries would not be allowed until specific regulations regarding the dispensaries had been adopted by the City Council. This draft ordinance is included as Attachment 1 for consideration by the City Council.

Background

The July 18, 2016 motion was the culmination of a number of meetings regarding medical marijuana. The City Council held its first study session and public hearing on medical marijuana issues on January 4, 2016 in response to 2015 changes in state law regarding medical marijuana. The City Council held subsequent study sessions regarding medical marijuana on March 1, 2016 and April 20, 2016.

At the April 20, 2016 meeting, the City Council directed that staff prepare an ordinance relating to medical marijuana dispensaries, delivery of medical marijuana and limited cultivation of medical marijuana (both indoors and outdoors) under specific circumstances.

After extensive public testimony and discussion by the City Council, the City Council directed staff to prepare an ordinance regarding medical marijuana. This draft ordinance was presented to the Planning Commission on May 18, 2016. At that public hearing, the Planning Commission recommended that the ordinance be amended to only allow indoor growth and to limit the number of plants to six per lot.

Both the ordinance drafted in response to the City Council direction on April 20, 2016 and the modifications recommended by the Planning Commission at its May 18, 2016 meeting were presented to the City Council at a public hearing on July 5, 2016. After extensive discussions by the City Council, two motions were made to modify the proposed medical marijuana regulations. Both motions failed by 3-3 votes, with Councilmember Lor absent. Given the failure of both motions, the City Council then voted to continue the public hearing to July 18, 2016 for further deliberation.

At the July 18, 2016 public hearing, the City Council took further public testimony and then deliberated regarding the medical marijuana regulations. One motion was made regarding proposed

medical marijuana regulations, but was withdrawn prior to being voted on by the City Council. A second motion was made by Council Member Belluomini regarding medical marijuana regulations. This motion passed on a 4-3 vote. The provisions of this motion were incorporated into the ordinance that is currently before the City Council.

IMPACT ON CITY RESOURCES

There is \$2,260 in FY 2015-16 savings to carry over into FY 2016-17 for the supplemental appropriation.

ATTACHMENTS

1. Draft Ordinance
2. Agenda Packet from July 18, 2016 meeting.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING CHAPTER 20.84, “MEDICAL
MARIJUANA AND CULTIVATION” AND
AMENDING SECTION 20.20.040 “CONDITIONAL
USES,” OF THE MERCED MUNICIPAL CODE
REGARDING THE ZONING OF MEDICAL
MARIJUANA DISPENSARIES AS CONDITIONAL
USES**

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

SECTION 1. AUTHORITY. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to, Article XI, Section 7 of the California Constitution, the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program (California Health and Safety Code § 11362.7 et seq.), and The Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643; hereafter “MMRSA”).

SECTION 2. AMENDMENT OF CHAPTER 20.84. Chapter 20.84, “Medical Marijuana and Cultivation,” is amended to read as follows:

**“Chapter 20.84
MEDICAL MARIJUANA AND CULTIVATION**

- Section:**
20.84.010 Definitions.
20.84.020 Regulations.
20.84.030 Public Nuisance.
20.84.040 Civil Penalties.

20.84.010 Definitions.

‘Cannabis’ or ‘marijuana’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(f) as the same may be amended from time to time.

‘Caregiver’ or ‘primary caregiver’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7(d) as the same may be amended from time to time.

‘Commercial cannabis activity’ shall have the same meaning as that set forth in Business and Professions Code Section 19300.5(j) as the same may be amended from time to time and shall also include “the cultivation, manufacture, possession, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.”

‘Cultivation’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(k) as the same may be amended from time to time.

‘Delivery’ or ‘deliveries’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

‘Dispensary’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(n) as the same may be amended from time to time. ‘Dispensary’ shall not include the following uses:

- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code,

(2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code,

(3) A residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code,

(4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code,

(5) A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

‘Medical cannabis,’ ‘medical cannabis product,’ or ‘cannabis product’ shall have the same meanings as set forth in Business & Professions Code § 19300.5(af) as the same may be amended from time to time.

‘Medical Marijuana Regulation and Safety Act’ or ‘MMRSA’ shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

‘Qualifying patient’ or ‘Qualified patient’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7(f) as the same may be amended from time to time.

20.84.020 Regulations.

A. Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, medical marijuana dispensaries are allowed as a conditional use in the C-O District and Planned Developments which have the equivalent General Plan land use designations of this zone, subject to:

i. the restrictions of Section 20.84.020(B) on the prohibited locations of dispensaries within the C-O District and Planned Developments that have the equivalent General Plan land use designations of that zone;

ii. the limitations of Section 20.84.020(C) on the number of dispensaries that may be authorized within the City at any given time;

iii. the requirement that, prior to applying for a conditional use permit, a proposed operator shall first obtain a separate regulatory permit from the City to operate a dispensary in the City; and

iv. any conditions imposed to protect the public health, safety and welfare and/or to minimize the secondary effects, if any, of the dispensary.

B. A dispensary shall not be approved in the C-O District if any following conditions apply:

i. The proposed dispensary would be located within 600 feet of the property line of any kindergarten, elementary school, middle school or high school.

ii. The proposed dispensary would be located within 500 feet of the property line of any public park that includes playgrounds, active play areas and/or sports fields. For purposes of this subsection only, a park shall not include any park designated in Section 9.70.030 as a bike path.

iii. The proposed dispensary would be located within 500 feet of the property line of any youth center, City-owned and operated recreational center or public library.

C. No more than four (4) dispensaries shall be authorized to operate in the City at any given time. If four (4) dispensaries are authorized to locate within the City, then no additional conditional use permits shall be approved to operate a dispensary within the City.

D. Only licensed dispensaries are authorized to make deliveries of medical cannabis and medical cannabis products within the City of Merced. Such deliveries shall occur solely between the hours of 8:00 a.m. and 7:00 p.m. All other deliveries of marijuana or marijuana products within the City are expressly prohibited.

E. Cultivation of cannabis is expressly prohibited in all zones and all specific plan areas in the City; provided, however, that six (6) plants may be cultivated indoors within a legally permitted structure on any lot within the City if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient.

F. Notwithstanding any language in this Section 20.84.020 to the contrary, no application for a conditional use permit for a dispensary and/or an application for a regulatory permit for a dispensary shall be accepted by the City until such time as the City has adopted:

- i. specific regulations regarding the operations of the dispensaries; and
- ii. objective standards for the issuance of the regulatory permit that a proposed operator must obtain prior to applying for a conditional use permit for a dispensary.

As of August 15, 2016, because the City has not adopted specific regulations regarding the operations of dispensaries and objective standards for the issuance of regulatory permits for dispensaries, the City is currently not authorized to accept applications for regulatory

permits for dispensaries or applications for a conditional use permit for dispensaries.

20.84.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 20.84 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

20.84.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 20.84, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney fees and costs to the prevailing party.”

SECTION 3. AMENDMENT OF SECTION 20.20.040. Section 20.20.040, “Conditional Uses,” is hereby amended to read as follows:

“20.20.040 Conditional uses.

The following are conditional uses:

- A. Public and quasipublic uses appropriate to the district, such as hospitals, convalescent or nursing homes and professional, business and technical schools;
- B. Mortuaries and crematories;
- C. R-4 district residential uses subject to all restrictions and requirements of that district;
- D. Public utility uses, substation, and communication equipment buildings;

- E. Signs for single occupant in excess of the allowable area, but not to exceed fifty (50) square feet per lot;
- F. Prescription pharmacies, without variety goods;
- G. Bail bond businesses;
- H. Day care facilities for more than twelve children;
- I. Day care facilities for the elderly of twelve or fewer persons;
- J. Beauty salons, barber shops, tanning salons, and nail salons;
- K. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44; and
- L. Medical marijuana dispensaries, subject to the regulations and restrictions of Section 20.84.020.”

SECTION 4. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2016, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2016, 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 City Clerk

(SEAL)

APPROVED AS TO FORM

Kent Rogers 7/21/16

City Attorney Date



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item K.2.

Meeting Date: 7/18/2016

Report Prepared by: *Kim Espinosa, Planning Manager, Development Services Department, and Kenneth Rozell, Senior Deputy City Attorney, City Attorney's Office*

SUBJECT: Zoning Ordinance Amendment #16-02 Regarding Medical Marijuana Dispensaries, Deliveries, and Cultivation for Qualified Patients

REPORT IN BRIEF

Consider adoption of an ordinance to establish regulations for medical marijuana dispensaries, deliveries, and cultivation for qualified patients.

RECOMMENDATION

City Council - Adopt a motion approving one of the following options:

A. Adopt a Negative Declaration and Introduce **Ordinance 2463** (as recommended by the Planning Commission) that would allow medical marijuana dispensaries in the Professional/Commercial Office (C-O), Light Industrial (I-L), and Heavy Industrial (I-H) zones with a conditional use permit; allow delivery of medical marijuana under specific circumstances; and allow limited growth, indoors only, of medical marijuana (6 plants or less per lot) for a qualified patient:

"An Ordinance of the City Council of the City of Merced, California, Amending Chapter 20.84, "Medical Marijuana and Cultivation" and amending Sections 20.20.040 "Conditional Uses," 20.34.040 "Conditional Uses," and 20.36.040 "Conditional Uses," of the Merced Municipal Code regarding the zoning of medical marijuana dispensaries as conditional uses".

OR

B. Adopt a Negative Declaration and Introduce **Ordinance 2464** (as directed by the City Council on April 20, 2016, and originally presented to the Planning Commission on May 18, 2016) that would allow medical marijuana dispensaries in the Professional/Commercial Office (C-O) zone with a conditional use permit; allow delivery of medical marijuana under specific circumstances; and allow limited growth of medical marijuana (12 immature or 6 mature plants or less per lot) for a qualified patient under specific circumstances:

"An Ordinance of the City Council of the City of Merced, California, Amending Chapter 20.84, "Medical Marijuana and Cultivation" and amending Sections 20.20.040 "Conditional Uses," of the Merced Municipal Code regarding the zoning of medical marijuana dispensaries as conditional uses".

AND

C. Approving a supplemental appropriation in Fund 017 in the amount of \$2,260 to pay for State filing fees for the Negative Declaration and allowing the Finance officer to make the necessary budget adjustments.

ALTERNATIVES

1. Approve one of the two options above, subject to modifications as conditioned by Council; or,
2. Approve a modified ordinance based on one of the motions made at the July 5, 2016, public hearing; or,
3. Approve a modified ordinance based on a combination of #1 and/or #2 above; or,
4. Deny the request; or,
5. Refer back to staff for reconsideration of specific items (specific items to be addressed in City Council motion); or,
6. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

City of Merced Charter, Section 200.

CITY COUNCIL PRIORITIES

Not Applicable.

DISCUSSION

City Council Meeting of July 5, 2016

On July 5, 2016, the City Council held a public hearing on the proposed medical marijuana ordinance. Eight (8) individuals testified, most in support of outdoor growth and dispensaries. (See Attachment 10 for written materials submitted by some of those individuals at the hearing.)

During City Council deliberation, two motions were made and failed by 3-3 votes, with Councilmember Lor absent. The motions were as follows:

Murphy motion:

- Approve Planning Commission recommendation, but delete the industrial zones (I-L and I-H) for dispensaries (i.e., allow in Commercial Office, C-O, zone only with a conditional use permit)
- Six plants allowed, grown indoors only
- Four dispensaries as soon as state licensing is in place
- Deliveries allowed from licensed dispensaries

Belluomini motion:

- Approve Planning Commission recommendation, but delete the industrial zones (I-L and I-H) for dispensaries (i.e., Commercial Office, C-O, zone only)
- Six plants allowed, grown indoors only

- Four dispensaries allowed to begin operation prior to state issuing licenses for dispensaries
- Draft regulatory language as presented at Attachment 11
- Deliveries allowed from licensed dispensaries

Given the failure of both motions, the City Council then voted to continue the public hearing to July 18, 2016, for further deliberation.

Background

At its meeting on January 4, 2016, the City Council first held a study session on medical marijuana issues and then subsequently held a public hearing regarding medical marijuana in response to 2015 changes in State Law. After taking public testimony and extensive deliberations, the City Council voted 7 to 0 to introduce Ordinance No. 2454, which prohibits all commercial medical marijuana uses in the City and prohibits cultivation of marijuana for medical use by a qualified patient or primary caregiver. However, as part of the motion introducing Ordinance No. 2454, the City Council directed staff to schedule multiple study sessions after the effective date of the ordinance to consider the City's options relating to medical marijuana within the City (including dispensaries, delivery, and cultivation). On January 19, 2016, the City Council adopted Ordinance No. 2454, which became effective 30 days later on February 18, 2016.

On March 1, 2016, the City held a special meeting to discuss medical marijuana. At that meeting, the City Council took public testimony and considered issues relating to medical marijuana dispensaries (including information regarding the six commercial zones in the City), delivery of medical marijuana from licensed dispensaries, and if medical marijuana would be allowed to be cultivated within the City by primary caregivers or qualified patients. At that meeting, the City Council asked that staff provide answers to specific questions at the next study session.

On April 20, 2016, the City Council held a second special study session on medical marijuana and was asked to provide guidance on the following questions:

- 1) Does the City Council wish to allow medical marijuana dispensaries within the City?
- 2) If so, in which zone(s) would dispensaries be allowed?
- 3) If dispensaries are allowed, does the City Council wish to place a limit on the number of dispensaries within the City?
- 4) Does the City Council wish to allow deliveries of medical marijuana within the City?
- 5) Does the City Council wish to allow the cultivation of medical marijuana within the City by a primary caregiver or qualified patient?
- 6) If so, will the cultivation be allowed indoors, outdoors, or both?
- 7) If cultivation is allowed, how many plants or square footage of cultivation will be allowed per lot or per dwelling unit? Options include, but are not limited to:
 - a) A specific number of plants per legal lot or parcel.
 - b) A specific number of plants within a single private residence or upon the grounds of that residence.
 - c) A specified square footage for indoor and/or outdoor growing of medical marijuana.

After extensive public testimony and discussion by the City Council, the City Council directed staff to

prepare an Ordinance based on the City Council's answers to the above questions. This draft Ordinance was presented to the Planning Commission on May 18, 2016.

General Overview of Proposed Changes to the Zoning Ordinance

As directed by the City Council, City staff prepared an Ordinance (Attachment 9) to amend Chapter 20.84 "Medical Marijuana and Cultivation" and Section 20.20.040 "Conditional Uses" (Professional/Commercial Office Zone) of the Merced Municipal Code as follows:

- 1) To allow medical marijuana/cannabis dispensaries in the Professional/ Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations by Conditional Use Permit subject to certain restrictions as described below. (The Planning Commission recommended that the Light and Heavy Industrial zones be added, see Attachment 8); and,
- 2) To allow deliveries from licensed dispensaries of medical marijuana in the City with limited hours; and,
- 3) To allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line as described below. [The Planning Commission recommended that this be modified to allow indoor growth only and to limit the number of plants to 6 (immature or mature) per lot, see Attachment 8.]

Medical Marijuana Dispensaries

As directed by the City Council, the ordinance would allow medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations (Attachment 1) by Conditional Use Permit, but would also place restrictions on medical marijuana dispensaries as follows:

- 1) The proposed dispensary could not be located within 600 feet of the property line of any kindergarten, elementary school, middle school, or high school (consistent with State law) (see map at Attachment C of the Planning Commission Staff Report at Attachment 7); and,
- 2) The proposed dispensary could not be located within 500 feet of the property line of any public park that includes playgrounds, active play areas, and/or sports fields (not including bike paths) (see map at Attachment D of the Planning Commission Staff Report at Attachment 7); and,
- 3) The proposed dispensary could not be located within 500 feet of the property line of any youth center, City-owned and operated recreational center, or public library (see map at Attachment E of the Planning Commission Staff Report at Attachment 7); and,
- 4) No more than four dispensaries shall be authorized to operate in the City at any given time; and,
- 5) Dispensaries must also obtain a license from the State of California to operate a dispensary prior to opening for business at a specific location in the City.

A composite map of the above restrictions for the C-O zones is included at Attachment 3. Please note that the maps above are included for illustrative purposes only and contain information that is current only up to the date of this staff report. This information is subject to change over time.

Confirmation of the distance that any proposed dispensary is located away from schools, parks, and other uses will need to be confirmed at the time of Conditional Use Permit application.

At its meeting of May 18, 2016, the Planning Commission recommended that medical marijuana dispensaries also be allowed by conditional use permit in the Light Industrial (I-L) and Heavy Industrial (I-H) zones. A map showing the industrial zones is included at Attachment 2, and a composite map showing distances from sensitive uses described above for the Industrial zones in addition to the C-O zones is included at Attachment 4.

Medical Marijuana Deliveries

As proposed, the ordinance would allow only licensed dispensaries be authorized to make medical marijuana deliveries within the City of Merced and such deliveries shall occur solely between the hours of 8 a.m. and 7 p.m.

Medical Marijuana Cultivation for Personal Use

As proposed in either ordinance, commercial cultivation of marijuana in any amounts is prohibited in all zones in the City, including industrial zones. Cultivation is for personal use only, not for commercial harvesting and resale. As proposed, 12 immature or 6 mature plants may be cultivated indoors or outdoors on any lot in the City if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient. However, any plants cultivated outdoors shall not be visible from the public right-of-way and shall not be located within 5 feet of the property line. In addition, no fences (whether temporary or permanent) shall be constructed at a height no greater than 6 feet to screen marijuana plants from the public right-of-way, unless City regulations only authorize a fence of a lesser height and in that case, the fence shall conform to that lesser height requirement.

At its May 18, 2016 public hearing, the Planning Commission recommended that the ordinance be amended to only allow indoor growth (not outdoors) and to limit the number of plants to 6 (either mature or immature) per lot.

Timetable for Adoption and Implementation

If the ordinance is introduced at tonight's meeting (July 18, 2016), then a second reading will occur on August 1, 2016. The ordinance, if approved, would then become effective 30 days after that or on August 31, 2016.

If adopted and before accepting conditional use permit (CUP) applications, the City will need to establish guidelines for the application and adoption process for the four (4) CUP's for dispensaries, which should include some objective criteria for evaluating and ranking each application in order to provide guidance regarding which applications should be approved (given the limited number of authorized dispensaries). Based on the number of inquiries City staff has been receiving, the number of requests will likely be higher than the four CUP's allowed. The Planning Commission will be the issuing authority for those Conditional Use Permits, with any appeals to be decided by the City Council. Therefore, City staff will present some draft criteria to the Planning Commission for recommendation and City Council for final adoption.

However, please note that the draft ordinance has specific language stating that "before a dispensary

may open for business within the City, the operator of the dispensary must also have a license from the State of California to operate..." (Section 20.84.020(A)). Unless the City Council provides different direction at the public hearing, medical marijuana dispensaries will not be allowed to operate within the City before the State of California creates the state regulatory structure for licensing dispensaries. The State will require applicants for State licenses to have the local license approved prior to applying for the State license, however.

On May 25, 2016, City staff attended a webinar put on by the League of California Cities with the newly-created State Bureau of Medical Marijuana Regulation regarding the regulation of California's cannabis industry. At the webinar, Lori Ajax, the head of the Bureau, outlined the schedule for developing and adopting the State licensing requirements for dispensaries, deliveries, etc. Ms. Ajax indicated that the goal would be to have all the regulations finalized and approved by December 2017 and to begin accepting applications on January 1, 2018, with the first licenses being issued some 6-8 months after that. As such, based upon the current language of the ordinance, dispensaries would not be allowed to open in Merced until mid-2018.

To remove any issues under the State Permit Streamlining Act (generally requiring the processing of CUP's within 180 days), the City Council may wish to add specific language to the ordinance stating that CUP applications for medical marijuana dispensaries shall not be accepted until the State of California adopts licensing regulations for medical marijuana dispensaries (likely December 2017). This could also help ensure that City and State regulations do not conflict with each other.

City staff recommends that the City Council add language as follows: "Conditional Use Permit applications for medical marijuana dispensaries shall not be accepted until the State of California formally adopts licensing regulations for medical marijuana dispensaries," to the ordinance in Section 20.84.020 (G) of the City Council version at Attachment 9 or Section 20.84.020 (F) for the Planning Commission version at Attachment 8.

Environmental Clearance

The Planning staff has conducted an environmental review (Initial Study #16-12) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Negative Declaration (i.e., no significant adverse environmental effects have been found) is being recommended (see Attachment H of the Planning Commission Staff Report at Attachment 7).

Planning Commission Action

On May 18, 2016, the Planning Commission held a public hearing on the proposed ordinance. The Planning Commission heard testimony from two individuals in support of the ordinance, but one individual felt that dispensaries should also be allowed in the Central Commercial (C-C) zone in the Downtown Core. After the public hearing, the Planning Commission voted 5-1-1 (5 ayes, 1 no, 1 abstain) to recommend approval of negative declaration and the draft ordinance to the City Council with the following changes:

Prohibit outdoor growing of medical marijuana/cannabis for personal use, reduce the number of plants allowed for personal cultivation to 6 plants (either immature or mature), and to allow medical marijuana dispensaries in the Light Industrial (I-L), Heavy Industrial (I-H) with a Conditional Use Permit in addition to the Professional/Commercial Office (C-O) zone and

Planned Developments (with Commercial Office designations), subject to certain restrictions.

The Planning Commission Resolution and Minutes can be seen at Attachments 5 and 6 with the Planning Commission Staff Report at Attachment 7.

City Council Action

After the public hearing, the City Council should consider adopting a Negative Declaration and introducing either the Ordinance recommended by the Planning Commission at Attachment 8 or the Ordinance as originally directed by the City Council at Attachment 9, with the modified language described above in regards to the timing of City acceptance of CUP applications.

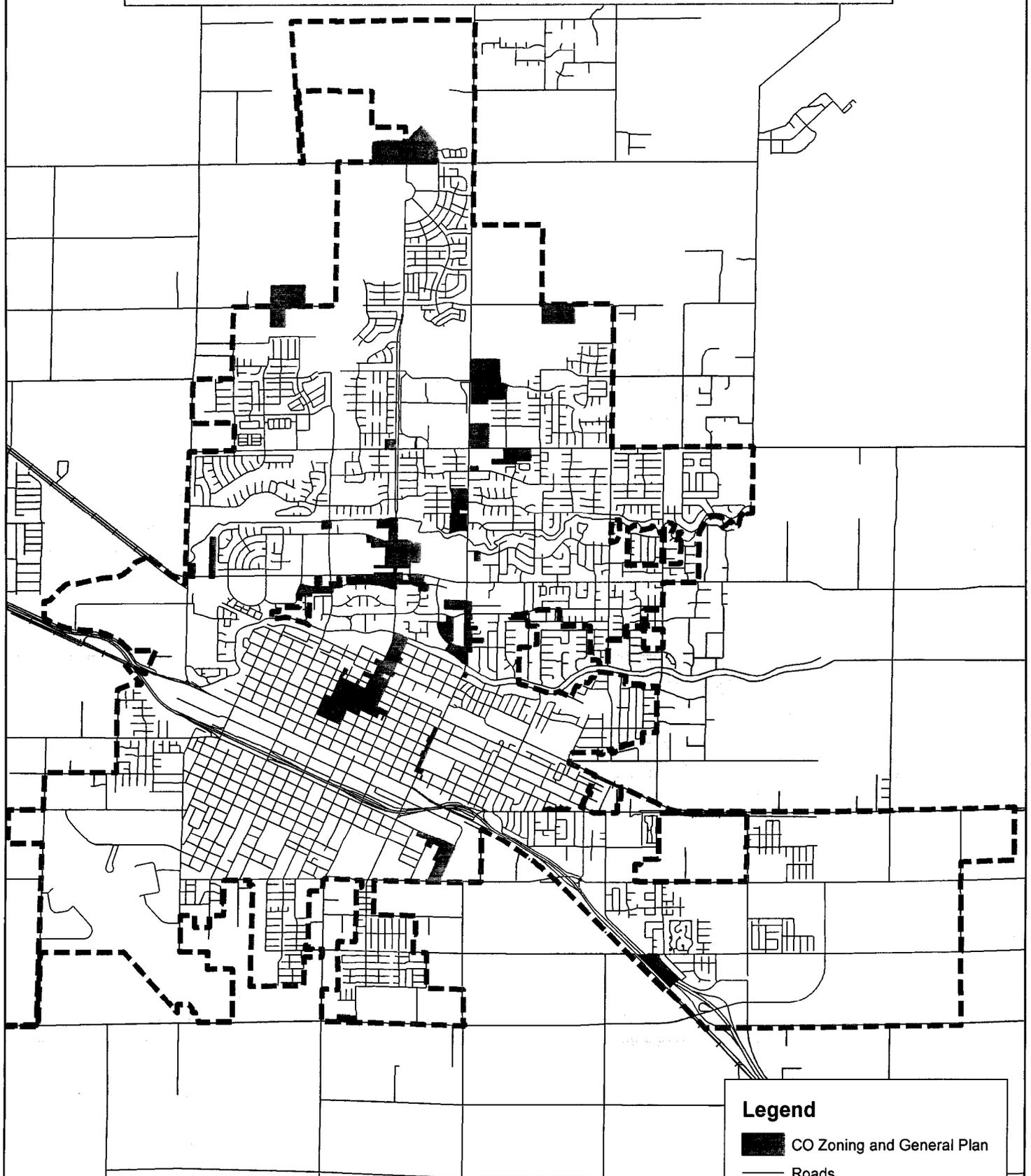
IMPACT ON CITY RESOURCES

There is \$2,260 in FY 2015-16 savings to carry over into FY 2016-17 for the supplemental appropriation.

ATTACHMENTS

1. Map of Professional/Commercial Office Zones
2. Map of Light Industrial and Heavy Industrial Zones
3. Buffer Areas around Schools, Parks, Youth Centers, Libraries, etc. (C-O Zones)
4. Buffer Areas around Schools, Parks, Youth Centers, Libraries, etc. (I-L & I-H Zones in addition to C-O Zones)
5. Planning Commission Resolution #3068
6. Planning Commission Minutes from May 18, 2016
7. Planning Commission Staff Report #16-11
8. Draft Ordinance 2463 (as recommended by the Planning Commission)
9. Draft Ordinance 2464 (as previously directed by the City Council)
10. Information submitted by the public at the July 5, 2016, City Council Meeting
11. Proposed regulatory language submitted by Councilmember Belluomini at the July 5, 2016, City Council Meeting

Professional/Commercial Office (CO)



Legend

- CO Zoning and General Plan
- Roads
- +— Railroads
- ⌈⌋ City Limits

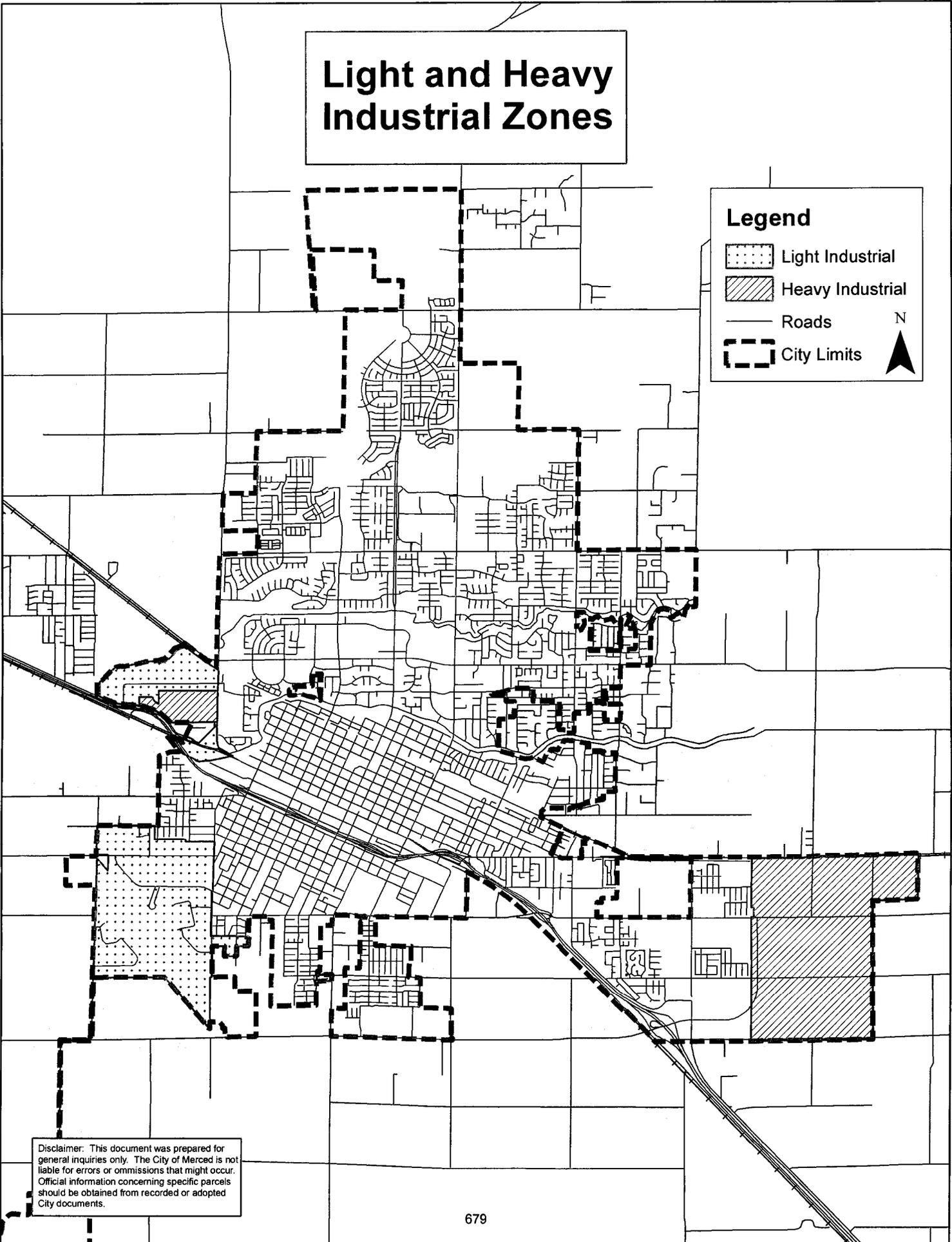


Disclaimer: This document was prepared for general inquiries only. The City of Merced is not liable for errors or omissions that might occur. Official information concerning specific parcels should be obtained from recorded or adopted City documents.

Light and Heavy Industrial Zones

Legend

-  Light Industrial
 -  Heavy Industrial
 -  Roads
 -  City Limits
- N 

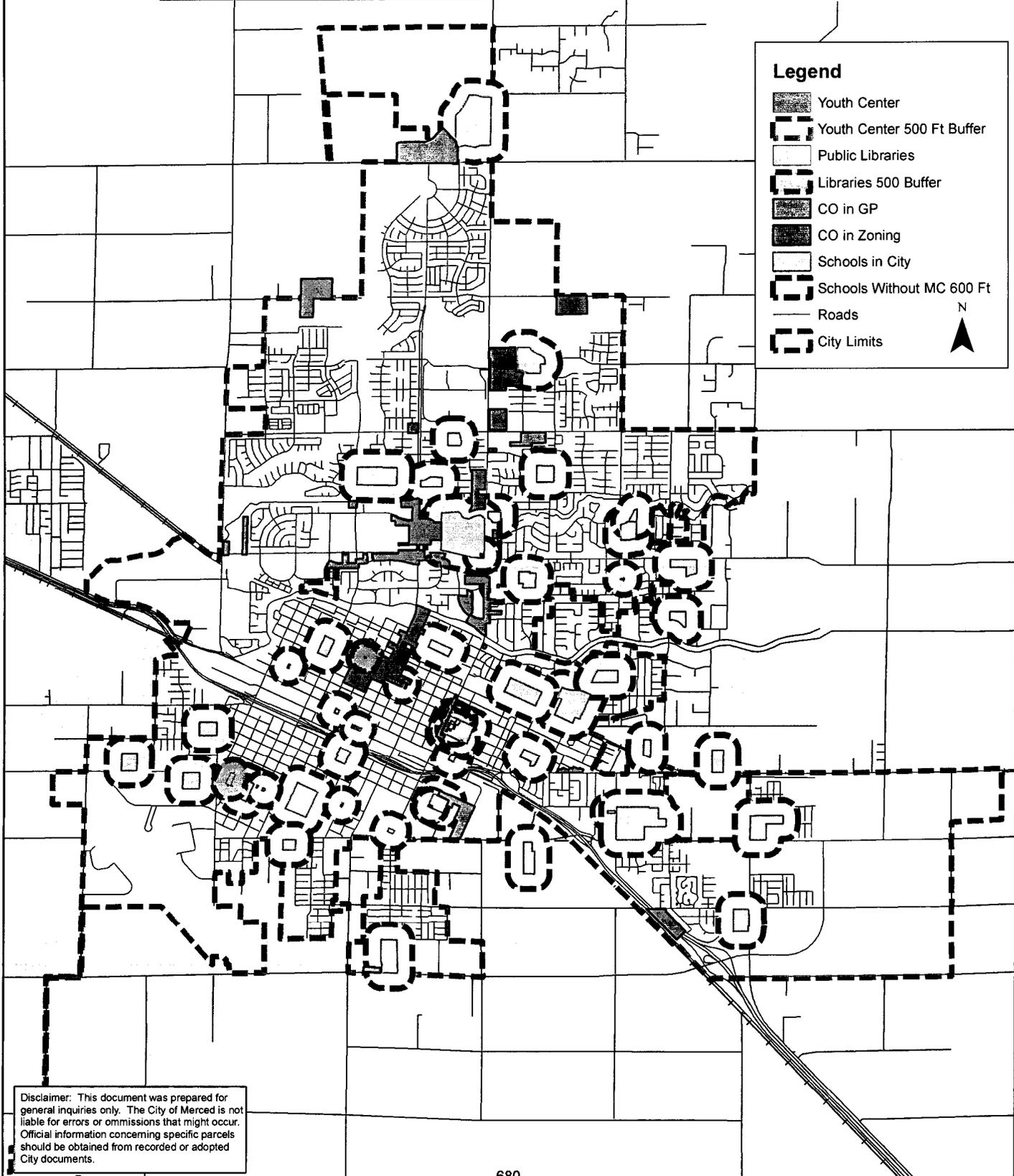


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Professional Office Zones with Proposed Buffers for Schools, Parks, Etc.

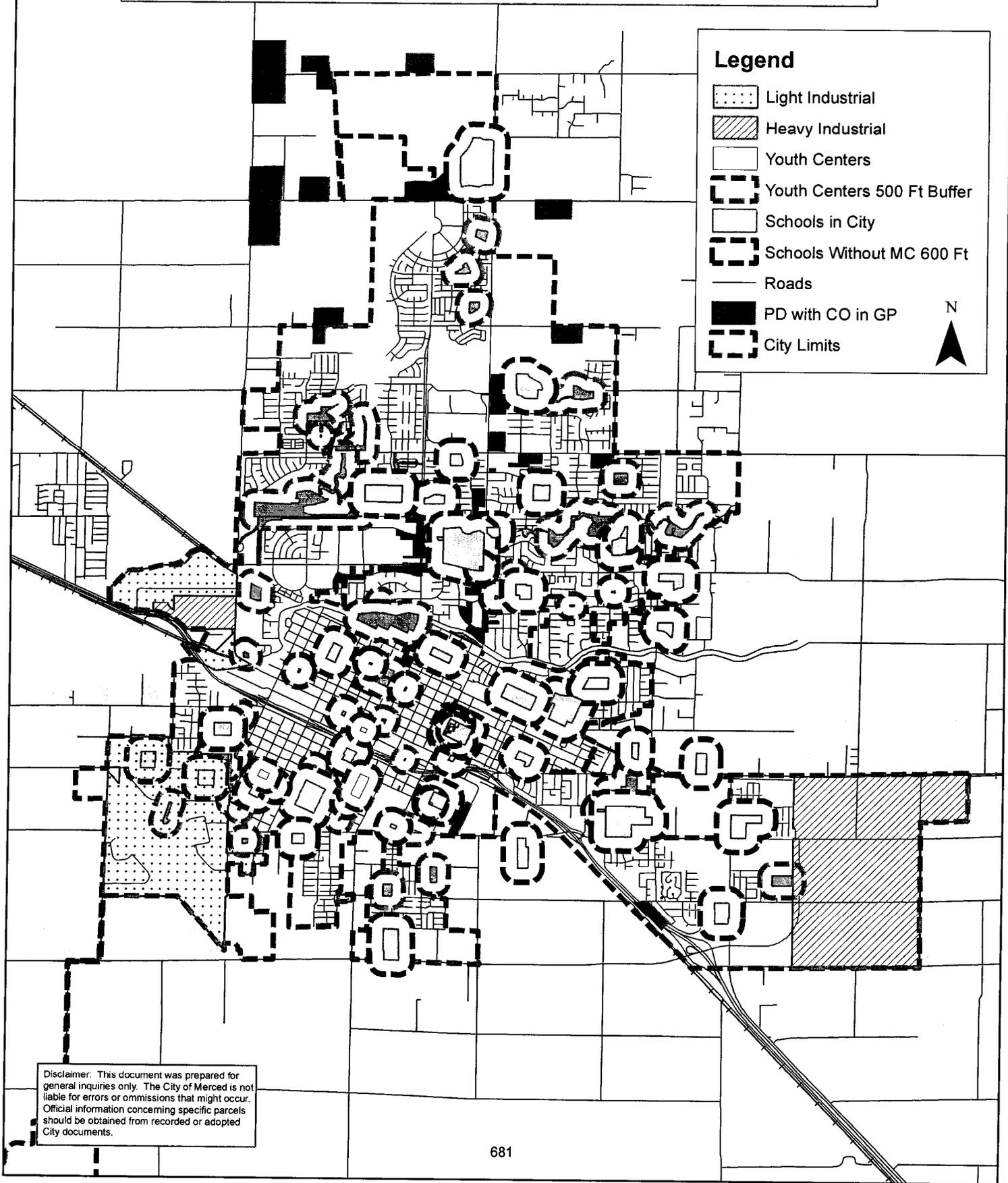
Legend

-  Youth Center
-  Youth Center 500 Ft Buffer
-  Public Libraries
-  Libraries 500 Buffer
-  CO in GP
-  CO in Zoning
-  Schools in City
-  Schools Without MC 600 Ft
-  Roads
-  City Limits



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C-O, I-L, AND I-H Zones with Buffers Planning Commission Recommendation



Legend

-  Light Industrial
-  Heavy Industrial
-  Youth Centers
-  Youth Centers 500 Ft Buffer
-  Schools in City
-  Schools Without MC 600 Ft
-  Roads
-  PD with CO in GP
-  City Limits



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CITY OF MERCED
Planning Commission

Resolution #3068

WHEREAS, the Merced City Planning Commission at its regular meeting of May 18, 2016, held a public hearing and considered **Zoning Ordinance Amendment #16-02**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Chapter 20.84, “Medical Marijuana and Cultivation,” and Chapter 20.20, “Professional/Commercial Office,” to the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office designations by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #16-11; and,

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Environmental Review #16-12, and approval of Zoning Ordinance Amendment #16-02, as shown in Attachment A (Proposed Ordinance) of Staff Report #16-11, modified as follows:

Prohibit outdoor growing of marijuana/cannabis for personal use, reduce the number of plants allowed for personal cultivation to 6 plants (immature or mature), and to allow commercial marijuana/cannabis dispensaries in the Light Industrial (I-L), Heavy Industrial (I-H), Professional/Commercial Office (C-O) zones and Planned Development (with Commercial Office designations) zones, by Conditional Use Permit subject to certain restrictions.

Upon motion by Commissioner Smoot, seconded by Commissioner Padilla, and carried by the following vote:

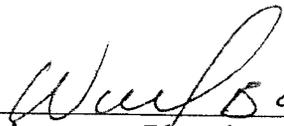
AYES: Commissioners Dylina, McLeod, Padilla, Smoot and Acting Chairperson Baker
NOES: Commissioner Smith
ABSENT: None
ABSTAIN: Chairperson Colby

PLANNING COMMISSION RESOLUTION # 3068

Page 2

May 18, 2016

Adopted this 18th day of May 2016



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

n:shared:planning:PC Resolutions:ZOA#16-02

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, May 18, 2016

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

ROLL CALL

Commissioners Present: Kurt Smoot, Kevin Smith, Bill Baker, Jill McLeod, Robert Dylina, Peter Padilla, and Chairperson Travis Colby

Commissioners Absent: None

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

1. **APPROVAL OF AGENDA**

Chairperson COLBY suggested that the Agenda be amended to move item 4.2 ahead of 4.1. This was due to the fact that he would be recusing himself from item 4.1.

M/S COLBY-BAKER, and carried by unanimous voice vote, to approve the Agenda as amended.

2. **MINUTES**

M/S PADILLA-SMOOT, and carried by unanimous voice vote, to approve the Minutes of May 4, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.2 Housing Element for the City of Merced (General Plan Amendment #16-03, initiated and prepared by the City of Merced. This application involves the update of the Housing Element of the General Plan, one of seven required elements of the General Plan. The Housing Element sets forth policies and programs for the provision of affordable housing throughout the community.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #16-13.

There was no one present wishing to speak regarding this item; therefore, public testimony was opened and closed at 7:29 p.m.

M/S PADILLA-MCLEOD, and carried by the following vote, to recommend to the City Council adoption of a Negative Declaration regarding Environmental Review #16-11, and approval of General Plan Amendment #16-03, subject to the findings set forth in Staff Report #16-13 (RESOLUTION #3069):

AYES: Commissioners Baker, Dylina, McLeod, Padilla, Smith, Smoot, and Chairperson Colby

NOES: None

ABSENT: None

ABSTAIN: None

- 4.1 Zoning Ordinance Amendment #16-02, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Chapter 20.84, "Medical Marijuana and Cultivation," and Chapter 20.20, "Professional/Commercial Office," to the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office designations by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for

personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line.

Chairperson COLBY recused himself due to the fact that he had a professional conflict regarding the item and left the dais for the remainder of the meeting. Commissioner BAKER took over as Acting Chairperson.

Planning Manager ESPINOSA reviewed the report. For further information, refer to Staff Report #16-11.

Public testimony was opened at 7:47p.m.

Speaker from the Audience in Favor:

JESSE KRAFT, Groveland, CA

Speaker from the Audience in Opposition:

DWIGHT LARKS, Gustine, CA

Public testimony was completed at 7:56 p.m.

The Commission discussed several concerns that included: indoor versus outdoor cultivation on residential property, the number of plants allowed to be grown on residential property, the necessity of distinguishing mature and immature plants, the zoning designation for commercial dispensaries, and perhaps adding the industrial zones as well.

M/S SMOOT-PADILLA, and carried by the following vote, to recommend to the City Council adoption of a Negative Declaration regarding Environmental Review #16-12, and approval of Zoning Ordinance Amendment #16-02, as shown in Attachment A (Proposed Ordinance) of Staff Report # 16-11, modified as follows, subject to the Findings set forth in Staff Report #16-11 (RESOLUTION # 3068):

Prohibit outdoor growing of marijuana/cannabis for personal use, reduce the number of plants allowed for personal cultivation

to 6 plants (immature or mature), and to allow commercial marijuana/cannabis dispensaries in the Light Industrial (I-L), Heavy Industrial (I-H), Professional/Commercial Office (C-O) zones and Planned Development (with Commercial Office designations) zones, by Conditional Use Permit subject to certain restrictions.

AYES: Commissioners Dylina, McLeod, Padilla, Smoot and Acting Chairperson Baker
NOES: Commissioner Smith
ABSENT: None
ABSTAIN: Chairperson Colby

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

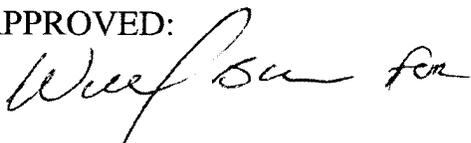
Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

There being no further business, Acting Chairperson BAKER adjourned the meeting at 8:25 p.m.

Respectfully submitted,


KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:

TRAVIS COLBY, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #16-11

AGENDA ITEM: 4.1

FROM & Kim Espinosa,
PREPARED BY: Planning Manager

PLANNING COMMISSION
MEETING DATE: May 18, 2016

CITY COUNCIL
MEETING DATE: July 5, 2016
(Tentative)

SUBJECT: **Zoning Ordinance Amendment #16-02**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Chapter 20.84, “Medical Marijuana and Cultivation,” and Chapter 20.20, “Professional/Commercial Office,” to the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office designations by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line. *PUBLIC HEARING*

ACTION: **PLANNING COMMISSION:**

Recommendation to City Council

- 1) Environmental Review #16-12 (Negative Declaration)
- 2) Zoning Ordinance Amendment #16-02

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #16-12 (Negative Declaration)
- 2) Zoning Ordinance Amendment #16-02

SUMMARY

Due to recent direction from the City Council, City staff has prepared an Ordinance (Attachment A) to amend Chapter 20.84 “Medical Marijuana and Cultivation” and Section 20.20.040 “Conditional Uses” (Professional/Commercial Office Zone) of the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations (Attachment B) by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or

6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of a Negative Declaration (Initial Study #16-12—Attachment H) and Zoning Ordinance Amendment #16-02 (including the adoption of the Resolution at Attachment I) as described in Attachment A.

PROJECT DESCRIPTION

The City of Merced is proposing to adopt an Ordinance (Attachment A) to amend Chapter 20.84 “Medical Marijuana and Cultivation” and Section 20.20.040 “Conditional Uses” (Professional/Commercial Office Zone) of the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations (Attachment B) by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line.

BACKGROUND

State of California

In 1996, California voters adopted the Compassionate Use Act (“CUA”) as a ballot initiative, codified at Health and Safety Code Section 11362.5. The CUA provides a limited defense from prosecution for cultivation and possession of marijuana. In 2003, the Legislature adopted the Medical Marijuana Program Act (“MMP”), codified at Health and Safety Code sections 11362.5 to 11362.83. The MMP provides qualified persons, primary caregivers, and holders of valid identification cards a defense to certain enumerated marijuana-related state crimes.

The California courts have found that neither the CUA nor the MMP provide medical marijuana patients with an unfettered right to obtain, cultivate, or dispense marijuana for medical purposes. Rather, the statutes set up limited defenses to state criminal prosecution. The manufacture, distribution, or possession of marijuana remains unlawful and a federal crime under the Federal Controlled Substance Act.

In 2013, the California Supreme Court confirmed a city’s ability to prohibit medical marijuana dispensaries within its boundaries. The court found that the CUA and MMP do not preempt a city’s local regulatory authority. Two more decisions, *Maral v. City of Live Oak*, 221 Cal.App.4th 975 (2013) by the Court of Appeal and the 5th Appellate District’s 2015 decision in *Kirby v. County of Fresno*, further upheld local government’s authority to regulate land use.

On October 9, 2015, Governor Jerry Brown signed into law three bills (AB 266, AB 243, and SB 643) that together are entitled the Medical Marijuana Regulation & Safety Act (MMRSA). The

three bills established a comprehensive regulatory structure around the state's multi-billion dollar medical marijuana industry.

The legislation creates a dual licensing structure that requires a state and local license or permit in order to cultivate, dispense, or transport medical marijuana. Cities that wish to ban these land use activities are allowed to do so. However, if there is no local licensing requirement, the State Department of Food and Agriculture becomes the sole licensing authority. AB 243 originally included a provision stating that cities that did not regulate or prohibit cultivation before March 1, 2016, would lose the authority to regulate or ban cultivation within their city limits.

In response to this original language in AB 243, the League of California Cities recommended cities immediately adopt an ordinance to ban or regulate the cultivation of medical marijuana to avoid losing local control of land use regulations. Because of the considerable lead time required for these ordinances to go into effect before March 1, 2016, cities had very limited time in which to consider this issue prior to the March 1, 2016, deadline.

City of Merced

Merced has historically banned all medical marijuana uses within the City (including medical marijuana dispensaries) based upon the language of Merced Municipal Code Section 20.06.050(E) that provides:

“No use that is prohibited, unlawful, violates or is inconsistent with federal or state law, or any provision in this code, shall be allowed or permitted in any district under this title.”

Based upon those existing policies, City staff presented an ordinance for consideration by the Planning Commission that would have prohibited all commercial medical marijuana uses and activities, including delivery, in all zones and all specific plan areas in the City of Merced; and prohibited the cultivation of any amount of marijuana for medical use by a qualified patient in all zones and specific plan areas in the City of Merced.

The Planning Commission considered the proposed ordinance at a public hearing held on December 9, 2015. After extensive deliberations, the Planning Commission recommended by a 6-0-1 vote (6 ayes, 0 noes, 1 absent) that the City Council adopt the ordinance after the following changes had been made to it:

- a) Allow medical marijuana dispensaries in some commercial zones (those zones to be determined by staff); and,
- b) Allow delivery of medical marijuana if it begins within one of those allowed commercial zones; and,
- c) Consistent with the regulations of the County, allow the growth of up to 12 medical marijuana plants for personal use per lot.

City staff prepared a new ordinance consistent with the direction of the Planning Commission.

At its meeting on January 4, 2016, the City Council first held a study session on medical marijuana issues and then subsequently held a public hearing regarding medical marijuana. After taking public testimony and extensive deliberations, the City Council voted 7 to 0 to introduce Ordinance No. 2454, which prohibits all commercial medical marijuana uses in the City and prohibits cultivation of marijuana for medical use by a qualified patient or primary caregiver. However, as

part of the motion introducing Ordinance No. 2454, the City Council directed staff to schedule multiple study sessions after the effective date of the ordinance to consider the City's options relating to medical marijuana within the City (including dispensaries, delivery, and cultivation). On January 19, 2016, the City Council adopted Ordinance No. 2454, which became effective 30 days later on February 18, 2016.

On March 1, 2016, the City held a special meeting to discuss medical marijuana. At that meeting, the City Council took public testimony and considered issues relating to medical marijuana dispensaries (including information regarding the 6 commercial zones in the City), delivery of medical marijuana from licensed dispensaries, and if medical marijuana would be allowed to be cultivated within the City by primary caregivers or qualified patients.

At that meeting, the City Council asked that staff provide answers to specific questions at the next meeting regarding medical marijuana, including information regarding the 2008 Attorney General's guidelines on medical marijuana; a summary of regulations from other jurisdictions; a summary of problems that other cities are having with dispensaries; general information about THC and CBD, substances found in marijuana; the availability of labs to test medical marijuana and how are they regulated; an outline of Merced County's Public Health Department's process for obtaining a medical marijuana identification card; the actual number of medical marijuana users in Merced; and the percentage of chemotherapy patients that do not respond to regular anti-nausea drugs. A copy of the City Council Administrative Report (without Attachments) with the answers to those questions is included at Attachment G, but most of the Attachments to the City Council Report are not included (except Attachment 4, which is included) since the information is summarized in the report itself. If the Commission would like a copy of those other Attachments, please let City staff know. (The Attachments are also available on the City's website at <https://cityofmerced.legistar.com/Calendar.aspx>)

On April 20, 2016, the City Council held a second special study session on medical marijuana and was asked to provide guidance on the following questions:

- 1) Does the City Council wish to allow medical marijuana dispensaries within the City?
- 2) If so, in which zone(s) would dispensaries be allowed?
- 3) If dispensaries are allowed, does the City Council wish to place a limit on the number of dispensaries within the City?
- 4) Does the City Council wish to allow deliveries of medical marijuana within the City?
- 5) Does the City Council wish to allow the cultivation of medical marijuana within the City by a primary caregiver or qualified patient?
- 6) If so, will the cultivation be allowed indoors, outdoors, or both?
- 7) If cultivation is allowed, how many plants or square footage of cultivation will be allowed per lot or per dwelling unit? Options include, but are not limited to:
 - a) A specific number of plants per legal lot or parcel.
 - b) A specific number of plants within a single private residence or upon the grounds of that residence.
 - c) A specified square footage for indoor and/or outdoor growing of medical marijuana.

After extensive public testimony and discussion by the City Council, the City Council directed staff to prepare an Ordinance based on the City Council's answers to the above questions. The Draft Ordinance at Attachment A is based on this direction.

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes in response to City Council direction on April 20, 2016. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

General Overview of Proposed Changes to the Zoning Ordinance

- B) The City of Merced is proposing to adopt an Ordinance (Attachment A) to amend Chapter 20.84 “Medical Marijuana and Cultivation” and Section 20.20.040 “Conditional Uses” (Professional/Commercial Office Zone) of the Merced Municipal Code as follows:
- 1) To allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations (Attachment B) by Conditional Use Permit subject to certain restrictions as described in Finding C below; and,
 - 2) To allow commercial deliveries of medical marijuana in the City with limited hours; and,
 - 3) To allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line as described in Finding E below.

Medical Marijuana Dispensaries

- C) As proposed, the ordinance would allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations (Attachment B) by Conditional Use Permit, but would also place restrictions on medical marijuana dispensaries as follows:
- 1) The proposed dispensary could not be located within 600 feet of the property line of any kindergarten, elementary school, middle school, or high school (consistent with State law) (see map at Attachment C); and,
 - 2) The proposed dispensary could not be located within 500 feet of the property line of any public park that includes playgrounds, active play areas, and/or sports fields (not including bike paths) (see map at Attachment D); and,
 - 3) The proposed dispensary could not be located within 500 feet of the property line of any youth center, City-owned and operated recreational center, or public library (see map at Attachment E); and,
 - 4) No more than four dispensaries shall be authorized to operate in the City at any given time; and,
 - 5) Dispensaries must obtain a license from the State of California to operate a dispensary prior to opening for business at a specific location in the C-O zone.

Please note that the maps above are included for illustrative purposes only and contain information that is current only up to the date of this staff report. This information is subject to change over time. Confirmation of the distance that any proposed dispensary is located away from schools, parks, and other uses will need to be confirmed at the time of Conditional Use Permit application.

Medical Marijuana Deliveries

- D) As proposed in regards to deliveries, the ordinance would allow only licensed dispensaries be authorized to make medical marijuana deliveries within the City of Merced and such deliveries shall occur solely between the hours of 8 a.m. and 7 p.m.

Medical Marijuana Cultivation for Personal Use

- E) As proposed in regards to cultivation, commercial cultivation is prohibited in all zones in the City; however, 12 immature or 6 mature plants may be cultivated indoors or outdoors on any lot in the City if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient. However, any plants cultivated outdoors shall not be visible from the public right-of-way and shall not be located within 5 feet of the property line. In addition, no fences (whether temporary or permanent) shall be constructed at a height no greater than 6 feet to screen marijuana plants from the public right-of-way, unless City regulations only authorize a fence of a lesser height and in that case, the fence shall conform to that lesser height requirement.

Timetable for Ordinance Consideration/Adoption

- F) This proposed ordinance will be considered by the Planning Commission at a public hearing on May 18, 2016. A public hearing before the City Council will likely be scheduled for July 5, 2016, with a second reading on July 18, 2016. The ordinance, if approved, would become effective 30 days after that or on August 17, 2016. Prior to the effective date of the ordinance, if adopted, City staff will need to establish guidelines for the application and adoption process for the four (4) Conditional Use Permits for dispensaries. The Planning Commission will be the issuing authority for those Conditional Use Permits, with any appeals to be decided by the City Council.

Professional/Commercial Office (C-O) Zoning District

- G) The Professional/Commercial Office (C-O) Zoning District (Attachment F) allows a variety of medical and dental offices, administrative offices, professional offices for lawyers, engineers, and architects, financial offices, schools for the arts, therapeutic offices, and massage therapy (sole practitioners) as principally permitted uses. Conditional uses include hospitals, mortuaries, multi-family uses, pharmacies, day care facilities, bail bonds, and beauty salons. On April 20, 2016, the City Council directed City staff to prepare an ordinance to allow medical marijuana dispensaries as conditional uses in the C-O zone, indicating that these uses should be located in areas where medical pharmacies and medical offices are located.

- H) City staff prepared a map (Attachment B) that shows where the Professional/Commercial Office (C-O) zoning districts are currently located in the City along with the corresponding General Plan designations so the Planning Commission can see both existing and future areas which may have those zoning designations. (It should be noted that since many commercial areas are actually zoned Planned Development, one must look at the General Plan designation in order to see which zoning district it is equivalent to.) For example, the map shows where all the existing C-O zones are in the City along with the location of Professional/Commercial Office (CO) General Plan designations and any Planned Development zones with a CO General Plan designation. As general plan amendments, zone changes or annexations occur, this map is subject to change.

Environmental Clearance

- I) The Planning staff has conducted an environmental review (Initial Study # 16-12) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Negative Declaration (i.e., no significant adverse environmental effects have been found) is being recommended (see Attachment H).

Attachments:

- A) Proposed Ordinance
- B) Map of areas with Commercial/Professional Office Zoning and/or General Plan Designations
- C) Map showing 600 Foot Buffer around Schools
- D) Map showing 500 Foot Buffer around Parks
- E) Map showing 500 Foot Buffer around Youth/Rec Centers and Libraries
- F) C-O Zoning District Regulations
- G) City Council Administrative Report for April 20, 2016 (without Attachments, except for Attachment 4)
- H) Initial Study #16-12
- I) Draft Planning Commission Resolution

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING CHAPTER 20.84, “MEDICAL
MARIJUANA AND CULTIVATION” AND
AMENDING SECTION 20.20.040 “CONDITIONAL
USES,” OF THE MERCED MUNICIPAL CODE
REGARDING THE ZONING OF MEDICAL
MARIJUANA DISPENSARIES AS CONDITIONAL
USES**

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

SECTION 1. AUTHORITY. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to, Article XI, Section 7 of the California Constitution, the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program (California Health and Safety Code § 11362.7 et seq.), and The Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643; hereafter “MMRSA”).

SECTION 2. AMENDMENT OF CHAPTER 20.84. Chapter 20.84, Medical Marijuana and Cultivation,” is amended to read as follows:

**“Chapter 20.84
MEDICAL MARIJUANA AND CULTIVATION**

Section:

- 20.84.010 Definitions.**
- 20.84.020 Regulations.**
- 20.84.030 Public Nuisance.**
- 20.84.040 Civil Penalties.**

20.84.010 Definitions.

‘Cannabis’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(f) as the same may be amended from time to time.

‘Caregiver’ or ‘primary caregiver’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

‘Commercial cannabis activity’ shall have the same meaning as that set forth in Business and Professions Code Section 19300.5(k) as the same may be amended from time to time.

‘Cultivation’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l) as the same may be amended from time to time.

‘Delivery’ or ‘deliveries’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

‘Dispensary’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(n) as the same may be amended from time to time. ‘Dispensary’ shall not include the following uses:

- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code,
- (2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code,
- (3) A residential care facility for persons with chronic life-threatening illnesses licensed pursuant

to Chapter 3.01 of Division 2 of the California Health and Safety Code,

(4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code,

(5) A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

‘Medical cannabis,’ ‘medical cannabis product,’ or ‘cannabis product’ shall have the same meanings as set forth in Business & Professions Code § 19300.5(ag) as the same may be amended from time to time.

‘Medical Marijuana Regulation and Safety Act’ or ‘MMRSA’ shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

‘Qualifying patient’ or ‘Qualified patient’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

20.84.020 Regulations.

A. Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, medical marijuana dispensaries are allowed as a conditional use in the C-O District and Planned Developments which have the equivalent General Plan land use designations of this zone, subject to the restrictions of Section 20.84.020(B) and the limitations of Section 20.84.020(C) on the number of dispensaries that may be authorized within the City at any given time. Any conditional use permit issued for a dispensary shall include conditions to protect the public health, safety and welfare and to minimize the secondary effects, if any, of

the dispensary. Before a dispensary may open for business within the City, the operator of the dispensary must also have a license from the State of California to operate a dispensary at a specific location within the C-O District.

B. A dispensary shall not be approved in the C-O District if any following conditions apply:

i. The proposed dispensary would be located within 600 feet of the property line of any kindergarten, elementary school, middle school or high school.

ii. The proposed dispensary would be located within 500 feet of the property line of any public park that includes playgrounds, active play areas and/or sports fields. For purposes of this subsection only, a park shall not include any park designated in Section 9.70.030 as a bike path.

iii. The proposed dispensary would be located within 500 feet of the property line of any youth center, City-owned and operated recreational center or public library.

The Planning Commission or City Council on appeal may consider other factors not specifically stated in this Section 20.84.020(B) in determining whether to approve or disapprove a conditional use permit application for a dispensary.

C. Notwithstanding any language in this Section 20.84.020 to the contrary, no more than four dispensaries shall be authorized to operate in the City at any given time. If four dispensaries are authorized to locate within the City, then no additional conditional use permits shall be approved to operate a dispensary within the City.

D. Only licensed dispensaries are authorized to make medical marijuana deliveries within the City of Merced.

Such deliveries shall occur solely between the hours of 8 a.m. and 7 p.m.

E. Cultivation of cannabis for commercial purposes is expressly prohibited in all zones and all specific plan areas in the City of Merced; provided, however, that 12 immature plants or 6 mature plants may be cultivated indoors or outdoors on any lot if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient. Any such authorized cultivation shall also be subject to the restrictions set forth in Section 20.84.020(F).

F. Any marijuana plants cultivated outside pursuant to Section 20.84.020(E) shall not be visible from the public right-of-way and shall not be located within five feet of any property line. In addition, no fences (whether temporary or permanent) shall be constructed at a height greater than six feet to screen marijuana plants from the public right-of-way; provided, however, that nothing in this Section 20.84.020(F) shall authorize the construction of a fence at a height greater than is otherwise allowed by City regulations.

20.84.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 20.84 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

20.84.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 20.84, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Chapter. In any civil action

brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney fees and costs to the prevailing party.”

SECTION 3. AMENDMENT OF SECTION 20.20.040. Section 20.20.040, “Conditional Uses,” is hereby amended to read as follows:

“20.20.040 Conditional uses.

The following are conditional uses:

- A. Public and quasipublic uses appropriate to the district, such as hospitals, convalescent or nursing homes and professional, business and technical schools;
- B. Mortuaries and crematories;
- C. R-4 district residential uses subject to all restrictions and requirements of that district;
- D. Public utility uses, substation, and communication equipment buildings;
- E. Signs for single occupant in excess of the allowable area, but not to exceed fifty (50) square feet per lot;
- F. Prescription pharmacies, without variety goods;
- G. Bail bond businesses;
- H. Day care facilities for more than twelve children;
- I. Day care facilities for the elderly of twelve or fewer persons;
- J. Beauty salons, barber shops, tanning salons, and nail salons;
- K. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44; and

L. Medical marijuana dispensaries, subject to the restrictions of Section 20.84.020(C) regarding number of dispensaries allowed within the City.”

SECTION 4. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2016, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2016, by the following called vote:

AYES: **Council Members:**

NOES: **Council Members:**

ABSTAIN: **Council Members:**

ABSENT: **Council Members:**

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

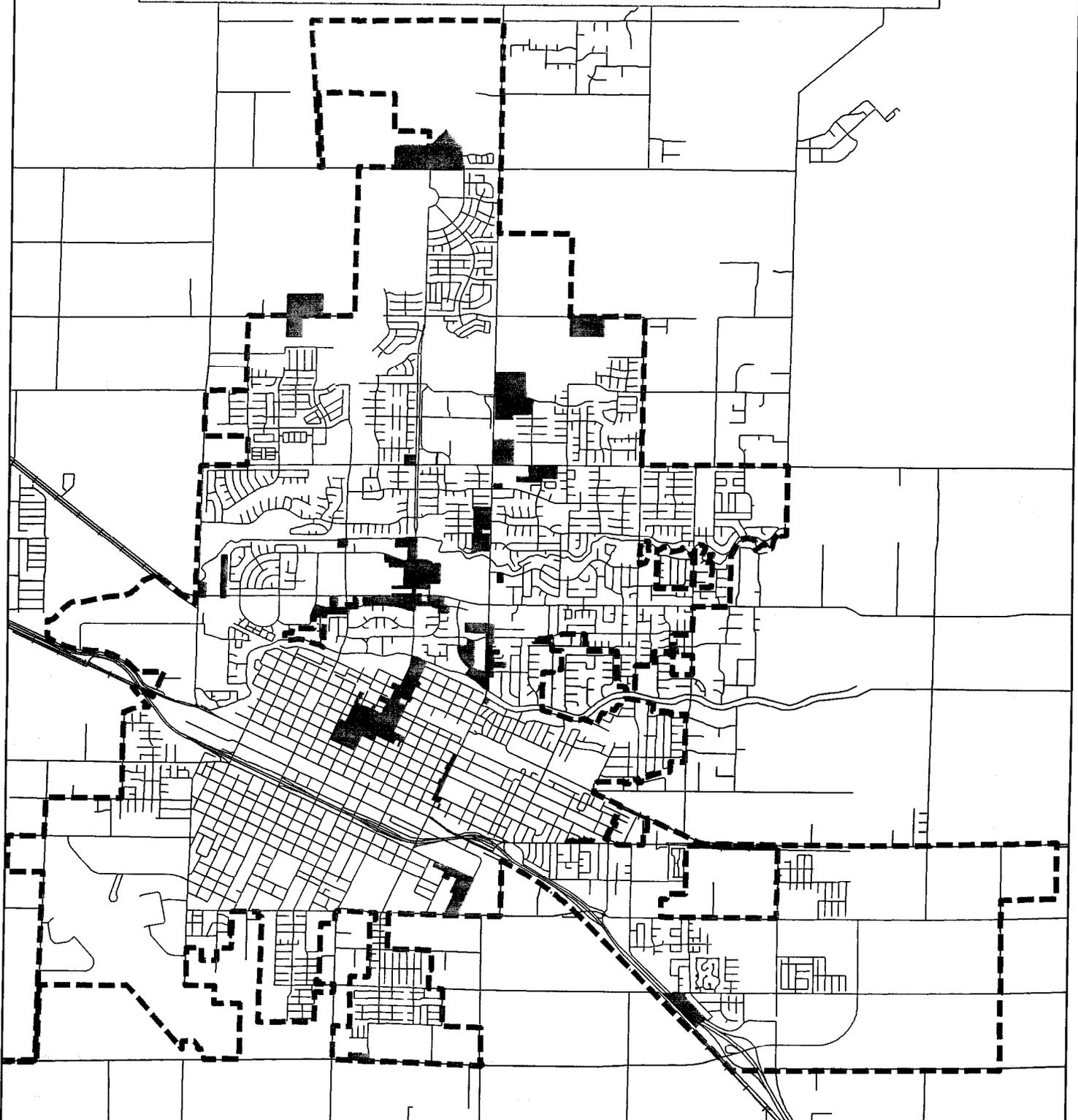
BY: _____
Assistant City Clerk

(SEAL)

APPROVED AS TO FORM

Ken Rogers 4/29/16
City Attorney **Date**

Professional/Commercial Office (CO)



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.

Legend

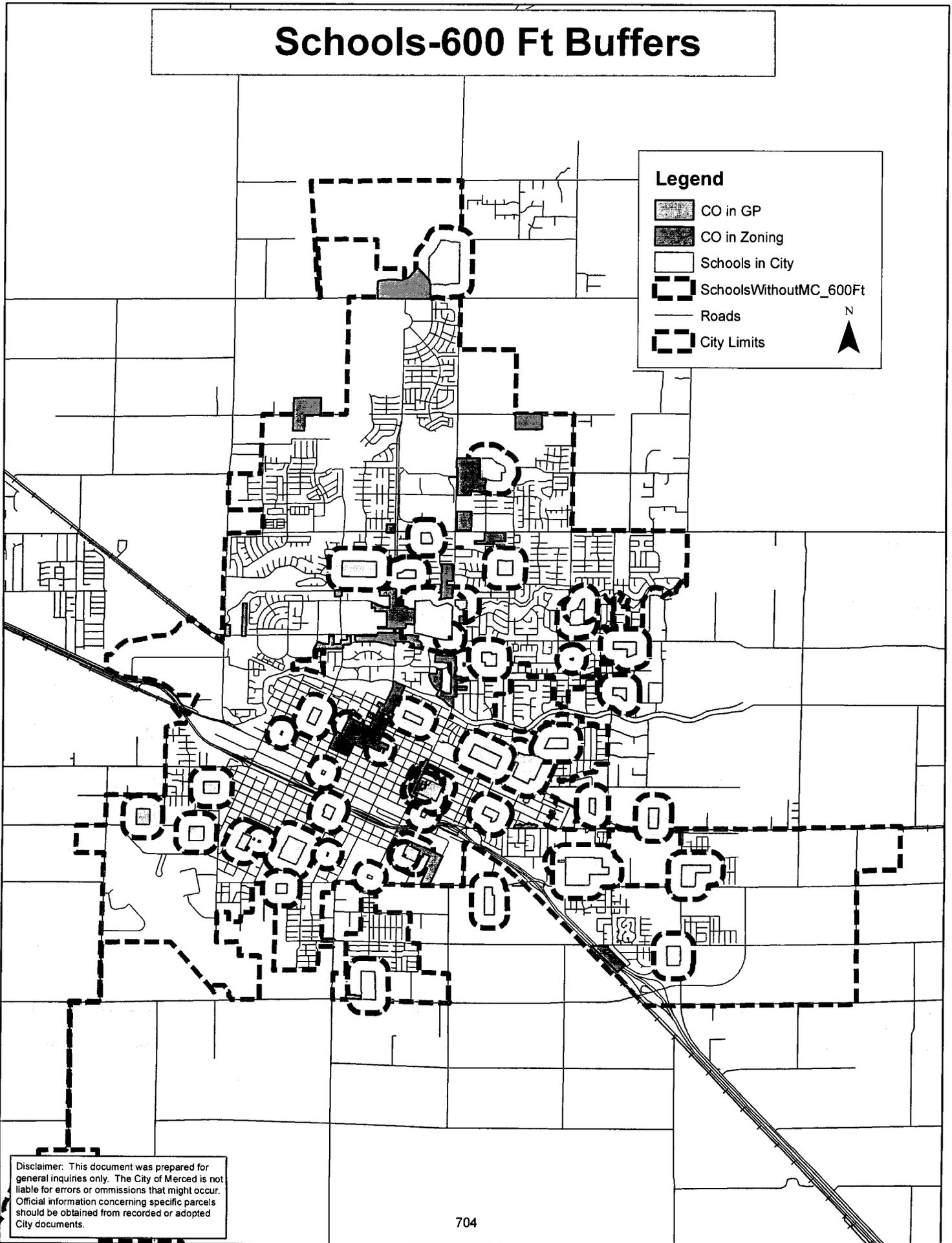
-  CO Zoning and General Plan
-  Roads
-  Railroads
-  City Limits

N 

Schools-600 Ft Buffers

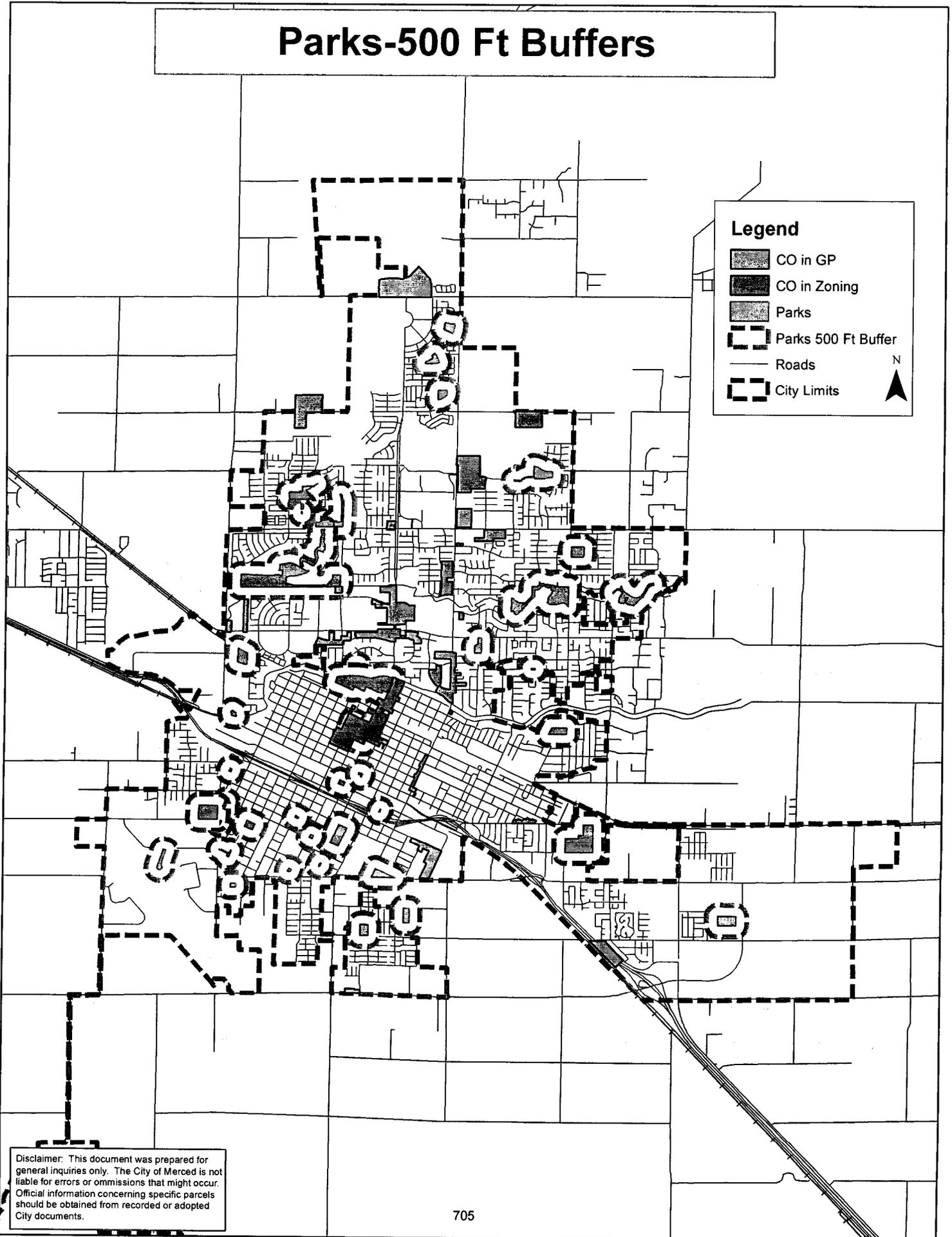
Legend

- CO in GP
 - CO in Zoning
 - Schools in City
 - SchoolsWithoutMC_600Ft
 - Roads
 - City Limits
- N



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Parks-500 Ft Buffers

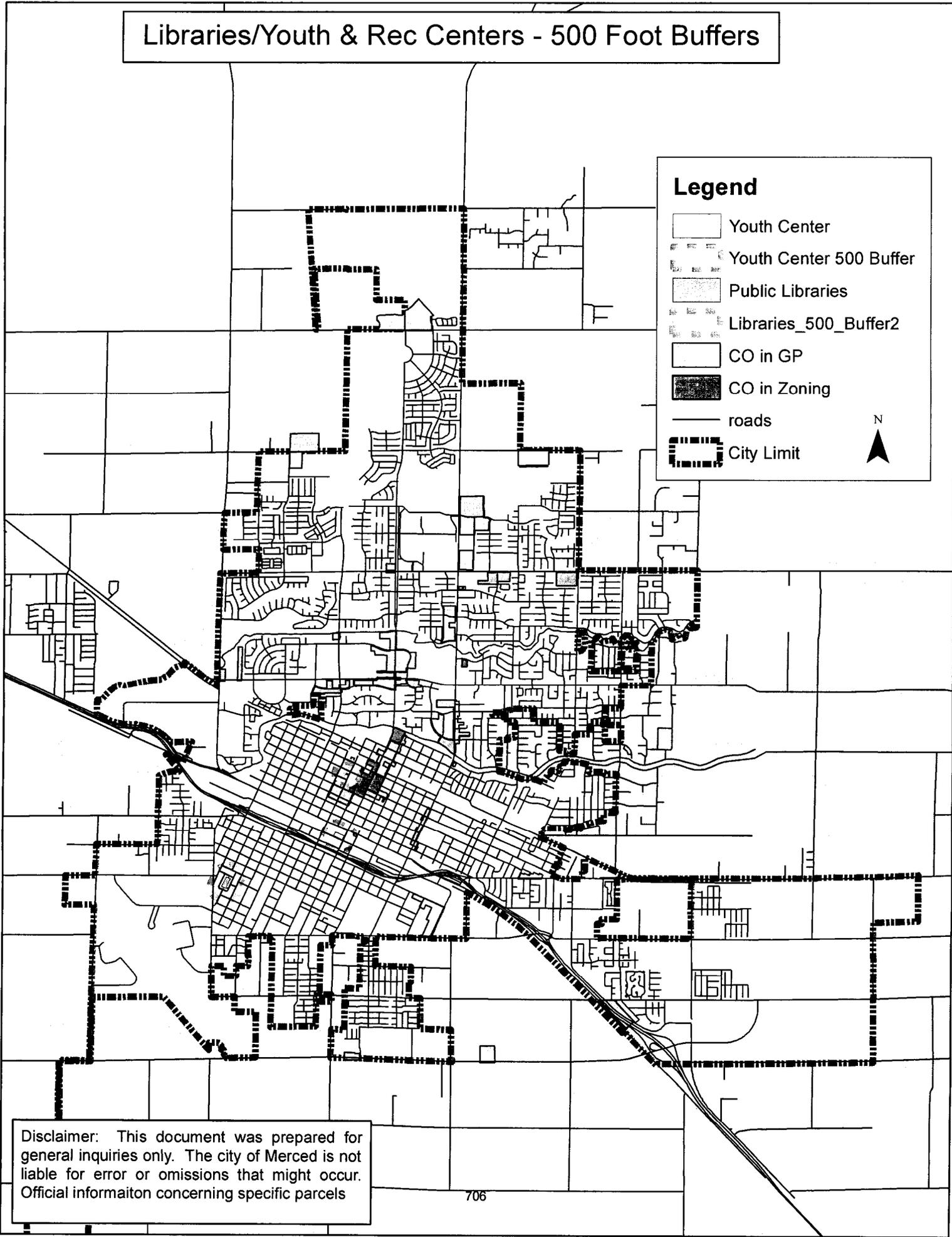


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Libraries/Youth & Rec Centers - 500 Foot Buffers

Legend

-  Youth Center
 -  Youth Center 500 Buffer
 -  Public Libraries
 -  Libraries_500_Buffer2
 -  CO in GP
 -  CO in Zoning
 -  roads
 -  City Limit
- N 



Disclaimer: This document was prepared for general inquiries only. The city of Merced is not liable for error or omissions that might occur. Official informaiton concerning specific parcels

Chapter 20.20 - C-O DISTRICT

Sections:

20.20.010 - Purpose.

The purpose of the C-O district is to provide a district for medical, business and professional offices, and medical and dental clinics.

(Ord. 824 § 7.101, 1964).

20.20.020 - Permitted uses.

The following are the principal permitted uses:

- A. Medical and dental offices and clinics;
- B. Administrative, executive and editorial offices;
- C. Professional offices for lawyers, engineers, architects;
- D. Financial offices, including banks and real estate and other general business offices;
- E. Medical and dental laboratories, not including the manufacture of pharmaceutical or other products for general sale or distribution;
- F. Commercial parking lots for passenger vehicles;
- G. Schools and studios for arts and crafts, photography, music and dance;
- H. Therapeutic/rehabilitation offices;
- I. Any other office or professional use which is determined by the commission to be of the same general character as the above permitted uses;
- J. Massage therapy provided by a sole practitioner who has a valid certificate from the state of California as a massage therapist or massage practitioner pursuant to the Massage Therapy Act (Business and Professions Code Section 4600 et seq.).

(Ord. 2039 § 1, 2000; Ord. 1853 § 10, 1993; Ord. 824 § 7.102, 1964).

(Ord. No. 2452, § 1, 1-4-2016)

20.20.030 - Accessory uses.

The following are accessory uses:

- A. Nameplates and other directory signs appurtenant to any permitted use; provided, there is no more than four (4) square feet in area for each building, but in no instance shall the aggregate area of all signs for any one building exceed four (4) square feet plus one square foot per tenant. The signs shall only be illuminated with indirect lighting. The signs shall contain no reading matter, except the names, professions, locations or any identification required by state or federal agencies of the occupants of any building on the site. For purposes of this chapter, these requirements shall pertain to all signs visible from exterior property lines;
- B. Incidental services, such as restaurants, pharmacies and retail sales to serve occupants and patrons of the principal permitted use, when conducted and entered from within the building group; provided, there is no exterior display or advertising;

- C. Accessory buildings and uses customarily appurtenant to a permitted use, such as an incidental storage facility, garage or off-street parking area.

(Ord. 824 § 7.103, 1964).

20.20.040 - Conditional uses.

The following are conditional uses:

- A. Public and quasi-public uses appropriate to the district, such as hospitals, convalescent or nursing homes and professional, business and technical schools;
- B. Mortuaries and crematories;
- C. R-4 district residential uses subject to all restriction and requirements of that district;
- D. Public utility uses, substation, and communication equipment buildings;
- E. Signs for single occupant in excess of the allowable area, but not to exceed fifty (50) square feet per lot;
- F. Prescription pharmacies, without variety goods;
- G. Bail bond businesses;
- H. Day care facilities for more than twelve (12) children;
- I. Day care facilities for the elderly of twelve (12) or fewer persons.
- J. Beauty salons, barber shops, tanning salons, and nail salons.
- K. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44.

(Ord. 2039 § 2, 2000: Ord. 1853 § 11, 1993: Ord. 1767 § 4, 1990: Ord. 1578 § 1, 1985: Ord. 1430 § 1, 1982: Ord. 1201 § 1, 1977: Ord. 824 § 7.104, 1964).

(Ord. No. 2452, § 2, 1-4-2016)

20.20.050 - Height regulations.

No principal building shall exceed forty feet in height, and no accessory building shall exceed twenty-five feet in height, except:

- A. As provided in Section 20.62.020; or
- B. Exceptions to these height limitations, as may be permitted by the planning commission under a conditional use permit.

(Ord. 1215 § 1, 1978: Ord. 824 § 7.105, 1964).

20.20.060 - Area and yard requirements.

The following minimum requirements shall be observed except where increased for conditional uses:

- A. Lot area (in square feet: seven thousand five hundred);
- B. Yards (in feet):

1. Exterior: ten;
2. Interior: five.

(Ord. 824 § 7.106, 1964).

20.20.070 - Additional conditions.

The following are other required conditions:

- A. Off-street parking as required in Chapter 20.58;
- B. Site plan approval of all conditional uses as required in Chapter 20.68.
- C. For any proposed conditional use under Section 20.20.040, Subsection J., no more than 20% of the gross floor area nor more than 200 square feet, whichever is less, may be used for retail use.



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-161

Meeting Date: 4/20/2016

Report Prepared by: *Kenneth Rozell, Senior Deputy City Attorney*

SUBJECT: Medical Marijuana Study Session

REPORT IN BRIEF

Provides a brief overview of medical marijuana issues at the state and local level, answers questions raised by the City Council relating to medical marijuana, and outlines potential amendments for the City Council to consider regarding existing bans on medical marijuana dispensaries, deliveries and cultivation.

RECOMMENDATION

Staff recommends that the City Council take public testimony regarding the medical marijuana issue as it relates to dispensaries, deliveries and cultivation within the City of Merced and either:

- A. Provide direction to staff regarding specific modifications to the City's existing bans on dispensaries, deliveries and/or cultivation of medical marijuana within the City; or,
- B. Schedule another study session on this matter regarding medical marijuana in general or specifically relating to dispensaries, deliveries and/or cultivation; or,
- C. Take no further action regarding medical marijuana at this time.

AUTHORITY

City of Merced Charter, Section 200.

CITY COUNCIL PRIORITIES

Not Applicable.

DISCUSSION

Background

On October 9, 2015, Governor Jerry Brown signed into law three bills (AB 266, AB 243, and SB 643) that together are entitled the Medical Marijuana Regulation & Safety Act (MMRSA). The three bills established a comprehensive regulatory structure around the state's multi-billion dollar medical marijuana industry.

The legislation creates a dual licensing structure that requires a state and local license or permit in order to cultivate, dispense, or transport medical marijuana. Cities that wish to ban these land use activities are allowed to do so. However, if there is no local licensing requirement, the State Department of Food and Agriculture becomes the sole licensing authority. AB 243 originally included a provision stating that cities that did not regulate or prohibit cultivation before March 1, 2016 would lose the authority to regulate or ban cultivation within their city limits (former Business and Professions Code Section 11362.777, subd. (c)(4)).

In response to this original language in AB 243, the League of California Cities recommended cities immediately adopt an ordinance to ban or regulate the cultivation of medical marijuana to avoid losing local control of land use regulations. Because of the considerable lead time required for these ordinances to go into effect before March 1, 2016, cities had very limited time in which to consider this issue prior to the March 1, 2016 deadline.

Merced has historically banned all medical marijuana uses within the City (including medical marijuana dispensaries) based upon the language of Merced Municipal Code Section 20.06.050(E) that provides:

“No use that is prohibited, unlawful, violates or is inconsistent with federal or state law, or any provision in this code, shall be allowed or permitted in any district under this title.”

Based upon the City’s existing policies, City staff presented an ordinance for consideration by the Planning Commission that would have prohibited all commercial medical marijuana uses and activities, including delivery, in all zones and all specific plan areas in the City of Merced; and prohibited the cultivation of any amount of marijuana for medical use by a qualified patient in all zones and specific plan areas in the City of Merced.

The Planning Commission considered the proposed ordinance at a public hearing held on December 9, 2015. After extensive deliberations, the Planning Commission recommended by a 6-0-1 vote (6 ayes, 0 noes, 1 absent) that the City Council adopt the ordinance after the following changes had been made to it:

- a) Allow medical marijuana dispensaries in some commercial zones (those zones to be determined by staff); and,
- b) Allow delivery of medical marijuana if it begins within one of those allowed commercial zones; and,
- c) Consistent with the regulations of the County, allow the growth of up to 12 medical marijuana plants for personal use per lot.

City staff prepared a new ordinance consistent with the direction of the Planning Commission.

At its meeting on January 4, 2016, the City Council first held a study session on medical marijuana issues and then subsequently held a public hearing regarding medical marijuana. After taking public

testimony and extensive deliberations, the City Council voted 7 to 0 to introduce Ordinance No. 2454, which prohibits all commercial medical marijuana uses in the City and prohibits cultivation of marijuana for medical use by a qualified patient or primary caregiver. However, as part of the motion introducing Ordinance No. 2454, the City Council directed staff to schedule multiple study sessions after the effective date of the ordinance to consider the City's options relating to medical marijuana within the City (including dispensaries, delivery and cultivation). On January 19, 2016, the City Council adopted Ordinance No. 2454, which become effective 30 days later on February 18, 2016.

On March 1, 2016, the City held a special meeting to discuss medical marijuana. At that meeting, the City Council took public testimony and considered issues relating to medical marijuana dispensaries, delivery of medical marijuana from licensed dispensaries and if medical marijuana would be allowed to be cultivated within the City by primary caregivers or qualified patients.

At that meeting, the City Council asked that staff provide answers to specific questions at the next meeting regarding medical marijuana, as well as to provide a copy of the 2008 California Attorney General Guidelines relating to medical marijuana. Finally, the City Council asked that staff prepare a draft medical marijuana ordinance for consideration by the City Council.

Discussion

1. Draft Ordinance Regarding Medical Marijuana Dispensaries, Deliveries and Cultivation

Pursuant to the City Council's direction at the March 1, 2016 special meeting, staff has prepared a draft medical marijuana ordinance that addresses three specific areas - medical marijuana dispensaries, delivery and cultivation. (See Attachment 1.) Before, however, the ordinance can be finalized and scheduled for a public hearing before the Planning Commission, the City Council will first need to provide specific direction on the following questions:

A. Dispensaries

1. Does the City Council wish to allow medical marijuana dispensaries within the City of Merced?
2. If so, in which zone(s) would dispensaries be allowed? (Maps depicting the commercial zones within the City are included as Attachment 2.)
3. If dispensaries are allowed, does the City Council wish to place a limit on the number of dispensaries within the City?

B. Delivery

1. Does the City Council wish to allow deliveries of medical marijuana within the City of Merced?

C. Cultivation

1. Does the City Council wish to allow the cultivation of medical marijuana within the City by a primary caregiver or qualified patient?

2. If so, will the cultivation be allowed indoors, outdoors or both?
3. If cultivation is allowed, how many plants or square footage of cultivation will be allowed per lot or per dwelling unit? Options include, but are not limited to:
 - i. A specific number of plants per legal lot or parcel.
 - ii. A specific number of plants within a single private residence or upon the grounds of that residence.
 - iii. A specified square footage for indoor and/or outdoor growing of medical marijuana.

2. 2008 Attorney General "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use"

As requested at the March 1, 2016 meeting, the 2008 Attorney General "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" (the "Guidelines") are attached as Attachment 3. The Guidelines generally provide a good overview of existing medical marijuana regulations, although the Guidelines do not include the provisions of MMRSA (the Medical Marijuana Regulation & Safety Act) that went into effect on January 1, 2016.

Several areas of the Guidelines, however, are incorrect based upon court cases that were decided after the 2008 Guidelines were released. In *City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 762, the California Supreme Court held that cities had the right to regulate or ban medical marijuana dispensaries. In *Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940, 965, an appellate court held that public entities retained their land use authority as it relates to cultivation of medical marijuana and are not required to allow cultivation within their corporate boundaries.

3. Summary of Regulations of Selected Jurisdictions Relating to Personal and Commercial Growth of Medical Marijuana

At its March 1, 2016 meeting, members of the City Council asked for additional information regarding small and large cities and counties and whether they allow personal and/or commercial growth of medical marijuana. Attachment 4 provides an overview of regulations for a variety of cities and counties in California.

4. Summary of Problems That Other Cities Are Having With Dispensaries

At the March 1, 2016 meeting, members of the City Council asked for a summary of problems that other cities are having with medical marijuana dispensaries.

San Francisco:

- 28 dispensaries currently.

- Current rules restrict pot businesses to only a small portion of the City, known as the “green zone”, which results in clustering.
- Current restrictions on dispensaries include locating only on ground floor of building.
- The Green Cross, a medical cannabis dispensary and delivery service. Most delivery services are unregulated. San Francisco is one of few cities to give official approval for them.
- SF law tasks the city’s Dept. of Public Health with regulating the medical marijuana industry (most cities give function to law enforcement or zoning agencies).
- No cap on licenses.

San Diego:

- Unregulated until 2014 ordinance.
- Ordinance allowing 4 dispensaries to open in each of San Diego’s 9 city districts for a total of 36 dispensaries.
- Must be more than 1,000 ft. from any public park, church, school, facility oriented toward children, or any previously permitted dispensary.
- Dispensaries compete for city approval and experience difficulty in locating place to operate.
 - This issue has created a boom in less regulated delivery services (San Diego zoning ordinance does not address delivery at all).
 - More than 100 delivery services in San Diego.
 - MMRSA will now require delivery services to list a physical place of business and local authorities can audit records and inventory.
- Illegal storefronts with no regard for the law continue to operate.
 - City Attorney’s office closed more than 260 storefronts from 2010-2014.

Los Angeles:

- Unregulated until 2013 with passage of Prop. D.
- Prop. D banned medical dispensaries except those operating legally prior to 2007 and already registered with the city.
- Per LA City Attorney, 134 dispensaries eligible to operate legally.
- UCLA survey found:

- 3 out of 4 dispensaries in the city are illegal.
- Highest concentrations of dispensaries in neighborhoods with lower-than-average household incomes compared to LA at large.
 - In 2007, there were 2 dispensaries in Wilmington and the neighborhoods of South LA, SE LA, San Pedro, Harbor Gateway. In 2015, nearly 40 operating dispensaries in those communities alone.
 - No dispensaries in Pacific Palisades and Beverly Crest, two of the three wealthiest neighborhoods in LA.
 - As of 2014, six of the 10 highest earning neighborhoods in LA had no dispensaries.
- Police indicate that dispensaries cause harm to community surrounding them:
 - Increased crime robberies.
 - Lack of citywide enforcement leads to more crime

Fresno County:

- Personal grows banned February 2014
 - Declaring it a public nuisance, which turned it into a local zoning issue
 - Fine is \$1,000 per plant
 - Attorneys for growers fined by the county claim due process violations by issuing fines without giving growers time to pull plants themselves and states the growers could lose their homes or property because of exorbitant fines.
- Dispensaries banned.
- Despite drought conditions, per Sheriff Department data, county saw large increase in marijuana grows and in addition a large increase in violence such as robberies and murders associated with marijuana grows.
- Fresno Sheriff Margaret Mims states many patients believe they can grow up to 99 plants. This number comes from a list of federal drug trafficking penalties which requires federal government to sentence growers it catches cultivating 100 or more plants.

5. General Information regarding THC and CBD

Members of the City Council also requested general information regarding THC and CBD - two constituents normally found in marijuana.

According to Wikipedia, tetrahydrocannabinol (THC) is the principal psychoactive constituent (or

cannabinoid) of cannabis-i.e., a component of marijuana that can result in alterations in perception, mood, or consciousness or the “high” often associated with marijuana. (See <https://en.wikipedia.org/wiki/Tetrahydrocannabinol>.) First isolated in 1964 by Israeli scientists at the Weizmann Institute of Science, it can be an amber or gold colored glassy solid when cold, which becomes viscous and sticky if warmed.

A pharmaceutical formulation of THC (i.e., a synthetic version of THC) is available by prescription in the U.S. under the brand name Marinol and is used to combat nausea and vomiting caused by cancer chemotherapy. This drug is also used to treat loss of appetite and weight loss in patients with HIV infection. (See <http://www.webmd.com/drugs/2/drug-9308/marinol-oral/details>.)

Cannabidiol (CBD) is one of at least 113 active cannabinoids identified in marijuana. (See <https://en.wikipedia.org/wiki/Cannabidiol>.) CBD is considered to have a wide scope of potential medical applications. CBD is the predominant cannabinoid in hemp-cannabis grown for fiber or growing in the wild.

CBD-rich strains were generally not available to cannabis users in California and other areas. (See <https://www.projectcbd.org>.) Generations of breeding marijuana for maximum THC and a strong “high” had reduced the CBD to trace amounts in most cannabis strains in Northern California. To meet the demands of medical cannabis patients, growers are currently developing more CBD-rich strains.

For data collection purposes, “CBD-rich” was initially defined as 4% or more by dry weight. More balanced strains with roughly equal amounts of CBD and THC were discovered, and then a handful of CBD-dominant strains (20:1 CBD:THC ratios or higher) were discovered, fostering a cottage industry of CBD-rich concentrates, oil extracts, and other CBD-rich products.

According to the FDA, examples of drugs in clinical testing using CBD and THC include Sativex for cancer pain and Epidiolex for childhood seizures. (See <http://www.fda.gov/downloads/aboutfda/centersoffices/officeofmedicalproductsandtobacco/cder/ucm438966.pdf>.)

6. Availability of Labs to Test Medical Marijuana and How These Labs Are Regulated and Certified

Under the Medical Marijuana Regulation & Safety Act (MMRSA), testing of cannabis will be mandated prior to delivery to dispensaries or other businesses (Business and Professions Code Sections 19341 to 19347). MMRSA requires medical cannabis to be lab tested for regulatory purposes on or before July 1, 2017 and sets standards for certification of testing laboratories to perform random sample testing of all medical marijuana.

For example, under the standard outlined in Business and Professions Code Section 19343:

“A licensed testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products unless the licensed testing laboratory meets all of the following:

- a) Is registered by the State Department of Public Health.

- b) Is independent from all other persons and entities involved in the medical cannabis industry.
- c) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing lab shall also comply with any other requirements specified by the State Department of Public Health.
- d) Notifies the State Department of Public Health within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.
- e) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the licensed testing laboratory for testing.”

There are existing marijuana/cannabis testing labs throughout California, including SC Labs in Santa Cruz, Steep Hill Labs in Oakland, Sequoia Analytical Labs in Sacramento, and Cannalysis Labs in Costa Mesa. Until MMRSA, there were no regulations or certification requirements in California and medical marijuana could be sold without any testing or standardized testing protocols and techniques. However, in the multibillion-dollar medical marijuana market, there has been awareness and recognition that testing can help legitimize the drug, protect patients, promote sales and improve breeding programs.

7. Outline of Public Health Department Process For Obtaining A Medical Marijuana Identification Card

A medical marijuana identification card can be obtained through the County Public Health Department (not through a physician’s office or an evaluation center). The medical marijuana identification card is voluntary to patients and all that is required under SB 420 is a physician’s letter recommending the use of medical marijuana. (See <https://www.cdph.ca.gov/programs/MMP/Pages/MMPFAQ.aspx>.) Merced County’s website provides additional information regarding the process for obtaining a medical marijuana identification card. (See <http://www.co.merced.ca.us/index.aspx?NID=629>.)

Individuals wishing to obtain such a card need to complete the Medical Marijuana Program Application form and submit to County Health Department along with the following:

- A. Government-issued photo ID
 - 1. If under 18/no photo ID, may provide certified copy of birth certificate
 - 2. If a primary caregiver is designated on application, primary caregiver must present photo ID at same time. Primary caregiver can use certified copy of birth certificate only if under 18 and serving as primary caregiver for their own child
- B. Proof of county residency
- C. Proof of legal status
- D. Proof of Physician Recommendation: Written documentation from doctor recommending use of MJ is appropriate for one or more of the following serious medical conditions:
 - 1. AIDS
 - 2. Anorexia

3. Arthritis
 4. Cachexia
 5. Cancer
 6. Chronic pain
 7. Glaucoma
 8. Migraine
 9. Persistent muscle spasms including that associated with multiple sclerosis
 10. Seizures, including those associated with epilepsy
 11. Severe nausea
 12. Any other chronic or persistent medical symptom that either substantially limits the ability of the person to conduct one or more major life activities as defined by the ADA of 1990 or, if not alleviated, such chronic or persistent medical symptoms may cause serious harm to your safety, or your physical or mental health
- E. Administering agency is required to verify applicant's medical documentation with the medical provider.
 - F. Pay required application fees (\$112.50/Medi-Cal Beneficiary or \$225.00/Non Medi-Cal), which are nonrefundable.
 - G. If incomplete application and/or fail to provide all required information, application will be denied and may be restricted from reapplying for 6 months

8. Actual Number of Medical Marijuana Users in Merced

According to a State database, the total number of medical marijuana identification cards issued in Merced County from fiscal year 06/07 through October 2015 is 231; the total number of medical marijuana identification cards issued statewide through November 2015 is 84,111. There is no data available on actual users in Merced or Merced County given that obtaining a medical marijuana identification card is voluntary. (See <https://www.cdph.ca.gov/programs/MMP/Pages/MMPFAQ.aspx>.)

9. Percentage of Chemotherapy Patients That Do Not Respond to Regular Anti-Nausea Drugs

One of the members of the City Council asked about the percentage of chemotherapy patients that do not respond to regular anti-nausea drugs. According to the American Cancer Society, about 7 or 8 out of every 10 people treated for cancer have bouts of nausea and vomiting. (See <http://www.cancer.org/acs/groups/cid/documents/webcontent/003200-pdf.pdf>; Attachment 5.)

According to the American Cancer Society, no one drug can prevent or control chemo-related nausea and vomiting 100% of the time. This is because chemo drugs act on the body in different ways and each person responds to chemotherapy and the anti-nausea/vomiting drugs differently. To choose the best treatment plan, the doctor:

- A. Considers how likely the chemo is to cause nausea and vomiting if no anti-nausea/vomiting treatment is given.
- B. Selects anti-nausea/vomiting medicines based on how much the chemo drugs are known to affect the vomiting center in the brain.
- C. Looks at past nausea and vomiting.

- D. Reviews how well any anti-nausea medicines have worked before.
- E. Looks at the side effects of the anti-nausea/vomiting medicines.
- F. Uses the lowest effective dose of the anti-nausea/vomiting medicine before chemo or radiation therapy is given.
- G. Uses medicines to try to prevent (not just control) the nausea and vomiting
- H. Carefully watches response to the anti-nausea treatment.
- I. Makes drug changes as needed to keep you from having nausea and vomiting.

Anti-nausea/vomiting medicines are administered based upon which chemo therapy is being received for the cancer. A patient may have to try a few different medicines to find the ones that work best for him/her, if at all. There may be other factors besides the chemo adding to the nausea and vomiting. Many of these drugs are very expensive and require pre-approval from health insurance before they will be covered.

10. Conclusion

Staff recommends that the City Council take public testimony regarding the medical marijuana issue as it relates to dispensaries, deliveries and cultivation within the City of Merced and either:

1. Provide direction to staff regarding specific modifications to the City's existing bans on dispensaries, deliveries and/or cultivation of medical marijuana within the City; or,
2. Schedule another study session on this matter regarding medical marijuana in general or specifically relating to dispensaries, deliveries and/or cultivation; or,
3. Take no further action regarding medical marijuana at this time.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed at this time.

ATTACHMENTS

1. Draft Medical Marijuana Ordinance
2. Commercial Zoning Maps
3. 2008 Attorney General "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use"
4. Status of Selected Cities and Counties Regarding Personal and Commercial Medical Marijuana Cultivation
5. American Cancer Society Publication on Nausea and Vomiting

County/City	Commercial Grow	Personal Grow	Other Information
Alameda County	No	Yes	Per State Law ¹
Calaveras County	No	Yes	Per State Law
Humboldt County	Yes	Yes Up to 3 lbs. Indoor: limited to 50 sq ft per parcel 1200 watts Outdoors: limited to 100 sq. ft. on parcels 1 acre or less; up to 200 sq. ft. 1 acre to 5 acres	Code § 581-1(d) finds that a 100 sq. ft canopy of mature female cannabis plants typically will yield 3 lbs. of dried processed marijuana per year, outdoor, regardless of number of plants
Placer County	No	Yes	Per State Law
Adelanto	Yes, 25 commercial medical marijuana cultivation permits issued on December 29, 2015.	Yes	Commercial cultivation is conditionally permitted within the Manufacturing/Industrial (MI) zone designation. Not allowed within 2,500 feet of a school, public playground or park, child care or day care facility, youth center, or church.
Berkeley	Yes	Yes	Visible outdoor gardens limited to 10 plants

¹ “[N]o more than six mature or 12 immature marijuana plants per qualified patient.” (Health and Safety Code Section 11362.77, subd. (a).) However, per *Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940, 965, public entities retain their land use authority as it relates to cultivation of medical marijuana and are not required to allow cultivation within their corporate boundaries.
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Chico	No	Yes	Outdoors: 50 sq. ft. per parcel, regardless of number of patients. Plants must be enclosed, screened & 5 ft. from property line Indoors: under 50 sq. ft. and 1200 watts & only with permit stating outdoor is not possible and building owner approves
Chowchilla	No	Yes	In an inspected secure enclosed structure with solid walls and roof & not encompassing living space. 120 sq ft per parcel. Only with property owner permission.
Clovis	No	Yes	Per State Law
Coalinga	Yes	Yes	Per State Law
Fowler	No	Yes	Per State Law
Folsom	No	No	
Fresno County	No	No	
Fresno City	No	No	
Lemoore	No	No	
Lodi	No	Yes	No outdoor cultivation Indoor limited to residence or garage of qualified patients or caregivers

Los Angeles		Yes	Allows 3-patient collective grows by patients or designated primary caregivers. No plant limits stated; using the state guidelines. Thus 18 mature plants for a 3-patient garden permitted
Madera County	No	Yes	Per State Law
Madera City	No	No	
Modesto	No	No	
Oakland	Yes	Yes Up to 3 lbs per patient	Indoors: 72 plants in max 32 sq. ft. grow area Outdoors: 20 plants no area limit Collective gardens limited to 3 patients Dispensaries serving 4 or more patients allowed max 6 mature and 12 immature plants and ½ lb. per patient (Oakland MC 5.81.101)
Reedley	No	Yes	Per State Law
Turlock	No	No	
San Francisco	Yes	Yes	Patients allowed up to 24 plants or 25 sq. ft. of canopy; dispensary gardens capped at 99 plants in 100 sq. ft. Possession limit is 8 oz dried cannabis per patient

Sacramento (City)	Yes	Yes	Outdoor cultivation banned but alternative structures acceptable if compliant (secure greenhouse system). 400 sq ft allowance for personal cultivation; 3800 watts artificial light
Sacramento County	No	Yes	9 plants indoors
Stanislaus County	No	No	

CITY OF MERCED
PLANNING & PERMITTING DIVISION

TYPE OF PROPOSAL: Zoning Ordinance Amendment #16-02

INITIAL STUDY: #16-12

DATE RECEIVED: April 21, 2016 (date application determined to be complete)

LOCATION: City of Merced

ASSESSOR'S PARCEL NUMBERS: Not applicable; City-Wide

(SEE ATTACHED PUBLIC HEARING NOTICE AND MAP AT ATTACHMENTS A AND B.)

Please forward any written comments by May 18, 2016 to:

Kim Espinosa, Planning Manager
City of Merced Planning & Permitting Division
678 West 18th Street
Merced, CA 95340
209-385-6858
espinosak@cityofmerced.org

Applicant Contact Information:

City of Merced (see above)

Project Description

The City of Merced is proposing to adopt an Ordinance to amend Chapter 20.84 "Medical Marijuana and Cultivation" and Section 20.20.040 "Conditional Uses" (Professional/Commercial Office Zone) of the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations (Attachment B) by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line.

As proposed, the ordinance would also place restrictions on medical marijuana dispensaries as follows: 1) The proposed dispensary could not be located within 600 feet of the property line of any elementary school, middle school, or high school (consistent with State law); 2) The proposed dispensary could not be located within 500 feet of the property line of any public park that includes playgrounds, active play areas, and/or sports fields (not including bike paths); 3) The proposed dispensary could not be located within 500 feet of the property line of any youth center, City-owned and operated recreational center, or public library. In addition, no more than four dispensaries shall be authorized to operate in the City at any given time and dispensaries must obtain a license from the State of California to operate a dispensary prior to opening for business at a specific location in the C-O zone.

As proposed in regards to deliveries, the ordinance would allow only licensed dispensaries be authorized to make medical marijuana deliveries within the City of Merced and such deliveries shall occur solely between the hours of 8 a.m. and 7 p.m.

As proposed in regards to cultivation, commercial cultivation is prohibited in all zones in the City; however, 12 immature or 6 mature plants may be cultivated indoors or outdoors on any lot in the City if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient. However, any plants cultivated outdoors shall not be visible from the public right-of-way and shall not be located within 5 feet of the property line. In addition, no fences (whether temporary or permanent) shall be constructed at a height no greater than 6 feet to screen marijuana plants from the public right-of-way, unless City regulations only authorize a fence of a lesser height.

I. INITIAL FINDINGS

- A. The proposal is a project as defined by CEQA Guidelines Section 15378.
- B. The project is not a ministerial or emergency project as defined under CEQA Guidelines (Sections 15369 and 15369).
- C. The project is therefore discretionary and subject to CEQA (Section 15357).
- D. The project is not Categorically Exempt.
- E. The project is not Statutorily Exempt.
- F. Therefore, an Environmental Checklist has been required and filed.

II. CHECKLIST FINDINGS

- A. An on-site inspection was not applicable.
- B. The checklist was prepared on April 28, 2016.
- C. The *Merced Vision 2030 General Plan* and its associated EIR (SCH# 2008071069) were certified in January 2012. The document comprehensively examined the potential environmental impacts that may occur as a result of build-out of the 28,576-acre Merced SUDP/SOI. For those significant environmental impacts (Loss of Agricultural Soils and Air Quality) for which no mitigation measures were available, the City adopted a Statement of Overriding Considerations (City Council Resolution #2011-63). This document herein incorporates by reference the *Merced Vision 2030 General Plan*, the *General Plan Program EIR* (SCH# 2008071069), and Resolution #2011-63.

As a subsequent development project within the SUDP/SOI, many potential environmental effects of the Project have been previously considered at the program level and addressed within the General Plan and associated EIR. (Copies of the General Plan and its EIR are available for review at the City of Merced Planning and Permitting Division, 678 West 18th Street, Merced, CA 95340.) As a second tier environmental document, Initial Study #16-02 plans to incorporate goals, policies, and implementing actions of the *Merced Vision 2030 General Plan*, along with mitigation measures from the General Plan EIR, as mitigation for potential impacts of the Project.

Project-level environmental impacts and mitigation measures (if applicable) have been identified through site-specific review by City staff. This study also utilizes existing technical information contained in prior documents and incorporates this information into this study.

Project-level environmental impacts have been identified through site-specific review by City staff. This study also utilizes existing technical information contained in prior documents and incorporates this information into this study.

III. ENVIRONMENTAL IMPACTS:

Will the proposed project result in significant impacts in any of the listed categories? Significant impacts are those which are substantial, or potentially substantial, changes that may adversely affect the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant. (Section 15372, State CEQA Guidelines. Appendix G of the Guidelines contains examples of possible significant effects.)

A narrative description of all "potentially significant," "negative declaration: potentially significant unless mitigation incorporated," and "less than significant impact" answers are provided within this Initial Study.

A. Aesthetics

SETTING AND DESCRIPTION

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
A. Aesthetics. Will the project:				
1) Have a substantial adverse effect on a scenic vista?				✓
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				✓
3) Substantially degrade the existing visual character or quality of the site and its surrounding?				✓

4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				✓
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1) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

B. Agriculture Resources

SETTING AND DESCRIPTION

Merced County is among the largest agriculture producing Counties in California (ranked fifth), with a gross income of more than \$2.4 billion in 2006. The County's leading agriculture commodities include milk, chickens, almonds, cattle and calves, tomatoes, and sweet potatoes.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
B. <u>Agriculture Resources.</u> Will the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and monitoring Program of the California Resources Agency, to non - agriculture?				✓

2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				✓
3) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				✓
4) Cause development of non-agricultural uses within 1,000 feet of agriculturally zoned property (Right-to-Farm)?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

C. Air Quality

SETTING AND DESCRIPTION

The San Joaquin Valley Air Pollution Control District (SJVAPCD) reviews development projects to assess the impact to air quality and to establish acceptable mitigation measures. While the action of the SJVAPCD is independent of City reviews and actions, their process allows the City to review proposed mitigation measures that could affect project design and operation. Any proposed changes are subject to approval by the City.

The City of Merced is located in the San Joaquin Valley Air Basin (SJVAB), which occupies the southern half of the Central Valley and is approximately 250 miles in length and, on average, 35 miles in width. The Coast Range, which has an average elevation of 3,000 feet, serves as the western border of the SJVAB. The San Emigdio Mountains, part of the Coast Range, and the Tehachapi Mountains, part of the Sierra Nevada, are both located to the south of the SJVAB. The Sierra Nevada extends in a northwesterly direction and forms the eastern boundary of the SJVAB. The SJVAB is basically flat with a downward gradient to the northwest.

The climate of the SJVAB is strongly influenced by the presence of these mountain ranges. The mountain ranges to the west and south induce winter storms from the Pacific to release precipitation on the western slopes, producing a partial rain shadow over the valley. A rain shadow is defined

as the region on the leeward side of the mountain where precipitation is noticeably less because moisture in the air is removed in the form of clouds and precipitation on the windward side. In addition, the mountain ranges block the free circulation of air to the east, resulting in the entrapment of stable air in the valley for extended periods during the cooler months.

Winter in the SJVAB is characterized as mild and fairly humid, and the summer is hot, dry, and cloudless. During the summer, a Pacific high-pressure cell is centered over the northeastern Pacific Ocean, resulting in stable meteorological conditions and a steady northwesterly wind.

Existing Ambient Air Quality

The California Air Resources Board (CARB) and the United States Environmental Protection Agency (EPA) currently focus on the following air pollutants as indicators of ambient air quality: Ozone (O₃), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM), and lead. Because these are the most prevalent air pollutants known to be deleterious to human health and extensive health-effects criteria documents are available, they are commonly referred to as “criteria air pollutants.”

The EPA has established primary and secondary National Ambient Air Quality Standard (NAAQS) for the following criteria air pollutants: O₃, CO, NO₂, SO₂, PM₁₀, fine particulate matter (PM_{2.5}), and lead. The primary standards protect the public health and the secondary standards protect the public welfare. In addition to the NAAQS, CARB has established California Ambient Air Quality Standard (CAAQS) for the following criteria air pollutants: sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing particulate matter. In most cases, the CAAQS are more stringent than the NAAQS.

Criteria air pollutant concentrations are measured at several monitoring stations in the SJVAB. From 1991 to present, there have been two monitoring stations within the City of Merced: S. Coffee Avenue and 2334 M Street. The table below summarizes the air quality data from these locations for the most recent years available.

**Ambient Air Quality in City of Merced
(Number of Days Exceeding State and Federal Standards)**

Year	Merced - S. Coffee Avenue					Merced- 2334 M Street				
	State Ozone	Federal Ozone	State PM ₁₀ ¹	Federal PM ₁₀ ¹	Federal PM _{2.5} ²	State Ozone	Federal Ozone	State PM ₁₀ ¹	Federal PM ₁₀ ¹	Federal PM _{2.5} ²
2009	0	0	*	*	*	*	*	32.5	0	25.1
2008	14	3	*	*	*	*	*	87.2	0	*
2007	5	0	*	*	*	*	*	36.5	0	3.3
2006	4	0	*	*	*	*	*	47.4	0	0
2005	6	0	*	*	*	*	*	29	0	0
2004	14	0	*	*	*	*	*	12.3	0	0
2003	54	0	*	*	*	*	*	44.4	*	*
2001	26	0	*	*	*	*	*	*	0	*
2000	32	0	*	*	*	*	*	69.6	0	*
1999	42	2	*	*	*	*	*	*	*	*
1998	37	3	*	*	*	*	*	*	*	*

1997	1	0	*	*	*	*	*	*	*	*
1996	44	1	*	*	*	*	*	*	*	*
1995	38	3	*	*	*	*	*	96.3	0	*
(1) Measurements of PM ₁₀ are made every sixth day. Data is the estimated number of days that the standard would have been exceeded had measurements been collected every day.										
(2) Nation 1997 24-Hour PM ₁₀ Standard										
*There was insufficient (or no) data available to determine the value.										

Source: Air Resources Board Aerometric Data Analysis and Management System (ADAM)

Both CARB and EPA use monitoring data to designate areas according to their attainment status for criteria air pollutants. The purpose of the designations is to identify those areas with air quality problems and thereby initiate planning efforts for improvement. The three basic designation categories are nonattainment, attainment, and unclassified. Unclassified is used in an area that cannot be classified on the basis of available information as meeting or not meeting the standards. In addition, the California designations include a subcategory of the nonattainment designation, called nonattainment-transitional. The nonattainment-transitional is given to nonattainment areas that are progressing and nearing attainment. Below are the Attainment Designations for the City of Merced for each of the criteria pollutants.

Merced County Attainment Designation (Federal and State)

Pollutant	Designation/Classification	
	Federal Standards	State Standards
Ozone - One Hour	No Federal Standard (See note below)	Nonattainment/ Severe
Ozone - Eight Hour	Nonattainment	Nonattainment
PM ₁₀ (Particulate Matter 10 micrometers in diameter)	Unclassified/Attainment	Nonattainment
PM _{2.5} (Particulate Matter 2.5 micrometers in diameter)	Nonattainment	Nonattainment
Carbon Monoxide	Unclassified/Attainment	Unclassified
Nitrogen Dioxide	Unclassified/Attainment	Attainment
Pollutant	Designation/Classification	
	Federal Standards	State Standards
Sulfur Dioxide	Unclassified/Attainment	Attainment
Lead (Particulate)	Unclassified/Attainment	Attainment
Hydrogen Sulfide	*No Federal Standard*	Unclassified
Sulfates	*No Federal Standard*	Attainment
Visibility Reducing Particles	*No Federal Standard*	Unclassified
Note: The Federal One Hour Ozone national Ambient Air Quality Standard was revoked on June 15, 2005		

Source California Air Resources Board, 2009, U.S. EPA, 2009

The San Joaquin Valley Air Pollution Control District (SJVAPCD) attains and maintains air quality conditions in Merced County through a comprehensive program of planning regulation,

enforcement, technical innovation, and promotion of the understanding of air quality issues. The clean air strategy of the SJVAPCD includes the preparation of plans for the attainment of ambient air quality standards adoption and enforcement of rules and regulations concerning sources of air pollution, and issuance of permits for stationary sources of air pollution. The SJVAPCD also inspects stationary sources of air pollution and responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements programs and regulations required by the Federal Clean Air Act (FCAA) and the California Clean Air Act (CCAA).

The Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) is an advisory document that provides lead agencies, consultants, and project applicants with uniform procedures for addressing air quality in environmental documents. The GAMAQI contains the following applicable components:

- Criteria and thresholds for determining whether a project may have a significant adverse air quality impact;
- Specific procedures and modeling protocols for quantifying and analyzing air quality impacts;
- Methods available to mitigate air quality impacts; and,
- Information for use in air quality assessments and EIR's that will be updated more frequently such as air quality data, regulatory setting, climate, topography, etc.

The SJVAPCD has also prepared the Air Quality Guidelines for General Plans (AQGGP) (revised June 2005) to provide local planning agencies with a comprehensive set of goals and policies that will improve air quality if adopted in a general plan to provide a guide to cities and counties for determining which goals and policies are appropriate in their particular community; and to provide justification and rationale for the goals and policies that will convince decision makers and the public that they are appropriate and necessary.

Air Quality Plans. The SJVAPCD submitted the 1991 Air Quality Attainment Plan in compliance with the requirements set forth in the CCAA. In addition, the CCAA requires a triennial assessment of the extent of air quality improvements and emission reductions achieved through the use of control measures. As part of this assessment, the attainment plan must be reviewed and, if necessary, revised to correct for deficiencies in progress and to incorporate new data or projections. The CCAA requirement for a first triennial progress report and revisions of the 1991 Air Quality Attainment Plan was first fulfilled with the preparation and adoption of the 1995-1997 Triennial Progress Report and Plan Revision. Triennial reports were also prepared for 1997-2000, and 1999-2001 in compliance with the CCAA.

In an effort to reach attainment for ozone, the SJVAPCD has adopted and submitted several ozone and PM₁₀ plans in its planning history in an effort to reach attainment. In the most current effort to reach attainment for ozone, the SJVAPCD submitted the 2007 Ozone Plan. This plan contains a comprehensive and exhaustive list of regulatory and incentive-based measures to reduce emissions of ozone and particulate matter precursors throughout the Valley. Additionally, this plan calls for major advancements in pollution control technologies for mobile and stationary sources of air pollution, and a significant increase in state and federal funding for incentive-based measures to create adequate reductions in emissions to bring the entire Valley into attainment with the federal ozone standard. The proposed plan calls for a 75% reduction in ozone-forming oxides of nitrogen (NO_x) emissions.

In June 2003, the District prepared the 2003 PM₁₀ Plan. The 2003 PM₁₀ Plan was amended in 2005. The 2006 PM₁₀ Plan Update was adopted by the SJVAPCD in February 2006 and contains the existing measures adopted by EPA, CARB, and the SJVAPCD and the additional measures needed to reach attainment of the PM₁₀ standards.

The SJVAPCD's planning documents also identify voluntary strategies to further reduce air quality impacts in the San Joaquin Valley Air Basin (SJVAB). Included in these strategies are an enhanced California Environmental Quality Act (CEQA) program and the promotion of air quality elements or policies for General Plans in all SJVAB cities and counties. The SJVAPCD reviews and comments on CEQA documents and permit applications sent from SJVAB public agencies. Comments from the SJVAPCD include expert advice on level of significance, applicable rules and regulations, and suggested mitigation measures.

In addition to the above mentioned items, the SJVAPCD has submitted numerous plans with respect to ozone, PM₁₀, PM_{2.5}, and CO in compliance with the FCAA and CCAA.

Project Characteristics

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
C. <u>Air Quality.</u> Would the project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?				✓
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				✓
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				✓
4) Expose sensitive receptors to substantial pollutant concentrations?				✓
5) Create objectionable odors affecting a substantial number of people?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

D. Biological Resources

SETTING AND DESCRIPTION

The City of Merced is located in the Central California Valley eco-region (Omernik 1987). This eco-region is characterized by flat, intensively farmed plains with long, hot dry summers and cool, wet winters (14-20 inches of precipitation per year). The Central California Valley eco-region includes the Sacramento Valley to the north and the San Joaquin Valley to the south and it ranges between the Sierra Nevada Foothills to the east to the Coastal Range foothills to the west. Nearly half of the eco-region is actively farmed, and about three fourths of that farmed land is irrigated.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
D. <u>Biological Resources.</u> Would the project:				
1) Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				✓
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				✓
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				✓
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				✓
5) Conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance?				✓
6) Conflict with the provisions of an adopted Habitat Conservation plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

E. Cultural Resources

SETTING AND DESCRIPTION

The City of Merced area lies within the ethnographic territory of the Yokuts people. The Yokuts were members of the Penutian language family which held all of the Central Valley, San Francisco Bay Area, and the Pacific Coast from Marin County to near Point Sur.

Merced County was first explored by Gabriel Moraga in 1806, when he named the Merced River, “El Rio de Nuestra Senra de la Merced.” Moraga’s explorations were designed to locate appropriate sites for an inland chain of missions. Moraga explored the region again in 1808 and 1810.

Archaeology

Archaeological sites are defined as locations containing significant levels of resources that identify human activity. Very little archaeological survey work has been conducted within the City or its surrounding areas. Creeks, drainage, and sloughs exist in the northern expansion area of the City, and Bear Creek and Cottonwood Creek pass through the developed area. Archaeological sites in the Central Valley are commonly located adjacent to waterways and represent potential for significant archaeological resources.

Paleontological sites are those that show evidence of pre-human existence. Quite frequently, they are small outcroppings visible on the earth’s surface. While the surface outcroppings are important indications of paleontological resources, it is the geologic formations that are the most important. There are no known sectors within the project area known to contain sites of paleontological significance.

Historic Resources

In 1985, in response to community concerns over the loss of some of the City’s historic resources, and the perceived threats to many remaining resources, a survey of historic buildings was undertaken in the City. The survey focused on pre-1941 districts, buildings, structures, and objects of historical, architectural, and cultural significance. The survey area included a roughly four square-mile area of the central portion of the City.

The National Register of Historic Places, the California Historical Landmarks List, and the California Inventory of Historic Resources identify several sites within the City of Merced. These sites are listed on the Merced Historical Site Survey and maintained by the Merced Historical Society.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
E. <u>Cultural Resources.</u> Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				✓
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				✓
3) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				✓
4) Disturb any human remains, including those interred outside of formal cemeteries?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

F. Geology and Soils

SETTING AND DESCRIPTION

The City of Merced is located approximately 150 miles southeast of San Francisco along the west side of the southern portion of the Great Valley Geomorphic Province, more commonly referred to as the San Joaquin Valley. The valley is a broad lowlands bounded by the Sierra Nevada to the east and Coastal Ranges to the west. The San Joaquin Valley has been filled with a thick sequence of sedimentary deposits of Jurassic to recent age. A review of the geologic map indicates that the area around Merced is primarily underlain by the Pleistocene Modesto and Riverbank Formations with Holocene alluvial deposits in the drainages. Miocene-Pliocene Mehrten and Pliocene Laguna Formation materials are present in outcrops on the east side of the SUDP/SOI. Modesto and Riverbank Formation deposits are characterized by sand and silt alluvium derived from weathering of rocks deposited east of the SUDP/SOI. The Laguna Formation is made up of consolidated gravel sand and silt alluvium and the Mehrten Formation is generally a well consolidated andesitic mudflow breccia conglomerate.

Faults and Seismicity

A fault, or a fracture in the crust of the earth along which rocks on one side have moved relative to those on the other side, are an indication of past seismic activity. It is assumed that those that have been active recently are the most likely to be active in the future, although even inactive faults may not be “dead.” “Potentially Active” faults are those that have been active during the past two million years or during the Quaternary Period. “Active” faults are those that have been active within the past 11,000 years. Earthquakes originate as movement or slippage occurring along an active fault. These movements generate shock waves that result in ground shaking.

Based on review of geologic maps and reports for the area, there are no known active or potentially active faults, or Alquist-Priolo Earthquake Fault Zones (formerly referred to as a Special Studies Zone) in the SUDP/SOI. In order to determine the distance of known active faults within 50 miles of the Site, the computer program EZ-FRISK was used in the General Plan update.

Soils

Soil properties can influence the development of building sites, including site selection, structural design, construction, performance after construction, and maintenance. Soil properties that affect the load-supporting capacity of an area include depth to groundwater, ponding, flooding, subsidence, shrink-swell potential, and compressibility.

The City of Merced regulates the effects of soils and geological constraints primarily through the enforcement of the California Building Code (CBC), which requires the implementation of engineering solutions for constraints to development posed by slopes, soils, and geology.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
F. <u>Geology and Soils.</u> Would the project:				
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
a) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?				✓
b) Strong seismic ground shaking?				✓
c) Seismic-related ground failure, including liquefaction?				✓
d) Landslides?				✓
2) Result in substantial soil erosion or loss of topsoil?				✓
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?				✓
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				✓
5) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				✓

1) **No Impact**

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2) **No Impact**

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5) **No Impact**

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APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The City's *Merced Vision 2030 General Plan* contains policies that address seismic safety.

<i>Goal Area S-2: Seismic Safety:</i>	
Goal	
Reasonable Safety for City Residents from the Hazards of Earthquake and Other Geologic Activity	
Policies	
S-2.1	Restrict urban development in all areas with potential ground failure characteristics.

G. Hazards and Hazardous Materials

SETTING AND DESCRIPTION

Hazardous Materials

A substance may be considered hazardous due to a number of criteria, including toxicity, ignitability, corrosivity, or reactivity. The term "hazardous material" is defined in law as any material that, because of quantity, concentration, or physical, or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment.

Wildland and Urban Fire Hazards

Both urban and wildland fire hazard potential exists in the City of Merced and surrounding areas, creating the potential for injury, loss of life, and property damage. Urban fires primarily involve the uncontrolled burning of residential, commercial, or industrial structures due to human activities. Wildland fires affect grassland, brush or woodlands, and any structures on or near these fires. Such fires can result from either human made or natural causes.

Urban fires comprise the majority of fires in the City of Merced while the potential for wildland fires could increase as large blocks of undeveloped land are annexed into the City. Most of the fires are caused by human activities involving motor vehicles, equipment, arson, and burning of debris.

Airport Safety

The City of Merced is impacted by the presence of two airports-Merced Regional Airport, which is in the southwest corner of the City, and Castle Airport (the former Castle Air Force Base), located approximately eight miles northwest of the subject site.

The continued operation of the Merced Regional Airport involves various hazards to both flight (physical obstructions in the airspace or land use characteristics which affect flight safety) and safety on the ground (damage due to an aircraft accident). Growth is restricted around the Regional Airport in the southwest corner of the City due to the noise and safety hazards associated with the flight path.

Castle Airport also impacts the City. Portions of the northwest part of the City's SUDP/SOI and the incorporated City are within Castle's safety zones. The primary impact is due to noise (Zones C and D), though small areas have density restrictions (Zone B2). The military discontinued operations at Castle in 1995. One important criterion for determining the various zones is the noise factor. Military aircraft are designed solely for performance, whereas civilian aircraft have extensive design features to control noise.

Potential hazards to flight include physical obstructions and other land use characteristics that can affect flight safety, which include: visual hazards such as distracting lights, glare, and sources of smoke; electronic interference with aircraft instruments or radio communications; and uses which may attract flocks of birds. In order to safeguard an airport's long-term usability, preventing encroachment of objects into the surrounding airspace is imperative.

Railroad

Hazardous materials are regularly shipped on the BNSF and SP/UP Railroad lines that pass through the City. While unlikely, an incident involving the derailment of a train could result in the spillage of cargo from the train in transporting. The spillage of hazardous materials could have devastating results. The City has little to no control over the types of materials shipped via the rail lines. There is also a safety concern for pedestrians along the tracks and vehicles utilizing at-grade crossings. The design and operation of at-grade crossings allows the City some control over rail-related hazards. Ensuring proper gate operation at the crossings is the most effective strategy to avoid collision and possible derailments.

Public Protection and Disaster Planning

Hospitals, ambulance companies, and fire districts provide medical emergency services. Considerable thought and planning have gone into efforts to improve responses to day-to-day emergencies and planning for a general disaster response capability.

The City's Emergency Plan and the County Hazardous Waste Management Plan both deal with detailed emergency response procedures under various conditions for hazardous materials spills. The City also works with the State Department of Health Services to establish cleanup plans and to monitor the cleanup of known hazardous waste sites within the City.

Project Characteristics

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual

environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
G. <u>Hazards and Hazardous Materials.</u> Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				✓
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				✓
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				✓
4) Be located on a site which is included on a list of hazardous materials site compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				✓
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				✓
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				✓
7) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				✓

8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				✓
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APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The City of Merced *Vision 2030 General Plan* contains policies that address hazardous materials.

<i>Goal Area S-7: Hazardous Materials</i>	
Goal	
Hazardous Materials Safety for City Residents	
Policies	
S-2.1	Prevent injuries and environmental contamination due to the uncontrolled release of hazardous materials.
Implementing Actions:	
7.1.a	Support Merced County in carrying out and enforcing the Merced County Hazardous Waste Management Plan.
7.1.b	Continue to update and enforce local ordinances regulating the permitted use and storage of hazardous gases, liquids, and solids.
7.1.d	Provide continuing training for hazardous materials enforcement and response personnel.

APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The *Merced Vision 2030 General Plan* contains policies that address disaster preparedness.

<i>Goal Area S-1: Disaster Preparedness</i>	
Goal	
General Disaster Preparedness	
Policies	
S-1.1	Develop and maintain emergency preparedness procedures for the City.
Implementing Actions:	
1.1.a	Keep up-to-date through annual review the City's existing Emergency Plan and coordinate with the countywide Emergency Plan.
1.1.b	Prepare route capacity studies and determine evacuation procedures and routes for different types of disasters, including means for notifying residents of a need to evacuate because of a severe hazard as soon as possible.
7.1.d	Provide continuing training for hazardous materials enforcement and response personnel.

1) **No Impact**

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2) **No Impact**

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3) **No Impact**

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4) **No Impact**

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5) **No Impact**

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6) **No Impact**

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7) **No Impact**

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8) **No Impact**

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H. Hydrology and Water Quality

SETTING AND DESCRIPTION

Water Supplies and Facilities

The City's water supply system consists of four elevated storage tanks with a combined storage capacity of approximately 1.4 million gallons, 23 wells and 14 pumping stations equipped with variable speed pumps that attempt to maintain 45 to 50 psi (pounds per square inch) nominal water pressure. The City is required to meet State Health pressure requirements, which call for a minimum of 20 psi at every service connection under the annual peak hour condition and maintenance of the annual average day demand plus fire flow, whichever is stricter.

Storm Drainage/Flooding

In accordance with the adopted City of Merced Standard Designs of Common Engineering Structures, percolation/detention basins are designed to temporarily collect run-off so that it can be metered at acceptable rates into canals and streams which have limited capacity.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
H. <u>Hydrology and Water Quality.</u> Would the project:				
1) Violate any water quality standards or waste discharge requirements?				✓
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				✓
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				✓
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				✓
5) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				✓

6) Otherwise substantially degrade water quality?				✓
7) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				✓
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				✓
9) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				✓
10) Inundation by seiche, tsunami, or mudflow?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

5) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

6) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

7) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

8) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

9) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

10) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The *Merced Vision 2030 General Plan* contains policies that address Water Quality and Storm Drainage.

<i>Goal Area P-5: Storm Drainage and Flood Control</i>	
Goal	
An Adequate Storm Drainage Collection and Disposal System in Merced	
Policies	
P-5.1	Provide effective storm drainage facilities for future development.
P-5.2	Integrate drainage facilities with bike paths, sidewalks, recreation facilities, agricultural activities, groundwater recharge, and landscaping.
Implementing Actions:	
5.1.a	Continue to implement the City’s Storm Water Master Plan and the Storm Water Management Plan and its control measures.
5.1.c	Continue to require all development to comply with the Storm Water Master Plan and any subsequent updates.

I. Land Use and Planning

SETTING AND DESCRIPTION

The City of Merced is proposing to adopt an Ordinance to amend Chapter 20.84 “Medical Marijuana and Cultivation” and Section 20.20.040 “Conditional Uses” (Professional/Commercial Office Zone) of the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office General Plan designations by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line.

As proposed, the ordinance would also place restrictions on medical marijuana dispensaries as follows: 1) The proposed dispensary could not be located within 600 feet of the property line of any elementary school, middle school, or high school (consistent with State law); 2) The proposed dispensary could not be located within 500 feet of the property line of any public park that includes playgrounds, active play areas, and/or sports fields (not including bike paths); 3) The proposed dispensary could not be located within 500 feet of the property line of any youth center, City-owned and operated recreational center, or public library. In addition, no more than four

dispensaries shall be authorized to operate in the City at any given time and dispensaries must obtain a license from the State of California to operate a dispensary prior to opening for business at a specific location in the C-O zone.

As proposed in regards to deliveries, the ordinance would allow only licensed dispensaries be authorized to make medical marijuana deliveries within the City of Merced and such deliveries shall occur solely between the hours of 8 a.m. and 7 p.m.

As proposed in regards to cultivation, commercial cultivation is prohibited in all zones in the City; however, 12 immature or 6 mature plants may be cultivated indoors or outdoors on any lot in the City if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient. However, any plants cultivated outdoors shall not be visible from the public right-of-way and shall not be located within 5 feet of the property line. In addition, no fences (whether temporary or permanent) shall be constructed at a height no greater than 6 feet to screen marijuana plants from the public right-of-way, unless City regulations only authorize a fence of a lesser height.

Since this project involves an amendment to the Merced Zoning Code, it would apply within the City Limits of Merced. However, there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. <u>Land Use and Planning.</u> Would the project:				
1) Physically divide an established community?				✓
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				✓
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

J. Mineral Resources

SETTING AND DESCRIPTION

The City of Merced does not contain any mineral resources that require managed production, according to the State Mining and Geology Board. Based on observed site conditions and review of geological maps for the area, economic deposits of precious or base metals are not expected to underlie the Merced SUDP/SOI. According to the California Geological Survey, Aggregate Availability in California - Map Sheet 52, Updated 2006, minor aggregate production occurs west and north of the City of Merced, but economic deposits of aggregate minerals are not mined within the immediate vicinity of the SUDP/SOI. Commercial deposits of oil and gas are not known to occur within the SUDP/SOI or vicinity.

According to the Merced County General Plan Background Report (June 21, 2007), very few traditional hard rock mines exist in the County. The County's mineral resources are almost all sand and gravel mining operations. Approximately 38 square miles of Merced County, in 10 aggregate resource areas (ARA), have been classified by the California Division of Mines and Geology for aggregate. The 10 identified resource areas contain an estimated 1.18 billion tons of concrete resources with approximately 574 million tons in Western Merced County and approximately 605 million tons in Eastern Merced County. Based on available production data and population projections, the Division of Mines and Geology estimated that 144 million tons of aggregate would be needed to satisfy the projected demand for construction aggregate in the County through the year 2049. The available supply of aggregate in Merced County substantially exceeds the current and projected demand.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
J. <u>Mineral Resources.</u> Would the project:				
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				✓

2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				✓
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1) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

K. Noise

SETTING AND DESCRIPTION

Potential noise impacts of the proposed project can be categorized as those resulting from construction and those from operational activities. Construction noise would have a short-term effect; operational noise would continue throughout the lifetime of the project.

Some land uses are considered more sensitive to noise levels than other uses. Sensitive land uses can include residences, schools, nursing homes, hospitals, and some public facilities, such as libraries. The noise level experienced at the receptor depends on the distance between the source and the receptor, the presence or absence of noise barriers and other shielding devices, and the amount of noise attenuation (lessening) provided by the intervening terrain. For line sources such as motor or vehicular traffic, noise decreases by about 3.0 to 4.5A –weighted decibels (dBA) for every doubling of the distance from the roadway.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
K. Noise. Would the project result in:				
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				✓

2) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				✓
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				✓
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				✓
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				✓
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

5) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

6) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

L. Population and Housing

SETTING AND DESCRIPTION

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

Expected Population and Employment Growth

According to the State Department of Finance, the City of Merced’s population in 2014 was estimated to be 81,130. Population projections estimate that the Merced SUDP/SOI area will have a population of 159,900 by the Year 2030. According to the *Merced Vision 2030 General Plan*, the City of Merced is expected to experience significant employment growth by the Year 2030.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
L. <u>Population and Housing.</u> Would the project:				
1) Induce substantial population growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				✓
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				✓
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

M. Public Services

SETTING AND DESCRIPTION

Fire Protection

The City of Merced Fire Department provides fire protection, rescue, and emergency medical services from five fire stations throughout the urban area. The City's Central Fire Station is located in the downtown area at 16th and G Streets. The City also has four other stations throughout the City.

Police Protection

The City of Merced Police Department provides police protection for the entire City. The Police Department employs a mixture of sworn officers, non-sworn officer positions (clerical, etc.), and unpaid volunteers (VIP's). The service standard used for planning future police facilities is approximately 1.37 sworn officers per 1,000 population, per the Public Facilities Financing Plan.

Schools

The public school system in Merced is served by three districts: 1) Merced City School District (elementary and middle schools); 2) Merced Union High School District (MUHSD); and, 3) Weaver Union School District (serving a small area in the southeastern part of the City with elementary schools). The districts include various elementary schools, middle (junior high) schools, and high schools.

Parks

The City of Merced has a well-developed network of parks and recreation facilities.

Project Characteristics

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

However, it should be noted that the proposed ordinance would place the following requirements on medical marijuana dispensaries that would be allowed by Conditional Use Permit within the Professional/Commercial Office (C-O) zones or in Planned Developments with Commercial Office General Plan designations(Attachment B): 1) The proposed dispensary could not be located within 600 feet of the property line of any elementary school, middle school, or high school (consistent with State law); 2) The proposed dispensary could not be located within 500 feet of the property line of any public park that includes playgrounds, active play areas, and/or sports fields (not including bike paths); 3) The proposed dispensary could not be located within 500 feet of the property line of any youth center, City-owned and operated recreational center, or public library. In addition, no more than four dispensaries shall be authorized to operate in the City at any given time and dispensaries must obtain a license from the State of California to operate a dispensary prior to opening for business at a specific location in the C-O zone.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
M. <u>Public Services.</u> Would the project:				
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a) Fire Protection?				✓
b) Police Protection?				✓
c) Schools?				✓
d) Parks?				✓
e) Other Public Facilities?				✓

1) **No Impact**

a) **Fire Protection**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

b) **Police Protection**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

c) **Schools**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

d) **Parks**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

e) **Other Public Facilities**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

N. Recreation

SETTING AND DESCRIPTION

The City of Merced has a well-developed network of parks and recreation facilities.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
N. <u>Recreation.</u> Would the project:				
1) Increase the use of neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				✓
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

O. Transportation/Traffic

SETTING AND DESCRIPTION

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
O. <u>Transportation/Traffic.</u> Would the project:				
1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e. result in a substantial increase in either vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				✓
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roadways?				✓
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				✓
4) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				✓
5) Result in inadequate emergency access?				✓
6) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

P. Utilities and Service Systems

SETTING AND DESCRIPTION

Water

The City's water system is composed of 23 groundwater production wells located throughout the City, approximately 350 miles of main lines, and 4 water tower tanks for storage. Well pump operators ensure reliability and adequate system pressure at all times to satisfy customer demand. Diesel powered generators help maintain uninterrupted operations during power outage. The City of Merced water system delivered more than 24 million gallons of drinking water per day in 2013 to approximately 20,733 residential, commercial, and industrial customer locations. The City is required to meet State Health pressure requirements, which call for a minimum of 20 psi at every service connection under the annual peak hour condition and maintenance of the annual average day demand plus fire flow, whichever is stricter. The City of Merced Water Division is operated by the Public Works Department.

The City of Merced's wells have an average depth of 414 feet and range in depth from 161 feet to 800 feet. The depth of these wells would suggest that the City of Merced is primarily drawing water from a deep aquifer associated with the Mehrten geologic formation. Increasing urban demand and associated population growth, along with an increased shift by agricultural users from surface water to groundwater and prolonged drought have resulted in declining groundwater levels due to overdraft. This condition was recognized by the City of Merced and the Merced Irrigation District (MID) in 1993, at which time the two entities began a two-year planning process to assure a safe and reliable water supply for Eastern Merced County through the year 2030. Integrated Regional Water Planning continues today through various efforts.

Wastewater

Wastewater (sanitary sewer) collection and treatment in the Merced urban area is provided by the City of Merced. The wastewater collection system handles wastewater generated by residential, commercial, and industrial uses in the City.

The City Wastewater Treatment Plant (WWTP), located in the southwest part of the City about two miles south of the airport, has been periodically expanded and upgraded to meet the needs of the City's growing population and new industry. The City's wastewater treatment facility has a capacity of 11.5 million gallons per day (mgd), with an average 2006 flow of 8.5 mgd. The City

has recently completed an expansion project to increase capacity to 12 mgd and upgrade to tertiary treatment with the addition of filtration and ultraviolet disinfection. Future improvements would add another 8 mgd in capacity (in increments of 4 mgd), for a total of 20 mgd. This design capacity can support a population of approximately 174,000. The collection system will also need to be expanded as development occurs.

Treated effluent is disposed of in several ways depending on the time of year. Most of the treated effluent (75% average) is discharged to Hartley Slough throughout the year. The remaining treated effluent is delivered to a land application area and the on-site City-owned wetland area south of the treatment plant.

Storm Drainage

The Draft *City of Merced Storm Drainage Master Plan* addresses the collection and disposal of surface water runoff in the City's SUDP. The study addresses both the collection and disposal of storm water. Systems of storm drain pipes and catch basins are laid out, sized, and costed in the plan to serve present and projected urban land uses.

It is the responsibility of the developer to ensure that utilities, including storm water and drainage facilities, are installed in compliance with City regulations and other applicable regulations. Necessary arrangements with the utility companies or other agencies will be made for such installation, according to the specifications of the governing agency and the City (Ord. 1342 § 2 (part), 1980: prior code § 25.21(f)). The City requires the construction of storm water percolation/detention basins with new development. Percolation basins are designed to collect storm water and filter it before it is absorbed into the soil and reaches groundwater tables. Detention basins are designed to temporarily collect runoff so it can be metered at acceptable rates into canals and streams which have limited capacity. The disposal system is mainly composed of MID facilities, including water distribution canals and laterals, drains, and natural channels that traverse the area.

The City of Merced has been involved in developing a Storm Water Management Plan (SWMP) to fulfill requirements of storm water discharges from Small Municipal Separate Storm Sewer System (MS4) operators in accordance with Section 402(p) of the Federal Clean Water Act (CWA). The SWMP was developed to also comply with General Permit Number CAS000004, Water Quality Order No. 2003-0005-DWQ.

Solid Waste

The City of Merced is served by the Highway 59 Landfill and the Highway 59 Compost Facility, located at 6040 North Highway 59, one and one-half miles north of Old Lake Road. The County of Merced is the contracting agency for landfill operations and maintenance, while the facilities are owned by the Merced County Association of Governments. The City of Merced provides services for all refuse pick-up within the City limits and franchise hauling companies collect in the unincorporated areas. In addition to these two landfill sites, there is one private disposal facility, the Flintkote County Disposal Site, at SR 59 and the Merced River. This site is restricted to concrete and earth material.

Project Characteristics

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual

environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
P. <u>Utilities and Service Systems.</u> Would the project:				
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				✓
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				✓
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				✓
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				✓
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				✓
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				✓
7) Comply with federal, state, and local statutes and regulations related to solid waste?				✓

1) No Impact

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

7) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

Q. Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Q. <u>Mandatory Findings of Significance.</u> Would the project:				
1) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				✓

2) Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects?)			✓	
3) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			✓	

1) No Impact

As previously discussed in this document, the project does not have the potential to adversely affect biological resources or cultural resources because no new construction will be involved in the project.

This project involves an amendment to the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

2) Less Than Significant Impact

The Program Environmental Impact Report conducted for the *Merced Vision 2030 General Plan, the General Plan Program EIR* (SCH# 2008071069) has recognized that future development and build-out of the SUDP/SOI will result in cumulative and unavoidable impacts in the areas of Air Quality and Loss of Agricultural Soils. In conjunction with this conclusion, the City has adopted a Statement of Overriding Considerations for these impacts (Resolution #2011-63) which is herein incorporated by reference.

The certified General Plan EIR addressed and analyzed cumulative impacts resulting from changing agricultural use to urban uses. No new or unaddressed cumulative impacts will result from the Project that have not previously been considered by the certified General Plan EIR or by the Statement of Overriding Considerations, or mitigated by this Expanded Initial Study. This Initial Study does not disclose any new and/or feasible mitigation measures which would lessen the unavoidable and significant cumulative impacts.

The analysis of impacts associated with the project will contribute to the cumulative impacts identified in the General Plan EIR. The nature and extent of these impacts, however, falls within the parameters of impacts previously analyzed in the General Plan EIR. No individual or cumulative impacts will be created by the Project that have not previously been considered at the program level by the General Plan EIR or mitigated by this Initial Study.

3) **Less Than Significant Impact**

Development anticipated by the *Merced Vision 2030 General Plan* will have significant adverse effects on human beings. These include the incremental degradation of air quality in the San Joaquin Basin, the loss of prime agricultural soils, the incremental increase in traffic, and the increased demand on natural resources, public services, and facilities. However, consistent with the provisions of CEQA previously identified, the analysis of the Project is limited to those impacts which are peculiar to the Project site or which were not previously identified as significant effects in the prior EIR. The previously-certified General Plan EIR and the Statement of Overriding Considerations addressed those cumulative impacts; hence, there is no requirement to address them again as part of this Project.

This previous EIR has concluded that these significant adverse impacts are accounted for in the mitigation measures incorporated into the General Plan EIR. In addition, a Statement of Overriding Considerations has been adopted by City Council Resolution #2011-63 that indicates that the significant impacts associated with development of the Project are offset by the benefits that will be realized in providing necessary jobs for residents of the City. The analysis and mitigation of impacts has been detailed in the Environmental Impact Report prepared for the *Merced Vision 2030 General Plan*, which are incorporated into this document by reference.

While this issue was addressed and resolved with the General Plan EIR in an abundance of caution, in order to fulfill CEQA's mandate to fully disclose potential environmental consequences of projects, this analysis is considered herein. However, as a full disclosure document, this issue is repeated in abbreviated form for purposes of disclosure, even though it was resolved as a part of the General Plan.

Potential impacts associated with the Project's development have been described in this Initial Study. All impacts were determined to be no impact or less than significant.

R. Greenhouse Gas Emissions

SETTING AND DESCRIPTION

The issue of project-generated Greenhouse Gas (GHG) Emissions is a reflection of the larger concern of Global Climate Change. While GHG emissions can be evaluated on a project level, overall, the issue reflects a more regional or global concern. CEQA requires all projects to discuss a project's GHG contributions. However, from the standpoint of CEQA, GHG impacts on global climate change are inherently cumulative. The quantity of GHGs that it takes to ultimately result in climate change is not precisely known; however, it can safely be assumed that existing conditions do not measurably contribute to a noticeable incremental change in the global climate.

THRESHOLDS OF SIGNIFICANCE

The proposed project would result in a significant impact on the environment if it would:

- Generate GHG emissions either directly or indirectly, that may have a significant impact on the environment;

- Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
R. <u>Greenhouse Gas Emissions.</u> Would the project:				
1) Generate greenhouse gas emission, either directly or indirectly, that may have a significant impact on the environment?			✓	
2) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			✓	

1) Less Than Significant Impact

The proposed Zoning Ordinance Amendment would not result in immediate construction of a project, and will therefore, not generate greenhouse gas emissions, either directly or indirectly. Future construction based on the Zoning Ordinance would be subject to further environmental review.

2) Less Than Significant Impact

The proposed Zoning Ordinance Amendment would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

S. Environmental Determination

On the basis of this initial environmental evaluation:

I find that the project could have a significant effect on the environment, and that
X a NEGATIVE DECLARATION HAS BEEN PREPARED for public review.

April 28, 2016



Kim Espinosa, Planning Manager



David Gonzalves, Director of Development Services
Environmental Coordinator
City of Merced

Distributed for Public Review: April 28, 2016

Attachments:

- A) Public Hearing Notice
- B) Map of Commercial Office Zones or General Plan Designations

NOTICE OF PUBLIC HEARING
FOR ZONING ORDINANCE AMENDMENT #16-02 AND NOTICE OF INTENT TO ADOPT
A NEGATIVE DECLARATION

A public hearing will be held by the Merced City Planning Commission on Wednesday, May 18, 2016, at 7:00 p.m., or as soon thereafter as may be heard in the City Council Chambers located at 678 W. 18th Street, Merced, CA, concerning Zoning Ordinance Amendment #16-02, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Chapter 20.84, "Medical Marijuana and Cultivation," and Chapter 20.20, "Professional/Commercial Office," to the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office designations by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line.

An environmental review checklist has been filed for this project, and a draft negative declaration has been prepared (i.e., no further environmental review would be required) under the California Environmental Quality Act. A copy of this staff evaluation ("Initial Study") is available for public inspection at the City of Merced Planning Department during regular business hours, at 678 West 18th Street, Merced, California. A copy of this document can also be purchased at the Planning Department for the price of reproduction.

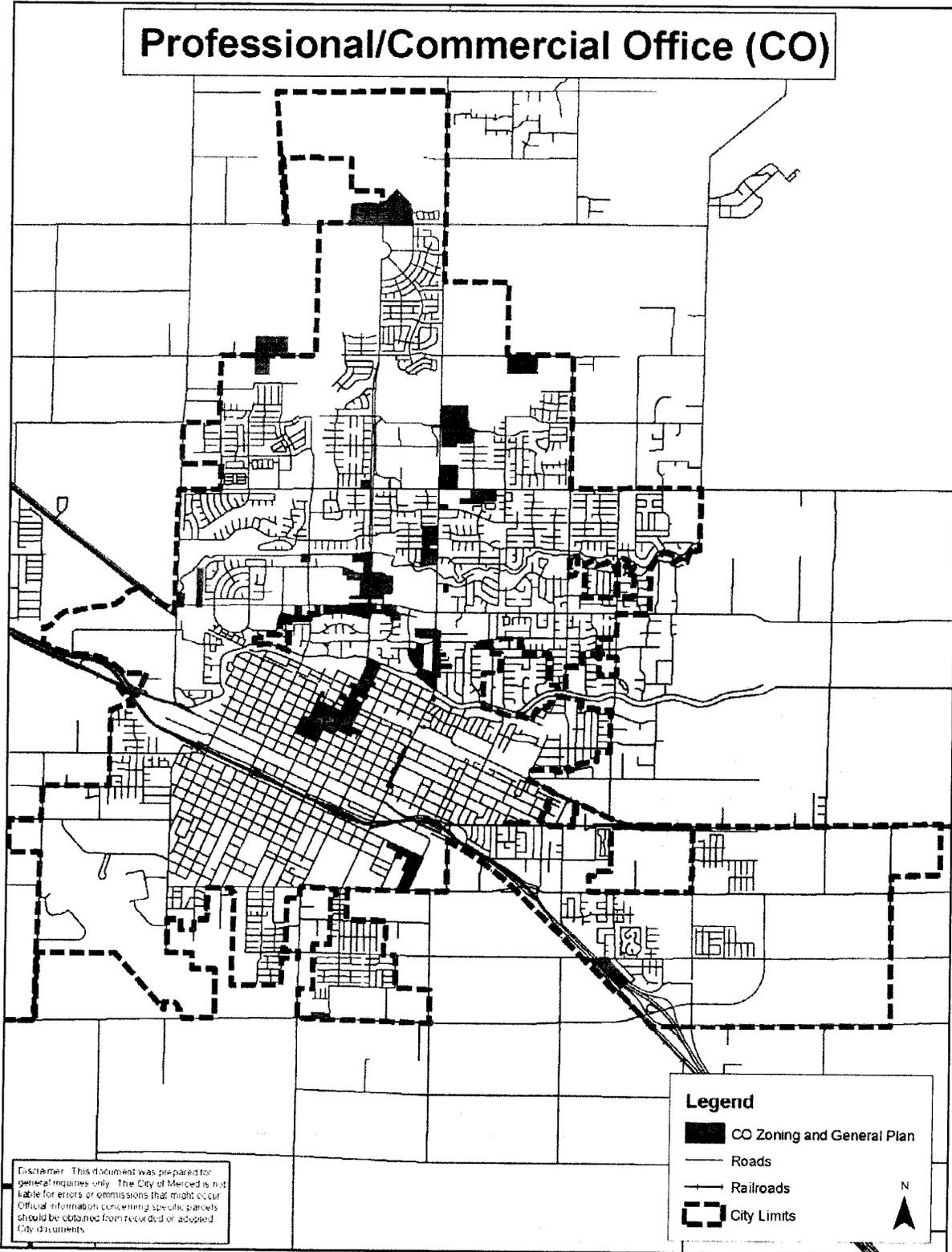
All persons in favor of, opposed to, or in any manner interested in this request for a Zoning Ordinance Amendment are invited to attend this public hearing or forward written comments to the Director of Development Services, City of Merced, 678 West 18th Street, Merced, CA 95340. The public review period for the environmental determination begins on April 28, 2016, and ends on May 18, 2016. Please feel free to call the Planning Department at (209) 385-6858 for additional information. If you challenge the decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Merced at, or prior to, the public hearing.

After the Planning Commission makes its decision on this matter, the matter will also be considered at a public hearing before the City Council. A separate notice of that public hearing will also be given.

April 22, 2016

/s/ Kim Espinosa
Kim Espinosa, Planning Manager

Professional/Commercial Office (CO)



**CITY OF MERCED
Planning Commission**

Resolution # _____

WHEREAS, the Merced City Planning Commission at its regular meeting of May 18, 2016, held a public hearing and considered **Zoning Ordinance Amendment #16-02**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Chapter 20.84, “Medical Marijuana and Cultivation,” and Chapter 20.20, “Professional/Commercial Office,” to the Merced Municipal Code to allow commercial medical marijuana/cannabis dispensaries in the Professional/Commercial Office (C-O) zones and Planned Developments with Commercial Office designations by Conditional Use Permit subject to certain restrictions; allow commercial deliveries of medical marijuana in the City; and to allow the cultivation of 12 immature plants or 6 mature plants per parcel/lot, either indoors or outdoors, of marijuana/cannabis for personal medical use by a qualified patient or primary caregiver in all zones and specific plan areas in the City of Merced, with certain restrictions regarding visibility and distance from the property line; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #16-11; and,

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Environmental Review #16-12, and approval of Zoning Ordinance Amendment #16-02, as set forth in Attachment A of Staff Report #16-11.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

Adopted this 18th day of May 2016

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

n:shared:planning:PC Resolutions:ZOA#16-02

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING CHAPTER 20.84, “MEDICAL
MARIJUANA AND CULTIVATION”, AND
AMENDING SECTION 20.20.040 “CONDITIONAL
USES”, SECTION 20.34.040 “CONDITIONAL
USES”, AND SECTION 20.36.040 “CONDITIONAL
USES” OF THE MERCED MUNICIPAL CODE
REGARDING THE ZONING OF MEDICAL
MARIJUANA DISPENSARIES AS CONDITIONAL
USES**

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

SECTION 1. AUTHORITY. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to, Article XI, Section 7 of the California Constitution, the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program (California Health and Safety Code § 11362.7 et seq.), and The Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643; hereafter “MMRSA”).

SECTION 2. AMENDMENT OF CHAPTER 20.84. Chapter 20.84, Medical Marijuana and Cultivation,” is amended to read as follows:

**“Chapter 20.84
MEDICAL MARIJUANA AND CULTIVATION**

Section:

- 20.84.010 Definitions.**
- 20.84.020 Regulations.**
- 20.84.030 Public Nuisance.**
- 20.84.040 Civil Penalties.**

20.84.010 Definitions.

‘Cannabis’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(f) as the same may be amended from time to time.

‘Caregiver’ or ‘primary caregiver’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

‘Commercial cannabis activity’ shall have the same meaning as that set forth in Business and Professions Code Section 19300.5(k) as the same may be amended from time to time.

‘Cultivation’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l) as the same may be amended from time to time.

‘Delivery’ or ‘deliveries’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

‘Dispensary’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(n) as the same may be amended from time to time. ‘Dispensary’ shall not include the following uses:

- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code,
- (2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code,
- (3) A residential care facility for persons with chronic life-threatening illnesses licensed pursuant

to Chapter 3.01 of Division 2 of the California Health and Safety Code,

(4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code,

(5) A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

‘Medical cannabis,’ ‘medical cannabis product,’ or ‘cannabis product’ shall have the same meanings as set forth in Business & Professions Code § 19300.5(ag) as the same may be amended from time to time.

‘Medical Marijuana Regulation and Safety Act’ or ‘MMRSA’ shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

‘Qualifying patient’ or ‘Qualified patient’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

20.84.020 Regulations.

A. Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, medical marijuana dispensaries are allowed as a conditional use in the C-O District, I-L District, I-H District and Planned Developments which have the equivalent General Plan land use designations of these zones, subject to the restrictions of Section 20.84.020(B) and the limitations of Section 20.84.020(C) on the number of dispensaries that may be authorized within the City at any given time. Any conditional use permit issued for a dispensary shall include conditions to protect the public health, safety and welfare and to minimize the

secondary effects, if any, of the dispensary. Before a dispensary may open for business within the City, the operator of the dispensary must also have a license from the State of California to operate a dispensary at a specific location within the C-O District, I-L District or I-H District.

B. A dispensary shall not be approved in the C-O District, I-L District or I-H District if any following conditions apply:

i. The proposed dispensary would be located within 600 feet of the property line of any kindergarten, elementary school, middle school or high school.

ii. The proposed dispensary would be located within 500 feet of the property line of any public park that includes playgrounds, active play areas and/or sports fields. For purposes of this subsection only, a park shall not include any park designated in Section 9.70.030 as a bike path.

iii. The proposed dispensary would be located within 500 feet of the property line of any youth center, City-owned and operated recreational center or public library.

The Planning Commission or City Council on appeal may consider other factors not specifically stated in this Section 20.84.020(B) in determining whether to approve or disapprove a conditional use permit application for a dispensary.

C. Notwithstanding any language in this Section 20.84.020 to the contrary, no more than four dispensaries shall be authorized to operate in the City at any given time. If four dispensaries are authorized to locate within the City, then no additional conditional use permits shall be approved to operate a dispensary within the City.

D. Only licensed dispensaries are authorized to make medical marijuana deliveries within the City of Merced. Such deliveries shall occur solely between the hours of 8 a.m. and 7 p.m.

E. Cultivation of cannabis for commercial purposes is expressly prohibited in all zones and all specific plan areas in the City of Merced; provided, however, that six plants may be cultivated indoors on any lot with a legally permitted structure if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient.

20.84.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 20.84 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

20.84.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 20.84, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney fees and costs to the prevailing party.”

SECTION 3. AMENDMENT OF SECTION 20.20.040. Section 20.20.040, “Conditional Uses,” is hereby amended to read as follows:

“20.20.040 Conditional uses.

The following are conditional uses:

- A. Public and quasipublic uses appropriate to the district, such as hospitals, convalescent or nursing homes and professional, business and technical schools;
- B. Mortuaries and crematories;
- C. R-4 district residential uses subject to all restrictions and requirements of that district;
- D. Public utility uses, substation, and communication equipment buildings;
- E. Signs for single occupant in excess of the allowable area, but not to exceed fifty (50) square feet per lot;
- F. Prescription pharmacies, without variety goods;
- G. Bail bond businesses;
- H. Day care facilities for more than twelve children;
- I. Day care facilities for the elderly of twelve or fewer persons;
- J. Beauty salons, barber shops, tanning salons, and nail salons;
- K. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44; and

L. Medical marijuana dispensaries, subject to the restrictions of Section 20.84.020(C) regarding number of dispensaries allowed within the City.”

SECTION 4. AMENDMENT OF SECTION 20.34.040. Section 20.34.040, “Conditional Uses,” is hereby amended to read as follows:

“20.34.040 Conditional uses.

The following are conditional uses:

- A. Public and quasipublic uses appropriate to serve the I-L district;
- B. Retail commercial uses, determined appropriate in the I-L district.
- C. Fitness, gymnastics or recreational sports facilities not including amusement and entertainment facilities such as bowling alleys, skating rinks, and dance halls.
- D. Medical marijuana dispensaries, subject to the restrictions of Section 20.84.020(C) regarding number of dispensaries allowed within the City.”

SECTION 5. AMENDMENT OF SECTION 20.36.040. Section 20.36.040, “Conditional Uses,” is hereby amended to read as follows:

“20.36.040 Conditional uses.

The following are conditional uses:

- A. Any of the following manufacturing uses; provided, that when they are located within one hundred fifty feet of a residential district all business, production, servicing, processing, and storage shall take place or be within completely enclosed buildings, except that storage of materials may be opened to the sky, provided the storage area is enclosed with a solid wall or fence at least six feet high:
 - 1. Structural steel fabricating shops, forges, and foundries,

2. Brewing or distilling of liquors, or perfume manufacturing,
 3. Poultry slaughterhouse and meat packing, but not other stockyards or slaughterhouses,
 4. Brick or pottery manufacturing, stone or monument works;
- B. Salvage and wrecking operations;
- C. Public and quasipublic uses appropriate in the I-H district;
- D. Retail commercial uses, such as restaurants and service stations;
- E. The following uses are prohibited, unless the applicant can demonstrate to the satisfaction of the planning commission that such uses do not create more vehicular or rail traffic, produce more odor, dust, fumes, smoke, noise, vibration, glare, heat or any other objectionable factor or create a greater hazard of fire or explosion than is normally created by any of the permitted uses:
1. Asphalt, cement, charcoal and fuel briquettes,
 2. Aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, creosote, hydrogen and oxygen, industrial alcohol, nitrates of an explosive nature, potash, plastic materials and synthetic resins, pyroxylin, rayon yarn, and hydrochloric, nitric phosphoric, picric, and sulphuric acids,
 3. Coal, coke, and tar products, including use in other manufacturing; explosives, fertilizers, gelatin, animal glue and size,
 4. Turpentine, matches, paint,
 5. Rubber, soaps, including fat rendering,
 6. Flour mill,

7. The following processes: nitrating of cotton or other materials; magnesium foundry; reduction, refining, smelting and alloying of metal or metal ores; refining petroleum products, such as gasoline, kerosene, naphtha, lubricating oil, distillation of wood or bones; storage, curing or tanning of raw, green or salted hides or skins,
 8. Stockyards, slaughterhouses except for poultry, animal feed or sales yard, fertilizer yard; slag piles,
 9. Storage of fireworks or explosives, except where incidental to a permitted use,
 10. Any other use which is determined by the planning commission to be of the same general character as the above uses;
- F. Signs in excess of the allowable limit but not to exceed an additional five hundred square feet of sign area per lot.
- G. Medical marijuana dispensaries, subject to the restrictions of Section 20.84.020(C) regarding number of dispensaries allowed within the City.”

SECTION 6. 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 7. 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 _____, 2016, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2016, 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 City Clerk

(SEAL)

APPROVED AS TO FORM

Ken Rogell 6/8/16
City Attorney Date

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING CHAPTER 20.84, "MEDICAL
MARIJUANA AND CULTIVATION" AND
AMENDING SECTION 20.20.040 "CONDITIONAL
USES," OF THE MERCED MUNICIPAL CODE
REGARDING THE ZONING OF MEDICAL
MARIJUANA DISPENSARIES AS CONDITIONAL
USES**

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

SECTION 1. AUTHORITY. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to, Article XI, Section 7 of the California Constitution, the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program (California Health and Safety Code § 11362.7 et seq.), and The Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643; hereafter "MMRSA").

SECTION 2. AMENDMENT OF CHAPTER 20.84. Chapter 20.84, Medical Marijuana and Cultivation," is amended to read as follows:

**"Chapter 20.84
MEDICAL MARIJUANA AND CULTIVATION**

Section:

- 20.84.010 Definitions.**
- 20.84.020 Regulations.**
- 20.84.030 Public Nuisance.**
- 20.84.040 Civil Penalties.**

20.84.010 Definitions.

‘Cannabis’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(f) as the same may be amended from time to time.

‘Caregiver’ or ‘primary caregiver’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

‘Commercial cannabis activity’ shall have the same meaning as that set forth in Business and Professions Code Section 19300.5(k) as the same may be amended from time to time.

‘Cultivation’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l) as the same may be amended from time to time.

‘Delivery’ or ‘deliveries’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

‘Dispensary’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(n) as the same may be amended from time to time. ‘Dispensary’ shall not include the following uses:

- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code,
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- (3) A residential care facility for persons with chronic life-threatening illnesses licensed pursuant

to Chapter 3.01 of Division 2 of the California Health and Safety Code,

(4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code,

(5) A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

‘Medical cannabis,’ ‘medical cannabis product,’ or ‘cannabis product’ shall have the same meanings as set forth in Business & Professions Code § 19300.5(ag) as the same may be amended from time to time.

‘Medical Marijuana Regulation and Safety Act’ or ‘MMRSA’ shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

‘Qualifying patient’ or ‘Qualified patient’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

20.84.020 Regulations.

A. Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, medical marijuana dispensaries are allowed as a conditional use in the C-O District and Planned Developments which have the equivalent General Plan land use designations of this zone, subject to the restrictions of Section 20.84.020(B) and the limitations of Section 20.84.020(C) on the number of dispensaries that may be authorized within the City at any given time. Any conditional use permit issued for a dispensary shall include conditions to protect the public health, safety and welfare and to minimize the secondary effects, if any, of

the dispensary. Before a dispensary may open for business within the City, the operator of the dispensary must also have a license from the State of California to operate a dispensary at a specific location within the C-O District.

B. A dispensary shall not be approved in the C-O District if any following conditions apply:

i. The proposed dispensary would be located within 600 feet of the property line of any kindergarten, elementary school, middle school or high school.

ii. The proposed dispensary would be located within 500 feet of the property line of any public park that includes playgrounds, active play areas and/or sports fields. For purposes of this subsection only, a park shall not include any park designated in Section 9.70.030 as a bike path.

iii. The proposed dispensary would be located within 500 feet of the property line of any youth center, City-owned and operated recreational center or public library.

The Planning Commission or City Council on appeal may consider other factors not specifically stated in this Section 20.84.020(B) in determining whether to approve or disapprove a conditional use permit application for a dispensary.

C. Notwithstanding any language in this Section 20.84.020 to the contrary, no more than four dispensaries shall be authorized to operate in the City at any given time. If four dispensaries are authorized to locate within the City, then no additional conditional use permits shall be approved to operate a dispensary within the City.

D. Only licensed dispensaries are authorized to make medical marijuana deliveries within the City of Merced.

Such deliveries shall occur solely between the hours of 8 a.m. and 7 p.m.

E. Cultivation of cannabis for commercial purposes is expressly prohibited in all zones and all specific plan areas in the City of Merced; provided, however, that 12 immature plants or 6 mature plants may be cultivated indoors or outdoors on any lot if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient. Any such authorized cultivation shall also be subject to the restrictions set forth in Section 20.84.020(F).

F. Any marijuana plants cultivated outside pursuant to Section 20.84.020(E) shall not be visible from the public right-of-way and shall not be located within five feet of any property line. In addition, no fences (whether temporary or permanent) shall be constructed at a height greater than six feet to screen marijuana plants from the public right-of-way; provided, however, that nothing in this Section 20.84.020(F) shall authorize the construction of a fence at a height greater than is otherwise allowed by City regulations.

20.84.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 20.84 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

20.84.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 20.84, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Chapter. In any civil action

brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney fees and costs to the prevailing party.”

SECTION 3. AMENDMENT OF SECTION 20.20.040. Section 20.20.040, “Conditional Uses,” is hereby amended to read as follows:

“20.20.040 Conditional uses.

The following are conditional uses:

- A. Public and quasipublic uses appropriate to the district, such as hospitals, convalescent or nursing homes and professional, business and technical schools;
- B. Mortuaries and crematories;
- C. R-4 district residential uses subject to all restrictions and requirements of that district;
- D. Public utility uses, substation, and communication equipment buildings;
- E. Signs for single occupant in excess of the allowable area, but not to exceed fifty (50) square feet per lot;
- F. Prescription pharmacies, without variety goods;
- G. Bail bond businesses;
- H. Day care facilities for more than twelve children;
- I. Day care facilities for the elderly of twelve or fewer persons;
- J. Beauty salons, barber shops, tanning salons, and nail salons;
- K. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44; and

L. Medical marijuana dispensaries, subject to the restrictions of Section 20.84.020(C) regarding number of dispensaries allowed within the City.”

SECTION 4. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2016, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2016, 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 City Clerk

(SEAL)

APPROVED AS TO FORM

Ken Ryce 4/29/16
City Attorney **Date**

CB Lamb, INC.
Facility Guidelines

These guidelines are designed to facilitate a safe and enjoyable experience at our facility. Thank you in advance for your cooperation and sense of community.

- * All patients must be 18 yrs or older and have a valid state issued driver's license or state identification card.
- * You must have your valid Doctors recommendation or medical marijuana identification card (MMIC) on you at all times when you are at the facility.
- * You may never sell or otherwise distribute medical marijuana you obtain from the collective. This action will get your membership with our collective permanently terminated.
- * You must treat everyone in the facility with respect. You may be asked to leave the property if you use offensive language or behavior.
- * Cell phones may not be used at any time in the facility.
- * Never consume cannabis in or around the premises or in a car.
- * Do not come to our facility when you are intoxicated.
- * For your safety, place all medication and cuttings out of sight before leaving the premises.
- * Absolutely no alcohol, hard drugs or weapons are allowed on the premises at any time.
- * Any patient who commits or threatens an act of violence will have their membership immediately terminated and may be subjected to criminal prosecution.
- * Be friendly and respectful to our neighbors. Do not double-park your car or park so as to block a neighbor's driveway. Obey all parking signs and regulations.
- * Do not allow your friends or acquaintances to wait in a vehicle or loiter near the premises when you come to our facility.
- * In the event of an emergency please follow the instructions or our staff.
- * Do not bring children into the facility.
- * We thank you for your continued cooperation! You are appreciated.

Signature: _____

Date: _____

CONTRACT CHARLES
209-818-4202

CB Lamb, Inc.
Patient Intake/Membership Application

Patient's Information

Last Name: _____
 Middle Name: _____
 First Name: _____
 Home Address: _____
 Address 2: _____
 City, State, Zip: _____
 Date of Birth: _____
 CA Driver's License/ ID card No.: _____ Exp. Date: _____
 E-mail Address: _____
 Do you have a Medical Marijuana Identification Card issued by the County Health Dept.? No Yes
 If yes, Card No.: _____ Exp. Date: _____ Name of County issuing card: _____

Physician's Information

Physician's Name: _____
 Address: _____
 City, State, Zip: _____
 Phone Number: (____) _____
 Medical License No. _____
 Clinic or Facility Name, Address and Phone Number (if different than Physician): _____

[For Office Use Only]

Verification of Doctor's Recommendation
 Patient received by: _____
 Physician contacted by: _____
 Verified: Not Verified:
 Date: _____ Time: _____

[For Office Use Only]

Verification of Physician's CA Medical License
 Checked by: _____
 Physician's License No.: _____
 Verified: Not Verified:
 Date: _____ Time: _____

Verification of State Medical Marijuana Identification Card Does Patient have an MMIC issued by the County Health Department? Yes No Checked by: _____ Verified: Not Verified: Date: _____ Time: _____

To become a member of our collective, we need the following items to establish your eligibility as a qualified medical marijuana patient under California law, and to comply with the Attorney General guidelines for medical marijuana collectives and the membership requirements of our Collective:

- (1) A completed patient intake/membership application form;
- (2) Your written doctor's recommendation to use marijuana for the treatment of a serious medical condition;
- (3) Your Calif. driver's license or government-issued photo ID with date of birth and current residence address;
- (4) A signed patient membership agreement (*prints your name on page 2 and sign and date the agreement on page 4*);
- (5) A signed authorization for the limited use and disclosure of your medical information (*sign and date on page 5*); and
- (6) a signed acknowledgement and promise to follow our Facilities Guidelines (*sign and date on page 6*).

AGREEMENT
(Patient Membership Agreement)

I, _____, agree to all of the following terms and
[PRINT YOUR NAME]

conditions of membership of **CB Lamb, Inc.**, a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law (referred to as the "Collective"). I understand that this Agreement is required to join the Collective, and I promise to abide by its terms and conditions at all times during my tenure as a member of the Collective. In consideration of the processing of my application, and of the rights, privileges and benefits of membership in the Collective, and for other good and valuable consideration the receipt of which is hereby acknowledged, I enter into this Agreement as of the date set forth next to my signature.

Terms, Conditions & Representations

1. I represent and warrant that all information, representations, records and other documents I provide to the Collective, and those provided on my behalf, to join the Collective, and as may be submitted in the future to maintain my membership and to receive medical marijuana cultivated by members of the Collective, are to the best of my knowledge and belief true, correct, complete and without any material omission.
2. I am a California resident, over 18 years of age, a qualified patient under California Law, and my doctor has recommended medical marijuana as appropriate treatment for my serious medical condition. Under the Compassionate Use Act of 1996 (California Health and Safety Code §11362.5) and the Medical Marijuana Program Act (California Health and Safety Code §§11362.7 *et seq.*), I may use, possess, cultivate and transport marijuana, for medical purposes only, within the State of California.
3. I understand that the Collective established itself in accordance with California Health and Safety Code section 11362.775 so that qualified patients, persons with an identification card, and their designated primary caregivers, may associate with each other in order to collectively cultivate marijuana and distribute it to members of the collective to use for medical purposes as authorized under California law. I agree to comply with (1) this Agreement, (2) rules, regulations, policies, and procedures adopted by the Collective's board of directors, (3) any lawful directions, instructions and requests from staff of the Collective in connection with the delivery of medical marijuana to me for my personal medical use, and (4) state and local laws relating to medical marijuana and medical marijuana collectives, as the same may be amended from time to time. I acknowledge and agree that all activities relating to the cultivation, transportation, possession, storage, allocation, acquisition, disbursement, provision and use of medicinal marijuana by or through the Collective and its members are conducted solely for the mutual benefit of members of the Collective. Any sale, gift, distribution or transfer of possession of medical marijuana by the Collective or its individual members to any person who is not a member of the Collective is strictly forbidden.
4. I understand that marijuana will be cultivated specifically for me based on my individual medical needs. As such, I authorize all members of the Collective to possess, cultivate, and transport medical marijuana on my behalf within the State of California.

5. I agree not to distribute any marijuana to anyone who is not an active member of the Collective, and only to use the medical marijuana obtained from the Collective for my personal, legitimate, medical needs. I will not take my personal medical marijuana out of the State of California for any reason. I further agree that I will not share, sell, barter, trade, give, exchange, deliver or otherwise provide my medical marijuana to any other person.
6. The Collective is a nonprofit corporation the primary purposes of which are to facilitate the collaborative efforts of its patient and caregiver members – including the allocation of costs and revenues – to cultivate, process, transport, store and distribute medical marijuana to qualified patients who join the Collective, in accordance with California and local laws. As a member, I agree to pay a production fee for the medical marijuana grown on my behalf to ensure the Collective's continued operation, and that such payments are not in any way to be construed as a commercial sale. I further understand and agree that production fees are set at levels reasonably calculated to cover the Collective's direct and indirect overhead costs and operating expenses, including the amortization of startup costs, capital costs, and maintenance of reasonable reserves to cover contingencies and higher than anticipated overhead and operating expenditures. I understand and agree that, as a member, my proportional share of such costs and expenses is not susceptible to precise scientific calculation, and that the most fair and reasonable means of raising the revenues needed to operate the Collective, and of distributing the costs among the Collective's members, is for each member to pay a production fee based on the amount of medical marijuana cultivated for and obtained by the member from the Collective
7. I authorize the Collective to possess the medical marijuana as described under this Agreement jointly with other Collective members under similar membership agreements. I agree the medical marijuana possessed by the Collective at any time is the collective property of every patient who is also under this membership agreement and the care of the Collective.
8. I agree to produce for inspection, copying and photographing my original, or true and correct copy, of my written doctor's recommendation or a valid medical marijuana identification card (MMIC) issued by the County Health Department to the Collective or any of its authorized employees or agents when I receive medical marijuana from the Collective.
9. I agree that any violation of the terms of this Agreement or any other rules, regulations and procedures established by the Collective's board of directors are grounds for immediate termination of membership, and that the Collective's management reserves the right to refuse to provide medical marijuana on any given day to any member for any reason or no reason whatsoever.
10. I agree to provide the Collective with all changes in my contact information, diagnosis, or primary physician immediately.
11. As a member of the Collective, I, my heirs, and those with me, expressly and forever disclaim the warranty of merchantability and the warranty of fitness for a particular purpose with respect to marijuana I obtain from or through the Collective.

12. I understand that marijuana may impair a person's ability to drive or operate machinery. I agree not to drive while under the influence of marijuana, or to use marijuana in any vehicle even if I am a passenger.

13. I agree not to loiter or use marijuana on or within 1000 feet of a school, playground, park, youth facility, child care facility, church or library (except that I may use marijuana for medical purposes within my own residence). I will not smoke marijuana at any location or under circumstances where smoking is prohibited by state law.

14. I, my heirs, and those with me expressly and forever waive any and all claims now known, or discovered at any time in the future due to, related to or arising from my use of marijuana or any other product/herb/food/oil/concentrate I may obtain from the Collective.

15. I, my heirs and those with me expressly and forever release the Collective, its officers, directors, members, landlords, operators, managers, employees, agents, growers, providers, wholesalers, and vendors, from and against any and all lawsuits, alter-ego lawsuits, demands, charges, or claims whether for personal injury, wrongful death, or any other form of injury or damages, with references to the strength, potency, purity, toxicity, storage or handling, appropriateness for your condition of any marijuana and related products I may obtain from the Collective, or any other thing, matter, occurrence, damage, or injury, further, that I knowingly waive the provisions of California Civil Code section 1542 which states in pertinent part that "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

16. **WARNING:** Federal drug laws, as interpreted by the United States Supreme Court, do not recognize an exception for the medical use of marijuana, even when recommended by a licensed physician. Patients who use marijuana for medical purposes accept the risk that compliance with state and local laws, and with this Agreement, may not protect you from possible federal prosecution.

17. **WARNING:** It is the responsibility of every patient to keep all medicine, including medical marijuana, far away from children. Use common sense. Keep your medicine under lock and key so nobody, especially children, can get to it. Any deviation from this rule is done at the sole risk and responsibility of the patient.

I hereby affirm that I read, understand and agree to the terms and conditions of this membership agreement without reservation.

Patient's signature: _____ Date: _____

AUTHORIZATION

I, _____, hereby authorize the use and disclosure of the medical information contained in the medical recommendation of my physician for medical marijuana, for the purposes of confirming that (1) I am a qualified patient under Health and Safety Code §§11362.5 and 11362.7 *et seq.*, (2) the recommendation is a true and correct copy of the record contained in my medical records maintained by the physician's office, and (3) I am a member of the nonprofit medical marijuana patients collective, **CB Lamb, Inc.**, and have authorized the collective and its members to cultivate, process, transport, and store medical marijuana on my behalf, and to distribute medical marijuana to me and other qualified patients and caregivers who join the Collective. This authorization shall apply to the following:

1. **CB Lamb, Inc.**
 Address: _____
 City, State, _____
 Phone Number: (_____) _____

2. Physician's Name: _____
 Address: _____
 City, State, _____
 Phone Number: (_____) _____

I understand that by signing this authorization:

- I authorize the use and disclosure of my individually identifiable personal information as described above for the purposes listed.
- I have the right to withdraw permission for the release of my information. If I sign this authorization to use and disclose information, I can revoke that authorization at any time except if you have already acted because of my permission. The revocation must be made in writing and will not affect information that has already been used or disclosed.
- I have the right to inspect and receive a copy of this authorization.
- I am signing this authorization voluntarily. I have had an opportunity to review this form, and confirm that it accurately reflects my wishes.
- I further understand that a person to whom records and information are disclosed pursuant to this authorization may not further use or disclose the information without my permission.
- The collective's policy on privacy is to not disclose the name or identity of any patient other than in the course of confirmation of the recommendation from my physician regarding the medical use of marijuana and as may be necessary to establish that the cultivation, processing, transportation, storage and dispensing of medical marijuana to me is authorized under California medical marijuana laws. This authorization shall terminate on the expiration of my medical recommendation unless terminated sooner in writing by me.

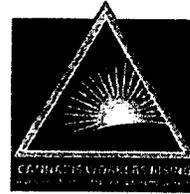
Date: _____

Signature: _____

Print Name: _____



Jacques Loveall
President
International Vice President



Neutrality and Card Check Agreement

Jack's Greenhouse Assn ("the Employer") and the United Food and Commercial Workers Union, 8-Golden State ("the Union") hereby agree to the following terms:

1. **Neutrality and Non-Disparagement.** The Employer agrees to remain neutral. Neutrality means that the Employer and its agents will not oppose Union representation or hinder Union organizing efforts. The Union waives the right to strike or picket the Employer during the term of this Agreement provided the Employer remains in full compliance with the terms herein. Additionally, neither party will act or communicate in a negative, derogatory, or demeaning way, or engage in any conduct or delaying tactics that might interfere with the employees' right to choose Union representation.
2. **Access.** In accordance with applicable law and regulations, accredited Union representatives will be allowed onto the Employer's premises during working hours to speak with employees, or at a mutually agreeable alternative location if the Employer's security protocol makes use of its premises difficult. The Employer will cooperate with the Union in making arrangements to permit these conversations to be held in areas where the employees will be able to speak to the Union representatives without monitoring by the Employer.
3. **Meeting.** At the Union's request, the Employer will conduct a meeting on a mutually agreeable date(s) and time(s) with all of its employees. At the meeting, the Employer will tell the employees that it is neutral, does not object to their talking to and supporting the Union, and will negotiate a Collective Bargaining Agreement (CBA) with the Union if a majority of the covered employees designate the Union as their collective bargaining representative. Union representatives will attend the meeting and, after the Employer has introduced them and left the meeting, shall be afforded adequate time to talk with the employees about the Union.
4. **Appropriate Bargaining Unit.** All current full-time and regular part-time employees employed by the Employer in the Union's jurisdiction who are eligible to join the unit under applicable law. If the Employer operates more than one location, an appropriate unit can be each separate location, a combination of some but not all locations or all locations. The Union is free to organize any such unit and the Employer shall recognize the Union in such unit or units as requested by the Union.
5. **Contact information.** At the Union's request, the Employer shall furnish to the Union the names, job classifications, home addresses, home telephone numbers, and home email addresses, if known, of all the Employer's current full-time and regular part-time employees, consistent with applicable law and regulations. The Employer shall give the Union updated information upon request of the Union.
6. **Recognition and Bargaining.** When a mutually agreed upon third party confirms that a majority of the bargaining unit has authorized the Union to represent them for the purpose of collective bargaining, the Employer will recognize the Union as the exclusive representative of its employees. The Employer and the Union will comply with all requirements necessary to obtain certification of the Union as the exclusive bargaining representative of the employees. Within twenty (20) days from the date of recognition, the

parties will begin good faith bargaining for a CBA covering the employees. If the parties have not reached agreement on a CBA after ninety (90) days, either party may refer all open contract issues to binding interest arbitration pursuant to Paragraph 7 herein.

7. Arbitration. The parties agree that final and binding arbitration will be the exclusive remedy for any alleged violations of this Agreement and any dispute or claim arising from or relating to the interpretation or application of any provision of this Agreement. Unless they promptly agree on an arbitrator, the parties will proceed to expedited arbitration using the American Arbitration Association's rules and procedures. The arbitrator is authorized to compel the attendance of witnesses and the production of documents at the arbitration hearing, and to award appropriate monetary, injunctive and declaratory relief. In the case of an interest arbitration, the arbitrator shall have authority to accept the last, best final proposal of either the Employer or the Union. The parties agree not to challenge the arbitrator's decision in court.
8. Successorship, affiliated companies and subcontractors. This agreement shall be binding on the parties' successors and assigns, including all purchasers of the Employer's assets or business, and in the event of a merger. This Agreement is also binding on any and all corporations, partnerships, organizations, and sole proprietorships affiliated with or related to the Employer. If the Employer intends to subcontract any work performed by bargaining unit employees, the Employer agrees to require the subcontractor, in writing, to comply with this agreement.
9. Governing Law and Severability. The parties agree that their rights under this Agreement shall be exercised in accordance with the applicable state laws. Further, the parties agree that this Agreement and any CBA they may enter into will remain binding and valid regardless of whether the National Labor Relations Board asserts jurisdiction over the Employer's operations. In addition, the parties agree that if any provision of this Agreement is held illegal, void, or invalid under any applicable law, it may be changed to make it legal, valid, and binding, and that the remaining provisions of this Agreement will remain binding and enforceable according to their terms and the parties' intent.
10. Term of Agreement. This Agreement is effective for a three (3) year term, from 2/26/16, through 2/26/19, or the last date on which the Employer recognizes the Union as the collective bargaining representative of its employees and the parties conclude agreement on a CBA, and may be extended by mutual agreement of the parties.

Jacks Greenhouse Association
Employer

92 Hoffman Ave Merced, CA
Address 95341

209 726-0429
Phone

Shawn Bonocaren
Signed: President

2/26/16
Date

United Food & Commercial Workers International Union
8-Golden State

Union

2200 Professional Drive, Roseville, CA 95661

Address

916-786-0588

Phone

Jacques Loveall
Signed: Jacques Loveall, President

2/26/16
Date

Green Style Analytics

ID: 30461

Affordable- Reliable-Convenient

CBD, THC and CBN Profiles for:

Sample: Fruit Punch

Sample Weight (mg): 102

Tested for: Jack's Greenhouse Assn
Central Valley

Date: 4/3/2016



CBD	0.06 %
THC	17.02 %
CBN	0.16 %

CBD:THC Ratio 0.00

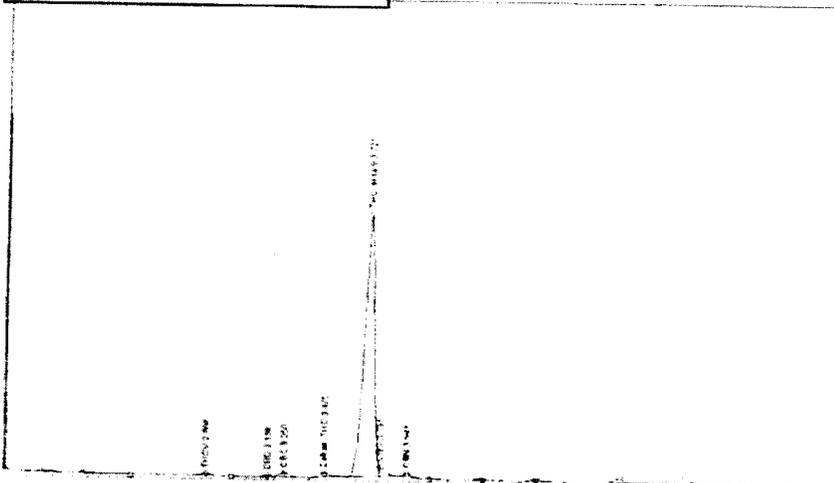
Notes:

Grown:

Dominant Species

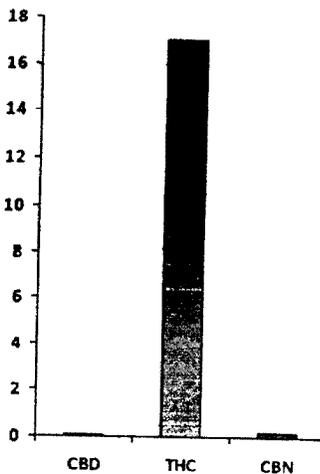
UV & Visual Scan For Mold: Pass

Comments: Minor Russet Mites on Sample



	Retention	Area	Height	Percentage of weight
CBD	3.16	1.00	0.31	0.06 %
THC	3.73	244.37	63.60	17.02 %
CBN	3.94	2.39	0.74	0.16 %

Potency Comparison



Green Style Analytics
1000 Lincoln Rd., Ste H #213
Yuba City, CA 95991
530-671-7300
info@greenstyleconsulting.com

Green Style Analytics

ID: 30460

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CBD, THC and CBN Profiles for:

Sample: King Louis VIII

Sample Weight (mg): 102

Tested for: Jack's Greenhouse Assn
Central Valley

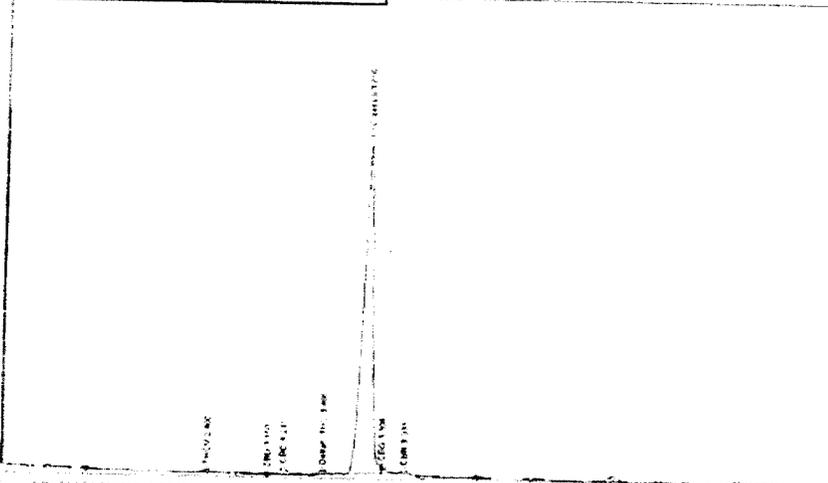
Date: 4/3/2016



CBD	0.02 %
THC	15.54 %
CBN	0.11 %

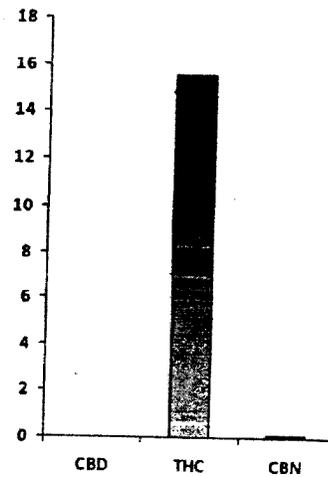
CBD:THC Ratio 0.00

Notes:
Grown:
Dominant Species
 UV & Visual Scan For Mold: Pass
Comments:



	Retention	Area	Height	Percentage of weight
CBD	3.15	0.34	0.13	0.02 %
THC	3.72	223.08	58.44	15.54 %
CBN	3.93	1.55	0.46	0.11 %

Potency Comparison



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Yuba City, CA 95991
530-671-7300
info@greenstyleconsulting.com

Green Style Analytics

30515

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CBD, THC and CBN Profiles for:

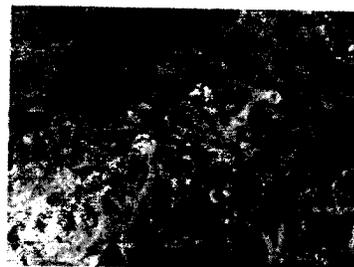
Sample: Northern Lights

Sample Weight (mg): 100

Tested for: Jack's Greenhouse Assn

Central Valley

Date: 4/7/2016



CBD	0.03 %
THC	14.06 %
CBN	0.19 %

CBD:THC Ratio 0.00

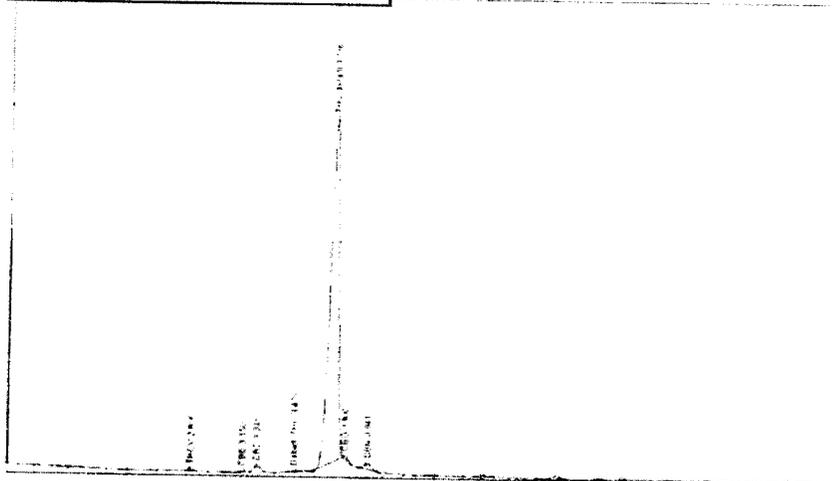
Notes:

Grown:

Dominant Species

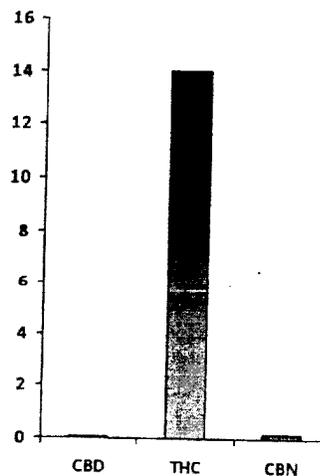
UV & Visual Scan For Mold: Pass

Comments:



	Retention	Area	Height	Percentage of weight
CBD	3.15	0.48	0.14	0.03 %
THC	3.72	202.41	54.97	14.06 %
CBN	3.94	2.78	0.84	0.19 %

Potency Comparison



Green Style Analytics
1000 Lincoln Rd., Ste H #213
Yuba City, CA 95991
530-671-7300
info@greenstyleconsulting.com

Green Style Analytics

ID: 30534

Affordable- Reliable-Convenient

CBD, THC and CBN Profiles for:

Sample: Mango Kush

Sample Weight (mg): 102

Tested for: Jack's Greenhouse Assn.

Date: 4/14/2016

CBD	0.02 %
THC	12.64 %
CBN	0.18 %

CBD:THC Ratio 0.00
Total Cannabinoids 12.84



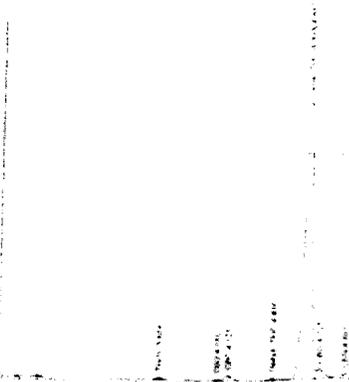
Notes:

Grown: Outdoor

Dominant Species Indica

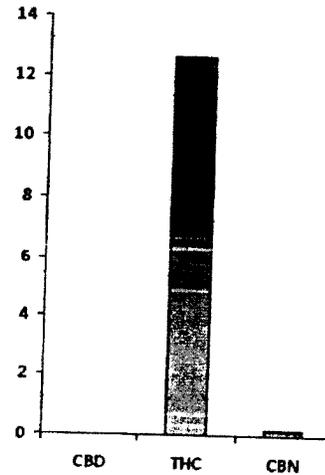
UV & Visual Scan For Mold: Pass

Comments:



	Retention	Area	Height	Percentage of weight
CBD	4.05	0.32	0.11	0.02 %
THC	4.63	182.12	53.43	12.64 %
CBN	4.89	2.66	0.84	0.18 %

Potency Comparison



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Yuba City, CA 95991
530-671-7300
info@greenstyleconsulting.com

Green Style Analytics

ID: 30535

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CBD, THC and CBN Profiles for:

Sample: Tahoe OG

Sample Weight (mg): 101

Tested for: Jack's Greenhouse Assn

Date: 4/14/2016

CBD	0.01 %
THC	1.38 %
CBN	0.02 %

CBD:THC Ratio 0.00
Total Cannabinoids 1.40



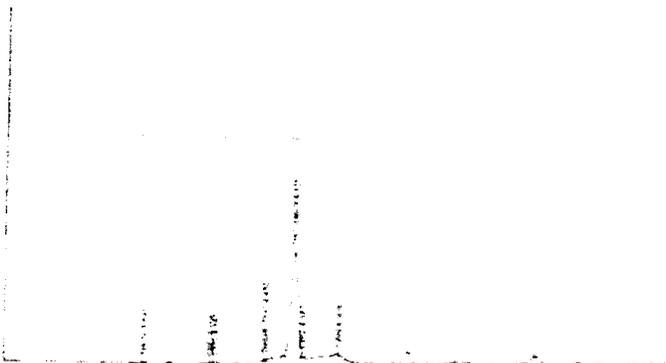
Notes:

Grown: Outdoor

Dominant Species: Indica

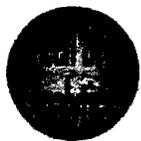
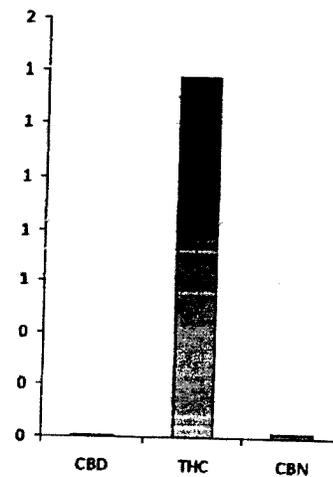
UV & Visual Scan For Mold: Pass

Comments: Major Russet Mites and immature Trichomes



	Retention	Area	Height	Percentage of weight
CBD	4.11	0.09	0.04	0.01 %
THC	4.63	19.62	6.59	1.38 %
CBN	4.91	0.27	0.12	0.02 %

Potency Comparison



Green Style Analytics
1000 Lincoln Rd., Ste H #213
Yuba City, CA 95991
530-671-7300
info@greenstyleconsulting.com

20.84.020 Regulations.

A. Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, medical marijuana dispensaries are allowed as a conditional use in the C-O District and Planned Developments which have the equivalent General Plan land use designations of this zone, subject to the restrictions of Section 20.84.020(B) and the limitations of Section 20.84.020(C) on the number of dispensaries that may be authorized within the City at any given time. Any conditional use permit issued for a dispensary shall include conditions to protect the public health, safety and welfare and to minimize the secondary effects, if any, of the dispensary. ~~Before a dispensary may open for business within the City, the operator of the dispensary must also have a license from the State of California to operate a dispensary at a specific location within the C-O District.~~

i. The operator of a dispensary in compliance with this ordinance may operate without possessing a state license until the date of implementation of regulations by the state licensing authority, if it is in compliance with section 19321 of the California Business and Professions Code.

ii. Any conditional use permits issued for a dispensary shall include requirements that the operator of the dispensary comply with sections 19323, 19326(d), 19327, and 19334(d) and (e) of the California Business and Professions Code and other requirements that are deemed appropriate by the city.

NEW

B. A dispensary shall not be approved in the C-O District if any following conditions apply:

i. The proposed dispensary would be located within 600 feet of the property line of any kindergarten, elementary school, middle school or high school.

ii. The proposed dispensary would be located within 500 feet of the property line of any public park that includes playgrounds, active play areas and/or sports fields. For purposes of this subsection only, a park shall not include any park designated in Section 9.70.030 as a bike path.

PAGE
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IN AGENDA
PACKET

BUSINESS AND PROFESSIONS CODE

SECTION 19320-19325

19320. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this chapter.

(b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.

(d) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.

(e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.

(f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

19321

19321. (a) A license issued pursuant to this chapter shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.

(b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (I) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and

19323

pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(3) The applicant has failed to provide information required by the licensing authority.

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

(5) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.

(6) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) The applicant or any of its officers, directors, owners, employees, or authorized agents have failed to comply with any operating procedure required pursuant to subdivision (b) of Section 19322.

(10) Conduct that constitutes grounds for disciplinary action pursuant to this chapter.

19324. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

(5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

(6) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(7) Provide the applicant's valid seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.

(8) Provide any other information required by the licensing authority.

(9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(10) Pay all applicable fees required for licensure by the licensing authority.

(11) Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.

(b) For applicants seeking licensure to cultivate, distribute, manufacture, test, or dispense medical cannabis or medical cannabis products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

- (1) Cultivation.
- (2) Extraction and infusion methods.
- (3) The transportation process.
- (4) Inventory procedures.
- (5) Quality control procedures.
- (6) Security protocols.

19323

19323. (a) A licensing authority shall deny an application if the applicant or the premises for which a state license is applied does not qualify for licensure under this chapter or the rules and regulations for the state license.

(b) A licensing authority may deny an application for licensure or renewal of a state license, or issue a conditional license, if any of the following conditions apply:

(1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.

(2) Conduct that constitutes grounds for denial of licensure

BUSINESS AND PROFESSIONS CODE

SECTION 19326-19330

19326. (a) A person other than a transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) (1) All cultivators, manufacturers, and licensees holding a producing dispensary license in addition to a cultivation or manufacturing license shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for presale quality assurance and inspection by a distributor and for a batch testing by a testing laboratory prior to distribution to a dispensary.

(2) Notwithstanding paragraph (1), a cultivator shall not be required to send medical cannabis to a distributor if the medical cannabis is to be used, sold, or otherwise distributed by methods approved pursuant to this chapter by a manufacturer for further manufacturing.

(c) (1) Upon receipt of medical cannabis or medical cannabis products from a cultivator, manufacturer, or a licensee holding a producing dispensary license in addition to a cultivation or a manufacturing license, the distributor shall first inspect the product to ensure the identity and quantity of the product and ensure a random sample of the medical cannabis or medical cannabis product is tested by a testing laboratory.

(2) Upon issuance of a certificate of analysis by the testing laboratory that the product is fit for dispensing medical cannabis and medical cannabis products shall undergo a quality assurance review by the distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.

(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a distributor responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a testing laboratory, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a licensed testing laboratory, prior to dispensing, pursuant to Section 19344.

(e) This chapter shall not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the Bureau of Medical Cannabis Regulation.

19326(d)

19327

19327. (a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity shall be maintained for a minimum of seven years.

(c) Licensing authorities may examine the records of licensees and inspect the premises of a licensee as the licensing authority or a

19327

state or local agency deems necessary to perform its duties under this chapter. All inspections and examination of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed.

(e) A licensee or its agent, or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.

(f) If a licensee, its agent, or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee may be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

BUSINESS AND PROFESSIONS CODE
SECTION 19334

19334 d + e

(c) The State Department of Public Health shall establish minimum security requirements for the storage of medical cannabis products at the manufacturing site.

(d) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized dispensary personnel.

(3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

(e) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

(2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the dispensary.

(3) Diversion, theft, loss, or any criminal activity by any agent or employee of the dispensary pertaining to the operation of the dispensary.

(4) The loss or unauthorized alteration of records related to medical cannabis or medical cannabis products, registered qualifying patients, primary caregivers, or dispensary employees or agents.

(5) Any other breach of security.



ADMINISTRATIVE REPORT

File #: 16-307

Meeting Date: 8/1/2016

Report Prepared by: John C. Sagin, Jr., AIA - Principal Architect, Engineering Dept.

SUBJECT: Consideration of Roadway Projects for the 2015/2016 Regional Surface Transportation Program Exchange Funds Claim

REPORT IN BRIEF

Merced County Association of Governments (MCAG) has received a RSTP exchange contract from Caltrans for Fiscal year 2015/2016 and the City of Merced can claim, by simple resolution, its portion of the exchange funds.

RECOMMENDATION

OPTION 1:

City Council - Adopt a motion:

- A. Selecting “*Yosemite Avenue - San Augustine to Highway 59*” to be completed utilizing the FY 2015-2016 RSTP Exchange Funds; and,
- B. Directing staff to complete the 2015-2016 RSTP Claim Form by listing the selected projects and corresponding project costs; and,
- C. Adopting **Resolution 2016-40**, a Resolution of the City Council of the City of Merced California, authorizing the City Manager to file the Regional Surface Transportation Program (RSTP) Exchange Funds claim for Fiscal Year 2015-2016.

OPTION 2:

City Council - Adopt a motion:

- A. Selecting “*N Street - 8th Street to Childs Avenue*” and “*15th Street - R Street to O Street*” to be completed utilizing the FY 2015-2016 RSTP Exchange Funds; and,
- B. Directing staff to complete the 2015-2016 RSTP Claim Form by listing the selected projects and corresponding project costs; and,
- C. Adopting **Resolution 2016-40**, a Resolution of the City Council of the City of Merced California, authorizing the City Manager to file the Regional Surface Transportation Program (RSTP) Exchange Funds claim for Fiscal Year 2015-2016.

ALTERNATIVES

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

AUTHORITY

The Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU) provides for the exchange of Local Un-obligated Regional Surface Transportation Program (RSTP) funds through MCAG per the Caltrans Agreement.

Projects to be funded with this claim are only those projects that are defined under Section 133(b) and 133(c) of Title 23, United States Code and Article XIX of the California State Constitution, implemented in accordance with the requirements of Section 182.6(d)(I) of the Streets and Highway Code.

Monies received (and the interest earned on such monies subsequent to allocation) must be used only for the purposes for which the claim is approved. If the claimant fails to use funds received in accordance with the terms of the agreement, the exchange funds must be returned to MCAG.

CITY COUNCIL PRIORITIES

As provided for in the 2016-17 Adopted Budget.

DISCUSSION

The Regional Surface Transportation Program (RSTP) portion of the Federal SAFETEA-LU Act provides for revenues and allocations to local agencies. Merced County Association of Governments (MCAG) has received authorization from Caltrans providing for fund distribution in a two-tier process. The funds allocated to the City through MCAG represent a City "Lifeline" apportionment with the remainder of the funds to be allocated by MCAG based on a mutually acceptable allocation formula.

The MCAG Board has adopted a formula based on population by jurisdiction. A summary of the apportionments is shown in Attachment 2. MCAG, on behalf of the local agencies, has entered into an agreement with Caltrans to exchange the Local Un-obligated balance of the 2015/2016 RSTP funds.

The City of Merced is entitled to a total of \$876,003 in RSTP Exchange Funds through MCAG. As part of MCAG's claim process, the City is required to submit the completed claim form containing a list of up to 4 projects to be funded with the exchange funds, as well as a City Council Resolution authorizing the RSTP Claim.

Below are two options for projects to be completed utilizing the FY 2015/2016 RSTP Exchange Funds:

Option 1:

- Yosemite Avenue - San Augustine to Highway 59 \$876,003

Option 2:

- N Street - 8th Street to Childs Avenue \$480,000
- 15th Street - R Street to O Street \$396,003

Staff is seeking Council direction to select which projects will be completed utilizing the RSTP exchange funds. Per the requirements of the RSTP Claim Form agreement, once the projects are listed on the RSTP Claim, the City is obligated to complete the projects or return the unspent exchange funds to MCAG.

ATTACHMENTS

1. Resolution
2. Apportionments
3. Claim Form
4. MCAG Letter

RESOLUTION NO. 2016-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AUTHORIZING THE CITY MANAGER TO
FILE THE REGIONAL SURFACE
TRANSPORTATION PROGRAM (RSTP)
EXCHANGE FUNDS CLAIM FOR FISCAL
YEAR 2015-2016**

WHEREAS, the Merced County Association of Governments (“MCAG”) and the California Department of Transportation (“Caltrans”) have entered into an agreement to exchange unobligated balances of federally funded Regional Surface Transportation Program (“RSTP”) funds with non-federal State Highway Account funds; and

WHEREAS, the allocations of RSTP exchange funds to each jurisdiction have been calculated by population for Fiscal Year 2015-2016; and

WHEREAS, the City of Merced has additional RSTP exchange funds to claim in the amount of \$876,003.00 for Fiscal Year 2015-2016; and

WHEREAS, payment of the additional RSTP exchange fund claim will be subject to all conditions specified in the Agreement between MCAG and Caltrans; and

WHEREAS, a special gas tax street improvement fund account to receive the RSTP exchange funds has been established; and

WHEREAS, it is deemed in the best interest of the City of Merced that the City Manager be authorized to sign the RSTP exchange fund claim for Fiscal Year 2015-2016 and to submit said claim to MCAG for processing.

NOW, THEREFORE, be it resolved that the City Manager is authorized and directed to sign and file the above described RSTP exchange fund claim on behalf of the City of Merced for the amount of \$876,003.00.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the _____ day of _____ 2016 by the following called 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:

Ken Ryce 7/13/16
City Attorney Date

FY15/16 ESTIMATED Regional Surface Transportation Program (RSTP) Exchange

DRAFT Apportionment Schedule - May 2016

FY15/16 Estimated Apportionments	\$ 3,169,822	Figures are always estimates until Caltrans provides "Final" year end figures
State-Mandated Merced County "Lifeline" Apportionment	\$ (526,686)	Merced County has separate contract with Caltrans and funds are distributed direct to Merced County.
Balance after State-Mandated Merced County "lifeline" Apportionment	\$ 2,643,136	Amount of MCAG RSTP State Exchange Contract
Total City "Lifeline" Apportionments	\$ (356,305)	
Balance after City "Lifeline" Apportionments	\$ 2,286,831	

City	** City Lifeline Apportionment	
Atwater	\$ 61,284	
Dos Palos	\$ 11,144	
Gustine	\$ 12,194	
Livingston	\$ 28,341	
Los Banos	\$ 74,341	
Merced-City	\$ 169,001	
Subtotal: Total City "Lifeline" Apport.	\$ 356,305	
Merced County "Lifeline" Apport.	\$ 526,686	
TOTAL City and Merced Co. Lifeline Apportionments	\$ 882,991	

Jurisdiction	* Population based portion	Percentage	FY 15-16 RSTP funds distributed by population
Atwater	30,061	11.07%	\$ 253,129
Dos Palos	5,378	1.98%	\$ 45,285
Gustine	5,842	2.15%	\$ 49,193
Livingston	13,849	5.10%	\$ 116,616
Los Banos	39,359	14.49%	\$ 331,422
Merced	83,962	30.92%	\$ 707,002
County	93,128	34.29%	\$ 784,184
Subtotal	271,579	100.00%	\$ 2,286,831

*May 2016 - Depart. of Finance Population Figures

Jurisdiction	**City Lifeline Apportionment	FY 15-16 RSTP funds distributed by population	TOTAL FY 15-16 ESTIMATED RSTP funds
Atwater	\$ 61,284	\$ 253,129	\$ 314,413
Dos Palos	\$ 11,144	\$ 45,285	\$ 56,429
Gustine	\$ 12,194	\$ 49,193	\$ 61,387
Livingston	\$ 28,341	\$ 116,616	\$ 144,957
Los Banos	\$ 74,341	\$ 331,422	\$ 405,763
Merced-City	\$ 169,001	\$ 707,002	\$ 876,003
Subtotal: Total City "Lifeline" Apport.	\$ 356,305	\$ 1,502,647	\$ 1,858,952
Merced-County "Lifeline" Apport.	\$ 526,686	\$ 784,184	\$ 1,310,870
TOTAL	\$ 882,991	\$ 2,286,831	\$ 3,169,822

** Jan 2011, Depart. of Finance Population Figures

Jurisdiction	14-15 Apportionment ACTUAL	15-16 Apportionment ESTIMATED	Difference between years
Atwater (includes City Lifeline apportionment)	\$ 304,164	\$ 314,413	\$ 10,249
Dos Palos (includes City Lifeline apportionment)	\$ 53,179	\$ 56,429	\$ 3,250
Gustine (includes City Lifeline apportionment)	\$ 59,209	\$ 61,387	\$ 2,178
Livingston (includes City Lifeline apportionment)	\$ 143,283	\$ 144,957	\$ 1,674
Los Banos (includes City Lifeline apportionment)	\$ 385,190	\$ 405,763	\$ 20,573
Merced (includes City Lifeline apportionment)	\$ 852,894	\$ 876,003	\$ 23,109
Merced County (includes State-mandated apportionment)	\$ 1,312,223	\$ 1,310,870	\$ (1,353)
TOTAL	\$ 3,110,142	\$ 3,169,822	\$ 59,680



PH: 209.723.3153
 FAX: 209.723.0322
www.mcagov.org
 369 W, 18th Street
 Merced, Ca. 93540

**Claim to the Merced County Association of Governments
 for Regional Surface Transportation Program (RSTP) Funds in Exchange for
 State Highway Account Funds FY 2015/2016**

Claimant: **City of Merced**

FY 15/16 Claim Amount: **\$876,003**

Claim Guidelines:

Projects outlined in the table below to be funded with this claim are only those projects that are defined under Sections 133(b) and 133(c) of Title 23, United States Code and Article XIX of the California State Constitution, implemented in accordance with the requirements of Section 182.6(d)(1) of the Streets and Highways Code.

Claim Instructions:

1. List (print or type) each **INDIVIDUAL** project to be funded with this claim.
2. List the amount of funds to be used for each project.
3. If the project is not a capacity expanding project and is exempt from the air quality conformance analysis check the "Exempt" box. (☒)
4. If the project is a capacity expanding project and the "build" alternative of the air quality conformance analysis has been completed for the project as required check the "Air Quality" box. (☒)

Project	Cost of Project	Air Quality	Exempt
1.	\$	<input type="checkbox"/>	<input type="checkbox"/>
2.	\$	<input type="checkbox"/>	<input type="checkbox"/>
3.	\$	<input type="checkbox"/>	<input type="checkbox"/>
4.	\$	<input type="checkbox"/>	<input type="checkbox"/>

It is understood by this claimant (**City of Merced**) that payment of this claim is subject to approval by the MCAG Governing Board and must be in accordance with the MCAG and Caltrans Agreement. Said monies (and the interest earned on such monies subsequent to allocation) will be used only for those purposes for which the claim is approved.

The undersigned claimant, by accepting these funds agrees to establish a special account for the purpose of depositing funds received from MCAG pursuant to this agreement:

- a. For cities, within their Special Gas Tax Street Improvement Fund; or
- b. For the county, within their County Road Fund

The undersigned claimant, by accepting these funds, agrees to grant the State of California auditors access to their books and records for the purpose of verifying that funds paid hereunder are properly accounted for and proceeds are expended in accordance with the terms of this agreement. All documents will be available for inspection by authorized Caltrans agents at any time during the project development and for a four-year period from the date of completion of the project, or one year after the audit is completed or waived by Caltrans, whichever is later.

If the undersigned claimant fails to use funds received hereunder in accordance with the terms of the agreement, the claimant agrees to return the exchange funds to MCAG for credit to the special account described above.

Further, the Chief Financial Officer of the claimant certifies that the financial information contained herein, is reasonable and accurate to the best of his/her knowledge.

Authorized Representative:

Signature

Print Name

Title

Date

Signature of Chief Financial Officer

Print Name

APPROVED AS TO FORM:



KENNETH ROZELL
Senior Deputy City Attorney



PH: 209.723.3153
FAX: 209.723.0322
www.mcagov.org
369 W, 18th Street
Merced, Ca. 93540

June 17, 2016

John Sagin, Principal Architect
City of Merced
678 W. 18th Street
Merced, CA 95340

John,

MCAG has received the fully executed FY 15/16 Regional Surface Transportation Program (RSTP) Exchange Program Standard Agreement contract from Caltrans. It is important to note that the Caltrans contract is based on an estimated RSTP apportionment figure that Caltrans has received from the Federal Highway Administration (FHWA). If the FINAL year-end RSTP figure is determined to be higher or lower than the RSTP estimate for any number of reasons, the distribution amounts can be modified (in the current contract year or future year apportionments).

On June 16, 2016, the MCAG Governing Board adopted the FY 15/16 RSTP Exchange Program Apportionment Schedule and authorized the release of RSTP Exchange Claim forms to the member agencies.

Member agencies are required to do two things to claim the RSTP funds:

- 1) Submit a signed RSTP Exchange Program Claim Form; and
- 2) Submit a city council-approved RSTP Exchange Program Resolution.

Samples of both items are included with this letter. Please return the signed RSTP Exchange Claim Form and city council-approved resolution as soon as possible.

The FY 15/16 RSTP Exchange Program amount available for City of Merced to claim is **\$876,003**.

Please contact me, 723-3153 x 309 or email (ty.phimmasone@mcagov.org), if you have any questions.

Regards,

Ty Phimmasone
Associate Planner

Cc: Jamie Cruz, Engineering Secretary; Venus Rodriguez, Accountant

Enclosures: RSTP Exchange Program Claim Form
SAMPLE Authorizing Resolution
FY 15/16 RSTP Exchange Program Fund Apportionment Schedule



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-358

Meeting Date: 8/1/2016

SUBJECT: Council Member Murphy's Request to Discuss Recreation and Parks Unexpended Budget

REPORT IN BRIEF

This item is in response to Council Member Murphy's request to discuss the unexpended budget of the Recreation and Parks Department pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-360

Meeting Date: 8/1/2016

SUBJECT: Council Member Belluomini's Request to Discuss the Naming of City Streets after Veterans

REPORT IN BRIEF

This item is in response to Council Member Belluomini's request to discuss the naming of City streets after veterans pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

To: Merced City Council

August 1, 2016

From: Michael Belluomini, Council Member *Michael Belluomini*

Reference: Proposed Veteran's Street Naming Policy

BACKGROUND:

Many Merced citizens have served in the military to defend the United States in times of war and conflict. Approximately 75 citizens have made the ultimate sacrifice of their lives defending their country. The families of these veterans who died in service to their country have suffered a terrible loss of sons, brothers, husbands or fathers. These sacrifices are local and profound deserving of meaningful recognition honoring the sacrifices of those soldiers and their families in a public and proud fashion.

There are approximately 50 completely built streets without houses or other buildings existing on them in the City of Merced. Many more subdivisions of land into residential neighborhoods have been approved, but not built, pending improved economic times. The law gives the city much freedom and discretion to name streets through a simple process.

PROPOSAL

That the City Council approve a city policy that all streets without existing houses, businesses or other occupied uses, should be named in honor of a military veteran from the Merced City community who died in battle. If an affected property owner can justify not naming the street after a fallen veteran, then the city can waive the requirement. The street sign will give the name of the veteran and in which war he died.

That the city staff work with veteran groups to identify the names of the veterans who died in battle from the Merced City community (postal address of Merced). The Planning Commission will review and decide the naming of streets except for appeals to the Commission's action which will be decided by the City Council.

That streets that are built, but unoccupied, be given priority to be renamed by March 1, 2017, and other approved, but undeveloped streets, be named for veterans prior to street improvements being completed.



EXAMPLES OF STREETS WITHOUT HOUSES THAT COULD BE RENAMED FOR MERCED CITY VETERANS WHO DIED IN BATTLE





1941

1945

WORLD WAR II

BERKELEY COUNTY CITIZENS WHO MADE THE SUPREME SACRIFICE FOR THEIR COUNTRY

MIKE E. ABRIL - JAMES C. ALLEN - SIDNEY H. ALLEN
 HARRY G. ANGELAKIS - LEWIS M. ARCHER - PAUL K. BENNETT
 LEONARD B. BERNARD - ALBERT F. BERUMEN - SANTO BEUTECAL
 GEORGE A. BISHOP - MERLE H. BOLTE - TUNNEY E. BOYD
 WILLIAM J. BRACKEN - LESTER E. BROWN
 OTTO A. BUDDENBAUM - PETER C. BUENDIA - JAMES A. BUXTON
 ARCHIE C. BYRNE - WALTER J. CAMPOS
 BERNIE A. CANTERBERRY - VERNE P. CARDOZA
 CHESTER A. CAREY - CHARLES A. CARTER - EVERETT B. CATON
 MAX L. CHAMPION - FRED A. CORVELLO - JOHN CORVELLO
 ORVAL D. CRITES - MILTON CUNHA - JACK C. CURRY
 ALVIS N. DILL, JR. - EDGAR A. DUFFIELD - JACK C. DURHAM
 THOMAS R. EASON - R. A. ELLIS, JR. - LUCIO A. ENRIQUEZ
 JACK W. FELTS - ARTHUR P. FERRARI - JOE FLOOD
 GEORGE R. FOUNTS - THOMAS F. FULLERTON
 FLETCHER B. GILBERT - ROLLAND GILL - JAMES D. GOODE
 EDWARD F. GRAY - RALPH G. HARRIS - WALTER T. HARRIS
 WILLIAM G. HARRIS - DONALD HESSE - EDWARD L. HODGE
 RICHARD G. HONDEVILLE - JAMES I. HOUSE
 PEDER J. JOHANSEN - LEONARD R. JOHNSON
 FLOYD L. JONES, JR. - ROBERT J. JOSEPHSON - JIM KASHIWASE
 WALTER R. KEARNEY - MAMORY KINOSHITA - WAYNE W. LAIRD
 ROBERT R. LAMPMAN - FREDERICK F. LANE - JOE LATORRACA
 R. E. LAUDERDALE, JR. - EDWARD F. LEDFORD
 DANIEL S. LOEWEN - DAVID S. LOEWEN - ALFONSO M. LOPEZ

JOE LOPEZ - VICTOR S. MACHADO - BEN L. MACIAS

PAUL MACIAS - ROBERT P. MARIN - EUGENIO V. MARTINEZ
 LESTER J. MARTINEZ - JAMES D. McCOMB - DOYLE W. McDONOUGH
 PERRY A. McEVER - ALBERT J. MEDINA - OSCAR V. MEEKER
 JOHN W. MEREDITH - GRADY W. MERRITT - WALTER S. MEYERS
 FORREST S. MICHAEL - CHRISTIAN L. MIRANDA
 ROBERT S. MITCHELL - ROLLAND R. NELSON - ARNOLD OHKI
 HOYT OVERTURE - BERNARD D. PARADISO - WILLIAM R. PARK
 JASPER C. PEARSON - DAVID PEREZ - HOWARD B. PICTON
 TONY L. PINNELI - TONY D. PISANO - JOHN M. PORTER
 HERSHEL L. POSEY - DOMINIC J. PRICOLO - WADE RENWICK
 PAUL F. RODRIGUEZ - JAMES E. RODNER, JR.
 JOSEPH G. ROSE - CHARLES L. ROSS - J. C. ROW
 FRANK S. RUIZ, JR. - JOHN G. SACA, JR. - ROBERT SALAS
 FRANK A. SALSZA, JR. - KENNETH A. SANDERS
 AUGUST SANDINO - GEORGE SCHEIDT - TOSHIKI SHOJI
 WILLIAM E. SMITH - ALBERT SNAPP - DAVID SOLARI
 FRANK R. SOUZA - JOSEPH M. SPINA - FORREST E. STAMPER
 WILLIAM J. STEFANI - EDWIN STEINBERG
 FREDERICK T. STEWART - ROBERT C. THOMPSON
 CARL H. TOMETZ - ELMER G. TOSTA - ROBERT WATSON
 PAUL L. WETTENGEL - WILLIS G. WILLIAMS - CHARLES WILSON
 WILLIAM B. WINCHESTER - CLIFFORD E. WITT - WILLIAM YOUNG
 JAMES MADISON AMIS - CHESTER W. WUERTLEY
 JESUS C. LOPEZ - ROBERT E. GAINES, JR. - DALE W. KROEGER

VICTOR A. WASSMER
JAMES B. CABRAL

"IT IS NOT ENOUGH TO FIGHT. IT IS THE SPIRIT WHICH WE BRING TO THE FIGHT THAT DECIDES THE ISSUE. IT IS MORALE THAT WINS THE VICTORY."
GENERAL GEORGE C. MARSHALL

CHARLES R. COTHRAN
ANTHONY ROSE

1950



1953

KOREAN WAR

*MERCED COUNTY CITIZENS WHO MADE THE SUPREME
SACRIFICE FOR THEIR COUNTRY:*

LIBBY J. BACAYLAN
ANTHONY E. BROWN
WILLIE R. CARDENAS
EDWARD R. CLARK
MIGUEL S. CHAVEZ
JOE P. COELHO
RONALD L. DUNN
RALPH ALAN ELLIS, JR.
VIRGLE J. EVANS
LOUIS P. FAUSONE
JOE L. FREITAS
JOSEPH L. HEFLIN
WALTER L. HOOD
BILLIE R. HUDSON
ELMER M. LORENZO
MATTHEW LOVE
KEITH A. MARVEL
JOHN A. OLIVEIRA
JESSE B. SANCHEZ
KENNETH E. SAWYER
TONY TAVARES
JAMES B. TRIGGS
HENRI J. VASCHETTO
LARRY A. WEAVER
ROY WYATT

1964



1975

VIETNAM WAR

DAVID M. WINTERS
JOHN B. AHERN
FRANK A. CELANO
TIMOTHY L. COLLIER
JAMMIE V. FRANKLIN
REGINALD W. FITCHETT
ROBERT E. FREITAS
PETER J. GALLO
ROBERT W. GIBBINS
LARRY L. GEAR
RICHARD GRANADOS
STEVEN T. BRIGGS
FRED G. HAUG
RICHARD T. HAVEL
FELIPE HERNANDEZ
JERRY L. JANWAY
JIMMIE W. JONES
WILLIAM E. LAYSON
LARRY R. LUSSIER
DAVID L. MARTIN JR.
JOHN C. MARTIN
BILLY D. Mc DOUGAL
MELVIN W. Mc DOWELL
STEPHEN W. Mc KINLEY
JOHN W. Mc MUSTER IV
HOWARD D. STEPHENSON
RALPH COPELAND

SHERMAN D. MONK
LESLIE E. MURRAY
ARTURO A. NAZABAL JR.
JOHN A. NORRIS III
EDDIE J. PADILLA
RALPH H. PADILLA
MELVIN D. QUINN
DEAN N. RASCHKE
WILLIAM H. REEDY JR.
CHARLES A. RICHARDSON
LINUS R. ROE
DILLARD G. RYE
VERNON D. SANDVIG
WALTER J. SEIDEL

JERRY D. SISCO JR.
JEFFERY STOWE
JAMES J. STROBLE
JOHN H. SUYDAN III
RAYMOND W. TEMPLETON
RAYMOND H. TIGHE
FRANCISCO M. TRUJILLO
JUAL B. VALTIERRA
ROBERT T. VERGANO
WAYNE L. BOLTE
JAMES J. WRIGHT
WM. BUTCH SCANLON

IT MAY BE THEY SERVED IN A WAR, THEY MAY NOT HAVE
AGREED WITH IT OR UNDERSTOOD IT, YET THEY SERVED.

MERCED COUNTY PATRIOTS

VETERANS FOR FREEDOM ARE NOT FORGOTTEN

KARINA S. LAU
PFC U.S. ARMY
AGE 20 LIVINGSTON
NOV 2 2003 IRAQ

MATTHEW T. ABBATE
SGT. USMC
AGE 26 MERCED
DEC 2, 2010 AFGHANISTAN

TRAVIS J. LAYFIELD
LANCE CPL USMC
AGE 19 ATWATER
APR 6, 2004 IRAQ

VINCENT W. ASHLOCK
SSG U.S. ARMY
AGE 45 MERCED
DEC 4, 2010 AFGHANISTAN

CESAR A. GRANADOS
CPL U.S. ARMY
AGE 21 LE GRAND
SEPT 17, 2006 IRAQ

JOSHUA D. PICKARD
CPL USMC
AGE 20 MERCED
DEC 19, 2006 IRAQ

FRANK J. GASPER
SSGT U.S. ARMY
AGE 25 MERCED
MAY 25, 2008 IRAQ

LUKAS C. HOPPER
SPC U.S. ARMY
AGE 20 MERCED
OCT 30, 2009 IRAQ

GREATER LOVE HAS NO ONE THAN THIS



CITY OF MERCED

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

ADMINISTRATIVE REPORT

File #: 16-359

Meeting Date: 8/1/2016

SUBJECT: Mayor Thurston's Request to Discuss the Permit Application for Alarm Systems

REPORT IN BRIEF

This item is in response to Mayor Thurston's request to discuss the permit application for the False Alarm Ordinance pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.



ADMINISTRATIVE REPORT

File #: 16-335

Meeting Date: 8/1/2016

Report Prepared by: Jennifer Levesque, Deputy City Clerk, City Clerk's Office

SUBJECT: Designation of Voting Delegate and Alternates for the 2016 League of California Cities Annual Conference - Annual Business Meeting, October 5 - October 7, 2016, Long Beach

REPORT IN BRIEF

To expedite the conduct of business at this important policy-making meeting, each City Council is asked to designate a voting representative and two alternates who will be present at the meeting.

RECOMMENDATION

City Council - Adopt a motion designating one voting delegate and two alternate voting delegates to the League of California Cities Annual Conference General Business Meeting scheduled for Friday afternoon, October 7, 2016 in Long Beach.

ALTERNATIVES

1. Designate voting representatives as outlined in the staff report; or
2. Designate other City officials attending the conference; or
3. Take no action.

AUTHORITY

The membership takes action on conference resolutions at the Annual Business Meeting. Annual Conference resolutions guide cities and the League in efforts to improve the quality, responsiveness and vitality of local government in California. Therefore, it is very important that all cities be represented at the Business Meeting on Friday, October 7, 2016.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

To expedite the conduct of business at this important policy-making meeting, each City Council is asked to designate a voting representative and two alternates who will be present at the Annual Business meeting. The League by-laws provide that each city is entitled to one vote in matters affecting municipal or League policy.

If the Mayor or a member of the City Council is in attendance at the Annual Business Meeting, it is expected that one of these officials will be designated as the voting delegate. However, if the City Council does not have a registered delegate at the conference, but will be represented by other City

officials, one of the other officials can be designated the voting delegate or alternate.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Letter from League of California Cities



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Council Action Advised by July 31, 2016

June 10, 2016

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – October 5 – 7, Long Beach**

The League's 2016 Annual Conference is scheduled for October 5 – 7 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for noon on Friday, October 7, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, September 23, 2016. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: www.cacities.org. In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Long Beach Convention Center, will be open at the following times: Wednesday, October 5, 8:00 a.m. – 6:00 p.m.; Thursday, October 6, 7:00 a.m. – 4:00 p.m.; and Friday, October 7, 7:30–10:00 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Friday, September 23. If you have questions, please call Kayla Gibson at (916) 658-8247.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2016 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to the League office by Friday, September 23, 2016. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, September 23, 2016

League of California Cities
ATTN: Kayla Gibson
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: kgibson@cacities.org
(916) 658-8247