



CITY OF MERCED

Meeting Agenda

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

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

Monday, April 3, 2023

6:00 PM

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

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

NOTICE TO PUBLIC/AVISO AL PÚBLICO/CEEB TOOM RAU PEJ XEEM

WELCOME TO THE MEETING OF THE MERCED CITY COUNCIL/BIENVENIDO A LA REUNIÓN DEL CONCILIO DE LA CIUDAD DE MERCED/ZOO SIAB TXAIS TOS KOJ TUAJ RAU HAU CITY COUNCIL LUB ROOJ SAB LAJ

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. Spanish and Hmong translation is available at every regular meeting.

Al menos 72 horas antes de cada reunión regular del Concejo Municipal, un paquete de agenda complete está disponible para su revisión en el sitio web de la Ciudad en www.cityofmerced.org o en la Oficina del Secretario de la Ciudad, 678 W. 18th Street, Merced, CA 95340. Todos los registros públicos relacionados con un artículo de sesión abierta que se distribuyen a la mayoría del Concejo estarán disponibles para inspección pública en la Oficina del Secretario de la Ciudad durante el horario comercial habitual. La traducción al español y al Hmong está disponible en todas la reuniones regulares.

Sai kawg yuav tsum yog li 72 teev ua ntej rau txhua lub rooj sib tham ntawm cov Nom Tswv (City Council), yeej muaj tag nrho pob ntawv qhia txog tias rau cov neeg los nyeem hauv lub Nroog (City) qhov website www.cityofmerced.org los sis nyob rau ntawm City Clerk's lub Office, 678 W. 18th Street, Merced, CA 95340. Tas nrho cov ntaub ntawv teev tseg no yuav muab rau cov Nom Tswv ntawm kev sab laj pub rau tsoom pej xeem sawv daws los nyeem nyob rau hauv City Clerk's lub Office thaum lub caij ua hauj lwm. Muaj txhais lus Mev thiab lus Hmoob.

PUBLIC COMMENT: OBTAIN SPEAKER CARD FROM THE CITY CLERK/COMENTARIO DEL PÚBLICO / KEV HLOOV RAU TEJ PEJ XEEM TXOG KEV TAWM SUAB, NCAUS LUS:

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

Material may be emailed to cityclerk@cityofmerced.org and should be limited to 300 words or less. Please specify which portion of the agenda you are commenting on, for example, Public Hearing item #, Consent item #, or Oral Communications. Your comments will be mentioned to the City Council at the appropriate time. Any correspondence received after 1 PM will be distributed to the City Council and retained for the official record.

You may provide telephonic comments via voicemail by calling (209) 388-8688 by no later than 1 PM on the day of the meeting to be added to the public comment. Voicemails will be limited to a time limit of one (1) minute. Please specify which portion of the agenda you are commenting on, for example, Public Hearing item #, Consent item #, or Oral Communications. Your comments will be played during the City Council meeting at the appropriate time. For Public Hearing items, if you wish to speak live during the meeting, please leave callback information and you will be contacted with further details.

To view video (if available) or listen to the City Council meeting live, go to the City's website www.cityofmerced.org, Facebook Live, or Comcast Public Access Channel 96.

Los miembros de la audiencia que deseen dirigirse al Ayuntamiento deben completar una tarjeta de orador disponible en el podio en la parte de atrás de la Cámara del Concejo. Envíe la tarjeta completa al secretario de la ciudad antes de que se llame al artículo, preferiblemente antes de que comience la reunión.

El material puede enviarse por correo electrónico a cityclerk@cityofmerced.org y debe limitarse a 300 palabras o menos. Por favor, especifique qué parte de la agenda está comentando, por ejemplo, # Artículo de la Audiencia pública, # artículo de consentimiento, o Comunicaciones orales. Sus comentarios serán mencionados al Ayuntamiento en el momento apropiado. Cualquier correspondencia recibida después de la 1 PM se distribuirá al Ayuntamiento y se conservará para el registro oficial.

Puede proporcionar comentarios telefónicos a través del correo de voz llamando al (209) 388-8688 a más tardar a la 1 PM del día de la reunión para que se agreguen al comentario público. Los mensajes de voz estarán limitados a un límite de tiempo de un (1) minuto. Por favor especifique qué parte de la agenda está comentando, por ejemplo, número de artículo de la audiencia pública, número de artículo de consentimiento o comunicaciones orales. Sus comentarios se reproducirán durante la reunión del Ayuntamiento en el momento adecuado. Para los temas de audiencia pública, si desea hablar en vivo durante la reunión, deje la información de su llamada y lo contactaremos con más detalles.

Para ver el video (si está disponible) o escuchar la reunión del Concejo Municipal en vivo, visite el sitio web de la ciudad www.cityofmerced.org, Facebook Live o Comcast Public Access Canal

96.

Cov pej xeem los koom lub rooj sib tham uas xav tawm suab rau lub nroog cov Nom Tswv (City Council) muaj feem los sau ntawv hauv daim ntawv tawm suab nyob ntawm lub sam thiaj hais lus sab xis ntawm Council Chamber. Thov xa daim ntawv tawm suab no rau tus City Clerk ua ntej lub sij hawm rooj sab laj pib.

Tej ntaub ntawv thov muab xa rau cityclerk@cityofmerced.org thiab tsis pub muaj tshaj 300 los lus los yog txawg dua. Thov qhia tias qhov twg hauv daim ntawv tswj koj xav tawm suab rau, piv txwv li, kev sab laj kaws, nqes # los sis kev sib tham ntawm ncauj lus. Koj cov tswv yim muab rau lub rooj sib tham thaum lub sij hawm tsim nyog. Tej ntaub ntawm txais tau tom qab 1 teev tav su mam muab rau cov Nom Tswv (City Council) thiab tso hauv cov ntaub ntawv teev tseg.

Koj muaj feem tso suab hauv xov tooj uas yog hu (209) 388-8688 ua ntej 1 teev tav su hnuv sib tham thiaj koj lub tswv yim muab tso hauv daim ntawv tswj. Tso suab hauv xov tooj tsis pub ntev tshaj (1) feeb. Thov qhia qhov twg hauv daim tswj tias koj xav tawm suab rau, piv txwv li, zej tsoom tawm suab #, khoom tso cai #, los sis kev sib tham ntawm ncauj lus. Cov suab kaws hauv xov tooj mam tso mloog thaum lub caij tsim nyog rau thaum sib tham. Yog koj xav tawm suab thaum sib tham, thov tso koj tus xov tooj, ib tus tib neeg ua hauj lwm mam li hu koj.

Yog koj xav saib video (tham muaj) los sis mloog cov Nom Tswv (City Council) kev sib tham, mus saib hauv City's website www.cityofmerced.org, Facebook Live, los sis Comcast Public Access Channel 96.

INDIVIDUALS WITH DISABILITIES

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

A. CLOSED SESSION ROLL CALL

B. CLOSED SESSION

The legislative body shall provide the public with an opportunity to address the body on any item described in Closed Session [Government Code Section 54954.3(a)].

B.1. [23-303](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to Paragraph (1) of Subdivision (d) of Government Code section 54956.9, Name of Case: City of Merced, City of Los Banos, and City of Atwater, Petitioners, vs. Merced County Association of Governments, Respondents

B.2. [23-305](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to Paragraph (1) of Subdivision (d) of Government Code section 54956.9, Name of Cases: Appeal #1 of the

Planning Commission's Approval of Commercial Cannabis Business Permit (CCBP) #22-02R for Retail Cannabis at 1111 Motel Drive by Edwin Kainth

- B.3.** [23-316](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; Christopher Goodwin v. City of Merced; Workers Compensation Case Number ADJ14919795 and ADJ14919796; AUTHORITY: Government Code Section 54956.9(d)(1)

C. CALL TO ORDER

C.1. Invocation - Pastor Greg Boyd, Calvary Chapel of 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 the Public Financing and Economic Development Authority. City Council members receive a monthly stipend of \$400.00 by Charter for sitting as the City Council; and the Mayor receives an additional \$100.00 each month as a part of the adopted budget and Resolution 2020-86. The members of the Parking Authority and the Public Financing and Economic Development Authority receive no compensation.

E. REPORT OUT OF CLOSED SESSION

F. CEREMONIAL MATTERS

- F.1.** [23-302](#) **SUBJECT:** Proclamation - Fair Housing Month

REPORT IN BRIEF

Received by Ana Andrade of the Project Sentinel Fair Housing

- F.2.** [23-301](#) **SUBJECT:** Proclamation - Sexual Assault Awareness Month

REPORT IN BRIEF

Received by a representative of Valley Crisis Center

- F.3.** [23-300](#) **SUBJECT:** Proclamation - Lao New Year

REPORT IN BRIEF

Received by a representative of the Lao Community.

G. WRITTEN PETITIONS AND COMMUNICATIONS

H. ORAL COMMUNICATIONS

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

I. CONSENT CALENDAR

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

I.1. [23-075](#) **SUBJECT:** Reading by Title of All Ordinances and Resolutions

REPORT IN BRIEF

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

RECOMMENDATION

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

I.2. [23-258](#) **SUBJECT:** Information Only Contracts for the Month of March 2023

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$36,000 and of Public Works contracts under \$82,718.

I.3. [23-306](#) **SUBJECT:** Information Only - Planning Commission Minutes of March 8, 2023

RECOMMENDATION

For information only.

I.4. [23-282](#) **SUBJECT:** Approval to Accept, Increase Revenue, and Appropriate

Partial Payment for the Stephen Leonard Park Community Center in
the Amount of \$115,525.93

REPORT IN BRIEF

Considers approving a partial payment from McLarens Property Insurance Company for the claim submitted to Alliant Property Insurance for damages caused by the May 17, 2022, fire to the Stephen Leonard Park Community Center.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting a partial payment; increasing the revenue to Cost Recovery account in Fund 5000 - Parks & Community Services CIP in the amount of \$115,526; and,

B. Appropriating the same in Fund 5000 - Parks & Community Services CIP to Project CP230052-Stephen Leonard Park Community Center; and,

C. Authorizing the Finance Officer to make the necessary budget adjustments for any future partial payments associated with Project CP230052-Stephen Leonard Park Community Center Repairs.

I.5. [23-290](#)

SUBJECT: Approval of a First Amendment to an Agreement for Professional Services with GVP Ventures, Inc. for Conducting a City Manager Recruitment for an Amount not to Exceed \$43,000 and Approval of a Supplemental Appropriation in the General Fund in the Amount not to Exceed \$43,000

REPORT IN BRIEF

Considers approving a First Amendment to an agreement for Professional Services with the recruitment firm GVP Ventures, Inc (formerly Bob Murray and Associates) for the not to exceed amount of \$43,000. Recruitment services would be provided for the position of City Manager.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a First Amendment to an agreement for Professional Services with GVP Ventures, Inc (formerly Bob Murray and Associates) in the amount not to exceed \$43,000; and,

B. Approving a supplemental appropriation in the amount of up to \$43,000 from the General Fund unreserved, unencumbered fund balance, transferring to Fund 6008-Support Services and appropriating the same in the Personnel Professional Services account line to cover the City Manager recruitment cost; and,

C. Authorizing the City Manager or designee to execute the necessary documents.

I.6. [23-250](#)

SUBJECT: Approval of Service Agreements with Eight Artists for CALTRANS Transportation Art Project, Clean California Beautification Fund Contribution not to Exceed the Amount of \$350,000 for Undercrossing Art Murals

REPORT IN BRIEF

Considers approving the Service Agreements with eight artists for the CALTRANS Clean California State Beautification Program not to exceed the amount of \$350,000.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the service agreements with eight artists for CALTRANS Clean California State Beautification Program not to exceed the amount of \$350,000 in funding for the installation of transportation mural art; and,

B. Authorizing the City Manager or the Deputy City Manager to execute the necessary documents.

I.7. [23-295](#)

SUBJECT: Approval of Smiley Riley Utility Box and Youth Leadership Institute Skate Park Mural Art Projects

REPORT IN BRIEF

Considers approving the Smiley Riley Utility Box and Youth Leadership Institute Art Projects.

RECOMMENDATION

City Council - Adopt a motion approving Smiley Riley Utility Box and Youth Leadership Institute Art Installations for the Skate Park Mural Art Projects.

I.8. [23-308](#)

SUBJECT: Approval of Land Use Determination #23-01 - Finding of Public Convenience or Necessity for Circle K Stores, Inc., a New Gas

Station and Convenience Market to be Located at the Southwest
Corner of R Street and Loughborough Drive

REPORT IN BRIEF

This report provides options for the City Council to consider making a Finding of Public Convenience or Necessity (PCN), as required by the Department of Alcoholic Beverage Control (ABC) to issue a Type 20 alcohol license (allowing the sale of beer and wine for off-site consumption) for Circle K Stores, Inc., a new gas station and convenience market to be located at the southwest corner of R Street and Loughborough Drive.

RECOMMENDATION

City Council - Adopt a motion approving the Finding of Public Convenience or Necessity to allow Circle K, Inc., a new gas station and convenience market to be located at the southwest corner of R Street and Loughborough Drive, to obtain a Type 20 license for off-site consumption allowing the sale of beer and wine (Option #1 as shown in the "Council Action" section of this Administrative Report).

I.9. [23-285](#)

SUBJECT: Award an Agreement for Professional Services for a
Downtown Housing Feasibility Study to Mogavero Architects

REPORT IN BRIEF

Considers approving an Agreement for Professional Services with Mogavero Architects, for \$61,800 to prepare a Downtown Housing Feasibility Study.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving an Agreement for Professional Services with Mogavero Architects, in the amount of \$61,800 to prepare a Downtown Housing Feasibility Study; and,

B. Authorizing the City Manager or Deputy City Manager to execute the agreements and any necessary documents.

I.10. [23-251](#)

SUBJECT: First Amendment to Settlement Agreement with Pacific Gas
and Electric Company to Reimburse the City of Merced for Design
and Construction of a 16-inch Water Main and Reconstruction of a
Portion of Roadway, Curb, Gutter, Sidewalk and ADA Access Ramps
on Canal Street Between 14th Street and 15th Street

REPORT IN BRIEF

Considers approving the First Amendment to Settlement Agreement between the City of Merced and Pacific Gas and Electric Company (PG&E) for a minor change to the Scope of Work in the Settlement Agreement.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the First Amendment to the Settlement Agreement between the City of Merced and Pacific Gas and Electric Company; and,

B. Authorizing the City Manager or Deputy City Manager to execute the necessary documents.

I.11. [23-176](#)

SUBJECT: Approval of a Statement of Services Contract with Musco Sports Lighting, LLC for the Purchase and Installation of Upgraded LED Sports Lighting for Soccer Fields and Skate Park at McNamara Park, Project No. CP230018, in the Amount of \$309,140.25

REPORT IN BRIEF

Considers approving a Statement of Services Contract, in the amount of \$309,140.25, with Musco Sports Lighting, LLC for the purchase and installation of LED lighting upgrades at McNamara Park soccer fields and skate park, as previously approved by Council and provided for in the current budget.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the Statement of Services Contract with Musco Sports Lighting, LLC for the purchase of LED lighting upgrades for soccer fields and skate park at McNamara Park Project No. CP230018, in the amount of \$309,140.25; and,

B. Authorizing the City Manager or Deputy City Manager to execute the necessary documents and approve change orders up to 10% of the contract price.

I.12. [23-287](#)

SUBJECT: Adoption of a Resolution Approving the 2022/2023 Local Transportation Fund (LTF) Claim Form in the Amount of \$77,002 to be Filed with the Merced County Association of Governments (MCAG)

REPORT IN BRIEF

Considers approving and accepting \$77,002 in Local Transportation Funds (LTF) from Merced County Association of Governments (MCAG) for the curb and gutter replacement along portions Austin Avenue, Childs Avenue, and Parsons Avenue, and the 1900 Block of Shadowbrook Drive and sidewalk replacement along portions of E. 11th, E. 13th, and D Streets.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2023-23**, a Resolution of the City Council of the City of Merced, California, approving the Local Transportation Fund (LTF) Claim to be filed with the Merced County Association of Governments (MCAG) for Fiscal Year 2022/2023; and,

B. Authorizing the Finance Officer to make any necessary budget adjustments.

J. PUBLIC HEARINGS

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

J.1. [23-192](#)

SUBJECT: Adopt a Statutory Exemption Pursuant to Section 15308 of the California Environmental Quality Act (CEQA) and Adopt a Resolution Amending Transportation Policy T-1.8 of the Merced Vision 2030 General Plan Regarding the Use of Vehicle Miles Traveled (VMT) as the Metric to Evaluate the Transportation Impacts of Development Projects Under CEQA and Adopting the Merced County Association of Governments (MCAG) VMT Thresholds and Guidelines (General Plan Amendment #23-01)

REPORT IN BRIEF

Considers the adoption of a Statutory Exemption pursuant to Section 15308 of the California Environmental Quality Act (CEQA) and adoption of a Resolution amending Transportation Policy T-1.8 of the *Merced Vision 2030 General Plan* regarding the use of Vehicle Miles Traveled (VMT) as the metric to evaluate the transportation impacts of development projects under CEQA and adopting the Merced County Association of Governments (MCAG) VMT Thresholds and Guidelines.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2023-24**, a Resolution of the City Council of the City of Merced, California, adopting General Plan Amendment No 23-01 to revise Transportation Policy t-1.8, adopting the Vehicle Miles Traveled Thresholds and Guidelines as recommended by the Merced County Association of Governments by reference, and adopting a CEQA Statutory Exemption pursuant to Section 15308 of the CEQA Guidelines.

J.2. [23-271](#)

SUBJECT: Appeal of the Planning Commission's Approval of Commercial Cannabis Business Permit (CCBP) #22-02R for Retail Cannabis at 1111 Motel Drive by Edwin Kainth

REPORT IN BRIEF

Edwin Kainth has appealed the Planning Commission's approval of Commercial Cannabis Business Permit #22-02R (Culture Merced Dispensary) for a retail cannabis facility at 1111 Motel Drive.

RECOMMENDATION

City Council - Adopt a motion:

- A. Granting or denying the appeal of Edwin Kainth; and,
- B. Providing direction to staff regarding findings to grant or deny appeal, with or without prejudice.

K. REPORTS

K.1. [23-222](#)

SUBJECT: Report for Discussion of Preliminary Annexation Application #22-03 for the Baxter Ranches Annexation

REPORT IN BRIEF

The City Council will be asked to consider support for Preliminary Annexation Application #22-03 for the Baxter Ranches Annexation project consisting of 161 acres of low density residential, commercial office and open space generally located on the north side of Bellevue Road, west of Fahrens Creek.

RECOMMENDATION

City Council - Adopt a motion indicating general support for an official annexation application being processed for the Baxter Ranches

Annexation project.

K.2. [23-317](#)

SUBJECT: Adoption of an Urgency Ordinance Adding Chapter 9.75, “Displaced Tenant Protections,” to the City of Merced Municipal Code and Introduction of an Ordinance Adding Chapter 9.75, “Displaced Tenant Protections,” to the City of Merced Municipal Code

REPORT IN BRIEF

Considers adopting an urgency ordinance adding Chapter 9.75 to the City of Merced Municipal Code and introducing a regular ordinance adding Chapter 9.75 to the City of Merced Municipal Code.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Ordinance No. 2547**, an Urgency Ordinance of the City Council of the City of Merced, California, Adding Chapter 9.75, “Displaced Tenant Protections,” to the Merced Municipal Code, and;

B. Introducing **Ordinance No. 2548**, an Ordinance of the City Council of the City of Merced, California, adding Chapter 9.75, “Displaced Tenant Protections,” to the Merced Municipal Code.

L. BUSINESS

L.1. [23-085](#)

SUBJECT: Request to Add Item to Future Agenda

REPORT IN BRIEF

Provides members of the City Council to request that an item be placed on a future City Council agenda for initial consideration by the City Council.

L.2. [23-197](#)

SUBJECT: City Council Comments

REPORT IN BRIEF

Provides an opportunity for the Mayor and/or Council Member(s) to make a brief announcement on any activity(ies) she/he has attended on behalf of the City and to make a brief announcement on future community events and/or activities. The Brown Act does not allow discussion or action by the legislative body under this section.

M. ADJOURNMENT