



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, May 1, 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 thiaj 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) thiaj 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 (thaum 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. [23-385](#) **SUBJECT: CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Section 54956.9: Two (2) Potential Cases**

B.2. [23-391](#) **SUBJECT: PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: City Attorney; Authority: Government Code Section 54957**

C. CALL TO ORDER

C.1. Invocation - Ella Luna-Garza, United Methodist Church, 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. [23-360](#) SUBJECT: Proclamation - Bike Month

REPORT IN BRIEF

Received by the Bicycle and Pedestrian Advisory Commission

F.2. [23-361](#) SUBJECT: Proclamation - Mental Health Awareness Month

REPORT IN BRIEF

The Mental Health Awareness Month Proclamation will be presented to a representative of Behavioral Health and Recovery Services.

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. [23-077](#) **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. [23-378](#) **SUBJECT: Information Only Contracts for the Month of April 2023**

REPORT IN BRIEF

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

I.3. [23-357](#) **SUBJECT: Information Only - Site Plan Review Minutes of March 2, 2023**

RECOMMENDATION

For information only.

I.4. [23-323](#) **SUBJECT: Award Proposal and Approval of a Statement of Service with Park Planet, in the Amount of \$343,070.51, for a Measure Y Funded Project to Replace Playground Equipment at Dennis Chavez Memorial Park, Diego Rivera Park, and Charles Richard Drew Park Project No. CP230009**

REPORT IN BRIEF

Considers awarding a proposal and approving a Statement of Service with Park Planet for a Measure Y funded project to replace playground equipment at three parks throughout Merced.

RECOMMENDATION

City Council - Adopt a motion:

A. Awarding a proposal and approving a Statement of Service with Park

Planet in the amount of \$343,070.51 for the replacement of playground equipment at three (3) parks; 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.5. [23-340](#)

SUBJECT: Award Bid to T&S Intermodal Maintenance, Inc. DBA T&S West for the Regional Park Restrooms, Project No. CP220013, in the Amount of \$458,350

REPORT IN BRIEF

Considers awarding a Construction Contract to T&S Intermodal Maintenance, Inc. DBA T&S West, in the amount of \$458,350 for the Regional Park Restrooms Project.

RECOMMENDATION

City Council - Adopt a motion:

A. Awarding the Regional Park Restroom, Project No. CP220013 to T&S Intermodal Maintenance, Inc. DBA T&S West, in the amount of \$458,350; and,

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

I.6. [23-342](#)

SUBJECT: Adoption of a Resolution Agreeing to the Increase in Costs for the Multijurisdictional Housing Element

REPORT IN BRIEF

Authorizes the increase in cost by \$22,000 for more robust community engagement services from the consultant for the Multijurisdictional Housing Element (MJHE).

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2023-27**, a Resolution of the City Council of the City of Merced, California, agreeing to the Increase in Cost for the Multi-Jurisdictional Housing Element; and,

B. Authorizing the City Manager or Deputy City Manager to execute any related documents necessary for the increase in cost of the MJHE.

I.7. [23-377](#)

SUBJECT: Adoption of Resolutions Denying the Appeals Filed by Edwin Kainth, on Behalf of the Hotel Association, and Rajiv “Raj” Pottabathni, on Behalf of JIVA MCE, LLC, of the Planning Commission’s Decision to Approve Commercial Cannabis Business Permit #22-02R to Allow the Operation of a Retail Cannabis Facility at 1111 Motel Drive

REPORT IN BRIEF

Provides Resolutions for adoption confirming the denial of the appeals filed by Edwin Kainth, on behalf of the Hotel Association and Raj Pottabathni, on behalf of JIVA MCE, LLC, of the Planning Commission’s approval of Commercial Cannabis Business Permit (CCBP) #22-02R per City Council action on April 3, and 17, 2023.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2023-32**, a Resolution of the City Council of the City of Merced, California, denying an appeal by Edwin Kainth, on behalf of the Motel Association concerning the action of the Planning Commission resulting in the approval of Commercial Cannabis Business Permit #22-02R, and making certain findings in connection therewith; and,

B. Adopting **Resolution 2023-33**, a Resolution of the City Council of the City of Merced, California, denying an appeal by Rajiv “Raj” J. Pottabathni, on behalf of JIVA MCE, LLC, concerning the action of the Planning Commission resulting in the approval of Commercial Cannabis Business Permit #22-02R, and making certain findings in connection therewith.

I.8. [23-254](#)

SUBJECT: Approval of a Legal Services Agreement with Telecom Law Firm PC in the Amount not to Exceed \$50,000 and Approval of Supplemental Appropriation from the Unreserved, Unencumbered General Fund Balance in the Amount of \$50,000 Transferring to Fund 7008-Support Services and Appropriating to IT Admin Professional Services

REPORT IN BRIEF

Considers approving a Legal Services Agreement with the Law Firm Telecom Law Firm PC in the Amount Not to Exceed \$50,000 and Approval of Supplemental Appropriation from the Unreserved, Unencumbered

General Fund Balance in the Amount of \$50,000, Transferring to Fund 7008-Support Services and Appropriating to IT Admin Professional Services

RECOMMENDATION

City Council - Adopt a motion:

A. Approving A Services Agreement with Telecom Law Firm PC in the amount of \$50,000; and,

B. Approving a of Supplemental Appropriation from the Unreserved, Unencumbered General Fund Balance in the Amount of \$50,000, transferring to Fund 7008-Support Services and Appropriating to IT Admin Professional Services; and,

C. Authorizing the City Manager to execute the Legal Services Agreement with Telecom Law Firm PC; and,

D. Authorizing the Finance Officer to make the necessary budget adjustments.

I.9. [23-333](#)

SUBJECT: Approval to Waive the Competitive Bidding Requirements and Approval of Agreement for an additional \$1,600 with Granicus, LLC. to Provide Professional Services for Minor Website and Intranet Cybersecurity Upgrade Totaling Contract Amounts not to Exceed \$81,614.33

REPORT IN BRIEF

Considers approving to waive the competitive bidding requirement and approving the agreement for an additional \$1,600 with Granicus, LLC. to provide professional Services for minor website and intranet cybersecurity upgrade totaling contract amounts not to exceed \$81,614.33.

RECOMMENDATION

City Council - Adopt a motion:

A. Waiving the City's competitive bidding requirement as permitted by Merced Municipal Code section 3.04.210 due to sole sourcing; and,

B. Approving a new agreement with Granicus LLC. in the amount of \$1,600 for professional services for minor website and intranet cybersecurity upgrade totaling a not to exceed amount of \$81,614.33 for all contracts; and,

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

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. [23-219](#)

SUBJECT: Public Hearing to Consider General Plan Amendment #22-03, Initiated by Eric Pluim on Behalf of Gateway Park Development Partners, LLC.; This Application Involves a Request to Change the General Plan Roadway Classification from Divided Arterial to Collector for a Portion of Mission Avenue from Coffee Street East to the End of the City Limits at Tower Road (Extended)

REPORT IN BRIEF

Request for City Council approval of a General Plan Amendment to amend the roadway classification from Divided Arterial to Collector in the General Plan Circulation Element for a portion of Mission Avenue.

RECOMMENDATION

City Council - Adopting **Resolution 2023-31**, A Resolution of the City Council of the City of Merced, California, approving an Addendum to the General Plan EIR (Environmental Review #22-25) and General Plan Amendment #22-03 Changing the Roadway Classification from Divided Arterial to Collector for a Portion of Mission Avenue from Coffee Street East to the End of the City Limits at Tower Road (Extended).

J.2. [23-343](#)

SUBJECT: Public Hearing to Consider the Annexation of Certain Property into Community Facilities District (CFD) No. 2003-2 (Services), Calling and Holding a Special Election for Annexation No. 23 into CFD No. 2003-2 (Services; Canvassing the Results of the Election Held within Annexation No. 23 of Said District, and Annexing Annexation No. 23 to Said District and Authorizing the Levy of a Special Tax Within Said Annexation No. 23. Annexation No. 23 Consists of Approximately 8.16 Acres of Land Generally Located at the Southwest Corner of Campus Parkway and Coffee Street

REPORT IN BRIEF

Hold a public hearing and election for annexation into Community Facilities District No. 2003-2 (Services) for the approximately 8.16 acres of land generally located at the southwest corner of Campus Parkway and Coffee Street.

RECOMMENDATION

City Council - Adopt a motion:

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

B. Adopting **Resolution 2023-28**, 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 special election related to Annexation No. 23; and,

C. Holding an election; and,

D. Adopting **Resolution 2023-29**, 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. 23 of said District; and,

E. Adopting **Resolution 2023-30**, 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. 23 to said district and authorizing the levy of a special tax within said Annexation No. 23.

J.3. [23-374](#)

SUBJECT: Public Hearing - Receipt of Public Comment Regarding the U.S. Department of Housing and Urban Development (HUD) 2023 Annual Action Plan; Extension of the Public Review and Comment Period; and, Continue the Public Hearing and Anticipated Approval of the Annual Action Plan to the June 5, 2023, City Council Meeting

REPORT IN BRIEF

This report requests that the City Council open the public hearing for the Annual Action Plan, extend the public review and comment period, and continue the public hearing to the City Council meeting of June 5, 2023.

RECOMMENDATION

City Council -

A. Open the Public Hearing to receive new public comment regarding the Draft 2023 Annual Action Plan; and,

B. Adopt a motion continuing the Public Hearing to the June 5, 2023, City Council meeting and extending the ongoing 30-Day Public Review and Comment Period to May 15, 2023, at 5:00 p.m.

K. REPORTS

K.1. [23-390](#)

SUBJECT: Report on the Implementation of the City Council Adopted American Rescue Plan Act (ARPA) Strategic Investment Plan, Including Seeking Direction on Program Elements for the Stimulus Program, Utility Bill Relief Program and Other Reinvestment Options

REPORT IN BRIEF

Report on the implementation of the City Council adopted American Rescue Plan Act (ARPA) Strategic Investment Plan, including seeking direction from the City Council on program elements as they relate to the Stimulus Program, Utility Bill Relief Program, and other Reinvestment options the continued impact of COVID-19 to essential services.

RECOMMENDATION

Provide staff direction on program elements and reinvestment options related to the implementation of the ARPA Strategic Investment Plan and continued impact of COVID-19 to essential services.

L. BUSINESS

L.1. [23-326](#)

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. [23-328](#)

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