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, October 17, 2016 | **7:00 PM** | **Council Chambers, 2nd Floor, Merced Civic Center, 678 W. 18th Street, Merced, CA 95340**

Closed Session at 6:30 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. 16-494

SUBJECT: CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: 725 West 18th Street, Merced, CA, APN: 031-052-006, APN: 031-052-007, APN: 031-052-008, APN: 031-052-010; Agency Negotiator: Frank Quintero, Director, Economic Development; Negotiating Parties: City of Merced and Fluetsch and Busby Insurance; Under Negotiation: Price and Terms of Payment.

C. CALL TO ORDER

C.1. Invocation - Monika Grasley, Lifeline Community Development Corp.

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. 16-495 **SUBJECT:** Award for G Street Undercrossing

REPORT IN BRIEF
Presented by the Native Daughters of the Golden West.

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. 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 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 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.

I.1. 16-461 **SUBJECT:** Information Only-Planning Commission Minutes of September 7, 2016

RECOMMENDATION
For information only

I.2. 16-466

SUBJECT: Information Only - Site Plan Review Committee Minutes of August 25, 2016

RECOMMENDATION
For information only.

I.3. 16-467

SUBJECT: Information Only - Traffic Committee Minutes of July 12, 2016

RECOMMENDATION
For information only.

I.4. 16-474

SUBJECT: Information Only-Building & Housing Board of Appeals Minutes of August 25, 2016

RECOMMENDATION
For information only.

I.5. 16-489

SUBJECT: City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of March 1, 2016 and September 19, 2016.

REPORT IN BRIEF
Official adoption of previously held meeting minutes.

RECOMMENDATION
City Council/Public Financing and Economic Development/Parking Authority - Adopt a motion approving the meeting minutes of March 1, 2016 and September 19, 2016.

I.6. 16-490

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.7. 16-468

SUBJECT: First Amendment to Services Agreement with UC Merced

REPORT IN BRIEF

The City Council will consider adopting the First Amendment to the Services Agreement with UC Merced in order to allow UC Merced to pay for sewer fees over a 4-year time period.

RECOMMENDATION

City Council - Adopt a motion approving the First Amendment to the amended and restated contract for water, sewer, and other services between the City of Merced and the Regents of the University of California and authorizing the City Manager to sign the First Amendment.

I.8. 16-464

SUBJECT: Execute Caltrans Agreement to Prepare Bike and Pedestrian Plan

REPORT IN BRIEF

To receive authorization for the City Manager to sign an agreement (Attachment 1) to receive funds from Caltrans for use in preparing a bike and pedestrian plan.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2016-53**, a Resolution of the City Council of the City of Merced, California, approving State Funded Projects Program Supplement Agreement No. 0063 Rev. 000., and;

B. Accepting and increasing revenue in the amount of $135,000 and appropriating the same in Fund 017 Development Services.

I.9. 16-462

SUBJECT: Street Closure #16-15 Merced County Office of Education "Lights On After School" (15th Annual)

REPORT IN BRIEF

The Merced County Office of Education requests the use of City streets and Bob Hart Square to host “Lights on After School” on Thursday, October 20, 2016, from 1:30 p.m. to 10:00 p.m.

RECOMMENDATION

City Council - Adopt a motion approving the street closures of W. Main Street between M and K Streets, Canal Street between W. Main and W. 18th Streets, and the use of Bob Hart Square from 1:30 p.m. to 10:00 p.m. as requested by Merced County Office of Education for “Lights on After School” on Thursday, October 20, 2016, subject to the details and

conditions outlined in the administrative staff report.

I.10. 16-465

SUBJECT: Award Bid to Mozingo Construction for the Gerard Avenue Sewer Main Replacement Phase 3 Project 116014

REPORT IN BRIEF

Consider awarding a construction contract in the amount of $1,655,485.00 for the replacement of sewer main along Gerard Avenue.

RECOMMENDATION

City Council - Adopt a motion awarding the Gerard Avenue Sewer Main Replacement Phase 3 Project 116014, to Mozingo Construction, in the amount of $1,655,485.00; and authorizing the City Manager to execute the necessary documents and to approve change orders not to exceed 10% of the total contract.

I.11. 16-435

SUBJECT: First Amendment to Agreement for Professional Services with AECOM Technical Services, Inc., for Well Site Design Services, Project No. 113026

REPORT IN BRIEF

Authorizes an amendment to a contract for well design services for municipal Well 21 at the intersection of Bellevue Road and G Street.

RECOMMENDATION

City Council - Adopt a motion approving an amendment to an Agreement for Professional Services with AECOM Technical Services, Inc., in the amount of $9,769 for engineering design services; and, authorizing the City Manager to execute the necessary documents.

I.12. 16-473

SUBJECT: Administering Agency State Program Supplement Revision for Active Transportation Program (ATP) Cycle 1 Grant for the Preliminary Engineering Phase of the Highway 59 Multi-Use Pathway Crossing Project 115047

REPORT IN BRIEF

Consideration of Resolution approving a California Department of Transportation Program Supplement revision for the use of ATP Grant funding for the preliminary engineering phase of the pedestrian crossing project.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2016-54,** a Resolution of the City Council of the City of Merced, California,

Approving Federal-Aid Projects Program Supplement Agreement No. 028-N1; and, authorizing the City Manager or his designee to execute all necessary documents.

I.13. 16-484

SUBJECT: Request to Under Fill an Assistant Engineer Position with an Engineering Technician II

REPORT IN BRIEF

Under fill an Assistant Engineer with an Engineering Technician II in the Development Services Department.

RECOMMENDATION

City Council - Adopt a motion approving the recommendation of staff to under fill the position of Assistant Engineer with an Engineering Technician II with existing Development Services Department payroll accounts.

I.14. 16-479

SUBJECT: Street Closure Veterans Parade

REPORT IN BRIEF

Consider allowing the use of City streets on November 11, 2016 for the Veteran's Day 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 Main Street to 20th Street as requested by Kimberly Sanchez, Merced County Veterans Services for the 2016 Veterans Day Parade on Friday, November 11, 2016. The street closures will be between 12:00 PM and 4:00 PM; subject to the conditions outlined in the administrative report.

I.15. 16-475

SUBJECT: Accept Donated Food Products for the Fire Department's Open House and Firefighter's Pancake Breakfast

REPORT IN BRIEF

Accept donated food products from McLane Company, Inc. for the Fire Department's Open House and Firefighter's Pancake Breakfast and Approve Donation Agreement.

RECOMMENDATION

City Council - Adopt a motion accepting the food product donation from the McLane Company, Inc. for the City Fire Department's Open House and Firefighter's Pancake Breakfast and authorizing the City Manager to execute the Donation Agreement.

I.16. 16-488

SUBJECT: City Council Response to 2015-2016 Grand Jury Report

REPORT IN BRIEF

City Council Response to the 2015-2016 Grand Jury Report Regarding Merced County's Efforts to End Homelessness.

RECOMMENDATION

City Council - Adopt a motion approving the response to the 2015-2016 Grand Jury Investigation (No. 15-08-17) regarding Efforts to End Homelessness and authorizing the submittal of the response to the Merced County Civil Grand Jury by the Mayor.

I.17. 16-491

SUBJECT: Letter of Opposition to Prop 57

REPORT IN BRIEF

Letter of opposition to Proposition 57 - The Public Safety and Rehabilitation Act of 2016 as requested by Larry D. Morse, District Attorney for Merced County.

RECOMMENDATION

City Council - Adopt a motion authorizing the Mayor to sign the letter of opposition to Prop 57.

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. 16-476

SUBJECT: Continued Public Hearing - Merced Fire Department User Fees

REPORT IN BRIEF

Public Hearing to hear comments and adopt a resolution updating the Merced Fire Department's user fees.

RECOMMENDATION

City Council - Adopt **Resolution 2016-48**, A Resolution of the City

Council of the City of Merced, California, Adopting Fees for Required Permitted Fire and Life Safety Inspections.

K. BUSINESS

K.1. Request to Add Item to Future Agenda

K.2. City Council Comments

L. ADJOURNMENT

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.1. Meeting Date: 10/17/2016

SUBJECT: CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: 725 West 18th Street, Merced, CA, APN: 031-052-006, APN: 031-052-007, APN: 031-052-008, APN: 031-052-010; Agency Negotiator: Frank Quintero, Director, Economic Development; Negotiating Parties: City of Merced and Fluetsch and Busby Insurance; Under Negotiation: Price and Terms of Payment.

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item F.1. Meeting Date: 10/17/2016

SUBJECT: Award for G Street Undercrossing

REPORT IN BRIEF
Presented by the Native Daughters of the Golden West.

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.1. Meeting Date: 10/17/2016

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

SUBJECT: Information Only-Planning Commission Minutes of September 7, 2016

RECOMMENDATION
For information only

ATTACHMENTS
1. Planning Commission Minutes of 09-07-2016

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, September 7, 2016

Chairperson McLEOD 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: Travis Colby, Robert Dylina, Peter Padilla, Kevin Smith, Kurt Smoot, and Chairperson McLeod

Commissioners Absent: Bill Baker (unexcused)

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, Senior Deputy City Attorney Fincher, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S COLBY-SMITH, and carried by unanimous voice vote (one absent), to approve the Minutes of July 20, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Design Review Application #16-01, initiated by Capital Rivers Commercial and the Vernal Group, on behalf of "J" Street Plaza Company, a California general partnership, property owner. This application involves a request to demolish the existing building and construct a new 2,791-square-foot fast-food restaurant with a drive-thru at the southwest corner of Martin Luther King, Jr. Way and 15th Street (1445 Martin Luther King, Jr. Way) within a Thoroughfare Commercial (C-T) Zone.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #16-20.

Public testimony was opened at 7:13 p.m.

Speaker from the Audience in Favor:

GREG AGUIRRE, property owner, Sacramento

No one spoke in opposition to the project.

Public testimony was closed at 7:14 p.m.

M/S COLBY-DYLINA, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-24, and approve Design Review #16-01, subject to the Findings and twenty-three (23) Conditions set forth in Staff Report #16-20 (RESOLUTION #3073):

AYES:	Commissioners Colby, Dylina, Padilla, Smith, Smoot, and Chairperson McLeod
NOES:	None
ABSENT:	Commissioner Baker
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, Chairperson McLEOD adjourned the meeting at 7:18 p.m.

Respectfully submitted,

KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:

JILL McLEOD, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3073

WHEREAS, the Merced City Planning Commission at its regular meeting of September 7, 2016, held a public hearing and considered **Design Review #16-01,** initiated by Capital Rivers Commercial and the Vernal Group, on behalf of "J" Street Plaza Company, a California general partnership, property owner. This application involves a request to demolish the existing building and construct a new 2,791-square-foot fast-food restaurant with a drive-thru at the southwest corner of Martin Luther King, Jr. Way and 15th Street (1445 Martin Luther King, Jr. Way) within a Thoroughfare Commercial (C-T) Zone; also known as Assessor's Parcel No. 031-241-030; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #16-20; 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 #16-24, and approve Design Review #16-01, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

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

Adopted this 7th day of September 2016

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:DR#16-01 1445 MLK Jr. Way (Popeye's)

Conditions of Approval
Planning Commission Resolution #3073
Design Review #16-01

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibits 2 and 3 (elevations), and Exhibit 4 (landscape plan) -- Attachments B, C, D, and E, except as modified by the conditions.

2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.

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 (with counsel selected by the City), 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 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. All parking lot and building lighting shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots in compliance with the California Energy Code requirements. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent parcels.

7. The applicant shall work with the City's Refuse Department to determine the proper location for a trash enclosure and if a recycling container will be required to comply with AB 341. The container(s) shall be enclosed within a refuse enclosure built to City Standards.

8. Bicycle racks (inverted-U-style) shall be provided at a minimum ratio equal to 5% of the vehicular parking spaces.

9. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repaired if the permit value of the project exceeds $85,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards, installing street trees, and other relevant City of Merced/State/Federal standards and regulations.

10. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

11. The project shall comply with the requirements of the California Urban Level of Flood (200-year Flood) and all FEMA flood zone requirements, where applicable.

12. All necessary permits shall be obtained from Caltrans for any work done within the Caltrans right-of-way.

13. Appropriate turning radii shall be provided within the parking areas to allow for Fire Department and refuse truck access.

14. The project shall comply with all the Post Construction Standards required to comply with state requirements for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).

15. All landscaping in the public right-of-way and on-site shall comply with State Water Resources Control Board Resolution No. 2015-0032 "To Adopt an Emergency Regulation for Statewide Urban Water Conservation" and the City's Water Conservation Ordinance (Merced Municipal Code Section 15.42). Xeriscape or artificial turf shall be used in place of natural sod or other living ground cover. If turf is proposed to be installed in park-strips or on-site, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees, parking lot trees, or other landscaping shall be provided with a drip irrigation or micro-spray system.

16. All landscaping shall be installed prior to occupancy and shall thereafter be maintained in a healthy and aesthetic manner. Parking lot trees are required at a minimum rate of one tree per each six parking spaces. The type of shade trees used for parking lot trees shall be selected from the City's approved tree list and meet the City's minimum requirements of casting shade in the parking lot. Landscaping shall be installed as shown on Exhibit 4 (Attachment E of Staff Report #16-20), except as modified by these conditions.

17. All signing shall comply with the City's Sign Ordinance. Signing on the building shall be calculated based on the tenant's primary and secondary building frontage. One-square-foot of signing for each lineal foot of primary frontage and ½ square-foot of signing for each lineal foot of secondary frontage is allowed. The maximum sign area for the site shall not exceed 500 square feet. A freeway sign in compliance with Merced Municipal Code Section 17.36.810 is allowed. Any signs installed on the existing pylon sign on the adjacent property shall be in compliance with the agreement entitled "Pylon Signs Easement Declaration," recorded as Document #41922 on November 19, 1998 (refer to Attachment G of Staff Report #16-20) and the City's sign ordinance.

18. All mechanical equipment shall be screened from public view.

19. The premises shall remain clean and free of debris and graffiti at all times.

20. Outdoor seating is not shown on the site plan and is not approved with this application. Prior to any outdoor seating being installed, approval must be obtained by the Planning Department. Additional parking

spaces may be required if the total number of seats for the restaurant exceeds 48.

21. If it is determined that the access easement running east and west from Martin Luther King, Jr. Way to the western property line is still valid, plans submitted for building permit review shall show the easement area. If the easement is still valid, all improvements shall be located outside the easement area. In addition, plans shall show the right-of-way dedication at the corner of Martin Luther King, Jr. Way and 15th Street dedicated by the deed recorded as Document #2006-057480 in Merced County Records.

22. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.

23. Any music played over the outdoor speakers mounted to the building walls shall be kept to a minimum noise level so as not to travel outside the immediate area around the building.

n:shared:planning:PC Resolutions: DR #16-01 Exhibit A

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.2. Meeting Date: 10/17/2016

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

SUBJECT: Information Only - Site Plan Review Committee Minutes of August 25, 2016

RECOMMENDATION
For information only.

ATTACHMENTS
1. Site Plan Review Committee Meeting minutes of 8-25-2016

CITY OF MERCED
Site Plan Review Committee

MINUTES

Planning Conference Room
2nd Floor Civic Center
Thursday, August 25, 2016

Chairperson GONZALVES called the meeting to order at 1:34 p.m.

ROLL CALL

Committee Members Present:	Director of Development Services Gonzalves, City Engineer Roschen, and Plan Examiner England (for Assistant Chief Building Official Graves)
Committee Members Absent:	None
Staff Present:	Planning Manager Espinosa and Planner/Recording Secretary Mendoza-Gonzalez

1. **MINUTES**

M/S ROSCHEN-ENGLAND, and carried by unanimous voice vote, to approve the Minutes of July 28, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Site Plan Application #402, submitted by Mainzer Theater Merced, LLC, property owner(s), to allow a mixed-use business with a sit-down restaurant (with alcohol service), an entertainment stage, 4 bowling lanes, and a theater/lecture hall within an existing building located at 655 W. Main Street within a Central Commercial (C-C) Zone.

Planner MENDOZA-GONZALEZ reviewed the application for this item. For further information, refer to Draft Site Plan Review Committee

Resolution #402. Chairperson GONZALVES noted that Condition #4 should be expanded to include some fire-related requirements.

M/S ENGLAND-ROSCHEN, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-25, and approve Site Plan Application #402, subject to the Findings and sixteen (16) conditions set forth in the Draft Resolution #402 with modification to Condition #4 as follows:

(Note: Strikethrough deleted language, underline added language.)

"4. Notwithstanding all other conditions, all construction and improvements shall be in strict accordance with Zoning, Building, and all other codes, ordinances, standards, and policies of the City of Merced including, but not limited to, fire sprinklers and fire life safety systems."

AYES: Committee Members England, Roschen, and Chairperson Gonzalves
NOES: None
ABSENT: None

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

There was no discussion regarding the calendar of meetings/events.

6. ADJOURNMENT

There being no further business, Chairperson GONZALVES adjourned the meeting at 2:00 p.m.

Respectfully submitted,

Julie Nelson for Kim Espinosa

Kim Espinosa, Secretary
Merced City Site Plan Review Committee

APPROVED:

for

DAVID B. GONZALVES, Chairperson/
Director of Development Services
Merced City Site Plan Review Committee

CITY OF MERCED
SITE PLAN REVIEW COMMITTEE
RESOLUTION #402

Mainzer Theater Merced, LLC	Allow a mixed-use business with a sit-down restaurant (with alcohol service), an entertainment stage, 4 bowling lanes, and a theater/lecture hall inside an existing building.
APPLICANT	PROJECT
P.O. Box 49	655 W. Main Street
ADDRESS	PROJECT SITE
Merced, CA 95341	031-133-013
CITY/STATE/ZIP	APN
(919) 669-9650	Central Commercial (C-C)
PHONE	ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Merced City Site Plan Review Committee considered and approved Site Plan Review Application #402 on August 25, 2016, submitted by Mainzer Theater Merced, LLC, property owner(s), to allow a mixed-use business with a sit-down restaurant (with alcohol service), an entertainment stage, 4 bowling lanes, and a theater/lecture hall within an existing building located at 655 W. Main Street within a Central Commercial (C-C) Zone. Said property being more particularly described as Lots 9 and 10 from Block 164 as shown on that Map entitled "Supplemental Map to Town of Merced Secs. 24 & 25, T. 7S. R. 13 E., Secs. 19 & 30, T. 7S. R. 14 E., Merced Co. Cal., on Line of Visalia Division Central Pacific Railroad," recorded in Volume 2 of Page 12 of Parcel Maps, Merced County Records; also known as Assessor's Parcel Number (APN) 031-133-013.

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA), and is in accordance with Section 15301 (a) (Exhibit J); and,

WHEREAS, the Merced City Site Plan Review Committee makes the following Findings:

A) The proposed dine-in restaurant (with alcohol service), entertainment stage, and theater/lecture hall comply with the City of Merced General Plan designation of Regional/Community Commercial (RC) and the zoning designation of Central Commercial (C-C).

B) The bowling alley is considered an ancillary use due to the limited number of proposed bowling lanes (4).

C) The current Zoning Ordinance classifies a bowling alley as a conditional use within the C-C zone. However, the City is in the process of adopting a new Zoning Ordinance (ZOA #16-01 is scheduled for City Council review on

September 6, 2016). The proposed Zoning Ordinance allows bowling alleys within the C-C Zone with a Site Plan Review Permit instead of a Conditional Use Permit. Staff has determined that the proposed bowling lanes may be reviewed by the Site Plan Review Committee, because that is consistent with the proposed Zoning Ordinance and because the limited number of bowling lanes (4) should not cause a great impact to the surrounding area.

D) The restaurant will serve alcohol as an ancillary use only (see Condition #10).

E) The applicant is not requesting approval for a bar or a night club (Exhibit H). The current Zoning Ordinance and the proposed Zoning Ordinance Amendment #16-01 require a Conditional Use Permit for those uses within the C-C Zone (see Condition #14).

F) The subject site is located within the City's Downtown Parking District, which does not require off-street parking for uses on the first floor. Parking for the first floor can be served by five City-owned parking lots located within a 400-foot radius of the subject site. However, off-street parking shall be required for uses (theater) on the second floor. The parking requirement for a theater is one parking stall for every four seats. Based on the proposed 158-seat theater, 40 off-street parking stalls shall be required (see Condition #15). Parking may be provided on a parking lot located within 400 feet of the subject site (through a parking agreement as outlined in MMC Section 20.58.370.C.) or as otherwise allowed within the new Zoning Ordinance.

G) The Mainzer Theater is not part of the Federal, State, or Local historic registry.

H) The applicant is proposing to not make any major modifications to the exterior of the building. The applicant is proposing to make minor exterior modifications such as replacing windows, adding exit doors, painting the exterior, etc (see Conditions #12 and #13).

I) There are three PCE (Percloroethylene) groundwater monitoring wells on Main Street, near the southeast corner of the subject site (Attachment I). These monitoring wells shall not be damaged and shall remain accessible during the remodeling process (see Condition #16).

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Review Application #402, subject to the following conditions:

1. All applicable conditions contained in Site Plan Approval Resolution #79-1-Amended ("Standard Conditions for Site Plan Application") shall apply.
2. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply including, but not limited to, the California building code and fire codes.
3. The site shall be constructed as shown on Exhibit B (site plan), Exhibit D (floor plans), Exhibit G (elevations and sections), and as modified by the conditions of approval within this resolution.

4. Notwithstanding all other conditions, all construction and improvements shall be in strict accordance with Zoning, Building, and all other codes, ordinances, standards, and policies of the City of Merced, including but not limited to fire sprinklers and fire life safety systems.
5. All modifications shall meet or exceed the building codes in effect at the time of building permit application submittal. New codes are in effect January 1, 2017.
6. Prior to building permit issuance, the applicant shall obtain approvals from the Merced County Health Department and the San Joaquin Air Pollution Control District.
7. All signing shall comply with the City's Sign Ordinance. Sign permits shall be obtained prior to installing any permanent signing. A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Freestanding or A-frame signs are not allowed.
8. All existing landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.
9. The premises shall remain clean and free of debris and graffiti at all times.
10. The business shall meet all applicable Alcoholic Beverage Control requirements.
11. The business shall meet all applicable Merced County Health Department requirements.
12. Major remodels or site improvements shall require design review approval from the Planning Commission or their designated review board.
13. Exterior painting and minor exterior modifications shall require staff level design review.
14. Approval of this request does not allow the business to operate as a bar or night club per MMC 20.04.075 and 20.04.315 (code references subject to change under new Zoning Code). Bars and night clubs are considered conditional uses and shall require conditional use permit approval from the Planning Commission.
15. The applicant shall provide proof of a parking agreement during the building permit stage. The parking agreement shall comply with MMC Section 20.58.370.C., unless the Zoning Ordinance is amended to allow other means of satisfying parking requirements. Payment of in-lieu fees per MMC 20.58.510 may also be acceptable.
16. The three PCE (Percloroethylene) groundwater monitoring wells in Main Street, near the southeast corner of the subject site, shall not be damaged and shall remain accessible during the remodeling stage.

NOTE: References to specific Zoning Code Sections are subject to change with the adoption of the new Zoning Ordinance, but the provisions themselves remain mostly the same.

If there are any questions concerning these conditions and recommendations, please contact Francisco Mendoza-Gonzalez at (209) 385-6858.

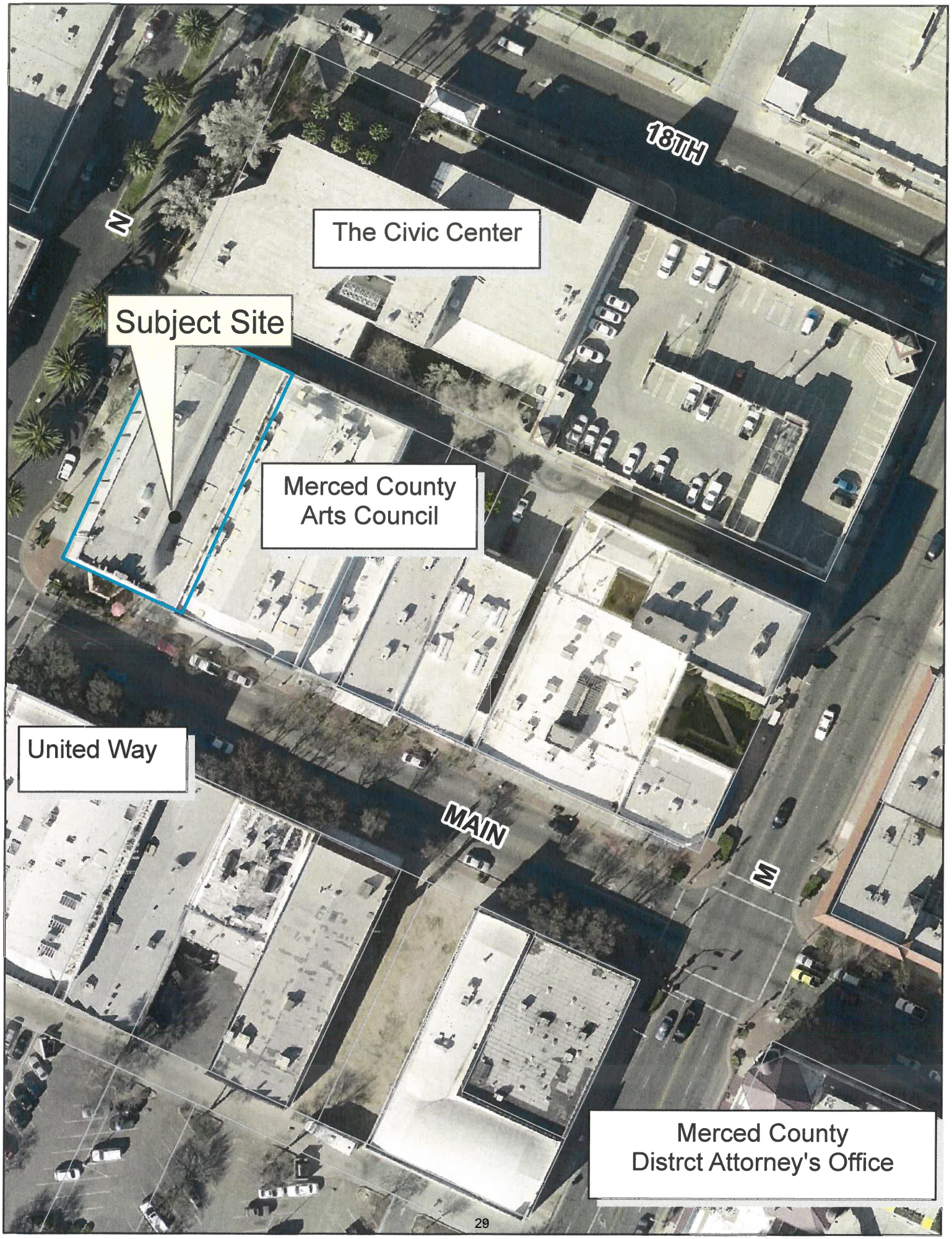
August 25, 2016
DATE

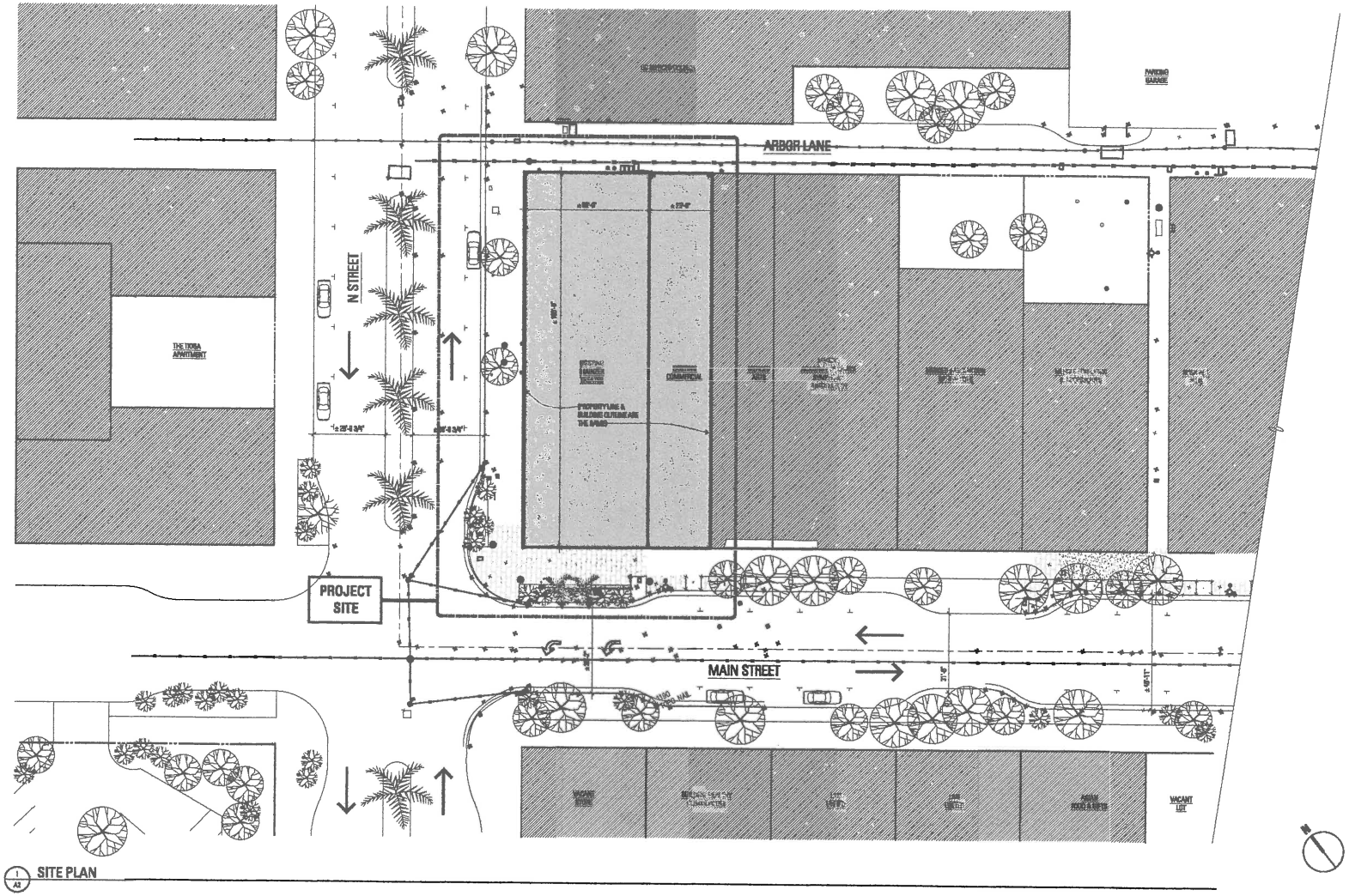
SIGNATURE

Planner
TITLE

Exhibits:

A) Location Map
B) Site Plan
C) Existing Floor Plans
D) Proposed Floor Plans
E) Interior Restoration Diagrams
F) Existing Elevations and Sections
G) Proposed Elevations and Sections
H) Letter from the Applicant (2nd Page Regarding Night Clubs/Bars)
I) PCE Groundwater Monitoring Wells
J) Categorical Exemption


18TH
Z
The Civic Center
Subject Site
Merced County
Arts Council
United Way
MAIN
M
Merced County
Distrct Attorney's Office



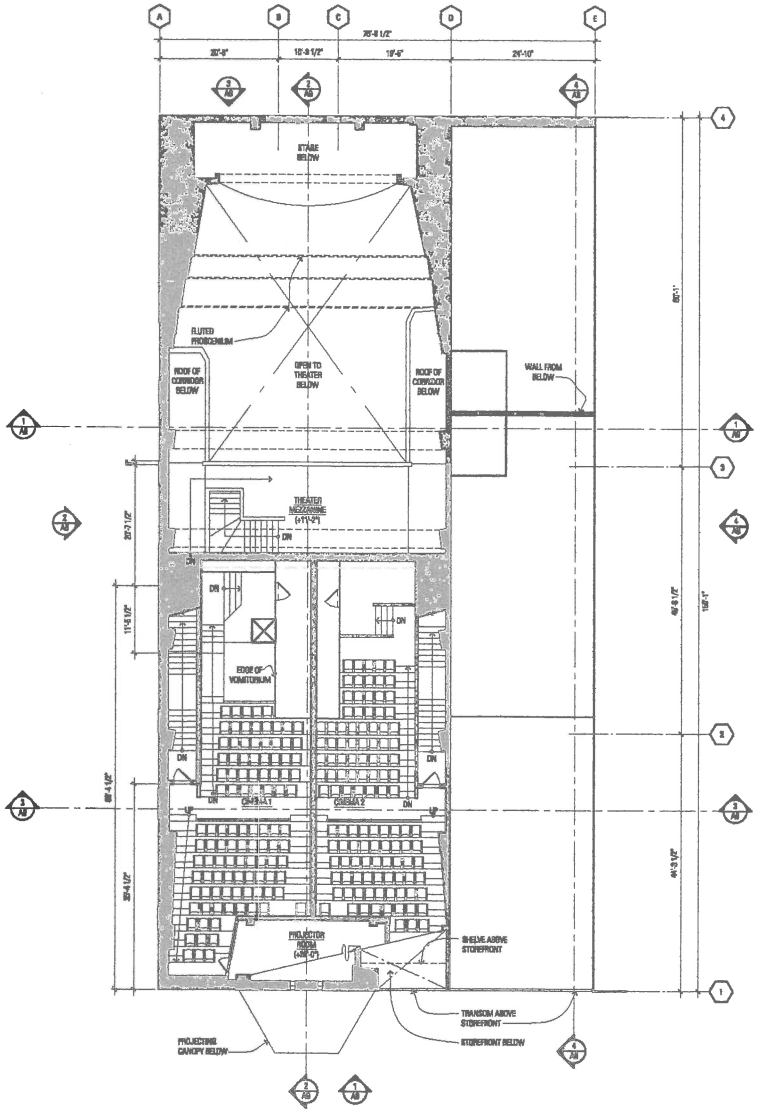
MAINZER THEATER | MERCED, CA

SITE PLAN

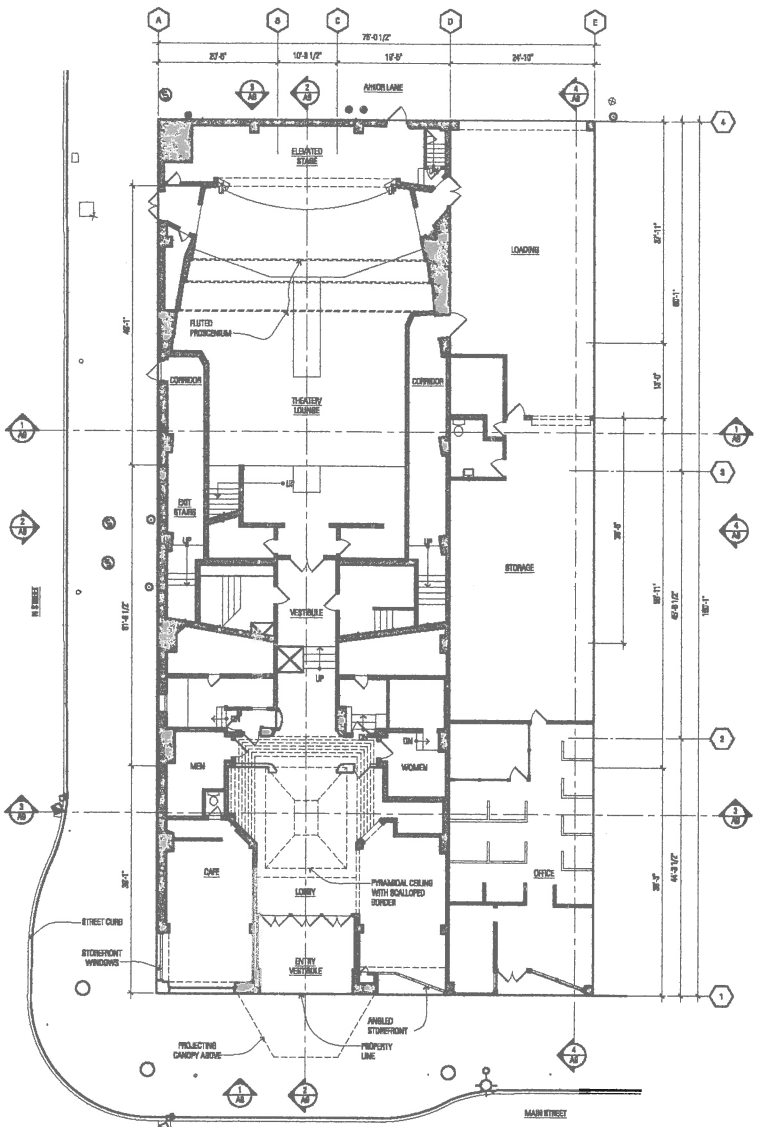
BARarchitects
801 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

15004 | 07.08.2015 | 0 8' 16' 32' 64'

A2



2 A3 SECOND FLOOR PLAN



1 A3 SITE / GROUND FLOOR PLAN

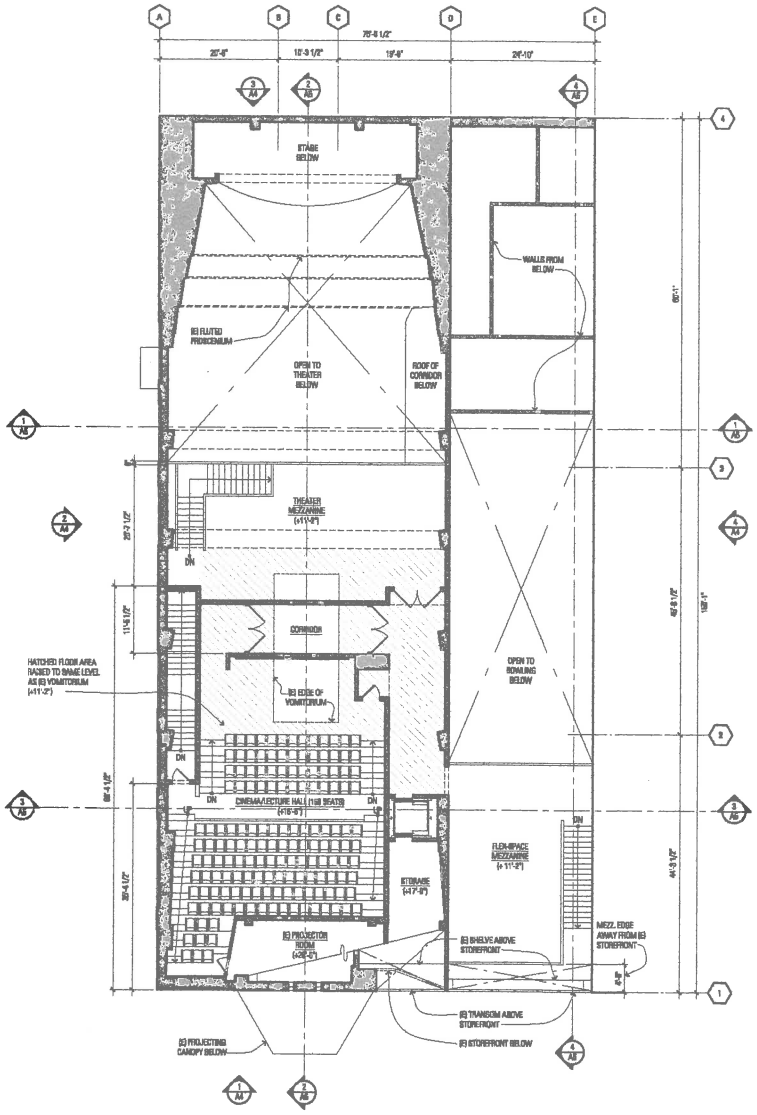
MAINZER THEATER | MERCED, CA

EXISTING GROUND & SECOND FLOOR PLANS

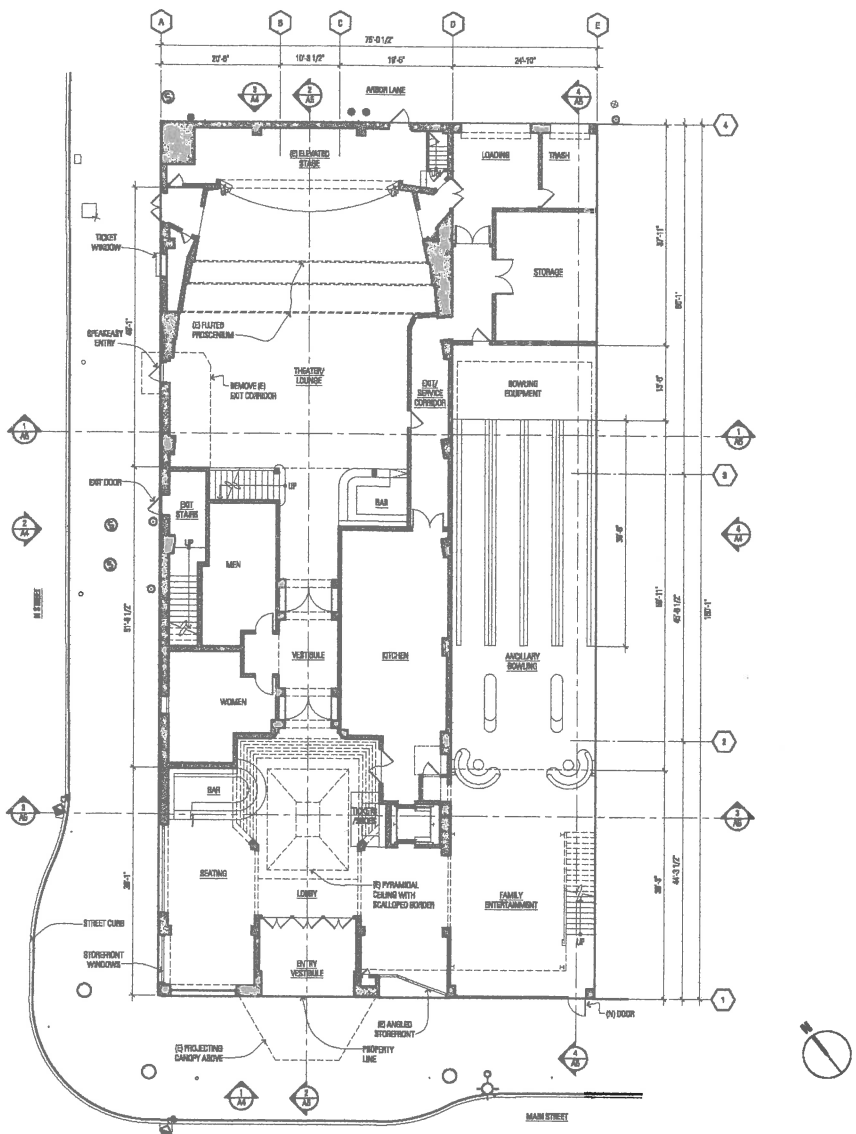
BAR architects
901 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

13004 | 07.08.2015 | 0 4' 8' 16' 32'

A7



2 A3 SECOND FLOOR PLAN



1 A3 SITE / GROUND FLOOR PLAN

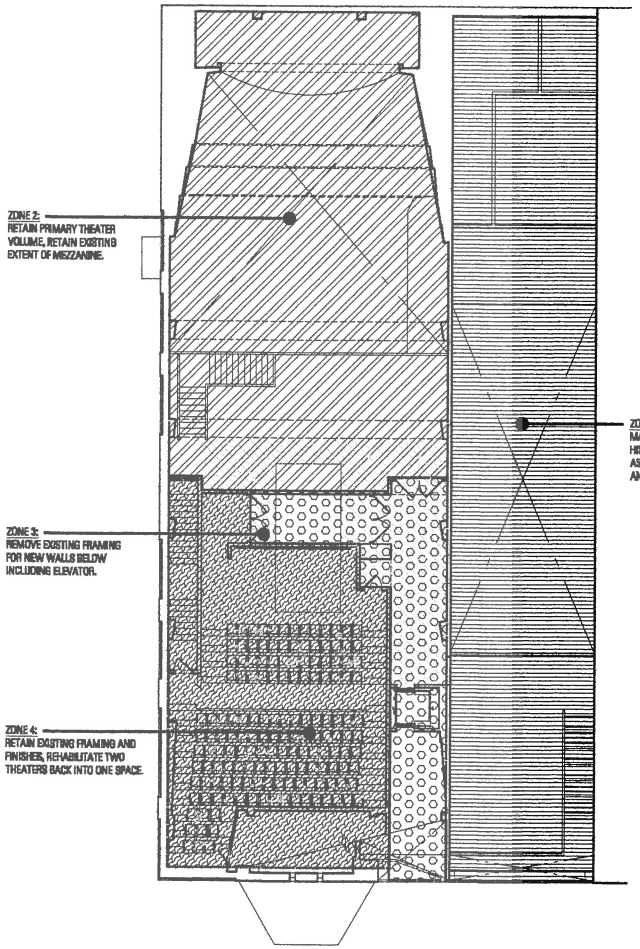
MAINZER THEATER | MERCED, CA

GROUND & SECOND FLOOR PLANS

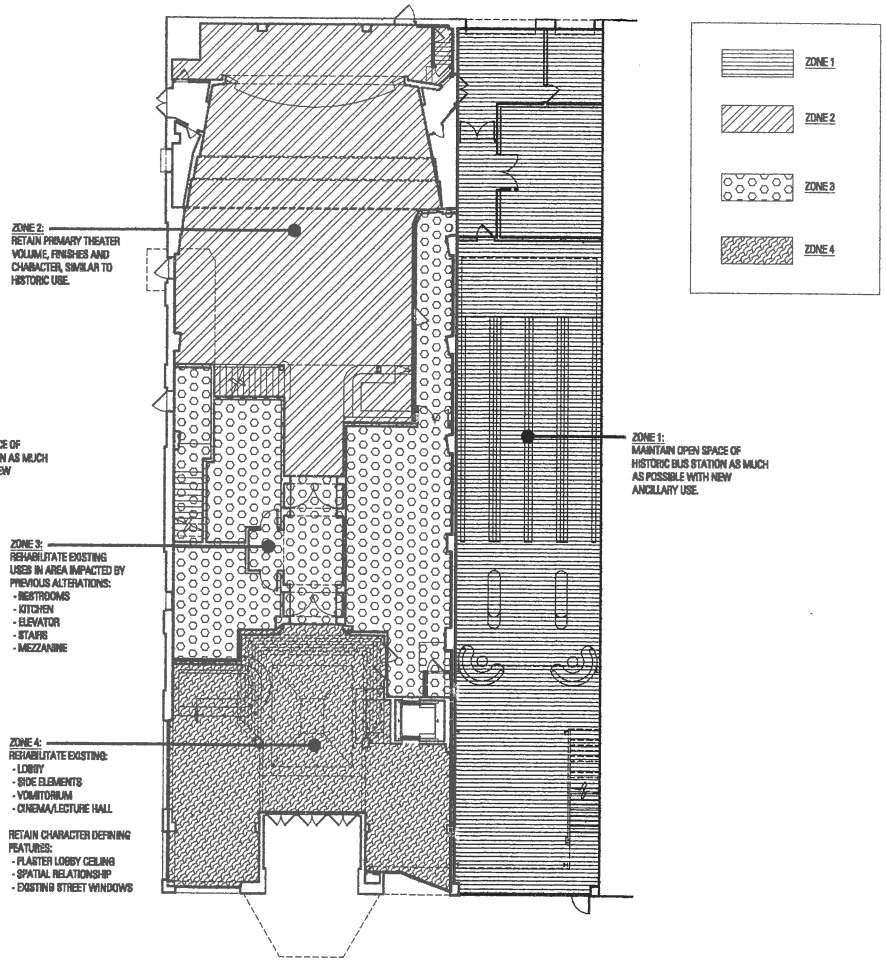
BARarchitects
901 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

19004 | 07.08.2015 | 0 4' 8' 16' 32'

A3



2 A6 HISTORICAL CONTEXT ZONING DIAGRAM - SECOND FLOOR



1 A6 HISTORICAL CONTEXT ZONING DIAGRAM - GROUND FLOOR PLAN

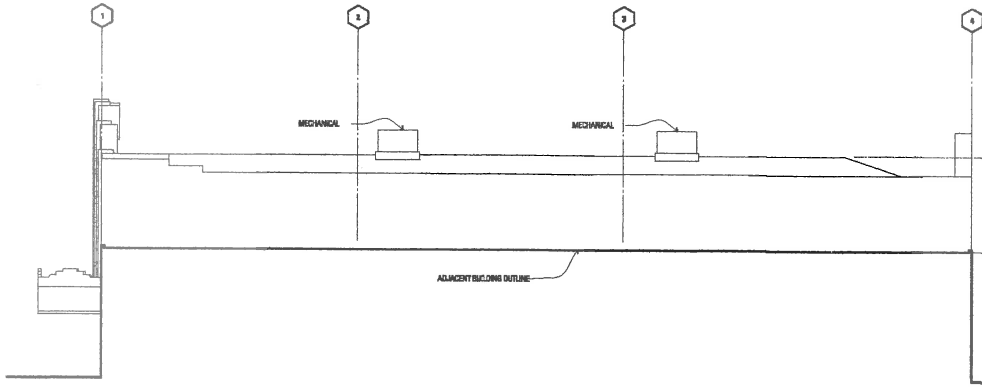
MAINZER THEATER | MERCED, CA

HISTORIC APPROACH DIAGRAMS

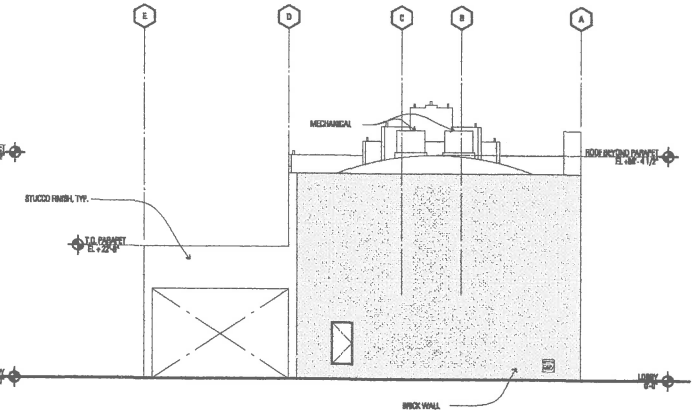
BARarchitects
901 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

15004 | 07.08.2015 | 0 4' 8' 16' 32'

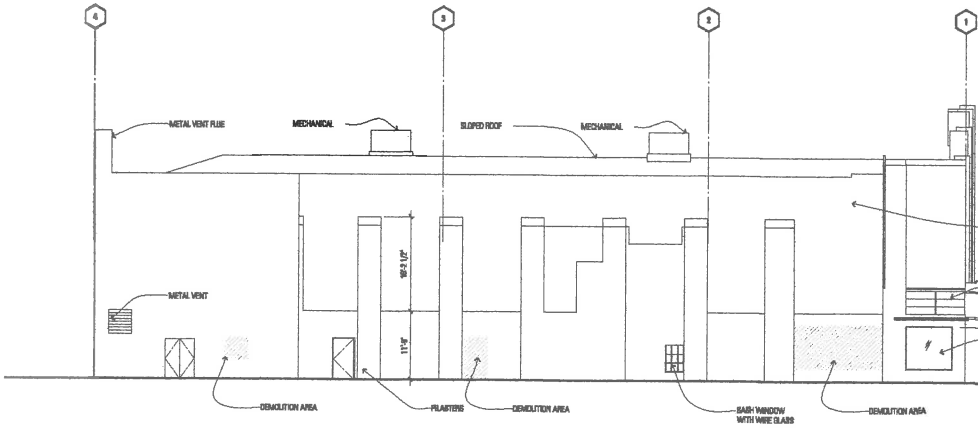
A6



4 A8 EAST ELEVATION



2 A8 NORTH ELEVATION



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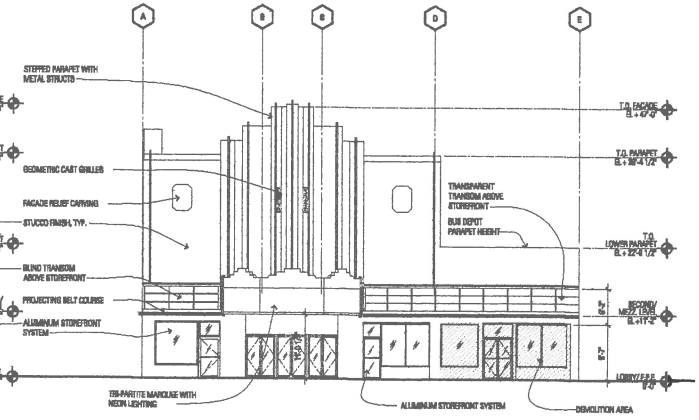


1 A8 SOUTH ELEVATION

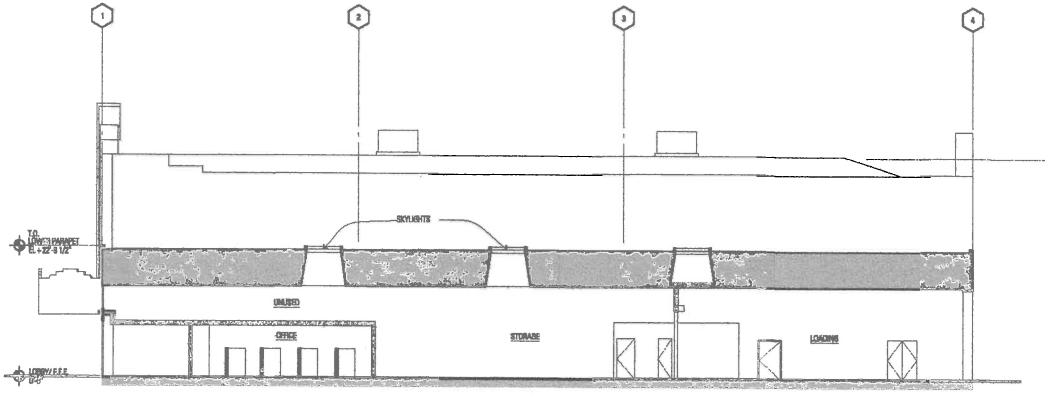
MAINZER THEATER | MERCED, CA

EXISTING BUILDING ELEVATIONS

BARarchitects
901 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

18004 | 07.06.2016 | 0 4' 8' 16' 32'

A8



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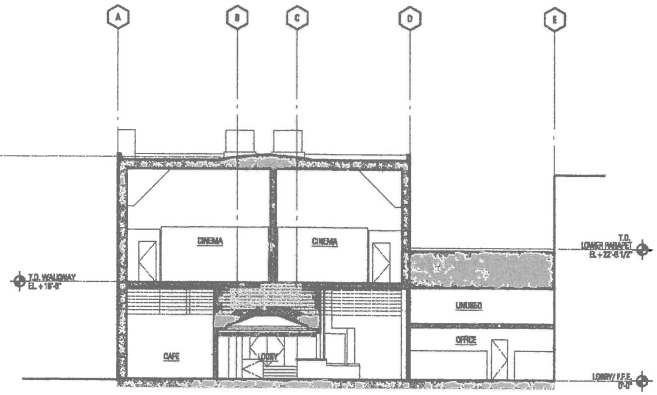

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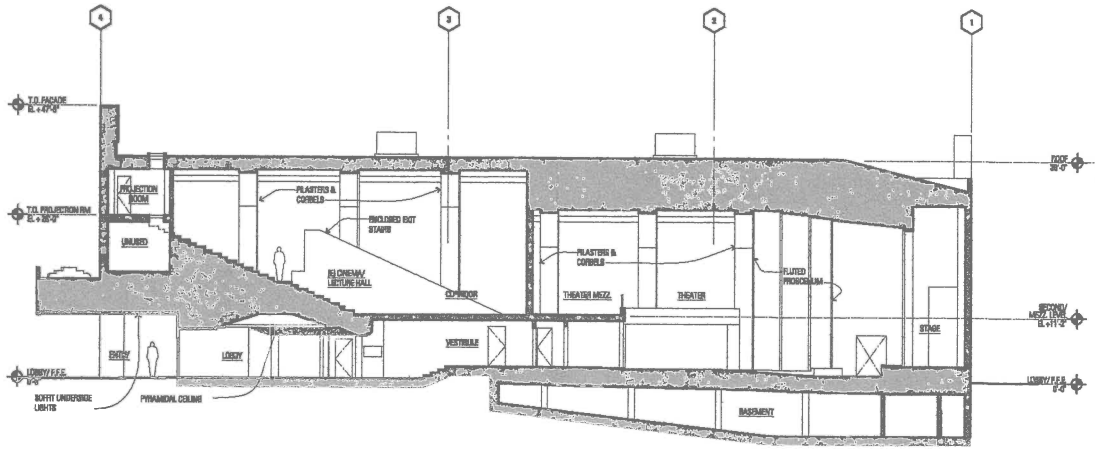

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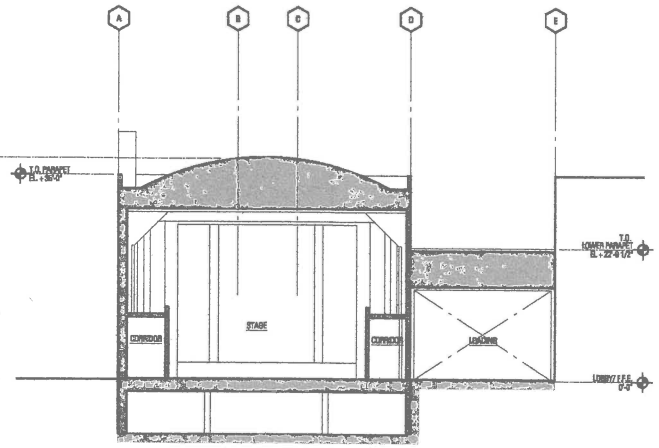


1 / A9 TRANSVERSE SECTION - SOUTH

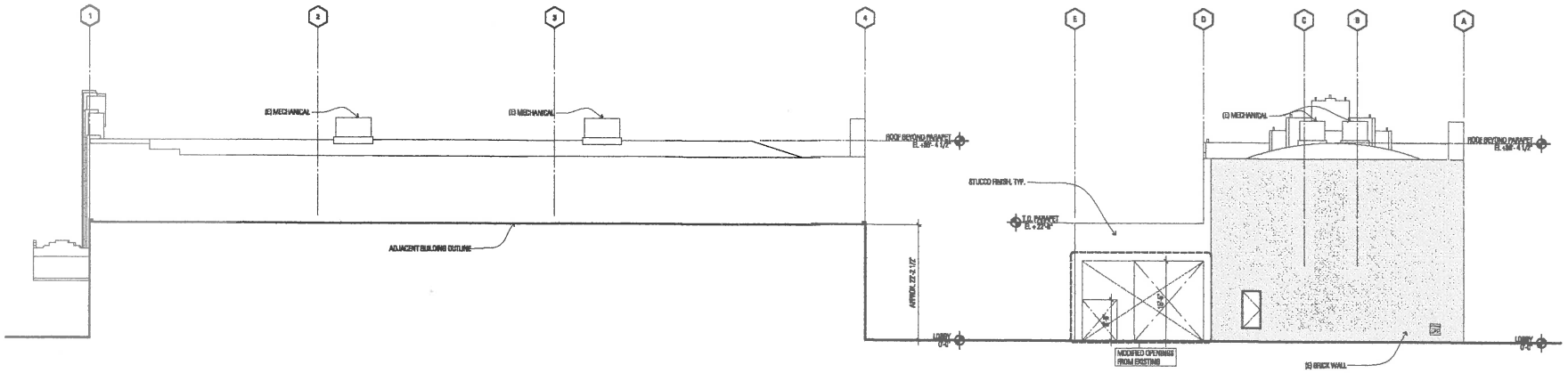
MAINZER THEATER | MERCED, CA

EXISTING BUILDING SECTIONS

BARarchitects
901 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

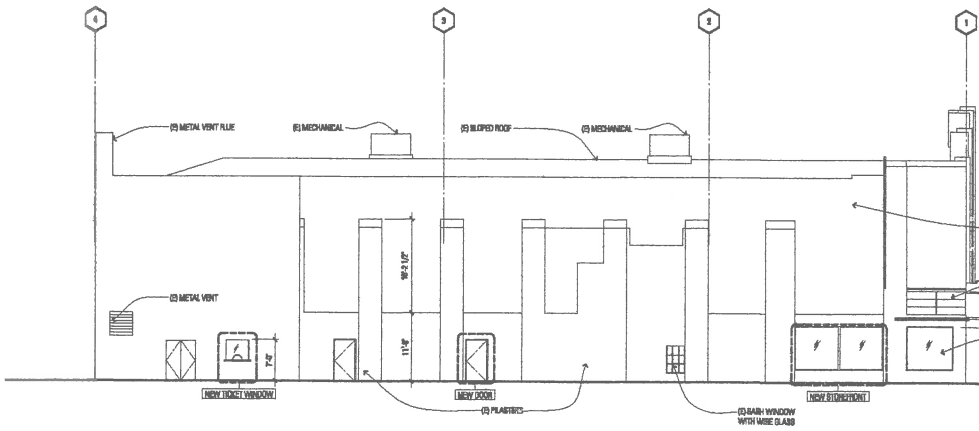
15004 | 07.08.2015 | 0 4' 8' 16' 32'

A9



4 M EAST

3 M NORTH



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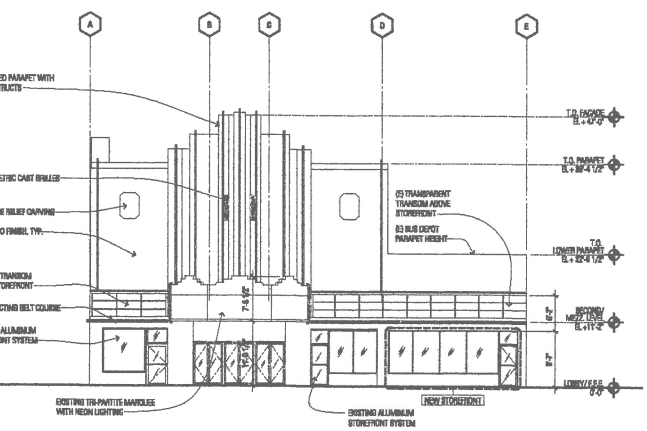


1 M SOUTH

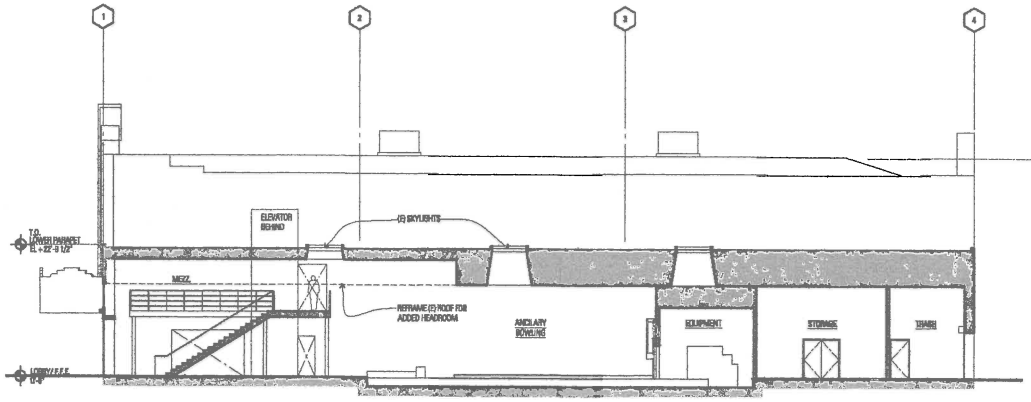
MAINZER THEATER | MERCED, CA

EXTERIOR ELEVATIONS

BAR architects
801 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

18004 | 07.09.2018 | 0 4' 8' 16' 32'

A4



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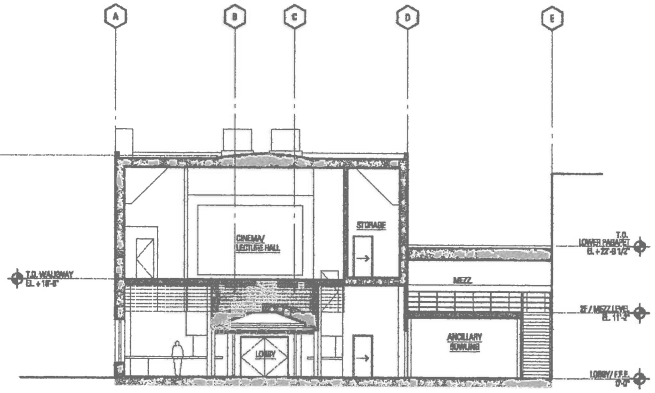
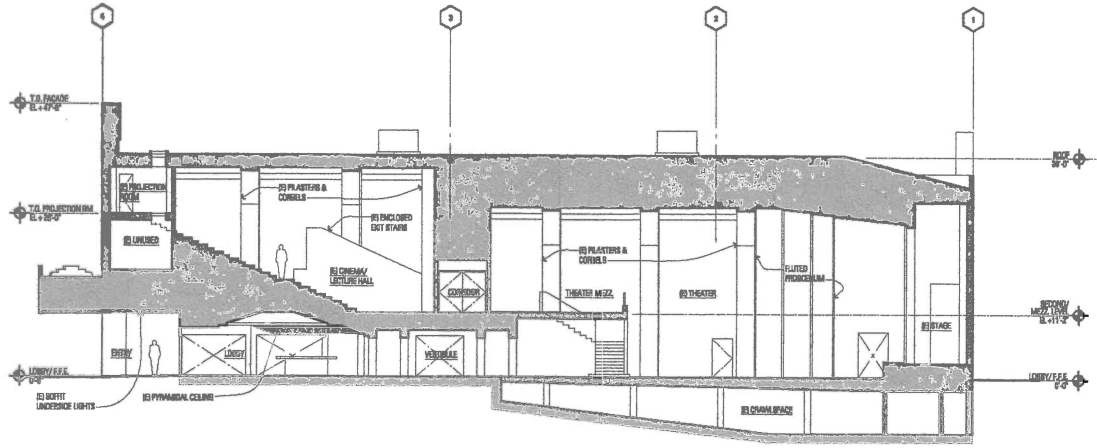
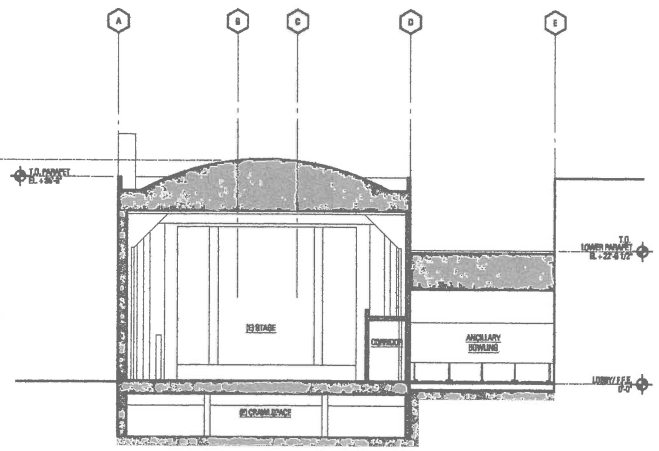


3 / A6 TRANSVERSE SECTION - NORTH



2 / A6 LONGITUDINAL SECTION - WEST



1 / A6 TRANSVERSE SECTION - SOUTH

MAINZER THEATER | MERCED, CA

BUILDING SECTIONS

BAR architects
801 Battery Street, Suite 300 | San Francisco, CA 94111 | 415 293 5700 | www.bararch.com

19004 | 07.06.2016 | 0 4' 8' 16' 32'

A5

Memo

To: City of Merced Planning Division

From: Mainzer Theater Merced, LLC

Date: 7/27/2016

Re: Mainzer Theater Description of Operations; Relevant Zoning Code Provisions

---

The Mainzer Theater renovation project is designed to operate as a restaurant and theater with ancillary, multi-function entertainment space for all ages. The project is located in the C-C zoning district, which provides that "restaurants, theaters, and similar enterprises" are principal permitted uses. (Municipal Code §20.24.020)

The purpose of the C-C district is to "stabilize, improve and protect the commercial characteristics of the central business district of the city." (Municipal Code §20.24.010.) An overarching goal of the project is to preserve the essence of the original theater and celebrate its contribution to downtown Merced, while also updating the spaces and building systems to support the needs and expectations of today's users and operators. This will directly serve the purpose of the district.

As discussed further below, the project fits squarely within the uses anticipated for the district, and it does not require a conditional use permit.

Principal use/operations

The primary operations at the Mainzer Theater shall be (1) a restaurant to service all spaces throughout the building, and (2) a theater. The restaurant is projected to provide the downtown Merced community with lunch, brunch and dinner service. Section 20.04.335 of the Municipal Code defines "restaurant" as "a commercial establishment engaged in the selling of food or drink for consumption on the premises." The proposed restaurant at the Mainzer Theater fits squarely within this definition. The to-be-renovated existing theater space will be used as a theater for various types of movie screenings as well as lecture hall needs.

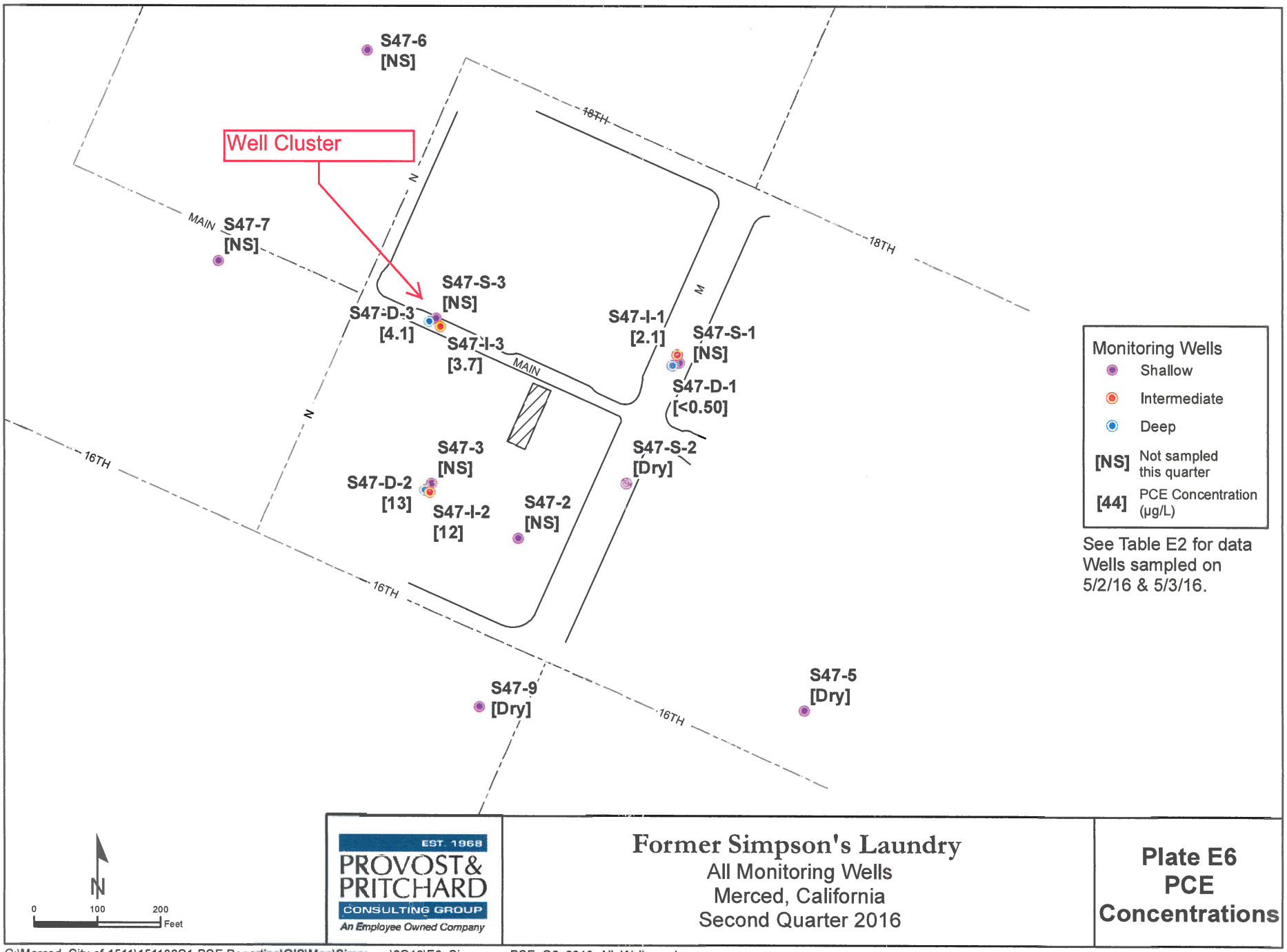
As noted above, "restaurants, theaters, and similar enterprises" are principal permitted uses in the C-C district. (Municipal Code §20.24.020.)

Accessory/ancillary uses and operations

Drinks, both alcoholic and non-alcoholic, will be served from a bar located in the restaurant. Such drink service may be viewed as either a basic element of a restaurant – and therefore entirely within the definition of the permitted "restaurant" use – or as "customarily appurtenant" to a restaurant and therefore an accessory use to the permitted "restaurant" use. (Municipal Code §20.24.030 (defining accessory uses).) All beverage offerings will be included as part of the

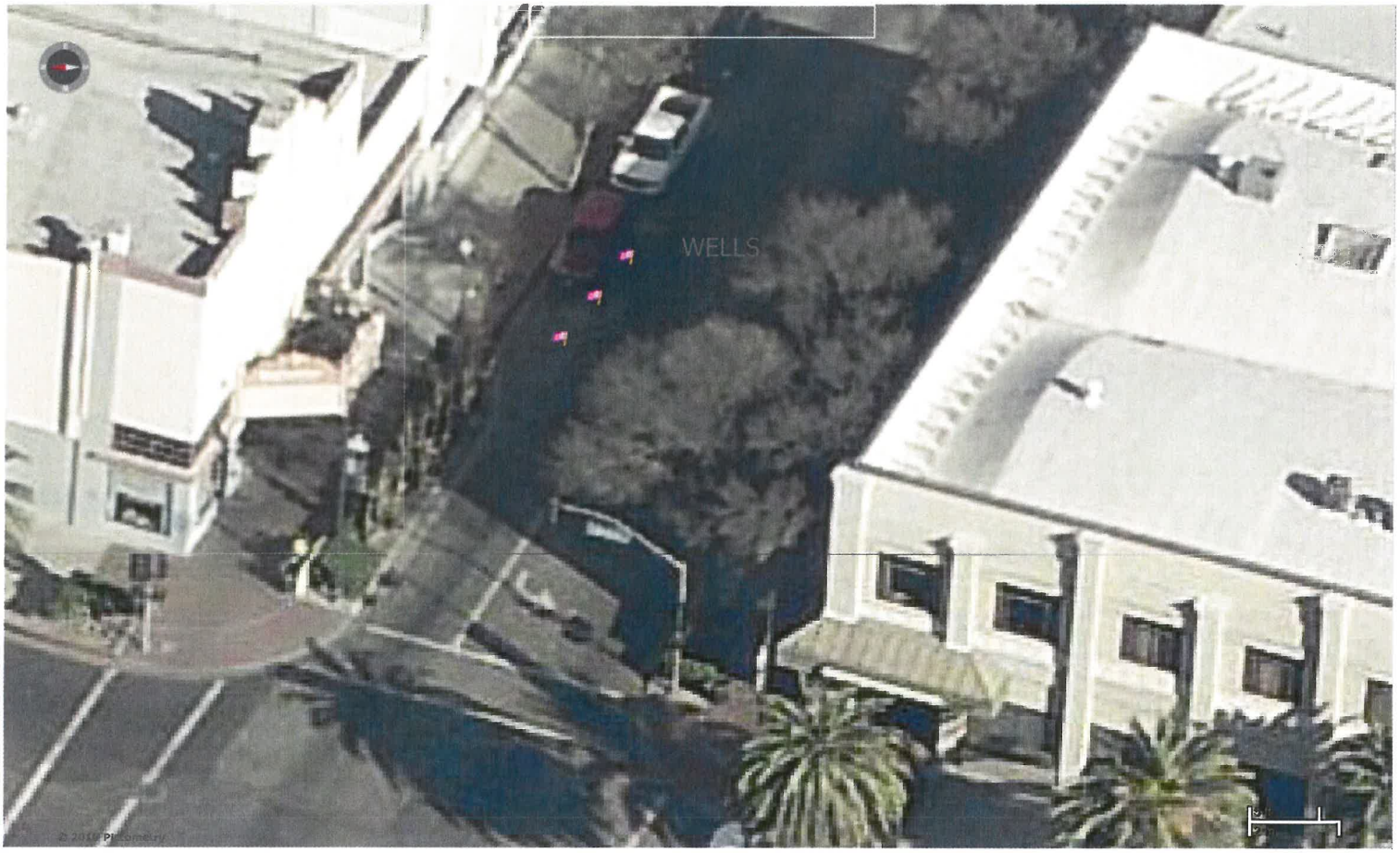
primary restaurant operations. As such, the project does not involve a conditional use such as a "tavern" or "cocktail lounge." (See Municipal Code §§20.24.040(M) (defining both as conditional uses), 20.04.135 and 20.04.425 (defining both terms to be the same as a "bar"), and 20.04.075 (defining "bar" as a use where serving of food is only "incidental" to consumption of alcoholic beverages).

Other accessory uses will include a private event space and four bowling lanes. The private event space will be used for varying types of events, ranging from birthday or graduation parties to private corporate events. The four bowling lanes provide an additional entertainment option that will be available to the restaurant/theater/private event space patrons, but will not operate as a traditional, large-scale bowling alley. As such, they do not constitute a "bowling alley," which is a conditional use in the C-C district that is classed with "nightclubs," "dance halls," and "roller skating rinks." (Municipal Code 20.24.040(D).) Also, to the extent the question may be raised, it is clear that the project is not a "nightclub." The planned operations for the restaurant and the private event space will be open to all ages and be family oriented. Additionally, it is planned to be in use throughout the day. Any live music or entertainment will be in furtherance of restaurant use. This is very different than a "nightclub," which is defined in Municipal Code section 20.04.315 as one which serves alcoholic beverages and "provides a place in the establishment in which patrons are permitted to dance and/or participate in regularly featured entertainment activities or events that include (but are not limited to) drinking games," or which does not serve alcohol but "cater[s] to patrons that are eighteen (18) years of age and older . . . . which provides live music, music videos or disc jockeys and a place in the establishment in which patrons are permitted to dance."



G:\Merced_City of-1511\151108C1-PCE Reporting\GIS\Map\Simpsons\2Q16\E6_Simpsons_PCE_Q2_2016_All_Wells.mxd

CONNECTEXPLORER



map: Auto 02/21/2014 (Latest) image 1 of 6

NOTICE OF EXEMPTION

To: ____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

_X_ County Clerk
County of Merced
2222 M Street
Merced, CA 95340

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

Project Title: Site Plan Review #402 (Environmental Review #16-25)

Project Applicant: Mainzer Theater, LLC

Project Location (Specific): 655 W. Main Street **APN:** 031-133-013

Project Location - City: Merced **Project Location - County:** Merced

Description of Nature, Purpose, and Beneficiaries of Project:

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Mainzer Theater, LLC

Exempt Status: (check one)

___ Ministerial (Sec. 21080(b)(1); 15268);
___ Declared Emergency (Sec. 21080(b)(3); 15269(a));
___ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
_X_ Categorical Exemption. State Type and Section Number: 15301 (a)
___ Statutory Exemptions. State Code Number: _____.
___ General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: As defined under the above referenced Section, the proposed project consists of minor interior and exterior alterations only, such as adding interior walls and making minor electrical and plumbing modifications to an existing building, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

Lead Agency: City of Merced
Contact Person: Francisco Mendoza-Gonzalez **Area Code/Telephone:** (209) 385-6858

Signature: _____ **Date:** 8-18-2016 **Title:** Planner

_X_ Signed by Lead Agency

Date Received for Filing at OPR: _____
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.3. Meeting Date: 10/17/2016

SUBJECT: Information Only - Traffic Committee Minutes of July 12, 2016

RECOMMENDATION
For information only.

ATTACHMENTS
1. Traffic Committee Minutes of July 12, 2016

TRAFFIC COMMITTEE
MINUTES
July 12, 2016

A. CALL TO ORDER

The meeting was called to order at 2:01 p.m.

B. ROLL CALL

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

C. ORAL COMMUNICATIONS

None.

D. CONSENT CALENDAR

1. Traffic Committee Minutes of May 10, 2016

RECOMMENDATION:
Approve and file.

Juan Olmos Moved, Ken Elwin Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Julie Nelson

Absent: Jacob Struble

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.

F. BUSINESS

1. Request #16-017 – Request for Alteration of Crosswalk on 16th Street at N Street (John Cardoza)
(Citizen is requesting a crosswalk lighting system on 16th Street at N Street due to their concern for pedestrian safety.)

Citizen JOHN CARDOZA was present and detailed his concerns over pedestrian safety at the crosswalk

Chairperson ELWIN stated the crosswalk was at an uncontrolled intersection, and he would be in favor of eliminating the crosswalk.

Public Works Manager MIKE MILLER suggested removing the east side of the crosswalk and adding flashing lights in the future when funding is available. Mr. MILLER stated flashing lights would cost approximately $12,000.

The Committee discussed other locations along 16th Street, noting the various uncontrolled intersections with crosswalks should be addressed at the same time.

MOTION (amended): To remove the eastern crosswalk on 16th Street at N Street and add additional signage to the western crosswalk. The motion also includes adding 16th Street Crosswalk Improvements as a future CIP project. **

COUNCIL ACTION REQUIRED: None at this time.

Juan Olmos Moved, Julie Nelson Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Julie Nelson

Absent: Jacob Struble

***Clerk's Note:* The Committee amended the motion to include adding the flashing lights as a future CIP project and the various existing uncontrolled crosswalk locations along 16th Street as part of the CIP project.

2. Request #16-018 – Request for Installation of a Traffic Signal or Four-Way Stop at R Street and Childs Avenue (Ronnie A. DeAnda)
(Citizen is requesting the installation of a traffic signal or four-way stop at R Street and Childs Avenue due to their concern of vehicle collisions and pedestrian safety.)

Citizen RONNIE DEANDA was present and explained his concerns for pedestrian safety, driver visibility, and excessive speeding at the intersection of R Street and Childs Avenue.

Citizen ISABELLE SANCHEZ also commented that she has been a long-time resident of Childs Avenue and believes the intersection is dangerous. She noted that Childs Avenue is a designated truck route, making it a high traffick area. Ms. SANCHEZ invited the Traffic Committee to walk the area to see their perspective of the issue.

Citizen ABIGAIL RAMIREZ also noted the curvature of the intersection makes visibility a major issue.

Chairperson ELWIN explained the Manual on Uniform Traffic Control Devices (MUTCD) requires specific warrants must be met in order to add a new four-way stop. Mr. ELWIN reviewed the traffic accident counts provided by the Police Department and stated he would need additional information in order to determine if traffic accident history alone would be sufficient to meet warrants. Mr. ELWIN also explained that Childs Avenue is an arterial street, and that traffic would be higher on an arterial street versus a residential road.

Mr. ELWIN agreed the intersection issues would need to be addressed, but due to the alignment of the streets the City would need to acquire Right-of-Way in order to install a traffic signal at the intersection. He also explained that signals cost upwards of $400,000 and that the Streets budget does not have sufficient funding for a project of that size.

Ms. RAMIREZ asked if the City was looking into grant funding for the intersection already and if there was any other solution to solve their concerns for safety. Chairperson ELWIN stated the City's Engineering Department actively pursues grants for various CIP projects, but that a grant had not been sought specifically for the R Street and Childs Avenue Intersection.

The Committee discussed various alternatives to address the citizen concerns at the intersection and agreed the intersection would need to be evaluated by Engineering Staff prior to their decision.

MOTION: To continue the item, pending the City's Engineering Department review of additional information regarding warrants, the evaluation of the intersection and their formal recommendation regarding the necessity of a crosswalk and four-way stop at the intersection.

COUNCIL ACTION REQUIRED: None at this time.

Shawn Henry Moved, Juan Olmos Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Julie Nelson

Absent: Jacob Struble

3. Request #16-019 – Request for No Parking Zone on Childs Avenue at R Street (Maria Navarrete)
(Citizen is requesting the addition of a No Parking Zone on the northeast corner of Childs Avenue at R Street due to their concern of trucks blocking driver visibility at the intersection.)

Citizen RONNIE DEANDA commented that semi-trucks making deliveries to the corner store often park on the street, blocking visibility

at the intersection. He also mentioned the shrubbery on the corner forces drivers to pull out too far onto Childs in order to see, creating a dangerous situation.
Chairperson ELWIN questioned whether the neighborhood had approached the store owners with their concerns about the delivery trucks. Ms. ABIGAIL RAMIREZ stated they had not, but would request an appointment with the store owner. Mr. ELWIN stated the Engineering Department would contact the City's Code Enforcement Department about the overgrown shrubbery.

Committee Member NELSON stated the proposed four-way stop would alleviate the visibility issue, and suggested continuing the item until the Committee votes on the request for the four-way stop.

MOTION: To continue the item until Request #16-018 is re-addressed by the Committee.

COUNCIL ACTION REQUIRED: None at this time.

Julie Nelson Moved, Ken Elwin Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Julie Nelson

Absent: Jacob Struble

4. Request #16-020 – Request for No Parking Zone on West 22nd Street Near M Street (Robert Gilbert)
(Merced Court Employee is requesting the addition of a No Parking Zone on the south side of West 22nd Street near M Street due to their concern of line-of-sight issues for vehicles exiting the County parking lot.)

Citizen ROBERT GILBERT clarified he was requesting the red curb on behalf of the judges who use the parking lot and explained the visibility issues of drivers making a left-hand turn due to vehicles parking so close to the edge of the driveway.

Committee Member NELSON questioned if fifteen (15) feet of no

parking was the standard and if it would be sufficient. Committee Member OLMOS suggested removing the first stall of parking as it would be more efficient due to the current parking striping.
Chairperson ELWIN was in favor of the 15 feet, and stated it would provide sufficient line-of-sight for drivers. Mr. ELWIN added the current no parking zone to the east of the driveway would need to be included in the code update.

MOTION: To approve a 15 foot no parking zone directly adjacent to the west side of the driveway entrance along the south side of West 22nd Street and approve adding the existing no parking zone on the east side of the driveway.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to add the No Parking Zone along West 22nd Street.

Juan Olmos Moved, Shawn Henry Seconded

Vote: 4-0

Voting Aye: Ken Elwin, Shawn Henry, Juan Olmos, Julie Nelson

Absent: Jacob Struble

G. ADJOURNMENT

The meeting was adjourned at 2:45 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

Agenda Item I.4. Meeting Date: 10/17/2016

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

SUBJECT: Information Only-Building & Housing Board of Appeals Minutes of August 25, 2016

RECOMMENDATION
For information only.

ATTACHMENTS
1. BAHBA Minutes of 08-25-2016

CITY OF MERCED
Building and Housing Board of Appeals

MINUTES

Merced City Council Chambers
Thursday, August 25, 2016

Chairperson PECCHENINO called the meeting to order at 2:33 p.m.

ROLL CALL

Board Members Present: Alfred Alvarez, Tom Clendenin, Don Spiva, and Chairperson Garth Pecchenino

Board Members Absent: None (one vacancy)

Staff Present: Assistant Chief Building Official Graves (replacing former Assistant Chief Building Official STEPHENSON), Director of Development Services Gonzalves, and Recording Secretary Stephani Davis

1. **APPROVAL OF AGENDA**

M/S CLENDENIN-SPIVA, and carried by unanimous voice vote (one vacancy), to approve the Agenda as submitted.

2. **MINUTES**

M/S ALVAREZ-CLENDENIN, and carried by unanimous voice vote (one vacancy), to approve the Minutes of January 23, 2014, as submitted.

3. **COMMUNICATIONS**

None

4. **ITEMS**

4.1 Election of Chairperson and Vice-Chairperson

Board Member SPIVA nominated Board Member CLENDENIN to be Chairperson. Board Member CLENDENIN accepted the nomination. There were no other nominations for Chairperson.

M/S SPIVA-ALVAREZ, and carried by unanimous voice vote (one vacancy), to elect Board Member CLENDENIN as Chairperson.

Board Member ALVAREZ nominated Board Member SPIVA to continue as Vice-Chairperson. Board Member SPIVA accepted the nomination. There were no other nominations for Vice-Chairperson.

M/S ALVAREZ-PECCHENINO, and carried by a unanimous voice vote (one vacancy), to re-elect Board Member SPIVA as Vice-Chairperson.

4.2 Building Department Update

Assistant Chief Building Official GRAVES informed the board of his employment with the City as of June 2016. He gave a brief update on the Building Department activities; including, new building codes coming into effect January 1, 2017. Director of Development Services GONZALVES informed the Board that the City will be implementing "Contractor training" in preparation for the new codes coming into effect. Mr. GONZALVES also answered questions posed by the Board Members.

4.3 Housing Department Update

Director of Development Services GONZALVES gave a brief update on Housing Department activities; including, the Housing Department move to the second floor, new housing and commercial projects that were approved for the 2017 fiscal year, and the consideration for partnerships with non-profit programs to bring in more affordable housing. Director of Development Services GONZALVES also answered questions posed by the Board Members.

Clerk's Note: Director of Development Services GONZALVES informed the Board that Code Enforcement has been moved to the Merced Police Department as of March 31, 2014.

5. **INFORMATION ITEMS**

Board Member ALVAREZ acknowledged the career and contribution of the late Walter Thomas Lopes. Director of Development Services GONZALVES requested that the Board adjourned the meeting in Mr. Lopes' honor, all agreed.

6. **ADJOURNMENT**

There being no further business, Chairperson PECCHENINO adjourned the meeting at 3:14 p.m., in memory of Walter Thomas Lopes.

Respectfully submitted,

STEPHANI DAVIS, Secretary
City of Merced
Building and Housing Board of Appeals

APPROVED:

GARTH PECCHENINO, Chairperson
City of Merced
Building and Housing Board of Appeals

APPROVED:

RICHARD GRAVES, Secretary/
Assistant Chief Building Official
City of Merced
Building and Housing Board of Appeals

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.5. Meeting Date: 10/17/2016

SUBJECT: City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of March 1, 2016 and September 19, 2016.

REPORT IN BRIEF
Official adoption of previously held meeting minutes.

RECOMMENDATION
City Council/Public Financing and Economic Development/Parking Authority - Adopt a motion approving the meeting minutes of March 1, 2016 and September 19, 2016.

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

ATTACHMENTS
1. Minutes of March 1, 2016
2. Minutes of September 19, 2016

CITY OF MERCED

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

Minutes

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

Tuesday, March 1, 2016 **5:30 PM**

A. CALL TO ORDER

Mayor THURSTON called the Study Session to order at 5:30 PM.

A.1. Pledge of Allegiance to the Flag

B. STUDY SESSION ROLL CALL

Present: 7 - Mayor Stanley P. Thurston, Mayor Pro Tempore Joshua Pedrozo, Council Member Michael Belluomini, Council Member Kevin Blake, Council Member Tony Dossetti, Council Member Noah Lor, and Council Member Mike Murphy

Absent: 0

C. STUDY SESSION

C.1. **SUBJECT:** Medical Marijuana Study Session

REPORT IN BRIEF

Provides a brief overview of medical marijuana issues at the state and local level and outlines potential areas for the City Council to consider regarding 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. Schedule another study session on this matter regarding medical marijuana in general or specifically relating to dispensaries, deliveries and/or cultivation; or,

B. 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,

C. Take no further action regarding this matter.

Senior Deputy City Attorney Ken ROZELL began the session with a brief overview of the Medical Marijuana and Safety Act and restated reasons why the Council was asked to enact legislation banning all marijuana use. He gave a brief history on the City's actions and the recently adopted ordinance. He posed a series of questions regarding the type of legislation regarding medical marijuana in order to begin drafting an ordinance for the City.

He gave an example of other cities ordinances regarding medical marijuana.

Planning Manager Kim ESPINOSA gave Council an overview of the various use zones within the City. She gave examples of the types of businesses and the appropriate use zones they would be located.

Council Member BLAKE asked about ordinances in place within cities that are similar in demographic to Merced.

Mr. ROZELL stated that most cities are currently weighing their options and not alot of ordinances were in place.

Council Member LOR asked for clarification on deliveries.

Mr. ROZELL explained requirements that need to be met for deliveries.

Mayor Pro-Tempore PEDROZO asked for clarification on primary care givers.

Mr. ROZELL clarifed who qualifies as the primary care giver.

Council Member BELLUOMINI asked about individuals who would be allowed to pick up a prescription from the dispensary.

Mr. ROZELL suggested a Conditional Use Permit process to make sure the patient is receiving the medication as prescribed.

Mayor THURSTON asked about the make up of the state controlling body and regulations they will eventually put in place.

Mr. ROZELL stated that there are a lot of unkowns until the State puts regulations in place.

D. WRITTEN PETITIONS AND COMMUNICATIONS

There were no written petitions and communications.

E. ORAL COMMUNICATIONS

Susan BOUSCAREN, Merced - spoke about concerns with the licensing process and the testing of marijuana. She expressed her preferred zones for dispensaries.

Lindsey SEXTON, Merced - spoke about the need for medical marijuana.

Christopher GONZALES, Merced - made suggestions about number of plants for patients and the number of dispensaries.

Kathy RODRIGUEZ, Merced - spoke against medical marijuana.

Sister KATE, Merced - spoke in favor of medical marijuana.

Dwight LARKS, Gustine - spoke about commercial grows in Merced.

Aaron HEPTNER, Merced - spoke in favor of medical marijuana.

Robert MICHAEL, Merced - spoke about the financial aspect of marijuana.

Carol COUCHMAN, Stanislaus - spoke about the CEASER Coalition and getting patients the medicine they need.

Victor CALDERON, Merced - stated a tax should be taken to the voters first.

Arthur DURAZO, Merced - spoke in favor of medical marijuana and listed all of the medical problems that can be treated with marijuana.

Kevin BAUER, Merced - spoke about the testing, growing and medicinal properties of medical marijuana.

Monica VILLA, Merced - spoke in favor of medical marijuana.

Daniel KAZAKOS, Merced - spoke about the commercial growth of marijuana.

Dr. Lakisha JENKINS, Merced - spoke about the regulatory aspects of medicinal marijuana. She mentioned the Attorney General Guidelines that were put in place in 2008. She added that certain counties are already issuing permits for cultivation. She explained that the State is creating an new office to oversee medical marijuana that should be in place by 2018.

Karen LOPEZ, Merced - spoke in favor of medicinal marijuana instead of other prescription drugs.

Amandah SEXTON, Merced - spoke about cardholders and caregivers in regards to medicinal marijuana.

Council discussed the availability of the medicinal marijuana cards.

Mayor THURSTON directed staff to come back in another study session with the number of cardholders, how labs are certified, the Attorney General regulations on delivery, research on other counties that allow medical marijuana cultivation, and information on the Kiona foundation.

Council Member BLAKE requested staff to begin drafting an ordinance that placed limits on the number of plants to be up to 9 per parcel or 6 mature and 6 immature plants and he also stated support for an office type setting for dispensaries.

Mayor Pro Tempore PEDROZO requested an accurate amount of marijuana produced by a plant and stated he would like to make people feel comfortable when buying medical marijuana and not feel like criminals.

Council Member MURPHY gave staff direction for an ordinance that helped users but respected neighbors. He requested that plants not be visible to the public in regards to outdoor grows. He suggested that delivery services should be tied to a legitimate dispensary. He also stated that dispensaries should not be located near schools or places that children gather.

Council Member BELLUOMINI stated he would like to see a deadline for a draft ordinance. He stated support for dispensaries. He stated he would like to see them located in a commercial office zone with a conditional use permit. He stated support for at least 3 dispensaries but had concerns about deliveries. He stated he did not agree with patients growing marijuana.

Council Member DOSSETTI stated that the ordinance should address how patients get their medical marijuana card. He stated support for indoor or outdoor growing of plants. He suggested that dispensaries need strict regulations to operate. He agreed that deliveries are necessary.

Council Member LOR was unsure about cultivation due to the safety of neighborhood children. He wanted to know how deliveries would be regulated before passing judgement. He voiced that he did not want to

limit the number of dispensaries.

Mayor THURSTON stated oppostion to dispensaries that sold marijuana for smoking. He suggested the edibles and oils should be sufficient.

City Manager Steve CARRIGAN suggested that these items be brought back in April along with a proposed ordinance.

F. ADJOURNMENT

Clerk's Note: The meeting adjourned at 8:08 PM.

A motion was made by Mayor Pro Tempore Pedrozo, seconded by Mayor Thurston, to adjourn the meeting.. The motion carried by the following vote:

Aye: 7 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, Council Member Lor, and Council Member Murphy

No: 0

Absent: 0

CITY OF MERCED

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

Minutes

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

Monday, September 19, 2016 **7:00 PM**

A. STUDY SESSION ROLL CALL

Mayor THURSTON called the Study Session to order at 5:12 PM.

Present: 6 - Mayor Stanley P. Thurston, Mayor Pro Tempore Joshua Pedrozo, Council Member Michael Belluomini, Council Member Kevin Blake, Council Member Tony Dossetti, and Council Member Mike Murphy

Absent: 1 - Council Member Noah Lor

B. STUDY SESSION

B.1.

SUBJECT: City Council Request to Discuss Maintenance Districts, Community Facility Districts and Community Facilities Parks

REPORT IN BRIEF

This item is in response to City Council request to discuss the state of the Maintenance Districts, Community Facilities Districts and Community Facilities Parks.

RECOMMENDATION

For information only.

Director of Public Works Ken ELWIN gave a slide show presentation on the Maintenance Districts, Community Facilities Districts, and Community Facilities Parks.

Mayor THURSTON asked about the process to send ballots out to the under funded districts.

Mr. ELWIN explained that Council would direct staff to send out ballots to the districts that are under funded.

Council Member MURPHY asked if maintenance district fees are based on assessed value or land area and if the land owner has responsibility over the unfinished lots.

Mr. ELWIN stated that maintenance districts fees are based on land area

and that whoever owns the parcel is responsible for abatement of the weeds.

Council Member MURPHY and Mr. ELWIN discussed the drought mandate and City medians.

Council Member DOSSETTI asked about the impact of failed ballots on the maintenance districts.

Mr. ELWIN explained that the failed ballots resulted in a lack of maintenance for those districts.

Council Member BELLUOMINI inquired about the impacts the drought and mandated water restrictions had on the maintenance districts.

Mr. ELWIN explained that between the drought and the lack of funding, the water had to be shut off more during the hotter months, which caused trees to die.

City Manager Steve CARRIGAN requested Mr. ELWIN to come back on the October 3rd Council Meeting with details on what it would take to get the eleven maintenance districts on an election ballot.

Eric MOORE, Merced - spoke on the dead trees and the economic development impact the lack of maintenance has on the districts.

Jenny TROST, Merced - spoke on the lack of maintenance in her district and the fees her district pays for maintenance.

Brooks STAYER, Merced - spoke on the lack of maintenance on the sidewalks in Bellevue Ranch.

Clerk's Note: The Study Session adjourned at 6:21 PM.

C. CLOSED SESSION ROLL CALL

Present: 6 - Mayor Stanley P. Thurston, Mayor Pro Tempore Joshua Pedrozo, Council Member Michael Belluomini, Council Member Kevin Blake, Council Member Tony Dossetti, and Council Member Mike Murphy

Absent: 1 - Council Member Noah Lor

D. CLOSED SESSION

Mayor THURSTON called the Closed Session to order at 6:22 PM.

D.1. **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED

LITIGATION: Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Section 54956.9: 2 Cases

D.2. **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION: The Legislative Body has Decided or is Deciding to Initiate Litigation Paragraph (4) of Subdivision (d) of Section 54956.9: 1 Case

D.3. **SUBJECT:** CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: 725 West 18th Street, Merced, CA; Agency Negotiator: Frank Quintero, Director, Economic Development; Negotiating Parties: City of Merced and Fluetsch and Busby Insurance; Under Negotiation: Price and Terms of Payment.

Clerk's Note: Council adjourned from Closed Session at 7:02 PM.

E. CALL TO ORDER

Mayor THURSTON called the Regular Meeting to order at 7:07 PM.

E.1. Invocation - Pastor Andy Doss, Merced Baptist Church

The invocation was presented by Pastor Andy DOSS from the Merced Baptist Church.

E.2. Pledge of Allegiance to the Flag

F. ROLL CALL

Present: 6 - Mayor Stanley P. Thurston, Mayor Pro Tempore Joshua Pedrozo, Council Member Michael Belluomini, Council Member Kevin Blake, Council Member Tony Dossetti, and Council Member Mike Murphy

Absent: 1 - Council Member Noah Lor

F.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.

G. REPORT OUT OF CLOSED SESSION

There was no report.

H. CEREMONIAL MATTERS

H.1. **SUBJECT:** Recognition of Youth Council Member

REPORT IN BRIEF

A plaque will be received by Linda Moua, a Youth Council Member.

Mayor THURSTON presented Linda MOUA with a plaque in recognition of her time on the Youth Council.

I. WRITTEN PETITIONS AND COMMUNICATIONS

The Clerk did not receive any written petitions or communications.

J. SPECIAL PRESENTATIONS

J.2. Predictive Policing - Chief Norm Andrade | Merced Police Department

Police Chief Norm ANDRADE gave a presentation on Predictive Policing and gave an update on crime in the City.

K. ORAL COMMUNICATIONS

Dr. Emad HUWAIDI, Merced - spoke on the of the lack of lighting on G Street by Bellevue Ranch and at Elmer Murchie Park in Bellevue Ranch.

Monica VILLA, Merced - spoke on suicide prevention.

Yassir SADEK, Merced - spoke about the condition of his two properties located on Olive Avenue.

Stan BUNCE, Merced - spoke on trees in the City.

Ruth WAX, Merced - spoke on trees in the City.

Necola ADAMS, Merced - spoke on the vandalism of her campaign signs.

Bruce METCALF, Merced - spoke on the annual Homeless Connect Event.

Baldev GREWAL, Merced - spoke on the two properties located on Olive Avenue.

L. CONSENT CALENDAR

Items L.3. City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of February 25, 2016 and August 15, 2016, L.7. Approval of an Agreement with Merced Community College District Contract for Police Services, and L.8. Amendment to the School Resource Officer Contract with Merced City School District, were

pulled for further consideration.

Approval of the Consent Agenda

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

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

L.1.

SUBJECT: Information Only-Site Plan Minutes of July 28, 2016

RECOMMENDATION
For information only

This Consent Item was approved.

L.2.

SUBJECT: Information Only-Bicycle Advisory Minutes of June 28, 2016

RECOMMENDATION
For information only

This Consent Item was approved.

L.4.

SUBJECT: Reading by Title of All Ordinances and Resolutions

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

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

This Consent Item was approved.

L.5.

SUBJECT: Encroachment Permit #16-01 to Allow the Transit Joint Powers Authority for Merced County (TJPAMC) to Install Bus Facilities, Including Shelters, Benches, Signs, and Painted Curbs at Various Transit Stop Locations within the City of Merced.

REPORT IN BRIEF

Request to approve an Encroachment Permit for the Transit Joint Powers Authority for Merced County (TJPAMC) to install transit stops and equipment at various locations within the City of Merced.

RECOMMENDATION

City Council - Adopt a motion approving an Encroachment Permit for the placement, operation, and maintenance of bus stops within the City's property.

This Consent Item was approved.

L.6.

SUBJECT: Administering Agency Amendment Modification Summary (E-76) for Active Transportation Program (ATP) Cycle 1 Grant for the Highway 59 Multi-Use Pathway Crossing Project 115047

REPORT IN BRIEF

Consider accepting $106,000 in Federal grant funds for the preliminary engineering costs associated with the pedestrian crossing project.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting grant revenue from a Federal Grant, through Caltrans, increasing revenue account 450-1104-324.02-00 in the amount of $106,000; and,

B. Appropriating the same to account 450-1104-637.65-00-Project 115047 Highway 59 Multi-Use Pathway Crossing; and,

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

This Consent Item was approved.

L.9.

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

REPORT IN BRIEF

Accept donations from MERCO Credit Union, Merced Toyota, Jim Costa for Congress Committee, Merced School Employees Federal Credit Union, Merced Chevrolet, and Rabobank, and appropriate funds to offset costs of National Night Out Celebration.

RECOMMENDATION

City Council - Adopt a motion**:**

A. Accepting donations totaling $1,300 from multiple donors for the National Night Out Celebration

B. Increasing Police revenue account #001-1001-360-02-01 by $1,300 and appropriating the same amount to expense account #001-1037-522-29-00 for expenses related to National Night Out.

This Consent Item was approved.

L.10.

SUBJECT: Accept Additional FY 2015 State Homeland Security Grant Program (SHSGP) Funds, and Appropriate Supplemental Funds for the Purchase of a Mobile Decontamination Trailer and Accessories

REPORT IN BRIEF

Consider accepting additional FY 2015 SHSGP funds for the purchase of a mobile decontamination trailer, and appropriate supplemental funds to complete the purchase.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving **Resolution 2016-50**, a Resolution of the City Council of the City of Merced, California, authorizing the City Manager to Execute the California Governor's Office of Emergency Services FY 2015 Grant Assurances Agreement; and,

B. Accepting additional FY 2015 SHSGP grant funds in the amount of $4,196.97 as revenue in the Intergovernmental - State Government Grants - Other State Grants account 001-0901-324.02-00; and

C. Appropriating $4,196.97 to the Machinery/Equipment account 001-0901-523.43-00 to purchase a decontamination trailer; and

D. Authorizing the use of pooled cash to cover the appropriation until grant funds are reimbursed; and;

E. Authorizing the purchase of a Scotty Mobile Decontamination Trailer and accessories from Mobile Concepts, with a total purchase price of

$104,196.97, utilizing the GSA Schedules Program; and waiving the competitive bid.

This Consent Item was approved.

L.11.

SUBJECT: National Association for the Advancement of Colored People Request Co-Sponsored Rate for use of the Senior Community Center

REPORT IN BRIEF

Consider the Recreation and Parks Commission's recommendation to approve a request for the co-sponsored rate for use of the Senior Community Center by the NAACP on October 8, 2016.

RECOMMENDATION

City Council - Adopt a motion approving the Recreation and Park Commission's recommendation to grant use of the Senior Community Center to the NAACP at the co-sponsored rate.

This Consent Item was approved.

L.12.

SUBJECT: Allocation of Fiscal Year 2016/17 Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) to Fund Various Agreements to Provide Allowable Activities per the Approved 2016 Department of Housing and Urban Development Action Plan

REPORT IN BRIEF

Approves various Community Development Block Grant and HOME Investment Partnership Program Sub-Grantee agreements to perform activities throughout the community.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving agreements identified in the 2016 Department of Housing and Urban Development (HUD) Annual Plan with Community Development Block Grant (CDBG) funds from the 2016/17 Fiscal Year (accounts 018-1301-552-17.00 / Supplies and Services and 033-1349-552-17.00 / Supplies and Services) per previous City Council recommendation for:

1. An agreement with Merced County Housing Authority for the Rental Deposits/Rapid Rehousing Program in the amount of $30,000;

2. An agreement with Habitat for Humanity - Merced County for the purchase and renovation of a property in the amount of $100,000;

3. An agreement with Sierra Saving Grace for the Homeless Project in the amount of $167,000;

4. An agreement with Merced Rescue Mission, Inc., for the Room at the Inn Program in the amount of $200,000;

5. An agreement with Habitat for Humanity - Stanislaus County for the Homeowner Rehabilitation Program in the amount of $200,000 ($100,000 from HOME Funds and $100,000 from CDBG funds); and

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

This Consent Item was approved.

L.13.

SUBJECT: Second Reading - Zoning Ordinance Amendment #16-01

REPORT IN BRIEF
Second reading of previously introduced Ordinance.

RECOMMENDATION
City Council - Adopt **Ordinance 2465**, "An Ordinance of the City Council of the City of Merced, California, Amending Title 20 'Zoning' of the Merced Municipal Code."

This Consent Item was approved.

L.3.

SUBJECT: City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of February 25, 2016 and August 15, 2016.

REPORT IN BRIEF
Official adoption of previously held meeting minutes.

RECOMMENDATION
City Council/Public Financing and Economic Development/Parking Authority - Adopt a motion approving the

meeting minutes of February 25, 2016 and August 15, 2016.

The Clerk's Office pulled this item to state a correction was made on the August 15th minutes.

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

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

L.7.

SUBJECT: Approval of an Agreement with Merced Community College District Contract for Police Services

REPORT IN BRIEF

Consider approving an agreement between the City of Merced Police Department and the Merced Community College District for police administrative services at the District's campuses.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a Memorandum of Understanding between the City of Merced and the Merced Community College District to provide police services in the District's campuses; and,

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

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

Mayor Pro Tempore PEDROZO pulled this item and asked if the officers were limited to 960 hours of employment.

Police Chief ANDRADE confirmed the number of hours the officers could be employed.

Council Member BLAKE asked about training.

Police Chief ANDRADE explained that the school officers will have the same training as the Merced Police Department officers.

A motion was made by Mayor Pro Tempore Pedrozo, seconded by Council

Member Blake, that this agenda item be approved. The motion carried by the following vote:

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

L.8.

SUBJECT: Amendment to the School Resource Officer Contract with Merced City School District

REPORT IN BRIEF

Consider an amendment to the existing School Resource Officer ("SRO") contract between the City of Merced and the Merced City School District to delete the maximum weekly hour limitation.

RECOMMENDATION

City Council - Adopt a motion approving a contract amendment with the Merced City School District; and, authorizing the City Manager to execute the necessary documents.

Mayor Pro Tempore PEDROZO pulled this item and asked who will manage the 960 hours for the school resource officer.

Captain Matt WILLIAMS stated that the resource officer is limited to 960 hours, but there is some felxibilty to have an officer available for special events.

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

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

M. PUBLIC HEARINGS

M.1.

SUBJECT: Public Hearing - Consideration of Approval of the Consolidated Annual Performance and Evaluation Report for Program Year 2015 - 2016

REPORT IN BRIEF

Review and approve Housing Division activities as reported in the

2015-2016 Program Year Consolidated Annual Performance and Evaluation Report (CAPER).

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2016-49**, a Resolution of the City Council of the City of Merced, California, approving the 2015-2016 Program Year CAPER; and,

B. Authorizing the City Manager to make minor modifications to the final CAPER document as necessary to implement the City Council's actions.

Housing Supervisor Mark HAMILTON gave a slide show presentation on the Annual Performance and Evaluation Report (CAPER) for Program Year 2015-2016.

Council Members applauded staff for the work that was done on this CAPER program.

Mayor THURSTON opened and subsequently closed the Public Hearing at 8:15 PM with no audience members wishing to speak.

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

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

N. REPORTS

N.1.

SUBJECT: Contract Authorization for Black Rascal Creek Storm Drain Emergency Replacement Project - 116045

REPORT IN BRIEF

Consider approving the contract for Black Rascal Creek Storm Drain Emergency Replacement - Project 116045, which was declared an emergency due to the threat of flooding caused by a failing culvert.

RECOMMENDATION

City Council - Adopt a motion:

A. Deeming the Black Rascal Creek Storm Drain Project to be of urgent necessity for the preservation of life, health, or property based on the finding of facts; and,

B. Approving the emergency contract for Project 116045 with Rolfe Construction, including subsequent change orders, in the total amount of $297,722.00; and,

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

City Engineer Theron ROSCHEN gave a slide show presentation on the Black Rascal Creek Storm Drain Emergency Replacement Project and stated that the other storm drains in the City were checked for issues to ensure safety.

Council Member BELLUOMINI requested more frequent reports on emergency items in the future.

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

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

Mayor THURSTON called for a break at 8:27 PM.

Council returned from break at 8:34 PM.

O. BUSINESS

O.1.

SUBJECT: Council Member Murphy's Request to Discuss the Recreation and Parks Unexpended Budget

REPORT IN BRIEF

This item is in response to Council Member Murphy's request to discuss the Recreation and Parks Unexpended Budget.

RECOMMENDATION

It is requested Council give staff direction on this item.

Council Member MURPHY discussed utilizing the Recreation and Parks

unexpended budget to allow the Boys and Girls Club to be open on Saturdays.

Council Members and the Executive Director of the Boys and Girls Club, Tony SLATON, further discussed a pilot program to see how successful having a half day open on Saturday would be, because long-term funding is uncertain.

A motion was made by Council Member Murphy, seconded by Council Member Belluomini, to direct staff to bring back a plan for a pilot project to have the Boys and Girls Club open half days on Saturdays with funding to be identified by staff. The motion carried by the following vote:

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

O.2.

SUBJECT: Council Member Belluomini's Request to Discuss Street Trees and Parks

REPORT IN BRIEF

This item is in response to Council Member Belluomini's request to discuss the street trees and parks.

RECOMMENDATION

It is requested Council give staff direction on this item.

Council Member BELLUOMINI gave a presentation on parks and street trees.

He proposed that the City replace dead trees based on four components.

1. Maintenance and Community Facilites Districts - The City should remove and replace dead trees and shrubs and ensure adequate irrigation.
2. Parks - The City should remove and replace all dead trees and ensure adequate irrigation.
3. Median islands - The City should remove and replace trees and irrigate in a reliable manner.
4. Street trees - Trees should be replaced first on all main streets and then smaller streets but only after an assurance from property owners that they will water the trees.

A motion was made by Council Member Belluomini, seconded by Mayor Pro Tempore Pedrozo, to direct staff to prepare a plan to address the loss of trees in

public places to include the four components in his presentation and suggested completion by an outside contractor so it could be done in a timely manner. The motion carried by the following vote:

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

O.3. Request to Add Item to Future Agenda

There were no requests to add items.

O.4. City Council Comments

Council Member MURPHY reported on being a part of the 9/11 parade, Feet Changing Lives cookout at Steven Leonard Park, and the Day of the Kid at the Boys and Girls Club.

Council Member BELLUOMINI asked about the Sun-Star apprasial for the new Police Station.

Council Member DOSSETTI reported on attending the 9/11 parade and the Cap & Town Event.

Mayor Pro Tempore PEDROZO reported on attending the 9/11 parade and the Cap & Town Event.

Mayor THURSTON reported on attending the 9/11 parade and driving a Blue Star mom at the parade.

Council Members returned to Closed Session at 9:11 PM.

Clerk's Note: Council Member MURPHY recused himself from the Real Estate Closed Session.

There was no report out of Closed Session.

P. ADJOURNMENT

Mayor THURSTON adjourned the Regular Meeting at 9:38 PM.

A motion was made by Mayor Pro Tempore Pedrozo, seconded by Council Member Blake, to adjourn the meeting. The motion carried by the following vote:

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.6. Meeting Date: 10/17/2016

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.

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.7. Meeting Date: 10/17/2016

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

SUBJECT: First Amendment to Services Agreement with UC Merced

REPORT IN BRIEF
The City Council will consider adopting the First Amendment to the Services Agreement with UC Merced in order to allow UC Merced to pay for sewer fees over a 4-year time period.

RECOMMENDATION
City Council - Adopt a motion approving the First Amendment to the amended and restated contract for water, sewer, and other services between the City of Merced and the Regents of the University of California and authorizing the City Manager to sign the First Amendment.

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

AUTHORITY
Merced City Charter, Section 200.

CITY COUNCIL PRIORITIES
Approval of the Transportation and Services Agreements with UC Merced were identified as City Council priorities.

DISCUSSION
In October 19, 2015, the City Council approved the Transportation and Services Agreements with UC Merced for the UC Merced 2020 Project. On April 28, 2016, the Chancellor signed the agreements on behalf of the Board of Regents; and on April 29, 2016, the Mayor signed the agreements on behalf of the City. On June 14, 2016, the Annexation Agreement (Attachment 5 of the original Services agreement) was executed and recorded.

Under Section 8b of the Services Agreement (Attachment 2), UC Merced would have had to pay Sewer Facilities charges for 137 acres of developable land in the amount of $582,470.08 in one lump sum payment. UC Merced has asked that they be allowed to make the payments over a 4-year

period instead.

Staff has prepared a First Amendment to the Services Agreement (Attachment 1) which will allow UC Merced to pay 25 percent ($145,617.52) of the total as a down payment upon execution of the agreement and then to pay the remaining 75 percent over the next four years in equal annual installments. The total amount paid will be $582,470.08, plus interest on the unpaid balance. As with the original agreement, the First Amendment would allow for an adjustment in the final payment if the final developable acreage of the UC 2020 project exceeds the 137 acres calculated. The Chancellor has executed the First Amendment on behalf of the Board of Regents.

IMPACT ON CITY RESOURCES

Approval of the original Services Agreement ensured the existing and future revenue streams to the City's sewer and water enterprise funds from UC Merced would continue for a minimum of 10 years. The First Amendment to the Services Agreement will not affect those funds, except to allow UC Merced to pay one of the fees over a 4-year period.

ATTACHMENTS

1. Amended Agreement
2. Original Agreement

First Amendment to
Amended and Restated Contract for Water, Sewer and Other Services
Between
The City of Merced and The Regents of the University of California

THIS FIRST AMENDMENT to Amended and Restated Contract for Water, Sewer and Other Services ("First Amendment to Contract") between the City of Merced, a California Charter Municipal Corporation ("City") and The Regents of the University of California, on behalf of the Merced campus ("UCM").

WHEREAS, UCM is expanding its university campus ("Project") and requires additional sewer and water services from the City; and

WHEREAS, City and UCM have previously entered into an Amended and Restated Contract for Water, Sewer and Other Services for said Project dated April 29, 2016 ("Contract"); and

WHEREAS, City and UCM desire to amend said Contract to modify the terms of payment for said Project.

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

1. Section 8 of the Contract, "Price," is hereby amended to read as follows:

"Section 8. Price. UCM shall pay for water and sewer services provided as follows:

a. Sewer Monthly Service Charges and Water Monthly Service Charges. UCM shall pay sewer monthly service charges and water service charges as specified for its appropriate user category in the Merced Municipal Code, Chapter 15, as may be amended from time to time; provided however, UCM does not waive its rights, if any, to contest at any time in the future that new or increased charges include capital charges which have not been agreed to under California Government Code section 54999.3 and following.

b. Sewer Facilities Charges and Water Facilities Charges. Both Water Facilities Charges and Sewer Facilities Charges provided for in sections 1,2, and 3 below are based upon the Merced Municipal Code, Chapter 15 as of March 17, 2003 for Phase One, UCM Campus and as of 2016 for the Revised 2020 Project, and have been negotiated and agreed upon by the parties as provided in California Government Code Section 54999.3 and following. The parties agree that for the purpose of determining these Facilities charges, including the costs of service North of Bear Creek, but outside of the North Merced Sewer Assessment District for Phase One, UCM Campus and the Revised 2020 Project, there are certain measurements of campus land area, building line connection sizes, and final engineering design impacts which are difficult and impractical to determine precisely. Therefore, the parties agree that the following determinations are made with respect to Sewer Facilities Charges and Water Facilities Charges:

1. North of Bear Creek, but outside North Merced Sewer Assessment District. Phase One, UCM Campus is approximately 102 acres, of which 24 acres was open space not subject to the charge applicable to property North of Bear Creek but outside of the North Merced Sewer District under Phase One. UCM Campus. The cost for the balance of Phase One which is North of Bear Creek, but outside of the North Merced Sewer Assessment District was based upon 78 acres of area, at $3,222.71 per acre as of the original date of the Original Contract, totaling a one-time charge of $251,371.38, which amount is included in the Project Costs.

Revised 2020 Project and Phase One, UCM Campus are approximately 219 acres, including approximately 117 acres not previously included in Phase One, UCM Campus. The cost for the Revised 2020 property which is also North of Bear Creek, but outside the North Merced Sewer Assessment District is estimated upon an additional 137 acres of area, at $4,251.61 per acre as of August 31, 2015 totaling a one-time charge of $582,470.08. The final calculation of the annexation charge shall be based on the developable acreage of the Revised 2020

Project and any part of the 24 acres of open space in Phase One, UCM Campus that is proposed for development, adjustments for changes based upon accumulated interest between August 31, 2015 and the date the fee is paid in accordance with Merced Municipal Code Section 15.16.070, and shall not include any open space not subject to development.

a. Fee Obligation. UCM acknowledge and unconditionally agree that it owes the City the total sum of Five Hundred Eighty-Two Thousand Four Hundred Seventy Dollars and Eight Cents ($582,470.08) for sewer fees.

b. Down Payment and Repayment Schedule. The UCM agree to pay twenty-five percent (25%) of the sewer fees upon execution of this First Amendment to Contract with the remaining seventy-five percent (75%) to be paid in equal annual installments over the next four (4) years (or less at UCM's option).

c. Repayment Terms and Conditions.

1. Payment Frequency. UCM shall make annual payments of the remaining deferred sewer fee obligation, the amount paid annually being at least one-quarter of the total deferred sewer fee obligation, plus interest as described below. Payments shall be made on or before the anniversary date on an annual basis of the execution of this First Amendment to Contract and shall be made to the City of Merced, Finance Department , Fee Deferral for UC Merced, and made at 678 West 18th Street, Merced, California 95340. City shall endeavor to send UCM an invoice for payment at least thirty (30) days before the payment is due. However, UCM unconditionally agrees to make said payment by the payment due date even if no invoice is received thereby. A late

fee of five percent (5%) of the total fee payment shall be imposed for all late payments made.

2. Interest. The unpaid balance of the fees shall be subject to interest and collection charges. The annual interest rate will be equal to the 11th District Cost of Funds plus one percent (1%) [100 basis points] adjusted every July.

3. Due on Transfer. The unpaid deferred sewer fee balance, together with accrued interest, and late fees shall be due and payable in full upon sale or any other transfer of the property.

4. Recording and Processing Fees. All such fees shall be paid by UCM.

2. Sewer Facilities Charges. A twenty-four-inch sewer connection is provided, with a single point of connection. The Sewer Facilities Charge due as part of the capital costs of the Project is a one-time charge of $104,780 and UCM has paid that amount.

Future Sewer Facilities Charges shall be paid by UCM to compensate for increased enrollment, as provided in the Schedule of Sewer Facilities Charges in Attachment 3, as updated, and incorporated herein by reference. These charges shall be paid not later than September 30th of each year.

3. Water Facilities Charges. A sixteen-inch water connection is provided, with a single meter in lieu of City metering of individual buildings on the UCM Campus. The Water Facilities Charge, which has been paid by UCM, was a one-time charge per special determination based upon the MMC, for a sixteen-inch connection is $557,404.

c. Capital Facilities Fees. Capital Facilities Fees were based upon Project Costs, including Sewer and Water Facilities Charges, amortized over the payment period for the Project Financing, and sufficient to fully retire the Project Financing.

UCM will continue to make the payments required pursuant to the Permanent Financing Capital Facilities Fee Agreement dated October 17, 2003 between the City of Merced and the Regents of the University of California."

2. Except as herein amended, the Contract dated April 29, 2016 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Contract to be duly executed on the date first above written.

CITY OF MERCED

_____ _____

MAYOR DATE

ATTEST:

_____

City Clerk

APPROVED AS TO FORM

By: _____ 9-7-2016

City Attorney Date

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: _____ 08.27.16

DATE

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Amended and Restated Contract for Water, Sewer and Other Services
Between
The City of Merced and The Regents of the University of California

Contents

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Attachments

1. Maps and Diagrams of Project
2. Non-Binding Project Cost Estimates
3. Sewer Facilities Charges
4. Map of Phase One, UCM Campus and the Revised 2020 Project
5. Agreement to Annex
6. Permanent Financing Capital Facilities Fee Agreement

Contract for Water, Sewer and Other Services
Between
The City of Merced and The Regents of the University of California

This Services Contract ("Contract") was entered into as of March 17, 2003, ("Original Contract") and amended as of _____ __, 2016, ("Updated Contract") by and between the City of Merced ("City"), a California Charter Municipal Corporation, and the Regents of the University of California, on behalf of the Merced campus ("UCM").

The parties hereto, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, do hereby agree as follows:

Section 1. Recitals. This Contract is made and entered into with respect to the following facts and information for the following purposes:

a. City provides municipal services, including sewer, water, and fire services, within its corporate limits, and outside its corporate limits only upon specific terms and conditions consistent with the City of Merced General Plan, Merced Municipal Code, Chapter 15, and Resolution No. 78-3 of the City Council of the City of Merced, adopted January 3, 1978.

b. UCM is establishing a university academic campus in accordance with its Long Range Development Plan adopted January 17, 2002 by the University of California Board of Regents, requiring sewer and water services, and desires to obtain those services from City.

c. Since the Original Contract was executed, the University of California Board of Regents adopted a new Long Range Development Plan on March 17, 2009 that incorporated a "2020 Project", and subsequently amended the plan to include a "Revised 2020 Project" on May 15, 2013. UCM now seeks to develop the Revised 2020 Project in accordance with its Long Range Development Plan, requiring sewer and water services, and desires to amend the Contract in order to obtain those services from City. The Revised 2020 Project and the original 102 acre Phase One, UCM Campus together total two hundred nineteen (219) acres.

Pursuant to the Original Contract, the City has provided water and sewer services to Phase One of the UCM campus. Sections 3 and 7 of the Original Contract provided that the Original Contract "establishes terms and conditions for the provision of water and sewer service by City to UCM for Phase One, UCM Campus including ... the continuing services of water and sewer ..." The Phase One area includes 102 acres. Section 8(b)(2) of the Original Contract provides that "[f]uture Sewer Facilities Charges shall be paid by UCM . . . as provided in the Schedule of Sewer Facilities Charges in Attachment 3 ..." Note 2 to Attachment 3 provides that the charge per student "is subject to change computed by a price index according to Chapter 15.16 of the Merced Municipal Code ..." The parties have interpreted the Original Contract to include within the Phase One area any building that is completely or partially within the Phase One area.

The Revised 2020 Project area will be served with water and sewer services through separate utility connection points to be constructed by UCM within the Revised 2020 Project area.

d. UCM may also require fire protection services to support development of the Phase One project and Revised 2020 Project, and the City and UCM agree that such services may be provided to UCM pursuant to the specific terms set forth in a separate and subsequent agreement.

e. City has supported development of UCM and has carried out activities of benefit to UCM, including structuring of financing for extension of services, applications for financing, negotiations with providers of financing, development of contracts, initial investigations of permitting, and inclusion of UCM in City plans and engineering studies.

f. The City and UCM enter into this Contract in order to develop the appropriate water and sewer services to the University of California Merced campus, and also previously entered into a Capital Facilities Fee Agreement for the purposes of acquiring Project Financing. The Capital Facilities Fee Agreement approved as part of the Original Contract was entered into to finance the "Facilities" identified in the Capital Facilities Fee Agreement. The City and UCM agree that these "Facilities" have been constructed and that the Updated Contract does not require either an amendment to the Capital Facilities Fee Agreement or a new Capital Facilities Fee Agreement applicable to the Revised 2020 Project area.

g. It is the intent of City to sell, and of UCM to purchase from the City, water and sewer capacity and water and sewer services in accordance with the terms and conditions set forth in this Contract and the Capital Facilities Fee Agreement.

h. UCM has installed infrastructure on its campus which allows for the use of non-potable water for landscape irrigation purposes. UCM and City agree that, under certain circumstances, use of non-potable surface water (not from the Merced County Groundwater Basin) for irrigation purposes provides certain benefits by minimizing the use of potable water.

Section 2. Definitions.

a. CIEDB. Means the California Infrastructure and Economic Development Bank, an agency of the State of California offering financing for local infrastructure projects.

b. Capital Facilities Fee. Means that charge paid by UCM for the purpose of fully retiring any and all costs of Project Financing, as specified in this Contract and in the Capital Facilities Fee Agreement.

c. Capital Facilities Fee Agreement. Means that agreement entered into by and between City and UCM dated October 1, 2003, whereby UCM agreed to pay the Capital Facilities Fee and City agreed to obtain Project Financing in order to assure the availability of water and sewer service for Phase One and the Revised 2020 Project UCM campus. A copy of the Capital Facilities Fee Agreement is attached hereto as Attachment 6.

d. Certificate of Completion. Means a written Certificate (also called a Notice) of Completion of Project construction by City, which shall be taken as conclusive evidence that the Project is ready for use and issuance of such Certificate of Completion shall constitute a warranty to UCM that the Project will provide water and sewer services to Phase One and the Revised 2020 Project, UCM Campus.

e. Commencement of Project Construction. Means the date that City issues a Notice to Proceed to a construction contractor authorizing initiation of Project construction.

f. Construction Costs. Means all costs of constructing Project capital improvements necessary for water and sewer service within the scope of this Contract, including payments to contractors.

g. Days. Means a twenty-four hour period and refers to calendar days.

h. Final Engineering Design and Cost Estimate. Means the complete set of plans and specifications for bidding construction of the Project, including engineer's cost estimate, prepared by City and/or its consultant, and approved by UCM and City as provided in Section 4.c.2. below.

i. Merced Charter. Means the Charter of the City of Merced as approved and adopted by the Legislature and a vote of the people.

j. Merced Municipal Code (MMC). Means the Municipal Code, currently existing or as may be hereafter amended, codifying certain ordinances of the City of Merced, a California Charter Municipal Corporation.

k. North Merced Sewer Assessment District. Means the Assessment District created by the City of Merced by Resolution No. 86-119 dated November 25, 1986, for the purpose of assessing various properties located north of Bear Creek in order to finance certain sewer system improvements.

l. Revised 2020 Project. Means a one hundred seventeen (117) acre area of the Campus of the University of California Merced, as defined in the Long Range Development Plan adopted by the University of California Board of Regents on March 17, 2009, and amended on May 15, 2013, as illustrated in Attachment 4.

m. Phase One, UCM Campus. Means a one hundred two (102) acre (approximately) area of the Campus of the University of California Merced, as defined in the Long Range Development Plan adopted by the University of California Board of Regents on January 17, 2002, as illustrated in Attachment 4.

n. Project. Means the "off-site" capital improvements to provide sewer and water service to Phase One and the Revised 2020 Project, UCM Campus, including all lines, lift stations, pump stations, meters, flow stations, and appurtenances thereto and any necessary land, easements or rights-of-

way upon which the improvements are situated; and does not include the UCM on-campus distribution and collection systems. The major components of the Project are described in Attachment 1 attached hereto.

o. Project Costs. Means all those costs agreed to by both the City and UCM and incorporated into the Final Engineering Design and Cost Estimate which has been approved by both the City and UCM. These costs include any and all costs to complete the Project, including but not limited to Construction Costs; planning, construction management, engineering and design costs; fees, charges, and permits; costs of land by purchase, lease or other device; costs of compliance with the California Environmental Quality Act, the National Environmental Protection Act, and any other regulations; debt service reserves; costs of financing including but not limited to interest, fees, charges, underwriting, and appraisals; and administration and staffing. Project Costs shall not include the ongoing maintenance and repair of the Project which shall be the sole responsibility of City.

p. Project Financing. Means any loan, grant or other source of funding arranged or used to pay for Project Costs.

q. Provider of Financing. Means any party, organization or agency that provides loans or financing in any form for the Project, including, but not limited to, the CIEDB.

r. Sewer Monthly Service Charge. Means the service charge for City of Merced sewer service as used in the Merced Municipal Code, Section 15.12, as may be amended from time to time.

s. Sewer Facilities Charge. Means the charge for costs of sewer capital facilities, as described in Section 8.b.2 and Attachment 3 below, including cost escalators as provided in MMC 15.16.

t. UCM Campus. Means the Campus of the University of California Merced as described in the Long Range Development Plan, adopted by the University of California Board of Regents on January 17, 2002, amended on March 17, 2009 and amended on May 15, 2013.

u. University Capital Charge Fund. Means that fund established by the City of Merced into which all payments by UCM as Capital Facilities Fees are deposited.

v. Water Monthly Service Charge. Means the service charge for City of Merced water service as used in the Merced Municipal Code, Section 15.36, as may be amended from time to time.

x. Water Facilities Charge. Means the major water facilities charge for costs of water capital facilities, as described in Section 8(b)(3) below.

y. Basic Research is defined as systematic study directed toward fuller knowledge or understanding of the fundamental aspects of phenomena and of observable facts without specific applications towards processes or products in mind.

z. Applied Research is defined as systematic study to gain knowledge or understanding necessary to determine the means by which a recognized and specific need may be met.

aa. Development is defined for purposes of Section 7 of this Agreement as systematic application of knowledge or understanding, directed toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

Section 3. Scope and Term of Contract. This Contract establishes terms and conditions for provision of water and sewer services by City to UCM for Phase One and the Revised 2020 Project, UCM Campus, including both (1) Project Costs, and (2) the continuing services of water and sewer, including operation and maintenance. The City and UCM agree that notwithstanding the terms of this Agreement, UCM may obtain surface non-potable water delivered by the Merced Irrigation District solely for use for landscape irrigation purposes, provided that the original source of said water (or any portion thereof) is not from groundwater from the Merced County Groundwater Basin

With respect to the Project Costs of Project construction and UCM's payment therefor, the UCM obligation to pay the Capital Facilities Fee shall match the terms of the Project Financing acquired by City to fund the

Project, provided that the Project Financing has been repaid in full. Notwithstanding the foregoing, City's obligation to provide the services set forth in this Contract shall, subject only to any termination rights expressly set forth in this Contract, continue as an obligation of the City pursuant to the terms of this Updated Agreement. The parties hereby agree that this repayment term shall be thirty (30) years from the date of the original Contract, but in the event that the Project Financing acquired by City is of some other term, City shall notify UCM as provided in 8.c. below, and UCM shall provide its reasonable consent within ten (10) days or may terminate this Contract under the provisions of Section 14.b. below.

UCM and City also contemplate the provision of fire services may be, but is not required to be, provided by the City to Phase One, UCM Campus and the Revised 2020 Project area. UCM and the City agree the terms and conditions for provision of fire services will be set forth in a separate agreement, which shall be subject to sole discretion of each party as to whether to enter into the agreement.

Section 4. Capital Construction Project. City constructed and completed the Project in accordance with the terms of this Contract .

a. Description of Project.

1. Water. The Project is described in Attachment 1 attached hereto and includes a water line extended northerly from the present terminus of City water lines, in North G Street near Cormorant Drive. The size of the water line was determined by City, based upon its computer water model. This water line was extended north in G Street to Bellevue Road, and then east along Bellevue Road to a connection point near the boundary of the UCM Campus near the intersection of Bellevue and Lake Roads.

The City water line connects to the Phase One, UCM Campus water system through a metered connection, and thence to a UCM storage tank, located on Phase One, UCM Campus near the corner of Bellevue and Lake Roads. Said storage tank was constructed and is owned by UCM as part of its distribution system and the City shall have no maintenance responsibility for the tank. The City water supply line discharges to the UCM storage tank through an air gap or double check valve assembly so that the City and UCM water distribution systems are

separate from an operational standpoint. UCM provides its own on-campus water booster pump. A City well site was needed for the servicing of the UCM campus, and was dedicated to the City at no additional charge or cost by UCM, including the value of the real property so dedicated. The City constructed a municipal well at this site at the location identified following hydrogeological testing of the sites. However, the well is not part of this Project nor considered part of Project Costs, but was developed at the City's expense.

2. Sewer. The Project includes a sanitary sewer line that was extended northerly from the present terminus of City sewer lines, in North G Street near Cormorant Drive. The size of the line at its current terminus is twenty-seven (27) inches. This sewer line was extended north in G Street to Bellevue Road, and then east along Bellevue Road to a connection point near the boundary of the UCM Campus near the intersection of Bellevue and Lake Roads. The sewer portion of the Project may and does include pump stations and/or lift stations located along the route of the line. The size of the line extension from the current terminus to the campus was determined by the City based upon engineering analysis.

3. Maps and Diagrams. The Project is described in the final maps and diagrams included in Attachment 1, which is incorporated as part of this Contract.

4. City Standards. All work in the Project, and any connecting devices and appurtenances owned by UCM, shall conform to City standards and specifications, or in the judgment of the City Engineer, be of equal or better quality and serviceability.

Section 5. Financing of Project.

a. Use, Deposit and Pledge of Capital Facilities Fees in the University Capital Charge Fund. The City shall create within its accounting system the University Capital Charge Fund. All Capital Facilities Fee payments made by UCM shall be deposited by City into the University Capital Charge Fund. The City shall pledge all revenues paid into this Fund, and no others, as security for Project Financing pursuant to and in accordance with

that certain Capital Facilities Fee Agreement executed by and between City and UCM and dated October 1, 2003.

b. Inclusion in Project Financing. The costs paid to City under that certain Deposit Agreement dated January 6, 2003 between City and UCM are considered part of Project Financing, provided that such inclusion of these costs is not contrary to policies or conditions set forth by the Provider of Financing. The amounts paid by UCM to City under the Deposit Agreement are likewise eligible for future proportional reimbursement as part of the overall Project, as set forth in this Contract.

c. Advance Repayment of Project Financing by UCM to City. UCM, at its election, may repay the total, or any outstanding balance, of its proportionate share of Project Financing at any time before the expiration of the financing period, such amount to be sufficient to retire the remaining debt associated with UCM's proportionate share, including any interest, fees, or prepayment premiums or penalties. "Proportionate share" is dependent upon other users who may or may not be participating in or using the Project. In the absence of other users (as provided in Section 10 below), UCM's proportionate share is one hundred percent (100%) of Project Costs.

d. Use of Reimbursements to Repay Project Financing. Any reimbursements of Project Costs to UCM from third parties under the provisions of Section 10.b. of this Contract shall be made in the following manner. City shall calculate the amount of any such reimbursement, collect the necessary charges, and deposit the reimbursement amounts to the University Capital Charge Fund to offset UCM's obligation under the Capital Facilities Fee Agreement. Within thirty (30) days of the date of the deposit of such reimbursement, City shall provide to UCM a Notice of Modified Schedule of Payments due to City under the Capital Facilities Fee Agreement for the period following such deposit. Such Notice of Modified Schedule of Payments shall provide for an immediate credit against UCM's obligations under the Capital Facilities Fee Agreement in the amount of such deposit, on a dollar for dollar basis until the full amount of such deposit has been so credited. City shall not extend any discounts or fee waivers to such third party users and the amounts charged by City to such third party users to connect to the Project shall in no event be less than amounts charged to other third party users which connect to the City system during the same fiscal year, unless City repays the amount of any

discount or fee waiver to the University Capital Charge Fund at the time otherwise due for the payment of the fee. Excess reimbursements deposited to the Fund during the thirty-year period specified in Section 10.b. below, and which remain in the Fund following the satisfactory repayment in full of the Project Financing, shall be paid by City to UCM. Consistent with the City's adopted investment policy, any interest earned on funds deposited in the University Capital Charge Fund shall accrue to and remain in the University Capital Charge Fund.

Section 6. Service Provisions.

a. Acceptance of Service. UCM's acceptance of service shall be evidenced by prompt provision of a written Notice of Acceptance to City within the five (5) day period

b. Sewer Connection Point. The sewer service connection is at a point near the intersection of Bellevue and Lake Roads. Depending upon engineering study and design a form of pretreatment may be required at this point because of the long conveyance distance to the City treatment plant.

c. Water Connection Point. The water connection point is through a metered connection, to a storage tank constructed and owned by UCM. This tank is located on Phase One, UCM Campus, near the intersection of Lake and Bellevue Roads.

d. Measurement of Services. Water and sewer service shall be metered.

e. Meter Test The City will periodically test the water and sewer meters, in accordance with City standards and customary practices.

Section 7. Limitations on Use of Water and Sewer.

a. City shall provide, and UCM shall accept and use, water and sewer services solely for Phase One and the Revised 2020 Project, UCM Campus only and all UCM facilities located thereon. Water and sewer services provided pursuant to this Contract shall only be used to support the development program for Phase One and the Revised 2020 Project in the adopted LRDP, EIR/EIS and 2013 Addendum which includes: (1) 3,145,900 million square feet of building space to support 10,000 full time

equivalent students, (2) housing for 5,000 students, and (3) 5,050 parking spaces. Permitted uses include academic, research, student housing, student and support services (i.e. (1) ancillary commercial sized to serve campus demand, to include not more than 25,000 aggregate square feet of retail and restaurant, (2) student dining commons, and student health centers), athletic and recreational facilities, administrative offices, service facilities (i.e., utilities and sustainable energy facilities), and parking. The permitted research uses may include incubator space up to 20,000 aggregate square feet of development, which may be used for Basic Research, Applied Research and Development. Water or sewer services shall be used only to serve development of these uses regardless of whether those uses are provided by UCM or a private development partner. The reservations, limitations, and prohibitions contained in this Section shall also apply to UCM's contracts with third party users. UCM may, subject to all payment obligations set forth in this Updated Agreement, utilize sewer and water services on land not greater than five (5) acres owned by UC or UCLC that is used for temporary Revised 2020 Project construction staging purposes only.

b. It shall constitute a material breach of this Contract for (i) any use of water and/or sewer services by UCM or any third party to provide any water and/or sewer services outside of Phase One or the Revised 2020 Project of the UCM campus. If such event occurs, the City shall notify UCM of the violation in writing. UCM shall have thirty (30) days to provide written evidence of commencing diligently to cure the violation. In the event that UCM does not commence a cure of the violation within thirty (30) days and expeditiously complete said cure, City may terminate service as provided in Section 14 below.

c. City and UCM agree that this Contract may be amended, under the provisions of 16(m) below, to allow water and sewer service to the UCM campus outside of Phase One and the Revised 2020 Project once environmental review has occurred.

d. UCM's intended use is for a University campus as specified in this Section 7, and water and sewer charges specified in this Contract are based on such use only. Sewer and water service for any other use shall require further approval by City, separate metering, and if so approved at City's absolute and sole discretion, will be charged for in accordance with the rates and charges then in effect. City may impose other or different

conditions upon approval, or may deny the same in City's absolute and sole discretion.

e Limitations upon Sewer Discharge. Sewer discharges are subject to all the limitations of Merced Municipal Code Sections 15.24, 15.28, and 15.29 as currently existing or as may be hereafter amended. A sewage flow monitoring and sampling station (MMC 15.12.090) shall be installed as part of the Project. In the event the sewage flow monitoring and sampling station needs to be modified or expanded in the future due to expansion of UCM or regulatory changes in sampling or monitoring requirements related to UCM's sewer discharge, UCM shall be responsible for such costs and expenses. Any discharge or disposal of prohibited wastes shall be cause for termination of service. In the event UCM has specific needs for chemicals, compounds or substances which may be prohibited from discharge into the City's sewer system by Federal, State, or city law, regulation, order, directive, policy, or ordinance, UCM shall separately contract for the disposal of same.

Section 8. Price. UCM shall pay for water and sewer services provided as follows:

a. Sewer Monthly Service Charges and Water Monthly Service Charges. UCM shall pay sewer monthly service charges and water service charges as specified for its appropriate user category in the Merced Municipal Code, Chapter 15, as may be amended from time to time; provided however, UCM does not waive its rights, if any, to contest at any time in the future that new or increased charges include capital charges which have not been agreed to under California Government Code section 54999.3 and following.

b. Sewer Facilities Charges and Water Facilities Charges. Both Water Facilities Charges and Sewer Facilities Charges provided for in sections 1,2, and 3 below are based upon the Merced Municipal Code, Chapter 15 as of March 17, 2003 for Phase One, UCM Campus and as of , 2016 , for the Revised 2020 Project, and have been negotiated and agreed upon by the parties as provided in California Government Code Section 54999.3 and following. The parties agree that for the purpose of determining these Facilities charges, including the costs of service North of Bear Creek, but outside of the North Merced Sewer Assessment District for Phase One, UCM Campus and the Revised 2020

Project, there are certain measurements of campus land area, building line connection sizes, and final engineering design impacts which are difficult and impractical to determine precisely. Therefore, the parties agree that the following determinations are made with respect to Sewer Facilities Charges and Water Facilities Charges:

1. North of Bear Creek, but outside North Merced Sewer Assessment District. Phase One, UCM Campus is approximately 102 acres, of which 24 acres was open space not subject to the charge applicable to property North of Bear Creek but outside of the North Merced Sewer District under Phase One. UCM Campus. The cost for the balance of Phase One which is North of Bear Creek, but outside of the North Merced Sewer Assessment District was based upon 78 acres of area, at $3,222.71 per acre as of the original date of the Original Contract, totaling a one-time charge of $251,371.38, which amount is included in the Project Costs.

Revised 2020 Project and Phase One, UCM Campus are approximately 219 acres, including approximately 117 acres not previously included in Phase One, UCM Campus. The cost for the Revised 2020 property which is also North of Bear Creek, but outside the North Merced Sewer Assessment District is estimated upon an additional 137 acres of area, at $4,251.61 per acre as of August 31, 2015 totaling a one-time charge of $582,470.08. The final calculation of the annexation charge shall be based on the developable acreage of the Revised 2020 Project and any part of the 24 acres of open space in Phase One, UCM Campus that is proposed for development, adjustments for changes based upon accumulated interest between August 31, 2015 and the date the fee is paid in accordance with Merced Municipal Code Section 15.16.070, and shall not include any open space not subject to development.

2. Sewer Facilities Charges. A twenty-four-inch sewer connection is provided, with a single point of connection. The Sewer Facilities Charge due as part of the capital costs of the Project is a one-time charge of $104,780 and UCM has paid that amount.

Future Sewer Facilities Charges shall be paid by UCM to compensate for increased enrollment, as provided in the Schedule of Sewer Facilities Charges in Attachment 3, as updated, and incorporated

herein by reference. These charges shall be paid not later than September 30th of each year.

3. Water Facilities Charges. A sixteen-inch water connection is provided, with a single meter in lieu of City metering of individual buildings on the UCM Campus. The Water Facilities Charge, which has been paid by UCM, was a one-time charge per special determination based upon the MMC, for a sixteen-inch connection is $557,404.

c. Capital Facilities Fees. Capital Facilities Fees were based upon Project Costs, including Sewer and Water Facilities Charges, amortized over the payment period for the Project Financing, and sufficient to fully retire the Project Financing. UCM will continue to make the payments required pursuant to the Permanent Financing Capital Facilities Fee Agreement dated October 17, 2003 between the City of Merced and the Regents of the University of California.

Section 9. Payment Obligation.

a. Invoicing. Invoices shall be delivered monthly by City to UCM, and payment shall be due monthly according to Merced Municipal Code Chapter 15. Invoices shall identify the following components:

1. Sewer Monthly Service Charge,
2. Water Monthly Service Charge,
3. Capital Facilities Fees.

In the event that UCM secures and provides its own Project Financing under 5.a. above, then no Capital Facilities Fees shall be billed or invoiced, and UCM has no payment obligation under 9.c. below.

b. Monthly Payment Obligation. UCM shall timely pay invoices by the 20th day of the month, in accordance with the Merced Municipal Code, City Council resolutions, and the customary practices of the City.

c. Sewer Monthly Service Charges and Water Monthly Service Charges. UCM shall timely pay invoices by the 20th day of the month, in accordance with the Merced Municipal Code, City Council resolutions, and the customary practices of the City. Late payments shall be subject to late fees in accordance with the customary practices of the City.

d. Capital Facilities Fees. UCM shall pay the Capital Facilities Fees in accordance with the provisions of the Capital Facilities Fee Agreement.

e. Conformity with Government Code. By making the payments set forth in Sections 8.b and c, UCM will have paid for its proportionate share of all capital, financing, and related costs incurred for construction of the Project, consistent with Government Code Sections 54999 et. seq. and Merced Municipal Code Title 15. By execution of this Contract, both parties acknowledge and agree that they have read the provisions of Government Code Sections 54999 et. seq. and Merced Municipal Code Title 15, and that the Capital Facilities Fee, the Sewer Facilities Charge, and the Water Facilities Charge provided in this Contract have been negotiated and agreed upon as provided in Government Code Sections 54999 et. seq. Without modifying the terms of this Contract, the City expressly reserves its right to amend Chapter 15 of the Merced Municipal Code at any time.

Section 10. Use of Project by Third Parties and Credits to UCM.

a. Generally. The water and sewer lines built as part of the Project are available for other developments along the corridor of the Project within the City's Sphere of Influence boundary, provided that all of UCM's actual capacity needs for Phase One and the Revised 2020 Project, UCM Campus will be met, as reasonably determined by UCM and City, all necessary environmental review has been completed, and the property has been annexed to the City.

b. UCM's Right to Credit of Project Costs from Third Party Users. To the extent that other users along the corridor of the Project connect to and receive City water and sewer service from the Project, City shall collect fees or charges from third party users and credit UCM pursuant to section 5.d. above and City agrees to amend the Municipal Code so that UCM shall be entitled to receive said credits with respect to any third party use which occurs within thirty (30) years of the date of the original Contract. Any credit under this paragraph shall be made in the manner described under paragraph 5.d. of this Contract. In no event shall City be required to provide credit to UCM until City collects such credits from the other benefiting third parties.

c. In the event that another user applies for connection, City shall notify UCM within 30 days of the proposed connection, the quantity of services to be used, and the projected amount of reimbursement. This notification is for informational purposes and not for UCM's consent. Whether or not a new user may connect to the City's water and/or sewer services from the Project will be decided by the City in the exercise of its sole discretion.

Section 11. Annexation Agreement.

As a condition of receiving sewer and water services from City, UCM has entered into the Agreement to Annex in Attachment 5 to this Contract. This Contract is not operable unless and until the Agreement to Annex has been executed.

Section 12. Indemnities and Remedies

a. City, pursuant to Government Code Section 895.4 and except as otherwise stated herein, shall indemnify, protect, defend, and hold harmless UCM and its officers, officials, employees, agents, and authorized representatives, from all costs (including reasonable attorneys' fees, costs, and expenses), claims, demands, or liabilities, judgments for injury or damage to property and injuries to persons as defined by Government Code Section 810.8 including, without limitation, the injury or death of any person or liability for property damage which arises out of or occurs during City's performance under this Agreement whether such damage shall accrue or be discovered before or after termination of this Agreement unless the claim, demand, or liability judgment for injury or damage is caused by UCM's negligent or intentional acts.

In performing its obligations under this Agreement, City is undertaking a project which under City practices and policies would normally be undertaken by those developing property. In taking on these obligations, City may be exposed to certain legal challenges and liabilities which otherwise would be a development risk. It is therefore acknowledged and agreed that should a third party legal challenge be instituted against the City, or any of its elected and appointed officers, officials, employees, agents, and authorized representatives, in undertaking the procedural steps in the consideration or approval of this Agreement, that UCM shall indemnify, protect, defend with counsel selected by UCM and reasonably acceptable to the City, and hold harmless the City, any it's elected and

appointed officers, officials, employees, agents, and authorized representatives for any and loss, cost, and expense of such third party legal challenge. City shall have an affirmative obligation to notify UCM of any such legal challenge within ten (10) business days of being served with notice of such legal challenge and to thereafter cooperate fully in the defense thereof. In connection with UCM's indemnity obligations, City shall not (i) file any documents with the court of jurisdiction; or (ii) participate in or conclude any settlement discussions, without, in each case, the express written consent of UCM

b. UCM, pursuant to Government Code Section 895.4 and except as otherwise stated herein, shall indemnify, protect, defend, and hold harmless the City and its elected and appointed officers, officials, employees, agents, and authorized representatives, from all costs (including reasonable attorneys' fees, costs, and expenses), claims, demands, or liabilities, judgments for injury or damage to property and injuries to persons as defined by Government Code Section 810.8 including, without limitation, the injury or death of any person or liability for property damage which arises or occurs from UCM's performance under this Agreement whether such damage, loss, claim, liability, cause of action or suit is discovered before or after termination of this Agreement unless the same is caused by City's negligent or intentional acts. It is understood that the duty of UCM to indemnify and hold harmless City includes the duty to defend as set forth in Section 2778 of the California Civil Code. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not any applicable insurance policy or policies shall have been determined to apply. By execution of this Agreement, UCM acknowledges and agrees that the provisions of this Section are a material element of consideration for City's agreement to perform under this Agreement.

Section 13. Cooperation of Parties.

a. UCM agrees to provide environmental and annexation-related information, data, and analysis in the University's possession for the purposes of LAFCO applications for service provision, and for future annexation processing.

b. UCM shall dedicate to City, at no cost, any easements, well sites, pump station sites, sampling equipment sites, or any other sites needed for the Project, in accordance with Final Engineering Design.

Section 14. Termination.

a. Termination by City.

1. Termination generally. City may terminate this Contract by written notice to UCM due to any material breach or violation of the terms and conditions of this Contract, after having first provided written notice to UCM of said material breach, after which UCM shall have thirty (30) days to cure such breach. If such breach is not susceptible to cure within thirty (30) days, then UCM shall complete a cure within such longer period as is reasonable for such cure, provided that UCM has diligently initiated and pursued said cure within the initial thirty (30) day period. In the event the cure for a breach will take longer than thirty (30) days, UCM shall seek City's approval of the proposed cure prior to commencing with the proposed cure. At such termination, UCM shall pay within thirty (30) days all then outstanding Project Costs, including an amount sufficient to pay all then outstanding amounts owed under the Permanent Financing Capital Facilities Fee Agreement and any outstanding Sewer Monthly Service Charge and Water Monthly Service Charge.

b. Termination by UCM.

1. Termination generally. UCM may terminate this Contract by written notice to City due to any material breach or violation of the terms and conditions of this Contract, after having first provided written notice to City of said material breach, after which City shall have thirty (30) days to cure such breach, and on such termination UCM shall have no further liability or obligation with respect to the Project Costs or the Project Financing. If such breach is not susceptible to cure within thirty (30) days, then City shall complete a cure within such longer period as is reasonable for such cure, provided that City has diligently initiated and pursued said cure within the initial thirty (30) day period. In the event the cure for a breach will take longer than thirty (30) days, City shall seek UCM's approval of the proposed cure prior to commencing with the proposed cure. Construction-related delays, including those in

the Force Majeure clause, shall not be considered to be a material breach of this Contract so long as City is demonstrating due diligence in enforcing its contract with the actual construction contractor.

c. Termination after Commencement of Project Construction.

1. Post construction termination. UCM may terminate this Contract for any reason following the completion of Project Construction, prior to the expiration of the term of the Project Financing, only upon the payment of all Project Costs, including an amount sufficient to pay all then outstanding Project Financing, including any accrued interest, charges, premiums, or prepayment penalties. Following repayment in full of the Project Financing, UCM may terminate this contract upon 180 days written notice to City without penalty. Notwithstanding this right to post construction termination, UCM agrees that it will not invoke its right provided in this Section 14(c)(1) for a minimum of ten (10) years following execution of this Updated Contract by both parties.

Section 15. Compliance with California Environmental Quality Act.

a. City and UCM agree the City will utilize (1) City's 2011 Environmental Impact Report certified by the City Council by Resolution No. 2011-63 adopted on October 17, 2011 for the Merced Vision 2030 General Plan, (2) the 2009 Certified Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") prepared by UCM for the 2009 Long Range Development Plan, (3) Addendum No. 6 to the 2009 Long Range Development Plan EIS/EIR ("2013 Addendum") prepared by UCM for the Revised 2020 Project, (4) the City's 2006 Environmental Impact Report for the City of Merced's Wastewater Treatment Plant Upgrade and Expansion Project certified by the City Council by Resolution No. 2006-147 adopted on December 18, 2006, and (5) any other relevant environmental documentation prepared by or previously utilized by the City to satisfy any CEQA requirements associated with the extension of services to the Revised 2020 Project.

b. Commitments to pursue particular land uses, utilities, and public improvements and services may be subject to CEQA when required pursuant to CEQA Guidelines Section 15162.

c. City and UCM agree that the opportunity for notice regarding any proposed amendment to the Revised 2020 Project as set forth in LRDP approved by University of California Board of Regents on May 15, 2013, is important to the City as the City is responsible for the provision of certain services to UCM pursuant to this Agreement. UCM will provide to the City a minimum of ten (10) days written notice prior to any meeting where the Regents will consider a proposed amendment to the Revised 2020 Project as set forth in the LRDP. The Parties agree that City may comment on any proposed amendment to the Revised 2020 Project prior to or as part of the meeting at which the University of California Board of Regents considers the proposed amendment. Such notice shall be provided in writing to City in accordance with Section 16(l). The Parties further acknowledge that UCM maintains a publicly available list of proposed and approved development projects and the related CEQA compliance documentation for those projects on the UCM website. The link for the list is: http://lrdp.ucmerced.edu/2.asp?uc=1&lvl2=54&contentid=55 UCM shall commence a public outreach list that the City may subscribe to that notifies the City every time the list is updated. UCM acknowledges and agrees that the website and the subscription feature will be maintained during the term of this Agreement, and any extension thereto, and that the following actions, at a minimum, will be posted on the website:

1. Any amendment to the LRDP; and,
2. Any Notice of Preparation, Notice of Completion, Notice of Exemption, Notice of Determination or Addendum all of which relate to Phase One or the Revised 2020 Project.

d. It is agreed by the City and UCM that UCM's defense and indemnity obligations set forth in Section 12(b) hereof apply to City's actions in approving this Contract, including any actions taken pursuant to CEQA. In addition, it is agreed by the City and UCM that UCM's defense and indemnity obligations set forth in Section 12 (b) hereof also apply to any contractual defense and indemnity obligations the City is required to undertake as a result of the requirements and conditions of the Merced County Local Agency Formation Commission in considering and approving the extension of services to UCM's Revised Project 2020 area and out of bounds service thereto.

Section 16. Other Provisions

a. Successors. This Contract is binding on and shall inure to the benefit of and be binding upon the parties hereto and their respective successors in interest as more fully set forth herein. A successor in interest shall not be entitled to receive any benefits under this Contract until the successor agrees in writing to be bound by this Contract.

b. Authority. The individuals executing this Contract hereby represent and warrant that each of them has the authority to enter into this Contract and to perform all acts required by this Contract, and that the consent, approval or execution of or by any third party is not required to legally bind either party to the terms and conditions of this Contract.

c. Governing Law. This Contract shall be governed by and interpreted in accordance with the laws of the State of California with venue proper only in the County of Merced, State of California.

d. Attorney's Fees. If any action, at law or in equity, including any action for declaratory relief, and including any arbitration or mediation, is brought to enforce or interpret the provisions of this Contract, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees and costs of suit, which shall be determined by the court, the arbitrator of the mediator in the same or separate action brought for that purpose.

e. Interpretation. The provisions and language of this Contract shall be interpreted in accordance with the plain meaning thereof and shall not be construed for or against any of the parties hereto.

f. Good Faith. The parties agree to exercise their best efforts and utmost good faith to effectuate all the terms and conditions of this Contract and to execute such further instruments and documents as are necessary or appropriate to effectuate all of the terms and conditions of this Contract.

g. Headings. The headings used in this Contract are for convenience and reference only and shall not be utilized in the construction of the terms or provisions of this Contract.

h. Severability. If any term, provision, covenant or condition of this Contract shall be or become illegal, null, void or against public policy, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining provisions of this Contract shall remain in full force and effect and shall not be affected, impaired, or invalidated. The term, provisions, covenant or condition that is so invalidated, voided or held to be unenforceable, shall be modified or changed by the parties to the extent possible to carry out the intentions and directives set forth in this Contract.

i. Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other party hereto are in the physical possession of the party seeking enforcement thereof.

j. Assignment. Except as expressly provided herein, no party shall have the right to assign its rights or delegate any of its obligations or duties hereunder without the express written consent of the other party which consent shall not be unreasonably withheld.

k. Waiver. The waiver of any breach of any provision hereunder by any party to this Contract shall not be deemed to be a waiver of any preceding or subsequent breach hereunder, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

l. Notices. All notices, approvals, acceptances, demands and other communications required or permitted hereunder, to be effective, shall be in writing and shall be delivered either in person or by mailing the same by United States mail (postage prepaid, registered or certified, return receipt requested) or by Federal Express or other similar overnight delivery service to the party to whom the notice is directed at the address of each such party as follows:

To: City of Merced
678 West 18th Street
Merced. CA 95340
Attn: City Clerk
Phone: (209) 385-4780

University of California, Merced
Attn: Chancellor
P.O. Box 2039
Merced, CA 95344
Phone: (209) 228-4414

Copy: City of Merced
678 West 18th Street
Merced. CA 95340
Attn: City Manager
Phone: (209) 385-6834

Copy:
Office of General Counsel
University of California
1111 Franklin Street, Office 8104
Oakland, CA 94607-5200

Copy: City of Merced
678 West 18th Street
Merced. CA 95340
Attn: City Attorney
Phone: (209) 385-6868

Any written communication given by mail shall be deemed delivered two (2) business days after such mailing date and any written communication given by overnight delivery service shall be deemed delivered one (1) business day after the dispatch date. Either party may change its address by giving the party written notice of its new address as herein provided.

m. Amendment. Amendments to this Contract and its terms and conditions shall only be made by written mutual agreement of the parties and signed by a duly authorized official representing each party, provided, however, as to the City any amendment to this Contract must first be approved by the City Council at a duly noticed public meeting. No provision of this Contract affecting rights and responsibilities under the Capital Facilities Financing Agreement shall be amended without the prior written approval of the CIEDB.

n. Entire Agreement. This Contract constitutes the entire agreement between the parties and supersedes any prior negotiations, agreements, and understandings of the parties, relating to the subject matter of this Agreement.

o. Condition Precedent to Operation of Contract. The obligation of the City to construct the Project or provide sewer and water service to UCM, and

the obligation of UCM to accept water and sewer service from City, do not operate until a commitment for Project Financing is acquired from a Provider of Financing acceptable to both City and UCM.

p. Recording. This Contract shall be recorded on the subject property, which is any parcel comprising or included in Phase One or the Revised 2020 Project of the UCM Campus, in the Official Records of Merced County.

q. Conflict with Capital Facility Fee Agreement. If any provision of this Contract conflicts with any provision of the Capital Facility Fee Agreement, the Capital Facility Fee Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set forth below. The date of approval of this Contract shall be the date of execution by the party signing last.

CITY OF MERCED

MAYOR

4/29/2016
DATE

ATTEST:

City Clerk

Approved as to Form:

10/14/15
City Attorney

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

4/28/16
DATE

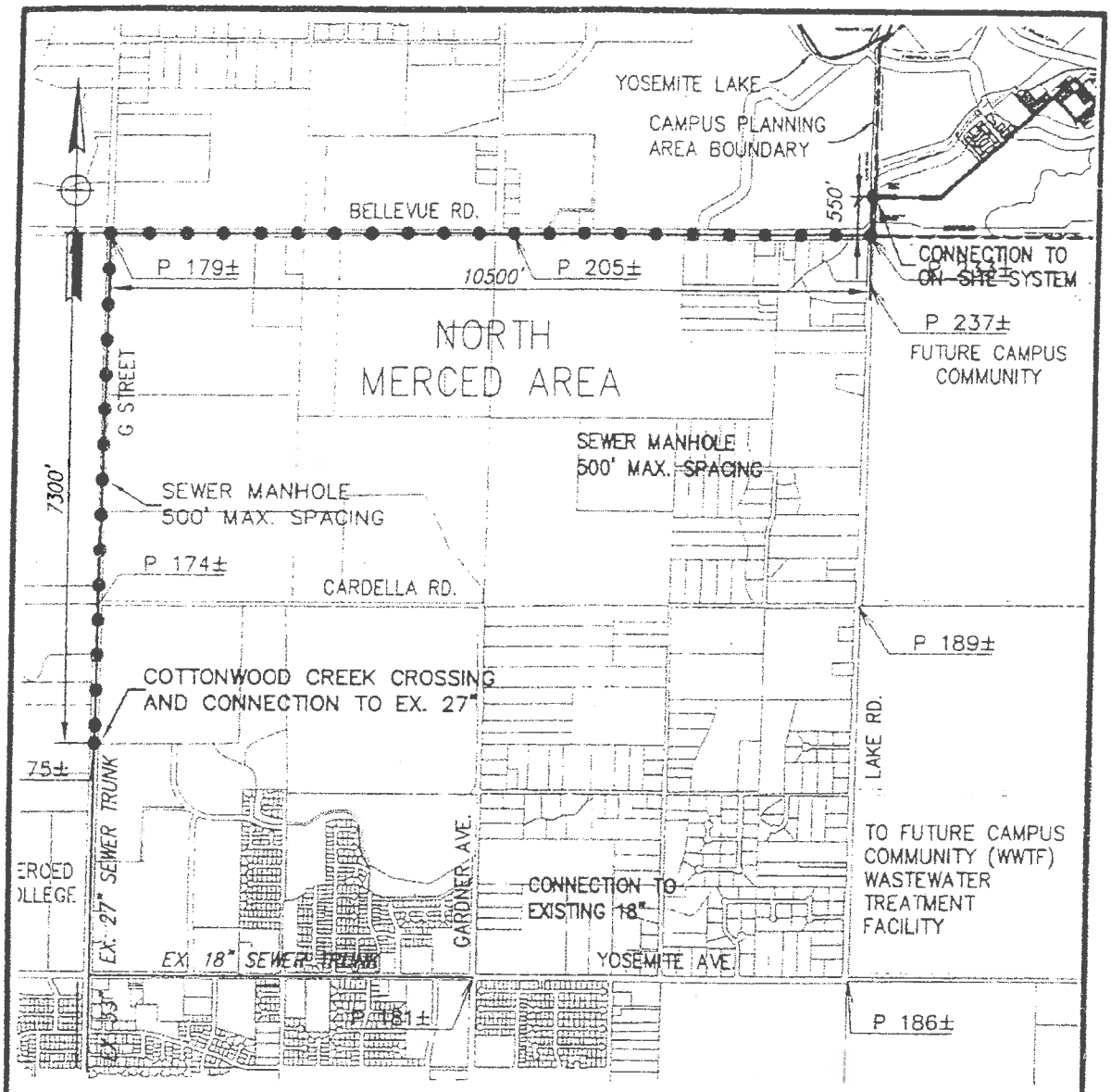
Chancellor
University of California, Merced
2527379.2

CITY of MERCED, CALIFORNIA
INCORPORATED APRIL 1, A.D. 1889

UC 092915

ATTACHMENT 1

ATTACHMENT 1



OFF-SITE SEWER CONNECTION
"G" STREET OPTION

MATERIAL ESTIMATE

DESCRIPTION	QUANTITY
21" PVC -SDR 26 OR CLAY PIPE	16,425 lf.
SEWER MANHOLE- CITY STD. 48" DIA.	34 ea.
CLASS I SOIL - CRUSHED STONE	6,500 tons
CLASS II AGGREGATE BASE	3,600 tons
A.C., ASPHALTIC CONCRETE PAVEMENT	1,400 tons

SANDIS HUMBER JONES
CIVIL ENGINEERS SURVEYORS PLANNERS

DATE: 5/1/01
SCALE: 1"=2000'
DRAWN BY: DWA
APPROVED BY: KNO
DRAWING NO: 500137.03

UC MERCED
OFF-SITE SEWER CONNECTION
YOSEMITE ST. ALTERNATE

SHEET 2 OF 2 SHEETS

500137.03

Exhibit B
Description of Facilities

Water. The Facilities include a sixteen (16) inch water line extended northerly from the present terminus of the City water lines, in North G Street near Cormorant Drive. This water line shall be extended north in G Street to Bellevue Road, and then east along Bellevue Road to a connection point near the boundary of the Phase One UCM Campus near the intersection of Bellevue and Lake Roads.

The City water line shall connect to the Phase One UCM Campus water system through a metered connection, and thence to a UCM storage tank, located on Phase One UCM Campus near the corner of Bellevue and Lake Roads. Said storage tank shall be constructed and owned by UCM as part of its distribution system and the City shall have no maintenance responsibility for the tank. The City water supply line shall discharge to the UCM storage tank through an air gap or double check valve assembly so that the City and UCM water distribution systems are separate from an operational standpoint. UCM shall provide its own on-campus water booster pump to maintain adequate pressures, and such pump shall not be provided as part of this Facilities. A City well shall be located on the UCM campus, and the well site shall be dedicated to the City at no additional charge or cost by The Regents, including value of the real property so dedicated. However, the well is not part of the Facilities nor considered part of Project Costs, but will be developed at the City's expense.

Sewer. The Facilities include a sanitary sewer line to be extended northerly from the present terminus of the City sewer lines, in North G Street near Cormorant Drive. The size of the line at its current terminus is twenty-seven (27) inches. A twenty-seven (27) inch sewer line shall be extended north in G Street to Cardella Road; the line becomes twenty-four (24) inches from Cardella Road to a point on Bellevue Road approximately 2,300 feet east of North G Street, and shall then be twenty-one (21) inches in size along Bellevue Road to a connection point near the boundary of the UCM Campus near the intersection of Bellevue and Lake Roads.

ATTACHMENT 2

ATTACHMENT 2

ucsewer-waterbgt3

2/10/03

Non-Binding Project Budget
University of California Water and Sewer Project

	Sewer	Water	Total		
Land					
1 Property Purchase		0	0		
2 Demolition & clearance	0		0		
3 Environmental surveys			0		
	0	0	0		
Construction					
4 Sanitary sewer lines	4,256,000		4,256,000		
5 Water lines		1,478,400	1,478,400		
6 Pump station		0	0		
7 Well		0	0		
	4,256,000	1,478,400	5,734,400		
Capacity fees					
8 North Merced Sewer Assessment	251,371		251,371		
9 Sewer Facilities Charges	104,780		104,780		
10 Water Facilities Charges		557,404	557,404		
	356,151	557,404	913,555		
Professional services					
11 Contracted engring, design, envir (CH2M)	279,000	290,000	569,000	10%	*569,000*
12 Permit fees (encroachment, CEQA, etc.)	12,768	4,435	17,203		
13 City engrng, insp, testing (2%)	85,120	29,568	114,688		*114,688*
14 City administration (.6%)	25,536	8,870	34,406		*34,406*
	402,424	332,874	735,298		
Financing					
15 Permanent loan fees	49,408	22,842	72,250	0.85%	
17 Additional fees	17,096	7,904	25,000		
18 Capitalized interim interest expense	294,712	136,247	430,959		
	361,217	166,992	528,209		
Contingency					
19 Construction contingency (10%)	425,600	147,840	573,440		
20 Other project contingency (2%)	18,232	6,924	25,156		*6,332,995*
Totals	**5,819,624**	**2,690,434**	**8,510,058**		
	5,458,407	*2,523,442*	*7,981,849*		

Notes:

1. Construction cost estimates based on estimates by Sandis Humber Jones, Kennedy Jenks, and UC Physical Planning staff.
2. Capacity fee estimates based on City of Merced estimates.
3. Professional services estimates by City of Merced.
4. Financing estimates by City of Merced, based on information from lenders.

Other Costs Paid by City of Merced (Not part of Project Financing)

Pump station	250,000	
Well	1,200,000	
Contract engineering (CH2M)	32,984	
City engineering, inspection, testing (2%)	29,000	
		1,511,984

ATTACHMENT 3

ATTACHMENT 3

Sewer Facilities Charges
University of California Water and Sewer Project

Year	Projected Enrollment (1)	Projected Enrollment Increase(2)	Charge Per Student (3)	Total Charge (4)
2015	-	368	$556	204,608
2016	-	751	$556	417,556
2017	-	604	$556	335,824
2018	-	751	$556	417,556
2019	-	693	$556	385,308
2020 (5)	-	550	$556	305,800

NOTES:

1. Project enrollment is based upon the University of California Long Range Development Plan.

The fall enrollment estimate was used for the above example calculation of fees. Effective with academic year 2015-2016 and thereafter, the Sewer Facilities Charge fee discussed in this Attachment 3 shall be calculated based on the average fall and spring student FTE enrollment compared to the average fall and spring student FTE enrollment for the prior fiscal year (July 1 through June 30). The enrollment increase shall be calculated initially based on the number of actual FTE students enrolled in the fall quarter minus the average of fall and spring actual FTE student enrollment for the prior academic year. FTE student enrollment is calculated by dividing student credit hours ("SCH") by a full time study load to determine how many full time students would generate the same instructional workload. Student credit hours (SCH) are the sum of the units earned by all students enrolled in classes. For this purpose, a full time equivalent study load is defined as:

45 SCH per year (15 units per quarter for three quarters) for undergraduates (e.g., 450 undergraduate SCH are equivalent to 10 full time equivalent student enrollment).

36 (SCH) per year (12 units per quarter for three quarters) for a graduate student.

2. UC shall pay the Sewer Facility Charge based on the fall actual FTE student enrollment for that academic year no later than September 30th of each year. The formula for calculating this payment is as follows:

Charge Per Student Per Merced Municipal Code Chapter 15.16 (Effective ___/___ 2015	X	Fall Quarter FTE Student Enrollment — Average Fall/Spring FTE Student Enrollment For Prior Academic Year	=	Sewer Facility Charge (Fall Payment)

[1]

Not later than May 30th of each year, UC shall determine the spring quarter FTE student enrollment and shall calculate the average FTE fall/spring student enrollment for that academic year. In the event, that average fall/spring FTE student enrollment is less than the fall enrollment, UC shall receive a credit against the Sewer Facilities Charge fee payable for the next academic year determined by multiplying the charge per student paid for academic year in which the fee was paid by the difference in the average fall/spring FTE student enrollment and the fall FTE student enrollment. In the event, that average fall/spring FTE student enrollment is greater than the fall enrollment, UC shall pay the City an amount determined by multiplying the charge per student paid for that academic year by the difference in the average fall/spring FTE student enrollment and the fall FTE student enrollment for that year. The amount of credit/charge shall be based on the charge per student used to calculate the original amount of the Sewer Facility Charge (Fall Payment). The formula for calculating the credit/charge is as follows:

Charge Per Student for Same Academic Year	X	Fall FTE Student Enrollment Same Academic Year	–	Fall/Spring FTE Student Enrollment Same Academic Year (If the Fall/Spring FTE is greater than Fall FTE then the amount from this column is the difference Fall/Spring FTE and the Fall FTE for that same academic year)	=	Sewer Facility Charge Credit/Charge

3. The charge per student is $556 at the date of this Contract. However, it is subject to change computed by a price index according to Chapter 15.16 of the Merced Municipal Code, so **rates are subject to increase.** Those shown here are illustrative of a payment at the date of this Contract.

4. **Total charge is also subject to increase,** as in Note 2 above.

5. Charges are shown through the Year 2020.

2424717.2 (092515)

ATTACHMENT 4

Attachment 4

Map of Phase One, UCM Campus

and

Map of Revised 2020 Project, UCM Campus –
Illustrative of Boundaries of Revised 2020 Project, UCM Campus Only

EXHIBIT 'A'

University of California, Merced
Boundary of the Phase 1 Project Area

All that real property situate in the County of Merced, State of California, lying and being within Section 34, Township 6 South, Range 14 East, M.D.M., being a portion of the lands granted to the Regents of the University of California, a California public corporation in that certain grant deed filed in the office of the County Recorder of Merced County as Document No. 2002-012594 and as shown on that certain Record of Survey for the "University of California Merced Campus", filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26 and further being a portion of Parcels 1, 2, and 3, as shown on that certain Parcel Map for "Merced Community Golf Association, being a Division of Parcel 2 according to Parcel Map for Merced County Board of Education as Trustee of the Testamentary Trust of Virginia Smith Book 59 Parcel Maps, Page 1 M.C.R.", filed in the office of the County Recorder of Merced County in Book 83 of Parcel Maps, Pages 9-12 and being more particularly described as follows:

COMMENCING at a 2" iron pipe set in a monument well and accepted as the Southwest corner of said Section 34 as shown on said Record of Survey; thence along the West line of said lands of the Regents of the University of California, North 01°07'48" East, 78.67 feet to the true **POINT OF BEGINNING**; thence continuing along the West and Northwesterly line of said lands of the Regents of the University of California, being also the West and Northwesterly line of said Parcel 2 as shown in Book 59 of Parcel Maps, Page 1 the following eight (8) courses:

1. North 01°07'48" East, 792.89 feet; thence
2. North 55°13'43" East, 243.36 feet; thence
3. North 72°47'31" East, 822.80 feet; thence
4. North 54°05'52" East, 159.13 feet; thence
5. North 35°48'37" East, 372.62 feet; thence
6. North 48°18'50" East, 373.01 feet; thence
7. South 41°40'18" East, 52.28 feet; thence
8. North 49°00'21" East, 289.69 feet; thence

leaving said Northwesterly line and running in a generally Easterly direction the following nine (9) courses:

1. North 79°06'27" East, 286.58 feet; thence
2. North 62°23'58" East, 442.11 feet; thence
3. North 84°18'16" East, 479.34 feet; thence
4. South 69°05'09" East, 232.10 feet; thence
5. North 89°09'17" East, 128.81 feet; thence
6. North 75°29'52" East, 197.31 feet; thence
7. North 36°52'26" East, 16.33 feet; thence
8. South 87°30'48" East, 32.30 feet; thence
9. South 63°30'55" East, 440.18 feet;

thence running in a generally Southerly and Westerly direction along the following forty seven (47) courses:

1. South 05°11'40" West, 74.10 feet; thence

2. South 23°21'25" East, 40.08 feet; thence
3. South 63°26'06" West, 24.62 feet; thence
4. South 00°00'00" West, 65.32 feet; thence
5. South 45°00'01" West, 27.71 feet; thence
6. South 86°18'31" West, 202.92 feet; thence
7. South 65°53'52" West, 271.94 feet; thence
8. South 63°26'04" West, 29.21 feet; thence
9. South 59°02'10" West, 38.09 feet; thence
10. South 07°07'30" West, 52.67 feet; thence
11. South 09°27'45" East, 39.73 feet; thence
12. South 08°07'48" East, 46.19 feet; thence
13. South 29°03'17" East, 67.25 feet; thence
14. South 45°00'00" West, 157.05 feet; thence
15. South 87°42'34" West, 163.44 feet; thence
16. South 59°02'11" West, 76.18 feet; thence
17. South 70°20'46" West, 97.11 feet; thence
18. South 60°15'18" West, 52.67 feet; thence
19. South 45°00'00" West, 36.95 feet; thence continuing
20. South 45°00'00" West, 46.19 feet; thence
21. South 54°27'44" West, 56.19 feet; thence
22. South 28°36'38" West, 81.85 feet; thence
23. South 11°18'36" West, 33.31 feet; thence
24. South 03°34'35" West, 104.72 feet; thence
25. South 36°52'12" West, 65.32 feet; thence
26. South 80°08'03" West, 152.50 feet; thence
27. North 48°00'46" West, 87.88 feet; thence
28. North 78°41'24" West, 66.62 feet; thence
29. South 90°00'00" West, 78.39 feet; thence
30. South 79°59'31" West, 112.77 feet; thence
31. South 55°18'17" West, 103.29 feet; thence
32. South 41°11'09" West, 69.44 feet; thence
33. South 21°02'15" West, 90.99 feet; thence
34. South 12°31'43" West, 60.23 feet; thence
35. South 63°26'06" West, 116.85 feet; thence
36. South 06°20'25" East, 177.46 feet; thence
37. South 77°00'20" West, 87.15 feet; thence
38. South 26°33'54" East, 73.03 feet; thence
39. South 27°24'27" West, 198.67 feet; thence
40. South 83°17'25" West, 111.82 feet; thence
41. South 82°24'19" West, 98.85 feet; thence
42. South 90°00'00" West, 19.60 feet; thence
43. North 85°14'11" West, 78.66 feet; thence
44. South 26°33'55" West, 58.43 feet; thence
45. South 11°18'35" West, 66.62 feet; thence
46. South 08°07'49" West, 46.19 feet; thence
47. South 07°35'41" East, 35.68 feet;

thence parallel with the South line of said Section 34, North 89°50'14" West, 1604.33 feet to the POINT OF BEGINNING, containing 102.001 acres, more or less.

The Basis of Bearings for this description is the California Coordinate System, NAD 83, Zone 3 as defined on that certain Record of Survey filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26. Distances given herein are grid distances. Multiply the grid distance by 1.000045 to obtain ground distances.

End of Description

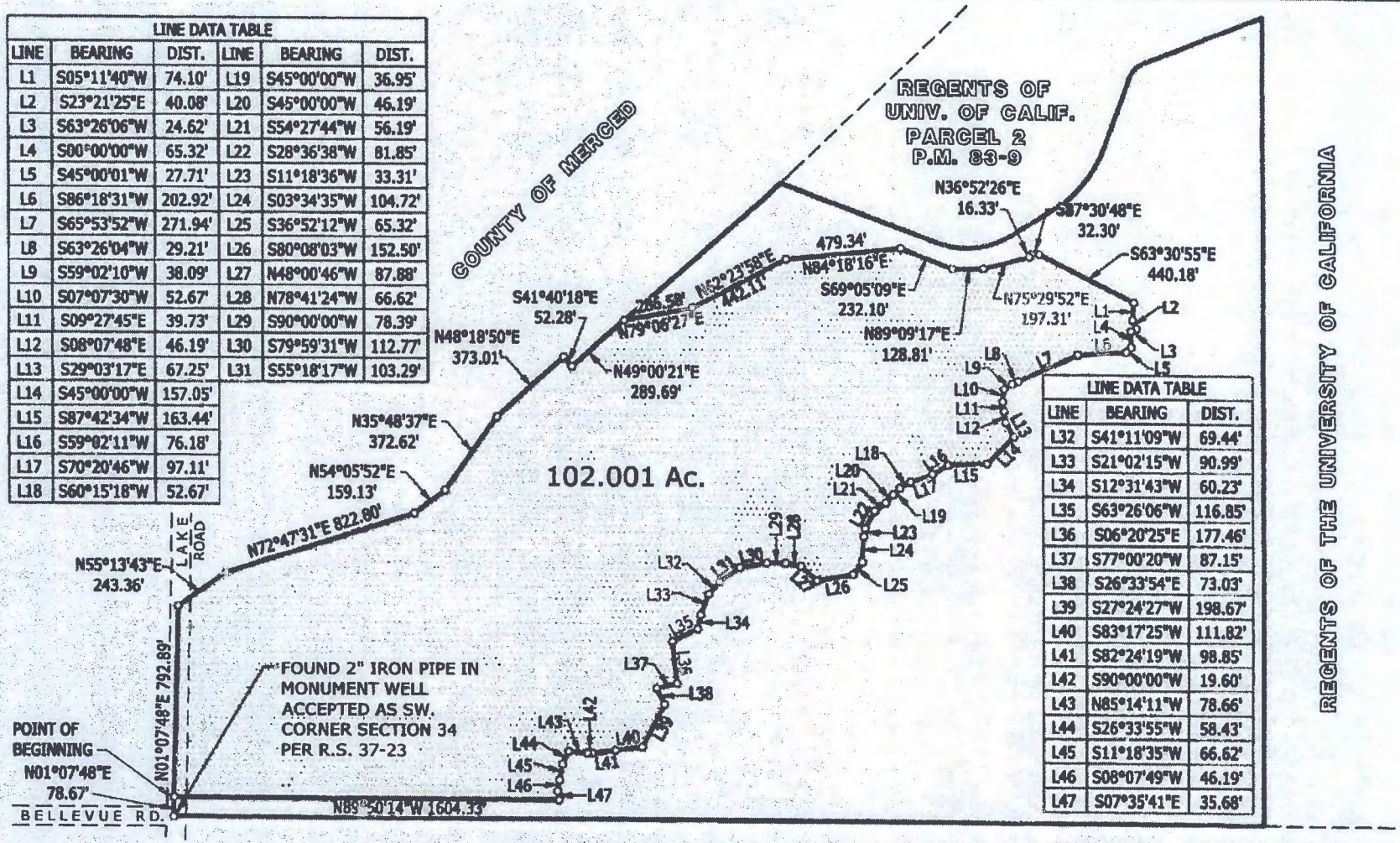
This description has been prepared by me or under my direct supervision in connection with the University of California, Merced Campus "Phase 1 Project".

Kevin A. Heeney, PLS 5914

LICENSED LAND SURVEYOR
KEVIN A HEENEY
NO.5914
Exp.12-31-2016
STATE of CALIFORNIA

12/23/2015
Date

LINE DATA TABLE					
LINE	BEARING	DIST.	LINE	BEARING	DIST.
L1	S05°11'40"W	74.10'	L19	S45°00'00"W	36.95'
L2	S23°21'25"E	40.08'	L20	S45°00'00"W	46.19'
L3	S63°26'06"W	24.62'	L21	S54°27'44"W	56.19'
L4	S00°00'00"W	65.32'	L22	S28°36'38"W	81.85'
L5	S45°00'01"W	27.71'	L23	S11°18'36"W	33.31'
L6	S86°18'31"W	202.92'	L24	S03°34'35"W	104.72'
L7	S65°53'52"W	271.94'	L25	S36°52'12"W	65.32'
L8	S63°26'04"W	29.21'	L26	S80°08'03"W	152.50'
L9	S59°02'10"W	38.09'	L27	N48°00'46"W	87.88'
L10	S07°07'30"W	52.67'	L28	N78°41'24"W	66.62'
L11	S09°27'45"E	39.73'	L29	S90°00'00"W	78.39'
L12	S08°07'48"E	46.19'	L30	S79°59'31"W	112.77'
L13	S29°03'17"E	67.25'	L31	S55°18'17"W	103.29'
L14	S45°00'00"W	157.05'			
L15	S87°42'34"W	163.44'			
L16	S59°02'11"W	76.18'			
L17	S70°20'46"W	97.11'			
L18	S60°15'18"W	52.67'			



LINE DATA TABLE		
LINE	BEARING	DIST.
L32	S41°11'09"W	69.44'
L33	S21°02'15"W	90.99'
L34	S12°31'43"W	60.23'
L35	S63°26'06"W	116.85'
L36	S06°20'25"E	177.46'
L37	S77°00'20"W	87.15'
L38	S26°33'54"E	73.03'
L39	S27°24'27"W	198.67'
L40	S83°17'25"W	111.82'
L41	S82°24'19"W	98.85'
L42	S90°00'00"W	19.60'
L43	N85°14'11"W	78.66'
L44	S26°33'55"W	58.43'
L45	S11°18'35"W	66.62'
L46	S08°07'49"W	46.19'
L47	S07°35'41"E	35.68'

N
W-cta-E
S

LICENSED LAND SURVEYOR
KEVIN A. HEENEY
NO.5914
Exp.12-31-2016
STATE OF CALIFORNIA

DATE: 12/23/2015

Plat to Accompany Legal Description

PHASE 1 CAMPUS BOUNDARY
UNIVERSITY OF CALIFORNIA, MERCED

OWNER:
Regents of the University of California

cta Engineering & Surveying

12/23/2015	DRAWN BY: KAH	SHEET 1 OF 1
SCALE: 1"=600'	JOB NO. 13-026-001	

BEING A PORTION OF PARCELS 1, 2 & 3
OF PARCEL MAP BK. 83, PG. 9

LYING WITHIN
SECTION 34, T. 6 S., R. 14 E., M.D.M.

COUNTY OF MERCED STATE OF CALIFORNIA

EXHIBIT 'A'

University of California, Merced
Boundary of the 2020 Project Area

All that real property situate in the County of Merced, State of California, lying and being within Section 34, Township 6 South, Range 14 East, M.D.M., being a portion of the lands granted to the Regents of the University of California, a California public corporation in that certain grant deed filed in the office of the County Recorder of Merced County as Document No. 2002-012594 and as shown on that certain Record of Survey for the "University of California Merced Campus", filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26 and further being a portion of Parcels 1, 2, and 3, as shown on that certain Parcel Map for "Merced Community Golf Association, being a Division of Parcel 2 according to Parcel Map for Merced County Board of Education as Trustee of the Testamentary Trust of Virginia Smith Book 59 Parcel Maps, Page 1 M.C.R.", filed in the office of the County Recorder of Merced County in Book 83 of Parcel Maps, Pages 9-12 and being more particularly described as follows:

BEGINNING at a 2" iron pipe set in a monument well and accepted as the Southwest corner of said Section 34 as shown on said Record of Survey; thence along the South line of said lands of the Regents of the University of California, being also the South line of said Section 34, South 89°50'14" East, 4540.28 feet; thence leaving said South line, North 00°00'09" West, 3328.83 feet to the approximate centerline of an existing canal; thence along the approximate centerline of said canal the following seven (7) courses:

1. South 68°28'36" West, 529.68 feet; thence
2. along the arc of a curve to the left, having a radius of 100.00 feet, the chord of which bears South 44°31'14" West, 81.21 feet; thence
3. South 20°33'52" West, 311.34 feet; thence
4. along the arc of a curve to the right, having a radius of 500.00 feet, the chord of which bears South 39°29'03" West, 324.24 feet; thence
5. South 58°24'14" West, 209.79 feet; thence
6. along the arc of a curve to the right, having a radius of 365.00 feet, the chord of which bears South 84°19'10" West, 319.04 feet; thence
7. North 69°45'54" West, 688.80 feet to a point on the Northwesterly line of said Regents of the University of California land; thence

along said Northwesterly line the following two (2) courses:

1. South 46°18'50" West, 83.50 feet; thence
2. South 49°00'21" West, 781.81 feet; thence

leaving said Northwesterly line and running in a generally Easterly direction the following nine (9) courses:

1. North 79°06'27" East, 286.58 feet; thence
2. North 62°23'58" East, 442.11 feet; thence
3. North 84°18'16" East, 479.34 feet; thence
4. South 69°05'09" East, 232.10 feet; thence
5. North 89°09'17" East, 128.81 feet; thence
6. North 75°29'52" East, 197.31 feet; thence
7. North 36°52'26" East, 16.33 feet; thence

8. South 87°30'48" East, 32.30 feet; thence
9. South 63°30'55" East, 440.18 feet;

thence running in a generally Southerly and Westerly direction along the following forty seven (47) courses:

1. South 05°11'40" West, 74.10 feet; thence
2. South 23°21'25" East, 40.08 feet; thence
3. South 63°26'06" West, 24.62 feet; thence
4. South 00°00'00" West, 65.32 feet; thence
5. South 45°00'01" West, 27.71 feet; thence
6. South 86°18'31" West, 202.92 feet; thence
7. South 65°53'52" West, 271.94 feet; thence
8. South 63°26'04" West, 29.21 feet; thence
9. South 59°02'10" West, 38.09 feet; thence
10. South 07°07'30" West, 52.67 feet; thence
11. South 09°27'45" East, 39.73 feet; thence
12. South 08°07'48" East, 46.19 feet; thence
13. South 29°03'17" East, 67.25 feet; thence
14. South 45°00'00" West, 157.05 feet; thence
15. South 87°42'34" West, 163.44 feet; thence
16. South 59°02'11" West, 76.18 feet; thence
17. South 70°20'46" West, 97.11 feet; thence
18. South 60°15'18" West, 52.67 feet; thence
19. South 45°00'00" West, 36.95 feet; thence continuing
20. South 45°00'00" West, 46.19 feet; thence
21. South 54°27'44" West, 56.19 feet; thence
22. South 28°36'38" West, 81.85 feet; thence
23. South 11°18'36" West, 33.31 feet; thence
24. South 03°34'35" West, 104.72 feet; thence
25. South 36°52'12" West, 65.32 feet; thence
26. South 80°08'03" West, 152.50 feet; thence
27. North 48°00'46" West, 87.88 feet; thence
28. North 78°41'24" West, 66.62 feet; thence
29. South 90°00'00" West, 78.39 feet; thence
30. South 79°59'31" West, 112.77 feet; thence
31. South 55°18'17" West, 103.29 feet; thence
32. South 41°11'09" West, 69.44 feet; thence
33. South 21°02'15" West, 90.99 feet; thence
34. South 12°31'43" West, 60.23 feet; thence
35. South 63°26'06" West, 116.85 feet; thence
36. South 06°20'25" East, 177.46 feet; thence
37. South 77°00'20" West, 87.15 feet; thence
38. South 26°33'54" East, 73.03 feet; thence
39. South 27°24'27" West, 198.67 feet; thence
40. South 83°17'25" West, 111.82 feet; thence
41. South 82°24'19" West, 98.85 feet; thence
42. South 90°00'00" West, 19.60 feet; thence

43. North 85°14'11" West, 78.66 feet; thence
44. South 26°33'55" West, 58.43 feet; thence
45. South 11°18'35" West, 66.62 feet; thence
46. South 08°07'49" West, 46.19 feet; thence
47. South 07°35'41" East, 35.68 feet;

thence parallel with the South line of said Section 34, North 89°50'14" West, 1604.33 feet to the West line of said Section 34 and the lands of the Regents of the University of California; thence along said West line, South 01°07'48" West, 78.67 feet to the **POINT OF BEGINNING**, containing 117.057 acres, more or less.

The Basis of Bearings for this description is the California Coordinate System, NAD 83, Zone 3 as defined on that certain Record of Survey filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26. Distances given herein are grid distances. Multiply the grid distance by 1.000045 to obtain ground distances.

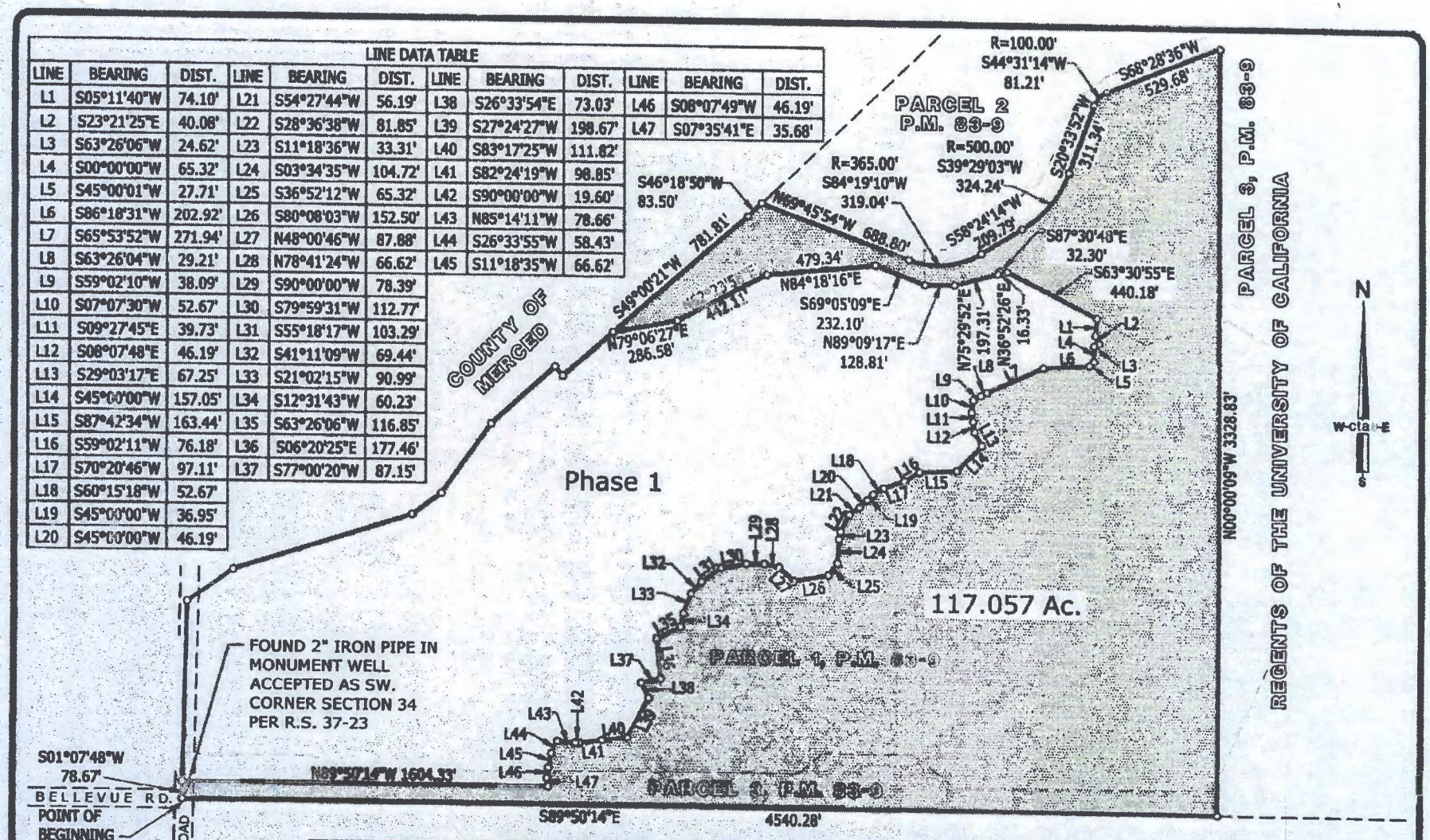
End of Description

This description has been prepared by me or under my direct supervision in connection with the University of California, Merced Campus "2020 Project".

Kevin A. Heeney, PLS 5914

LICENSED LAND SURVEYOR
KEVIN A HEENEY
NO.5914
Exp.12-31-2016
STATE of CALIFORNIA

12/23/2015
Date



LINE DATA TABLE

LINE	BEARING	DIST.	LINE	BEARING	DIST.	LINE	BEARING	DIST.	LINE	BEARING	DIST.
L1	S05°11'40"W	74.10'	L21	S54°27'44"W	56.19'	L38	S26°33'54"E	73.03'	L46	S08°07'49"W	46.19'
L2	S23°21'25"E	40.08'	L22	S28°36'38"W	81.85'	L39	S27°24'27"W	198.67'	L47	S07°35'41"E	35.68'
L3	S63°26'06"W	24.62'	L23	S11°18'36"W	33.31'	L40	S83°17'25"W	111.82'			
L4	S00°00'00"W	65.32'	L24	S03°34'35"W	104.72'	L41	S82°24'19"W	98.85'			
L5	S45°00'01"W	27.71'	L25	S36°52'12"W	65.32'	L42	S90°00'00"W	19.60'			
L6	S86°18'31"W	202.92'	L26	S80°08'03"W	152.50'	L43	N85°14'11"W	78.66'			
L7	S65°53'52"W	271.94'	L27	N48°00'46"W	87.88'	L44	S26°33'55"W	58.43'			
L8	S63°26'04"W	29.21'	L28	N78°41'24"W	66.62'	L45	S11°18'35"W	66.62'			
L9	S59°02'10"W	38.09'	L29	S90°00'00"W	78.39'						
L10	S07°07'30"W	52.67'	L30	S79°59'31"W	112.77'						
L11	S09°27'45"E	39.73'	L31	S55°18'17"W	103.29'						
L12	S08°07'48"E	46.19'	L32	S41°11'09"W	69.44'						
L13	S29°03'17"E	67.25'	L33	S21°02'15"W	90.99'						
L14	S45°00'00"W	157.05'	L34	S12°31'43"W	60.23'						
L15	S87°42'34"W	163.44'	L35	S63°26'06"W	116.85'						
L16	S59°02'11"W	76.18'	L36	S06°20'25"E	177.46'						
L17	S70°20'46"W	97.11'	L37	S77°00'20"W	87.15'						
L18	S60°15'18"W	52.67'									
L19	S45°00'00"W	36.95'									
L20	S45°00'00"W	46.19'									

LICENSED LAND SURVEYOR
KEVIN A. HEENEY
NO.5814
Exp.12-31-2016
STATE OF CALIFORNIA

DATE: 12/23/2015

Plat to Accompany Legal Description

2020 PROJECT CAMPUS BOUNDARY
UNIVERSITY OF CALIFORNIA, MERCED

OWNER:
Regents of the University of California

cta Engineering & Surveying

12/23/2015	DRAWN BY: KAH	SHEET 1 OF 1
SCALE: 1"=600'	JOB NO. 13-026-001	

BEING A PORTION OF PARCELS 1, 2 & 3
OF PARCEL MAP BK. 83, PG. 9

LYING WITHIN
SECTION 34, T. 6 S., R. 14 E., M.D.M.

COUNTY OF MERCED STATE OF CALIFORNIA

ATTACHMENT 5

Recorded in Official Records, MERCED COUNTY
BARBARA J LEVEY
Merced County Clerk – Recorder
CM City of Merced
06/15/2016
11:22 AM
re07
Doc#: 2016019476
Titles: 1 Pages: 21
Fees NO FEE

RECORDING REQUESTED BY:

City of Merced, A California charter municipal corporation

WHEN RECORDED MAIL TO:

City of Merced
678 West 18th Street
Merced, California 95340
Attn.: City Clerk

Exempt Recording Per Gov't Code Section 6103

(Above for Recorder's Use Only)

AGREEMENT AFFECTING REAL PROPERTY AND COVENANT TO ANNEX

This Agreement Affecting Real Property and Covenant to Annex (hereafter "Annexation Agreement") is entered into as of this 14TH day of JUNE 2016, by and between the City of Merced, a California Charter municipal corporation ("City") and The Regents of the University of California, on behalf of the Merced campus ("UCM").

WHEREAS, on March 17, 2003, the City and the UCM entered into that certain Contract for Water and Sewer Services Between The City of Merced and The Regents of the University (the "2003 Agreement") under which the City agreed to provide certain water and sewer services to Phase One of the UCM campus; and,

WHEREAS, as part of the 2003 Agreement, the City and the UCM were required to enter into that certain "Agreement to Annex" (Attachment 5 to the 2003 Agreement) relating to the potential future annexation of the Phase One of the UC Merced Campus to the City of Merced; and,

WHEREAS, on March 17, 2003, the City and the UCM entered into that Agreement to Annex; and,

WHEREAS, the City of Merced subsequently started providing water and sewer services to Phase One of the UCM Campus; and,

WHEREAS, UCM now seeks to develop its Revised 2020 Project in accordance with its Long Range Development Plan and seeks expanded water and sewer services from the City outside of the Phase One of the UCM campus; and,

WHEREAS, the City is willing to continue to provide water and sewer services to Phase One of the UCM campus and to provide expanded water and sewer services for UCM's Revised 2020 Project subject to the provisions of the separately executed Contract for Water, Sewer and Other Services Between The City of Merced and The Regents of the University of California (the "2015 Agreement") and pursuant to the provisions of this Annexation Agreement as long as the UCM, on behalf of itself and its successors-in-interest and assigns, consents to the annexation of the Phase One and the Revised 2020 Project, UCM Campus at such time that the City of Merced submits an application to the Merced County Local Agency Formation Commission ("LAFCO") for the annexation of Phase One, UCM Campus and, the Revised 2020 Project, UCM Campus; and,

WHEREAS, UCM's decision to enter into this Agreement is voluntary and UCM reserves its right to contest the authority of LAFCO to exercise any regulatory authority over property owned by UCM; and,

WHEREAS, consistent with the rights and obligations set forth in this Agreement and the 2015 Agreement, UCM acknowledges that the parties anticipate that Phase One and the Revised 2020 Project areas are planned to be annexed into the City.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, which are incorporated by reference, hereby agree as follows:

Section 1. Effectiveness of Annexation Agreement. This Annexation Agreement is effective as to Phase One of the UCM Campus if the City of Merced is providing water or sewer services to any portion of Phase One. (Phase One is more fully described in Exhibit A and shown on the map in Exhibit B, both of which are attached hereto and incorporated herein by this reference.) This Agreement is effective as to the Revised 2020 Project, UCM Campus if the City of Merced is providing water or sewer services to any portion of the Revised 2020 Project, UCM Campus. (The Revised 2020 Project, UCM Campus is more fully described in Exhibit C and shown on the map in Exhibit D, both of which are attached hereto and incorporated herein by this reference.)

Section 2. Future Annexation to City. As a condition of receiving water and sewer services from the City, and subject to the rights and obligations set forth in this Agreement and in the 2015 Agreement, UCM hereby agrees to the annexation to the City of Phase One and the Revised 2020 Project, UCM Campus. Execution of this Annexation Agreement constitutes an agreement to annex on the terms described herein. Subject to the rights and obligations set forth in this Agreement and in the 2015 Agreement, UCM hereby covenants and binds itself and its successors in interest to annex Phase One and the Revised 2020 Project, UCM Campus to City when the City Council determines that such annexation shall be made. UCM hereby acknowledges that this Annexation Agreement is a request and consent by it to annex the territory constituting Phase One and the Revised 2020 Project, UCM Campus to the City of Merced. Subject to its rights herein, UCM for itself and its successors in interest further agrees not to protest the annexation of said property, either by itself or in combination with other unrelated parcels of land, and hereby now specifically waives the provisions of all sections of law now existing or hereafter to be enacted permitting protests to be filed in annexation proceedings.

Section 3. Notice of Proposed Annexation, Annexation Process, and Termination of this Agreement. Before City submits an application to LAFCO for the annexation of the Phase One and/or Revised 2020 Project, UCM Campus, the City shall deliver to UCM written notice of its intention to commence the annexation proceedings (the "Notice"). The Notice shall contain the following:

A. A draft of the annexation application that the City intends to file with LAFCO; and,

B. The proposed plan for services that the City intends to file with LAFCO in support of the application; and,

C. Any other significant documents that the City intends to file with LAFCO in support of the Application.

Within fifteen (15) days of UCM's receipt of the Notice, City and UCM shall meet and confer regarding the proposed content of the application. If City and UCM cannot meet within said fifteen (15) day period because of UCM's unavailability, the City shall be entitled to file the application with LAFCO without first meeting and conferring. Following the commencement of the annexation proceedings, City and UCM shall reasonably coordinate and cooperate with respect to the annexation proceedings.

Following commencement of the annexation proceedings, UCM or the City may request that the annexation proceeding be terminated by written notice to the other party if either party at any time reasonably concludes, based on substantial evidence, that the approval of the annexation by LAFCO contains any proposed condition, term or other requirement which:

A. Is contrary to law; or,

B. Will impose significant and unreasonable costs or other financial burdens on either party (i.e. annual costs greater than two million dollars ($2,000,000)); or,

C. Will materially infringe upon either party's lawful powers of governance or organization.

If City and UCM both agree that the proposed LAFCO condition, term or requirement is contrary to law or will impose significant and unreasonable costs as set forth above or will materially infringe upon either party's lawful powers of governance or organization, the parties will reasonably cooperate and request that LAFCO not impose the term, condition or requirement. If LAFCO agrees to not impose the condition(s), term(s) or requirement(s) that City and UCM jointly requested not be imposed, then each party agrees that it will withdraw its request that the annexation proceeding be terminated.

If either party requests that the annexation process be terminated and either party determines, as set forth herein, that any one of the above events specified above as a basis for requesting termination of the annexation proceedings has occurred, both parties shall take all necessary steps to cause the annexation proceedings to be terminated and the resulting failure to annex shall not be deemed a breach of Section 2 of this Annexation Agreement and/or a material breach of the 2015 Agreement. If either party requests that the annexation process be terminated, the parties will within three (3) business days schedule and participate in an informal dispute resolution meeting to discuss actions that each party will take to resolve the concerns expressed by the party requesting that the annexation process be terminated. This meeting shall only be required if it can occur in time for the parties to be able to take all necessary actions to terminate the annexation proceedings before the matter is considered or acted upon by LAFCO.

If, following this informal dispute resolution process, either party still requests that the annexation process be terminated, then either party may request a non-binding mediation between the parties to discuss the proposed condition, term or obligation and actions that each party will take to resolve the concerns expressed by the party requesting termination. The mediator will be selected by mutual consent. If the parties cannot agree on one mediator, the parties shall agree on a list of three qualified mediators and each party may strike one mediator from the list and remaining mediator shall serve as mediator. The parties agree that any proposed annexation process shall be suspended during the time between a request for mediation and the date seven (7) days following the completion of the mediation. In the event that LAFCO does not consent to a continuance of the process to allow time for the mediation, the obligation to mediate shall cease to exist as to either party. The mediation must occur with sixty (60) days of the request for mediation. The parties shall bear their own costs for the mediation and shall each pay fifty (50) percent of the cost of the mediator.

Following completion of the informal dispute resolution process and mediation processes provided for herein or if the informal dispute resolution or the mediation processes did not occur pursuant to the terms hereinabove, the party that requested that the annexation process be terminated shall determine, in its sole discretion, if it continues to request that annexation process be terminated.

In addition, UCM may request that the annexation proceeding be terminated by written notice to the City if prior to the City's submittal of an application to LAFCO for the annexation of Phase One and/or Revised 2020 Project, UCM has paid in full all financial obligations under the 2015 Agreement and no portion of Phase One or the Revised 2020 Project receives water or sewer services from the City as of the date of the City's application to LAFCO for the annexation of Phase One and/or Revised 2020 Project.

Notwithstanding the above, in the event that:

A. The City has not yet completed the annexation of Phase One or the Revised 2020 Project, UCM Campus; and,

B. UCM has notified the City of termination under the provisions of Section 14 of the Water and Sewer Contract; and,

C. UCM has made full satisfactory payment of all then outstanding Project Costs as required in Section 14 of the 2015 Agreement,

then the provisions of this Annexation Agreement, shall be cancelled and annexation shall not be required.

Section 4. UCM Rights to Provide its Own Services Post Annexation. UCM may exercise the rights set forth in Section 14(c)(1) of the 2015 Agreement under the terms outlined in the 2015 Agreement and in the event that:

A. The City has already exercised its rights under this Annexation Agreement and annexed Phase One or the Revised 2020 Project, UCM Campus; and,

B. UCM has notified the City of termination under the provisions of Section 14 of the 2015 Agreement; and,

C. UCM has made full satisfactory payment of all then outstanding Project Costs as required in Section 14 of the 2015 Agreement; and

D. Subject to approvals from regulatory agencies, including but not limited to the Regional Water Quality Control Board,

then City agrees that UCM may provide its own services solely to the Campus, although within the incorporated limits of the City of Merced. Notwithstanding this provision, in

order to protect the public health and safety of the City and its residents, the City reserves all of its rights to oppose UCM providing its own water and/or sewer services through the regulatory process, the CEQA process and/or litigation.

Section 5. Authority to Execute. Each party hereto expressly warrants and represents he/she/they has/have the authority to execute this Annexation Agreement on behalf of his/her/their governmental entity and warrants and represents that he/she/they has/have the authority to bind his/her/their entity to the performance of the obligations hereunder.

Section 6. Recordation of this Agreement. This Agreement shall be recorded with the Merced County Recorder's Office within thirty (30) days of execution thereof.

IN WITNESS WHEREOF, this Annexation Agreement has been executed by the parties on the day, month, and year first written above.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: _____
Chancellor
DOROTHY LELAND

ATTEST:

By: _____

_____

APPROVED AS TO FORM:

_____

CITY OF MERCED

By: _____
~~Mayor~~ City Manager
STEVEN CARRIGAN

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

Kenneth Rozell 6/14/16
City Attorney

2527397.4

300133
FUNDS/ACCOUNTS VERIFIED

6-14-16
FINANCE OFFICE DATE

No funds to encumber. MMS
6/14/16

(UC 092915)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT
CIVIL CODE § 1189

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 June 14, 2016 before me, DIANE CATON, the undersigned Notary Public, personally appeared DOROTHY LELAND, CHANCELLOR, 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/~~the~~ir authorized capacity(~~ies~~), and that by ~~his~~/her/~~the~~ir 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

DIANE CATON
Commission # 2121303
Notary Public - California
Merced County
My Comm. Expires Aug 26, 2019

DIANE CATON
My commission expires: August 26, 2019

For: Agreement Affecting Real Property and Covenant to Annex

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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)
County of Merced)

On June 14, 2016 before me, Dawn Mendonca, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared STEVEN S. CARRIGAN
Name(s) of Signer(s)

_____,

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.

DAWN MENDONCA
Commission # 2126220
Notary Public - California
Merced County
My Comm. Expires Oct 8, 2019

Signature Dawn Mendonca
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____

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Exhibit A

Legal Description of Phase One of the UCM Campus

(UC 092915)

EXHIBIT 'A'

University of California, Merced
Boundary of the Phase 1 Project Area

All that real property situate in the County of Merced, State of California, lying and being within Section 34, Township 6 South, Range 14 East, M.D.M., being a portion of the lands granted to the Regents of the University of California, a California public corporation in that certain grant deed filed in the office of the County Recorder of Merced County as Document No. 2002-012594 and as shown on that certain Record of Survey for the "University of California Merced Campus", filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26 and further being a portion of Parcels 1, 2, and 3, as shown on that certain Parcel Map for "Merced Community Golf Association, being a Division of Parcel 2 according to Parcel Map for Merced County Board of Education as Trustee of the Testamentary Trust of Virginia Smith Book 59 Parcel Maps, Page 1 M.C.R.", filed in the office of the County Recorder of Merced County in Book 83 of Parcel Maps, Pages 9-12 and being more particularly described as follows:

COMMENCING at a 2" iron pipe set in a monument well and accepted as the Southwest corner of said Section 34 as shown on said Record of Survey; thence along the West line of said lands of the Regents of the University of California, North 01°07'48" East, 78.67 feet to the true **POINT OF BEGINNING**; thence continuing along the West and Northwesterly line of said lands of the Regents of the University of California, being also the West and Northwesterly line of said Parcel 2 as shown in Book 59 of Parcel Maps, Page 1 the following eight (8) courses:

1. North 01°07'48" East, 792.89 feet; thence
2. North 55°13'43" East, 243.36 feet; thence
3. North 72°47'31" East, 822.80 feet; thence
4. North 54°05'52" East, 159.13 feet; thence
5. North 35°48'37" East, 372.62 feet; thence
6. North 48°18'50" East, 373.01 feet; thence
7. South 41°40'18" East, 52.28 feet; thence
8. North 49°00'21" East, 289.69 feet; thence

leaving said Northwesterly line and running in a generally Easterly direction the following nine (9) courses:

1. North 79°06'27" East, 286.58 feet; thence
2. North 62°23'58" East, 442.11 feet; thence
3. North 84°18'16" East, 479.34 feet; thence
4. South 69°05'09" East, 232.10 feet; thence
5. North 89°09'17" East, 128.81 feet; thence
6. North 75°29'52" East, 197.31 feet; thence
7. North 36°52'26" East, 16.33 feet; thence
8. South 87°30'48" East, 32.30 feet; thence
9. South 63°30'55" East, 440.18 feet;

thence running in a generally Southerly and Westerly direction along the following forty seven (47) courses:

1. South 05°11'40" West, 74.10 feet; thence

2. South 23°21'25" East, 40.08 feet; thence
3. South 63°26'06" West, 24.62 feet; thence
4. South 00°00'00" West, 65.32 feet; thence
5. South 45°00'01" West, 27.71 feet; thence
6. South 86°18'31" West, 202.92 feet; thence
7. South 65°53'52" West, 271.94 feet; thence
8. South 63°26'04" West, 29.21 feet; thence
9. South 59°02'10" West, 38.09 feet; thence
10. South 07°07'30" West, 52.67 feet; thence
11. South 09°27'45" East, 39.73 feet; thence
12. South 08°07'48" East, 46.19 feet; thence
13. South 29°03'17" East, 67.25 feet; thence
14. South 45°00'00" West, 157.05 feet; thence
15. South 87°42'34" West, 163.44 feet; thence
16. South 59°02'11" West, 76.18 feet; thence
17. South 70°20'46" West, 97.11 feet; thence
18. South 60°15'18" West, 52.67 feet; thence
19. South 45°00'00" West, 36.95 feet; thence continuing
20. South 45°00'00" West, 46.19 feet; thence
21. South 54°27'44" West, 56.19 feet; thence
22. South 28°36'38" West, 81.85 feet; thence
23. South 11°18'36" West, 33.31 feet; thence
24. South 03°34'35" West, 104.72 feet; thence
25. South 36°52'12" West, 65.32 feet; thence
26. South 80°08'03" West, 152.50 feet; thence
27. North 48°00'46" West, 87.88 feet; thence
28. North 78°41'24" West, 66.62 feet; thence
29. South 90°00'00" West, 78.39 feet; thence
30. South 79°59'31" West, 112.77 feet; thence
31. South 55°18'17" West, 103.29 feet; thence
32. South 41°11'09" West, 69.44 feet; thence
33. South 21°02'15" West, 90.99 feet; thence
34. South 12°31'43" West, 60.23 feet; thence
35. South 63°26'06" West, 116.85 feet; thence
36. South 06°20'25" East, 177.46 feet; thence
37. South 77°00'20" West, 87.15 feet; thence
38. South 26°33'54" East, 73.03 feet; thence
39. South 27°24'27" West, 198.67 feet; thence
40. South 83°17'25" West, 111.82 feet; thence
41. South 82°24'19" West, 98.85 feet; thence
42. South 90°00'00" West, 19.60 feet; thence
43. North 85°14'11" West, 78.66 feet; thence
44. South 26°33'55" West, 58.43 feet; thence
45. South 11°18'35" West, 66.62 feet; thence
46. South 08°07'49" West, 46.19 feet; thence
47. South 07°35'41" East, 35.68 feet;

EXHIBIT 'A'

thence parallel with the South line of said Section 34, North 89°50'14" West, 1604.33 feet to the POINT OF BEGINNING, containing 102.001 acres, more or less.

The Basis of Bearings for this description is the California Coordinate System, NAD 83, Zone 3 as defined on that certain Record of Survey filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26. Distances given herein are grid distances. Multiply the grid distance by 1.000045 to obtain ground distances.

End of Description

This description has been prepared by me or under my direct supervision in connection with the University of California, Merced Campus "Phase 1 Project".

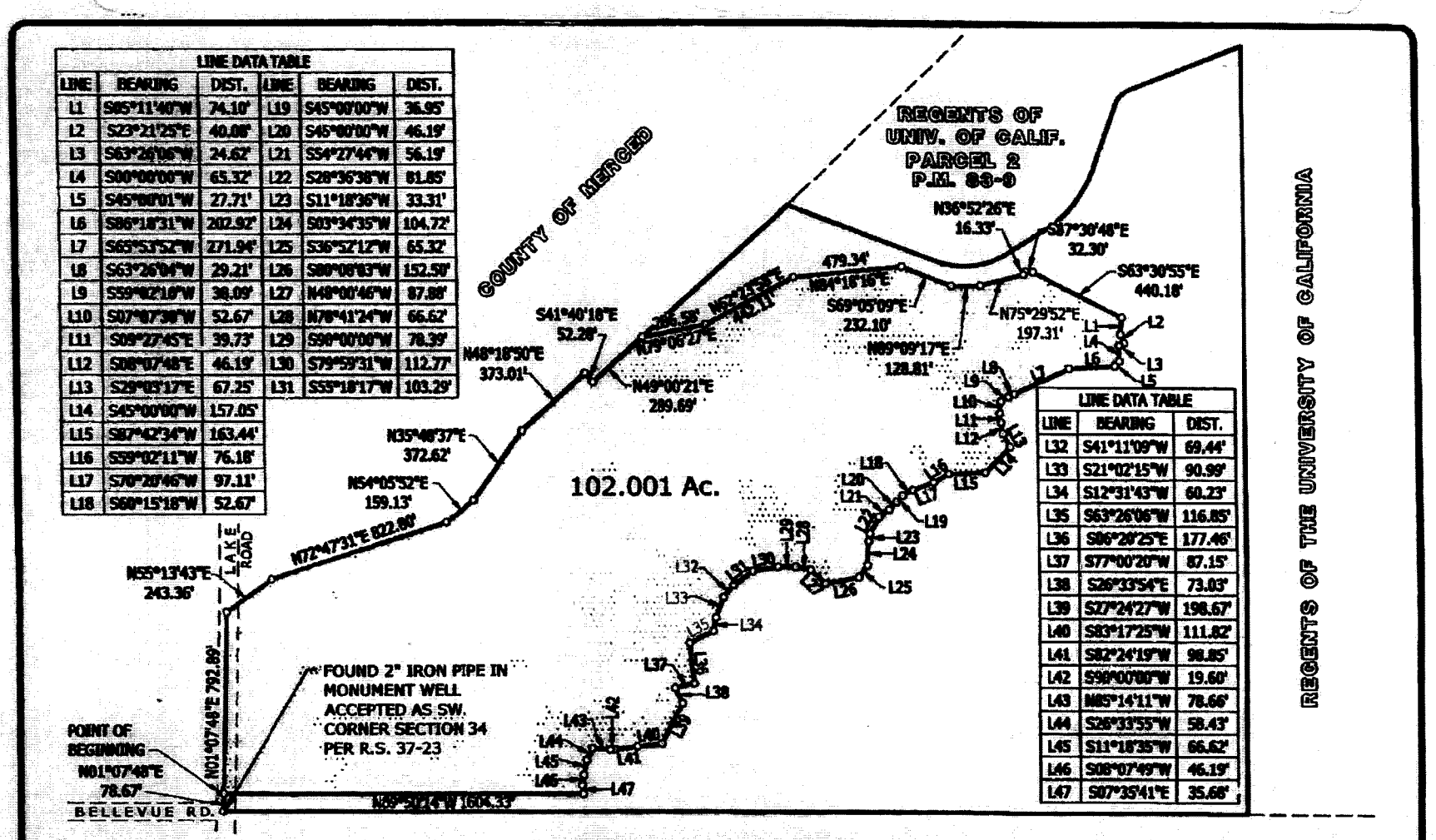
Kevin A. Heeney, PLS 5914

LICENSED LAND SURVEYOR
KEVIN A. HEENEY
NO.5914
Exp.12-31-2016
STATE of CALIFORNIA

12/23/2016
Date

Exhibit B

Map of Phase One of the UCM Campus



LINE DATA TABLE					
LINE	BEARING	DIST.	LINE	BEARING	DIST.
L1	S85°11'40"W	74.10'	L19	S45°00'00"W	36.95'
L2	S23°21'25"E	40.08'	L20	S45°00'00"W	46.19'
L3	S63°26'06"W	24.62'	L21	S54°27'44"W	56.19'
L4	S00°00'00"W	65.32'	L22	S28°36'38"W	81.85'
L5	S45°00'01"W	27.71'	L23	S11°18'36"W	33.31'
L6	S86°18'31"W	202.92'	L24	S03°34'35"W	104.72'
L7	S65°53'52"W	271.94'	L25	S36°52'12"W	65.32'
L8	S63°26'04"W	29.21'	L26	S00°08'03"W	152.50'
L9	S59°02'18"W	38.09'	L27	N48°00'46"W	87.88'
L10	S07°07'38"W	52.67'	L28	N76°41'24"W	66.62'
L11	S09°27'45"E	39.73'	L29	S90°00'00"W	78.39'
L12	S08°07'48"E	46.19'	L30	S79°59'31"W	112.77'
L13	S28°03'17"E	67.25'	L31	S55°18'17"W	103.29'
L14	S45°00'00"W	157.05'			
L15	S87°42'34"W	163.44'			
L16	S59°02'11"W	76.18'			
L17	S70°20'46"W	97.11'			
L18	S60°15'18"W	52.67'			

LINE DATA TABLE		
LINE	BEARING	DIST.
L32	S41°11'09"W	69.44'
L33	S21°02'15"W	90.99'
L34	S12°31'43"W	60.23'
L35	S63°26'06"W	116.85'
L36	S86°20'25"E	177.46'
L37	S77°00'20"W	87.15'
L38	S26°33'54"E	73.03'
L39	S27°24'27"W	198.67'
L40	S83°17'25"W	111.82'
L41	S82°24'19"W	98.85'
L42	S90°00'00"W	19.60'
L43	N85°14'11"W	78.66'
L44	S26°33'55"W	58.43'
L45	S11°18'35"W	66.62'
L46	S08°07'49"W	46.19'
L47	S07°35'41"E	35.68'

LICENSED LAND SURVEYOR KEVIN A. HEENEY NO. 5914 Exp. 12-31-2016 STATE OF CALIFORNIA

DATE: 12/23/2016

Plat to Accompany Legal Description

PHASE 1 CAMPUS BOUNDARY
UNIVERSITY OF CALIFORNIA, MERCED

OWNER:
Regents of the University of California

cta Engineering & Surveying

12/23/2015	DRAWN BY: KAH	SHEET 1 OF 1
SCALE: 1"=600'	JOB NO. 13-026-001	

BEING A PORTION OF PARCELS 1, 2 & 3
OF PARCEL MAP BK. 83, PG. 9

LYING WITHIN
SECTION 34, T. 6 S., R. 14 E., M.D.M.

COUNTY OF MERCED STATE OF CALIFORNIA

Exhibit C

Legal Description of Revised 2020 Project, UCM Campus

[A legal description consistent with the exterior boundaries of the Revised 2020 Project, UCM attached as Exhibit D will be prepared and attached prior to the effective date of the "Amended and Restated Contract for Water, Sewer and Other Services Between The City of Merced and The Regents of the University of California."]

EXHIBIT 'A'

University of California, Merced
Boundary of the 2020 Project Area

All that real property situate in the County of Merced, State of California, lying and being within Section 34, Township 6 South, Range 14 East, M.D.M., being a portion of the lands granted to the Regents of the University of California, a California public corporation in that certain grant deed filed in the office of the County Recorder of Merced County as Document No. 2002-012594 and as shown on that certain Record of Survey for the "University of California Merced Campus", filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26 and further being a portion of Parcels 1, 2, and 3, as shown on that certain Parcel Map for "Merced Community Golf Association, being a Division of Parcel 2 according to Parcel Map for Merced County Board of Education as Trustee of the Testamentary Trust of Virginia Smith Book 59 Parcel Maps, Page 1 M.C.R.", filed in the office of the County Recorder of Merced County in Book 83 of Parcel Maps, Pages 9-12 and being more particularly described as follows:

BEGINNING at a 2" iron pipe set in a monument well and accepted as the Southwest corner of said Section 34 as shown on said Record of Survey; thence along the South line of said lands of the Regents of the University of California, being also the South line of said Section 34, South 89°50'14" East, 4540.28 feet; thence leaving said South line, North 00°00'09" West, 3328.83 feet to the approximate centerline of an existing canal; thence along the approximate centerline of said canal the following seven (7) courses:

1. South 68°28'36" West, 529.68 feet; thence
2. along the arc of a curve to the left, having a radius of 100.00 feet, the chord of which bears South 44°31'14" West, 81.21 feet; thence
3. South 20°33'52" West, 311.34 feet; thence
4. along the arc of a curve to the right, having a radius of 500.00 feet, the chord of which bears South 39°29'03" West, 324.24 feet; thence
5. South 58°24'14" West, 209.79 feet; thence
6. along the arc of a curve to the right, having a radius of 365.00 feet, the chord of which bears South 84°19'10" West, 319.04 feet; thence
7. North 69°45'54" West, 688.80 feet to a point on the Northwesterly line of said Regents of the University of California land; thence

along said Northwesterly line the following two (2) courses:

1. South 46°18'50" West, 83.50 feet; thence
2. South 49°00'21" West, 781.81 feet; thence

leaving said Northwesterly line and running in a generally Easterly direction the following nine (9) courses:

1. North 79°06'27" East, 286.58 feet; thence
2. North 62°23'58" East, 442.11 feet; thence
3. North 84°18'16" East, 479.34 feet; thence
4. South 69°05'09" East, 232.10 feet; thence
5. North 89°09'17" East, 128.81 feet; thence
6. North 75°29'52" East, 197.31 feet; thence
7. North 36°52'26" East, 16.33 feet; thence

8. South 87°30'48" East, 32.30 feet; thence
9. South 63°30'55" East, 440.18 feet;

thence running in a generally Southerly and Westerly direction along the following forty seven (47) courses:

1. South 05°11'40" West, 74.10 feet; thence
2. South 23°21'25" East, 40.08 feet; thence
3. South 63°26'06" West, 24.62 feet; thence
4. South 00°00'00" West, 65.32 feet; thence
5. South 45°00'01" West, 27.71 feet; thence
6. South 86°18'31" West, 202.92 feet; thence
7. South 65°53'52" West, 271.94 feet; thence
8. South 63°26'04" West, 29.21 feet; thence
9. South 59°02'10" West, 38.09 feet; thence
10. South 07°07'30" West, 52.67 feet; thence
11. South 09°27'45" East, 39.73 feet; thence
12. South 08°07'48" East, 46.19 feet; thence
13. South 29°03'17" East, 67.25 feet; thence
14. South 45°00'00" West, 157.05 feet; thence
15. South 87°42'34" West, 163.44 feet; thence
16. South 59°02'11" West, 76.18 feet; thence
17. South 70°20'46" West, 97.11 feet; thence
18. South 60°15'18" West, 52.67 feet; thence
19. South 45°00'00" West, 36.95 feet; thence continuing
20. South 45°00'00" West, 46.19 feet; thence
21. South 54°27'44" West, 56.19 feet; thence
22. South 28°36'38" West, 81.85 feet; thence
23. South 11°18'36" West, 33.31 feet; thence
24. South 03°34'35" West, 104.72 feet; thence
25. South 36°52'12" West, 65.32 feet; thence
26. South 80°08'03" West, 152.50 feet; thence
27. North 48°00'46" West, 87.88 feet; thence
28. North 78°41'24" West, 66.62 feet; thence
29. South 90°00'00" West, 78.39 feet; thence
30. South 79°59'31" West, 112.77 feet; thence
31. South 55°18'17" West, 103.29 feet; thence
32. South 41°11'09" West, 69.44 feet; thence
33. South 21°02'15" West, 90.99 feet; thence
34. South 12°31'43" West, 60.23 feet; thence
35. South 63°26'06" West, 116.85 feet; thence
36. South 06°20'25" East, 177.46 feet; thence
37. South 77°00'20" West, 87.15 feet; thence
38. South 26°33'54" East, 73.03 feet; thence
39. South 27°24'27" West, 198.67 feet; thence
40. South 83°17'25" West, 111.82 feet; thence
41. South 82°24'19" West, 98.85 feet; thence
42. South 90°00'00" West, 19.60 feet; thence

EXHIBIT 'A'

43. North 85°14'11" West, 78.66 feet; thence
44. South 26°33'55" West, 58.43 feet; thence
45. South 11°18'35" West, 66.62 feet; thence
46. South 08°07'49" West, 46.19 feet; thence
47. South 07°35'41" East, 35.68 feet;

thence parallel with the South line of said Section 34, North 89°50'14" West, 1604.33 feet to the West line of said Section 34 and the lands of the Regents of the University of California; thence along said West line, South 01°07'48" West, 78.67 feet to the **POINT OF BEGINNING**, containing 117.057 acres, more or less.

The Basis of Bearings for this description is the California Coordinate System, NAD 83, Zone 3 as defined on that certain Record of Survey filed in the office of the County Recorder of Merced County in Book 37 of Surveys, Pages 23-26. Distances given herein are grid distances. Multiply the grid distance by 1.000045 to obtain ground distances.

End of Description

This description has been prepared by me or under my direct supervision in connection with the University of California, Merced Campus "2020 Project".

Kevin A. Heeney, PLS 5914

LICENSED LAND SURVEYOR
KEVIN A. HEENEY
NO.5914
Exp.12-31-2016
STATE of CALIFORNIA

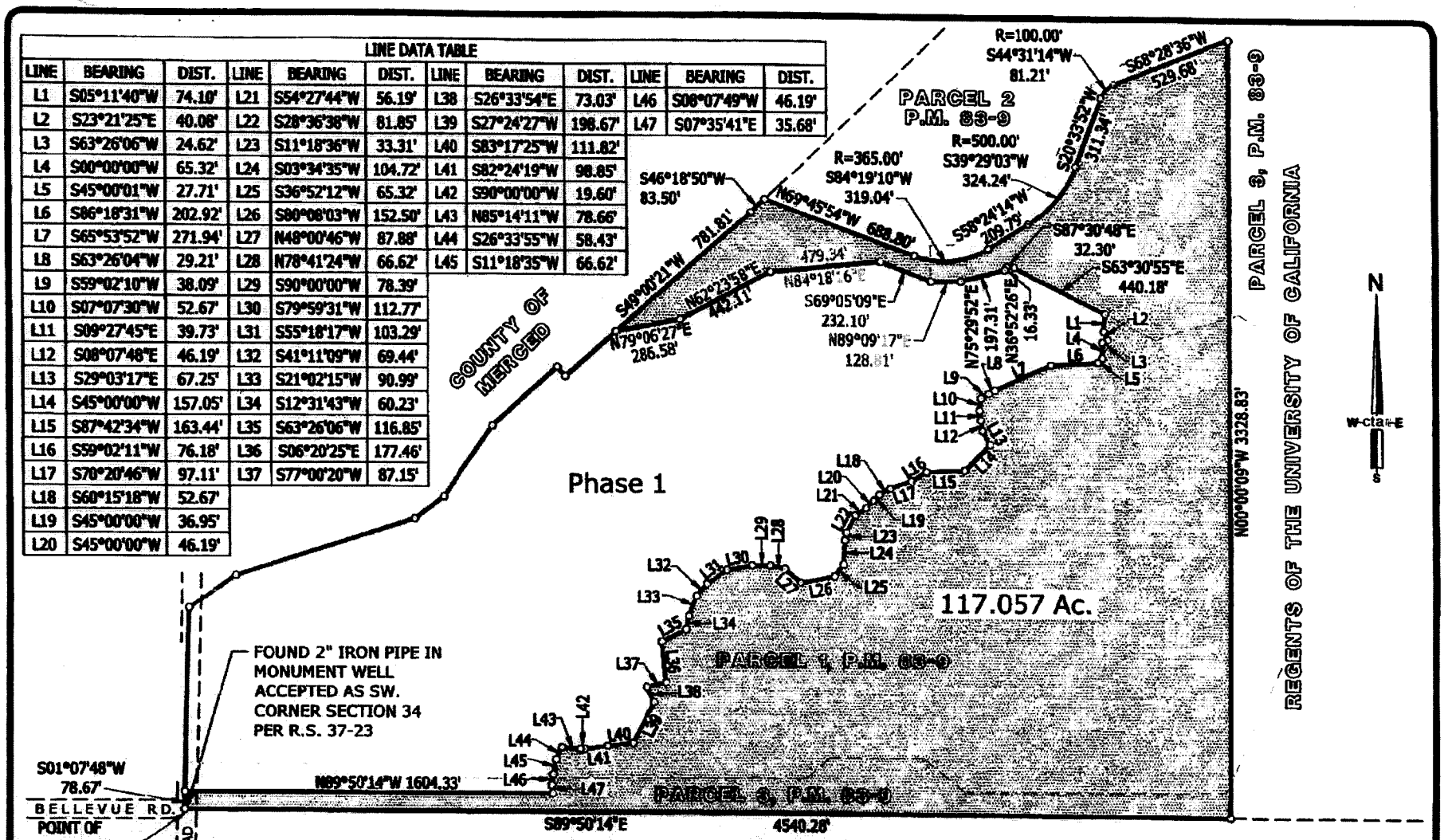
12/23/2015
Date

Exhibit D

Map of Revised 2020 Project, UCM Campus –
Illustrative of Boundaries of Revised 2020 Project, UCM Campus Only

(UC 092915)

LINE DATA TABLE											
LINE	BEARING	DIST.	LINE	BEARING	DIST.	LINE	BEARING	DIST.	LINE	BEARING	DIST.
L1	S05°11'40"W	74.10'	L21	S54°27'44"W	56.19'	L38	S26°33'54"E	73.03'	L46	S08°07'49"W	46.19'
L2	S23°21'25"E	40.08'	L22	S28°36'38"W	81.85'	L39	S27°24'27"W	198.67'	L47	S07°35'41"E	35.68'
L3	S63°26'06"W	24.62'	L23	S11°18'36"W	33.31'	L40	S83°17'25"W	111.82'			
L4	S00°00'00"W	65.32'	L24	S03°34'35"W	104.72'	L41	S82°24'19"W	98.85'			
L5	S45°00'01"W	27.71'	L25	S36°52'12"W	65.32'	L42	S90°00'00"W	19.60'			
L6	S86°18'31"W	202.92'	L26	S80°08'03"W	152.50'	L43	N85°14'11"W	78.66'			
L7	S65°53'52"W	271.94'	L27	N48°00'46"W	87.88'	L44	S26°33'55"W	58.43'			
L8	S63°26'04"W	29.21'	L28	N78°41'24"W	66.62'	L45	S11°18'35"W	66.62'			
L9	S59°02'10"W	38.09'	L29	S90°00'00"W	78.39'						
L10	S07°07'30"W	52.67'	L30	S79°59'31"W	112.77'						
L11	S09°27'45"E	39.73'	L31	S55°18'17"W	103.29'						
L12	S08°07'48"E	46.19'	L32	S41°11'09"W	69.44'						
L13	S29°03'17"E	67.25'	L33	S21°02'15"W	90.99'						
L14	S45°00'00"W	157.05'	L34	S12°31'43"W	60.23'						
L15	S87°42'34"W	163.44'	L35	S63°26'06"W	116.85'						
L16	S59°02'11"W	76.18'	L36	S06°20'25"E	177.46'						
L17	S70°20'46"W	97.11'	L37	S77°00'20"W	87.15'						
L18	S60°15'18"W	52.67'									
L19	S45°00'00"W	36.95'									
L20	S45°00'00"W	46.19'									



LICENSED LAND SURVEYOR
KEVIN A HEENEY
NO.5814
Exp.12-31-2016
STATE OF CALIFORNIA

DATE: 12/23/2015

Plat to Accompany Legal Description

2020 PROJECT CAMPUS BOUNDARY
UNIVERSITY OF CALIFORNIA, MERCED

OWNER:
Regents of the University of California

cta Engineering & Surveying

12/23/2015	DRAWN BY: KAH	SHEET 1 OF 1
SCALE: 1"=600'	JOB NO. 13-026-001	

BEING A PORTION OF PARCELS 1, 2 & 3
OF PARCEL MAP BK. 83, PG. 9

LYING WITHIN
SECTION 34, T. 6 S., R. 14 E., M.D.M.

COUNTY OF MERCED STATE OF CALIFORNIA

ATTACHMENT 6

Attachment 6

October 17, 2003 FINAL DRAFT

PERMANENT FINANCING
CAPITAL FACILITIES FEE AGREEMENT

Dated as of October 1, 2003

By and Between

CITY OF MERCED, CALIFORNIA

and

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

This Permanent Financing Capital Facilities Fee Agreement, dated as of October 1, 2003 (the "Agreement"), is entered into by and between the City of Merced, California (the "City"), and The Regents of the University of California ("The Regents").

WITNESSETH:

WHEREAS, The Regents are establishing a tenth campus of the University of California in the vicinity of the City ("UCM") the first phase of which (the "Phase One UCM Campus") is described in Exhibit A hereto and is expected to be operational on or before September 30, 2005;

WHEREAS, The Regents have requested that the City provide water and sewer services to the Phase One UCM Campus;

WHEREAS, the City is willing to provide water and sewer services to the Phase One UCM Campus pursuant to the terms of a Contract for Water and Sewer Services dated as of March 17, 2003, by and between the City and The Regents (the "Service Contract"), but in order for the City to provide such services it will have to construct the Facilities described in Exhibit B hereto (the "Facilities");

WHEREAS, the City has received a commitment for construction financing from County Bank in an amount not exceed nine million dollars ($9,000,000) for Project Costs;

WHEREAS, the City and County Bank have entered into certain loan documents ("County Bank loan documents") which provide for County Bank to loan the City up to nine million dollars ($9,000,000) for the construction of the Facilities which loan shall be secured by an Interim Financing Capital Facilities Fee Agreement ("Interim Financing CFFA") similar to this Agreement;

WHEREAS, this Agreement shall not be effective absent a release by County Bank of the Interim Financing CFFA, such signed release constituting Exhibit D hereto;

WHEREAS, the City now desires to obtain from the California Infrastructure and Economic Development Bank (the "CIEDB") permanent financing in an aggregate amount of nine million dollars ($9,000,000) for the Project Costs;

WHEREAS, to such end, the City has concurrently herewith entered into an Enterprise Fund Installment Sale Agreement with the CIEDB (the "Installment Sale Agreement") pursuant to which, among other things, the City has agreed to convey the Facilities to the CIEDB upon the completion thereof in accordance with the terms of the Installment Sale Agreement, to repurchase them from the CIEDB and, in connection therewith, to pay to the CIEDB (in addition to the other amounts provided for in the Installment Sale Agreement) installment payments on the dates and in the amounts specified in Exhibit E to the Installment Sale Agreement plus "additional payments" as specified in Section 2.04(f) of the Installment Sale Agreement (collectively, the "ISA Payments") which the CIEDB may apply, along with certain other revenues, to the payment of debt service on bonds issued or to be issued by it to finance various projects including, but not limited to, the Facilities (the "Bonds");

WHEREAS, the CIEDB's execution and delivery of the Installment Sale Agreement is

conditioned, among other things, upon its receipt of a fully executed copy of this Agreement;

WHEREAS, the Facilities will be used primarily to provide water and sewer services to the Phase One UCM Campus, and may also, in accordance with the terms of the Service Contract, provide services to third parties on non-preferential terms, and upon normal rates and charges, in accordance with the Merced Municipal Code, but only if such use will not result in the inclusion of interest on the Bonds in gross income for California and federal income tax purposes;

WHEREAS, Section 54999.3 of the Government Code of the State of California permits a public agency such as the City to impose a capital facilities fee on The Regents if the amount of such capital facilities fee has been agreed to by the public agency and The Regents through negotiations entered into by both parties;

WHEREAS, the City and The Regents have heretofore entered into negotiations concerning the imposition by the City of a capital facilities fee on The Regents to pay the costs incurred by the City in connection with the Facilities, as represented by the ISA Payments, and the City and The Regents agree that (i) such a fee, in an aggregate amount equal to the aggregate amount of the ISA Payments, payable in the amounts and on the dates specified in the schedule attached hereto as Exhibit C (the "Capital Facilities Fee"), is an appropriate fee to be so imposed, (ii) the City has the legal authority to impose the Capital Facilities Fee on The Regents and (iii) subject to the provisions of this Agreement and the Service Contract, The Regents have accepted the responsibility to pay the Capital Facilities Fee; and

WHEREAS, The Regents desire to enter into this Agreement to provide for the payment by The Regents to the City of the Capital Facilities Fee;

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, the parties hereto do agree as follows:

Section 1. Representations and Warranties.

(a) Representations and Warranties of The Regents. The Regents represent and warrant to the City that:

(i) The recitals set forth above are true and correct;

(ii) As of the date of this Agreement, The Regents has requisite right, power and authority to enter into this Agreement;

(iii) As of the date of this Agreement, all authorizations, approvals, licenses, consents and orders of any governmental authority or agency having jurisdiction of the matter that would constitute a condition precedent to, or the absence of which would materially and adversely affect, the execution of this Agreement by The Regents and the performance by The Regents of its obligations under this Agreement (other than the appropriation by the State of California (the "State") of the money necessary to pay the Capital Facilities Fee) have been obtained; and

(iv) This Agreement constitutes the legal, valid and binding obligation of The Regents enforceable in accordance with its terms.

(b) Representations and Warranties of the City. The City represents and warrants to The Regents that:

(i) The recitals set forth above are true and correct;

(ii) As of the date of this Agreement, the City has requisite right, power and authority to enter into this Agreement;

(iii) As of the date of this Agreement, all authorizations, approvals, licenses, consents and orders of any governmental authority or agency having jurisdiction of the matter that would constitute a condition precedent to, or the absence of which would materially and adversely affect, the execution of this Agreement by the City and the performance by the City of its obligations under this Agreement have been obtained or, in the case of the encroachment permit to be issued by Merced County, will be obtained prior to commencement of construction of the Facilities; and

(iv) This Agreement constitutes the legal, valid and binding obligation of the City enforceable in accordance with its terms.

Section 2. Capital Facilities Fee. Subject to the City's delivery of the notice of completion provided for in the Installment Sale Agreement (the "Notice of Completion"), and receipt by the parties of the Exhibit D County Bank release, The Regents shall pay to the City the Capital Facilities Fee in the amounts and on the dates specified in the schedule attached hereto as Exhibit C, provided that The Regents shall not be required to make the first such payment until at least five (5) days after the City's delivery of the Notice of Completion. The City covenants that it will use such payments to make payments to the CIEDB under the Installment Sale Agreement, and The Regents understand that such payments may be used by the CIEDB to pay debt service on the Bonds. Moreover, the determination by the CIEDB as to the use of the Capital Facilities Fee shall not change the amount or timing thereof, except that portion of the Capital Facilities Fee representing optional prepayment. All payments made by The Regents on account of the Capital Facilities Fee shall be deposited by the City in the University Capital Charge Fund, and once such payments have been made by The Regents, The Regents' obligation to pay such part of the Capital Facility Fee shall be deemed immediately fulfilled.

To the extent that other users along the corridor of the Project connect to and receive City water and sewer service from the Project, the City shall collect fees or charges from third party users ("Connection Fees") and shall immediately deposit all Connection Fees, without offsets or deductions of any kind, into the University Capital Charge Fund held by the City. The City shall not extend any discounts or fee waivers to such third party Project users, and the Connection Fees shall in no event be less than amounts charged to third party users which connect to the City water and sewer systems during the same fiscal year, unless the City pays the amount of any discount or fee waiver to the University Capital Charge Fund at the time otherwise due for the payment of the Connection Fees. The City agrees to amend the Municipal Code so that The Regents shall be entitled to receive credit in determining the Capital Facilities Fees for any

Connection Fees paid into the University Capital Charge Fund within thirty (30) years of the date of this Agreement.

Within thirty (30) days of the deposit of any Connection Fees in the University Capital Charge Fund, the City shall provide to The Regents a Notice of Modified Schedule of Payments due to the City hereunder. The Notice of Modified Schedule of Payments shall be computed in accordance with Section 5(f) of the Service Contract. Such Notice of Modified Schedule of Payments shall provide for an immediate credit against The Regent's obligations under this Agreement in the amount of such deposit of any Connection Fees on a dollar for dollar basis until the full amount of such deposit has been so credited. Interest earned on funds in the University Capital Charge Fund shall accrue to and remain in the University Capital Charge Fund.

Section 3. Covenants of The Regents.

(a) Request for Funds, Budgets and Appropriations. The Regents shall take all such actions as may be necessary to include the Capital Facilities Fee due under this Agreement for each fiscal year in its annual budget. The Regents will furnish to each of the City and the CIEDB a copy of each such annual budget within thirty (30) days after the adoption thereof by The Regents, with a reference to the portion thereof that contains the appropriation to pay the Capital Facilities Fee payable hereunder in such fiscal year.

(b) Tax Exemption of Bonds.

(1) The Regents shall not permit the water or sewer service furnished to the Phase One UCM Campus to be used in a manner which would cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Tax Code and specifically shall not allow either such service to be used in the trade or business of any "non-governmental person," as defined in Treasury Regulations Section 1.141-1(b), other than in their roles as members of the general public. This restriction is in addition to any other restriction on water or sewer service contained in the Service Contract.

(2) Absent an opinion of nationally recognized bond counsel acceptable to CIEDB that the exclusion from gross income of interest on any Bonds will not be adversely affected for federal income tax purposes, all output received by The Regents with respect to the Project will be used for the general purposes of The Regents and not for resale to another person or entity.

(c) Duties Imposed by Law. The covenants on the part of The Regents herein contained shall be deemed to be and shall be construed to be duties imposed by law, and it shall be the duty of each and every public official of The Regents to take such action and do such things as are required by law in the performance of the official duty of such officials to enable The Regents to carry out and perform the agreements and covenants in this Agreement agreed to be carried out and performed by The Regents.

(d) Continuing Disclosure. Upon the request of the City, The Regents covenant to furnish the following data to the CIEDB in order to enable any underwriter to comply with Rule

15c2-12(b)(5) of the Securities and Exchange Commission in connection with the Bonds secured by the Installment Sales Agreement:

(1) The audited financial statements of the Regents for the prior fiscal year (presently June 30), prepared in accordance with generally accepted accounting principles applicable to public colleges and universities. If such audited financial statements are not available by seven months after the end of the fiscal year for The Regents, The Regents shall provide unaudited financial statements in a format that complies with current Generally Accepted Accounting Principles and the audited financial statements shall be provided when such financial statements become available.

Section 4. Obligation in the Event of Default.

(a) Written Demand. Upon failure of The Regents to (i) make any payment in full when due under this Agreement or (ii) perform any other obligation hereunder, the City shall make written demand upon The Regents. If a failure described in clause (i) above is not remedied within thirty (30) days from the date of such demand, such failure shall constitute a default at the expiration of such period. If a failure described in clause (ii) cannot be remedied within thirty (30) days from the date of such demand but The Regents commence remedial action within such thirty (30) day period and diligently pursue such remedial action to completion, such failure shall not constitute a default hereunder.

(b) Remedies Upon Default. Upon the failure of The Regents to make any payment within thirty (30) days from the date of the City's written demand, the City may give notice of termination of the Service Contract insofar as the same entitles The Regents to receive water and/or sewer service through the Facilities. Such notice shall be effective within thirty (30) days thereof unless such termination shall be enjoined, stayed or otherwise delayed by judicial action. Irrespective of such termination, The Regents shall remain liable to the City to pay the full amount of the Capital Facilities Fee as provided for herein.

(c) Enforcement of Remedies. In addition to the remedies set forth in this Section, upon the occurrence of a default under this Agreement, the City shall be entitled to proceed to protect and enforce the rights vested in the City by this Agreement by such appropriate judicial proceeding as the City shall deem most effectual, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained herein or to enforce any other legal or equitable right vested in the City by this Agreement or by law. The provisions of this Agreement and the duties of each party hereof, their respective boards, officers or employees shall be enforceable by the other party hereto by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, with the losing party paying all costs and attorney fees.

(d) CIEDB Is Third Party Beneficiary. The City and The Regents agree that the CIEDB shall have the right, as a third party beneficiary of this Agreement, to initiate and maintain suit to enforce this Agreement to the fullest extent allowable under applicable law.

(e) The Regents' Termination Rights. Nothing in the foregoing shall be deemed to limit The Regents' termination right set forth in Section 14(b) of the Service Contract, and on termination of the Service Contract thereunder, this Agreement shall automatically terminate on the same date.

Section 5. Amounts Remaining in University Capital Charge Fund. Following the City's payment in full of all amounts due under the Installment Sale Agreement, any amounts remaining in the University Capital Charge Fund shall be paid to The Regents.

Section 6. Term. The term of this Agreement shall continue until the date on which all amounts due under the Installment Sale Agreement have been paid in full.

Section 7. Assignment. The City may pledge and assign to the CIEDB or any trustee for Bonds, all or any portion of the payments received under this Agreement from The Regents and the City's other rights and interests under this Agreement.

Section 8. Miscellaneous.

(a) Headings. The headings of the sections hereof are inserted for convenience only and shall not be deemed a part of this Agreement.

(b) Partial Invalidity. If any one or more of the covenants or agreements provided in this Agreement to be performed should be determined to be invalid or contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

(c) Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument. No counterpart shall be deemed to be an original or presumed delivered unless and until each party is in possession of the counterpart executed by the other party.

(d) Governing Law; Venue. This Agreement shall be construed in accordance with and governed by the Constitution and laws of the State of California applicable to contracts made and performed in the State of California. This Agreement shall be enforceable in the State of California and any action arising hereunder shall be filed and maintained in Sacramento County, California.

(e) Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by Federal Express or another reputable commercial overnight courier that guarantees next day delivery and provides a receipt, or (d) by telefacsimile or telecopy, and such notices shall be addressed as follows:

If to the City: City of Merced
678 West 18th Street
Merced, CA 95430
Attn: City Manager, with a copy to the City Attorney

If to The Regents: UCM-Vice Chancellor-Administration
P.O. Box 2039
Merced, California 95344

With a copy to The Regents of the University of California
1111 Franklin Street, 8th Floor
Oakland, CA 94607
Attn: Office of the General Counsel

If to the CIEDB: California Infrastructure and Economic Development Bank
1102 Q Street, Suite 6000
Sacramento, California 95814
Attn: Credit Support Manager
CIEDB #03-043

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed delivered when actually delivered, if such delivery is in person, upon deposit with the U.S. Postal Service, if such delivery is by certified mail, upon deposit with the overnight courier service, if such delivery is by an overnight courier service, and upon transmission, if such delivery is by telefacsimile or telecopy.

(f) Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof. This acknowledgement pertains solely to the matters covered hereunder. It is understood and agreed by the parties that the Service Contract is also an agreement between the parties.

(g) Time of the Essence. Time is of the essence in the performance of this Agreement.

(h) Conflict with Service Contract. In the event of any inconsistency between the provisions of this Agreement and the provisions of any other agreement between the City and The Regents, including but not limited to the Service Contract, the provisions of this Agreement shall prevail; and no provision of this Agreement or any other agreement between the City and The Regents shall be construed as permitting The Regents to take any action or to omit to take any action if the effect thereof would be to prevent or to limit in any way the right of the City to receive payment of the Capital Facilities Fee.

(i) Assignment prohibition. Except as provided in Section 7 of this Agreement, neither the City nor The Regents shall assign its rights or responsibilities hereunder without the prior written approval of the other party and CIEDB, which approval shall not unreasonably be withheld.

(j) Inspection and copies.

(1) The City agrees that The Regents or its designees may inspect the City's records and accounts pertaining to the Capital Facilities Fee at all times during business hours.

(2) The City shall provide to The Regents at the same time it provides to CIEDB the audited financing statements and annual certificate required pursuant to Sections 5.03(b) and (c) of the Installment Sale Agreement.

(k) The City to Perform Under Installment Sale Agreement and Indemnify The Regents. City covenants to timely perform all of its obligations under the Installment Sales Agreement and shall indemnify, except as to any claim, loss, or demand resulting from the Regents failure to timely make required payments, The Regents for all claims, losses, damages or expenses which may arise from or be connected in any way with City's failure to perform such obligations, including, without limitation, any payment which may be imposed under the provisions of Section 2.04(f)(2) of the Installment Sales Agreement. The City and The Regents agree that any claim to indemnity is outside the provisions of this Agreement and no rights to indemnity shall result in any offsets or deductions of any kind hereunder.

(l) Effectiveness. This Agreement shall only be effective upon compliance with all conditions to The Regents' obligations to make payment under Section 2 hereof.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

CITY OF MERCED

By: William D. Carroll

Its: Assistant City Manager ~~(Acting)~~

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: [illegible]

Its: Vice Chancellor Administration Univ of California, Merced

APPROVED AS TO FORM:

Gregory G. Diaz

GREGORY G. DIAZ
City Attorney

Exhibit A
Description of Phase One of UCM Campus

Location: Phase One of the UC Merced Campus ("Phase One UCM Campus") will be sited on a portion of an existing golf course that was built on the southwest corner of the Virginia Smith Trust lands in 1994. Approximately one-half of the existing golf course site is available for Phase One development.

Infrastructure: The Phase One UCM Campus will accommodate all of the buildings needed by the campus to commence the opening of the campus through the 2007/2008 academic year.

On opening day in 2004, the campus is expected to include the following:

- 120,000 square foot library and information technology center.
- 100,000 square foot science and engineering building.
- 60,000 square foot humanities, arts and social sciences building.
- 20,000 square foot central plant to provide for the heating and cooling needs of the campus.
- Housing for approximately 600 students.
- Food service facilities for use by resident and commuter communities.
- Recreational and athletic facilities to meet the needs of the students in these first years of campus operations.
- Temporary and permanent parking facilities.
- Roads, bridges and utility systems to make the campus interconnected.

By the 2007/2008 academic year, the campus will include these additional elements:

- A 67,000 square foot science and engineering building to augment the original facility.
- A 60,000 square foot social sciences building.
- A 20,000 square foot logistics and support building to house healthcare, safety, maintenance, mail and distribution, purchasing and materials management functions.
- Additional recreational and athletic facilities, student housing for 1,600 students and permanent parking.

Exhibit B
Description of Facilities

Water. The Facilities include a sixteen (16) inch water line extended northerly from the present terminus of the City water lines, in North G Street near Cormorant Drive. This water line shall be extended north in G Street to Bellevue Road, and then east along Bellevue Road to a connection point near the boundary of the Phase One UCM Campus near the intersection of Bellevue and Lake Roads.

The City water line shall connect to the Phase One UCM Campus water system through a metered connection, and thence to a UCM storage tank, located on Phase One UCM Campus near the corner of Bellevue and Lake Roads. Said storage tank shall be constructed and owned by UCM as part of its distribution system and the City shall have no maintenance responsibility for the tank. The City water supply line shall discharge to the UCM storage tank through an air gap or double check valve assembly so that the City and UCM water distribution systems are separate from an operational standpoint. UCM shall provide its own on-campus water booster pump to maintain adequate pressures, and such pump shall not be provided as part of this Facilities. A City well shall be located on the UCM campus, and the well site shall be dedicated to the City at no additional charge or cost by The Regents, including value of the real property so dedicated. However, the well is not part of the Facilities nor considered part of Project Costs, but will be developed at the City's expense.

Sewer. The Facilities include a sanitary sewer line to be extended northerly from the present terminus of the City sewer lines, in North G Street near Cormorant Drive. The size of the line at its current terminus is twenty-seven (27) inches. A twenty-seven (27) inch sewer line shall be extended north in G Street to Cardella Road; the line becomes twenty-four (24) inches from Cardella Road to a point on Bellevue Road approximately 2,300 feet east of North G Street, and shall then be twenty-one (21) inches in size along Bellevue Road to a connection point near the boundary of the UCM Campus near the intersection of Bellevue and Lake Roads.

Exhibit C
Capital Facilities Fee

Payment Date	Ending Principal Balance	Principal Payment	Interest Payment	Total Principal & Interest	Annual Fee	Total Payment	Total Payment Fiscal Year Ending 30-Jun
1-May-2004	$9,000,000						
1-Aug-2004	$9,000,000		$71,325	$71,325	$27,000	$98,325	
1-Feb-2005	$9,000,000		$142,650	$142,650		$142,650	$240,975
1-Aug-2005	$8,965,000	$35,000	$142,650	$177,650	$27,000	$204,650	
1-Feb-2006	$8,965,000		$142,095	$142,095		$142,095	$346,745
1-Aug-2006	$8,890,000	$75,000	$142,095	$217,095	$26,895	$243,990	
1-Feb-2007	$8,890,000		$140,907	$140,907		$140,907	$384,897
1-Aug-2007	$8,790,000	$100,000	$140,907	$240,907	$26,670	$267,577	
1-Feb-2008	$8,790,000		$139,322	$139,322		$139,322	$406,898
1-Aug-2008	$8,665,000	$125,000	$139,322	$264,322	$26,370	$290,692	
1-Feb-2009	$8,665,000		$137,340	$137,340		$137,340	$428,032
1-Aug-2009	$8,540,000	$125,000	$137,340	$262,340	$25,995	$288,335	
1-Feb-2010	$8,540,000		$135,359	$135,359		$135,359	$423,694
1-Aug-2010	$8,350,000	$190,000	$135,359	$325,359	$25,620	$350,979	
1-Feb-2011	$8,350,000		$132,348	$132,348		$132,348	$483,327
1-Aug-2011	$8,150,000	$200,000	$132,348	$332,348	$25,050	$357,398	
1-Feb-2012	$8,150,000		$129,178	$129,178		$129,178	$486,575
1-Aug-2012	$7,925,000	$225,000	$129,178	$354,178	$24,450	$378,628	
1-Feb-2013	$7,925,000		$125,611	$125,611		$125,611	$504,239
1-Aug-2013	$7,700,000	$225,000	$125,611	$350,611	$23,775	$374,386	
1-Feb-2014	$7,700,000		$122,045	$122,045		$122,045	$496,431
1-Aug-2014	$7,450,000	$250,000	$122,045	$372,045	$23,100	$395,145	
1-Feb-2015	$7,450,000		$118,083	$118,083		$118,083	$513,228
1-Aug-2015	$7,175,000	$275,000	$118,083	$393,083	$22,350	$415,433	
1-Feb-2016	$7,175,000		$113,724	$113,724		$113,724	$529,156
1-Aug-2016	$6,875,000	$300,000	$113,724	$413,724	$21,525	$435,249	
1-Feb-2017	$6,875,000		$108,969	$108,969		$108,969	$544,218
1-Aug-2017	$6,575,000	$300,000	$108,969	$408,969	$20,625	$429,594	
1-Feb-2018	$6,575,000		$104,214	$104,214		$104,214	$533,808
1-Aug-2018	$6,250,000	$325,000	$104,214	$429,214	$19,725	$448,939	
1-Feb-2019	$6,250,000		$99,063	$99,063		$99,063	$548,001
1-Aug-2019	$5,925,000	$325,000	$99,063	$424,063	$18,750	$442,813	
1-Feb-2020	$5,925,000		$93,911	$93,911		$93,911	$536,724
1-Aug-2020	$5,575,000	$350,000	$93,911	$443,911	$17,775	$461,686	
1-Feb-2021	$5,575,000		$88,364	$88,364		$88,364	$550,050
1-Aug-2021	$5,225,000	$350,000	$88,364	$438,364	$16,725	$455,089	
1-Feb-2022	$5,225,000		$82,816	$82,816		$82,816	$537,905
1-Aug-2022	$4,850,000	$375,000	$82,816	$457,816	$15,675	$473,491	

Payment Date	Ending Principal Balance	Principal Payment	Interest Payment	Total Principal & Interest	Annual Fee	Total Payment	Total Payment Fiscal Year Ending 30-Jun
1-Feb-2023	$4,850,000		$76,873	$76,873		$76,873	$550,364
1-Aug-2023	$4,475,000	$375,000	$76,873	$451,873	$14,550	$466,423	
1-Feb-2024	$4,475,000		$70,929	$70,929		$70,929	$537,351
1-Aug-2024	$4,075,000	$400,000	$70,929	$470,929	$13,425	$484,354	
1-Feb-2025	$4,075,000		$64,589	$64,589		$64,589	$548,943
1-Aug-2025	$3,675,000	$400,000	$64,589	$464,589	$12,225	$476,814	
1-Feb-2026	$3,675,000		$58,249	$58,249		$58,249	$535,063
1-Aug-2026	$3,250,000	$425,000	$58,249	$483,249	$11,025	$494,274	
1-Feb-2027	$3,250,000		$51,513	$51,513		$51,513	$545,786
1-Aug-2027	$2,825,000	$425,000	$51,513	$476,513	$9,750	$486,263	
1-Feb-2028	$2,825,000		$44,776	$44,776		$44,776	$531,039
1-Aug-2028	$2,375,000	$450,000	$44,776	$494,776	$8,475	$503,251	
1-Feb-2029	$2,375,000		$37,644	$37,644		$37,644	$540,895
1-Aug-2029	$1,925,000	$450,000	$37,644	$487,644	$7,125	$494,769	
1-Feb-2030	$1,925,000		$30,511	$30,511		$30,511	$525,280
1-Aug-2030	$1,450,000	$475,000	$30,511	$505,511	$5,775	$511,286	
1-Feb-2031	$1,450,000		$22,983	$22,983		$22,983	$534,269
1-Aug-2031	$975,000	$475,000	$22,983	$497,983	$4,350	$502,333	
1-Feb-2032	$975,000		$15,454	$15,454		$15,454	$517,786
1-Aug-2032	$500,000	$475,000	$15,454	$490,454	$2,925	$493,379	
1-Feb-2033	$500,000		$7,925	$7,925		$7,925	$501,304
1-Aug-2033	$0	$500,000	$7,925	$507,925	$1,500	$509,425	
1-Feb-2034			$0	$0		$0	$509,425
Total Payments:		$9,000,000	$5,346,205	$14,346,205	$526,200	$14,872,405	$14,872,405

NOTE: This amortization schedule is an estimate only and assumes that the total amount of Project Funds will be disbursed as of May 1, 2004. Please note that prior to the Bond Date during the interest only period, ISA Payments will be calculated on amounts disbursed. Principal shall be due as scheduled below. A replacement amortization schedule will be sent to the Purchaser upon the Bond Date.

Exhibit D
County Bank Release

County Bank entered into a loan agreement with the City of Merced ("City") dated as of October __, 2003 ("Loan Agreement") to provide construction financing ("Loan") for City water and sewer improvements ("Facilities") required for Phase One of the University of California Merced Campus. The Loan Agreement is secured by a capital facility fee agreement obligating The Regent of the University of California ("The Regents") to pay a fee for the availability of the Facilities (County Bank CFFA).

The Loan has been repaid in full and County Bank hereby releases its interest in the County Bank CFFA.

Signed this ___ day of _____, 200_.

By: _____

Its: _____

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.8. Meeting Date: 10/17/2016

Report Prepared by: *Bill King, Principal Planner, Development Services Department*

SUBJECT: Execute Caltrans Agreement to Prepare Bike and Pedestrian Plan

REPORT IN BRIEF
To receive authorization for the City Manager to sign an agreement (Attachment 1) to receive funds from Caltrans for use in preparing a bike and pedestrian plan.

RECOMMENDATION
City Council - Adopt a motion:

A. Adopting **Resolution 2016-53**, a Resolution of the City Council of the City of Merced, California, approving State Funded Projects Program Supplement Agreement No. 0063 Rev. 000., and;

B. Accepting and increasing revenue in the amount of $135,000 and appropriating the same in Fund 017 Development Services.

ALTERNATIVES
1. Approve the agreement, as recommended by staff; or,
2. Approve the agreement, subject to modifications by City Council (identify specific items to be amended in the motion); or,
3. Deny; or,
4. Refer to staff for reconsideration of specific items (to be addressed in the motion); or,
5. Continue to a future City Council meeting (date and time to be specified in the motion).

AUTHORITY
Charter of the City of Merced, Section 400

CITY COUNCIL PRIORITIES
As provided for in the 2015-16 Adopted Budget

DISCUSSION
Background: City Planning competitively applied for and received a state funding award in the amount of $135,000 to prepare a plan that will identify programs and projects to improve bicycling and pedestrian travel within the City of Merced, known as an Active Transportation Plan/Safe Routes to School Plan. The Plan is needed to be competitive for future bike and pedestrian-related grants from Caltrans. Significant involvement from technical staff and community members, especially from

local schools, is planned. A citizen-based focus group will be assembled to help craft the plan. Staff will seek the expertise of a planning consultant firm to help craft the plan.

Caltrans Agreement: Though Caltrans has awarded and allocated funds for this project, a signed agreement is necessary so that the City can claim those funds for work performed. Caltrans has requested a copy of the signed agreement, along with the resolution (Attachment 2) to be provided to them no later than November 8, 2016.

IMPACT ON CITY RESOURCES

Accepting and increasing revenue in the amount of $135,000 and appropriating the same in Fund 017 Development Services. All local funding for this project ($71,885) is in-kind in nature.

ATTACHMENTS

1. Program Supplement Agreement from Caltrans
2. Resolution No. 2016-53

DEPARTMENT OF TRANSPORTATION
Division of Local Assistance
1120 N STREET
P.O. BOX 942874, MS# 1
Sacramento, CA 94274-0001
TTY 711
(916) 654-3883
Fax (916) 654-2408

File : 10-MER-0-MER
ATPLNI-5085(046)
City of Merced

August 8, 2016

Mr. Ken Elwin
City Engineer
City of Merced
678 West 18th Street
Merced, CA 95340

Dear Mr. Elwin:

Enclosed are two originals of the Program Supplement Agreement No. 0O63 Rev. 000 to Administering Agency-State Master Agreement No. 00119S and an approved Finance Letter for the subject project. Please retain the signed Finance Letter for your records.

Please sign both Program Supplement Agreements and return them to this office, Office of Local Programs - MS1within 90 days from receipt of this letter. If the signed Agreements are not received back in this office within 90 days, funds will be disencumbered and/or deobligated. Alterations should not be made to the agreement language or funding. ATTACH YOUR LOCAL AGENCY'S CERTIFIED AUTHORIZING RESOLUTION THAT CLEARLY IDENTIFIES THE PROJECT AND THE OFFICIAL AUTHORIZED TO EXECUTE THE AGREEMENT. A fully executed copy of the agreement will be returned to you upon ratification by Caltrans. No invoices for reimbursement can be processed until the agreement is fully executed.

The State budget authority supporting the encumbered funds is only available for liquidation up to specific deadlines. These deadlines are shown on the attached Finance Letter as the "Reversion Date". Please ensure that your invoices are submitted at least 60 days prior to the reversion date to avoid any lapse of funds. If your agency is unable to seek reimbursement by this date you may request an extension through a Cooperative Work Agreement (CWA). A CWA is subject to the final approval of the State Department of Finance. If approved, the CWA may extend the deadline for up to two years.

Your prompt action is requested. If you have questions, please contact your District Local Assistance Engineer.

Sincerely,

for WINTON EMMETT, Chief
Office of Project Implementation - North
Division of Local Assistance

Enclosures

c: OLP AE Project Files
(10) DLAE - Parminder Singh

DEPARTMENT OF TRANSPORTATION
DIVISION OF ACCOUNTING
LOCAL PROGRAM ACCOUNTING BRANCH

FINANCE LETTER

Date: 08/04/2016 EA No:
D_CO_RT: 10-MER-0-MER
Project No: ATPLNI-5085(046)
Adv Project Id: 1016000109
Period of Performance End Date:
Agreement End Date:

Attention: City of Merced

FINANCE ITEMS	PRO RATA OR LUMP SUM	TOTAL COST OF WORK	PART. COST	STATE	LOCAL
Construction		$206,885.00	$206,885.00	$135,000.00	$71,885.00
Totals:		**$206,885.00**	**$206,885.00**	**$135,000.00**	**$71,885.00**

Participation Ratio: 100.00%

This Finance Letter was created based on specific financial information provided by the responsible local agency. The following encumbrance history is prepared by Local Assistance Accounting Office and is provided here for local agency's information and action.

Signature:

Title: HQ Area Engineer

For questions regarding finance letter, contact:

Printed Name : David Giongco

Telephone No: 916-653-4797

Remarks: ATP NI Project, State Only funds allocated at June 2016 CTC meeting.

ACCOUNTING INFORMATION

ATPLNI-5085(046)

ADV. PROJECT ID	APPROP. UNIT	STATE PROG.	FED/STATE	ENCUMBRANCE AMOUNT	APPROP YEAR	EXPENDITURE AMOUNT	ENCUMBRANCE BALANCE	REVERSION DATE	Cooperative Work Agreement APPROVED AMOUNT	Cooperative Work Agreement EXPIRATION DATE
1016000109	15108	2030720100		$135,000.00	1415	$0.00	$135,000.00	06/30/20		

STATE OF CALIFORNIA. DEPARTMENT OF TRANSPORTATION

PROGRAM SUPPLMENT AND CERTIFICATION FORM

PSCF (REV. 01/2010)

TO:	DATE PREPARED:	PROJECT NUMBER:
STATE CONTROLLER'S OFFICE **Claims Audits** **3301 "C" Street, Rm 404** **Sacramento, CA 95816**	**8/2/2016**	1016000109
	REQUISITION NUMBER / CONTRACT NUMBER: RQS 101700000043	

FROM:

Department of Transportation

SUBJECT:

Encumbrance Document

VENDOR / LOCAL AGENCY:

CITY OF MERCED

CONTRACT AMOUNT:

$135,000.00

PROCUREMENT TYPE:

Local Assistance

CHAPTER	STATUTES	ITEM	YEAR	PEC / PECT	COE/Category	AMOUNT
25	2014	2660-108-0042	2014/2015	2030720100	2620/0000	135,000.00

ADA Noti For individuals with sensory disabilities, this document is available in alternate formats. For information, call (915) 654-6410 of TDD (916) -3880 or write Records and Forms Management, 1120 N. Street, MS-89, Sacramento, CA 95814.

PROGRAM SUPPLEMENT NO. O63
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR STATE FUNDED PROJECTS NO 00119S

Adv Project ID 1016000109
Date: July 28, 2016
Location: 10-MER-0-MER
Project Number: ATPLNI-5085(046)
E.A. Number:
Locode: 5085

This Program Supplement, effective 6/30/16 hereby adopts and incorporates into the Administering Agency-State Agreement No. 00119S for State Funded Projects which was entered into between the ADMINISTERING AGENCY and the STATE with an effective date of 06/06/08 and is subject to all the terms and conditions thereof. This PROGRAM SUPPLEMENT is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. approved by the ADMINISTERING AGENCY on (See copy attached).

The ADMINISTERING AGENCY further stipulates that as a condition to the payment by the State of any funds derived from sources noted below encumbered to this project, Administering Agency accepts and will comply with the Special Covenants and remarks set forth on the following pages.

PROJECT LOCATION:

City of Merced

TYPE OF WORK: ATP/SRTS Plan

Estimated Cost	State Funds		Matching Funds		
	STATE	$135,000.00	LOCAL		OTHER
$206,885.00			$71,885.00		$0.00

CITY OF MERCED

By _____

Title _____

Date _____

Attest _____

STATE OF CALIFORNIA
Department of Transportation

By _____
Chief, Office of Project Implementation
Division of Local Assistance

Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer _____ **Date** 8/3/2016 $135,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

SPECIAL COVENANTS OR REMARKS

1. A. This PROJECT will be administered in accordance with the applicable CTC STIP guidelines and the Active Transportation Program guidelines as adopted or amended, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

B. This PROJECT is programmed to receive State funds from the Active Transportation Program (ATP). Funding may be provided under one or more components. A component(s) specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the component(s) identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per component(s).

This PROGRAM SUPPLEMENT has been prepared to allow reimbursement of eligible PROJECT expenditures for the component(s) allocated. Unless otherwise determined, the effective date of the component specific allocation will constitute the start of reimbursable expenditures.

C. STATE and ADMINISTERING AGENCY agree that any additional funds made available by future allocations will be encumbered on this PROJECT by use of a STATE-approved Allocation Letter and STATE Finance Letter. ADMINISTERING AGENCY agrees that STATE funds available for reimbursement will be limited to the amount allocated by the California Transportation Commission (CTC) and/or the STATE.

D. Upon ADMINISTERING AGENCY request, the CTC and/or STATE may approve supplementary allocations, time extensions, and fund transfers between components. Funds transferred between allocated project components retain their original timely use of funds deadlines, but an approved time extension will revise the timely use of funds criteria for the component(s) and allocation(s) requested. Approved supplementary allocations, time extensions, and fund transfers between components made after the execution of this PROGRAM SUPPLEMENT will be documented and considered subject to the terms and conditions thereof. Documentation will consist of a STATE approved Allocation Letter, Fund Transfer Letter, Time Extension Letter, and Finance Letter, as appropriate.

E. This PROJECT is subject to the timely use of funds provisions enacted by the Active Transportation Program guidelines, as adopted or amended, and by approved CTC and State procedures as outlined below.

Funds allocated for the environmental & permits (E&P), plan specifications & estimate (PS&E), and right-of-way components are available for expenditure until the end of the second fiscal year following the year in which the funds were allocated.

Funds allocated for the construction component are subject to an award deadline and contract completion deadline. ADMINISTERING AGENCY agrees to award the contract within 6 months of the construction fund allocation and to complete and accept the construction within 36 months of award.

F. Award information shall be submitted by the ADMINISTERING AGENCY to the District

SPECIAL COVENANTS OR REMARKS

Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract. Failure to do so will cause a delay in the State processing of invoices for the construction phase.

G. The ADMINISTERING AGENCY shall invoice STATE for environmental & permits (E&P), plans specifications & estimate (PS&E), and right-of-way costs no later than 180 days after the end of last eligible fiscal year of expenditure. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance to make the final payment to the contractor prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and payment.

H. ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LAPM and the Active Transportation Program (ATP) Guidelines.

I. ADMINISTERING AGENCY agrees to comply with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Notwithstanding the foregoing, ADMINISTERING AGENCY will not be required to comply with 49 CFR, Part 18.36 (i), subsections (3), (4), (5), (6), (8), (9), (12), and (13).

J. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to comply with all reporting requirements in accordance with the Active Transportation Program guidelines, as adopted or amended.

RESOLUTION NO. 2016-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING STATE FUNDED PROJECTS PROGRAM SUPPLEMENT AGREEMENT NO. 0063 REV. 000

WHEREAS, The City of Merced is eligible to receive Federal and/or State funding for certain transportation projects through the California Department of Transportation; and,

WHEREAS, Program Supplemental Agreements need to be executed with the California Department of Transportation before such funds may be claimed.

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

SECTION 1. Program Supplement Agreement No. 0063 Rev. 000, attached hereto and made a part hereof, is hereby approved.

SECTION 2. The City Manager and the City Clerk, respectively, are hereby authorized to execute and attest said Agreement on behalf of the City of Merced.

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:_____
Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

_____ 9-14-2016
City Attorney Date

X:\Resolutions\2016\Planning\Approving Caltrans Supp Agr No. 0063 Rev 000.doc

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.9. Meeting Date: 10/17/2016

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

SUBJECT: Street Closure #16-15 Merced County Office of Education "Lights On After School" (15th Annual)

REPORT IN BRIEF
The Merced County Office of Education requests the use of City streets and Bob Hart Square to host "Lights on After School" on Thursday, October 20, 2016, from 1:30 p.m. to 10:00 p.m.

RECOMMENDATION
City Council - Adopt a motion approving the street closures of W. Main Street between M and K Streets, Canal Street between W. Main and W. 18th Streets, and the use of Bob Hart Square from 1:30 p.m. to 10:00 p.m. as requested by Merced County Office of Education for "Lights on After School" on Thursday, October 20, 2016, subject to the details and conditions outlined in the administrative staff report.

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

AUTHORITY
City of Merced Charter Section 200; California Vehicle Code (CVC) Sections 21100(a) and 21101(e), the latter as follows:

"21101. Local authorities, for those highways under their jurisdiction, may adopt rules and regulations by ordinance or resolution on the following matters:

"(e) Temporarily closing a portion of any street for celebrations, parades, local special events, and other purposes when, in the opinion of local authorities having jurisdiction or a public officer or employee that the local authority designates by resolution, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

CITY COUNCIL PRIORITIES
Not applicable.

DISCUSSION

Event Description:

"Lights on After School" is a national program that began in Merced fifteen years ago with the Merced County Office of Education (MCOE). The program's main goal is to spread awareness about the need and availability of after-school activities and programs in the community. The MCOE is collaborating with several non-profit organizations, local agencies, and private businesses to host this event in Merced's Downtown (Attachment 1). The event will include informational booths and activities/games along Main Street and Canal Street, a DJ booth in front of Bob Hart Square, and a walking-parade through the closed section on Main Street. Parking for the event is provided by multiple public parking lots in the Downtown Parking District.

Requested Streets:

The applicant requests the closure of the following streets on the day of the event, from 1:30 p.m. to 10:00 p.m., as shown on Attachment 1, subject to the details and conditions outlined in the "Conditions of Approval" section of this report.

- W. Main Street, both travel lanes, from M Street to K Street.
- Canal Street, both travel lanes, from W. Main Street to W. 18th Street.

Temporary barricades will be placed at the intersections of M Street and W. Main Street, K Street and W. Main Street, Canal Street and 18th Street, and across Arbor Lane.

At least seventy-two hours (three days) prior to the street closures, the event organizers are required to notify nearby businesses and residences within one half-mile of the affected streets (Condition #6). To ensure this is done, event organizers are required to provide staff with confirmation that this notification was given. Staff has prepared a standard form that the event sponsor shall complete, photocopy, and distribute to businesses and residences within the stated area (Attachment 3). A copy of this form shall also be signed and submitted to Planning Department staff, affirming that the required businesses and residences were notified.

Conditions of Approval:

The event and street closure will be subject to the following conditions, if approved:

1. By applying for the street closure request, the Permittee shall agree to 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.

2. Prior to engaging in the event, Event Sponsor shall provide the City with a Certificate of Liability Insurance evidencing coverage in an amount of no less than $500,000 for property damage and $500,000 for personal injury or a minimum combined single limit coverage of $500,000. 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 coverage, naming the City of Merced, its Officers, Employees, and Agents 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. Certificates of Insurance shall also be provided for Automobile insurances of all automobiles used for the event. If the Event Sponsor has any employee(s), full workers' compensation insurance shall be provided with a limit of at least $100,000 for any one person as required by law.

3. The event sponsor shall obtain, at its sole cost and expense, special events coverage insuring the City and its officers, employees, volunteers, and agents from any and all claims relating to the project. Special events coverage may be obtained through private insurance or is available through application with the City Clerk's office (385-6866).

4. 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.

5. Event sponsor shall be responsible for placing and removing all traffic barricades and posting of parking restrictions where street is closed. "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).

6. Event sponsor shall contact all businesses and residences affected by the street closures, advising them of the hours, conditions, and reason thereof within one half-mile of the closure area at least seventy-two (72) hours prior to the event. Event Sponsor shall provide the City with confirmation that the proper notification was given (Attachment 3).

7. Event sponsor shall provide and maintain a minimum 22-foot-wide emergency vehicle access path to and through the interior of the closure area at all times. Fire hydrant access shall not be blocked at any time whatsoever.

8. Event sponsor shall provide adequate supervision and security throughout the area to ensure the safety of the participants and the public gathered, as required by the Police Department.

9. The Merced City Police Department or their designee has the authority to immediately cancel all activities requested with this street closure if there is a police or other emergency incident in the area.

10. Event sponsor shall be responsible for removing all equipment and disposing of any trash and debris within and around the closure area that is generated from the event prior to the expiration of the closure permit.

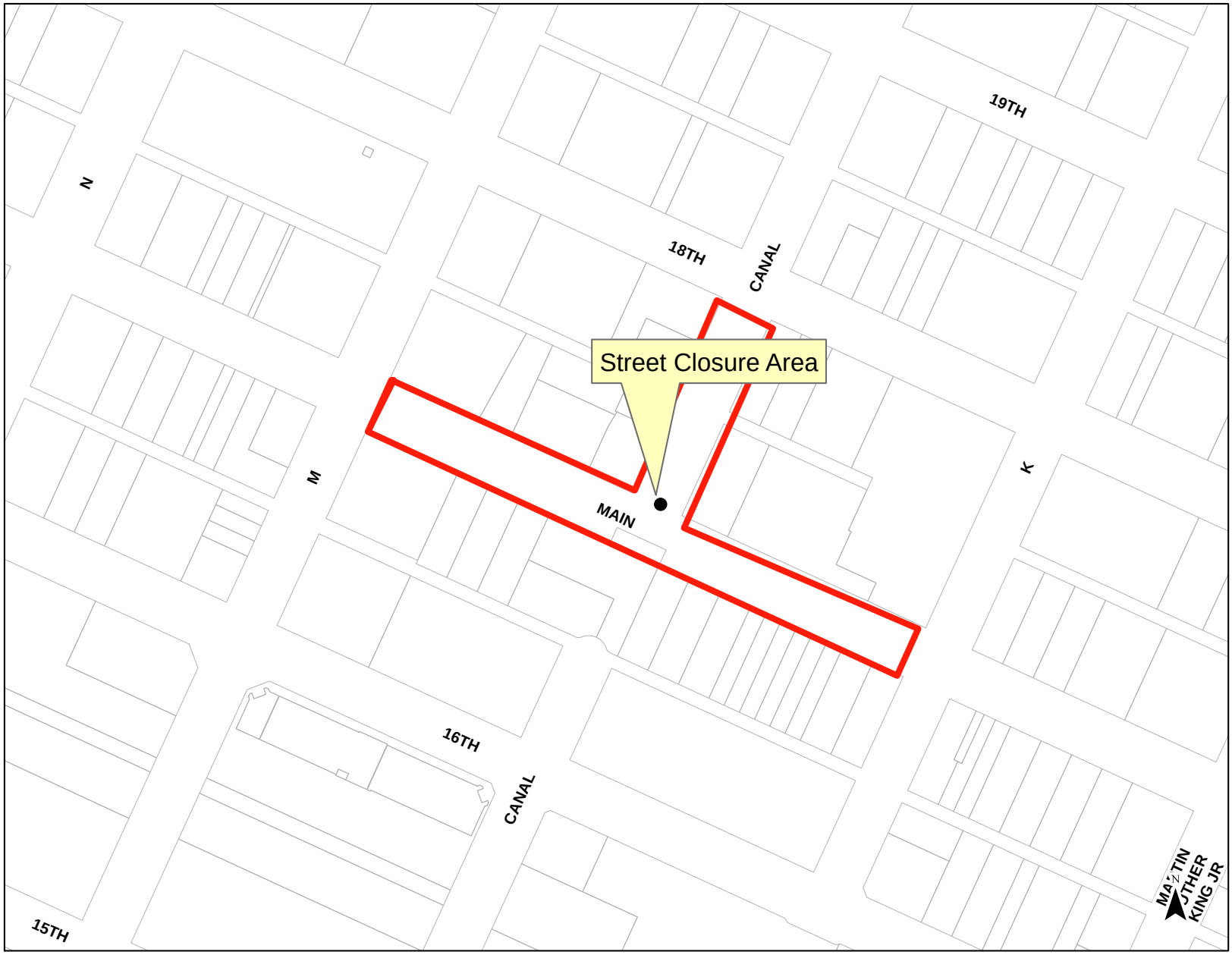
11. Alcoholic beverages may not be served or sold at this event.

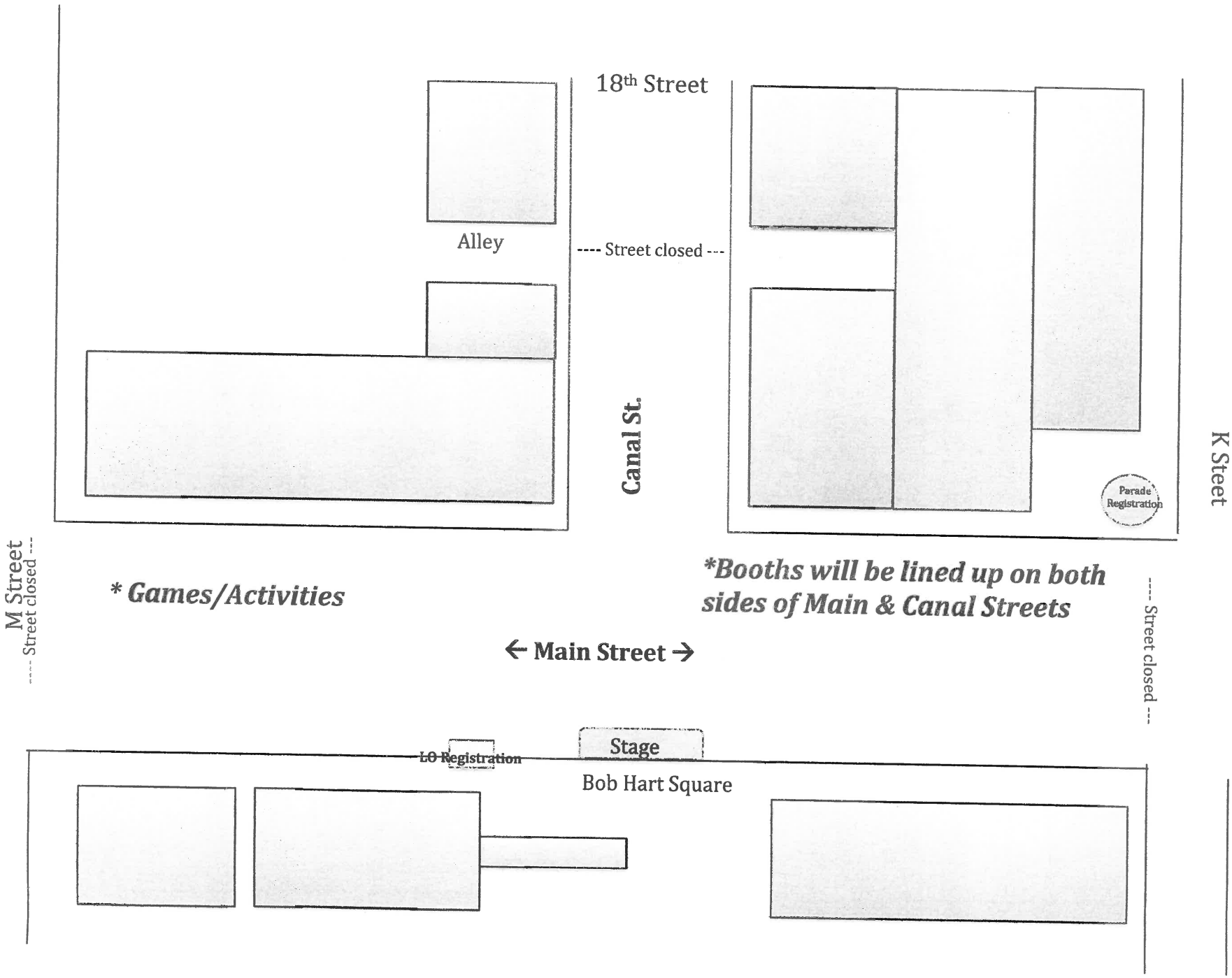
12. All other provisions addressed in Ordinance #1941 Chapter 12.42 (Temporary Street Closures) shall apply.

Recommendation:
In summary, City Staff is recommending approval of the requested Street Closure and use of Bob Hart Square, subject to the conditions above.

IMPACT ON CITY RESOURCES
No appropriation of funds is needed.

ATTACHMENTS
1. Location map
2. Site Plan
3. Notice of Pending Street Closure


Street Closure Area
19TH
18TH
CANAL
N
M
K
MAIN
16TH
CANAL
15TH
MARTIN
LUTHER
KING JR


18th Street
Alley
---- Street closed ---
Canal St.
Parade Registration
K Steet
M Street
---- Street closed ---
* Games/Activities
*Booths will be lined up on both sides of Main & Canal Streets
---- Street closed ---
← Main Street →
Stage
LO Registration
Bob Hart Square

NOTIFICATION OF PENDING STREET CLOSURE

This is to notify you of an event that will require the closure of street(s) in your area. Please note the details below, including the date and time of the closure(s), and plan to park your vehicle(s) off the affected street(s) on the day of the event. Your cooperation is greatly appreciated. If you have any concerns, please notify the contact person listed.

Name of Event: _____ **Type of event (parade, etc.):** _____

Contact Person: _____ **Phone Number:** _____

Date(s) of closure: _____ **Time:** between _____ am/pm and _____ am/pm

Streets to be closed: _____

_____

Other streets with restricted access: _____

_____

Please Note: Event Sponsor is responsible for posting of parking restrictions where street is closed. "No Parking" signs shall be posted at least twenty-four (24) hours prior to any necessary towing of vehicle(s), per California Vehicle Code Section 22651(m).

To avoid having your vehicle towed, please keep this notice as a reminder and comply with the posted parking restrictions. If you are a business with employees, please notify your employees as soon as possible and post this notice in a conspicuous location. Thank you.

NOTIFICATION OF PENDING STREET CLOSURE

This is to notify you of an event that will require the closure of street(s) in your area. Please note the details below, including the date and time of the closure(s), and plan to park your vehicle(s) off the affected street(s) on the day of the event. Your cooperation is greatly appreciated. If you have any concerns, please notify the contact person listed.

Name of Event: _____ **Type of event (parade, etc.):** _____

Contact Person: _____ **Phone Number:** _____

Date(s) of closure: _____ **Time:** between _____ am/pm and _____ am/pm

Streets to be closed: _____

_____

Other streets with restricted access: _____

_____

Please Note: Event Sponsor is responsible for posting of parking restrictions where street is closed. "No Parking" signs shall be posted at least twenty-four (24) hours prior to any necessary towing of vehicle(s), per California Vehicle Code Section 22651(m).

To avoid having your vehicle towed, please keep this notice as a reminder and comply with the posted parking restrictions. If you are a business with employees, please notify your employees as soon as possible and post this notice in a conspicuous location. Thank you.

To be signed by Event Sponsor Representative after completion of required 72-hour notification and submitted to the City of Merced Planning Dept, City Hall (2nd Floor), 678 W. 18th Street, Merced.

I have notified the required parties of the dates, times, and affected streets, as required.

Signed _____ Title: _____ Date: _____

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.10. Meeting Date: 10/17/2016

Report Prepared by: *Ashley McComb Thanadabouth, Associate Engineer, Engineering Dept.*

SUBJECT: Award Bid to Mozingo Construction for the Gerard Avenue Sewer Main Replacement Phase 3 Project 116014

REPORT IN BRIEF
Consider awarding a construction contract in the amount of $1,655,485.00 for the replacement of sewer main along Gerard Avenue.

RECOMMENDATION
City Council - Adopt a motion awarding the Gerard Avenue Sewer Main Replacement Phase 3 Project 116014, to Mozingo Construction, in the amount of $1,655,485.00; and 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 replacement of approximately 6,240 lineal feet of

existing sewer main, 13 new sewer manholes, and reconnecting existing sewer laterals and mains. The project is located along Gerard Avenue, bounded by Tyler Road and Highway 99, located within Merced County right of way.

Staff prepared plans and specifications, and the project was advertised for bids. Bids were opened on September 13, 2016, with the following results:

1. Mozingo Construction (Oakdale, CA)	$ 1,655,485.00
2. Mid Cal Pipeline & Utilities (Merced, CA)	$ 1,665,980.00
3. Rolfe Construction (Atwater, CA)	$ 1,735,377.00
4. Bill Nelson GEC (Fresno, CA)	$ 1,814,440.00

The engineer's estimate for construction was $1,400,000.00.

The following is the proposed budget for the project:

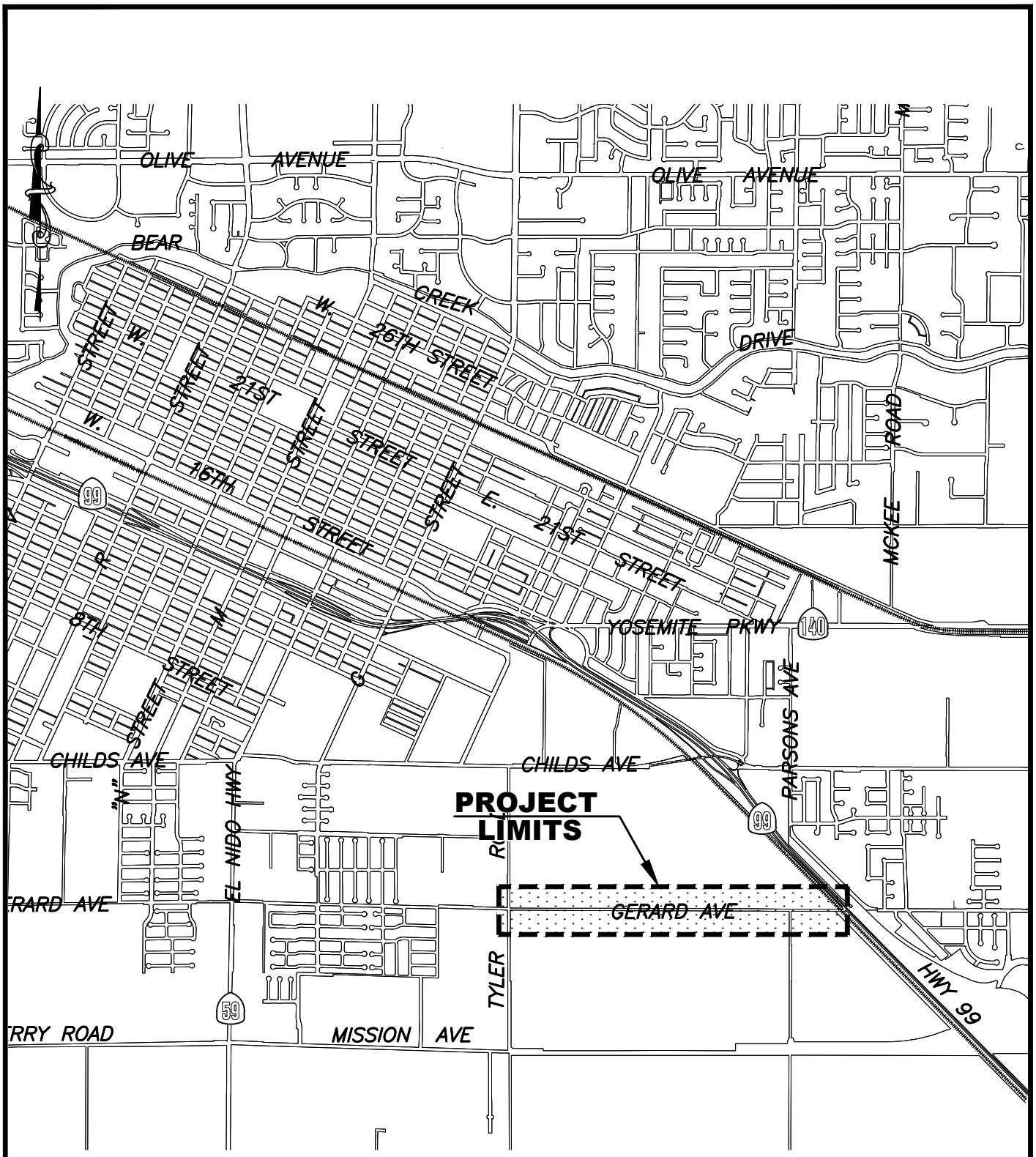
Construction	$ 1,655,485.00
Contingency	$ 165,548.50
Engineering, Testing & Inspection	$ 118,966.50
TOTAL:	$ 1,940,000.00

IMPACT ON CITY RESOURCES

This project was established as a Capital Improvement Project and account 553-1107-637.65-00-116014 contains sufficient funding to complete the project.

ATTACHMENTS

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



LOCATION MAP

NOT TO SCALE

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

PROJECT NO. 11014
GERARD AVENUE SEWER MAIN REPLACEMENT PHASE

DR. BY:	KGE
DATE:	10/21/15
CH. BY:	JS
DATE:	10/21/15
File No.	0949
SCALE:	AS SHOWN

I:\1 Current Projects\116014 – Gerard Avenue Sewer Main Replacement Phase 3\Dwg\0949.dwg

CITY OF MERCED
PROJECT NO. 116014
GERARD AVENUE SEWER MAIN REPLACEMENT PHASE 3

Bid Opening 9/13/2016

				Mozingo Construction (Oakdale, CA)		Mid Cal Pipeline & Utilities (Merced, CA)		Rolfe Construction (Atwater, CA)		Bill Nelson GEC (Fresno, CA)	
NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
1	Permits, Bonds, Licenses, & Insurance	LS	1	$ 21,790.00	$ 21,790.00	$ 65,000.00	$ 65,000.00	$ 34,000.00	$ 34,000.00	$ 37,500.00	$ 37,500.00
2	Public Convenience & Safety	LS	1	$ 15,380.00	$ 15,380.00	$ 10,000.00	$ 10,000.00	$ 18,590.00	$ 18,590.00	$ 12,750.00	$ 12,750.00
3	Water Pollution Control	LS	1	$ 18,500.00	$ 18,500.00	$ 5,000.00	$ 5,000.00	$ 19,900.00	$ 19,900.00	$ 5,000.00	$ 5,000.00
4	Street Sweeping	LS	1	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 27,560.00	$ 27,560.00	$ 57,500.00	$ 57,500.00
5	Surveying Services	LS	1	$ 7,500.00	$ 7,500.00	$ 4,500.00	$ 4,500.00	$ 5,200.00	$ 5,200.00	$ 8,500.00	$ 8,500.00
6	Monumentation	EA	2	$ 2,000.00	$ 4,000.00	$ 800.00	$ 1,600.00	$ 1,157.00	$ 2,314.00	$ 2,000.00	$ 4,000.00
7	Remove Existing 36” CMP Sewer Main	LF	224	$ 70.00	$ 15,680.00	$ 80.00	$ 17,920.00	$ 61.75	$ 13,832.00	$ 50.00	$ 11,200.00
8	Abandon Existing 36” CMP Sewer Main	LF	6,017	$ 25.00	$ 150,425.00	$ 20.00	$ 120,340.00	$ 22.00	$ 132,374.00	$ 21.00	$ 126,357.00
9	Remove Existing Manhole	EA	3	$ 3,500.00	$ 10,500.00	$ 2,000.00	$ 6,000.00	$ 3,544.00	$ 10,632.00	$ 1,866.00	$ 5,598.00
10	Abandon Existing Manhole	EA	2	$ 1,650.00	$ 3,300.00	$ 1,000.00	$ 2,000.00	$ 3,146.00	$ 6,292.00	$ 2,800.00	$ 5,600.00
11	Roadway Excavation	CY	800	$ 35.00	$ 28,000.00	$ 65.00	$ 52,000.00	$ 33.00	$ 26,400.00	$ 25.00	$ 20,000.00
12	Aggregate Base	CY	660	$ 98.00	$ 64,680.00	$ 70.00	$ 46,200.00	$ 102.20	$ 67,452.00	$ 40.00	$ 26,400.00
13	Hot Mix Asphalt (HMA)	TN	250	$ 300.00	$ 75,000.00	$ 300.00	$ 75,000.00	$ 144.00	$ 36,000.00	$ 55.00	$ 13,750.00
14	Shoulder Backing and Grading	LS	1	$ 12,500.00	$ 12,500.00	$ 10,000.00	$ 10,000.00	$ 21,476.00	$ 21,476.00	$ 37,500.00	$ 37,500.00
15	Conform Paving at Driveway	SF	3,660	$ 12.00	$ 43,920.00	$ 4.00	$ 14,640.00	$ 13.60	$ 49,776.00	$ 45.00	$ 164,700.00
16	36” Sanitite HP Sewer Main	LF	6,238	$ 145.00	$ 904,510.00	$ 160.00	$ 998,080.00	$ 159.50	$ 994,961.00	$ 145.00	$ 904,510.00
17	24” Sanitite HP Sewer Main	LF	5	$ 360.00	$ 1,800.00	$ 300.00	$ 1,500.00	$ 1,084.00	$ 5,420.00	$ 2,240.00	$ 11,200.00
18	Sewer Manhole	EA	13	$ 6,500.00	$ 84,500.00	$ 6,000.00	$ 78,000.00	$ 5,036.00	$ 65,468.00	$ 6,750.00	$ 87,750.00
19	Manhole Tie-In	EA	2	$ 7,100.00	$ 14,200.00	$ 3,000.00	$ 6,000.00	$ 7,482.00	$ 14,964.00	$ 4,200.00	$ 8,400.00
20	Reconnect Existing Sewer Lateral	EA	10	$ 2,900.00	$ 29,000.00	$ 1,500.00	$ 15,000.00	$ 1,550.00	$ 15,500.00	$ 2,240.00	$ 22,400.00
21	48” Steel Casing	LF	87	$ 500.00	$ 43,500.00	$ 600.00	$ 52,200.00	$ 570.00	$ 49,590.00	$ 475.00	$ 41,325.00
22	Sewer Pump Bypass System	LS	1	$ 76,800.00	$ 76,800.00	$ 50,000.00	$ 50,000.00	$ 62,296.00	$ 62,296.00	$ 125,000.00	$ 125,000.00
23	Shoring & Bracing	LS	1	$ 15,000.00	$ 15,000.00	$ 20,000.00	$ 20,000.00	$ 32,812.00	$ 32,812.00	$ 40,000.00	$ 40,000.00
24	Restoration	LS	1	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 22,568.00	$ 22,568.00	$ 37,500.00	$ 37,500.00
					$ 1,655,485.00		**$ 1,665,980.00**		**$ 1,735,377.00**		**$ 1,814,440.00**

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 MOZINGO CONSTRUCTION, 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. CONTRACT DOCUMENTS. The complete contract consists of the following documents, to wit:
   (1) This General Construction Contract;
   (2) Faithful Performance Bond;
   (3) Laborers and Materialmens Bond;
   (4) Guaranty;
   (5) Special Provisions for **PROJECT NUMBER 116014**;
   (6) Amendments to the Standard Specifications;
   (7) Project Plans;
   (8) Standard Specifications;
   (9) City Standards;
   (10) Proposal;
   (11) Instructions to Bidders;
   (12) Notice Inviting Bids;
   (13) Bidder's Bond;
   (14) Notice of Determination of Prevailing Wages;
   (15) List of Subcontractors and Material Dealers; and
   (16) Safety Provisions.

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 order of documents first listed above shall be the order of precedence's, with the first item listed having the highest precedence.

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 in the manner designated in, and in strict conformity with, the Plans and Specifications for **PROJECT NUMBER 116014**, which said Plans and Specifications are entitled, "**GERARD AVENUE SEWER MAIN REPLACEMENT PHASE 3**," for construction in Merced County in Merced, and which were included in the award of bid made by the City Council of the City of Merced on _____, 2016.

It is understood and agreed that said tools, equipment, apparatus, facilities, labor, transportation and material, except materials to be supplied by the City as designated in the Contract Documents, shall be furnished and said work performed and completed as required in said Plans and Specifications 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, & Insurance	LS	1	$ 21,790.00	$ 21,790.00
2	Public Convenience & Safety	LS	1	$ 15,380.00	$ 15,380.00
3	Water Pollution Control	LS	1	$ 18,500.00	$ 18,500.00
4	Street Sweeping	LS	1	$ 5,000.00	$ 5,000.00
5	Surveying Services	LS	1	$ 7,500.00	$ 7,500.00
6	Monumentation	EA	2	$ 2,000.00	$ 4,000.00
7	Remove Existing 36” CMP Sewer Main	LF	224	$ 70.00	$ 15,680.00
8	Abandon Existing 36” CMP Sewer Main	LF	6,017	$ 25.00	$ 150,425.00
9	Remove Existing Manhole	EA	3	$ 3,500.00	$ 10,500.00
10	Abandon Existing Manhole	EA	2	$ 1,650.00	$ 3,300.00
11	Roadway Excavation	CY	800	$ 35.00	$ 28,000.00
12	Aggregate Base	CY	660	$ 98.00	$ 64,680.00
13	Hot Mix Asphalt (HMA)	TN	250	$ 300.00	$ 75,000.00
14	Shoulder Backing and Grading	LS	1	$ 12,500.00	$ 12,500.00
15	Conform Paving at Driveway	SF	3,660	$ 12.00	$ 43,920.00
16	36” Sanitite HP Sewer Main	LF	6,238	$ 145.00	$ 904,510.00
17	24” Sanitite HP Sewer Main	LF	5	$ 360.00	$ 1,800.00
18	Sewer Manhole	EA	13	$ 6,500.00	$ 84,500.00
19	Manhole Tie-In	EA	2	$ 7,100.00	$ 14,200.00
20	Reconnect Existing Sewer Lateral	EA	10	$ 2,900.00	$ 29,000.00
21	48” Steel Casing	LF	87	$ 500.00	$ 43,500.00
22	Sewer Pump Bypass System	LS	1	$ 76,800.00	$ 76,800.00
23	Shoring & Bracing	LS	1	$ 15,000.00	$ 15,000.00
24	Restoration	LS	1	$ 10,000.00	$ 10,000.00

TOTAL BID ITEMS 1 THROUGH 24: $1,655,485.00

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 therefor.

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 City Engineer 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 751 WAKEFIELD COURT, OAKDALE, CA 95361, 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 by Section 7-3 of the Standard Specifications, as amended, 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. All insurance required by this section shall be from a California admitted insurance 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 in accordance with Section 9-3.2 of the Standard Specifications, as amended, 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 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. CALIFORNIA LABOR CODE. The Contractor is aware of, and hereby agrees to comply with Sections 1770, 1773, 1776, and 1777.5 of the California Labor Code.

13. SUBSTITUTION OF SECURITIES FOR WITHHELD AMOUNTS. Pursuant to Section 22,300 of the Public Contracts Code of the State of California, securities may be substituted for any moneys withheld by a public agency to ensure performance under a contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a State or Federally-chartered bank as the escrow agent, who shall pay such moneys to the Contractor upon satisfactory completion of the Contract.

Securities eligible for substitution under this section shall include those listed in Section 16430 of the Government Code of the State of California, or bank or savings and loan certificate of deposit.

The Contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Any escrow agreement entered into pursuant to this section shall contain, as a minimum, the following provisions:

(a) The amount of securities to be deposited;
(b) The terms and conditions of conversion to cash in case of the default of the Contractor; and
(c) The termination of the escrow upon completion of the Contract.

14. TRENCHES AND EXCAVATIONS. Should the Contractor be required to dig trenches or other excavations that extend deeper than four (4) feet below the surface, then the following clauses shall apply:

(a) The Contractor shall promptly, and before the following conditions are disturbed, notify the City in writing of any:

(1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;

(2) Subsurface or latent physical conditions at the site differing from those indicated;

(3) Unknown physical conditions at the site of any unusual nature different materially from those ordinarily encountered, and generally recognized as inherent in work of the character provided for in the contract.

(b) The City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ or do involve hazardous waste and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work, shall issue a change order under the procedures described in this contract.

(c) In the event that a dispute arises between the City and the Contractor whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of or time required for performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

15. CLAIMS. This clause applies to all Contractor claims of three hundred seventy-five thousand dollars ($375,000), or less, which arise out of this contract.

(a) "Claim" means a separate demand by the Contractor for (1) a time extension, (2) payment of money or damages arising from work done by, or on behalf of, the Contractor pursuant to this contract, and payment of which is not otherwise expressly provided for or the Contractor not otherwise entitled to, or (3) an amount the payment of which is disputed by the City.

(b) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing herein shall extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(c) For claims of less than fifty thousand dollars ($50,000), the City shall respond in writing to any written claim within forty-five (45) days of receipt of the claim or may request, in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the City may have against the Contractor.

(1) If additional information is thereafter required, it shall be requested and provided upon mutual agreement of the City and the Contractor.

(2) The City's written response to the claim as further documented shall be submitted to the Contractor within fifteen (15) days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.

(d) For claims of over fifty thousand dollars ($50,000) and less than, or equal to, three hundred seventy-five thousand dollars ($375,000), the City shall respond in writing to all written claims within sixty (60) days of receipt of the claim or may request, in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim, or relating to defenses or claims the City may have against the Contractor.

(1) If additional information is thereafter required, it shall be requested and provided upon mutual agreement of the City and the Contractor.

(2) The City's written response to the claim as further documented shall be submitted to the Contractor within thirty (30) days after receipt of the further documentation, or within a period

of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater

(e) If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within fifteen (15) days of receipt of the City's response, or within fifteen (15) days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.

(f) If, following the meet and confer conference, the claim or any portion remains in dispute, the Contractor may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title I of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits its written claim pursuant to Subdivision (b) until the time the claim is denied, including any period of time utilized by the meet and confer conference.

(g) The following procedures shall be followed for all civil actions filed to resolve claims subject to this clause:

(1) Within sixty (60) days, but no earlier than thirty (30) days following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within fifteen (15) days by both parties of a disinterested third person as mediator, shall be commenced within thirty (30) days of the submittal, and shall be concluded within fifteen (15) days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.

(2) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.

(h) The City shall not fail to pay money as to any portion of a claim which is undisputed, except as otherwise provided in this contract.

(i) In any suit filed under Section 20104.4, the City shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

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:

By: _____
City Attorney

MOZINGO CONSTRUCTION, INC.
(Herein called Contractor)

By: _____
Contractor
Philip Gianfortone, Vice President

ACCOUNT DATA:

Project No. **116014**

Project Account Number(s) / Amount

553-1107-637.65-00-116014 **$ 1,655,485.00**

By: _____
Finance Officer Verification

TAXPAYER I.D. NO: 77-0529846

VENDOR NUMBER: _____

ADDRESS: 751 WAKEFIELD COURT
OAKDALE, CA 95361

PHONE: (209) 848-0160

FAX: (209) 848-0161

EMAIL: meaker@mozingoconstruction.com

(SEAL)

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.11. Meeting Date: 10/17/2016

Report Prepared by: *Joseph D. Angulo, Environmental Project Manager, Engineering*

SUBJECT: First Amendment to Agreement for Professional Services with AECOM Technical Services, Inc., for Well Site Design Services, Project No. 113026

REPORT IN BRIEF
Authorizes an amendment to a contract for well design services for municipal Well 21 at the intersection of Bellevue Road and G Street.

RECOMMENDATION
City Council - Adopt a motion approving an amendment to an Agreement for Professional Services with AECOM Technical Services, Inc., in the amount of $9,769 for engineering design services; and, authorizing the City Manager to execute the necessary documents.

ALTERNATIVES
1. Approve, as recommended by staff; or,
2. Approve, subject to modifications 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 $28,000.00 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 2016-17 Adopted Budget.

DISCUSSION
The City Engineer and the Public Works Director have recommended that a new water well be located at the intersection of Bellevue Road and G Street. On September 21, 2015, the City Council awarded an Agreement for Professional Services to AECOM Technical Services, Inc. (AECOM), to design the new Well 21 municipal well and pump station. The AECOM contract includes provisions for developing one drilling bid package for the purpose of advancing a pilot test hole at the Well 21 site, followed by the drilling and construction of the final water production well. The water quality data obtained from the pilot test boring is used to design the screened water intake intervals of the final

production well casing.

Water Sample Quality Issue
The proposed pilot hole will be drilled to 700 feet below grade surface utilizing reverse rotary drilling. In this method a liquid drilling fluid circulates through the drill pipe as the cutting bit advances and brings soil to the surface for removal. Upon reaching the total depth, discrete groundwater samples are obtained at different aquifer levels by installing a temporary test pump and transporting water to the surface for collection. Because the drilling fluid circulates from the surface to the bottom of the borehole there is the potential for water mixing at different aquifer levels. This could lead to questionable laboratory results for the pilot boring water samples.

Staff conveyed this concern to AECOM regarding the potential for water mixing at different aquifer levels due to the drilling method. They recommended changing the drilling method for the Well 21 pilot test boring. Instead of using reverse rotary drilling with circulating fluid, they advise using the driven casing drilling method. In this method the drilling bit is advanced downward concurrent with a steel casing that stabilizes the surrounding material. Water samples are obtained at discrete depths with less chance of mixing due to a circulating drilling fluid.

The contract amendment under consideration is for the design of a separate bid package for the pilot borehole using the driven casing drilling method. The final production well drill bid package, utilizing the proposed reverse rotary drilling as acceptable, is included in AECOM's existing contract. It is necessary to separate the bids because generally drilling companies don't specialize in both the reverse rotary and driven casing drilling methods. AECOM has advised that the cost of the pilot test boring utilizing either method is the same at approximately $120,000.

History and Past Actions
On February 2, 2004, the City Council adopted a resolution 2004-24 approving the final subdivision map for "*Bellevue Ranch East Village 16*" and accepting lot "*W2*" for well site purposes.

On February 17, 2015, the City Council adopted a motion affirming the use of lot "*W2*" for well site purposes.

IMPACT ON CITY RESOURCES
This project was established as a Capital Improvement Project and account 556-1118-637.65-00-113026 contains sufficient funding to complete the project.

ATTACHMENTS
1. AECOM Contract Amendment

FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES
(Design Professional)

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into this ___ day of _____, 2016 , by and between the City of Merced, a California Charter Municipal Corporation ("City"), and AECOM Technical Services, Inc., a California Corporation whose address of record is 1360 East Spruce Avenue, Suite 101, Fresno, California 93720, ("Consultant").

WHEREAS, City is undertaking a project to install a new municipal well; and

WHEREAS, City and Consultant have previously entered into an Agreement for Professional Services ("Agreement") dated September 21, 2015; and

WHEREAS, City and Consultant desire to amend said Agreement to provide for additional services in connection with said project.

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

1. Section 22, "ADDITIONAL WORK," is hereby added to the Agreement to read as follows:

> "SECTION 22. ADDITIONAL WORK. Consultant shall perform the additional work outlined in the proposal from Consultant to City dated August 26, 2016, attached hereto as Exhibit "1".

2. Section 23, "ADDITIONAL COMPENSATION," is hereby added to the Agreement to read as follows:

> "SECTION 23. ADDITIONAL COMPENSATION. City shall pay to Consultant the not to exceed additional sum of Nine Thousand Seven Hundred Sixty-Nine Dollars ($9,769.00) for the additional work described in the proposal attached hereto as Exhibit "1" and in accordance with the rates set forth on Exhibit "1."

3. Except as herein amended, the Agreement dated September 21, 2015, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this First Amendment to 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: K Flores 9-13-16
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

X:\Agreements\Engineering\2016\1st Amendment PSA (Design Professional) with AECOM Re Well 21.docx

CONSULTANT
AECOM TECHNICAL SERVICES, INC., A California Corporation

BY: _____
(Signature)

Henry Liang
(Typed Name)

Its: Operations Manager
(Title)

BY: _____
(Signature)

_____
(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. 95-2661922

ADDRESS: 1360 E. Spruce Ave.
Suite 101
Fresno, CA 93720

TELEPHONE: (559) 448-8222
FAX: (559) 448-8233
E-MAIL: Henry.Liang@aecom.com

EXHIBIT 1
August 26, 2016

Scope of Services

Amendment No. 1
Additional Bid Package and Bid Support for
Pilot Boring by Casing Hammer Drilling Method

City of Merced Water Supply
Well No. 21
City of Merced

A. Background

This scope and fee has been prepared to amend the current Agreement for Professional Services between the City of Merced and AECOM Technical Services, Inc. executed on September 21, 2015 (Agreement).

B. Scope of Services

AECOM shall perform the following tasks. The task numbering sequence is an extension of the sequence from the current Agreement.

Subtask 2.5 – New Pilot Boring Bid Package, Limited Bid and Construction Support

AECOM will provide additional engineering services during final design, bid and construction as follows:

1. Assist the City with preparation of a separate bid package for the well pilot boring at the Well 21 site. The pilot boring will be completed via the casing hammer drilling method. The well construction bid package will be modified to cover only the well construction.
2. Assist the City during the bidding phase for casing hammer pilot boring work contract by responding to questions and preparing addendums if needed. Attend pre-bid conferences and job walks if requested by the City.
3. Attend preconstruction meetings with the City and the selected supplier and contractor.
4. Provide additional on-site observation required by casing hammer type drilling method (up to 30 hours). This portion of the scope will be provided by our subconsultant Kenneth D. Schmidt & Associates.
5. Complete Record Drawings for the project following receipt of red lined project plans from the Contractor.

This scope and fee assumes that all water quality testing will be paid for directly by the City. Sampling and shipping of water samples will be done by AECOM's subconsultant, Kenneth D. Schmidt & Associates. If additional submittal reviews or site visits are required, AECOM will bill on a time and materials basis in accordance with the Hourly Rate Schedule attached to the Agreement.

D. Additional Engineering Services

The following services may be provided by AECOM upon request by the City and execution of a specific authorization setting forth an applicable scope, fee, and schedule provisions:

1. Pothole underground utilities.
2. Factory acceptance testing.
3. Assistance with CEQA environmental checklist for the City Planning Department's review and processing. Assistance with CUP application documents.
4. Expert Consulting services (including Deposition and Trial testimony) as directed by City and/or City's attorney's, at an hourly rate to be determined by the parties, upon said request.
5. Services resulting from significant changes in extent of the project or its design including, but not limited to, changes in size, complexity (such as design of buildings), the City's schedule, or character of construction or method of financing. Revising previously accepted studies, reports, and design documents when such revisions are due to causes beyond AECOM's control.
6. Investigations involving detailed consideration of operations, maintenance, and overhead expenses; providing a separate formal value process engineering during the course of design; the preparation of cash flow and economic evaluations and rate schedules. Assistance in obtaining financing for the project.
7. Services in connection with change orders to reflect changes requested by the City if the resulting change in compensation for services is not commensurate with the additional services rendered, and in making revisions to drawings and specifications occasioned thereby, and services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of material, equipment, or energy shortages.
8. Support for pilot or bench-scale testing.
9. Legal Descriptions and other services related to the acquisition of property for the project.
10. Any other specific services requested by the City or AECOM not identified in this Agreement.

E. Work or Services to be Provided by the City

See original Agreement for Professional Services between the City of Merced and AECOM Technical Services, Inc. executed on September 21, 2015.

F. Safety

City agrees that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property, and that this requirement shall be made to apply continuously and not be limited to normal working hours. AECOM shall not have control over or charge of, and shall not be responsible for, construction means, methods, techniques, sequences, or procedures, as these are solely the responsibility of the construction contractor. AECOM shall not have the authority to stop the work of the construction contractor. In no event shall AECOM be liable for the acts or omissions of any construction contractors, their subcontractors, any of their agents or employees, or any other persons or entities performing any work related to this project, or for the failure of any them to carry out construction work under contract with the City.

G. Delay

AECOM shall not be responsible for delays due to causes beyond AECOM's reasonable control. In the case of any such delay, the time of completion shall be extended accordingly.

H. Entitled to Rely

Consistent with the professional standard of care and unless specifically provided herein, AECOM shall be entitled to rely upon the accuracy of data and information provided by City or others without independent review or evaluation.

I. Opinions of Construction Cost

Any opinion of the construction cost prepared by AECOM represents its judgment as a design professional and is supplied for the general guidance of City. Since AECOM has no control over the cost of labor and material, or over competitive bidding or market conditions, AECOM does not guarantee the accuracy of such opinions as compared to contractor bids or actual cost to City.

J. Hazardous Materials

Notwithstanding anything herein to the contrary, title to, ownership of, legal responsibility, and liability for any and all pre-existing waste shall at all times remain with the City. Pre-existing waste is any hazardous or toxic substance which was generated by the City or existing on the City's Project Site prior to AECOM's presence. AECOM shall have no responsibility for the presence, handling, removal or disposal of, or exposure to persons to such pre-existing waste except if such liability arises from AECOM's gross negligence or willful misconduct. The parties acknowledge that AECOM does not provide disposal services for the direct disposal of hazardous or toxic substances that may be discovered upon or removed from the City's Project Site.

L. Compensation

AECOM shall be compensated monthly with progress payments by the Client for services provided by AECOM during the previous month pursuant to this Amendment No. 1 and in accordance with AECOM's Hourly Rate Schedule contained in the Agreement. Maximum compensation for AECOM's services as described in Task 2.5 shall not exceed $9,769.00 without the prior written approval of the Client. AECOM's total fee authorized by the Client is presented in the table below.

Date	Contract Summary	Fee
04/15/2013	Original contract	$287,783
	Amendment 1 – New Pilot Boring Bid Package, Limited Bid and Construction Support	$9,769
	Total	$297,552

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.12. Meeting Date: 10/17/2016

Report Prepared by: *Ashley McComb Thanadabouth, Associate Engineer*

SUBJECT: Administering Agency State Program Supplement Revision for Active Transportation Program (ATP) Cycle 1 Grant for the Preliminary Engineering Phase of the Highway 59 Multi-Use Pathway Crossing Project 115047

REPORT IN BRIEF
Consideration of Resolution approving a California Department of Transportation Program Supplement revision for the use of ATP Grant funding for the preliminary engineering phase of the pedestrian crossing project.

RECOMMENDATION
City Council - Adopt a motion adopting **Resolution 2016-54,** a Resolution of the City Council of the City of Merced, California, Approving Federal-Aid Projects Program Supplement Agreement No. 028-N1; and, authorizing the City Manager or his designee to execute all necessary documents.

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, Section 200 et seq.

Caltrans Procedures for Administering Local Grant Projects in the State Transportation Improvement Program (STIP) are used to comply with the changes to the programming and funding statutes brought about by Chapter 622 of the Statutes of 1997 (SB 45, Kopp). The procedures have been modified to remain consistent with and complimentary to the various guidelines and policies adopted by the California Transportation Commission (CTC), including the current 2010 STIP Guidelines (adopted on October 14, 2009).

CITY COUNCIL PRIORITIES
Not applicable.

DISCUSSION

The City of Merced applied for an Active Transportation Program (ATP) Grant and was awarded funds for the design and construction of a pedestrian crossing on Highway 59 over the BNSF Railroad Crossing. The awarded grant was for $945,000, of which $834,000 was for construction, $106,000 was for design, and $5,000 was for environmental and Right-of-Way.

The City of Merced has entered into a master agreement with Caltrans covering Federal-aid projects in order to utilize certain Federal funds made available through legislation enacted by the Congress of the United States for use on local transportation facilities. The agreement covers projects that use Federal funds, which include, but are not limited to, the Regional Surface Transportation Program (RSTP), the Congestion Mitigation and Air Quality Improvement Program (CMAQ), the Transportation Enhancement Activities Program (TEA), the Highway Bridge Replacement and Rehabilitation Program (HBRR), and the AB1475 Safe Routes to School Program.

In addition to the master agreement, we must execute a specific supplemental agreement for each phase of the project. Caltrans has sent us Program Supplement No. N028 Rev. 1 covering use of $106,000 in Federal funds for the preliminary engineering phase of the Highway 59 Multi-Use Pathway Crossing Project. There is no local match for this phase of the project and no General Funds will be used.

Council has already accepted the $106,000 in Federal Funding; however, reimbursements can be claimed through the Caltrans accounting office only after execution of the Supplemental Agreement revision. We, therefore, request Council approval of the Program Supplement for ATPL-5085(045).

The City Attorney has reviewed and approved the agreement and has prepared a resolution for adoption.

HISTORY

On February 1, 2016, City Council approved Program Supplement No. 028-N, accepting $5,000 for the Environmental phase of the project.

On September 19, 2016, City Council accepted $106,000 for the Preliminary Engineering phase of the project.

IMPACT ON CITY RESOURCES

City Council has previously accepted the $106,000 in grant funding. No General Funds will be used for this phase of the project.

ATTACHMENTS

1. Program Supplement
2. Resolution
3. Location Map

PROGRAM SUPPLEMENT NO. N028 Rev. 1
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 10-5085R

Adv Project ID 1015000175	**Date:** August 31, 2016
	Location: 10-MER-59-MER
	Project Number: ATPL-5085(045)
	E.A. Number:
	Locode: 5085

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 03/13/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. approved by the Administering Agency on (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION:

SR 59 at BNSF RR between Cooper Avenue and Olive Avenue

TYPE OF WORK: Construct Multi-Use Path Crossing of BNSF RR **LENGTH:** 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds		
	M300	$111,000.00	LOCAL		OTHER
$111,000.00			$0.00		$0.00

CITY OF MERCED

By _____

Title _____

Date _____

Attest _____

STATE OF CALIFORNIA
Department of Transportation

By _____
Chief, Office of Project Implementation
Division of Local Assistance

Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Jennie Yee **Date** 9/7/16 $111.000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

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

STATE OF CALIFORNIA. DEPARTMENT OF TRANSPORTATION

PROGRAM SUPPLMENT AND CERTIFICATION FORM

PSCF (REV. 01/2010)

TO:	DATE PREPARED:	PROJECT NUMBER:
STATE CONTROLLER'S OFFICE **Claims Audits** **3301 "C" Street, Rm 404** **Sacramento, CA 95816**	**9/6/2016**	**1015000175**
	REQUISITION NUMBER / CONTRACT NUMBER: **CT-2660-105085028N-3**	

FROM:

Department of Transportation

SUBJECT:

Encumbrance Document

VENDOR / LOCAL AGENCY:

CITY OF MERCED

$111,000.00

V

Local Assistance

CHAPTER	STATUTES	ITEM	YEAR	PEC / PECT	TASK / SUBTASK	AMOUNT
10	2015	2660-108-0890	2015-2016	20.30.720.100	2620/0000	$111,000.00
					TOTAL	**111,000.00**

ADA Noti

For individuals with sensory disabilities, this document is available in alternate formats. For information, call (915) 654-6410 of TDD (916) -3880 or write Records and Forms Management, 1120 N. Street, MS-89, Sacramento, CA 95814.

SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

E. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal

obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

G. As a condition for receiving federal-aid highway funds for PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

H. This PROJECT is programmed to receive Federal funding from the Active Transportation Program (ATP). Funding may be provided under one or more components. A component(s) specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the component(s) identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per component(s).

This PROGRAM SUPPLEMENT has been prepared to allow reimbursement of eligible PROJECT expenditures for the component(s) allocated. The start of reimbursable expenditures is restricted to the later of either 1) the effective date of the component specific allocation or the effective date of the federal obligation of funds.

SPECIAL COVENANTS OR REMARKS

I. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY also agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration and that STATE funds available for reimbursement will be limited to the amounts allocated by the California Transportation Commission and/or STATE.

J. Upon ADMINISTERING AGENCY request, the CTC and/or STATE may approve supplementary allocations, time extensions, and fund transfers between components. Funds transferred between allocated project components retain their original timely use of funds deadlines, but an approved time extension will revise the timely use of funds criteria for the component(s) and allocation(s) requested. Approved supplementary allocations, time extensions, and fund transfers between components made after the execution of this PROGRAM SUPPLEMENT will be documented and considered subject to the terms and conditions thereof. Documentation will consist of a Federal Highway Administration-approved "Authorization to Proceed" notification, a STATE approved Allocation Letter, Fund Transfer Letter, Time Extension Letter, and Finance Letter, as appropriate.

K. This PROJECT will be administered in accordance with the applicable CTC STIP guidelines and the Active Transportation Program guidelines as adopted or amended, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

L. The submittal of invoices for PROJECT costs shall be in accordance with the above-referenced publications and the following. The ADMINISTERING AGENCY shall invoice STATE for environmental & permits, plans specifications & estimate, and right-of-way costs no later than 180 days after the end of last eligible fiscal year of expenditure. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance, whichever occurs first, to make the final payment to the contractor and prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and payment.

M. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature and the encumbrance of funds under this Agreement. Funding and reimbursement are available only upon the passage of the State Budget Act containing these Federal funds.

N. This PROJECT is subject to the timely use of funds provisions enacted by the ATP Guidelines, as adopted or amended, and by approved CTC and State procedures as outlined below.

Funds allocated for the environmental & permits (E&P), plan specifications & estimate (PS&E), and right-of-way components are available for expenditure until the end of the second fiscal year following the year in which the funds were allocated.

SPECIAL COVENANTS OR REMARKS

Funds allocated for the construction component are subject to an award deadline and contract completion deadline. ADMINISTERING AGENCY agrees to award the contract within 6 months of the construction fund allocation and to complete and accept the construction within 36 months of award.

O. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to comply with all reporting requirements in accordance with the Active Transportation Program Guidelines, as adopted or amended.

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.

C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.

E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or $40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and

subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and

maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends $750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over $5,000, construction contracts over $10,000, or other contracts over $25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

3. In the event that right of way acquisition for or construction of this project of the initial federal authorization for preliminary engineering is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the ADMINISTERING AGENCY shall repay the Federal Highway Administration through Caltrans the sum of Federal funds paid under the terms of this agreement.

RESOLUTION NO. 2016-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING FEDERAL-AID PROJECTS PROGRAM SUPPLEMENT AGREEMENT NO. 028-N1

WHEREAS, The City of Merced is eligible to receive Federal and/or State funding for certain transportation projects through the California Department of Transportation; and,

WHEREAS, Program Supplemental Agreements need to be executed with the California Department of Transportation before such funds may be claimed.

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

SECTION 1. Program Supplement Agreement No. 028-N1, attached hereto and made a part hereof, is hereby approved.

SECTION 2. The City Manager and the City Clerk, respectively, are hereby authorized to execute and attest said Agreement on behalf of the City of Merced.

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

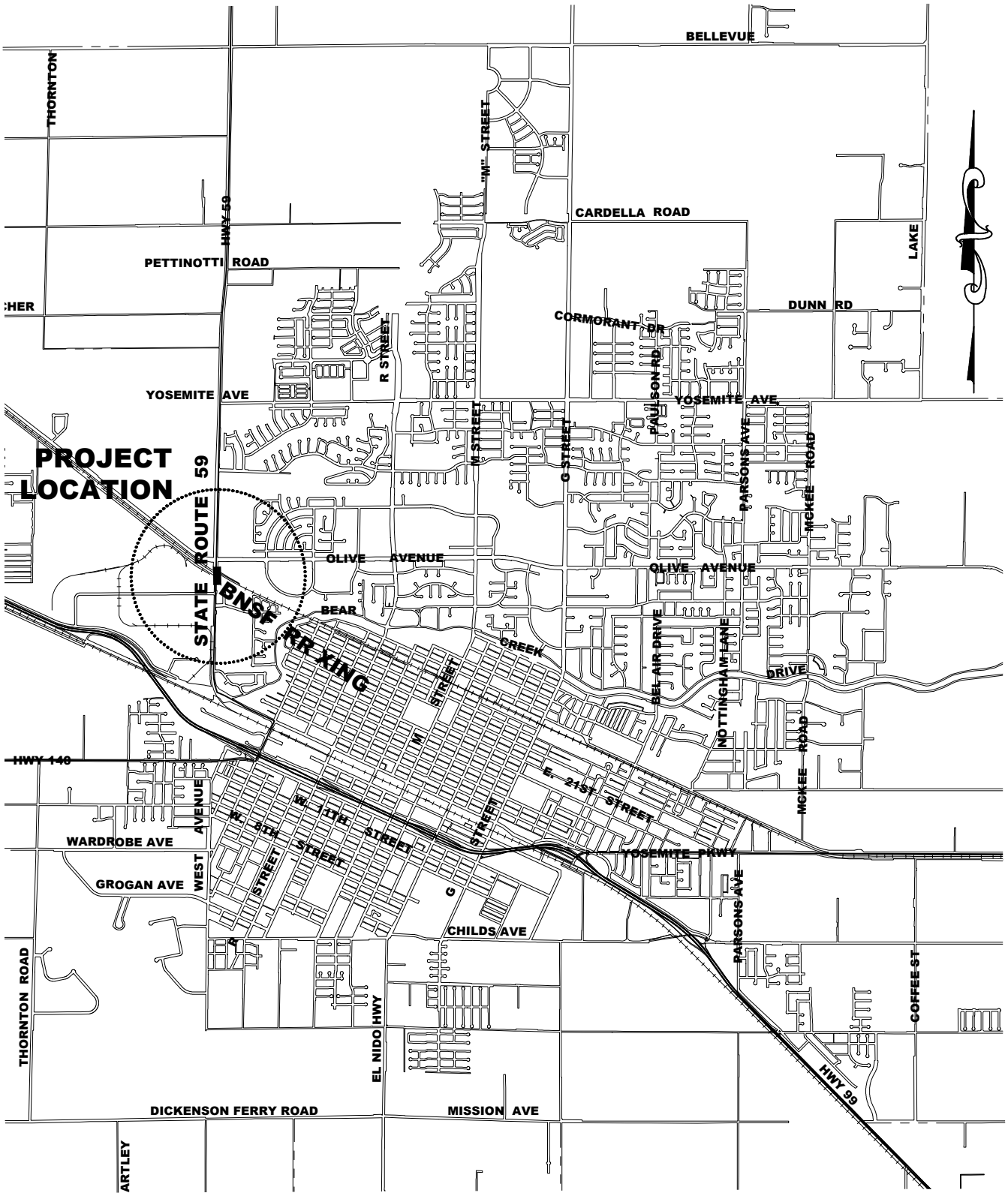
BY:_____
Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

K Moreo 9-27-16
City Attorney Date

X:\Resolutions\2016\Engineering\Approving Caltrans Supp Agr No. 028-N1.doc



LOCATION MAP

SCALE: NTS

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

ATP PROJECT
SR 59 AT THE BNSF RAILROAD CROSSING.

DR. BY:	JDS
DATE:	3/31/2014
CH. BY:	
DATE:	
File No.	
SCALE:	AS SHOWN

I:\1 Current Projects\115047 - ATPL (045) State Highway 59 Multi-Use Pathway Crossing\Dwg\Location Plan SR 59 at BNSF RR Crossing.dwg

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.13. Meeting Date: 10/17/2016

Report Prepared by: *David Gonzalves, Director of Development Services*

SUBJECT: Request to Under Fill an Assistant Engineer Position with an Engineering Technician II

REPORT IN BRIEF
Under fill an Assistant Engineer with an Engineering Technician II in the Development Services Department.

RECOMMENDATION
City Council - Adopt a motion approving the recommendation of staff to under fill the position of Assistant Engineer with an Engineering Technician II with existing Development Services Department payroll accounts.

ALTERNATIVES
1. Approve, as recommended by staff; or,
2. Deny; or,
3. Refer to staff for further study; or
4. Take no action.

AUTHORITY
Article VII, Section 501, of the Merced City Charter.

CITY COUNCIL PRIORITIES
Not applicable.

DISCUSSION
The City has recently experienced a number of retirements in the Engineering Department and anticipates several more in the near future. In order to plan for completion of current and future projects approved by the City Council, the Engineering Department has taken action to fill the vacancies. A recent Engineering Technician I/II/III/IV recruitment resulted in numerous qualified applicants and the Engineering Department feels that the current Assistant Engineer vacancy can be competently filled with one of the Engineering Technician Candidates.

The caliber of these candidates also requires that the City move quickly in order to make offers to the candidates and to ensure they are still available for City employment. This will involve an overlap in the Assistant Engineer and Engineering Technician positions for approximately one month. The

Assistant Engineer has left City employment, but is using vacation accruals until November in order to maximize his retirement benefit.

IMPACT ON CITY RESOURCES

Funding is available within the Fiscal Year 2016-17 budget.

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.14. Meeting Date: 10/17/2016

Report Prepared by: *Matt Williams, Police Captain*

SUBJECT: Street Closure Veterans Parade

REPORT IN BRIEF
Consider allowing the use of City streets on November 11, 2016 for the Veteran's Day 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 Main Street to 20th Street as requested by Kimberly Sanchez, Merced County Veterans Services for the 2016 Veterans Day Parade on Friday, November 11, 2016. The street closures will be between 12:00 PM and 4:00 PM; subject to the conditions outlined in the administrative report.

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 Kimberly Sanchez, Merced County Veterans Officer to close East Main Street and West Main Street for the 2016 Veterans Day 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).
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.

The date of this event is scheduled for Friday, November 11, 2016 and the time of the street closure will be from 12:00 PM. to 4:00 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 4:00 P.M. for the parade (If the parade finishes prior to 4:00 P.M. West Main Street will be opened earlier at the completion of the parade). The Parade start time is approximately 12:30 P.M.

Merced County Veterans Office will take full responsibility for notifying the businesses and residences along the parade route and 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 expected attendance is 1500 to 2000 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 Merced County Board of Supervisors approved the street closure application. The street closure application was signed on September 20th, 2016 by Hub Walsh. A copy of the street closure application is attached to this administrative report. The 2016 Veterans Day Parade will 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.

ATTACHMENTS

1. Street closure application

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

For current Fee, please see Planning & Development Fee Schedule

Application: _____
Receipt: _____

CHECKLIST:

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

Y — Have you completed the "Description of Event" below and signed the application on page 3? (Incomplete information may delay your application.)

Y — Have you allowed at least 8-10 weeks prior to the event for your application to be placed on a City Council agenda?

Y — 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)

Y — 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?

_____ Have you given public notice of the street closure to all the surrounding businesses within ½ 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.

_____ 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?

_____ 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.)

_____ 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 Merced County and United Way

CONTACT PERSON Kimberly Sanchez PHONE [redacted]

ADDRESS [redacted]

DRIVER'S LICENSE NO. [redacted] E-MAIL [redacted]

DESCRIPTION OF EVENT (Continued):

DESCRIPTION OF EVENT (include equipment, obstructions, etc., to be placed in the encroachment area)
2016 Veteran Day Parade

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

ESTIMATED NUMBER OF PEOPLE IN ATTENDANCE 2000

DATE(S) AND TIME(S) OF USE (include time for setup and takedown as well as event time):
November 11, 2016 12:00pm to 4:00pm

LIST ALL STREETS PROPOSED FOR CLOSURE:
E 18th and Calimyrna to Main Street; Main Street to O Street; O Street to W 20th; W 20th to N Street ends at Court House Park; Canal Street from Main to 18th

(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: Hubert Walsh Jr., Board of Supervisors
Date: SEP 20 2016

OFFICE USE

APPLICATION APPROVED SUBJECT TO CONDITIONS _____

BY _____ DATE _____
Development Services Department (385-6858)

BY _____ DATE _____
Merced Police Department (385-6912)

BY _____ DATE _____
Merced Fire Department (385-6891)

DEVELOPMENT SERVICES DEPARTMENT CITY OF MERCED 678 W. 18TH ST, MERCED CA 95340
PHONE (209) 385-6858

LIQUOR LIABILITY INSURANCE -POLICY-

YOU HAVE APPLIED FOR STREET CLOSURE/PARKING LOT CLOSURE AND HAVE INDICATED THAT ALCOHOLIC BEVERAGES WILL EITHER BE SERVED OR SOLD AS PART OF THE FUNCTION OR ACTIVITY BEING CONDUCTED AT THIS EVENT.

THE MERCED CITY COUNCIL HAS ADOPTED ORDINANCE #1941 CHAPTER 12.42 TEMPORARY STREET CLOSURES WHEREAS WHEN ALCOHOLIC BEVERAGES ARE TO BE SERVED OR SOLD, THE GROUP OR INDIVIDUAL SHALL BE REQUIRED TO COMPLY WITH ALL OTHER LAWS RELATING TO THE SALE OF ALCOHOLIC BEVERAGES.

FOR GROUPS SELLING ALCOHOLIC BEVERAGES AT A FUNCTION OR ACTIVITY, WE RECOMMEND THAT YOU CONTACT YOUR INSURANCE CARRIER TO OBTAIN SPECIFIC INFORMATION ON COVERAGE OR CONSIDER CONTRACTING WITH A CATERER WHO ALREADY HAS THE NECESSARY PERMITS, LICENSES, AND INSURANCE COVERAGE.

WHETHER YOU SELL OR SERVE ALCOHOLIC BEVERAGES, IT IS YOUR RESPONSIBILITY OR YOUR GROUP'S RESPONSIBILITY TO COMPLY WITH THE RULES AND REGULATIONS OF THE CALIFORNIA STATE DEPARTMENT OF ALCOHOL BEVERAGE CONTROL WITH REGARD TO OBTAINING THE NECESSARY LICENSES OR PERMITS. SHOULD YOU HAVE ANY QUESTIONS REGARDING THE REQUIREMENT FOR A LICENSE OR PERMIT, YOU SHOULD CONTACT THE CALIFORNIA STATE DEPARTMENT OF ALCOHOL BEVERAGE CONTROL, 31 EAST CHANNEL STREET, ROOM 168, P. O. BOX 150, STOCKTON, CALIFORNIA 95201; TELEPHONE (209) 948-7739.

I CERTIFY THAT I HAVE READ AND REVIEWED THE LIQUOR LIABILITY POLICY OF THE CITY OF MERCED AND WILL COMPLY WITH THESE REQUIREMENTS.

SIGNATURE_____ DATE _____

EVENT DATE _____

LOCATION OF EVENT _____

NOTIFICATION REQUIREMENTS FOR POSTING "NO PARKING"

NO PARKING

DATE and TIMES
(Example: Wednesday, September 9, 2011,
6:00 am to 5:00 pm)

VIOLATORS VEHICLE MAY BE TOWED
AT OWNERS EXPENSE
MERCED POLICE DEPARTMENT
(209) 385-6912
21351 CVC / 22651(n) CVC

SIZE REQUIREMENTS

SIGN MUST BE 17" x 22" LETTERS ARE TO BE AT LEAST 1" IN HEIGHT. SIGNS MUST BE POSTED ALONG ENTIRE PARADE, STREET CLOSURE, AND/OR STAGING ROUTE OR ALONG ANY CONSTRUCTION AREA.

SIGNS MUST BE PLACED NO LESS THAN 3 PER BLOCK, EVENLY SPACED ON BOTH SIDES OF THE STREET, ALONG THE ENTIRE STREET CLOSURE.

NOTIFICATION OF PENDING STREET CLOSURE

This is to notify you of an event that will require the closure of street(s) in your area. Please note the details below, including the date and time of the closure(s), and plan to park your vehicle(s) off the affected street(s) on the day of the event. Your cooperation is greatly appreciated. If you have any concerns, please notify the contact person listed.

Name of Event: _____ **Type of event (parade, etc.):** _____

Contact Person: _____ **Phone Number:** _____

Date(s) of closure: _____ **Time:** between _____ am/pm and _____ am/pm

Streets to be closed: _____

_____

Other streets with restricted access: _____

_____

Please Note: Event Sponsor is responsible for posting of parking restrictions where street is closed. "No Parking" signs shall be posted at least twenty-four (24) hours prior to any necessary towing of vehicle(s), per California Vehicle Code Section 22651(m).

To avoid having your vehicle towed, please keep this notice as a reminder and comply with the posted parking restrictions. If you are a business with employees, please notify your employees as soon as possible and post this notice in a conspicuous location. Thank you.

NOTIFICATION OF PENDING STREET CLOSURE

This is to notify you of an event that will require the closure of street(s) in your area. Please note the details below, including the date and time of the closure(s), and plan to park your vehicle(s) off the affected street(s) on the day of the event. Your cooperation is greatly appreciated. If you have any concerns, please notify the contact person listed.

Name of Event: _____ **Type of event (parade, etc.):** _____

Contact Person: _____ **Phone Number:** _____

Date(s) of closure: _____ **Time:** between _____ am/pm and _____ am/pm

Streets to be closed: _____

_____

Other streets with restricted access: _____

_____

Please Note: Event Sponsor is responsible for posting of parking restrictions where street is closed. "No Parking" signs shall be posted at least twenty-four (24) hours prior to any necessary towing of vehicle(s), per California Vehicle Code Section 22651(m).

To avoid having your vehicle towed, please keep this notice as a reminder and comply with the posted parking restrictions. If you are a business with employees, please notify your employees as soon as possible and post this notice in a conspicuous location. Thank you.

To be signed by Event Sponsor Representative after completion of required 72-hour notification and submitted to the City of Merced Planning Dept, City Hall (2nd Floor), 678 W. 18th Street, Merced.

I have notified the required parties of the dates, times, and affected streets, as required.

Signed _____ Title: _____ Date: _____

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.15. Meeting Date: 10/17/2016

Report Prepared by: *Janet German, Secretary III, Fire Dept.*

SUBJECT: Accept Donated Food Products for the Fire Department's Open House and Firefighter's Pancake Breakfast

REPORT IN BRIEF
Accept donated food products from McLane Company, Inc. for the Fire Department's Open House and Firefighter's Pancake Breakfast and Approve Donation Agreement.

RECOMMENDATION
City Council - Adopt a motion accepting the food product donation from the McLane Company, Inc. for the City Fire Department's Open House and Firefighter's Pancake Breakfast and authorizing the City Manager to execute the Donation Agreement.

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 reconsideration of specific items; or,
5. Continue to a future meeting.

AUTHORITY
Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES
McLane's donation is consistent with the City Council's FY 16/17 priority of establishing Family Friendly Events.

DISCUSSION
The Fire Department's Open House and Firefighter's Pancake Breakfast is an annual family oriented and fun filled event, which kicks off on Saturday, October 8th at 7:00 a.m. and concludes at 11:00 a.m. It begins with a pancake breakfast; live firefighter demonstrations; activities for kids; a helicopter fly in; an opportunity to sit in the fire engines and trucks; learn about fire safety; and to talk face to face with real firefighters, while making new friends.

This event has proven to be instrumental in building goodwill between the community, the city, and firefighters.

Proceeds from the pancake breakfast directly benefit local youth sports programs and the success of the program wouldn't be possible without the community's support, donations and firefighters.
For this year's event, McLane Company, Inc., has offered to donate food products for the breakfast. In order to receive the donation, the City must agree to and enter into a donation agreement with the McLane Company. The Agreement is the standard agreement required by McLane which the City has entered into for donations from McLane for past City events.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. McLane Company, Inc. Donation Agreement

DONATION AGREEMENT

This DONATION AGREEMENT ("Agreement") is entered into effective as of _____, _____ ("Effective Date") by and between McLane _____, a _____ corporation, ("McLane") and City of Merced, a CA charter municipal Corp ("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 RECEIEVED 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 _____, INC.

By: _____
Printed Name: _____
Title: _____

RECIPIENT:

City of Merced

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

Agenda Item I.16. Meeting Date: 10/17/2016

Report Prepared by: *Steve Carrigan, City Manager*

SUBJECT: City Council Response to 2015-2016 Grand Jury Report

REPORT IN BRIEF
City Council Response to the 2015-2016 Grand Jury Report Regarding Merced County's Efforts to End Homelessness.

RECOMMENDATION
City Council - Adopt a motion approving the response to the 2015-2016 Grand Jury Investigation (No. 15-08-17) regarding Efforts to End Homelessness and authorizing the submittal of the response to the Merced County Civil Grand Jury by the Mayor.

ALTERNATIVES
Direct staff to make revisions to the draft response.

AUTHORITY
City of Merced Charter, Section 200
Penal Code sections 933 and 933.05

DISCUSSION
Pursuant to California Penal Code section 925a, civil grand juries are authorized to ". . . investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit." The investigations are summarized in written reports issued by the civil grand jury during their term. These reports are compiled and assembled into a Final Report which is typically released at the end of the grand jury's term.

During the 2014-2015 term of the Merced County Civil Grand Jury (MCCGJ), members of the grand jury voted to conduct an investigation concerning the issue of homelessness in Merced County. However, due to time constraints that investigation was not completed and was instead referred to the 2015-2016 MCCGJ for investigation. In August 2015, the 2015-2016 MCCGJ voted to adopt the investigation and thereafter commenced their investigation into the matter. Their report on the matter, entitled "Merced County's Efforts to End Homelessness" was included in the 2015-2016 Grand Jury Final Report, which was released at the end of July 2016.

The full investigation report regarding Merced County's Efforts to End Homelessness is attached to

this Administrative Report. This report does not make any negative findings about the City of Merced. Instead, MCCGJ commended the City for their efforts in initiating a constructive program for dealing with the homeless issue. The MCCGJ recommended that the City continue work with community organizations and other local governments to address the issue of homelessness and to continue to support the Continuum of Care ("CoC"). The grand jury also recommended that the City continue to seek funds from federal and state government agencies that can be used to provide aid in combating homelessness in our area.

Pursuant to Penal Code sections 933 and 933.05, a written response to the recommendations contained in the Grand Jury report is required to be submitted to the presiding judge of the superior court by the Mayor. The MCCGJ requested a response from the City regarding its recommendations. Pursuant to Penal Code section 933.05, subdivision (b), when responding to the Grand Jury's recommendation, the City is required to indicate one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action;

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation;

(3) The recommendation requires further analysis; or

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

This year, as part of the HUD 2016 Annual Action Plan, the City approved $38,000 in funding from Community Development Block Grant funds to the CoC. The purpose of this funding is to increase community involvement and the number of programs applying for state and federal grant money to assist the homeless. Moreover, as it has in the past, the City continues to seek out funds from federal and state government agencies that can be used to provide aid in combating homelessness in our City. Accordingly, the attached Response to the Grand Jury report confirms that the City has implemented their recommendation and details our efforts in that regard.

IMPACT ON CITY RESOURCES

None.

ATTACHMENTS

1. Grand Jury Report Concerning Merced County's Efforts to End Homelessness (Investigation No. 15-08-17)
2. Draft Response to the Civil Grand Jury's Request

MERCED COUNTY'S EFFORTS TO END HOMELESSNESS

Internal Investigation 15-08-17

SUMMARY

In May of 2011, the Merced County Board of Supervisors adopted a ten-year plan to combat homelessness in the county. They assigned the task of implementing this plan to the Merced County Association of Governments (MCAG). MCAG, along with the City of Merced and Merced County, contracted with Urban Initiatives (UI). This Southern California organization specializes in assisting counties and agencies to achieve compliance with federal and state qualifications in order to obtain funding and support to combat homeless issues within their jurisdiction. Under the advisement of UI, the Continuum of Care (CoC), a countywide committee made up of volunteers from many local organizations, was created to move the county's plan forward. The Merced County Civil Grand Jury (MCCGJ) elected to investigate UI's contract and what was being done in the County concerning homelessness.

BACKGROUND

The 2014-2015 MCCGJ voted to do an internal investigation concerning the homeless issue in Merced County. Due to time constraints, they referred this investigation to the 2015-2016 MCCGJ. In August 2015, the current MCCGJ voted to adopt this investigation.

METHODOLOGY

The MCCJG used the interview process to gather information on the issues presented. Several county and city representatives were interviewed, along with individuals from non-profit organizations that deal with the homeless issue in Merced County.

DISCUSSION

In order to obtain federal and state funding for homeless support services, the County is required to have an organized structure in place before applying for any grants.

MCAG was the first Collaborative Applicant (CA) assigned. MCAG, with the approval of the Board of Supervisors, contracted UI to provide Merced County with a grant inventory worksheet and a detailed budget requirement inventory necessary to apply for federal and state funds.

Merced County and the City of Merced funded the contract with UI in 2014. The mission of UI was to work with various jurisdictions to design a plan and then oversee the implementation of a system of care and affordable housing for the homeless.

UI assisted in the formation of the CoC. The CoC is comprised of non-profit agencies, local churches, MCAG, Veterans Affairs representatives, Mental Health representatives and UI. The

CoC's business model is to involve all the agencies that have services to offer the homeless. With the help of UI, the CoC was awarded two grants from The Department of Housing and Urban Development (HUD) in the amount of $1.2 million for transitional housing, permanent supportive housing and the continued operation of the Homeless Management Information System.
UI has had two contracts with Merced County over the past two years. The contractual obligations of these contracts are the following:

- Assist the County in completing the annual HUD application for funding.
- Update the 10-year plan to end homelessness.
- Coordinate the homeless count and survey.
- Monitor various organizations that receive HUD funding through the CoC.
- Ensure federal guidelines are followed.

UI also assists the County with other aspects such as housing inventory charts, the annual homeless report and working with the CA.

According to the CoC, UI has greatly improved the participation and productivity of the homeless program by accomplishing the following since accepting the contract:

- The CoC committee increased attendance from approximately nine participants to an average of 50 to 60. These individuals represent close to 50 different agencies.
- A CoC board was established and meets quarterly.
- There are active sub-committees within the CoC.
- A governing charter has been established.
- Standards have been written.
- A pilot program has been initiated.
- A coordinated entry system is being established. This identifies an individual's or family's need for homeless assistance.
- The ten-year plan has been updated and includes solutions for implementation.

UI helped start the pilot program working with homeless veterans. The CoC's first goal was to deal with this issue. Many veterans have been assisted, and it is projected to have zero homeless veterans housed by the end of 2016. This pilot program has served as the vehicle for other programs to address homeless issues and clients.

UI's opinion is that the best practice is to conduct street outreach. Their approach is not to just provide a blanket, but to enter individuals into a program and get them off the streets. Mental health and other agencies are and will continue to be critical in the success of this program.

United Way of Merced County (UW) is a volunteer member of the CoC. While this investigation was being conducted, UW applied to be the new CA for Merced County. When interviewed, UW explained that HUD's model is to approach housing first. This means it is important to house people and get them off the streets. Individuals will then receive the services they need to maintain housing and become contributing members of society. This new approach to end homelessness is to get permanent supportive housing and then, if needed, have a case manager assist individuals to utilize any available services.

There are several non-profit charitable organizations that have proposed a "Village of Hope Project". This is a project that would provide housing and onsite support for individuals. Case managers and support services from multiple agencies would be located at the housing facility to assist individuals. HUD does not fully fund new housing projects. Therefore, to encourage investors and developers to become partners in a "Village of Hope Project", tax credits and incentives need to be provided to insure these types of projects can become a reality.

Currently, the Merced Rescue Mission has established a rapid re-housing program along with the Human Services Agency (HSA). During this investigation, the Housing of Merced County (HAMC) has made Section 8 vouchers available and has set aside a number for the CoC to use. Homeless veterans will be given preference.

Since the initial interviews were conducted, the MCCGJ learned that on March 1, 2016 the CoC applied for a $660,000 grant (two years of funding). This money, if received, will allow the hiring of three full-time trained professionals who would work in the field to assist homeless individuals and families with available programs and services.

The MCCGJ also learned of two planned projects to assist in providing housing to the homeless:

1. A 37-unit facility located near Highway 99.
2. A 60 to 80-unit facility that would accommodate onsite services to be located in southeast Merced.

The City of Merced is also working to put ordinances in place that will make it more difficult for homeless to settle in common public areas. Ordinances of these types are already enforced in surrounding counties and cities.

Since the initial interviews, MCCGJ has learned that the CoC has organized a working group that is reaching out to local landlords in hopes of getting their support in developing permanent supportive housing for the homeless. The CoC has applied for local grants that will help with deposits and other issues that seem to be a hurdle between homeless occupants and local landlords.

This investigation began with looking at UI and its contract with the County and City of Merced. According to the CoC, UI has done an exemplary job in helping the County become compliant, and its director is to be commended in his participation in and contribution to the goals of the CoC. In the future, the CA's strategy is to reduce the hands-on participation by UI and transfer that responsibility to the CA. The knowledge of UI has been invaluable to the CoC, and they will continue to enlist UI's expertise.

FINDINGS

F1. Since UI's involvement, participation in the CoC by government agencies, non-profits and other organizations has greatly increased. The CoC conducted its latest count of homeless individuals on January 28, 2016. This count involved over 170 volunteers walking in 28 zones throughout the County and talking one-on-one with individuals. They asked them a series of questions in order to determine their housing situation. This resulted in a more accurate count. The current count of homeless individuals in Merced County is 519.

RECOMMENDATION

R1. The MCCGJ recommends that the various organizations that are involved in dealing with homelessness in Merced County continue their outstanding work and that local governments continue to increase their support to address this issue and provide support to the CoC.

R2. The MCCGJ recommends that the City of Merced and Merced County continue to seek funds from federal and state government agencies that can be used to provide aid in combating homelessness in our area.

COMMENDATIONS

C1. The MCCGJ commends the following organizations for their diligent and hard work in combating homelessness in Merced County: The Continuum of Care, Urban Initiatives, The United Way of Merced County and The Merced Rescue Mission. There are also numerous individuals who have contributed endless hours of work in dealing with this problem, and the MCCGJ commends them for their efforts.

C2. The MCCGJ commends the City of Merced and Merced County for their efforts in initiating a constructive program for dealing with the homeless issue.

REQUESTED RESPONSES

Pursuant to Penal Code Section 933.05, the Civil Grand Jury request responses as follows

Merced County Board of Supervisors

Merced City Council

Merced County Association of Governments

INVITED RESPONSES

Merced County Collaborative Applicant

Merced County Continuum of Care

GLOSSARY

CA	Collaborative Applicant
CoC	Merced County Continuum of Care

HACM	Housing Authority of Merced County
HSA	Merced County Department of Human Services Agency
HUD	US Department of Housing and Urban Development
MCAG	Merced County Association of Governments
MCCGJ	Merced County Civil Grand Jury
UI	Urban Initiatives
UW	United Way of Merced County

CITY OF MERCED

"Gateway to Yosemite"

OFFICE OF THE MAYOR
(209) 385-6834 • (209) 723-1780 FAX

October 17, 2016

Brian L. McCabe, Presiding Judge
Merced County Superior Court
627 West 21st Street
Merced, CA 95340

RE: Response to the 2015-2016 Merced County Civil Grand Jury Report Entitled "Merced County's Efforts to End Homelessness"

Dear Judge McCabe:

On July 21, 2016, the Merced County Civil Grand Jury ("MCCGJ") issued its report entitled *Merced County's Efforts to End Homelessness*. This report focused on the MCCGJ's investigation of the contract with Urban Initiatives ("UI") and the efforts that have been made concerning homelessness. As requested by the 2015-2016 MCCGJ, I am writing you on behalf of the Merced City Council to formally respond to the Recommendations contained in the report. The City Council has reviewed this response and authorized that it be sent at their October 17, 2016, meeting.

As set forth in the MCCGJ's report, in 2011, the Merced County Board of Supervisors adopted a ten-year plan to fight homelessness in the County. The implementation of this plan was assigned to the Merced County Association of Governments, who along with the County and the City of Merced ("City"), contracted with Urban Initiatives ("UI") for the purpose of obtaining state and federal funding

and support to combat homelessness within the County. As noted in the Report, Merced County and the City funded the UI contract. UI assisted with the formation of the Continuum of Care ("CoC"), which is a countywide committee comprised of volunteers from various non-profit agencies whose purpose is to engage all agencies in our community that have services to offer to the homeless. The MCCGJ found that UI's involvement greatly increased the participation in the CoC by government agencies, non-profits and other organizations. The MCCGJ commended UI, CoC, the United Way of Merced County and the Merced Rescue Mission for their efforts. In addition, the City and County were also commended for their efforts in initiating a constructive program for dealing with the homelessness issue.

The Report contains two recommendations for which the MCCGJ seeks a response from the Merced City Council. The City appreciates the Commendation by the MCCGJ for our efforts to combat homelessness and provides the following information in response to the Recommendations in the Report:

RECOMMENDATIONS

"R1. The MCCGJ recommends that the various organizations that are involved in dealing with homelessness in Merced County continue their outstanding work and that local governments continue to increase their support to address this issue and provide support to the CoC.

R2. The MCCGJ recommends that the City of Merced and Merced County continue to seek funds from federal and state government agencies that can be used to provide aid in combating homelessness in our area."

RESPONSE

In 2016, the City, through a Community Development Block Grant (CDBG), provided funding to the United Way of Merced County in the amount of $38,000 to assist with the operation of the CoC. The City also continues to provide assistance to the homeless population and

actively seeks funding from state and federal sources to combat homelessness in our City. Accordingly, the Recommendations contained in the Report have already been implemented by the City. A summary of the City's contemporary efforts in this regard are described below.

The Mayor's Challenge to End Veteran Homelessness

In January 28, 2015, the annual Merced County homeless count revealed that there were 88 homeless veterans in our community. That number reduced 71.5% in 2016 when the annual count indicated that there were 25 homeless veterans in our community. With the goal of honoring the service of veterans by ensuring that all unsheltered veterans in the City are provided with stable housing, in June 2016, the City joined a nationwide federal program called the Mayor's Challenge to End Veteran Homelessness. To meet this challenge, the City is working on the federal level with the U.S. Department of Veteran's Affairs, the U.S. Department of Housing and Urban Development and the U.S. Interagency Council on Homelessness. On the local level, the City is working with the CoC and local veteran service providers to end homelessness among local veterans. A copy of the City's letter committing to this program and materials detailing the City's plan to accomplish its goal of ending homelessness among veterans is attached to this Response.

Community Development Block Grant Awards

As set forth in further detail in the City's 2016 HUD Annual Action Plan, the City has committed the following CDBG funds to assist with the needs of homeless families and individuals:

Recipient	Program	Amount	Purpose
Merced County Rescue Mission	Room at the Inn	$200,000	Purchase of a property to provide housing to homeless families.
Merced County Rescue Mission	SOAR Case Management Program	$8,000	Establish a SOAR case management program for the CoC to assist with community mental health services.
Merced County Rescue Mission	Rental Deposit Assistance	$20,000	Assist with rental deposits for homeless individuals

Merced County Rescue Mission	Warming Center	$15,000	Continuation and expansion of warming center services to homeless
Sierra Saving Grace	Housing Acquisition	$167,000	Acquisition of a duplex or a single family dwelling for use by homeless
Sierra Saving Grace	Supportive Housing	$7,500	Operation of a support housing project
Alliance for Community Transformations	Homeless prevention program	$10,000	Development of a homeless prevention program for victims of domestic violence and their family members
Housing Authority for Merced County	Rental Deposit Assistance	$30,000	Rental deposit program for homeless and those at risk of homelessness
United Way of Merced County	Funding for CoC	$38,000	Funding for CoC

The City, its partner agencies and community organizations are committed to providing assistance to the homeless population living in our community. The City will continue to seek other funding opportunities from federal and state government agencies that can be used to provide aid in combating homelessness in our area.

Please feel free to contact City Manager Steve Carrigan if you desire any additional information or have any questions regarding this response to the MCCGJ Report.

Sincerely,

STANLEY P. THURSTON
Mayor

Cc: Members of the Merced City Council
Steve Carrigan, City Manager

Attachments: Letter Joining Mayor's Challenge to End Homelessness

CITY OF MERCED
"Gateway to Yosemite"

City of Merced Housing Division
Telephone (209) 385-6863 *Fax (209) 388-8987*

June 6, 2016

Honorable Robert A. McDonald
Secretary of Veterans Affairs
U.S. Department of Veteran Affairs

Julián Castro
Secretary of Housing and Urban Development
U.S. Department of Housing and Urban Development

Matthew Doherty
Executive Director
U.S. Interagency Council on Homelessness

Dear Sirs:

The City of Merced is pleased to join nearly 1,000 other jurisdictions throughout the country who are committed to ending homelessness among veterans in their community as outlined in Opening Doors, the nation's first comprehensive federal strategy to prevent and end homelessness.

The Merced County 2016 Homeless Count and Survey revealed that there were 25 homeless veterans on January 28. The previous year, the homeless count noted that there were 88 homeless veterans which represents a 71.5% decrease.

The Housing Authority of the County of Merced (HACM) recently received 11 more U.S. Department of Housing and Urban Development-VA Supportive Housing (HUD-VASH) Program vouchers. This brings the total number of vouchers received by HACM to 66. In addition, the WestCare Foundation's San Joaquin Valley Veterans (SJVV) program administers the Supportive Services for Veteran Families (SSVF) Program for homeless and at risk of becoming homeless veterans.

The City of Merced has established a partnership with the Merced City and County Continuum of Care (CoC) which consists of a wide-range of public and private organizations, including veteran service providers, in order to finish the job of preventing and ending homelessness among local veterans. The partnership focuses on the "No More Homeless Vets in Merced Task Force (Task Force)."

The primary responsibility of the Task Force is to identify and permanently house all homeless veterans by the end of 2016 by implementing the best practices of Housing First and Rapid Rehousing through the HUD-VASH, SSVF, and other programs operated by the CoC. Any veterans encountered during the 2017 homeless count and survey will be immediately engaged so that they will be able to end their experience of homelessness.

The City of Merced and the CoC will continue to implement the best practices in order to rapidly rehouse any veterans who become homeless after the 2017 homeless count and survey. The goal will be to rehouse them within 30 days as encouraged by the VA, HUD, and ICH.

Thus, it is with great pleasure that I submit to you, on behalf of the City Council and our residents, our city's commitment to end veteran homelessness in writing. Please know that the Mayor and Council will distribute a press release to the general public as noted and encouraged by the VA, HUD, and ICH within the Mayors Challenge to End Veteran Homelessness web site. Should you or your staff have any questions or comments, please contact me at (209) 385-6834.

Sincerely,

Stan Thurston
Mayor, City of Merced

Cc: Steve S. Carrigan, City Manager
Joe Colletti, Urban Initiatives
Carol Bowman, Director United Way
Frank Quintero, Director of Economic Development
Mark Hamilton, Housing Program Supervisor

No More Homeless Vets in Merced

Ending Homelessness among Unsheltered Veterans in Merced County: The Number of Unsheltered Veterans is less but what will it take to finish the job?

-prepared by Joe Colletti, PhD and Sofia Herrera, PhD, Institute for Urban Initiatives-

The primary purpose of this report is to focus on the following formalized question—what types of housing, resources, and tactics are essential to finish the job of ending homelessness among veterans in Merced County?

The multi-faceted answer is first outlined as follows:

- Direct the HUD-VASH voucher program, which combines Housing Choice Voucher (HCV) rental assistance for eligible homeless Veterans with case management and clinical services provided by the Department of Veterans Affairs (VA), towards chronically homeless veterans and particularly for those who are the most visibly homeless, hardest-to-reach, and most likely to die on the streets;
- Use the Housing First and a "low barrier" approach while implementing the HUD-VASH voucher program. The Housing First approach focuses on providing permanent supportive housing as quickly as possible and then providing home-based supportive services, instead of requiring veterans to earn their housing by first entering shelters and meeting the program criteria with the likelihood of being discharged back to the streets;
- Direct the Supportive Services for Veteran Families (SSVF) Program, which provides outreach and case management services and assists eligible veterans to obtain VA benefits and other public benefits, towards non-chronically homeless veterans and chronically homeless when appropriate;
- Use the Rapid Rehousing best practice while implementing the Supportive Services for Veteran Families (SSVF) Program, which helps families and individuals quickly move out of homelessness and into affordable permanent housing, by providing services that help them obtain and maintain their housing such as housing search and landlord negotiation, short-term financial and rental assistance, and the delivery of home-based housing stabilization services as needed;
- Provide bridge housing, which is different from shelter that requires participants to earn their housing by meeting and maintaining program criteria. A Housing First and Low Barrier approach is implemented to rapidly rehouse and prevent participants from being discharged to the streets while receiving HUD-VASH voucher and SSVF program assistance during their stay in bridge housing;
- Provide housing navigation services to participants who are receiving HUD-VASH voucher and SSVF program assistance during their stay in bridge housing;
- HUD-VASH voucher and SSVF program assistance is largely focused on the City of Merced because a significant majority of unsheltered veterans in the County are living on the city's streets.

The appropriate intervention for all chronically homeless persons including veterans is subsidized permanent supportive housing with case management services that is obtained and maintained through a Housing First and Low Barrier approach.

This approach was recently outlined by the U.S. Department of Housing and Urban Development (HUD) during the 2015 Continuum of Care (CoC) Homeless Assistance Program grant application process by asking two specific questions.

A. Low Barriers

The first question, which focused on barriers that prevent potential participants from entering permanent housing including permanent supportive housing, was

> "Based on the CoC's FY 2015 new and renewal project applications, what percentage of Permanent Housing (permanent supportive housing and rapid rehousing) . . . projects in the CoC are low barrier?[1]

HUD noted that this meant ". . . they do not screen out potential participants based on those clients possessing

- too little or little income,
- active or history of substance use,
- criminal record, with exceptions for state-mandated restrictions, and
- history of having been or currently a victim of domestic violence (e.g., lack of a protective order, period of separation from abuser, or law enforcement involvement)."[2]

HUD further stated that

> "Many recipients of CoC Program and ESG Program funds place more stringent requirements for entry into a program than what HUD requires and this can create barriers for those homeless persons who already have the most barriers and who would be considered the hardest-to-serve. As we continue to shift toward a paradigm of ending homelessness, it is increasingly important that CoC Program-funded projects eliminate barriers to serving people experiencing homelessness."[3]

Consequently, project applicants were asked to indicate their alignment with a low barrier philosophy by indicating that they were staying away from the following list of barriers,

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[1] "Detailed Instructions for Completing the FY 2015 Continuum of Care (CoC) Application," p. 62.
[2] Ibid.
[3] Ibid.

stability and prevent returns to homelessness as opposed to addressing predetermined treatment goals prior to permanent housing entry."[5]

Project applicants provided their responses based on the following three questions, which included specific instructions from HUD:

- **"Does the project quickly move participants into permanent housing?** Select 'Yes' to this question if your project will quickly move program participants into permanent housing without intermediary steps or a period of qualification before permanent housing. Select 'No' if the project does not work to move program participants quickly into permanent housing."

- **"Has the project removed the following barriers to accessing housing and services? (Select ALL that apply):** Check the box next to each item to confirm that your project has removed (or never had) barriers to program access related to each of the following: 1) Having too little or little income; 2) Active or history of substance abuse; 3) Having a criminal record with exceptions for state-mandated restrictions; and 4) Fleeing domestic violence (e.g., lack of a protective order, period of separation from abuser, or law enforcement involvement). If all of these barriers to access still exist, select None of the above'."

- **"Has the project removed the following as reasons for program termination?** Check the box next to each item to confirm that your project has removed (or never had) reasons for program participant termination related to each of the following: 1) Failure to participate in supportive services; 2) Failure to make progress on a service plan; 3) Loss of income or failure to improve income; 4) Fleeing domestic violence; and 5) Any other activity not covered in a lease agreement typically found in the project's geographic area. If all of these reasons for program termination still exist select 'None of the above'."

If the answers were affirmative to each of the questions, the following question "Does the project follow a Housing First approach" was automatically populated as "yes." HUD also noted that

> "This field is automatically calculated and cannot be edited. ***Only if*** "Yes" was answered for 4a ***AND*** all of the barriers and reasons boxes were checked for 4b and 4c, ***will*** this field indicate "Yes" to confirm a Housing First approach. Otherwise, this field will indicate "No" to confirm that the project will not follow a Housing First approach."[6]

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[5] For renewal applications see "Detailed Instructions for Completing the Renewal Project Application: Fiscal Year 2015 Continuum of Care Program Application Process," p. 17 and for new applications see "Detailed Instructions for Completing the New Project Application: Fiscal Year 2015 Continuum of Care Program Application Process," p. 19.
[6] Ibid, p. 20.

C. Bridge Housing

Bridge housing is temporary housing that is different from shelters that require participants to earn their housing by meeting and maintaining program criteria. Bridge housing requires participants to adhere to basic health and safety issues. However, bridge housing includes a Housing First and Low Barrier approach that prevents participants from being discharged to the streets because of the reasons noted in subsections A and B above.

Thus, if an unsheltered veteran qualifies for HUD-VASH or SSVF program assistance, the veteran is placed in bridge housing while a Housing Navigator identifies appropriate permanent housing as quickly as possible so that the veteran can receive home-based case management and supportive services in order to help the veteran maintain the housing.

D. Housing Navigation

Housing navigation consists of two primary activities: compiling an inventory of existing and new permanent housing units and moving veterans into the units as quickly as possible.

A Housing Navigator position needs to be created and funded in order to carry out the two primary activities. A Housing Navigator responsibilities should include

- Recruiting property owners and managers;
- Completing intake documentation;
- Assessing housing barriers, needs, and preferences;
- Matching appropriate housing resources (HUD-VASH, SSVF, S+C, CoC-PSH);
- Identifying and matching available housing units with homeless veterans;
- Setting up appointments to see available housing units;
- Assisting with transportation for homeless veterans to see available units;
- Assisting with submitting rental applications and understanding leases;
- Assisting with obtaining utilities and making moving arrangements; and
- Conducting follow-up to ensure veterans are maintaining housing.

E. Tactics

The primary tactics should be three-fold: 1) directing the resources; 2) ensuring accountability; and 3) rapidly rehousing any veterans who become homeless in the future.

Directing the resources

Directing the resources should include the following:

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.17. Meeting Date: 10/17/2016

SUBJECT: Letter of Opposition to Prop 57

REPORT IN BRIEF
Letter of opposition to Proposition 57 - The Public Safety and Rehabilitation Act of 2016 as requested by Larry D. Morse, District Attorney for Merced County.

RECOMMENDATION
City Council - Adopt a motion authorizing the Mayor to sign the letter of opposition to Prop 57.

ATTACHMENTS
1. Letter of Opposition to Prop 57

October 17, 2016

To Larry D. Morse II, State Co-Chair/No on Prop. 57,

On behalf of the Merced City Council, I am writing to inform you of our strong opposition to Proposition 57 – The Public Safety and Rehabilitation Act of 2016. Proposition 57 would undo four decades of Criminal Justice Reform by allowing the early release of criminals convicted of “non-violent” felonies. It is important to note that the following crimes are classified as “non-violent” in the California Penal Code:

- Rape by intoxication
- Rape of an unconscious person
- Human trafficking involving sex act with minors
- Drive-by shooting
- Assault with a deadly weapon
- Hate crime causing physical injury
- Domestic violence involving trauma
- Arson causing great bodily injury
- Lewd acts upon a child
- False imprisonment of an elder

By enabling early release for these crimes, Proposition 57 would overturn key provisions of the Victims' Bill of Rights, Marsy's Law, and the Californians Against Sexual Exploitation Act. Furthermore, by disregarding sentences imposed by judges for repeat and career criminals, Prop. 57 would treat the worst criminals the same as first-time offenders. In addition, Prop. 57 would give the California Department of Corrections and Rehabilitation unlimited constitutional authority to reduce sentences for "good behavior," even for inmates previously convicted of murder, mayhem, and rape.

As has been noted by Attorney General Kamala Harris, California is experiencing a marked increase in crime. In the last year:

- Violent Crime has increased by 10.0%.
- Property Crime has increased by 8.1%.
- The Homicide Rate has increased by 9.7%.

Given rising crime levels throughout California, the Merced City Council strongly opposes Proposition 57, which we believe would, if approved, exacerbate the trend toward more crime. We have endorsed the No on 57 Campaign (FPPC ID # 1386627), and we encourage you to stand with us and California Law Enforcement by also coming out in opposition to Proposition 57.

Sincerely,

Stanley P. Thurston, Mayor
City of Merced

CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item J.1. Meeting Date: 10/17/2016

Report Prepared by: *Janet German, Secretary III, Fire Dept.*

SUBJECT: Continued Public Hearing - Merced Fire Department User Fees

REPORT IN BRIEF
Public Hearing to hear comments and adopt a resolution updating the Merced Fire Department's user fees.

RECOMMENDATION
City Council - Adopt **Resolution 2016-48**, A Resolution of the City Council of the City of Merced, California, Adopting Fees for Required Permitted Fire and Life Safety Inspections.

ALTERNATIVES
1. Approve as recommended; or,
2. Approve, subject to other than recommended by staff; or,
3. Refer to staff for reconsideration of specific items; or,
4. Continue item to a Future Council meeting; or,
5. Deny the request.

AUTHORITY
Charter of the City of Merced, Section 412. Adoption of ordinances and resolutions. California Government Code Sections 66014, 66016, and California Health and Safety Code Section 19132-19132.3.

CITY COUNCIL PRIORITIES
Public Safety, as provided for in the 2016-17 Adopted Budget.

DISCUSSION
Background:

History
Previous City Council's (1998) direction was to ensure that existing fees were calibrated to the cost of providing services, therefore, in 2013, the Fire Department contracted with a third party consultant to conduct a Comprehensive User Fee Study (study) to evaluate and update those fees.

In 2016, the consultant prepared a "draft" of the proposed user fee, which was presented to various citizen groups, the public at large and City Council members. Based upon their feedback, the MFD

staff made modifications to the user fees and presented them to the community and council again. MFD staff considered the new input received and reviewed the user fees and its methodologies. In other words, the MFD staff re-evaluated various components utilized in deriving costs for fees and inspection times and adjusted them based upon input from Fire Prevention Bureau staff, resulting in the new user fees that are being presented.

It can be concluded that the Merced Fire Department should implement the recommended fees based on the reviewed Fire service costs and comparative data with other jurisdictions. The overall recovery rate of the Fire Bureau's expenditures could increase from 19% ($83,000 in revenues) to 81% ($364,000 in revenues), resulting in $281,000 additional revenue.

Implementation of the increased fees should occur on January 1, 2017, which will coincide with the adoption of the 2016 California Fire Codes and local amendments. Necessary fee ordinances, budget revisions, user notifications and personnel education will be undertaken by the Fire Prevention Bureau staff in order for these fees to be in place on January 1, 2017.

As noted, the implementation of these fees is projected to increase the Fire user fee revenues by approximately $281,000 in a 12-month period. At this time, the MFD will not prepare a supplemental appropriation, thereby allowing the department to determine a baseline of revenues collecting between January and June. The MFD will utilize those baseline revenues and incorporated them into the FY 17/18 budget.

IMPACT ON CITY RESOURCES

As noted earlier, the department may realize additional revenues with no added expense. Inspections will continue to be performed by existing staff.

ATTACHMENTS

1. User Fee Resolution
2. User Fee Study

RESOLUTION NO. 2016-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, ADOPTING FEES FOR REQUIRED PERMITTED FIRE AND LIFE SAFETY INSPECTIONS

WHEREAS, the Merced Fire Department conducts fire and life safety inspections in occupancies and businesses as described in the adopted California Fire Code, Section 105.6 (amended); and

WHEREAS, the fees were last modified and adopted in 2008 within the adoption of the 2007 California Fire Code; and

WHEREAS, the fees were continued and adopted in 2013 within the adoption of the California Fire Code, 2013 Edition; and

WHEREAS, the fees are directly related to the costs of providing the required inspections; and

WHEREAS, the fees do not exceed the amounts reasonably necessary for covering the costs of the inspection activities.

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

SECTION 1. The Fee Schedule, attached hereto as Exhibit "A," is hereby adopted and approved.

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:

Kelly Fincher 10/7/16
City Attorney Date

Section 105.6, Chapter 1 of the California Fire Code, 2013 Edition, is amended to read as follows:

105.6 Required operational permits. The Fire Code Official is authorized to issue operational permits for the operations set forth in Sections 105.5.1 through 105.6.47.3.

City of Merced
Fire Department
Fee Schedule

Operational Permit Fee

Description Permit Fee	Current	Amended
Aerosol Products	95	130
Amusement Buildings	100	195
Aviation Facilities	95	195
Carnivals and Fairs	100	521
Cellulose Nitrate Film	95	0
Combustible Dust-Producing Operations	100	130
Combustible Fibers	95	130
Compressed Gases	95	130
Covered Mall Buildings	75	130
Cryogenic Fluids	95	130
Cutting and Welding	75	65
Dry Cleaning Plants	70	130
Exhibits and Trade Shows	75	260
Explosives	95	260
Fire Hydrants and Valves	*	*
Flammable and Combustible Liquids	95	130
Floor Finishing	95	130
Fruit and Crop Ripening	95	260
Fumigation and Insecticidal Fogging	95	65
Hazardous Materials	110	521
HPM (Hazardous Production Materials) Facilities	110	521
High-Piled Storage	85	521
Hot Work Operations	75	65
Industrial Ovens	85	130
Lumber Yards and Woodworking Plants	110	130
Liquid- or Gas-Fueled Vehicles or Equipment in Assembly Buildings	75	130
LP (Liquefied Petroleum) Gas	75	98
Magnesium	110	130
Miscellaneous Combustible Storage	80	130
Open Burning	65	130
Open Flames and Torches	85	130
Open Flames and Candles	65	65
Organic Coatings	95	391

City of Merced
Fire Department
Fee Schedule

Operational Permit Fee

Description Permit Fee*	Current	Amended
Places of Assembly		
Occupancy (50-299 people)	75	130
Occupancy (≥ 300 people)	75	260
Non-Profit Organization	75	75
Pyrotechnic Special Effects Materials	200	260
Pyroxylin Plastics	95	130
Refrigeration Equipment	75	98
Repair Garages and Motor Fuel-Dispensing Facilities	100	130
Rooftop Heliports	75	195
Spraying or Dipping	95	260
Storage of Scrap Tires and Tire Byproducts	75	260
Temporary Membrane Structures	65	130
Tire-Rebuilding Plants	95	260
Waste Handling	95	260
Wood Products	75	130
Wrecking Yard	95	130
Special Permits		
Fireworks Stand and/or Storage Inspection	200	300
Fireworks Booth Application Fee	200	217
Christmas Tree Lot/Pumpkin Patch	130	130
Tent Permits		
201 to 400 square feet	65	130
401 to 1,500 square feet	65	195
1,501 – 15,000 square feet	65	260
15,001 – 30,000 square feet	65	651
>30,000 square feet	65	911

CFC Section 105.1.3 Multiple Permits for the Same Location
When more than one permit is required for the same location, the fire code official is authorized to consolidate such permits into a single permit provided that each provision is listed in the permit. Inspection Fee for a Combination Permit shall be the sum of the highest permit fee, plus $50 per each additional permit fee. Fee was formerly $25 per each additional permit fee.

*Permit issued by Engineering Department.

Section 106 Inspections

Section 106.1 Inspection Authority. The fire code official is authorized to enter and examine any building, structure, marine vessel, vehicle or premises in accordance with Section 104.3 for the purpose of enforcing this code.

Section 113.6, Chapter 1 of the California Fire Code, 2013 Edition, is added to read as follows:

113.6 Inspection Fee. All buildings and premises inspected by the Fire Department shall receive an initial inspection and one re-inspection at no charge. An inspection fee shall be charged for the second inspection, if violations not cleared, and all subsequent re-inspections required until all violations noted on the fire inspection have been cleared.

This fee shall be in addition to any fire permit charges and any other fees required by this Code. Fees for inspections shall be adopted by Resolution of the City Council.

City of Merced
Fire Department
Fee Schedule

Fire Safety Business Inspection Fee

Description Fire Safety Business Inspection Fee	Current	Amended
B Occupancies (Business Group) *Permitted Occupancies Inspected Annually, Otherwise, as required by the Merced Municipal Code.* i.e. Ambulatory health-care facilities serving five or fewer patients; Animal hospitals, kennels and pounds; Banks; Barber and beauty shops; Car washes, Civic administration; Clinic outpatient; Dry cleaning and laundries; Education occupancies for students above the 12th grade; Electronic data processing; laboratories: resting, research and instruction; Motor vehicle showrooms; Post offices; Print shops; professional services (architects, attorney's, dentists, physicians, engineers, etc.); and Radio and television stations; Telephone exchanges; Training and skill development not within a school or academic program	0	0
E Occupancies (Educational Group) Use of a building by more than six persons for educational purposes through the 12th grade		
K-8	0	391
High School	0	1,562
F Occupancies (Factory Industrial Group) *Permitted Occupancies Inspected Annually, Otherwise, as required by the Merced Municipal Code.* Assembling; Disassembling; Fabricating; Finishing manufacturing; Packaging; Repair or process operations such as: Bakeries, beverages, bicycles, boats, business machines; Canvas; Carpets and rugs (includes cleaning); Construction and agricultural machinery); Dry cleaning and dyeing; Engines (includes rebuilding); Food processing; Furniture; Laundries; Machinery; Metals; Millwork, Printing or publishing; Tobacco; Trailers; Upholstering; and Woodworking	0	521

Description Fire Safety Business Inspection Fee	Current	Amended
H Occupancies (High-Hazard Group) Manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantity). i.e. Explosives; Flammable gases, Consumer fireworks; and toxic materials	0	391
I Occupancies (Institutional Group) Use of a building in which people are cared for or live in a supervised environment having physical limitations because of health or age or detained for penal reasons.		
I2 - Medical, Surgical 24 hr.+ Care, Ambulatory Care	0	391
I2 - Hospital	0	3,124
I3 - Detention Facility	0	521
I4 - Residential Care Facilities (Adult & Child)	0	65
L Occupancies (Laboratory Group)	0	130
M Occupancies (Mercantile Group) *Permitted Occupancies Inspected Annually, Otherwise, as required by the Merced Municipal Code.* i.e. Department stores; Drug stores; Markets; Motor fuel-dispensing facilities; retails or wholesale stores; and sales rooms	0	195
R Occupancies (Residential Group) Building used for sleeping purposes (i.e. Boarding houses; Hotels; Motels; Apartments; Convents; Dormitories; Monasteries; Vacation timeshare properties; Assisted living facilities such as residential care facilities, group homes, halfway houses, and correctional houses; adult day programs; day cares; foster family homes; and group homes		
R-2 Occupancy (i.e. Res Permanent 2+)		
< 5 units	0	98
5-20 units	0	130
21-50 units	0	163
>50 units; each additional 50 units	0	163
S Occupancies (Storage Group) Buildings occupied for storage	0	195
Licensed Care Facilities Pre-Inspection	160	195
Inspection Fee (Non-Compliant)		
1st Inspection	0	0
2nd Inspection	0	0
3rd Inspection	50	130

Description Fire Safety Business Inspection Fee	Current	Amended
4th and Every Inspection Thereafter	75	130

City of Merced
Fire Department
Fee Schedule

Other Fees / Services

Description Other Fees / Services	Current	Amended
Fire Department False Alarm Response		
First two false alarms in one (1) calendar year	0	0
3rd false alarm in one (1) calendar year	Actual cost plus 15% Administrative Fee	150
4th false alarm in one (1) calendar year	Actual cost plus 15% Administrative Fee	250
5th and subsequent false alarm in one (1) calendar year	Actual cost plus 15% Administrative Fee	350
Drug / Driving Under the Influence (DUI) Response (Maximum $12,000 response fee, established by State Law) / Hazardous Materials Incident Response	Actual cost plus 15% Administrative Fee	Actual cost plus 15% Administrative Fee
Weed and Lot Cleaning	Actual cost plus 15% Administrative Fee	Actual cost plus 15% Administrative Fee
Fire Watch / Stand-by	Per-minute per-person amount that is established by the Finance Department on an annual basis	Per-minute per-person amount that is established by the Finance Department on an annual basis

City of Merced
Fire Department
Fee Schedule

Other Fees / Services

Description Other Fees / Services	Current	Amended
Fire Suppression Section 113.10 Chapter 1 of the California Fire Code, 2013 Edition, is added to read as follows: 113.10 Charge for fire suppression. Any person who, after written notification by the Fire Code Official causes, permits or allows the existence of a fire hazard or hazards as defined by this Code or any person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him or her to escape onto any public or private property is liable for the expense of fighting the fire. These charges shall include all costs for suppression, rescue or emergency medical services, investigation. The Fire Chief or his authorized representative shall determine whether said fire hazard caused, or contributed to the spread of the fire. Such applicable expenses shall constitute a debt of such person, and are collectible by the City in the same manner as in the case of an obligation under a contract.	The service charge shall equal the actual cost of providing the service. The fee is calculated on a per-minute per-person amount that is established by the Finance Department on an annual basis.	The service charge shall equal the actual cost of providing the service. The fee is calculated on a per-minute per-person amount that is established by the Finance Department on an annual basis.
Other Services For services requested of City Staff, which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this department/division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.		

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helping communities fund tomorrow

Fire Department Fee Study

Prepared for the

City of Merced

September 28, 2016 Final

OFFICE LOCATIONS:

San Francisco - Regional Office
870 Market Street, Suite 1223
San Francisco, CA 94102

Davis - Regional Office
1260 Lake Boulevard, Suite 202
Davis, CA 95616

Irvine - Regional Office
18012 Cowan Street, Suite 290
Irvine, CA 92614

Temecula – Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA 92592

(P) 800.676.7516

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CITY OF MERCED
FIRE DEPARTMENT
Functional Labor Time Allocation

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Name	Fire Chief	Fire Inspector	Plan Examiner	Secretary I	Secretary III	FIRE OPS. ADMIN	Fire Captain	Engineer	Firefighter	Fire Operations (balance)	Total - Direct Services Staff
Full Time Equivalent	**1.00**	**1.00**	**0.50**	**1.00**	**1.00**	**4.00**	**1.00**	**1.00**	**1.00**	**44.06**	**47.06**
Calculation of Productive Hours:											
Annual Hours - Standard	2,080	2,080	1,040	2,080	2,080	8,320	2,912	2,912	2,912	128,303	154,719
Annual Leave (Total)	288	208	104	208	208	912	412	412	412	18,157	**21,321**
Vacation Accrual	*80*	*80*	*40*	*80*	*80*	*320*	*168*	*168*	*168*	*7,403*	**8,587**
Holiday	*88*	*88*	*44*	*88*	*88*	*352*	*88*	*88*	*88*	*3,877*	**4,889**
Sick Leave	*40*	*40*	*20*	*40*	*40*	*160*	*156*	*156*	*156*	*6,877*	**7,685**
Management / Admin Leave	*80*	*0*	*0*	*0*	*0*	*80*	*0*	*0*	*0*	*0*	**0**
Productive Hours (Total Annual Hours - Net of Leave)	1,792	1,872	936	1,872	1,872	7,408	2,500	2,500	2,500	110,146	133,398
Annual Allocation of Work Hours to Indirect Activities and Services:											
Training, Meetings, Breaks	170	170	85	170	170	680	170	170	170	7,490	9,445
Professional Training	40	40	20	40	40	160	40	40	40	1,762	**2,222**
Management Meeting	0	0	0	0	0	0	0	0	0	0	**0**
Department Staff Meeting	0	0	0	0	0	0	0	0	0	0	**0**
Break Time	130	130	65	130	130	520	130	130	130	5,728	**7,223**
Supervisory or Administrative Duties	1,622	0	0	1,702	851	0	0	0	0	0	**4,175**
Public Information / Education	0	170	85	0	0	0	0	0	0	0	**255**
Fire Suppression/Emergency Services	0	0	0	0	0	6,728	0	0	0	102,656	**109,384**
Total Work Hours Spent on Indirect and/or Non-Fee Related Activities and Services	1,792	340	170	1,872	1,021	7,408	170	170	170	110,146	**123,259**
Remaining Work Hours for Direct Activities and Services	0	1,532	766	0	851	0	2,330	2,330	2,330	0	**10,138**
Percentage Allocation of Annual Work Hours											
Training, Meetings, Breaks	9%	9%	9%	9%	9%	9%	7%	7%	7%	7%	**7%**
Supervisory or Administrative Duties	91%	0%	0%	91%	45%	0%	0%	0%	0%	0%	**3%**
Public Information / Education	0%	9%	9%	0%	0%	0%	0%	0%	0%	0%	**0%**
Fire Suppression/Emergency Services	0%	0%	0%	0%	0%	91%	0%	0%	0%	93%	**82%**
Direct Services and Activities	0%	82%	82%	0%	45%	0%	93%	93%	93%	0%	**8%**
Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**
Allocation of Salary and Benefit Costs	$ 209,823	$ 99,561	$ 30,286	$ 64,761	$ 81,528	$ 667,920	$ 132,178	$ 117,361	$ 104,355	$ 7,617,667	**$ 9,125,440**
Training, Meetings, Breaks	$ 19,905	$ 9,041	$ 2,750	$ 5,881	$ 7,404	$ 61,310	$ 8,988	$ 7,981	$ 7,096	$ 518,020	**$ 648,377**
Supervisory or Administrative Duties	$ 189,917	$ -	$ -	$ 58,880	$ 37,062	$ -	$ -	$ -	$ -	$ -	**$ 285,859**
Public Information / Education	$ -	$ 9,052	$ 2,754	$ -	$ -	$ -	$ -	$ -	$ -	$ -	**$ 11,806**
Fire Suppression/Emergency Services	$ -	$ -	$ -	$ -	$ -	$ 606,610	$ -	$ -	$ -	$ 7,099,647	**$ 7,706,257**
[Other]	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	**$ -**
Direct Services and Activities	$ -	$ 81,468	$ 24,782	$ -	$ 37,062	$ -	$ 123,189	$ 109,381	$ 97,259	$ -	**$ 473,141**
Total	**$ 209,823**	**$ 99,561**	**$ 30,286**	**$ 64,761**	**$ 81,528**	**$ 667,920**	**$ 132,178**	**$ 117,361**	**$ 104,355**	**$ 7,617,667**	**$ 9,125,440**

NOTES:
Expenses sourced from FY 13/14 Budget

CITY OF MERCED
FIRE DEPARTMENT
Derivation of Fully-Burdened Hourly Rate

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LABOR EXPENDITURES AND STATISTICS

Expenditure or Statistic		Fire Total	Functional Activity: Training, Meetings, Breaks	Supervisory or Administrative Duties	Public Information / Education	Fire Suppression/Emergency Services	Direct Services and Activities
Functional "Productive" Labor Hours		133,398	9,445	4,175	255	109,384	10,138
Labor Hours Allocation Percentage		*100%*	*7.08%*	*3.13%*	*0.19%*	*82.00%*	*7.60%*
Functional Labor Cost	[1]	9,457,857	$ 671,996	$ 296,272	$ 12,236	$ 7,986,977	$ 490,376
Labor Cost Allocation Percentage		*100%*	*7.11%*	*3.13%*	*0.13%*	*84.45%*	*5.18%*

RECURRING NON-LABOR EXPENDITURES

Operating Expenditures By Budget Unit			2013-14 Adopted Budget	Budget Amendments	Adjustments	Net Divisional Expenditures to be Considered	Allocated or Direct Assignment of Cost to Functional Activity: Training, Meetings, Breaks	Supervisory or Administrative Duties	Public Information / Education	Fire Suppression/Emergency Services	Direct Services and Activities
Fire 001-0901											
	Supplies and Services										
001-0901-522.11-00	Utilities		$ 86,318	$ -	$ -	$ 86,318	$ 6,133	$ 2,704	$ 112	$ 72,894	$ 4,475
001-0901-522.12-00	Telephone		$ 9,254	$ -	$ -	$ 9,254	$ 658	$ 290	$ 12	$ 7,815	$ 480
001-0901-522.13-00	Postage		$ 1,482	$ -	$ -	$ 1,482	$ 105	$ 46	$ 2	$ 1,252	$ 77
001-0901-522.15-00	Office Supplies		$ 13,531	$ -	$ -	$ 13,531	$ 961	$ 424	$ 18	$ 11,427	$ 702
001-0901-522.16-00	Printing		$ 637	$ -	$ -	$ 637	$ 45	$ 20	$ 1	$ 538	$ 33
001-0901-522.17-00	Professional Services		$ 77,847	$ -	$ -	$ 77,847	$ 5,531	$ 2,439	$ 101	$ 65,740	$ 4,036
001-0901-522.18-00	Travel and Meetings		$ 10,000	$ -	$ -	$ 10,000	$ 711	$ 313	$ 13	$ 8,445	$ 518
001-0901-522.19-00	Mileage		$ 400	$ -	$ -	$ 400	$ 28	$ 13	$ 1	$ 338	$ 21
001-0901-522.20-00	Training Expense		$ 32,996	$ -	$ -	$ 32,996	$ 2,344	$ 1,034	$ 43	$ 27,864	$ 1,711
001-0901-522.22-00	Office Equipment O & M		$ 2,187	$ -	$ -	$ 2,187	$ 155	$ 69	$ 3	$ 1,847	$ 113
001-0901-522.23-00	Vehicle Operations/Maint		$ 239,480	$ -	$ -	$ 239,480	$ 17,015	$ 7,502	$ 310	$ 202,236	$ 12,417
001-0901-522.24-00	Memberships, Subscription		$ 21,867	$ -	$ -	$ 21,867	$ 1,554	$ 685	$ 28	$ 18,466	$ 1,134
001-0901-522.25-00	Maintenance Matls & Svcs		$ 53,102	$ -	$ -	$ 53,102	$ 3,773	$ 1,663	$ 69	$ 44,844	$ 2,753
001-0901-522.26-00	Other Equipment O & M		$ 77,035	$ -	$ -	$ 77,035	$ 5,473	$ 2,413	$ 100	$ 65,055	$ 3,994
001-0901-522.28-00	Safety Supplies		$ 48,810	$ -	$ -	$ 48,810	$ 3,468	$ 1,529	$ 63	$ 41,219	$ 2,531
001-0901-522.29-00	Other Materials Supplies		$ 6,000	$ -	$ -	$ 6,000	$ 426	$ 188	$ 8	$ 5,067	$ 311
001-0901-522.30-01	Dept Share of Insurance		$ 62,896	$ -	$ -	$ 62,896	$ 4,469	$ 1,970	$ 81	$ 53,114	$ 3,261
001-0901-522.38-00	Support Services		$ 187,158	$ -	$ -	$ 187,158	$ 13,298	$ 5,863	$ 242	$ 158,051	$ 9,704
001-0902-522.14-00	Advertising		$ 412	$ -	$ -	$ 412	$ 29	$ 13	$ 1	$ 348	$ 21
001-0901-523.43-00	Machinery/Equipment		$ 22,500	$ -	$ -	$ 22,500	$ 1,599	$ 705	$ 29	$ 19,001	$ 1,167
001-0901-525.92-29	Interdept DSC-Pub Works		$ 12,865	$ -	$ -	$ 12,865	$ 914	$ 403	$ 17	$ 10,864	$ 667
Supplies and Services Subtotal			**$ 966,777**	**$ -**	**$ -**	**$ 966,777**	**$ 68,691**	**$ 30,285**	**$ 1,251**	**$ 816,424**	**$ 50,126**

CITY OF MERCED
FIRE DEPARTMENT
Derivation of Fully-Burdened Hourly Rate

Measure "C" Fire 061-0926											
	Supplies and Services										
061-0926-522.11-00	Utilities		$ 25,862		$ -	$ 25,862	$ 1,838	$ 810	$ 33	$ 21,840	$ 1,341
061-0926-522.12-00	Telephone		$ 2,781		$ -	$ 2,781	$ 198	$ 87	$ 4	$ 2,349	$ 144
061-0926-522.13-00	Postage		$ 444		$ -	$ 444	$ 32	$ 14	$ 1	$ 375	$ 23
061-0926-522.15-00	Office Supplies		$ 4,054		$ -	$ 4,054	$ 288	$ 127	$ 5	$ 3,424	$ 210
061-0926-522.16-00	Printing		$ 191		$ -	$ 191	$ 14	$ 6	$ 0	$ 161	$ 10
061-0926-522.17-00	Professional Services		$ 23,359		$ -	$ 23,359	$ 1,660	$ 732	$ 30	$ 19,726	$ 1,211
061-0926-522.18-00	Travel and Meetings		$ 3,303		$ -	$ 3,303	$ 235	$ 103	$ 4	$ 2,789	$ 171
061-0926-522.20-00	Training Expense		$ 9,886		$ -	$ 9,886	$ 702	$ 310	$ 13	$ 8,349	$ 513
061-0926-522.22-00	Office Equipment O & M		$ 655		$ -	$ 655	$ 47	$ 21	$ 1	$ 553	$ 34
061-0926-522.23-00	Vehicle Operations/Maint		$ 3,416		$ -	$ 3,416	$ 243	$ 107	$ 4	$ 2,885	$ 177
061-0926-522.24-00	Memberships, Subscription		$ 3,201		$ -	$ 3,201	$ 227	$ 100	$ 4	$ 2,703	$ 166
061-0926-522.25-00	Maintenance Matls & Svcs		$ 15,910		$ -	$ 15,910	$ 1,130	$ 498	$ 21	$ 13,436	$ 825
061-0926-522.26-00	Other Equipment O & M		$ 23,080		$ -	$ 23,080	$ 1,640	$ 723	$ 30	$ 19,491	$ 1,197
061-0926-522.28-00	Safety Supplies		$ 14,624		$ -	$ 14,624	$ 1,039	$ 458	$ 19	$ 12,350	$ 758
061-0926-522.29-00	Other Materials Supplies		$ 900		$ -	$ 900	$ 64	$ 28	$ 1	$ 760	$ 47
061-0926-522.30-01	Dept Share of Insurance		$ 14,807		$ -	$ 14,807	$ 1,052	$ 464	$ 19	$ 12,504	$ 768
061-0926-522.32-00	Vehicle Replacement Fee		$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -
061-0926-522.38-00	Support Services		$ 51,932		$ -	$ 51,932	$ 3,690	$ 1,627	$ 67	$ 43,856	$ 2,693
061-0926-524.91-01	Adm Exp-City Manager		$ 8,204		$ -	$ 8,204	$ 583	$ 257	$ 11	$ 6,928	$ 425
061-0926-524.91-02	Adm Exp-City Attorney		$ 2,462		$ -	$ 2,462	$ 175	$ 77	$ 3	$ 2,079	$ 128
061-0926-524.91-03	Adm Exp-City Clerk		$ 11,805		$ -	$ 11,805	$ 839	$ 370	$ 15	$ 9,969	$ 612
061-0926-524.91-09	Adm Exp-Finance		$ 37,435		$ -	$ 37,435	$ 2,660	$ 1,173	$ 48	$ 31,613	$ 1,941
061-0926-524.91-10	Adm Exp-Purchasing		$ 4,779		$ -	$ 4,779	$ 340	$ 150	$ 6	$ 4,036	$ 248
061-0926-524.91-16	Adm Exp-City Council		$ 3,680		$ -	$ 3,680	$ 261	$ 115	$ 5	$ 3,108	$ 191
061-0926-524.91-18	Adm Exp-Fire Admin		$ 255,851		$ -	$ 255,851	$ 18,179	$ 8,015	$ 331	$ 216,061	$ 13,265
Other Subtotal			**$ 522,621**	**$ -**	**$ -**	**$ 522,621**	**$ 37,133**	**$ 16,371**	**$ 676**	**$ 441,343**	**$ 27,097**
156-0911 CFD-Public Safety Fire			**$ 84,450**		$ -	$ 84,450	$ 6,000	$ 2,645	$ 109	$ 71,316	$ 4,379
Post Employment Benefits			**326,532**		$ -	$ 326,532	$ 23,201	$ 10,229	$ 422	$ 275,750	$ 16,930
TOTAL RECURRING NON-LABOR EXPENDITURES		[1]	**$ 1,900,380**	**$ -**	**$ -**	**$ 1,900,380**	**$ 135,025**	**$ 59,530**	**$ 2,459**	**$ 1,604,834**	**$ 98,532**

CITYWIDE OVERHEAD COSTS

						Allocated or Direct Assignment of Cost to Functional Activity				
Allocated Indirect/Support Services		Overhead Cost	Adopted Amendments	Adjustments	Net Divisional Expenditures to be Considered	Training, Meetings, Breaks	Supervisory or Administrative Duties	Public Information / Education	Fire Suppression/Emergency Services	Direct Services and Activities
Citywide Overhead		$ 183,292	$ -	$ -	$ 183,292	$ 13,023	$ 5,742	$ 237	$ 154,786	$ 9,503
TOTAL DEPARTMENT AND CITYWIDE OVERHEAD COSTS		$ 183,292	$ -	$ -	$ 183,292	$ 13,023	$ 5,742	$ 237	$ 154,786	$ 9,503

CITY OF MERCED
FIRE DEPARTMENT
Derivation of Fully-Burdened Hourly Rate

SUMMARY OF LABOR, NON-LABOR, & PERIODIC COST

Cost Element	Established Cost	Allocated or Direct Assignment of Cost to Functional Activity: Training, Meetings, Breaks	Supervisory or Administrative Duties	Public Information / Education	Fire Suppression/Emergency Services	Direct Services and Activities
Labor	$ 9,457,857	$ 671,996	$ 296,272	$ 12,236	$ 7,986,977	$ 490,376
Recurring Non-Labor	$ 1,900,380	$ 135,025	$ 59,530	$ 2,459	$ 1,604,834	$ 98,532
Department and Citywide Overhead	$ 183,292	$ 13,023	$ 5,742	$ 237	$ 154,786	$ 9,503
TOTAL LABOR, NON-LABOR, & PERIODIC COST	**$ 11,541,529**	**$ 820,044**	**$ 361,544**	**$ 14,931**	**$ 9,746,597**	**$ 598,411**

ALLOCATION OF COMMON ACTIVITIES COSTS

Cost Layer	Established Cost	Allocated or Direct Assignment of Cost to Functional Activity: Public Information / Education	Fire Suppression/ Emergency Services	Direct Services and Activities
Training, Meetings, Breaks	$ 820,044	$ 1,181.89	$ 771,495.04	$ 47,367.43
Supervisory or Administrative Duties	$ 361,544	$ 521.07	$ 340,139.85	$ 20,883.54
Total	**$ 1,181,589**	**$ 1,703**	**$ 1,111,635**	**$ 68,251**
Allocation Basis: Percentage of Total Labor, NonLabor, and Periodic Cost		0.14%	94.08%	5.78%

FULLY-BURDENED HOURLY BILLING RATE FOR RECOVERY IN FEES

Expenditure Type	Functional Activities / Cost Pools: Public Information / Education	Fire Suppression/ Emergency Services	Direct Services and Activities		Engine Company
Labor	$ 12,236	$ 7,986,977	$ 490,376	$ 8,477,353	
Recurring Non-Labor	$ 2,459	$ 1,604,834	$ 98,532	$ 1,703,366	
Department and Citywide Overhead	$ 237	$ 154,786	$ 9,503	$ 164,290	
Allocated Common Activities	$ 1,703	$ 1,111,635	$ 68,251	$ 1,179,886	
Division Total	$ 16,634	$ 10,858,232	$ 666,662	$ 11,524,894	
Eligible Cost Recovery from Fees for Service	75%	6%	100%	11%	
Amount Eligible for Consideration in Billings/Fees	$ 12,476	$ 640,636	$ 666,662	$ 1,307,298	
Division Totals:					
Amount Targeted for Recovery in Billings/Fees	**$ 12,476**	**$ 640,636**	**$ 666,662**	**$ 1,319,773**	
Amount Requiring Another Funding Source	**$ 4,159**	**$ 10,217,596**	**$ -**	**$ 10,221,755**	
Cost per Direct Hour Recoverable from Fees for Service				***$ 130***	***$ 391***
	Reference: Direct Hours Only			**10,138**	

Notes
[1] Expenditures sourced from FY 13/14 Budget

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

Input cells in blue font; formula based cells in black font

Fee Activity			Activity Service Cost Analysis						Cost Recovery Analysis			
Group	Permit Description	Notes	Estimated Average Labor Time Per Activity (hours)		Fully Burdened Hourly Rate		Cost of Service Per Activity		Current Fee	Existing Cost Recovery Percentage	Recommended Fee Level	Recommended Cost Recovery Percentage
Annual Hazardous Materials Inspection Permit Fees												
	California Fire Code: Annual; Operational Permits											
	* Multiple Permits: Inpsection Fee for a combination Permit shall be the sum of the highest permit fee, plus $50 per each additional permit fee											
	Aerosol Products		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
	Amusement Buildings		1.50	x	$ 130	=	**$ 195**		$ 100.00	51%	$ 195	100%
	Aviation Facilities		1.50	x	$ 130	=	**$ 195**		$ 95.00	49%	$ 195	100%
	Carnivals and Fairs		4.00	x	$ 130	=	**$ 521**		$ 100.00	19%	$ 521	100%
	Combustible dust-producing operations		1.00	x	$ 130	=	**$ 130**		$ 100.00	77%	$ 130	100%
	Combustible Fibers		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
	Compressed Gases		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
	Covered Mall Buildings		1.00	x	$ 130	=	**$ 130**		$ 75.00	58%	$ 130	100%
	Cryogenic Fluids		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
	Cutting and Welding		0.50	x	$ 130	=	**$ 65**		$ 75.00	115%	$ 65	100%
	Dry Cleaning Plants		1.00	x	$ 130	=	**$ 130**		$ 70.00	54%	$ 130	100%
	Exhibits and Trade Shows		2.00	x	$ 130	=	**$ 260**		$ 75.00	29%	$ 260	100%
	Explosives		2.00	x	$ 130	=	**$ 260**		$ 95.00	36%	$ 260	100%
	Flammable and Combustible Liquids		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
	Floor Finishing		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
	Fruit and Crop Ripening		2.00	x	$ 130	=	**$ 260**		$ 95.00	36%	$ 260	100%
	Fumigation and insecticidal fogging		0.50	x	$ 130	=	**$ 65**		$ 95.00	146%	$ 65	100%
	Hazardous Materials		4.00	x	$ 130	=	**$ 521**		$ 110.00	21%	$ 521	100%
	HPM Facilities (Hazardous Production Materials)		4.00	x	$ 130	=	**$ 521**		$ 110.00	21%	$ 521	100%
	High Piled Storage		4.00	x	$ 130	=	**$ 521**		$ 85.00	16%	$ 521	100%
	Hot Work Operations		0.50	x	$ 130	=	**$ 65**		$ 75.00	115%	$ 65	100%
	Industrial Ovens		1.00	x	$ 130	=	**$ 130**		$ 85.00	65%	$ 130	100%
	Lumber Yards and Wood Working Plants		1.00	x	$ 130	=	**$ 130**		$ 110.00	85%	$ 130	100%
	Liquid- or gas-fueled vehicles or equipment in assembly		1.00	x	$ 130	=	**$ 130**		$ 75.00	58%	$ 130	100%
	LP GAS		0.75	x	$ 130	=	**$ 98**		$ 75.00	77%	$ 98	100%
	Magnesium		1.00	x	$ 130	=	**$ 130**		$ 110.00	85%	$ 130	100%
	Misc. Combustible Storage		1.00	x	$ 130	=	**$ 130**		$ 80.00	61%	$ 130	100%
	Open Burning		1.00	x	$ 130	=	**$ 130**		$ 65.00	50%	$ 130	100%
	Open Flames and Torches		1.00	x	$ 130	=	**$ 130**		$ 85.00	65%	$ 130	100%
	Open Flames and Candles		0.50	x	$ 130	=	**$ 65**		$ 65.00	100%	$ 65	100%
	Organic Coatings		3.00	x	$ 130	=	**$ 391**		$ 95.00	24%	$ 391	100%
	Places of Assembly - Occupancy 50-299		1.00		$ 130	=	**$ 130**		$ 75.00	58%	$ 130	100%
	Places of Assembly - Occupancy > or eq 300		2.00		$ 130	=	**$ 260**		$ 75.00	29%	$ 260	100%
	Places of Assembly - Non-profit organization								$ 75.00	36-73%	$ 75	29-58%
	Pyrotechnic special effects material		2.00	x	$ 130	=	**$ 260**		$ 200.00	77%	$ 260	100%
	Pyroxylin plastics		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
	Refrigeration equipment		0.75	x	$ 130	=	**$ 98**		$ 75.00	77%	$ 98	100%
	Repair garages and motor fuel-dispensing facilities		1.00	x	$ 130	=	**$ 130**		$ 100.00	77%	$ 130	100%
	Rooftop heliports		1.50	x	$ 130	=	**$ 195**		$ 75.00	38%	$ 195	100%

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

Input cells in blue font; formula based cells in black font

Fee Activity			Activity Service Cost Analysis							Cost Recovery Analysis			
Group	Permit Description	Notes	Estimated Average Labor Time Per Activity (hours)		Fully Burdened Hourly Rate		Cost of Service Per Activity		Current Fee	Existing Cost Recovery Percentage	Recommended Fee Level	Recommended Cost Recovery Percentage
	Spraying or dipping		2.00	x	$ 130	=	**$ 260**		$ 95.00	36%	$ 260	100%
	Storage of scrap tires and tire byproducts		2.00	x	$ 130	=	**$ 260**		$ 75.00	29%	$ 260	100%
	Temporary membrane Structures		1.00	x	$ 130	=	**$ 130**		$ 65.00	50%	$ 130	100%
	Tire-rebuilding plants		2.00	x	$ 130	=	**$ 260**		$ 95.00	36%	$ 260	100%
	Waste handling		2.00	x	$ 130	=	**$ 260**		$ 95.00	36%	$ 260	100%
	Wood Products		1.00	x	$ 130	=	**$ 130**		$ 75.00	58%	$ 130	100%
	Wrecking Yard		1.00	x	$ 130	=	**$ 130**		$ 95.00	73%	$ 130	100%
Annual Business Fire Safety Inspections (business incl 2 inspections)												
B	B Occupancies - (ie bank, professional office)		1.00	x	$ 130	=	**$ 130**		$ -	0%	$ -	0%
E	E Occupancies - (ie educational)											
	K-8		3.00	x	$ 130	=	**$ 391**		$ -	0%	$ 391	100%
	High School		12.00	x	$ 130	=	**$ 1,562**		$ -	0%	$ 1,562	100%
F	F Occupancies - (ie Factory)		4.00	x	$ 130	=	**$ 521**		$ -	0%	$ 521	100%
H	H Occupancies - (ie High Hazard)		3.00	x	$ 130	=	**$ 391**		$ -	0%	$ 391	100%
I	I Occupancies - (ie Institutional)											
	I4 - Residential Care Facilities (Adult & Child)		0.50		$ 130		**$ 65**		$ -	0%	$ 65	100%
	I2 - Medical, surgical 24 hr.+ care, ambulatory care		3.00		$ 130		**$ 391**		$ -	0%	$ 391	100%
	I2 - Hospital		24.00		$ 130		**$ 3,124**		$ -	0%	$ 3,124	100%
	I3 Detention Facility		4.00		$ 130		**$ 521**		$ -	0%	$ 521	100%
L	L Occupancies - (ie Laboratory)		1.00	x	$ 130	=	**$ 130**		$ -	0%	$ 130	100%
M	M Occupancies - (ie market, department or drug store)		1.50	x	$ 130	=	**$ 195**		$ -	0%	$ 195	100%
R-2	R-2 Occupancy (ie Res Permanent 2+)											
	< 5 units		0.75	x	$ 130	=	**$ 98**		$ -	0%	$ 98	100%
	5-20 units		1.00	x	$ 130	=	**$ 130**		$ -	0%	$ 130	100%
	21-50 units		1.25	x	$ 130	=	**$ 163**		$ -	0%	$ 163	100%
	> 50 units; each additional 50 units		1.25	x	$ 130	=	**$ 163**		$ -	0%	$ 163	100%
S	S Occupancies - (ie Storage)		1.50	x	$ 130	=	**$ 195**		$ -	0%	$ 195	100%
	Re-Inspection (after initial and first reinspection)		1.00	x	$ 130	=	**$ 130**		$ 50.00	38%	$ 130	100%
	Re-Inspection (paid a fee)		1.00	x	$ 130	=	**$ 130**		$ 75.00	58%	$ 130	100%
	* 1st free; 2nd free is cleared; all other charged											
	Licensed Care Facilities											
	Pre-Inspection		1.50	x	$ 130	=	**$ 195**		$ 160.00	100%	$ 195	100%

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

Input cells in blue font; formula based cells in black font

Fee Activity			Activity Service Cost Analysis						Cost Recovery Analysis			
Group	Permit Description	Notes	Estimated Average Labor Time Per Activity (hours)		Fully Burdened Hourly Rate		Cost of Service Per Activity		Current Fee	Existing Cost Recovery Percentage	Recommended Fee Level	Recommended Cost Recovery Percentage
Special Permits												
	Fireworks Stand and/or Storage Inspection		12.65	x	$ 130	=	**$ 1,647**		$ 200.00	12%	$ 300	18%
	Fireworks Booth Application Fee		1.67	x	$ 130	=	**$ 217**		$ 200.00	92%	$ 217	100%
	Christmas Tree Lot/ Pumpkin Patch		1.00	x	$ 130	=	**$ 130**		$ 130.00	100%	$ 130	100%
Tent Permits		[1]										
new	201 to 400 square feet		1.00	x	$ 130	=	**$ 130**		$ 65.00	50%	$ 130	100%
	401 to 1500 square feet		1.50	x	$ 130	=	**$ 195**		$ 65.00	33%	$ 195	100%
	1501 - 15,000 square feet		2.00	x	$ 130	=	**$ 260**		$ 65.00	25%	$ 260	100%
	15,001 - 30,000 square feet		5.00	x	$ 130	=	**$ 651**		$ 65.00	10%	$ 651	100%
	> 30,000 square feet		7.00	x	$ 130	=	**$ 911**		$ 65.00	7%	$ 911	100%
Fire False Alarm Response												
	False Alarm Charge - first two false alarms in 1 calendar year	[2]							$ -	0%	$ -	
	False Alarm Charge - 3rd false alarms in 1 calendar year	[2]							Actual cost plus 15% Admin Fee	100%	$ 150	
	False Alarm Charge - 4th false alarms in 1 calendar year	[2]							Actual cost plus 15% Admin Fee	100%	$ 250	
	False Alarm Charge - 5 or more false alarms in 1 calendar year	[2]							Actual cost plus 15% Admin Fee	100%	$ 350	
	Fire False Alarm Response (average)	[2]	2.81	x	$ 130	=	**$ 366**					
Other Services:												
	Drug/DUI/Hazmat Incident Response (DUI $12K Max.)	[3]							Actual cost plus 15% Admin Fee	100%	Actual cost plus 15% Admin Fee	100%
	Weed and Lot leaning								Actual cost plus 15% Admin Fee	100%	Actual cost plus 15% Admin Fee	100%
	Fire Department Equipment Costs: *(placeholder for MFS - not analyzed as part of this scope)*	[2]										

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

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Fee Activity			Activity Service Cost Analysis								Cost Recovery Analysis							
Group	Permit Description	Notes	Estimated Average Labor Time Per Activity (hours)		Fully Burdened Hourly Rate		Cost of Service Per Activity				Current Fee		Existing Cost Recovery Percentage		Recommended Fee Level		Recommended Cost Recovery Percentage
HOURLY RATEs																	
	Fire Hourly Rate		1.00	x	$ 130	=	**$ 130**				$ 83.43		64%		$ 130		100%
new	Engine Company - hourly rate (3 person crew)	[1]	1.00	x	$ 391	=	**$ 391**				$ -		0%		$ 391		100%
	Copy Service - per page *(placeholder for MFS - not analyzed as part of this scope)*	[2]									$ -				$ 0.10		
	For services requested of City staff which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this department/division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.																

TOTAL FIRE DEPARTMENT

Notes

[1] New Fee Structure

[2] Placeholder for Master Fee Schedule (MFS); Not included in cost analysis

[3] Set by State Law (DUI $12K Maximum)

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

Input cells in blue font; formula based cells in black font

Fee Activity			Annual Estimated Revenue Analysis			
Group	Permit Description	Notes	Estimated Volume of Activity (Performed)	Annual Estimated Revenues at Current Fee	Annual Estimated Revenues at Full Cost Recovery Fee	Annual Estimated Revenues at Recommended Fee
Annual Hazardous Materials Inspection Permit Fees						
	California Fire Code: Annual; Operational Permits					
	* Multiple Permits: Inpsection Fee for a combination Permit shall be the sum of the highest permit fee, plus $50 per each additional permit fee					
	Aerosol Products		0	$ -	$ -	$ -
	Amusement Buildings		3	$ 300	$ 586	$ 586
	Aviation Facilities		1	$ 95	$ 195	$ 195
	Carnivals and Fairs		0	$ -	$ -	$ -
	Combustible dust-producing operations		5	$ 500	$ 651	$ 651
	Combustible Fibers		0	$ -	$ -	$ -
	Compressed Gases		0	$ -	$ -	$ -
	Covered Mall Buildings		0	$ -	$ -	$ -
	Cryogenic Fluids		2	$ 190	$ 260	$ 260
	Cutting and Welding		1	$ 75	$ 65	$ 65
	Dry Cleaning Plants		3	$ 210	$ 391	$ 391
	Exhibits and Trade Shows		0	$ -	$ -	$ -
	Explosives		2	$ 190	$ 521	$ 521
	Flammable and Combustible Liquids		54	$ 5,130	$ 7,029	$ 7,029
	Floor Finishing		0	$ -	$ -	$ -
	Fruit and Crop Ripening		0	$ -	$ -	$ -
	Fumigation and insecticidal fogging		0	$ -	$ -	$ -
	Hazardous Materials		35	$ 3,850	$ 18,225	$ 18,225
	HPM Facilities (Hazardous Production Materials)		0	$ -	$ -	$ -
	High Piled Storage		17	$ 1,445	$ 8,852	$ 8,852
	Hot Work Operations		75	$ 5,625	$ 4,882	$ 4,882
	Industrial Ovens		1	$ 85	$ 130	$ 130
	Lumber Yards and Wood Working Plants		1	$ 110	$ 130	$ 130
	Liquid- or gas-fueled vehicles or equipment in assembly		0	$ -	$ -	$ -
	LP GAS		45	$ 3,375	$ 4,393	$ 4,393
	Magnesium		0	$ -	$ -	$ -
	Misc. Combustible Storage		1	$ 80	$ 130	$ 130
	Open Burning		0	$ -	$ -	$ -
	Open Flames and Torches		2	$ 170	$ 260	$ 260
	Open Flames and Candles		0	$ -	$ -	$ -
	Organic Coatings		0	$ -	$ -	$ -
	Places of Assembly - Occupancy 50-299		155	$ 11,610	$ 20,151	$ 20,151
	Places of Assembly - Occupancy > or eq 300		17	$ 1,275	$ 4,426	$ 4,426
	Places of Assembly - Non-profit organization		0	$ -	$ -	$ -
	Pyrotechnic special effects material		0	$ -	$ -	$ -
	Pyroxylin plastics		0	$ -	$ -	$ -
	Refrigeration equipment		4	$ 300	$ 391	$ 391
	Repair garages and motor fuel-dispensing facilities		110	$ 11,000	$ 14,319	$ 14,319
	Rooftop heliports		0	$ -	$ -	$ -

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

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Fee Activity			Annual Estimated Revenue Analysis			
Group	Permit Description	Notes	Estimated Volume of Activity (Performed)	Annual Estimated Revenues at Current Fee	Annual Estimated Revenues at Full Cost Recovery Fee	Annual Estimated Revenues at Recommended Fee
	Spraying or dipping		11	$ 1,045	$ 2,864	$ 2,864
	Storage of scrap tires and tire byproducts		9	$ 675	$ 2,343	$ 2,343
	Temporary membrane Structures		11	$ 715	$ 1,432	$ 1,432
	Tire-rebuilding plants		0	$ -	$ -	$ -
	Waste handling		3	$ 285	$ 781	$ 781
	Wood Products		0	$ -	$ -	$ -
	Wrecking Yard		0	$ -	$ -	$ -
Annual Business Fire Safety Inspections (business incl 2 inspections)						
B	B Occupancies - (ie bank, professional office)		375	$ -	$ 48,859	$ -
E	E Occupancies - (ie educational)					
	K-8		30	$ -	$ 11,716	$ 11,716
	High School		3	$ -	$ 4,686	$ 4,686
F	F Occupancies - (ie Factory)		36	$ -	$ 18,745	$ 18,745
H	H Occupancies - (ie High Hazard)		55	$ -	$ 21,479	$ 21,479
I	I Occupancies - (ie Institutional)					
	I4 - Residential Care Facilities (Adult & Child)		96	$ -	$ 6,248	$ 6,248
	I2 - Medical, surgical 24 hr.+ care, ambulatory care		18	$ -	$ 7,029	$ 7,029
	I2 - Hospital		2	$ -	$ 6,248	$ 6,248
	I3 Detention Facility		2	$ -	$ 1,041	$ 1,041
L	L Occupancies - (ie Laboratory)		0	$ -	$ -	$ -
M	M Occupancies - (ie market, department or drug store)		84	$ -	$ 16,402	$ 16,402
R-2	R-2 Occupancy (ie Res Permanent 2+)					
	< 5 units		69	$ -	$ 6,737	$ 6,737
	5-20 units		508	$ -	$ 66,261	$ 66,261
	21-50 units		0	$ -	$ -	$ -
	> 50 units; each additional 50 units		44	$ -	$ 7,160	$ 7,160
S	S Occupancies - (ie Storage)		171	$ -	$ 33,390	$ 33,390
	Re-Inspection (after initial and first reinspection)		288	$ 14,400	$ 37,490	$ 37,490
	Re-Inspection (paid a fee)		0	$ -	$ -	$ -
	* 1st free; 2nd free is cleared; all other charged					
	Licensed Care Facilities					
	Pre-Inspection		10	$ 1,600	$ 1,953	$ 1,953

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

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Fee Activity			Annual Estimated Revenue Analysis			
Group	**Permit Description**	**Notes**	**Estimated Volume of Activity (Performed)**	**Annual Estimated Revenues at Current Fee**	**Annual Estimated Revenues at Full Cost Recovery Fee**	**Annual Estimated Revenues at Recommended Fee**
Special Permits						
	Fireworks Stand and/or Storage Inspection		26	$ 5,200	$ 42,815	$ 7,792
	Fireworks Booth Application Fee		20	$ 4,000	$ 4,348	$ 4,348
	Christmas Tree Lot/ Pumpkin Patch		3	$ 390	$ 391	$ 391
Tent Permits		[1]				
new	201 to 400 square feet		2	$ 130	$ 260	$ 260
	401 to 1500 square feet		13	$ 845	$ 2,538	$ 2,538
	1501 - 15,000 square feet		1	$ 65	$ 260	$ 260
	15,001 - 30,000 square feet		0	$ -	$ -	$ -
	> 30,000 square feet		0	$ -	$ -	$ -
Fire False Alarm Response						
	False Alarm Charge - first two false alarms in 1 calendar year	[2]	56			
	False Alarm Charge - 3rd false alarms in 1 calendar year	[2]	0			
	False Alarm Charge - 4th false alarms in 1 calendar year	[2]	0			
	False Alarm Charge - 5 or more false alarms in 1 calendar year	[2]	25			
	Fire False Alarm Response (average)	[2]				
Other Services:						
	Drug/DUI/Hazmat Incident Response (DUI $12K Max.)	[3]				
	Weed and Lot leaning			$ 8,253	$ 8,253	$ 8,253
	Fire Department Equipment Costs: *(placeholder for MFS - not analyzed as part of this scope)*	[2]				

CITY OF MERCED

FIRE DEPARTMENT

Cost Estimation for Providing Activities and Services Related to Permitting and Regulation

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Fee Activity			Annual Estimated Revenue Analysis			
Group	**Permit Description**	**Notes**	**Estimated Volume of Activity (Performed)**	**Annual Estimated Revenues at Current Fee**	**Annual Estimated Revenues at Full Cost Recovery Fee**	**Annual Estimated Revenues at Recommended Fee**
HOURLY RATEs						
	Fire Hourly Rate					
new	Engine Company - hourly rate (3 person crew)	[1]				
	Copy Service - per page *(placeholder for MFS - not analyzed as part of this scope)*	[2]				
	For services requested of City staff which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this department/division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.					
TOTAL FIRE DEPARTMENT				**$ 83,218**	**$ 447,718**	**$ 363,837**

Notes

[1] New Fee Structure

[2] Placeholder for Master Fee Schedule (MFS); Not included in cost analysis

[3] Set by State Law (DUI $12K Maximum)