



# 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

Wednesday, July 5, 2017

6:00 PM

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

#### Study Session at 5:00 PM/Regular Meeting at 6:00 PM

#### NOTICE TO PUBLIC

#### WELCOME TO THE MEETING OF THE MERCED CITY COUNCIL

At least 72 hours prior to each regular City Council meeting, a complete agenda packet is available for review on the City's website at [www.cityofmerced.org](http://www.cityofmerced.org) or at the City Clerk's Office, 678 W. 18th Street, Merced, CA 95340. All public records relating to an open session item that are distributed to a majority of the Council will be available for public inspection at the City Clerk's Office during regular business hours.

#### PUBLIC COMMENT: OBTAIN SPEAKER CARD FROM THE CITY CLERK

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

#### INDIVIDUALS WITH DISABILITIES

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

#### A. STUDY SESSION ROLL CALL

#### B. STUDY SESSION

- B.1. [17-337](#) **SUBJECT: Joint Study Session with City Council/Planning Commission to Discuss Medical Marijuana**

#### REPORT IN BRIEF

A joint Study Session with the Planning Commission and City Council to discuss Medical Marijuana.

#### C. CALL TO ORDER

C.1. Invocation - Dr. John Strubhar, First Baptist Church

C.2. Pledge of Allegiance to the Flag

## **D. ROLL CALL**

## **E. CEREMONIAL MATTERS**

E.1. [17-332](#)      **SUBJECT:** Proclamation - Parks and Recreation Month

### **REPORT IN BRIEF**

Presented to a representative from the Recreation and Parks Department.

## **F. WRITTEN PETITIONS AND COMMUNICATIONS**

## **G. ORAL COMMUNICATIONS**

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

## **H. CONSENT CALENDAR**

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

H.1. [17-267](#)      **SUBJECT:** Reading by Title of All Ordinances and Resolutions

### **REPORT IN BRIEF**

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

### **RECOMMENDATION**

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

H.2. [17-347](#)      **SUBJECT:** Information-Only Contracts

**REPORT IN BRIEF**

Notification of awarded Non-Public Works contracts under \$29,000 and of Public Works contracts under \$65,204.

**AUTHORITY**

Pursuant to the authority delegated to the City Manager on behalf of the City by Article XI, Section 1109, of the Merced City Charter to execute Public Works contracts under the adjusted FY 2016-2017 threshold of \$65,204.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2016-2017 threshold of \$29,000.00, the contracts listed on the attached table were entered into by the City.

H.3. [17-329](#)      **SUBJECT:** Information Only-Planning Commission Minutes of April 19, 2017

**RECOMMENDATION**

For information only.

H.4. [17-339](#)      **SUBJECT:** City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of June 5, 2017

**REPORT IN BRIEF**

Official adoption of previously held meeting minutes.

**RECOMMENDATION**

**City Council/Public Financing and Economic Development/Parking Authority** - Adopt a motion approving the meeting minutes of June 5, 2017.

H.5. [17-343](#)      **SUBJECT:** Amendment to Agreements for Legal Services with Fulbright & Jaworski, L.L.P., to Reflect the Change in Firm Name to Norton Rose Fulbright US, LLP

**REPORT IN BRIEF**

Considers approving an Amendment to two Legal Services Agreements with Fulbright & Jaworski, L.L.P., to reflect a change in firm name to Norton Rose Fulbright US, LLP.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving Amendment No.1 to the two Agreements for Legal Services to reflect the change of name from Fulbright & Jaworski, L.L.P. to Norton Rose Fulbright US, LLP; and,

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

H.6. [17-290](#)

**SUBJECT:** Agreement for Professional Services with THOR, Inc. for AS/400 Programming Services

**REPORT IN BRIEF**

Consider Authorizing a Professional Services Agreement with THOR, Inc. for \$165,000 for AS/400 programming services.

**RECOMMENDATION**

**City Council** - Adopt a motion approving Professional Services Agreement with THOR, Inc.; and, authorizing the City Manager or Assistant City Manager to execute the necessary documents.

H.7. [17-348](#)

**SUBJECT:** Opposition to Senate Bill 252, Water Wells

**REPORT IN BRIEF**

Approve opposition to Senate Bill (SB) 252, Water Wells.

**RECOMMENDATION**

**City Council**- Adopt a motion approving staff to oppose SB 252, (Dodd) Water Wells.

H.8. [17-323](#)

**SUBJECT:** 2017 California Department of Alcoholic Beverage Control Grant Assistance Program

**REPORT IN BRIEF**

Accept grant funds for costs associated with conducting enforcement operations to reduce underage drinking and alcohol related crimes.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Adopting **Resolution 2017-38**, accepting a grant award from the California Department of Alcoholic Beverage Control Grant Assistance Program; and,

B. Accepting and increasing the revenue budget in account 001-1002-324.02-0 by \$38,641, and appropriating the same amount in

Police Operations Division 001-1002; and,

C. Authorizing the use of pooled cash until reimbursement from the grant is received; and,

D. Authorizing the City Manager or Assistant City Manager to execute the necessary documents.

**H.9.**     [17-324](#)

**SUBJECT:** City-Owned Real Property Request #17-05 for Use of Bob Hart Square (Merced Center for the Performing Arts and Playhouse Merced)

**REPORT IN BRIEF**

Consider allowing the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, by the Merced Center for the Performing Arts and Playhouse Merced for their annual fundraiser gala (includes the serving of alcohol).

**RECOMMENDATION**

**City Council** - Adopt a motion approving the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, for a fundraiser gala, to include the serving of alcohol; subject to the conditions outlined in the administrative staff report.

**H.10.**     [17-310](#)

**SUBJECT:** Two Amendments to Agreements for Professional Services with Provost and Pritchard Engineering Group, Incorporated, Project No. 118024

**REPORT IN BRIEF**

Consider authorizing two separate agreements for environmental remediation services for a combined total of \$268,500.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving the First Amendment to Agreement for Professional Services (cleanup contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$210,000 for groundwater cleanup; and,

B. Approving the First Amendment to Agreement for Professional Services (reporting contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$58,500 for report drafting; and,

C. Authorizing the City Manager or Assistant City Manager to execute

the necessary documents.

H.11. [17-334](#)

**SUBJECT:** Roadway Overlay Construction Funding Agreement with the County of Merced for Gerard Avenue

**REPORT IN BRIEF**

Consider approving a construction funding agreement for reimbursement of \$37,135 to overlay a portion of Gerard Avenue bounded by Tyler Road and the Union Pacific Railroad.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the Roadway Overlay Construction Funding Agreement with the County of Merced, and authorizing the City Manager or Assistant City Manager to execute the necessary documents.

H.12. [17-346](#)

**SUBJECT:** Property, Boiler and Machinery Insurance Renewal

**REPORT IN BRIEF**

Consider approving the renewal of the City's policy through Alliant Property Insurance Programs (APIP) at 8.70% premium increase, amounting to \$193,426.15 for program year 2017/2018.

**RECOMMENDATION**

**City Council** - Adopt a motion ratifying the renewal of the property and boiler and machinery insurance through the Alliant Property Insurance Programs (APIP), administered by Alliant Insurance Services for the period of July 1, 2017 through June 30, 2018; and authorizing the City Manager or Assistant City Manager to execute the necessary documents.

H.13. [17-325](#)

**SUBJECT:** Agreement for Labor Relations Consulting, Labor Contract Negotiations and Employee Related Legal Services With the Law Firm Liebert Cassidy Whitmore

**REPORT IN BRIEF**

Considers approving an agreement for labor relations consulting, labor contract negotiations and employee related legal services with the law firm Liebert Cassidy Whitmore in the amount of \$60,000.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving an agreement for professional services with Liebert

Cassidy Whitmore for labor relations services related to negotiations with American Federation of State, County, and Municipal Employees (AFSCME), Merced Association of City Employees (MACE), International Fire Fighter's Association Local 1479 (Fire) and Management Compensation Plan, in an amount not to exceed \$60,000, and;

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

## I. BUSINESS

### I.1. [17-342](#)

**SUBJECT:** Boards and Commissions Reappointments - Regional Airport Authority (1), Bicycle Advisory Commission (2), Recreation and Parks Commission (1), Personnel Board (1)

#### **REPORT IN BRIEF**

Consider reappointing currently seated individuals to an additional term.

#### **RECOMMENDATION**

**City Council** - Adopt a motion reappointing qualified individuals who are eligible for, and interested in, an additional term on their respective Board or Commission.

I.2. Request to Add Item to Future Agenda

I.3. City Council Comments

## J. CLOSED SESSION

### J.1. [17-349](#)

**SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; California Department of Finance v. City of Merced, et al.; Sacramento County Superior Court Case No.34-2016-80002485; AUTHORITY: Government Code Section 54956.9(d)(1)

## K. REPORT OUT OF CLOSED SESSION

## L. ADJOURNMENT



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item B.1.**

Meeting Date: 7/5/2017

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**SUBJECT:** Joint Study Session with City Council/Planning Commission to Discuss Medical Marijuana

### REPORT IN BRIEF

A joint Study Session with the Planning Commission and City Council to discuss Medical Marijuana.



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item E.1.**

Meeting Date: 7/5/2017

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**SUBJECT:** Proclamation - Parks and Recreation Month

### REPORT IN BRIEF

Presented to a representative from the Recreation and Parks Department.

### ATTACHMENTS

1. Proclamation



# Proclamation

WHEREAS, Parks and Recreation makes lives and communities better now and in the future; and

WHEREAS, it is established through statewide public opinion research, 98% of California households visit a local park at least once a year; two in three households visit a park once a month; 50% of households participate in an organized recreation program; and most park use is with family and friends; and

WHEREAS, residents value recreation as it provides positive alternatives for children and youth to reduce crime and mischief especially during non-school hours; it promotes the arts, it increases social connections; aids in therapy; and promotes lifelong learning; and

WHEREAS, residents value their parks for access to outdoor spaces for children and adults to play and be active; exercise and group sports; and

WHEREAS, parks provide access to the serenity and the inspiration of nature and outdoor spaces as well as preserve and protect the historic, natural and cultural resources in our community; and

WHEREAS, the residents of the City of Merced including children, youth, families, adults, seniors, businesses, community organizations, and visitors benefit from the wide range of parks, trails, open space, sports fields, tennis courts, facilities and programs including Movies in the Park, our splash parks, our expanded aquatics program, our renovated McNamara and Stephen Leonard Parks, provided by the Parks and Recreation Department; and

WHEREAS, the City of Merced urges all its residents to recognize that parks and recreation enriches the lives of its residents and visitors as well as adding value to the community's homes and neighborhoods; and

WHEREAS, July is celebrated across the nation as Parks and Recreation Month,

NOW, THEREFORE, I, MIKE MURPHY, Mayor of the City of Merced, on behalf of the City Council, do hereby proclaim July 2017 as Parks Make Life Better! Month and in doing so, urges all its citizens to use and enjoy its parks, trails, open space, facilities, and recreation opportunities.

Signed this 5<sup>th</sup> day of July, 2017.

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*Mike Murphy, Mayor of Merced*



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item H.1.**

Meeting Date: 7/5/2017

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**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

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**Agenda Item H.2.**

**Meeting Date: 7/5/2017**

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***Report Prepared by:*** Kirkland Greene, Records Clerk II

**SUBJECT:** Information-Only Contracts

### **REPORT IN BRIEF**

Notification of awarded Non-Public Works contracts under \$29,000 and of Public Works contracts under \$65,204.

### **AUTHORITY**

Pursuant to the authority delegated to the City Manager on behalf of the City by Article XI, Section 1109, of the Merced City Charter to execute Public Works contracts under the adjusted FY 2016-2017 threshold of \$65,204.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2016-2017 threshold of \$29,000.00, the contracts listed on the attached table were entered into by the City.

### **ATTACHMENTS**

1. "Information-Only" Contracts Table for June 2017

## **Exhibit 1 – Table of Contracts**

7/5/2017 City Council Meeting

Page 1 of 2

<b>Department/Division</b>	<b>Vendor</b>	<b>Purpose/Location</b>	<b>Amount</b>
1102 – Public Works - Admin.	Omni-Means, Ltd.	Memorandum of Understanding (MOU) for the Use of Aerial Imagery of the City of Merced and Surrounding Areas (acquired by the City in 2014).	(No funds.)
1001 – Police - Administration	Duncan Parking Technologies, Inc.	Maintenance Agreement for Hand-Held Electronic Ticket Books (July 1, 2017 through June 30, 2018).	\$ 1,921.56
0803 – Engineering	Technicon Engineering Services, Inc.	CMAQ Sidewalk Infill on Oleander Avenue - Soil and compaction testing (Project No. 114050). (Statement of Services, PO #126807.)	\$ 2,941.00
1205 – Community Svcs. - Zoo	Jon Klingborg, DVM (DBA: Valley Animal Hospital)	Agreement for Veterinary Services at Applegate Zoo (July 1, 2017 through June 30, 2018).	\$ 6,000.00
1201 – Recreation and Parks	Mobley Enterprises, Inc. (DBA: Valley Commercial Services)	Agreement for Janitorial Services at the Senior Center (July 1, 2017 through June 30, 2018).	\$ 8,052.00
0803 – Engineering	Quad Knopf, Inc.	Provide surveying services for Project No. 117054 - Cherokee and Black Rascal Creek. (Statement of Services, PO #126908.)	\$ 8,200.00
1120 – Public Works - Parks	Merced Fence Company	Installation of 225' of 7'-tall wrought-iron fence around building at Applegate Park, including one 6'-wide swing gate. (Statement of Services, PO #126930.)	\$ 9,341.00
1106 – Public Works - Water	Modern Air Mechanical, Inc.	Installation of a new air conditioning system for the 300 HP-VFD drive panel (Water Well Site No. 3 at 511 West 12th Street). (Statement of Services, PO #126619.)	\$10,690.00
1303 – Airport	Hart Paving & Grading, Inc.	Remove, excavate, haul away, and repave approx. 1,075 sq. ft. of damaged asphalt; stripe one handicap logo. (Statement of Services, PO #126806.)	\$11,430.00
0803 – Engineering	Roadrunner Drilling & Pump Company, Inc.	Perform placement of cement plug in Municipal Well No. 20. (Statement of Services, PO #126620.)	\$15,475.00
0701 – Finance	Thales Consulting, Inc.	Agreement for Professional Services to Provide State Controller Financial Reporting (over a three-year term).	\$17,520.00
0402 – Personnel	LinkedIn Corporation	LinkedIn Subscription Agreement - Website Services for Recruitments.	\$22,000.00

<sup>13</sup>  
*Copies of all of the contracts listed above are available in the City Clerk's Office.*

## **Exhibit 1 – Table of Contracts**

7/5/2017 City Council Meeting

Page 2 of 2

<b>Department/Division</b>	<b>Vendor</b>	<b>Purpose/Location</b>	<b>Amount</b>
1201 – Recreation and Parks	Fernando Acosta	Leisure Class Agreement for Independent Contractor Services to Conduct Merced Youth Soccer Programs (July 1, 2017 through June 30, 2018).	\$22,313.00
0803 – Engineering	Triple HS, Inc. (DBA: H. T. Harvey & Associates)	Provide wetland scientist services for the Columbia Avenue Storm Drain Project No. 116027. (Statement of Services, PO #126878.)	\$24,945.00
0901 – Fire	ANV Contractors, Inc.	Installation of perimeter security fencing around Fire Station 53. (Statement of Services, PO #126388.)	\$39,300.00

*Copies of all of the contracts listed above<sup>14</sup> are available in the City Clerk's Office.*



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item H.3.**

Meeting Date: 7/5/2017

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

**SUBJECT:** Information Only-Planning Commission Minutes of April 19, 2017

### RECOMMENDATION

For information only.

### ATTACHMENTS

1. PC Minutes of 04-19-2017

**CITY OF MERCED**  
**Planning Commission**

**MINUTES**

Merced City Council Chambers  
Wednesday, April 19, 2017

Chairperson Dylina 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: Bill Baker, Mary Camper, Travis Colby, Robert Dylina, Peter Padilla, Kevin Smith, and Kurt Smoot

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, Attorney Kim G. Flores, and Recording Secretary Davis

**1. APPROVAL OF AGENDA**

Commissioner COLBY motioned for the Agenda to be amended to move Items 4.2 and 4.3 ahead of Item 4.1.

M/S COLBY-BAKER, and carried by the following vote to approve the Agenda as amended:

AYES: Commissioners Baker, Camper, Colby, Smith, Smoot, and Chairperson Dylina

NOES: Padilla

ABSENT: None

ABSTAIN: None

2. **MINUTES**

M/S PADILLA-SMITH, and carried by unanimous voice vote, to approve the Minutes of March 22, 2017, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.2 General Plan Amendment #17-01 and Site Utilization Plan Revision #2 to Planned Development (P-D) #72, initiated by the City of Merced. This application involves: 1) amending the text of the *Merced Vision 2030 General Plan* to designate the New Central Police Station as being located in “North Merced” instead of the previous text of “North Merced near Mansionette Drive and Yosemite Avenue;” 2) amend the General Plan land use designation from “High Medium Density Residential (HMD)” to “Neighborhood Commercial (CN)”; 3) amend the Site Utilization Plan for Planned Development #72 for the property from “Police Station” to “Neighborhood Commercial (CN).” The property is generally located at the northwest corner of Yosemite Avenue and Mansionette Drive within Planned Development (P-D) #72.

Associate Planner NELSON reviewed the report. For further information, refer to Staff Report #17-09.

There was no one present wishing to speak regarding this item; therefore, public testimony was opened and closed at 7:12 p.m.

M/S COLBY-SMOOT, and carried by the following vote, to recommend to City Council approval of General Plan Amendment #17-01 and Site Utilization Plan Revision #2 to Planned Development (P-D) #72, subject to the Findings and six (6) Conditions set forth in Staff Report #17-09, (RESOLUTION #3081):

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

4.3 (CONSENT) Sale of Surplus City Property at Mansionette Drive/Yosemite Avenue

As a Consent item, there was no staff presentation. For further information, refer to Staff Report #17-10.

M/S COLBY-BAKER, and carried by the following vote, to adopt a Finding that the Declaration of Surplus Property at Mansionette Drive/Yosemite Avenue is consistent with the *Merced Vision 2030 General Plan*:

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

4.1 General Plan Amendment #16-06 and Zone Change #424, and the Establishment of Planned Development (P-D) #76, initiated by University Village LLC, on behalf of Fagundes Dairy, A Partnership and CBCP Assets, LLC, property owners. The application is a request to change the General Plan and Zoning designations and to establish a Planned Development (P-D) for approximately 17.25 acres of land located on the south side of Yosemite Avenue at Lake Road. The requested General Plan Amendment would change the General Plan designation from Low Density Residential (LD) to High-Medium Density Residential (HMD) for approximately 16.25 acres and to Neighborhood Commercial (CN) for approximately 1 acre of the site. The Zone Change would change the Zoning designation for 14.86 acres from R-1-6 to Planned Development (P-D) #76 and 2.39 acres from Planned Development (P-D) #52 to Planned

Development (P-D) #76 for the future development of 225 student housing units and a 6,600-square-foot commercial building.

Associate Planner NELSON reviewed the report. She noted a memo from staff modifying Condition #17, adding Condition #38, and adding Finding M, which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #17-08.

Public testimony was opened at 7:37 p.m.

Speakers in the Audience in Favor:

JOHN HEINTZ, University Village Merced, Merced, CA, applicant  
JAY BLATTER, Hochhauser Blatter Architects, Santa Barbara, CA,  
representing the applicant

DESMOND JOHNSTON, Quad Knof, Merced, CA, representing the  
applicant

GREG FISH, University Village Merced, Incline Village, NV,  
applicant

Speakers in the Audience in Opposition:

CASEY STEED, Merced, CA

CASEY STEED noted his opposition to the sequence in which the development of the site was being executed, and he stated that the illumination of the surrounding bike paths, as well as an underpass for safe bike travel, within the area need to be required.

Public testimony was closed at 7:59 p.m.

Planning Manager ESPINOSA addressed the issue regarding the bike paths. She stated that the idea of underpasses on bike paths were no longer an ideal traffic solution for bike travel due to the heightened security issues involved with existing underpasses, and that it was much safer to cross at signal lights, which will be required at Yosemite Avenue and Lake Road.

M/S PADILLA-COLBY, and carried by the following vote, to recommend to City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program regarding Initial Study #16-37, and approval of General Plan Amendment #16-06 and Zone Change #424, and the Establishment of Planned Development (P-D) #76, subject to the Findings and thirty seven (37) Conditions set forth in Staff Report #17-08, with additional Finding M, Condition #17 modified as follows, and additional Condition #38 (RESOLUTION #3082):

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

“M. State law requires the City make a finding related to the California Urban Level of Flood Protection (200-year Flood) for all new development within any Special Flood Hazard Area (SFHA) as defined by FEMA. The project site is located in a FEMA Flood Zone X (shaded). According to the Urban Level of Flood Protection Summary Report prepared for the City in November 2015, projects within this FEMA Flood Zone are only required to meet the FEMA Standard of Flood Protection in order to comply with the California Urban Level of Flood Protection requirements. Condition #38 below has been added to address compliance with all flood requirements.”

“17. The existing sewer line in ~~Yosemite Avenue shall be extended from~~ Via Moraga ~~across the full frontage of~~ shall be extended to a point to adequately serve the project site. The connection point shall be approved by the City Engineer and Public Works Director.”

“38. The project shall comply with all FEMA Flood Zone requirements for Zone X (shaded) which will also comply with the California 200-year Urban Level of Flood Protection requirements.”

April 19, 2017

AYES: Commissioners Baker, Camper, Colby, Padilla, Smith, Smoot, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

4.4 Cancellation of May 3, 2017, and May 17, 2017, Planning Commission Meetings due to lack of items.

M/S DYLINEA-COLBY, and carried by unanimous voice vote, to cancel the Planning Commission meetings of May 3, 2017, and May 17, 2017.

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 DYLINEA adjourned the meeting at 8:11 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary  
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Chairperson  
Merced City Planning Commission

**CITY OF MERCED**  
**Planning Commission**

**Resolution #3081**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of April 19, 2017, held a public hearing and considered **General Plan Amendment #17-01 and Site Utilization Plan Revision #2 to Planned Development (P-D) #72**, initiated by the City of Merced. This application involves: 1) amending the text of the *Merced Vision 2030 General Plan* to designate the New Central Police Station as being located in “North Merced” instead of the previous text of “North Merced near Mansionette Drive and Yosemite Avenue;” 2) amend the General Plan land use designation from “High Medium Density Residential (HMD)” to “Neighborhood Commercial (CN);” 3) amend the Site Utilization Plan for Planned Development #72 for the property from “Police Station” to “Neighborhood Commercial (CN).” The property is generally located at the northwest corner of Yosemite Avenue and Mansionette Drive within Planned Development (P-D) #72.; also known as Assessor’s Parcel No. 231-040-021; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through H of Staff Report #17-09; and,

**NOW THEREFORE**, after fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council approval of General Plan Amendment #17-01 and Site Utilization Plan Revision #2 to Planned Development (P-D) #72, 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 Smoot, and carried by the following vote:

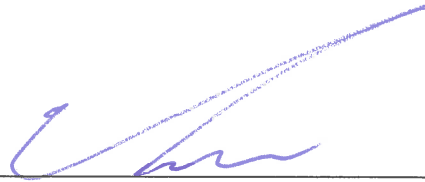
AYES: Commissioners Baker, Camper, Colby, Padilla, Smoot, and  
Chairperson Dylina  
NOES: Commissioner Smith  
ABSENT: None  
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3081

Page 2

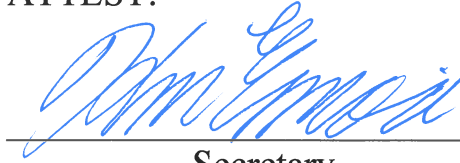
April 19, 2017

Adopted this 19<sup>th</sup> day of April 2017



Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared\planning\PC Resolutions\GPA#17-01-SUP REV #2 TO PD#72 Mansionette Dr. & Yosemite Ave.

**Conditions of Approval**  
**Planning Commission Resolution #3081**  
**General Plan Amendment #17-01**  
**Site Utilization Plan Revision #2 to P-D #72**

1. The General Plan designation shall be changed from High-Medium Density Residential (HMD) to Neighborhood Commercial (CN) and the land use designation for the Site Utilization Plan for Planned Development (P-D) #72 shall be changed from “Police Station” to “Neighborhood Commercial” for the property located at the northwest corner of Yosemite Avenue and Mansionette Drive as shown on the map at Exhibit 1 (Attachment C of Planning Commission Staff Report #17-09).
2. The official map for Planned Development (P-D) #72 shall be modified to show this site as “Neighborhood Commercial.”
3. All future proposed projects at this site shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department as well as all standards adopted for Planned Development (P-D) #72.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. The text found in the *Merced Vision 2030 General Plan* at Chapter 5.2.2 Police Protection, page 5-6 shall be changed to read as follows: “The Central Station will be relocated in North Merced” (Refer to Attachment F of Planning Commission Staff Report #17-09). The map shown as Figure 5.2 on page 5-5 of the General Plan shall be changed to the map included with Attachment F of Planning Commission Staff Report #17-09.
6. All development on the site would subject to the Interface Regulations of Chapter 20.32 of the City’s Zoning Ordinance. Therefore, all permitted uses on the site would be subject to Site Plan Review.

n:shared:planning:PC Resolutions:GPA#17-01-SUP REV#2 TO PD#72 Exhibit A

**CITY OF MERCED**  
**Planning Commission**

**Resolution #3082**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of April 19, 2017, held a public hearing and considered **General Plan Amendment #16-06, Zone Change #424, and the Establishment of Planned Development (P-D) #76**, initiated by University Village LLC, on behalf of Fagundes Dairy, A Partnership and CBCP Assets, LLC, property owners. The application is a request to change the General Plan and Zoning designations and to establish a Planned Development (P-D) for approximately 17.25 acres of land located on the south side of Yosemite Avenue at Lake Road. The requested General Plan Amendment would change the General Plan designation from Low Density Residential (LD) to High-Medium Density Residential (HMD) for approximately 16.25 acres and to Neighborhood Commercial (CN) for approximately 1 acre of the site. The Zone Change would change the Zoning designation for 14.86 acres from R-1-6 to Planned Development (P-D) #76 and 2.39 acres from Planned Development (P-D) #52 to Planned Development (P-D) #76 for the future development of 225 student housing units and a 6,600-square-foot commercial building; also known as Assessor's Parcel No. 008-010-071; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through L of Staff Report #17-08, with the additional Finding as follows:

- M. State law requires the City make a finding related to the California Urban Level of Flood Protection (200-year Flood) for all new development within any Special Flood Hazard Area (SFHA) as defined by FEMA. The project site is located in a FEMA Flood Zone X (shaded). According to the Urban Level of Flood Protection Summary Report prepared for the City in November 2015, projects within this FEMA Flood Zone are only required to meet the FEMA Standard of Flood Protection in order to comply with the California Urban Level of Flood Protection requirements. Condition #38 below has been added to address compliance with all flood requirements.

**WHEREAS**, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of

PLANNING COMMISSION RESOLUTION #3082

Page 2

April 19, 2017

a Mitigated Negative Declaration and Mitigation Monitoring Program (Exhibit B) regarding Initial Study #16-37, and approval of General Plan Amendment #16-06, Zone Change #424, and the Establishment of Planned Development (P-D) #76, subject to the Conditions set forth in Exhibit A attached hereto.

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

AYES: Commissioner(s) Baker, Camper, Colby, Padilla, Smith,

Smoot, and Chairperson Dylina

NOES: Commissioner(s) None

ABSENT: Commissioner(s) None

ABSTAIN: Commissioner(s) None

Adopted this 19<sup>th</sup> day of April 2017

  
\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

  
\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Mitigation Monitoring Program

**Conditions of Approval**  
**Planning Commission Resolution #3082**  
**General Plan Amendment #16-06, Zone Change #424, and**  
**Establishment of Planned Development (P-D) #76**

1. The proposed project shall be constructed/designed in substantial compliance with Exhibit 1 (site plan) and Exhibit 2 (elevations), -- Attachments B and C of Staff Report #17-08, 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. Approval of the General Plan Amendment and Zone Change is subject to the applicant's entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc.. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
5. 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.

6. 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.
7. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before the first building permit is issued for this project. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
8. The project shall comply with all mitigation measures required by the mitigation monitoring program for Initial Study #16-37 (Attachment F of Staff Report #17-08) and all applicable mitigation measures required by Expanded Initial Study #02-27 approved for the Hunt Family Annexation (#02-02).

9. In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #76.
10. Any missing improvements on Yosemite Avenue along the project frontage shall be installed to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited to sidewalk curb, gutter, street trees, and street lights.
11. Street trees shall be planted along the project frontage on Yosemite Avenue in compliance with City Standards.
12. The project shall be responsible for the installation of a traffic signal at the intersection of Lake Road and the project entrance. The developer shall be eligible for reimbursement of up to 50% of the cost of the traffic signal in accordance with the City's Public Facilities Financing Plan (PFFP).
13. A raised curb shall be installed at the intersection of Lake Road and Yosemite Avenue and shall extend west from the intersection 180 feet. The design of the raised curb shall be approved by the City Engineer prior to construction.
14. The project shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
15. All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to the storm drain system approved for the Moraga subdivision.
16. All new utilities shall be installed underground.
17. The existing sewer line in Via Moraga shall be extended to a point to adequately serve the project site. The connection point shall be approved by the City Engineer and Public Works Director.
18. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.

19. All gated entrances/exits, shall be provided with a Knox-box that is equipped with “click-to-enter” technology for the Fire Department. Details to be reviewed by Fire Department at the building permit stage.
20. If the entire apartment complex is gated, pedestrian access gates shall be provided to allow pedestrian access to the sidewalk along Yosemite Avenue.
21. Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.
22. If the apartment complex is gated, a minimum of 20 feet of vehicle stacking room shall be provided onsite at each entrance.
23. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.
24. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
25. All construction activity shall be conducted in accordance with City of Merced standards for times of operation.
26. All landscaping shall be in compliance with the City’s Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City’s Zoning Ordinance Section 20.36 – Landscaping.
27. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State’s Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.
28. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.

29. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of 1 tree for every 6 parking spaces. No trees shall be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees may be required at the discretion of the Development Services Director. Trees within the PG&E easement shall comply with the regulations of this easement which limits the height of trees to a maximum of 15 feet at full maturity.
30. The on-site landscape design shall include the use of xeriscape landscaping and comply with all California Building Code regulations or other applicable state and/or local requirements as well as Chapter 20.36 of the City's Zoning Ordinance.
31. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.
32. All mechanical equipment shall be screened from public view.
33. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks.
34. The developer may install carports over some or all of the required parking spaces. Any carports installed near the bike path on the east side of the property shall have a minimum one foot setback from the edge of the easement for all vertical members and all horizontal members shall be a minimum of five feet from the property line. Specific design and location of the carports shall be approved by the Site Plan Review Committee.
35. The owner shall modify the Easement Deed granted in Document #2013-005030 to remove the conditions which reserve the grantor the right "to use the underlying property at any time for any purpose" (paragraph 2 of said document) and allows the grantor to relocate the

bike path (paragraph 3 of said document). The owner/developer shall work with the City's Land Surveyor to prepare a new easement deed prior to the issuance of a building permit for this project.

36. The applicant shall provide written documentation from PG&E agreeing to allow the proposed parking spaces within their easement area. This documentation shall be provided with the submittal of the first building permit that includes the parking in this area.
37. All signs shall comply with the requirements of the North Merced Sign Ordinance. No free-standing A-Frame or sandwich board-type signs shall be allowed. All other moveable temporary signs are prohibited as well. Temporary banners may be installed on a building wall in compliance with the City's Sign Ordinance and after obtaining a Temporary Banner Permit from the Planning Department. A building permit shall be obtained for all permanent signs.
38. The project shall comply with all FEMA Flood Zone requirements for Zone X (shaded) which will also comply with the California 200-year Urban Level of Flood Protection requirements.

## **ENVIRONMENTAL REVIEW #16-37**

### **Mitigation Monitoring Program**

#### **MITIGATION MONITORING CONTENTS**

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

#### **LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM**

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own “Mitigation Monitoring and Reporting Program” (MMC 19.28). The City’s program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor’s Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the General Plan Amendment #16-06, Zone Change #424, and Establishment of Planned Development (P-D) #76 shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

#### **MITIGATION MONITORING PROCEDURES**

In most cases, mitigation measures can be monitored through the City’s construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

## GENERAL PLAN MITIGATION MEASURES

As a second tier environmental document, Initial Study #16-37 incorporates some mitigation measures adopted as part of the *Merced Vision 2030 General Plan Program Environmental Impact Report* (SCH# 2008071069), as mitigation for potential impacts of the Project.

## NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

## MONITORING MATRIX

**The following pages provide a series of tables identifying the mitigation measures proposed specifically for General Plan Amendment #16-06, Zone Change #424, and Establishment of Planned Development (P-D) #76. The columns within the tables are defined as follows:**

<b>Mitigation Measure:</b>	Describes the Mitigation Measure (referenced by number).
<b>Timing:</b>	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
<b>Agency/Department Consultation:</b>	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation measure.
<b>Verification:</b>	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

**General Plan Amendment #16-06/Zone Change #424/Establishment of Planned Development (P-D) #76**  
**Mitigation Monitoring Checklist**

**Project Name:** \_\_\_\_\_ **File Number:** \_\_\_\_\_  
**Approval Date:** \_\_\_\_\_ **Project Location** \_\_\_\_\_  
**Brief Project Description** \_\_\_\_\_

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

<b>B) Agriculture Resources</b>				
<b><i>Impact No.</i></b>	<b><i>Mitigation Measures</i></b>	<b><i>Timing</i></b>	<b><i>Agency or Department</i></b>	<b><i>City Verification (date and initials)</i></b>
<b><i>B-4</i></b>	B-1) A provision shall be recorded by the applicants/developer or successors, at time of sale of any residentially-zoned property within the project that lies within 1,000 feet of the external boundary of any non-project property which currently has an active agricultural operation (including 4-H projects), or has had an agricultural operation on it during the calendar year preceding the year within which the sale takes place. This provision shall notify the buyer(s) and any subsequent owner(s) of the possible inconvenience or discomfort of farming operations arising from the use of agricultural chemicals, including pesticides and fertilizers; as well as from the pursuit of agricultural operations including plowing, spraying, and harvesting which occasionally generate dust, smoke, noise, and odor, and the priority to which Merced County places on agricultural operations.	Building Permits	Planning Department	
<b>E) Cultural Resources</b>				
<b><i>Impact No.</i></b>	<b><i>Mitigation Measures</i></b>	<b><i>Timing</i></b>	<b><i>Agency or Department</i></b>	<b><i>City Verification (date and initials)</i></b>
<b><i>E-1</i></b>	E-1) If evidence of archaeological artifacts is discovered during construction, all operations within the area and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site and mitigation/preservation of any artifacts.	Building Permit	Planning Department	

<b>E-3</b>	E-2) If evidence of a paleontological resource, site, or unique geological feature is discovered during construction, all operations within the area and adjacent to the discovered site shall halt until a qualified paleontologist or geologist determines the extent of significance of the site and the mitigation/preservation of any resources.	Building Permit	Planning Department	
<b>F) Geology and Soils</b>				
<b>F-2</b>	F-1) Prior to the approval of a tentative subdivision map or building permit, the City shall review plans for drainage and storm water run-off control systems and their component facilities to ensure that these systems are non-erosive in design.	Building Permit	Engineering Department	
	F-2) Upon completion of phased construction, subsequent phases shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods or to avoid negative impacts to nearby agricultural activities, subject to the approval of the City.	Building Permit	Planning Department	
	F-3) Projects under review shall be required to submit temporary erosion control plans for construction activities.	Building Permit	Engineering Department	
<b>F-4</b>	F-4) All recommendations for addressing expansive soils and site grading recommended in the Geotechnical Study prepared by Kleinfelder and found at Attachment E of Initial Study #16-37 shall be implemented.	Building Permit	Inspection Services Department	
	F-5) Building plans shall be reviewed by a registered engineer or other professional specializing in geo-technical assessments to ensure that the soils can support the load.	Building Permit	Inspection Services Department	

<b>H) Hydrology and Water Quality</b>				
<b>H-5</b>	H-5) Prior to the issuance of a building permit for this project, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet the Project demands and that improvements are consistent with the City's Storm Drainage Master Plan and the Post Construction Standards for the City's Phase II MS4 permit.	Building Permit	Engineering Department	
<b>K) Noise</b>				
<b>K-1</b>	K-1) Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m.	Building Permit	Inspection Services Department	
	K-2) Construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.	Building Permit	Inspection Services Department	
	K-3) Prior to the issuance of a building permit, the project applicant or any successor in interest, shall provide documentation showing the interior noise levels of the residential units would meet the City's interior standard of 45 dB ldn.	Building Permit	Inspection Services Department	
<b>O) Transportation/Traffic</b>				
<b>O-1</b>	O-1) The project shall pay all fees as required under the City's Public Facilities Impact Fee Program prior to issuance of a certificate of occupancy for any building.	Building Permit	Planning Department	
<b>R) Greenhouse Gas Emissions</b>				
<b>R-1</b>	R-1) The project shall comply with all mitigation measures outlined in Appendix B of the Greenhouse Gas Study prepared for this project (Attachment D of Initial Study #16-37).	Building Permit	Planning Department/Inspection Services Department	

**Certificate of Completion:**

By signing below, the environmental coordinator confirms that the required mitigation measures have been implemented as evidenced by the Schedule of Tasks and Sign-Off Checklist, and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

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Environmental Coordinator

---

Date



## ADMINISTRATIVE REPORT

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**Agenda Item H.4.**

Meeting Date: 7/5/2017

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**SUBJECT:** City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of June 5, 2017

### REPORT IN BRIEF

Official adoption of previously held meeting minutes.

### RECOMMENDATION

**City Council/Public Financing and Economic Development/Parking Authority** - Adopt a motion approving the meeting minutes of June 5, 2017.

### ALTERNATIVES

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

### ATTACHMENTS

1. Minutes of June 5, 2017



# CITY OF MERCED

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

## Minutes

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

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Monday, June 5, 2017

6:00 PM

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#### A. CLOSED SESSION ROLL CALL

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

**Absent:** 0

#### B. CLOSED SESSION

**Clerk's Note:** Council adjourned to Closed Session at 5:32 PM.

##### B.1.

**SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; California Department of Finance v. City of Merced, et al.; Sacramento County Superior Court Case No.34-2016-80002485;  
**AUTHORITY:** Government Code Section 54956.9(d)(1)

**Clerk's Note:** Council adjourned from Closed Session at 5:57 PM.

#### C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:02 PM.

##### C.1. Invocation - Andy Doss, Merced Baptist Church

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

##### C.2. Pledge of Allegiance to the Flag

Council Member MCLEOD led the Pledge of Allegiance.

#### D. ROLL CALL

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

**Absent:** 0

D.1. In accordance with Government Code 54952.3, it is hereby announced that the City Council sits either simultaneously or serially as the Parking Authority and the Public Financing and Economic Development Authority. City Council members receive a monthly stipend of \$20.00 by Charter for sitting as the City Council; and the Mayor receives an additional \$50.00 each month as a part of the adopted budget and Resolution 1975-37. The members of the Parking Authority and the Public Financing and Economic Development Authority receive no compensation.

## **E. REPORT OUT OF CLOSED SESSION**

There was no report.

## **F. WRITTEN PETITIONS AND COMMUNICATIONS**

The Clerk's Office did not receive any written petitions and communications.

## **G. ORAL COMMUNICATIONS**

Will SKAARUP - spoke on marijuana regulations, distribution, and doing business in Merced.

Ken TESTA, Merced City School District - spoke on the progress of the school bonds and modernizing school facilities.

## **H. CONSENT CALENDAR**

Items H.4. City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of May 1, 2017, H.5. Letters of Opposition to Assembly Bill 1250, Counties and Cities: Contracts for Personal Services (Joens-Sawyer) and Trailer Bill to Proposition 64, H.6. Contract for Summer Camp Services with the Boys and Girls Club of Merced, H.7. Purchase of a Pierce Quantum Fire Engine with a Pump Under Cab and a Pierce 107 Foot Quantum Tractor Drawn Aerial Utilizing a Government Procurement Program and Waiving the Competitive Bidding Process, and H.9. Fiscal Year 2017-18 Annual Special Tax Rates for Community Facilities District (CFD) No. 2003-2 (Services) were pulled for further consideration.

### **Approval of the Consent Agenda**

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

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

**No:** 0

Absent: 0

**H.1. SUBJECT: Reading by Title of All Ordinances and Resolutions**

**REPORT IN BRIEF**

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

**RECOMMENDATION**

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

**This Consent Item was approved.**

**H.2. SUBJECT: Information Only - Boards and Commissions Annual Attendance Reports**

**REPORT IN BRIEF**

Annual attendance review conducted with results filed with the City Clerk's Office.

**RECOMMENDATION**

For information only.

**This Consent Item was approved.**

**H.3. SUBJECT: Information-Only Contracts**

**REPORT IN BRIEF**

Notification of awarded Non-Public Works contracts under \$29,000 and of Public Works contracts under \$65,204.

**AUTHORITY**

Pursuant to the authority delegated to the City Manager on behalf of the City by Article XI, Section 1109, of the Merced City Charter to execute Public Works contracts under the adjusted FY 2016-2017 threshold of \$65,204.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2016-2017 threshold of \$29,000.00, the contracts listed on the attached table were entered into by the City.

**This Consent Item was approved.**

- H.8. **SUBJECT:** Contract Change Order for the Sewer & Water Main Replacement in Alley Between 21st and 22nd Street and W Street to U Street, Project 116039

**REPORT IN BRIEF**

Consider approving the Contract Change Order No. 2 with D.A. Wood Construction, Inc. in the amount of \$45,472.00 for additional work primarily due to water main break.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Increasing the contingency to 16% and approving Change Order No. 2 for the Sewer & Water Main Replacement in the alley between 21st and 22nd Street and W Street to U Street, Project 116039, with D.A. Wood Construction, Inc., in the amount of \$45,472.00 ; and,

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

**This Consent Item was approved.**

- H.10. **SUBJECT:** Request for Supplemental Appropriation from the Capital Fleet Replacement Fund to Purchase a New LeafChipper Truck

**REPORT IN BRIEF**

Staff is requesting an appropriation from the Fleet Replacement fund 674 not to exceed \$200,000.00 prior to opening the bidding process for the purchase of one new specialized leafchipper truck.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Appropriating funds from the Capital Fleet Replacement fund 674 not to exceed \$200,000.00 to purchase a new Leaf /Chipper truck, and;

B. Authorizing the City's Interim Finance Director to make the appropriate budget transfers.

**This Consent Item was approved.**

- H.11. **SUBJECT:** Second Reading: Ordinance 2475 Approving Site Utilization Plan Revision #2 to Planned Development

**REPORT IN BRIEF**

Second reading of previously introduced Ordinance

**RECOMMENDATION**

**City Council** - Adopt a motion adopting **Ordinance 2475**, an Ordinance of the City Council of the City of Merced, California, approving Site Utilization Plan revision #2 to Planned Development (P-D) #72 changing the land use designation from "Police Station" to "Neighborhood Commercial" for a 4.54 acre parcel generally located at the Northwest corner of Yosemite Avenue and Mansionette Drive.

**This Consent Item was approved.**

**H.4.**

**SUBJECT:** City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of May 1, 2017

**REPORT IN BRIEF**

Official adoption of previously held meeting minutes.

**RECOMMENDATION**

**City Council/Public Financing and Economic**

**Development/Parking Authority** - Adopt a motion approving the meeting minutes of May 1, 2017.

Council Member BELLUOMINI pulled this item to suggest a language change to reflect that this report was from the City Council Subcommittee and not just an item he requested to be placed on the agenda.

**A motion was made by Council Member Belluomini, seconded by Council Member Pedrozo, to approve the minutes as amended. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**H.5.**

**SUBJECT:** Letters of Opposition to Assembly Bill 1250, Counties and Cities: Contracts for Personal Services (Jones-Sawyer) and Trailer Bill to Proposition 64

**REPORT IN BRIEF**

Authorizes staff to send letters of opposition regarding Assembly Bill

(AB) 1250, Counties and Cities: Contracts for Personal Services (Jones-Sawyer) eliminating contract services for cities and counties and trailer bill for Proposition 64.

**RECOMMENDATION**

**City Council** - Adopt a motion authorizing staff to send letters of opposition to AB 1250, Counties and Cities: Contracts for Personal Services (Jones-Sawyer), and Trailer Bill to Proposition 64.

Council Member MARTINEZ pulled this item to ask for clarification on Assembly Bill 1250 and Proposition 64.

Assistant to the City Manager Mike CONWAY gave an update on the Assembly Bill and explained the issues the City would face if the bill passes, as well as the effect Proposition 64 would have on the City.

Mayor MURPHY discussed the contracts that could be affected by Assembly Bill 1250.

Council Member PEDROZO requested the legislative platform.

Mr. CONWAY stated that Council will receive it in July.

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

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

**No:** 0

**Absent:** 0

**H.6.**

**SUBJECT:** Contract for Summer Camp Services with Boys and Girls Club of Merced

**REPORT IN BRIEF**

Consider approving an agreement with Boys and Girls Club of Merced to provide summer camp services in the amount of \$20,000 for FY 2017-18.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the agreement with the Boys and Girls Club of Merced in the amount of \$20,000 to provide summer camp services; and, authorizing the City Manager or the Assistant City

Manager to execute the necessary documents.

Council Member PEDROZO pulled this item to ask about the benefits of this program and the amount of the contract. He also discussed other youth programs, cost, and duration of the programs.

Assistant to the City Manager Mike CONWAY explained the benefits of the program and the amount of the contract.

Council Member MARTINEZ asked about sponsorships for the Summer Camp Program.

Council Member SERRATTO spoke on a basketball fundraiser that he participated in that benefited the Boys and Girls Club and discussed working with the Boys and Girls Club to provide scholarship opportunities for the Summer Camp Program.

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

**Aye:** 6 - Council Member Belluomini, Council Member Martinez, Council Member McLeod, Council Member Serratto, Mayor Murphy, and Mayor Pro Tempore Blake

**No:** 1 - Council Member Pedrozo

**Absent:** 0

**H.7.**

**SUBJECT: Purchase of a Pierce Quantum Fire Engine with a Pump Under Cab and a Pierce 107 Foot Quantum Tractor Drawn Aerial Utilizing a Government Procurement Program and Waiving the Compleitive Bidding Process**

**REPORT IN BRIEF**

Recommends purchase of one Pierce Quantum Fire Engine with a Pump Under Cab and a Pierce 107 Foot Quantum Tractor Drawn Aerial from Pierce Manufacturing, Inc., using the Houston-Galveston Area Council Government Cooperative Purchasing Program and waiving the bidding threshold.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Authorizing the purchase of one (1) Pierce Quantum Fire Engine with a Pump under Cab with the total purchase price of \$806,029.78 (including equipment); and,

B. Authorizing the purchase of one (1) Pierce Quantum 107' Tractor Drawn Aerial with the total purchase price of \$1,660,937.85 (Including equipment); and,

C. Waiving the competitive bid requirements, in conformance with Section 3.04.210 of the Merced Municipal Code.

D. Authorizing a Supplemental Appropriation in the amount of \$2,466,967.63 to make the purchases and allowing the Interim Finance Officer to make the necessary budget adjustments.

Council Member BELLUOMINI pulled this item to discuss the benefits of a new fire truck.

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

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

**No:** 0

**Absent:** 0

**H.9.**

**SUBJECT: Fiscal Year 2017-18 Annual Special Tax Rates for Community Facilities District (CFD) No. 2003-2 (Services)**

**REPORT IN BRIEF**

Consider setting the Annual Special Tax Rates for Fiscal year 2017-18 for Community Facilities District (CFD) No. 2003-2 (Services) of the City of Merced.

**RECOMMENDATION**

**City Council** - Adopt a motion approving **Resolution No. 2017-32**, a Resolution of the City Council of the City of Merced, California, Acting as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced, Authorizing the Establishment of an Annual Special Tax for Said District for Fiscal Year 2017-18.

Council Member BELLUOMINI pulled this item to ask about the high fund balance of the Compass Point Community Facilities District.

Director of Public Works Ken ELWIN explained the high fund balance for Compass Point Community Facilities District, and stated that some of the

balance would be used for special projects.

Council Member SERRATTO asked about the percentage of the dollar amount that goes to first responders.

Assistant City Manager Stephanie DIETZ stated the percentage of dollars that goes towards first responders.

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

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

**No:** 0

**Absent:** 0

## I. PUBLIC HEARINGS

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

### I.1. **SUBJECT: Public Hearing for Fiscal Year 2017-2018 Proposed Budget**

#### **REPORT IN BRIEF**

Public Hearing to afford the interested public an opportunity to provide input on the content of the 2017-2018 City Council, Public Financing and Economic Development Authority, and Parking Authority Proposed Budget.

#### **RECOMMENDATION**

##### **City Council/Public Financing and Economic Development**

**Authority/Parking Authority** - It is recommended that the City Council/Authorities conduct the Public Hearing and provide direction to the City Manager on the content of the Fiscal Year 2017-2018 Budget; and adopt a motion continuing the Public Hearing to the June 19, 2017 Meeting.

City Manager Steve CARRIGAN spoke briefly on proposals from the Boys and Girls Club, the Bicycle Coalition, Feet Changing Lives, and the UC Merced STEM Program that the City received to be a part of the Fiscal

Year 2017/2018 Budget.

Mayor MURPHY spoke on the proposals that were received and community partnerships.

Council Member BELLUOMINI asked about the amount that was requested from the UC.

Mr. CARRIGAN stated that the request was between \$500- \$5,000.

Council Member PEDROZO asked for clarification on the number of students for the UC Merced STEM Program.

Professor Yanboa MA, University of California Merced School of Engineering - discussed the UC Merced STEM program.

Council Member MCLEOD stated her support for the Bicycle Coalition, Boys and Girls Club, and UC Merced STEM proposals.

Council Member MARTINEZ asked for the total amount of dollars that was requested from the four proposals.

Mr. CARRIGAN stated the total dollar amount that was requested.

Interim Finance Officer Stephanie DIETZ explained the allocation of money requested from the Boys and Girls Club and appropriation of funds for the other three contracts.

Mayor MURPHY opened the Public Hearing at 6:59 PM.

Lisa Keyser-GRANT - thanked the Council for their consideration of the Bicycle Coalition Contract.

Council Member PEDROZO stated his concern with the Boys and Girls Club and Feet Changing Lives contracts. He also stated his support for the Bicycle Coalition and the UC STEM Program. He discussed getting evaluations of the programs the City is supporting.

Council Member BELLUOMINI asked for clarification on the funding for the Parks and Recreation Director. He also spoke on goals and priorities and suggested making the new Police and Fire Stations and industrial businesses as the Council's highest priority. He recommended Council direct staff to include in the budget narratives of each of the relevant departments to state how each department will contribute to making

economic development and the preparation of industrial park sites for new industries an objective and goal for that department.

Ms. DIETZ explained the funding for the Parks and Recreation Director.

Mr. CARRIGAN stated his support of public safety and economic development. He discussed the decrease in crime and homelessness, increase in sales tax revenue, UC Merced investment, and new development.

Mayor and Council Members further discussed Council Member BELLUOMINI's recommendation.

**A motion was made by Council Member Pedrozo, seconded by Mayor Pro Tempore Blake, to continue the Public Hearing to the June 19th Council Meeting and approve the four proposals that were presented. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**Clerk's Note:** Council took a break at 7:41 PM and returned at 7:52 PM.

**I.2.**

**SUBJECT: Public Hearing - General Plan Amendment #16-06, Zone Change #424, and Establishment of Planned Development (P-D) #76 for the Development of 225 Apartment Units and a 6,600-Square-Foot Commercial Building at Yosemite Avenue and Lake Road**

**REPORT IN BRIEF**

This is a request to amend the General Plan Designation for 17.25 acres of land located on the south side of Yosemite Avenue at Lake Road. The General Plan Designation would be changed from Low Density Residential (LD) to High-Medium Density Residential (HMD) for 16.25 acres and to Neighborhood Commercial (CN) for 1.0 acre. The request is also to change the zoning for this property from R-1-6 to Planned Development (P-D) #76 for 14.86 acres and from Planned Development (P-D) #52 to Planned Development (P-D) #76 for 2.39 acres and to establish the development standards for P-D #76.

**RECOMMENDATION**

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**City Council** - Adopt a motion:

A. Approving **Resolution 2017-33**, a Resolution of the City Council of the City of Merced, California, approving a Mitigated Negative Declaration for General Plan Amendment #16-06, Zone Change #424, and the Establishment of Planned Development (P-D) #76 for 17.25 acres generally located on the south side of Yosemite Avenue at Lake Road; and approving General Plan Amendment #16-06 for the same property changing the General Plan Designation from Low Density Residential (LD) to High-Medium Density Residential for 16.25 acres and from Low Density to Neighborhood Commercial (CN) for 1.0 acre; and,

B. Introducing **Ordinance No. 2477**, an Ordinance of the City Council of the City of Merced California, establishing Planned Development (P-D) #76 and amending the Official Zoning Map by rezoning 14.86 acres of land generally located on the south side of Yosemite Avenue at Lake Road from Low Density Residential (R-1-6) to Planned Development (P-D) #76 and 2.39 acres from Planned Development (P-D) #52 to Planned Development (P-D) #76; and approving a developer agreement therefore; and,

C. Authorizing the City Manager or Assistant City Manager to execute the Developer Agreement.

Planning Manager Kim ESPINOSA gave a slide show presentation on the Development of 225 Apartment Units and a Commercial Building.

Council Member MARTINEZ asked about the zoning change.

Council Member BELLUOMINI asked about the sewer and water capacity, shuttle service, and the percentage of cost the City would pay.

Ms. ESPINOSA explained that there is enough capacity to maintain the apartment complex. She discussed that the shuttle service is part of the project. She also explained that the City would be responsible for fifty percent of the traffic signal intersection cost.

Council Member PEDROZO asked about the timeframe for the project to break ground.

Ms. ESPINOSA explained that the developers want to break ground as soon as possible.

Council Member BELLUOMINI spoke about his meeting with the developers of the project and his suggested changes to the site plan and project layout.

Mayor MURPHY opened the Public Hearing at 8:20 PM.

Project Developers John HEINTZ, Greg FISH, Douglas PARSON, Des JOHNSTON, and Jay BLATTER spoke on the development of the 225-apartment complex and the amenities it offers its future residents.

Rick TELEGAN, Fresno - spoke on the sewer and water capacity.

**Clerk's Note:** Copies of documents provided by Rick TELEGAN to the Council are available to be viewed at the Clerk's Office.

Director of Public Works Ken ELWIN discussed the sewer and water capacity.

Council Member BELLUOMINI requested a copy of a map for the North Merced sewer capacity.

Edmond MATHIS, Merced - spoke on swimming lessons.

John PETERSON, Merced - encouraged the council to approve this project.

Casey STEED, Merced - spoke on bike paths along Lake Road.

**Clerk's Note:** Copies of documents provided by Casey STEED to the Council are available to be viewed at the Clerk's Office.

Ms. ESPINOSA spoke on the bike paths pertaining to the development project.

Doug PARSON spoke on the sewer and water capacity.

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

Council Member BELLUOMINI asked about bike path lighting by the driveway. He further discussed the development project.

Ms. ESPINOSA discussed the lighting along the bike path.

John HEINZ discussed that the lighting would come from the carports.

Council Member BELLUOMINI gave a presentation on improving the project. He recommended Council require the apartment floorplans to be

changed to allow access to a restroom from a common living room.

Council Member MCLEOD asked for clarification if the Council were to take Council Member BELLUOMINI's recommendation and what it would mean for the project.

Chief Deputy Attorney Kelly FINCHER stated that it would be a substantial redesign and would have to go back to the Planning Commission and staff for approval, which would result in a substantial delay of the project.

Mayor Pro Tempore BLAKE stated his support for the project.

**A motion was made by Council Member Pedrozo, seconded by Mayor Pro Tempore Blake, to approve Resolution 2017-33, introduce Ordinance 2477, and authorize the City Manager or Assistant City Manager to execute the Developer Agreement. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**Clerk's Note:** Council took a break at 9:24 PM and returned at 9:32 PM.

## J. REPORTS

### J.1.

**SUBJECT:** Maintenance Districts' Engineer's Report and Budgets for Fiscal Year 2017/2018 - Public Meeting

#### REPORT IN BRIEF

Consider public input on the various Maintenance Districts' budgets during the public meeting, without taking action on the determination of assessment levy until the close of the public hearing scheduled for Monday, June 19, 2017.

#### RECOMMENDATION

**City Council** - Adopt a motion seeking public input on the Fiscal Year 2017/2018 Maintenance Districts' budgets, without taking action until the public hearing is closed on June 19, 2017.

Director of Public Works Ken ELWIN gave a brief presentation on the Engineer's report.

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A motion was made by Council Member Pedrozo, seconded by Mayor Pro Tempore Blake, to seek public input and set a Public Hearing for June 19th. The motion carried by the following vote:

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

**No:** 0

**Absent:** 0

## K. BUSINESS

### K.1. SUBJECT: Council Member Serratto's Request to Discuss an Ethics Policy

#### REPORT IN BRIEF

This item is in response to Council Member Serratto's request to discuss an Ethics Policy.

#### RECOMMENDATION

It is requested Council give Staff direction on this item.

Council Member SERRATTO gave a brief presentation on a potential Ethics Policy.

Council Members discussed Council Member SERRATTO's Ethics Policy, gave language suggestions, and recommended bringing this item back to a future Council Meeting.

### K.2. \*Item Added late\* Discussion Adding Downtown Merced Sign to Entry Sign Contest

City Manager Steve CARRIGAN gave a brief presentation on adding a Downtown Merced Sign to the Entry Sign Contest.

Mayor Pro Tempore BLAKE spoke on integrating the original arch sign.

### K.3. Request to Add Item to Future Agenda

Council Member SERRATTO requested adding a preference for using local labor on projects.

### K.4. City Council Comments

Council Member PEDROZO reported on attending the Mercy Gulch Day Event and the Red Nose Day Event.

Council Member MARTINEZ congratulated the graduating class of 2017. He reported on participating in the Mercy Gulch Day Event and the Mayor's Bike Ride.

Council Member SERRATTO reported on attending the Mercy Gulch Day Event and the Youth Council cleanup.

Mayor MURPHY reported on attending the Helping One Woman Dinner and the Police Officer of the Year Recognition Banquet Dinner. He spoke on the hiring of an Executive Director for the Merced County Association of Governments. He also reported on attending the Mercy Gulch Day Event, the Mayor's Bike Ride, the Red Nose Day Event, touring the Tioga Hotel, participating in the community conversations on KYOS radio station, Measure V open house, and the Merced College Graduation.

## L. ADJOURNMENT

**Clerk's Note:** The Regular Meeting was adjourned at 10:15 PM.

**A motion was made by Council Member Pedrozo, seconded by Mayor Pro Tempore Blake, that the Regular Meeting be adjourned. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0



## ADMINISTRATIVE REPORT

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**Agenda Item H.5.**

Meeting Date: 7/5/2017

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**Report Prepared by:** *Faye S. Law, Accountant II*

**SUBJECT:** Amendment to Agreements for Legal Services with Fulbright & Jaworski, L.L.P., to Reflect the Change in Firm Name to Norton Rose Fulbright US, LLP

### REPORT IN BRIEF

Considers approving an Amendment to two Legal Services Agreements with Fulbright & Jaworski, L.L.P., to reflect a change in firm name to Norton Rose Fulbright US, LLP.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Approving Amendment No.1 to the two Agreements for Legal Services to reflect the change of name from Fulbright & Jaworski, L.L.P. to Norton Rose Fulbright US, LLP; and,
- B. Authorizing the City Manager or Assistant City Manager to execute the necessary documents.

### ALTERNATIVES

- 1. Approve as recommended by staff; or,
- 2. Approve, subject to other than recommended by staff (identify specific findings and/or conditions amended to be addressed in the motion); or
- 3. Deny.

### AUTHORITY

Section 200 of the Charter of the City of Merced.

### CITY COUNCIL PRIORITIES

As provided for in the 2017-18 Adopted Budget.

### DISCUSSION

Since 2003, Maryanne Goodkind, an attorney with Fulbright & Jaworski, L.L.P., has been providing legal services to the City regarding the formation of Community Facilities Districts and the annexation of new areas into the existing Community Facilities District No. 2003-2 (Services).

On June 4, 2013, and on March 17, 2014, the City entered into Legal Services Agreements with Fulbright & Jaworski, L.L.P. specialized legal services associated with the City's Community Facilities Districts. Ms. Goodkind recently notified the City that her law firm, Fulbright & Jaworski, L.L.P.

changed their name to Norton Rose Fulbright US, LLP.

Norton Rose Fulbright US, LLP will continue to provide legal services with the same terms and conditions as the original agreements. Amendment No. 1 to each agreement only reflects name change.

### **IMPACT ON CITY RESOURCES**

Amending the Agreements for Legal Services to reflect the change of ownership and company name does not require a budget appropriation or change of staff resources.

### **ATTACHMENTS**

1. Amendment No. 1
2. March 17, 2014 Agreement
3. June 4, 2013 Agreement

**AMENDMENT NO. 1 TO AGREEMENT FOR LEGAL SERVICES**  
**SERVICES COMMUNITY FACILITIES DISTRICT FINANCING PROGRAM**

THIS AMENDMENT NO. 1 TO THE AGREEMENT FOR LEGAL SERVICES (“Amendment”), is made and entered into this \_\_\_\_ day of June, 2017, by and between the CITY OF MERCED (herein called the “City”) and NORTON ROSE FULBRIGHT US LLP (“NRF”).

**WITNESSETH:**

**WHEREAS**, in June 2013, the City and Fulbright & Jaworski L.L.P., a Registered Limited Liability Partnership, entered into that certain Agreement for Legal Services – Services Community Facilities District Financing Program, and in again in February 2014, the City and Fulbright & Jaworski, L.L.P., a member of Norton Rose Fulbright, entered into that certain Agreement for Legal Services – Services Community Facilities District Financing Program (collectively, the “Agreements”) in connection with the financing program for the provision of certain services, including police, fire, parkway, open space and park maintenance, landscaping, storm drainage, and other ongoing services through the formation of and/or annexation to a financing district created by the City, and the levy of special taxes or assessments on property within such future development (the “Financing Program”); and

**WHEREAS**, in January 2015, the name of Fulbright & Jaworski, L.L.P., a member of Norton Rose Fulbright, was changed to Norton Rose Fulbright US LLP; and

**WHEREAS**, the parties to the Agreements desire to amend the Agreements to reflect the current name of the Attorneys (as defined therein).

**NOW, THEREFORE**, the City and NRF hereby amend the Agreements as follows:

**Section 1.** All references in the Agreements to “Fulbright & Jaworski, L.L.P., a Registered Limited Liability Partnership”, shall be changed to “Norton Rose Fulbright US LLP”. All references in the Agreements to “Fulbright & Jaworski, L.L.P., a member of Norton Rose Fulbright”, shall be changed to “Norton Rose Fulbright US LLP”.

**Section 2.** Except as set forth in Section 1, the Agreements shall remain in full force and effect.

4/14/17

**IN WITNESS WHEREOF**, the City has caused this Amendment to be executed in its corporate names, by its duly authorized officers and Attorneys have caused it to be executed in its firm name by one of its duly authorized officers, all as of the day and year first above written.

ATTEST:

CITY OF MERCED

By: \_\_\_\_\_  
Assistant City Clerk

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to Form:

By: Kelly Turner  
City Attorney

NORTON ROSE FULBRIGHT US LLP

By: Maryann L. Goodkind  
Maryann L. Goodkind

## **AGREEMENT FOR LEGAL SERVICES**

### **SERVICES COMMUNITY FACILITIES DISTRICT FINANCING PROGRAM**

THIS AGREEMENT, made and entered into this 17<sup>th</sup> day of ~~February~~ <sup>MARCH</sup>, 2014, by and between the CITY OF MERCED (herein called the "City") and FULBRIGHT & JAWORSKI LLP, Los Angeles, California, a member of Norton Rose Fulbright (herein called "Attorneys");

#### **WITNESSETH:**

**WHEREAS**, in connection with future development within the City, the City intends to continue its financing program (the "Financing Program") for the provision of certain services, including police, fire, parkway, open space and park maintenance, landscaping, storm drainage, and other ongoing services attendant to such future development to meet increased demand upon the City and other public agencies as a result of such future development, through the formation of and/or annexation to a financing district created by the City, and the levy of special taxes or assessments on property within such future development; and

**WHEREAS**, Attorneys have previously assisted the City in connection to the Financing Program with the formation of a community facilities district to provide services and the several annexations thereto, and the City has determined that Attorneys are experienced in providing services as special counsel in proceedings for the formation or annexation of such financing districts, such as the Financing Program, and Attorneys are willing to continue to provide such services to the City;

**NOW, THEREFORE**, the City engages Attorneys and Attorneys accept such engagement upon the following terms and conditions:

#### **ARTICLE I**

##### **DUTIES OF ATTORNEYS**

**Section 1.01. Special Counsel.** Attorneys shall perform and render the following services as Special Counsel:

(a) Confer and consult with the City Manager, Finance Officer, City Attorney, and other members of the City administrative staff (acting in their respective capacities as staff of the City or other entity or district created by the City) and with their financial advisor, bond counsel, special tax consultant, as to any matters relating to the Financing Program.

(b) Attend such meetings of the City and any staff or administrative meetings at which the Financing Program is to be discussed, as Attorneys, in their judgment deem necessary, for the proper implementation of the Financing Program, or as requested by the City.

(c) Participate in sessions and provide material to educate individual landowners participating in the Financing Program about said Financing Program.

(d) Draft the appropriate resolutions, notices, petitions, consents, election material and other certificates to be used in connection with the Financing Program.

(e) Provide any other services reasonably requested of special counsel and not set forth above.

**Section 1.02. Cooperation of City.** The City shall assist Attorneys by making readily available all existing data and other records requested by Attorneys that are pertinent to the work to be performed by Attorneys, including data and records relating to future development and the Financing Program. The City shall also make its personnel reasonably available to Attorneys to provide information pertinent to such work when requested by Attorneys. The City shall also provide such staff assistance as it has personnel available to provide, and as such staff assistance is reasonably requested by Attorney, including assistance from the City Attorney. The City shall also assist Attorneys in by making readily available all existing data and other records requested by Attorneys that are pertinent to the work to be performed by Attorneys.

## **ARTICLE II**

### **COMPENSATION**

**Section 2.01.** Compensation for the foregoing special counsel services set forth in Section 1.01, shall be (a) \$30,000 for the initial formation proceeding of a new district, and (b) \$13,500 for each annexation proceeding of up to three developers or improvement areas, plus \$1,500 for each additional developer or improvement area.

In addition, Attorneys shall be reimbursed for any costs advanced by Attorneys on behalf of the City, including delivery and messenger services, closing costs, duplication costs, printing or posting costs and expenses for travel, not to exceed \$1,500 for each formation or annexation proceeding.

**Section 2.02.** Any services rendered in any litigation involving the City, the entity or district created by the City or the Financing Proceedings are excepted from the services to be rendered for the above compensation. For such services which Attorneys are directed to render for and on behalf of the City, compensation shall be on the basis of reasonable fees to be agreed upon by the City.

## **ARTICLE III**

### **TERMINATION, ABANDONMENT, ASSIGNMENT AND AMENDMENT**

**Section 3.01.** This Agreement may be terminated by either party on reasonable notice to the other. In the event of such termination or abandonment of the Financing Program prior to its consummation, the City shall not be under any obligation to Attorneys, provided, however, that if substantial work has been performed, Attorneys shall be entitled to be compensated on the basis of its regular hourly rates solely from funds deposited or to be deposited with the City from the developers participating in the Financing Program.

**Section 3.02.** This Agreement may be altered or amended in writing by mutual agreement of the parties at any time. You are advised that Attorneys maintain Professional Errors and Omissions insurance coverage applicable to the services which we would be rendering.

**IN WITNESS WHEREOF**, the City has caused this Agreement to be executed in its corporate names, by its duly authorized officers and Attorneys have caused it to be executed in its firm name by one of its duly authorized officers, all as of the day and year first above written.

ATTEST:

CITY OF MERCED

By: Molinsky 3-28-14  
Assistant City Clerk

By: Jan M. Bramble  
Title: CITY MANAGER

Approved as to Form:

By: Gregory J. Diaz 2/18/2014  
City Attorney

FULBRIGHT & JAWORSKI LLP, a member  
of Norton Rose Fulbright

214708 PO 113512  
FUNDS/ACCOUNTS VERIFIED

Jeri L. Albrecht 3/27/14  
FINANCE OFFICE DATE

Funds Available. 11/24/14

150-1164-532-17-00

\$13,500 Annexation  
1,500 Travel Exp. Est.

\$15,000.00

By: Maryann L. Goodkind  
Maryann L. Goodkind



## **AGREEMENT FOR LEGAL SERVICES**

### **SERVICES COMMUNITY FACILITIES DISTRICT FINANCING PROGRAM**

THIS AGREEMENT, made and entered into this 4<sup>th</sup> day of June, 2013, by and between the CITY OF MERCED (herein called the "City") and FULBRIGHT & JAWORSKI L.L.P., A Registered Limited Liability Partnership, Los Angeles, California (herein called "Attorneys");

#### **WITNESSETH:**

**WHEREAS**, in connection with future development within the City, the City intends to continue its financing program (the "Financing Program") for the provision of certain services, including police, fire, paramedic, parkway, open space and park maintenance, landscaping, storm drainage, and other ongoing services attendant to such future development to meet increased demand upon the City and other public agencies as a result of such future development, through the formation of and/or annexation to a financing district created by the City, and the levy of special taxes or assessments on property within such future development; and

**WHEREAS**, Attorneys have previously assisted the City in connection to the Financing Program with the formation of a community facilities district to provide services and the several annexations thereto, and the City has determined that Attorneys are experienced in providing services as special counsel in proceedings for the formation or annexation of such financing districts, such as the Financing Program, and Attorneys are willing to continue to provide such services to the City;

**NOW, THEREFORE**, the City engages Attorneys and Attorneys accept such engagement upon the following terms and conditions:

#### **ARTICLE I**

##### **DUTIES OF ATTORNEYS**

**Section 1.01. Special Counsel.** Attorneys shall perform and render the following services as Special Counsel:

(a) Confer and consult with the City Manager, Assistant City Manager, Finance Director, City Attorney, and other members of the City administrative staff (acting in their respective capacities as staff of the City or other entity or district created by the City) and with their financial advisor, bond counsel, special tax consultant, as to any matters relating to the Financing Program.

(b) Attend such meetings of the City and any staff or administrative meetings at which the Financing Program is to be discussed, as Attorneys, in their judgment deem necessary, for the proper implementation of the Financing Program, or as requested by the City.

(c) Participate in sessions and provide material to educate individual landowners participating in the Financing Program about said Financing Program.

(d) Draft the appropriate resolutions, notices, petitions, consents, election material and other certificates to be used in connection with the Financing Program.

(e) Provide any other services reasonably requested of special counsel and not set forth above.

**Section 1.02. Cooperation of City.** The City shall assist Attorneys by making readily available all existing data and other records requested by Attorneys that are pertinent to the work to be performed by Attorneys, including data and records relating to future development and the Financing Program. The City shall also make its personnel reasonably available to Attorneys to provide information pertinent to such work when requested by Attorneys. The City shall also provide such staff assistance as it has personnel available to provide, and as such staff assistance is reasonably requested by Attorney, including assistance from the City Attorney. The City shall also assist Attorneys in by making readily available all existing data and other records requested by Attorneys that are pertinent to the work to be performed by Attorneys.

## **ARTICLE II**

### **COMPENSATION**

**Section 2.01.** Compensation for the foregoing special counsel services set forth in Section 1.01, shall be (a) \$30,000 for the initial formation proceeding of a new district, and (b) \$13,500 for each annexation proceeding of up to three developers or improvement areas, plus \$1,500 for each additional developer or improvement area.

In addition, Attorneys shall be reimbursed for any costs advanced by Attorneys on behalf of the City, including delivery and messenger services, closing costs, duplication costs, printing or posting costs and expenses for travel, not to exceed \$1,500 for each formation or annexation proceeding.

**Section 2.02.** Any services rendered in any litigation involving the City, the entity or district created by the City or the Financing Proceedings are excepted from the services to be rendered for the above compensation. For such services which Attorneys are directed to render for and on behalf of the City, compensation shall be on the basis of reasonable fees to be agreed upon by the City.

## **ARTICLE III**

### **TERMINATION, ABANDONMENT, ASSIGNMENT AND AMENDMENT**

**Section 3.01.** This Agreement may be terminated by either party on reasonable notice to the other. In the event of such termination or abandonment of the Financing Program prior to its consummation, the City shall not be under any obligation to Attorneys, provided, however, that if substantial work has been performed, Attorneys shall be entitled to be compensated on the basis of its regular hourly rates solely from funds deposited or to be deposited with the City from the developers participating in the Financing Program.

**Section 3.02.** This Agreement may be altered or amended in writing by mutual agreement of the parties at any time. You are advised that Attorneys maintain Professional Errors and Omissions insurance coverage applicable to the services which we would be rendering.

**IN WITNESS WHEREOF,** the City has caused this Agreement to be executed in its corporate names, by its duly authorized officers and Attorneys have caused it to be executed in its firm name by one of its duly authorized officers, all as of the day and year first above written.

ATTEST:

CITY OF MERCED

By: *d. prob*  
Assistant City Clerk

By: *John M. Bramble*  
Title: CITY MANAGER

Approved as to Form:

By: *Ker Reed 5/24/13*  
City Attorney

FULBRIGHT & JAWORSKI L.L.P.  
A Registered Limited Liability Partnership

By: *Maryann L. Goodkind*  
Maryann L. Goodkind

V-12354 213504 PO#: 109769  
FUNDS/ACCOUNTS VERIFIED  
*R. Kelley* 6-3-13  
FINANCE OFFICE DATE

Funding Contingent upon City  
Council Approval of the Developer  
Deposit Appropriation. MK 6/3/13  
150-1164-532-17-00  
\$15,000.00





## ADMINISTRATIVE REPORT

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**Agenda Item H.6.**

Meeting Date: 7/5/2017

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**Report Prepared by:** Jeff Bennyhoff, Director of Information Technology

**SUBJECT:** Agreement for Professional Services with THOR, Inc. for AS/400 Programming Services

### REPORT IN BRIEF

Consider Authorizing a Professional Services Agreement with THOR, Inc. for \$165,000 for AS/400 programming services.

### RECOMMENDATION

**City Council** - Adopt a motion approving Professional Services Agreement with THOR, Inc.; and, authorizing the City Manager or Assistant City Manager to execute the necessary documents.

### ALTERNATIVES

1. Approve as recommended by Staff; or
2. Deny; or,
3. Refer to Staff for further evaluation.

### AUTHORITY

Charter of the City of Merced, Section 200.

### CITY COUNCIL PRIORITIES

As provided for in the 2017-18 Adopted Budget.

### DISCUSSION

In fiscal year 2016/2017 the Information Technology Department utilized Thor Inc., for programming services to support the City's SunGard Enterprise Resource Planning (ERP) system. The Thor Group is a professional staffing agency which specializes in this type of older technology. We utilize a dedicated Thor employee that was formerly a programmer for SunGard through the 1990's. This Thor employee has successfully gained key knowledge and understanding of the City's business processes and systems. This contract will allow the City to continue to utilize this person on a time-and-material basis of \$109/hour to support our modified SunGard software suite.

The Information Technology Department no longer has internal staff with the unique skillset required to support the programmatic changes to the SunGard ERP system. All recruitment efforts have failed to find an applicant with these unique skills. The professional community of people that support this

type of older technology is currently experiencing mass retirement.

The SunGard ERP system was built on technology that was developed in the 1960s and for the past 28 years it has run many of the City's critical business operations, including payroll, utility billing, GMBA, business licenses, building permits, and more. Previously, the I.T. Department had staff members that supported the SunGard software suite and modified the programs to fit the needs of the departments. Both of these employees have retired in the last several years.

The Information Technology Department has proposed in FY17/18 budget to start the process to replace the SunGard ERP system. It is estimated to take 3 to 5 years to complete the process of transitioning off SunGard system to a modern software suite at a cost between \$1.6 million and \$3.2 million. Once this transition has been completed, the IT department expects to fill the vacant position that is being used to fund the Thor agreement.

Note: SunGard recently completed a name change to Superion. Future communications may refer to the software suite as SunGard or Superion.

## **IMPACT ON CITY RESOURCES**

Funding is available in the Fiscal Year 2017-18 approved budget.

## **ATTACHMENTS**

1. Thor Client Services Agreement Consultant Attachment



CLIENT SERVICES MASTER AGREEMENT

(Time and Materials)

Client # 437414  
Client Purchase Order#:  
Master Agreement #:  
Date: 5/9/17

TGI: THOR, INC.  
318 Avenue I., Suite 167  
Redondo Beach, CA 90277  
Tel: (310) 727-1777  
Fax: (310) 727-1770  
E-Mail: davidr@thorgroup.com

Client: City of Merced  
Address: 678 W. 18<sup>th</sup> St  
Merced, CA 95340

The Client has requested that Thor, Inc. (TGI), utilizing TGI's Consultants, fulfill various consultant requirements on an on going basis. With each new consultant requested from client, a client services agreement attachment referencing this Master Agreement number and/or purchase order number is to be done. Each client services agreement attachment provides:

- a. contractor's name
- b. scope of work
- c. under the direction of name
- d. start date
- e. approximate length of assignment
- f. Standard Service Bill Rate
- g. Overtime Service Bill Rate
- h. Double-time Service Bill Rate
- i. Travel expense:
- j. Special Instructions:

TGI may change the Scope of Work upon mutual written agreement with Client of such changes.

Standard Terms and Conditions

1. Client Fees and Conditions:

- a) Fee: In consideration for the services provided by TGI to Client under this Agreement, Client hereby agrees to pay to TGI the fee, on a time and materials basis, at the rate of per hour upon submission of a TGI Consultant Verification Record signed by Client, plus any expenses which have been pre-approved by both TGI and Client.
- b) Consultant Verification Record: Each week Consultant will submit to Client a four-part Consultant Verification Record with the hours Consultant worked in that particular week. For each week TGI's Consultant works, a separate Consultant Verification Record should be used. The week ending date is always Saturday. Client shall verify the hours worked, sign the Consultant Verification Record, and retain the client copy for Client's records. Client's signature on the Consultant Verification Record legally binds Client to pay TGI for those hours. If there are any changes or corrections marked on the face of the Consultant Verification Record, Client must initial them to indicate Client's approval.
- c) Fees: The services of TGI's Consultant will be paid in accordance with each individual Consultant Agreement. The services are billed on a weekly basis for actual hours. Client agrees to pay all TGI net upon receipt of invoice. In the event that payment is extended past forty-five (45) days, Client will be subject to, and agrees to pay, a 1.0% per month late payment charge on the unpaid balance. The Consultant Verification Record signed by Client will detail and act as satisfaction of all work performed.
- d) Cancellation: If Client cancels Consultant's services on the day of engagement prior to Consultant beginning such services, then Client shall pay a four (4) hour minimum charge.
- e) Performance Satisfaction: If client is not satisfied with TGI's performance of the services under this Agreement, then Client must notify TGI in writing, within fourteen (14) days after the completion of the services, specifying in detail the reasons for the dissatisfaction.

2. Consultant's Work Parameters: Client may set the working hours of TGI's Consultant depending upon Client's requirements. An acceptable schedule and work place must be agreed upon between TGI and Client prior to the Consultant starting work. Consultants

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Initials:  
Date:

THOR's Initials: *DAL*  
Date: 5/9/17

must be flexible in their work schedule to meet the Client's/Government's training requirement/schedule. It is Client's responsibility to make any computer system usage time or Client's personnel available to meet the demands of the Scope of Work.

3. Confidentiality:

a) TGI shall keep confidential and not disclose any of Client's confidential or proprietary information. TGI agrees to take the same reasonable steps to safeguard Client's confidential information as TGI uses to safeguard its own confidential or proprietary information. The confidentiality obligations in this Agreement shall not apply to; (1) any information which is, or becomes, available in the public domain through no wrongful act of TGI or its representatives; (2) any information lawfully in the possession of TGI or its representatives prior to their receipt of such information from Client; (3) any information independently developed by TGI or its representatives; (4) any information received by TGI or its representatives from a third party lawfully in possession of such information and having the right to disclose such information; and (5) any information required to be disclosed by law or court order.

b) TGI shall, at no time, have the right to use the trademarks, trade names or service marks of Client, whether existing pursuant to common law or state or federal statutes, without the prior written approval of an executive officer of Client.

c) TGI's Consultant shall not discuss their rate of pay with any member of Client's staff.

d) Client agrees not to discuss TGI's fees or any of the incurred costs charged to TGI by the Consultant with anyone other than a TGI Manager.

e) TGI's Consultants are instructed to abide by the licensing agreements that accompany Client's software.

4. Ownership and Intellectual Property Rights: All work produced pursuant to this Agreement shall be the property of Client, and all intellectual property rights, including but not limited to copyrights, patents and trade secrets, arising from any existing Client-owned or newly created work developed by TGI's Consultants while performing work for Client under this Agreement shall remain Client's property. However, Client is responsible for taking all steps necessary to protect said intellectual property rights including but not limited to affixing appropriate copyright notices, registering copyrights, and applying for patents.

5. Liability: The parties hereto hereby agree that (a) TGI is only providing individual Consultants to Client under the terms of this Agreement, (b) TGI is not warranting or guaranteeing the work performance or work product of such Consultants, (c) Client is solely responsible for defining the Scope of Work, overseeing the work performed by such Consultants, and utilizing and implementing the work produced by such Consultants, (d) TGI has no liability for such Consultants' work product or for such Consultants' errors or omissions present in such work product, (e) TGI shall not be liable for any direct, indirect, incidental, special, punitive, exemplary, or consequential damages (including any loss of profits or loss of business), whether in an action or claim arising in contract, tort or otherwise, resulting from or related to this Agreement or any work performed by Consultant or any work product of Consultant, (f) any claim by Client for damages against TGI must be brought against TGI within six (6) months after the expiration or termination of this Agreement, (g) TGI's maximum liability under this Agreement shall be limited to the aggregate sum accumulated separately by each contractor paid by Client to TGI under this Agreement, specifically applicable to the individual consultant in question. (h) except for the express warranties in this Agreement, TGI DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, and (i) TGI has no responsibility or liability for any computer software developed, written, amended or revised by Consultant, including but not limited to whether or not such computer software performs in accordance with Client's specifications or performs without interruption or error. TGI assumes no liability for consequential, direct or indirect damages resulting from work performed by a TGI Consultant.

6. Performance: TGI and its staff shall use their best efforts to complete the Scope of Work as specified to TGI by Client. In the event that the Client perceives a lack of performance of the Consultant, Client has the right to terminate this Agreement upon written notice to TGI, or to have TGI replace said Consultant, as soon as possible, with another consultant of "like" capabilities.

7. Hiring of Consultant:

a) During the period from the date of this Agreement to the later of one (1) year after the completion of the tasks in the Scope of Work or two (2) years after the date of this Agreement, Client hereby agrees not to solicit or accept for employment (other than through TGI) the TGI Consultant on a permanent, temporary, or contract basis. This applies to any position within Client or its affiliates.

b) Should Client breach Section 7(a), since it would be difficult to determine the amount of damage, Client hereby agrees to pay TGI, as liquidated damages, the greater of an amount equal to 20% of the dollars being earned by Consultant services on a contract basis or 20% of Consultant's first year's full-time permanent employee or consulting compensation if Consultant is hired.

c) Any referrals of additional employment on a permanent, temporary, or contract basis, whether with Client or any other entity, which is made known, directly or indirectly, to TGI's Consultant are deemed referrals to TGI. Therefore, TGI will be entitled to compensation based upon an amount equal to 20% of the first year's compensation of the Consultant hired through such a referral. If the entity to whom that person is referred has not compensated TGI, Client shall be obligated for such charges. This applies for any position in Client's company, division of Client's company or to another company for a period of one (1) year after the completion of tasks in the Scope of Work or two (2) years after the date of this Agreement, whichever is the later.

8. No Assurance: Client acknowledges that it understands that TGI's ability to provide the services hereunder with regard to the Scope of Work is dependent upon many factors outside the control of TGI.

9. Miscellaneous:

a) Entire Agreement: This Agreement constitutes the entire agreement among the parties hereto with regard to the subject matter hereof, and supersedes any and all other agreements, oral or written, among the parties hereto with regard to the subject matter hereof.

b) Amendments: Except as otherwise provided in this Agreement, this Agreement shall not be modified or amended except by an instrument in writing executed by each of the parties hereto.

c) Successors; Assignment: This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. Neither this Agreement nor any interest herein may be transferred, directly or indirectly, or assigned by Client, in whole or in part, without the prior written consent of TGI. Any such transfer or assignment by Client without such TGI prior written consent shall be null and void.

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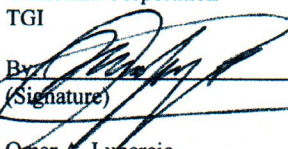
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Date:

THOR's Initials: OAL  
Date: 5/9/17

- d) Waiver: Any waiver of a provision of this Agreement must be in writing signed by the party waiving its rights and shall apply only in the specific instance and for the specific purpose given. The giving of a waiver in one instance or for one purpose shall not create any implied obligation to give a waiver in another instance or for another purpose.
- e) Headings: The headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision of this Agreement.
- f) Severability; Enforceability: If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision shall not be affected thereby.
- g) Applicable Law: This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California (other than principles of conflict of laws). No provision of this Agreement shall be construed against any party by reason of that party having drafted the same.
- h) Attorney's Fees: In the event of any dispute among the parties hereto relating to the subject matter of this Agreement, the out-of-pocket costs and reasonable attorney's fees of the prevailing party shall be paid by the other party in addition to any other relief.
- i) Arbitration: Any equitable relief sought by either party hereto (including injunctive relief) for breach of this Agreement by the other party hereto may be sought by judicial action in a court of competent jurisdiction. Except as set forth in the preceding sentence, any dispute, controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration held in Merced, CA before one (1) arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association then existing, and judgment on the arbitration may be entered in any court having jurisdiction over the subject matter of the controversy. The arbitrator shall not have the power to amend or modify this Agreement. If Client has any dispute, claim, or controversy relating to this Agreement, then Client must notify TGI in writing of such dispute, claim, or controversy within fourteen (14) days after the completion of the Scope of Work or the termination of this Agreement (whichever is earlier), and any such dispute, claim or controversy which is not so presented is barred and waived.
- j) Not an Agent: The parties hereto understand and agree that this Agreement does not make either party hereto an agent or legal representative of the other party hereto for any purpose whatsoever. Consultant does not have, by this Agreement or otherwise, any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of TGI or Client or to bind TGI or Client in any manner whatsoever. Both parties expressly acknowledge that Consultant is retained by TGI and not by Client, and that the parties hereto are not partners or joint ventures.
- k) Notices: All notices and other communications required under this Agreement shall be in writing and shall be sufficient in all respects if personally delivered or sent by registered or certified mail, postage prepaid, or by telecopy (with confirmed receipt), and addressed to the parties at the addresses first listed above. Any notice shall be deemed to have been delivered on the earlier of actual receipt or seventy-two (72) hours after the date it was mailed in the manner described above. Any party may change its address by a notice given to the other party in the manner set forth above.
- l) Expenses: Each party hereto will bear its own expenses incurred in connection with entering into this Agreement, unless otherwise agreed to.
- m) When requested by the Government, Consultants must show proof of a physical exam, Immunization Record or TITER lab results. Cost incurred for these requirements is the responsibility of TGI.

Date: May 9, 2017

THOR, INC.  
California Corporation  
TGI

By:   
(Signature)

Omar A. Lupercio  
(Printed Name)

Thor Contract Administrator  
(Title)

Date: \_\_\_\_\_

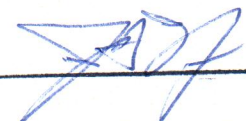
Client: City of Merced

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

APPROVED AS TO FORM:

 5-24-2017

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Date:

THOR's Initials: OAL  
Date: 5/9/17



Client #: 437414  
Client Purchase Order #:  
Master Agreement #  
Job Order # 31515  
Date: May 22, 2017

## Client Services Agreement Consultant Attachment

Reference Master Agreement between THOR, INC. and Client  
For Each Consultant

TGI: THOR, INC.  
318 Avenue I, Suite 167  
Redondo Beach, CA 90277  
Tel: (310) 727-1777  
Fax: (310) 727-1770  
E-mail: [davidr@thorgroup.com](mailto:davidr@thorgroup.com)

Client: City of Merced  
678 W 18<sup>th</sup> St  
Merced, CA 95340

- a. Contractors Name: Ms. Elizabeth Berg
- b. Scope of Work: Assistance with Sungard Naviline System
- c. Under the Direction of: Mr. Jeff Bennyhoff, Director of IT
- d. Approximate Start Date: 7-1-17
- e. Approximate Length of Assignment: 1 year
- f. Standard Service Bill Rate: \$109/hour
- g. Overtime Service Bill Rate: \$109/hour
- h. Double-time Service Bill Rate: \$109/hour
- i. Travel Expense: Client agrees to pay airfare, hotel, rental car and per diem when consultant is required to be onsite.
- j. Special Instructions: Upon execution of this THOR Client Services Master Agreement and Client Services Agreement Consultant Attachment, Thor suggests the execution of Task Vetting and Support Guidelines with City of Merced as well as cover how City of Merced will use the Consultant Verification Record management tool. The twelve (12) month total billing from July 1, 2017 to June 30, 2018 for this assignment is not to exceed \$165,000 without prior approval from both THOR and Client.

Signatures:

Authorized Client Representative

Signature

Name

Title

Date

THOR, INC. Representative

Signature

Omar A. Lupercio

Name

Thor Contract Administrator

Title

May 22, 2017

Date



## ADMINISTRATIVE REPORT

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**Agenda Item H.7.**

Meeting Date: 7/5/2017

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**Report Prepared by:** *Mike Conway, Assistant to the City Manager*

**SUBJECT:** Opposition to Senate Bill 252, Water Wells

### REPORT IN BRIEF

Approve opposition to Senate Bill (SB) 252, Water Wells.

### RECOMMENDATION

**City Council-** Adopt a motion approving staff to oppose SB 252, (Dodd) Water Wells.

### ALTERNATIVES

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

### AUTHORITY

Charter of the City of Merced, Section 200.

### CITY COUNCIL PRIORITIES

As provided for in the 2017-18 Adopted Budget

### DISCUSSION

SB 252, Water Wells, D. Dodd, D-Napa, 5, is another attempt to impose CEQA-like regulations on local governments without using the California Environmental Quality Act. This is another bill that creates an unfunded mandate.

This bill would require for any new municipal wells the City allows that we would have to hold a meeting and provide 10-day notice to property owners within 300-feet of the proposed well. We also would have to adopt an ordinance stating that the City will comply with SB 252.

The bill doesn't clarify how it will work with other ground water regulations in place. Other ambiguous parts of the legislation include who is actually required to conduct the meeting and provide notice, and who is to receive notice.

Staff has provided a letter of opposition to the Senate Committee Chair and will continue to use a variety of methods to oppose the bill that can include letters, phone calls, personal meetings, testimony and media outreach.

Staff plans to bring before Council a complete Legislative platform in August for its discussion and approval. Once a Legislative platform is approved, staff will be able to respond quickly to requests for letters, calls, emails, testimony and to other legislative actions, as needed, based on the adopted platform.

### **IMPACT ON CITY RESOURCES**

No appropriation of funds is needed.

### **ATTACHMENTS**

1. SB 252 Summary
2. SB 252 Opposition Letter

## Introduced by Senator Dodd

February 07, 2017

An act to amend Section 13751 of, to add Sections 106.1 and 10729.4 to, and to add Article 5 (commencing with Section 13807) to Chapter 10 of Division 7 of, the Water Code, relating to groundwater.

## LEGISLATIVE COUNSEL'S DIGEST

SB 252, as amended, Dodd. Water wells.

(1) Existing provisions of the California Constitution declare the policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of these waters is to be exercised with a view to the reasonable and beneficial use of the waters in the interest of the people and for the public welfare. Existing law establishes various state water policies, including the policy that the use of water for domestic purposes is the highest use of water.

This bill would require, in an action alleging liability for interference with a well, reasonableness of each party's beneficial use of water to be determined through consideration of specified factors.

(2) Existing law requires the State Water Resources Control Board to adopt a model water well, cathodic protection well, and monitoring well drilling and abandonment ordinance implementing certain standards for water well construction, maintenance, and abandonment and requires each county, city, or water agency, where appropriate, not later than January 15, 1990, to adopt a water well, cathodic protection well, and monitoring well drilling and abandonment ordinance that meets or exceeds certain standards. Under existing law, if a county, city, or water agency, where appropriate, fails to adopt an ordinance establishing water well, cathodic protection well, and monitoring well drilling and abandonment standards, the model ordinance adopted by the state board is required to take effect on February 15, 1990, and is required to be enforced by the county or city and have the same force and effect as if adopted as a county or city ordinance.

This bill would require an applicant for a new well permit in a city or county overlying a critically overdrafted basin, as defined, and where the proposed well is located within a critically overdrafted basin, to comply with certain requirements as part of an application for a well permit. The bill would require a city or county that receives an application for a well permit in a critically overdrafted basin to make certain information about the new well included in the application for a well permit available to groundwater sustainability agencies and publicly available and easily accessible and, before issuing any new well permit, to undertake a notice and comment period that includes a noticed public ~~hearing~~, *meeting*, as prescribed. The bill would authorize a city or county to issue a *new* well permit ~~pursuant to an adopted ordinance~~ *within a critically overdrafted basin* when these requirements have been met. By increasing the duties of cities and counties, this bill would impose a state-mandated local program.

(3) Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the department and designated as subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The act authorizes the department to provide technical assistance to any groundwater sustainability agency in response to that agency's request for assistance in the development and implementation of a groundwater sustainability plan.

This bill would require the department to provide cities and counties overlying a critically overdrafted basin with ongoing technical assistance to implement the provisions described in paragraph (2).

(4) Existing law requires a person who digs, bores, or drills a water well, cathodic protection well, groundwater monitoring well, or geothermal heat exchange well, or abandons or destroys a well, or deepens or reperforates a well, to file a report of completion, containing certain required information, with the department. Under existing law, the failure to comply with this requirement or the willful and deliberate falsification of a report of completion is a misdemeanor.

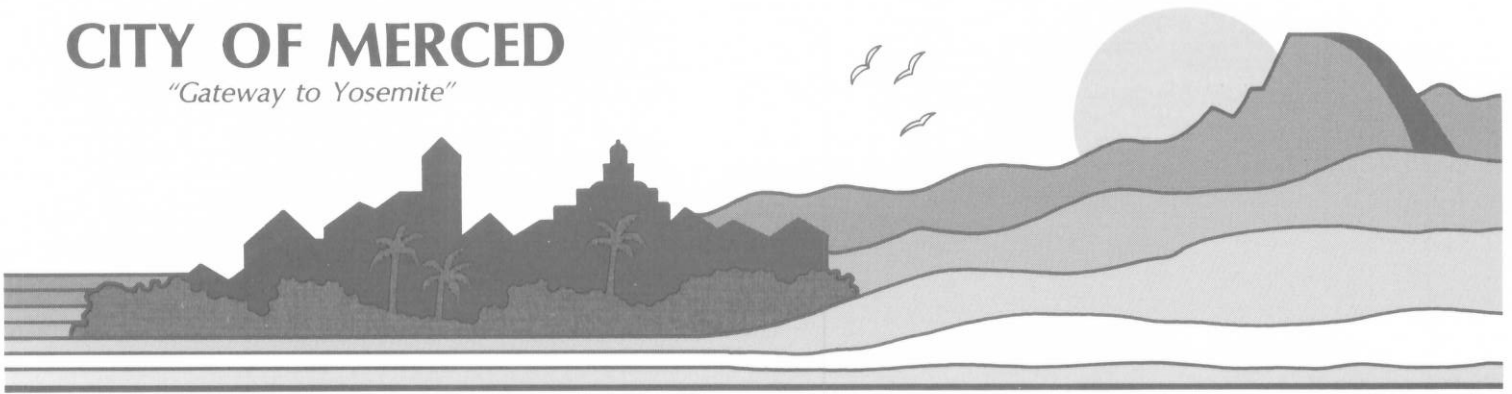
This bill would require a well completion report for a water well in a city or county overlying a critically overdrafted basin to include certain additional information, including, among other things, the proposed capacity, estimated pumping rate, anticipated pumping schedule, and estimated annual extraction volume. By adding to reporting requirements, the violation of which is a crime, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

# CITY OF MERCED

"Gateway to Yosemite"



June 15, 2017

The Honorable Eduardo Garcia  
Chair, Assembly Committee on Water, Parks and Wildlife  
1020 N Street, Room 160  
Sacramento, CA 95814  
FAX: (916) 319-2156

RE: SB 252 (Dodd) Well Water.

Notice of Opposition (*as amended 06/14/17*)

Dear Assemblyman Garcia:

The City of Merced is opposed to SB 252 (Dodd) because it is another unfunded mandate that will add an extra layer of bureaucracy to local government without improving transparency for our residents.

The City of Merced doesn't allow any new wells within City limits except City-owned municipal water wells. SB 252 essentially requires the City of Merced to issue itself a permit to install a new municipal water well, the ultimate in bureaucracy. We are moving forward with implementing the Sustainable Groundwater Management Act and our Groundwater Sustainability Plan, and this bill is only imposes more unnecessary regulations without writing a sunset clause for 2020.

This is another attempt at imposing CEQA-like requirements for issuing well permits without using CEQA. The meeting requirements in the bill could conceivably result in the denial of a much-needed water well in our community that only has groundwater as a drinking water source. A comment period would be a better way to obtain community input and allow the public an opportunity to air their concerns. The City already notifies the people surrounding a well site and mitigates the impact from wells.

We agree with our neighbors at Merced County, that when the State's Sustainable Groundwater Management Act was implemented, it was done with the understanding that groundwater is best managed at the local level.

We are opposed to SB 252 as it applies to municipal water wells and the added layers of regulations it will impose.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephanie Dietz", written in a cursive style.

Stephanie Dietz, Acting City Manager  
City of Merced

cc: Chief Consultant, Catherine Freeman, Chief Consultant, Assembly Water, Parks  
and Wildlife Committee, fax 916-319-2196  
Senator Anthony Cannella  
Assemblyman Adam Gray  
Stephen Qualls, Regional Public Affairs Manager  
Erin Evans-Fudem, League of California Cities  
Jim Brown, Merced County CEO  
Meg Desmond, League of California Cities, [mdesmond@cacities.org](mailto:mdesmond@cacities.org)



ADMINISTRATIVE REPORT

Agenda Item H.8.

Meeting Date: 7/5/2017

**Report Prepared by:** Lance Eber, Crime Analyst, Police

**SUBJECT:** 2017 California Department of Alcoholic Beverage Control Grant Assistance Program

**REPORT IN BRIEF**

Accept grant funds for costs associated with conducting enforcement operations to reduce underage drinking and alcohol related crimes.

**RECOMMENDATION**

**City Council** - Adopt a motion:

- A. Adopting **Resolution 2017-38**, accepting a grant award from the California Department of Alcoholic Beverage Control Grant Assistance Program; and,
- B. Accepting and increasing the revenue budget in account 001-1002-324.02-0 by \$38,641, and appropriating the same amount in Police Operations Division 001-1002; and,
- C. Authorizing the use of pooled cash until reimbursement from the grant is received; and,
- D. Authorizing the City Manager or Assistant City Manager to execute the necessary documents.

**ALTERNATIVES**

- 1. Approve, as recommended by Staff; or,
- 2. Deny; or,
- 3. Refer to Staff for reconsideration of specific items (specific items to be addressed in the motion).

**AUTHORITY**

Charter of the City of Merced, Section 200.

**CITY COUNCIL PRIORITIES**

As provided for in the 2017-18 Adopted Budget.

**DISCUSSION**

The Department of Alcoholic Beverage Control (ABC) is offering grant funding to law enforcement agencies to enforce underage drinking and reduce crime in and around licensed establishments that operate in a disorderly manner causing an undue burden on law enforcement services and disrupting the quality of life for the surrounding community. The grant is funded through the California Office Traffic Safety (OTS) that disperses funds to ABC to offer grant funding. The City of Merced Police

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Department (MPD) submitted its application to ABC for funding to operate educational and enforcement projects for the grant period October 1, 2017 - September 30, 2018. ABC is awarding grant funds to the MPD in the amount of \$38,641. Hence, the MPD is seeking Council approval to accept the grant funds.

ABC has developed a mini-grant program that the MPD will use to reduce the problems of underage drinking and disorderly conduct around licensed premises. Programs as part of the mini grant include: LEADS (Licensee Education on Alcohol and Drugs) is a prevention and educational program for retail licensees, their employees, and applicants; and, MINOR DECOYS to check on whether licensees are selling alcohol to minors; and, the SHOULDER TAPS method in which a person under the age of 21 solicits another person to purchase and furnish them with alcoholic beverages; and, IMPACT (informed Merchants Preventing Alcohol-Related Crime Tendencies) inspections of "on-sale" and "off-sale" licensed locations; Other operations include ROSTF (Retail Operating Standards Task Force) inspections of businesses to ensure compliance with ABC regulations; TRAP DOOR operation that targets minors who try to purchase alcohol or try to enter a bar or club with false identification; and PREVENT that is a party patrol operation where officers investigate disturbances of parties to see if hosts are knowingly providing alcohol to minors.

The grant requires MPD to produce regular press releases to inform the public of the successes of the grant.

The award includes the below budgeted items:

- Personnel Benefits to conduct operations while on overtime status = \$31,641
- "Buy Money" = \$2,500
- Equipment/Supplies = \$2,500
- Travel to a mandated training conference = \$2,000
- TOTAL AWARD = \$38,641 / Match Amount = \$0

This grant does not have money set aside for regular/full time officer salaries. It is strictly a grant for reimbursement of overtime expenses related to conducting the enforcement operations.

This grant is 100% fully funded and no matching funds will be needed from the City of Merced. It is a reimbursable grant. The City of Merced pays the employees for the overtime and reimbursement claims are submitted every other month to ABC to recover the costs.

The MPD received a similar grant for the period of 7/1/10 - 6/30/11, 7/1/12 - 6/30/13, 10/1/14 - 9/30/15, 10/1/15 - 9/30/16, and 10/1/16 - 9/30/17

## **IMPACT ON CITY RESOURCES**

The required expenditures are 100% fully funded by the California Office of Traffic Safety Alcoholic Beverage Control division. There is no required match or impact on General Funds.

## **ATTACHMENTS**

1. Copy of OTS/ABC Standard Agreement

2. Resolution 2017-38

AGREEMENT NUMBER

**17G-LA24**

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

CONTRACTOR'S NAME

City of Merced through the Merced Police Department

2. The term of this Agreement is: July 1, 2017 through June 30, 2018

3. The maximum amount of this Agreement is: \$ 38,641

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work 4 page(s)

Exhibit B – Budget Detail and Payment Provisions 3 page(s)

Exhibit C\* – General Terms and Conditions GTC 610

Check mark one item below as Exhibit D:



Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)

1 page(s)



Exhibit - D\* Special Terms and Conditions

Exhibit E – Additional Provisions

page(s)

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.  
These documents can be viewed at [www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx](http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx)

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**CONTRACTOR**

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Merced through the Merced Police Department

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Steven S. Carrigan, City Manager

ADDRESS

611 W 22nd Street  
Merced, CA 95340

**STATE OF CALIFORNIA**

AGENCY NAME

Department of Alcoholic Beverage Control

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Patty Nelson, Chief, Business Management Branch

ADDRESS

3927 Lennane Drive, Suite 100, Sacramento CA 95834

California Department of General  
Services Use Only

☒ Exempt per: SCM 4.04.(A)(3)

CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
Agreement No. 17G-LA24

Account Number: N/A

Amount: N/A

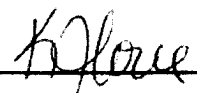
VERIFIED

BY:   
for Finance Officer

FINANCE ENTRY	
Contract No:	<u>300381</u>
Vendor Number:	<u>N/A</u>
P.O. Number:	<u>N/A</u>
Funds Available:	<u>No funds to encumber</u>
<u>REV 06/20/17</u>	

MR # 184336 FC 6/21/17

APPROVED AS TO FORM:

 6/13/17

# SCOPE OF WORK

## SUMMARY

**Agency Description:** The Merced Police Department (MPD) is located in the City of Merced, County of Merced, and State of California. The MPD employs 132 employees (sworn and civilian staff) working in various assignments throughout the agency. The agency currently has a total number of 94 sworn personnel in various positions and assignments to accommodate a wide range of service applications to meet the public safety objectives for our communities.

The agency's hierarchy is currently comprised as follows: Chief of Police, two Captains, three Lieutenants, and eleven Sergeants who oversee the various Units. This includes the Gang Violence Suppression Unit, Investigations, Patrol, Crime Scene Response Team, Bomb Unit, K-9 Unit and Arson Investigations.

Our agency is currently funded to operate an ABC Mini-Grant. Additionally, MPD has operated grants from the USDOJ and the CA Office of Traffic Safety.

**Funding Requested:** The MPD respectfully submits its proposal to the Department of Alcoholic Beverage Control (ABC) to apply for ABC funds in the amount of \$58,803.

**Goals and Objectives:** Merced Police Department staff personnel and officers are committed to strong enforcement efforts in identifying and addressing problems with alcohol related crimes. This includes licensed establishments that operate in an unlawful manner and problems associated with adults assisting under aged drinkers in accessing alcohol. These crimes create an undue burden on our law enforcement services and create problems that affect the quality of life of citizens in the surrounding communities. The MPD officers assigned to this project will work closely with ABC investigators and receive training in ABC law, alcohol enforcement strategies, and community resources.

The strategic operation that we will conduct are: IMPACT (Informed Merchants Prevention Alcohol-Related Crime Tendencies), LEAD (Licensee Education on Alcohol and Drugs), MINOR DECOY, ROSTF (Retail Operating Standards Task Force), SHOULDER TAP, and TRAP DOOR. The Department also understands the significance of house parties where individuals legally purchase alcohol and in turn allow underage persons to drink on the premises. To address this problem, the Department will use City of Merced Municipal Code and other ABC programs including PREVENT to actively arrest persons who host these parties and allow underage persons to have access to alcohol.

**ABC Licensed Locations:** As of March 2014, there are ninety-one (91) on-sale licensed businesses and seventy-two (72) off-sale licensed businesses in the City of Merced.

## PROBLEM STATEMENT

In 2016, the MPD arrested 17 underage persons for possession of alcoholic beverages and 35 persons for providing alcohol to a minor. We responded to 1,541 calls for service related to disturbances of noise involving parties or loud music. The MPD arrested 172 adults and 3 juveniles for public intoxication and/or drinking on the street. There were 77 collisions where

## SCOPE OF WORK

alcohol was involved that injured 40 people. The MPD arrested 255 adults and 8 juveniles for DUI. Alcohol related crimes continue to have an impact on the City of Merced. Due to minimum staffing levels, budgetary issues, and responding to an average of 200 calls for police service per day, our agency has not been able to specifically deal with these alcohol related crimes along with violations by on and off-sale alcohol licensees without grant funding.

On a regular basis, MPD officers respond to the local bars regarding patrons fighting, major assaults, and even collisions occurring inside or in front of the on-sale alcoholic beverage businesses. Persons directly involved in the collisions were determined to be intoxicated. The on-sale alcoholic beverage businesses have on-site security to maintain a level of organization of the patrons entering the bars and to prevent disorderly conduct of the patrons from occurring inside and outside the bars. But, there are times that the onsite security staff create more problems for us due to their lack of skills in law enforcement.

The MPD continually responds to a high volume of disturbance calls related to house parties and loud parties. Often, Officers find underage persons who have consumed alcoholic beverages. Legal aged drinkers are purchasing alcohol and are taking these beverages back to the private residences. In turn, these individuals are allowing underage persons to have access to the alcohol.

Merced is home to the University of California (UC), Merced that opened in September 2005. Although the campus is located 4 miles outside the city limits, it impacts our agency's effectiveness on alcohol enforcement. The 2016/17 student enrollment was over 7,300 and enrollment increases each year. Of those students, 2,200 lived directly on campus and another 450 lived in UC hosted apartment complexes within our city limits. The UC doesn't keep track of the number students living within the city limits in non-UC hosted residences such as rental homes or other apartment complexes. That leaves over 4,500 students living in our community and nearby communities. The UC is unique in that it has its own police department that assists with UC related incidents in our jurisdiction. But, with the UC located outside the city limits and isolated from the non-school options for entertainment, restaurants, and retail establishments, the students come to the city limits for these purposes. Unfortunately, some of the underage students will engage in the consumption of alcoholic beverages.

The MPD is currently running an ABC Mini-Grant. During the first 5 months of operations, 5 businesses have been cited for selling alcohol to minors and 2 adults have been cited for buying alcohol for minors. During 2016, MPD responded to over 20 calls for service for parties hosted by UC students. All of these calls originated from residents living in the neighborhood.

## PROJECT DESCRIPTION

The MPD will implement the following programs to effectively enforce, educate, and prevent alcohol related crimes. All programs will require documentation that details the dates, times, locations, and results (compliance and/or violations) of each operation to determine and measure their effectiveness. Prior to each operation, training is provided to officers working the operation along with the decoys if relevant. Press releases will be issued following each operation.

## SCOPE OF WORK

IMPACT (Informed Merchants Prevention Alcohol-Related Crime Tendencies) is a program that will promote the prevention or reduction of alcohol-related crime through education. Our officers will conduct inspections of licensed establishments that sell alcoholic beverages (on and off-sale) to determine whether the businesses are in compliance with alcohol laws. Officers will provide the merchants with information regarding laws and rules that regulate the sale of alcoholic beverages. If any business is discovered during an inspection to not be in compliance to alcohol laws, the licensees will be directed to make the corrections. Within a reasonable period of time, an officer will re-inspect the business for compliance. Officers will conduct periodic follow-up visits for compliance checks. We plan to conduct two (2) operations for three (3) hours each.

LEAD (Licensee Education on Alcohol and Drugs) is a program that provides training to off-sale retail licensees, employees, and applicants pertaining to various forms of identifying, detecting and preventing illegal activity regarding alcohol responsibility and the law. Officers will work closely with the Alcoholic Beverage Control to conduct these trainings. We plan to conduct two (2) operations for one (1) hour each.

MINOR DECOY is an effective program that the MPD used successfully in the past. Decoys (persons under 21 years old) are used to check whether licensees will sell alcohol to them. Officers and decoys divide into teams to work numerous locations simultaneously to eliminate the possibility of licensees alerting each other of the operation in effect. A citation will be completed for violations and all documentation will be forwarded to the ABC. The team leader will take photographs of the licensees' business and posted license. All businesses where the decoys are deployed will be documented whether a violation occurred or did not occur. This information will track the compliance rate of the licensee alcohol sale establishments. We plan to conduct three (3) operations for five (5) hours each.

ROSTF (Retail Operating Standards Task Force) focuses on the goal to educate, deter, detect, and bring retail licensed businesses and bars that sell alcoholic beverages into compliance with laws that address public nuisance problems within communities. Officers will work closely with ABC to gather evidence of specific violations of section 25612.5 B&P. Officers will enforce laws that require licensees to remove litter daily, remove blight or graffiti, provide adequate exterior illumination, and keep their windows and doors clear of excessive signage. We plan to conduct two (2) operations for three (3) hours each.

SHOULDER TAP is a program that uses persons under the age of 21 to be a decoy to solicit an adult to purchase or furnish them with alcoholic beverages. The solicitations take place outside of the ABC licensed stores. Each decoy will be under the direct supervision of officers working the operation. Adults who purchase or furnish the decoy with alcoholic beverages will be issued a citation or booked into jail for the violation. Photographs will be taken of the decoy, the person who provided the alcohol to the minor, and also of the business establishment where the violation occurred. A press release will be completed and provided to the media for publication. The purpose of this program is to deter adults from purchasing alcoholic beverages and then providing the beverages to underage youth. We plan to conduct three (3) operations for five (5) hours each.

TRAP DOOR is a program that specifically targets minors who try to purchase alcoholic beverages

## SCOPE OF WORK

or try to enter a bar or night club with a false identification. Officers will be properly trained to detect false identifications at the licensed establishments. They will work closely with the doormen or security at the establishments to be called or notified to check an identification to determine its validity. If the patron is a minor who produces a false identification, the minor will be arrested, photographed, and booked into the appropriate detention facility. The false identification will be logged into evidence at the police station. The goal of the program is to generate a lasting level of voluntary compliance to alcohol laws by ABC licensed businesses throughout the jurisdiction of the City of Merced. Efforts during the extent of this project will be to reduce opportunities for minors to purchase and obtain alcoholic beverages through solicitations. We plan to conduct three (3) operations for five (5) hours each.

PREVENT is a program run in collaboration with other existing decoy programs. After one of the aforementioned decoy programs is completed, the officers will then focus their attention to police calls for service regarding disturbances of loud parties. Officers will respond and investigate if the host of these parties has knowingly provided alcoholic beverages to a minor. The MPD will use undercover officers to enter a private party within legal and officer safety restrictions. Upon seeing a violation, the officers will take action. The goal is to reduce adults having parties and allowing underage persons to drink. After completion of the investigation, officers will take appropriate action and seek legal sanction against the offender. We plan to conduct three (3) operations for four (4) hours each.

Along with these operations, the MPD has the commitment of the District Attorney's Office and the City Attorney's Office to continue to file cases related to crimes regarding underage alcohol. California statute violations to go the DA's Office; while, Merced Municipal Code violations go to the City Attorney's Office. In addition, the University of California of Merced Police Department and Student Services will remain involved in student discipline with incidents involving their students in regards to alcohol and parties within our city limits.

### PROJECT PERSONNEL

Personnel carrying out the grant operations will be one (1) Sergeant coordinating the assignment of officers to work the operations on an overtime basis. The target is to have six (6) Officers working each operation along with the one (1) Sergeant. Officers will be designated to provide the initial ABC training to licensees, managers, employees, and applicants of retail stores and bars. All officers involved in this project will work closely with ABC investigators and receive training in ABC law, alcohol enforcement strategies, and community resources.

Officers working this project will become knowledgeable of ABC law, alcohol enforcement strategies, and community resources to convey the information to other officers within our agency and other allied law enforcement agencies. Funding from this grant will enable the MPD to launch an aggressive and vigorous effort to deal with alcohol related problems within our jurisdiction.

Personnel that will be assigned to work this grant include: Deborah Richardson, Finance Department; Lance Eber, Crime Analyst/Grant Director; Captain Chris Goodwin; Sergeant Alan Ward; and depending upon the day, officers that are available to work the operation.

# BUDGET DETAIL

Exhibit B

BUDGET CATEGORY AND LINE-ITEM DETAIL	COST (Round budget amounts to nearest dollar)
<b>A. Personnel Services (Straight Time Salaries, Overtime, and Benefits)</b>	
<b>A.1 Straight Time</b>	\$0.00
<b>A.2 Overtime</b>	
One (1) Sergeant Overtime Rate @ \$71.37 x 71 hours	\$5,067
Six (6) Sworn Officers Overtime Rate @ \$57.10 x 71 hours/officer	\$24,325
<b>A.3 Benefits</b>	
One (1) Sergeant @ 7.65% x \$5,067	\$388
Six (6) Sworn Officers @ 7.65% x \$24,325	\$1,861
<b>TOTAL PERSONNEL SERVICES</b>	\$31,641
<b>B. Operating Expenses (maximum \$2,500)</b>	
"Buy Money" is needed to conduct the operations. Receipts and associated transaction documents will be retained/managed for proper documentation.	\$2,500
<b>TOTAL OPERATING EXPENSES</b>	\$2,500
<b>C. Equipment (maximum \$2,500)</b>	
(Attach receipts for all equipment purchases to monthly billing invoice)	
Surveillance equipment such as wire, cameras, and/or alcohol sensing equipment	\$2,500
<b>TOTAL EQUIPMENT</b>	\$2,500
<b>D. Travel Expense/Registration Fees (maximum \$2,500)</b>	
(Registration fee for July 2017 GAP Conference attendee is \$275 each)	
(2) attendees' registration fee for conference X \$200 each	\$400
Travel, per diem, and lodging for conference	\$1,600
<b>TOTAL TRAVEL EXPENSE</b>	\$2,000
<b>TOTAL BUDGET DETAIL COST, ALL CATEGORIES</b>	\$38,641

## PAYMENT PROVISION

## Exhibit B

Page 1 of 2

1. **INVOICING AND PAYMENT:** Payments of approved reimbursable costs (per Budget Detail attached) shall be in arrears and made via the State Controller's Office. Invoices shall be submitted in duplicate on a **monthly basis** in a format specified by the State. Failure to submit invoices and reports in the required format shall relieve the State from obligation of payment. Payments will be in arrears, within 30 days of Department acceptance of Contractor performance, pursuant to this agreement or receipt of an undisputed invoice, whichever occurs last. Nothing contained herein shall prohibit advance payments as authorized by Item 2100-101-3036, Budget Act, Statutes of 2017.
2. Revisions to the "Scope of Work" and the "Budget Detail" may be requested by a change request letter submitted by the Contractor. If approved by the State, the revised Grant Assistance Scope of Work and/or Budget Detail supersede and replace the previous documents bearing those names. No revision can exceed allotted amount as shown on Budget Detail. The total amount of the contract must remain unchanged.
3. Contractor agrees to refund to the State any amounts claimed for reimbursement and paid to Contractor which are later disallowed by the State after audit or inspection of records maintained by the Contractor.
4. Only the costs displayed in the "Budget Detail" are authorized for reimbursement by the State to Contractor under this agreement. Any other costs incurred by Contractor in the performance of this agreement are the sole responsibility of Contractor.
5. Title shall be reserved to the State for any State-furnished or State-financed property authorized by the State which is not fully consumed in the performance of this agreement. Contractor is responsible for the care, maintenance, repair, and protection of any such property. Inventory records shall be maintained by Contractor and submitted to the State upon request. All such property shall be returned to the State upon the expiration of this contract unless the State otherwise directs.
6. If travel is a reimbursable item, the reimbursement for necessary traveling expenses and per diem shall be at rates set in accordance with Department of Personnel Administration rates set for comparable classes of State employees. No travel outside of the State of California shall be authorized. No travel shall be authorized outside of the legal jurisdiction of Contractor without prior authorization by the State.

## PAYMENT PROVISION

## Exhibit B

Page 2 of 2

7. Prior authorization by the State in writing is required before Contractor will be reimbursed for any purchase order or subcontract exceeding \$2,500 for any articles, supplies, equipment, or services to be purchased by Contractor and claimed for reimbursement. Contractor must justify the necessity for the purchase and the reasonableness of the price or cost by submitting three competitive quotations or justifying the absence of bidding.
8. Prior approval by the State in writing is required for the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop or conference, and over any reimbursable publicity or educational materials to be made available for distribution. Contractor is required to acknowledge the support of the State whenever publicizing the work under the contract in any media.
9. It is understood between the parties that this contract may have been written before ascertaining the availability of appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contracts were executed after that determination was made.
10. **BUDGET CONTINGENCY CLAUSE** - It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

Updated 1/27/17

### Special Terms and Conditions

1. Disputes: Any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Director, Department of Alcoholic Beverage Control, or designee, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Department shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the State a written appeal addressed to the Director, Department of Alcoholic Beverage Control. The decision of the Director of Alcoholic Beverage Control or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of the contract and in accordance with the decision of the State.
2. Termination Without Cause: Either party may terminate this agreement at any time for any reason upon ten (10) days written notice. No penalty shall accrue to either party because of contract termination.
3. Contract Validity: This contract is valid and enforceable only if adequate funds are appropriated in Item 2100-101-3036, Budget Act of 2017, for the purposes of this program.
4. Contractor Certifications: By signing this agreement, Contractor certifies compliance with the provisions of CCC 307, Standard Contractor Certification Clauses. This document may be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx> .
5. If the State determines that the grant project is not achieving its goals and objectives on schedule, funding may be reduced by the State to reflect this lower level of project activity.

Updated 1/27/17

**RESOLUTION NO. 2017-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
ACCEPTING A GRANT AWARD FROM THE  
CALIFORNIA DEPARTMENT OF ALCOHOLIC  
BEVERAGE CONTROL GRANT ASSISTANCE  
PROGRAM**

WHEREAS, The City of Merced desires to undertake a certain project designated as Department of Alcoholic Beverage Control Grant Assistance Program to be funded in part from funds made available through the Grant Assistance Program (GAP) administered by the Department of Alcoholic Beverage Control (hereinafter referred to as "ABC").

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

SECTION 1. The City Manager or designee of the City of Merced is authorized to execute on behalf of the City of Merced the Agreement attached hereto as Exhibit "A," including any extension or amendments thereof and any subsequent agreement with the State in relation thereto.

SECTION 2. It is agreed that any liability arising out of the performance of this Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The State of California and ABC disclaim responsibility for any such liability.

SECTION 3. The grant funds received hereunder shall not be to supplant expenditures controlled by this body.

SECTION 4. This award is not subject to local hiring freezes.

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2017, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:  
STEVE CARRIGAN, CITY CLERK

BY: \_\_\_\_\_  
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

K. Flores 6-13-17  
City Attorney Date



ADMINISTRATIVE REPORT

Agenda Item H.9.

Meeting Date: 7/5/2017

**Report Prepared by:** Kimberly Nutt, Planning Technician II; Development Services

**SUBJECT:** City-Owned Real Property Request #17-05 for Use of Bob Hart Square (Merced Center for the Performing Arts and Playhouse Merced)

**REPORT IN BRIEF**

Consider allowing the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, by the Merced Center for the Performing Arts and Playhouse Merced for their annual fundraiser gala (includes the serving of alcohol).

**RECOMMENDATION**

**City Council** - Adopt a motion approving the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, for a fundraiser gala, to include the serving of alcohol; subject to the conditions outlined in the administrative staff report.

**ALTERNATIVES**

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

**AUTHORITY**

Merced Municipal Code, Section 9.12.020 - Serving or drinking liquors on street:

*"It is unlawful, and a misdemeanor, subject to punishment in accordance with Chapter 1.12 of the Code, for any person to serve, drink, consume, or have in his/her possession an open container containing any spirituous, vinous, malt, or any other intoxicating liquors in or upon any of the streets, sidewalks, alleys, parks, parking lots, or any public place in the city, unless otherwise permitted by the Merced Municipal Code or authorized by the city council."*

**CITY COUNCIL PRIORITIES**

Not applicable.

**DISCUSSION**

Background

Each year, Playhouse Merced and the Merced Theater for the Performing Arts hold a major

fundraiser dinner in Bob Hart Square, which includes fine dining provided by Five Ten Bistro and live on-stage entertainment by Playhouse Merced's favorite local stars. Each year, a different theme is costumed and performed, including 2015's "Night at the Opry" and 2016's "Playhouse Merced Goes Hollywood." This year's theme, although costumes are not planned, will be a celebration of the past and present of the 50's Broadway.

#### Description

The Merced Center for the Performing Arts (MCPA) and Playhouse Merced are requesting use of Bob Hart Square, located at the intersection of W. Main and Canal Streets, for this year's annual gala fundraiser (Attachment 1).

The gala event is scheduled to begin on Saturday, August 19, 2017, at 6:00 p.m. and the last guest is expected to leave by 11:00 p.m. However, to allow for the construction and take-down of a stage and lighting and the dining area, the use of the park is requested from 6:00 a.m. to 1:00 a.m. the next morning (Sunday, August 20, 2017).

Included in the site plan for the event will be a stage and backstage area, a full beer/wine/liquor bar, a check-in station, and 40 dinner tables (8 chairs per table), with the entire area surrounded by fencing (Attachment 2).

At the eastern and northeastern perimeter of the event, the applicants will use 6-foot-high screened temporary cyclone fencing, and the northern side of the park will utilize the City's existing wrought-iron perimeter fencing. The wide, easternmost walkway immediately adjacent to Pinocchio's restaurant and retail/office spaces alongside the park will remain open for non-attendee pedestrians passing from W. Main to W. 16<sup>th</sup> Street and the parking lots.

Security personnel will be posted at each entrance/exit in the perimeter fencing, with the main intake being at the southeastern corner of the event area nearest the parking lots at West 16<sup>th</sup> and Canal Streets, where most guests are expected to park. The applicant will also have "floating" security guards inside the event. The applicant expects approximately 320 guests to attend the event. The Police Department requires security at a minimum of one security personnel per 50 attendees (Condition #8).

Amplified music and loudspeaker activity will end at approximately 10:00 p.m., in respect of the nearby residential lofts (Condition #15).

#### Serving of Alcoholic Beverages in City Parks

Alcohol service will be provided by the Playhouse Merced, to include beer, wine, and liquor specialty drinks. A temporary one-day event alcohol license (Type 77 or suitable) shall be obtained through the California Bureau of Alcohol Control (ABC) by the applicant and a copy provided to Planning staff prior to the event (Condition #14).

The "floating" and entrance/exit security guards will be patrolling through the area during the event to ensure that the requirements of the ABC alcohol permit are in compliance with regards to underage drinking and that no alcohol beverages are carried past the perimeter fence.

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The applicants' request to use the park must be reviewed and approved by the City Council, per Merced Municipal Code (MMC) 9.12.020, which requires Council authorization for any alcohol served in any City park or public place (see full Code Section noted above under "Authority").

Conditions of Approval:

1. 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.
2. 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.
3. Event staff and attendees shall use the large parking lots along W. 16<sup>th</sup> Street between W. Main and W. 16<sup>th</sup> Streets. Attendees shall be instructed not to use parking along W. Main Street for the evening, in order to avoid adverse impact to businesses and other downtown patrons.
4. Event Sponsor shall remove all structures, debris, and any other event-generated items from the park and surrounding gutters and sidewalks prior to 10:00 p.m. on the night of the event.
5. If needed, Event Sponsor shall be responsible for making arrangements with the City's Public Works Refuse Department's staff to deliver and remove curbside refuse containers for use during the event and for any necessary cleanup afterwards.
6. Event Sponsor shall comply with all applicable statutes, ordinances, rules, regulations, etc., including all regulations of the City of Merced Fire Department, including obtaining permit(s) for any tents or canopies used for the event.
7. All provisions of the Fire Code shall apply. This includes, but is not limited to, posting no-smoking signs in any tented areas as required, no parking within 20 feet of any tent, all requirements for any cooking in a tent, and including any temporary and portable electrical power supplies that may be

used.

8. Event Sponsor shall provide adequate supervision and security throughout the area to ensure the safety of the participants and the public, as required by the Merced Police Department. At minimum, security guards shall be provided at one officer per 50 attendees, or a minimum of seven guards.
9. Event Sponsor and its caterer shall comply with all requirements of the Merced County Health Department with regards to the serving of food and drink.
10. Event Sponsor shall ensure that any independent vendors and services, such as DJ's, portable toilet rental companies, photo booth vendors, bartenders, and caterers, obtain or hold current business licenses with the City of Merced.
11. Event Sponsor shall be responsible for making timely arrangements with the City's Public Works staff to turn on and off the electrical power supply in the park before and after the event.
12. Any temporary modifications of the City's electrical system in the park shall be approved by City staff. Only a State-licensed electrician shall be permitted to make any such modifications. All modifications shall be completely removed and reverted back to the original system after the event.
13. The Event Sponsor shall provide access to disabled-accessible restrooms, as required by the California Building Code.
14. Alcoholic beverages may be served during this event, subject to the strict rules, regulations, and restrictions of the California Alcohol Beverage Control (ABC). A temporary one-day event alcohol license (Type 77 or suitable) shall be obtained by the applicant and a copy provided to Planning staff prior to the start of the event.
15. Noise from music or other activities shall be kept to a minimum, so as not to disturb the nearby residential loft units. Music shall not be played later than 10:00 p.m.
16. As the applicant has indicated that the Five Ten Bistro Restaurant's regular alley service refuse bins will be utilized for any solid waste generated by the event, thus eliminating the need for additional containers, it shall be the applicant's responsibility to ensure that the restaurant properly disposes of said waste. Any resulting overflow of the restaurant's refuse bins shall be transferred to the applicant's own alley service refuse bins, so as to keep the alleyway clean.

## **IMPACT ON CITY RESOURCES**

No appropriation of funds is necessary.

A small impact to Public Works' Facilities staff is expected, such as staff time in arranging for and turning on electricity in the park to make it available to the event's power needs, along with a general park cleanup the day before.

The event organizers will be required to leave the park cleaned of any trash and debris it generates. Five Ten Bistro Restaurant will place any such trash and debris in their existing City-service

container, so additional refuse bins for the event are not necessary (Condition #16).

There is no expected impact to City Police resources, as the applicants will be providing their own security. No other City resource impacts are expected.

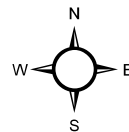
**ATTACHMENTS**

1. Location Map
2. Event Site Plan



Disclaimer: This document was prepared for general inquiries only. The City of Merced makes no warranty, representation, or guarantee regarding the accuracy of this map. The City of Merced is not responsible for errors or omissions that might occur. Official information regarding specific parcels should be obtained from official recorded or adopted City documents.

**LOCATION MAP:**  
**City-Owned Real Property Use Permit #17-05**  
**Merced Center for the Performing Arts/Playhouse Merced**  
**For Use of Bob Hart Square**  
**Saturday, August 19, 2017**



8/19/17

Main Street

Security

Tables: 40

Guests: 320

6-foot temporary  
cyclone fence  
at perimeter

Backstage  
area

Stage

Security

Beer/Wine  
Bar

510 Bistro

Security

Intake

← grass →

<--- 6-foot temporary cyclone fence perimeter --->

To 16th Street SIDEWALK To Main Street -->





# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item H.10.**

Meeting Date: 7/5/2017

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**Report Prepared by:** *Joseph D. Angulo, Environmental Project Manager, Engineering*

**SUBJECT:** Two Amendments to Agreements for Professional Services with Provost and Pritchard Engineering Group, Incorporated, Project No. 118024

### REPORT IN BRIEF

Consider authorizing two separate agreements for environmental remediation services for a combined total of \$268,500.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Approving the First Amendment to Agreement for Professional Services (cleanup contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$210,000 for groundwater cleanup; and,
- B. Approving the First Amendment to Agreement for Professional Services (reporting contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$58,500 for report drafting; and,
- C. Authorizing the City Manager or Assistant 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 \$29,000.00 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 2017-18 Adopted Budget.

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## DISCUSSION

### **PCE Groundwater Cleanup - History and Past Actions:**

On September 22, 2008, the City Council approved a settlement and cleanup agreement with the California Regional Water Quality Control Board (Board) for the City's PCE (tetrachloroethylene) groundwater project. Under the agreement, the City agreed to commit \$250,000 annually to fund work specified in a mutually approved Action Plan. The Action Plan includes provisions for an annual work plan that generally includes tasks to be completed by the City for each following fiscal year.

The Council approved an Agreement for Professional Services with Provost and Pritchard Engineering Group, Inc., at its July 5, 2016, meeting.

### **Current Site Status:**

- One Hour Martinizing, 2828 G Street- The Board issued closure for the site on April 22, 2015. The site's wells have been destroyed and the treatment system trailer transferred to the Sunshine site. This is the first of the seven sites to receive complete closure for the groundwater cleanup.

Status of the remaining PCE Sites (6):

- Former Sunshine Cleaners, 1227 W. Main Street- The treatment system trailer formerly located at the above G Street site was transferred to the Sunshine site to initiate soil vapor extraction to remove PCE vapors. The system continues to operate.
- Former Parkway Cleaners, 1530 Yosemite Parkway- A groundwater cleanup system is in operation. The system consists of air injection into groundwater with soil vapor extraction to remove PCE vapors. Although groundwater cleanup is occurring, it is progressing slowly. The prolonged drought has resulted in dropping groundwater levels that hampers cleanup efforts. This is because the existing injection wells are now above the water table and unable to inject air into the water. Soil vapor extraction continues.
- One Hour Martinizing, 1818 R Street- Staff requested closure for PCE impacts to soils at the site and the Board agreed in 2015. Groundwater monitoring only is occurring, and further action is deferred in accordance with the Settlement Agreement priority list.
- Former Simpson's Dry Cleaners, 618 W. Main Street- The Board granted closure for PCE in soils at this parcel and concurred that the property may be developed. The Board has not issued closure for PCE in groundwater. Groundwater monitoring only is occurring and further action is deferred in accordance with the Settlement Agreement priority list.
- Former Bel Air Cleaners, 950 W. Main Street- Groundwater monitoring only is occurring, further action is deferred in accordance with the Settlement Agreement priority list.
- Merced Laundry, 160 W. Main Street- Groundwater monitoring only is occurring, further action is deferred in accordance with the Settlement Agreement.

The new Provost and Pritchard Engineering Group, Inc., \$210,000 contract under consideration includes the following major tasks for fiscal year 2017 - 2018:

**Former Parkway Cleaners**

- Operation and maintenance costs of the treatment system;
- Carbon filter media replacement;
- Install three new deep monitoring wells;
- Deepen one existing monitoring well;
- System evaluation report.

**Former Sunshine Cleaners**

- Operation and maintenance costs of the treatment system;
- Carbon filter media replacement;
- System evaluation report.

The balance of the project annual \$250,000 PCE cleanup funding commitment will be used to pay Board oversight fees for fiscal year 2017-2018.

**PCE Reporting - History and Past Actions:**

This Agreement for Professional Services is for consultant services to prepare quarterly monitoring reports on the status of PCE in groundwater in the City. The reports are necessary to demonstrate that the City is completing its obligations under agreements with the Board. The quarterly reporting task changes over time with added complexity as the PCE groundwater cleanup project advances.

The Council approved an Agreement for Professional Services for report drafting with Provost and Pritchard Engineering Group, Inc., at its July 5, 2016, meeting. This contract amendment is for Quarterly Monitoring Reports for the last two quarters of 2017 and the first two quarters of 2018 (fiscal year 2017/2018) at a cost of \$58,500. Provost and Pritchard Engineering Group, Inc. has provided satisfactory service for the PCE project.

**IMPACT ON CITY RESOURCES****PCE Cleanup Contract:**

On December 18, 2006, the City Council approved water service rates that include an amount of \$250,000 annually to provide for source water protection and remediation costs at the seven PCE sites. Funds are available in the Fiscal Year 2017-18 budget in PCE CIP Enterprise Fund 463 to cover the cost of the clean-up contract.

**PCE Reporting Contract:**

There are sufficient funds in the Fiscal Year 2017-18 budget in Fund 557-Water Operations to cover the amount of the contract.

**ATTACHMENTS**

1. PCE Cleanup Contract
2. PCE Reporting Contract

## **FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES**

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18<sup>th</sup> Street, Merced, California 95340, (“City”), and Provost & Pritchard Engineering Group, Inc., a California Corporation, whose address of record is 2505 Alluvial Avenue, Clovis, California 93611, (“Consultant”).

WHEREAS, City is undertaking a project to do assessment and remediation of PCE impacted sites; and

WHEREAS, City and Consultant have previously entered into an Agreement for Professional Services (“Agreement”) dated July 5, 2016; and

WHEREAS, City and Consultant desire to amend the Agreement to modify the scope of 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 April 25, 2017, 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 Two Hundred Ten Thousand Dollars (\$210,000.00) 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 July 5, 2016, 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: \_\_\_\_\_  
Deputy City Clerk

APPROVED AS TO FORM:

BY:  5.2.17  
City Attorney Date

300126 PO#: 126482  
ACCOUNT DATA:

BY:  5/24/17  
Verified by Finance Officer  
Funds Contingent upon City Council Approval  
of FY 17/18 Budget. Met 5/23/17 11-14882  
FL 5/23/17  
463-1154-637-6500 118024  
\$ 210,000.00

CONSULTANT  
PROVOST & PRITCHARD  
ENGINEERING GROUP, INC.,  
A California Corporation

BY:   
(Signature)

RANDY HOPKINS  
(Typed Name)

Its: VICE-PRESIDENT  
(Title)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

Its: \_\_\_\_\_  
(Title)

Taxpayer I.D. No. 94-2187078

ADDRESS: 2505 Alluvial Ave.  
Clovis, CA 93611

TELEPHONE: (559) 326-1100

FAX: (559) 326-1090

E-MAIL: [www.ppeng.com](http://www.ppeng.com)

April 25, 2017

APR 27 2017

Job No. 01511-16-001

Mr. Joseph Angulo  
Environmental Project Manager  
City of Merced  
678 18<sup>th</sup> Street  
Merced, CA 95340

**SUBJECT:** Fee Estimates For the Annual Work Plan  
Third and Fourth Quarter 2017 and the  
First and Second Quarter 2018  
For PCE Project including 1-Hour R Street Site, Parkway, Sunshine, Bel  
Air, Simpson's, and Merced Laundry Dry Cleaners, City of Merced

Dear Mr. Angulo,

At your request, Provost & Prichard Consulting Group (P&P) is providing you with our cost estimate to provide continuing remedial support including operation, maintenance (O&M) and installing three (3) new monitoring wells at the Parkway site, and continuing remedial support and operation and maintenance (O&M) at the Sunshine site. All costs are based solely on the tasks listed in the City's Annual PCE work plan submitted to the RWQCB. Additional work scopes can be conducted as requested.

At the Parkway site we have included typical bi-weekly O&M expenses similar to the previous year, preparing a Monitoring Well Installation Workplan, drilling and drilling support to install three new monitoring wells and deepen one existing monitoring well, develop and survey new monitoring wells, and preparing a Post Construction Report. At the Sunshine site, we have included typical weekly O&M expenses similar to Parkway.

We have not raised our rates for several years and this project cost is based on our 2016 Fee Schedule (also attached).

## **LIMITATIONS**

P&P offers various levels of investigative, engineering and design services to suit the varying needs of our Clients. Although risk can never be eliminated, more detailed and extensive investigations yield more information, which help understand and manage the level of risk. Since detailed investigation and analysis involves greater expenses, our Clients assist with determining levels of services that will provide adequate information for their purposes at acceptable levels of risk. Acceptance of this proposal indicates the City of Merced has reviewed the scope of work and determined you do not need or want a greater level of services than that being proposed. Any exception should be noted and may result in high fees.

**EXHIBIT 1**

Regulations and professional standards applicable to P&P services are continually evolving. Techniques are, by necessity, often new and relatively untried. Different professionals may reasonably adopt different approaches to similar problems. Therefore, no warranty or guarantee, express or implied, will be included in P&P's scope of services.

## **AUTHORIZATION**

If there is a need for any change in the scope of services described in this fee estimate please call us immediately. Changes may require revision of the proposed fee that will be communicated to you.

All information gathered during this project is considered confidential and will be released only upon written authorization of the City of Merced or as required by law.

We appreciate the opportunity to submit this fee estimate and look forward to working with you on this project. If you have any questions or need additional information, please contact Dave or Stephanie in our Clovis Office at (559) 326-1100.

Sincerely,

## **Provost and Pritchard Consulting Group**

  
Stephanie Gillaspie, EIT  
Senior Environmental Specialist

  
David W. Norman  
Principal Environmental Specialist

DWN:SEG

PROVOST & PRITCHARD - CITY OF MERCED PCE REMEDIATION			
July 1, 2017 - June 30, 2018	Contract task items	Estimated Cost	Phase Cost
Parkway Cleaners			
	Twelve (12) months of Remedial System O&M (bi-weekly)	\$ 15,800.00	
	Annual system evaluation report (January 2018)	\$ 4,500.00	
	PG&E (SVE and Ozone trailer, \$1,000/month)	\$ 12,000.00	
	H2O Engineering 12 month Maintenance on Ozone Trailer	\$ 7,500.00	
	Monthly Air Samples (\$600 per month)	\$ 7,200.00	
	Carbon Change out (if needed)	\$ 8,000.00	
	Monitoring Well Installation Workplan	\$ 4,500.00	
	Drilling - All Well Development	\$ 44,500.00	
	Drilling Oversight - P&P	\$ 14,000.00	
	Monitoring Well Post Construction Report	\$ 4,500.00	
	Well development & Survey (Geotracker Standards)	\$ 6,500.00	
	SVE & Ozone Trailer Service	\$ 5,000.00	
	Project management	\$ 7,500.00	\$ 141,500.00
Sunshine			
	Twelve (12) months of Remedial System O&M (Weekly)	\$ 31,600.00	
	Annual system evaluation report (May 2018)	\$ 4,500.00	
	PG&E (SVE trailer, \$600/month)	\$ 7,200.00	
	Monthly Air Samples (\$600 per month)	\$ 7,200.00	
	Carbon Change out (if needed)	\$ 8,000.00	
	Project management	\$ 7,500.00	
			\$ 66,000.00
contingency			
		\$ 2,500.00	
			\$ 2,500.00
			\$ 210,000.00
	TOTAL		

**PROVOST & PRITCHARD CONSULTING GROUP**  
**STANDARD FEE SCHEDULE**  
**Effective 4/1/2016**  
(hourly rates)

This schedule supersedes previously published fee schedules as of the effective date  
*Multi-year contracts are subject to any subsequent changes in these rates*

	Fee Range
<b>ENGINEERING STAFF:</b>	
Assistant Engineer	\$ 85.00 - \$105.00
Associate Engineer	\$110.00 - \$130.00
Senior Engineer	\$135.00 - \$165.00
Principal Engineer	\$170.00 - \$195.00
<b>SPECIALISTS:</b>	
Associate Environmental Specialist	\$107.00 - \$137.00
Senior Environmental Specialist	\$140.00 - \$165.00
Principal Environmental Specialist	\$175.00 - \$200.00
GIS Specialist	\$105.00 - \$130.00
Associate Geologist/Hydrogeologist	\$105.00 - \$130.00
Senior Geologist/Hydrogeologist	\$140.00 - \$170.00
Water Resources Specialist	\$100.00 - \$130.00
<b>PLANNING STAFF</b>	
Assistant Planner/CEQA-NEPA Specialist	\$ 65.00 - \$ 90.00
Associate Planner/CEQA-NEPA Specialist	\$ 95.00 - \$120.00
Senior Planner/CEQA-NEPA Specialist	\$130.00 - \$155.00
Principal Planner/CEQA-NEPA Specialist	\$160.00 - \$185.00
<b>TECHNICAL STAFF:</b>	
Assistant Technician	\$ 65.00 - \$ 90.00
Associate Technician	\$ 95.00 - \$110.00
Senior Technician	\$120.00 - \$135.00
<b>CONSTRUCTION SERVICES:</b>	
Associate Construction Manager	\$105.00 - \$125.00
Senior Construction Manager	\$130.00 - \$145.00
Principal Construction Manager	\$150.00 - \$180.00
Construction Manager Prevailing Wage <sup>(1)(2)</sup>	\$130.00 - \$150.00
<b>SUPPORT STAFF:</b>	
Administrative Assistant	\$ 55.00 - \$ 75.00
Project Administrator	\$ 65.00 - \$ 85.00
Senior Project Administrator	\$115.00
Intern	\$55.00
<b>SURVEYING SERVICES:</b>	
LSIT Surveyor	\$ 85.00 - \$105.00
Licensed Surveyor	\$115.00 - \$145.00
	<u>Prev. Wage (1)</u>
1 Man Survey Crew	\$150.00 \$175.00
2 Man Survey Crew	\$210.00 \$245.00
2 Man Survey Crew including LS	\$245.00 \$255.00
1 Man CORS Survey Crew	\$170.00
2 Man CORS Survey Crew	\$220.00
(Field Work not including survey equipment billed at individual standard rate plus vehicle as appropriate)	

**EXPERT WITNESS:** As quoted.

**TRAVEL TIME (for greater than 1 hour from employee's base office):** \$75/hr (unless the individual's rate is less)

**PROJECT COSTS:**

Mileage	IRS value + 15%
Outside Consultants	Cost + 15%
Direct Costs	Cost + 15%

- (1) Prevailing wage rates shown for San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and Kern Counties, other counties as quoted.  
(2) Overtime for Construction Services prevailing wage will be calculated at 125% of the standard prevailing wage rate.

## **FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES**

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18<sup>th</sup> Street, Merced, California 95340, ("City"), and Provost & Pritchard Engineering Group, Inc., a California Corporation, whose address of record is 2505 Alluvial Avenue, Clovis, California 93611, ("Consultant").

WHEREAS, City is undertaking a project to do quarterly groundwater monitoring reports; and

WHEREAS, City and Consultant have previously entered into an Agreement for Professional Services ("Agreement") dated July 5, 2016; and

WHEREAS, City and Consultant desire to amend the Agreement to modify the scope of 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 April 25, 2017, 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 Fifty-Eight Thousand Five Hundred Dollars (\$58,500.00) 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 July 5, 2016, 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: \_\_\_\_\_  
Deputy City Clerk

APPROVED AS TO FORM:

BY:  5.2.17  
City Attorney Date

ACCOUNT DATA:

BY: \_\_\_\_\_  
Verified by Finance Officer

CONSULTANT  
PROVOST & PRITCHARD  
ENGINEERING GROUP, INC.,  
A California Corporation

BY:   
(Signature)

Ranay Waprows  
(Typed Name)

Its: Vice President  
(Title)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

Its: \_\_\_\_\_  
(Title)

Taxpayer I.D. No. 94-2187078

ADDRESS: 2505 Alluvial Ave.  
Clovis, CA 93611

TELEPHONE: (559) 326-1100

FAX: (559) 326-1090

E-MAIL: www.ppeng.com

April 25, 2017

APR 27 2017

Job No. 01511-16-002

Mr. Joseph Angulo  
Environmental Project Manager  
City of Merced  
678 18<sup>th</sup> Street  
Merced, CA 95340

**SUBJECT:** Quarterly Ground Water Monitoring Reports for the  
Third and Fourth Quarter 2017 and the  
First and Second Quarter 2018  
For PCE Project including 1-Hour R Street Site, Parkway, Sunshine, Bel  
Air, Simpson's, and Merced Laundry Dry Cleaners, City of Merced

Dear Mr. Angulo,

At your request, Provost & Prichard Consulting Group (P&P) is providing you with our cost estimate to provide continuing quarterly groundwater reporting for the PCE project. As you indicated this contract would be for a time period covering the Third and Fourth (annual report) Quarter 2017 and the First and Second Quarter 2018. The quarterly reporting will include the data from the six dry cleaners sites currently being monitored by the City for the "PCE project." The City has designated specific wells for each of these sites. The City has indicated sampling up to 75 groundwater monitoring wells for this program as amended a number of times to reduce the total number of wells sampled since 2007. All wells are monitored for depth to groundwater each quarter.

Since the beginning of the PCE project several modifications have been incorporated into the reporting in response to comments from the Regional Water Quality Control Board (RWQCB) for additional groundwater mapping and soil vapor extraction system and ozone/ air sparging data for one operating system at Parkway and operation of a remediation system at Sunshine. The cost estimate is intended to include the preparation of the required and anticipated reporting during the contract period. This cost estimate includes the preparation of three (3) quarterly reports and one annual report, following our receipt of laboratory data from the City contracted lab and the field sampling records from the City contracted consultant in accordance with RWQCB requests as approved by the City.

## **SCOPE OF WORK**

P&P will prepare four quarterly groundwater monitoring reports in accordance with the City's directions, the City's approval of RWQCB requests and generally accepted standards for such reporting.

The 2017/2018 quarterly reports will build on the data and format of previous reporting and provide updated graphs, tables and maps for review and consideration by the RWQCB, the court and the City. The Fourth Quarter report will double as the annual

report and will include additional sections and data interpretations based on the previous year's data. Seasonal fluctuations of water levels and the affect (if any) on PCE concentrations, plume movement and the results of the previous month's remedial activities (PCE removal or destruction rates) with project totals will be discussed.

## **ASSUMPTIONS AND ESTIMATED COSTS**

P&P will continue to upload the lab data in EDF format provided by the contract laboratory to Geotracker, as well as the quarterly report. P&P will invoice for our service on a time and material basis not to exceed the estimated fee, without prior written approval. We have increased this year's budget up approximately 3 percent to account for some increase in cost. The invoicing will occur monthly for the level of effort expended during the billing cycle. Fee will be based on P&Ps 2016 Fee schedule (attached). P&P will perform the scope of work discussed herein for an estimated fee of \$58,500.

## **FEE ESTIMATE**

Four Quarterly Reports	\$58,500
<b>TOTAL CONTRACT</b>	<b>\$58,500</b>

## **LIMITATIONS**

P&P offers various levels of investigative, engineering and design services to suit the varying needs of our Clients. Although risk can never be eliminated, more detailed and extensive investigations yield more information, which help understand and manage the level of risk. Since detailed investigation and analysis involves greater expenses, our Clients assist with determining levels of services that will provide adequate information for their purposes at acceptable levels of risk. Acceptance of this proposal indicates the City of Merced has reviewed the scope of work and determined you do not need or want a greater level of services than that being proposed. Any exception should be noted and may result in high fees.

Regulations and professional standards applicable to P&P services are continually evolving. Techniques are, by necessity, often new and relatively untried. Different professionals may reasonably adopt different approaches to similar problems. Therefore, no warranty or guarantee, express or implied, will be included in P&P's scope of services.

## AUTHORIZATION

If there is a need for any change in the scope of services described in this fee estimate please call us immediately. Changes may require revision of the proposed fee that will be communicated to you.

All information gathered during this project is considered confidential and will be released only upon written authorization of the City of Merced or as required by law.

We appreciate the opportunity to submit this fee estimate and look forward to working with you on this project. If you have any questions or need additional information, please contact Dave or Stephanie in our Clovis Office at (559) 326-1100.

Sincerely,

### Provost and Pritchard Consulting Group



Stephanie Gillaspy, EIT  
Senior Environmental Specialist



David W. Norman  
Principal Environmental Specialist

**PROVOST & PRITCHARD CONSULTING GROUP**  
**STANDARD FEE SCHEDULE**  
**Effective 4/1/2016**  
**(hourly rates)**

This schedule supersedes previously published fee schedules as of the effective date  
*Multi-year contracts are subject to any subsequent changes in these rates*

	<u>Fee Range</u>
<u>ENGINEERING STAFF:</u>	
Assistant Engineer	\$ 85.00 - \$105.00
Associate Engineer	\$110.00 - \$130.00
Senior Engineer	\$135.00 - \$165.00
Principal Engineer	\$170.00 - \$195.00
<u>SPECIALISTS:</u>	
Associate Environmental Specialist	\$107.00 - \$137.00
Senior Environmental Specialist	\$140.00 - \$165.00
Principal Environmental Specialist	\$175.00 - \$200.00
GIS Specialist	\$105.00 - \$130.00
Associate Geologist/Hydrogeologist	\$105.00 - \$130.00
Senior Geologist/Hydrogeologist	\$140.00 - \$170.00
Water Resources Specialist	\$100.00 - \$130.00
<u>PLANNING STAFF</u>	
Assistant Planner/CEQA-NEPA Specialist	\$ 65.00 - \$ 90.00
Associate Planner/CEQA-NEPA Specialist	\$ 95.00 - \$120.00
Senior Planner/CEQA-NEPA Specialist	\$130.00 - \$155.00
Principal Planner/CEQA-NEPA Specialist	\$160.00 - \$185.00
<u>TECHNICAL STAFF:</u>	
Assistant Technician	\$ 65.00 - \$ 90.00
Associate Technician	\$ 95.00 - \$110.00
Senior Technician	\$120.00 - \$135.00
<u>CONSTRUCTION SERVICES:</u>	
Associate Construction Manager	\$105.00 - \$125.00
Senior Construction Manager	\$130.00 - \$145.00
Principal Construction Manager	\$150.00 - \$180.00
Construction Manager Prevailing Wage <sup>(1) (2)</sup>	\$130.00 - \$150.00
<u>SUPPORT STAFF:</u>	
Administrative Assistant	\$ 55.00 - \$ 75.00
Project Administrator	\$ 65.00 - \$ 85.00
Senior Project Administrator	\$115.00
Intern	\$55.00
<u>SURVEYING SERVICES:</u>	
LSIT Surveyor	\$ 85.00 - \$105.00
Licensed Surveyor	\$115.00 - \$145.00
	<u>Prev. Wage (1)</u>
1 Man Survey Crew	\$150.00 \$175.00
2 Man Survey Crew	\$210.00 \$245.00
2 Man Survey Crew including LS	\$245.00 \$255.00
1 Man CORS Survey Crew	\$170.00
2 Man CORS Survey Crew	\$220.00
(Field Work not including survey equipment billed at individual standard rate plus vehicle as appropriate)	

EXPERT WITNESS: As quoted.

TRAVEL TIME (for greater than 1 hour from employee's base office): \$75/hr (unless the individual's rate is less)

PROJECT COSTS:

Mileage	IRS value + 15%
Outside Consultants	Cost + 15%
Direct Costs	Cost + 15%

- (1) Prevailing wage rates shown for San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and Kern Counties, other counties as quoted.  
(2) Overtime for Construction Services prevailing wage will be calculated at 125% of the standard prevailing wage rate.



## ADMINISTRATIVE REPORT

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**Agenda Item H.11.**

Meeting Date: 7/5/2017

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**Report Prepared by:** Theron Roschen, PE, City Engineer

**SUBJECT:** Roadway Overlay Construction Funding Agreement with the County of Merced for Gerard Avenue

### REPORT IN BRIEF

Consider approving a construction funding agreement for reimbursement of \$37,135 to overlay a portion of Gerard Avenue bounded by Tyler Road and the Union Pacific Railroad.

### RECOMMENDATION

**City Council** - Adopt a motion approving the Roadway Overlay Construction Funding Agreement with the County of Merced, and authorizing the City Manager or Assistant City Manager to execute the necessary documents.

### ALTERNATIVES

1. Approve, as recommended by Staff; or,
2. Approve, subject to conditions identified by City Council; or,
3. Deny; or,
4. Continue to a future meeting.

### AUTHORITY

Charter of the City of Merced, Section 200.

### CITY COUNCIL PRIORITIES

As provided for in the 2017-18 Adopted Budget.

### DISCUSSION

On October 17, 2016, City Council awarded the Gerard Avenue Sewer Main Replacement Project 116014 to Mazingo Construction in the amount of \$1,655,485. The project scope consists of, in general, the replacement of 6,240 lineal feet of existing sewer main, new sewer manholes, and reconnecting the existing sewer laterals and mains. The project is located along Gerard Avenue in the County of Merced, bounded by Tyler Road and the Union Pacific Railroad right-of-way.

The original project scope required the contractor to repave the trenches used for the sewer main work, which would have been approximately half the width of the entire roadway surface. With the heavy rain during the winter/spring months, the roadway further deteriorated. As this portion of roadway is within the County, City staff approached the County about repaving the entire roadway

within the project limits concurrent with the City's sewer project.

The County agreed to reimburse the City for their share of the overlay, for an amount not to exceed \$37,135. The City has issued a change order to Mozingo Construction in the amount of \$74,270.47 for the additional paving work. Staff recommends approving the Construction Funding Agreement so that the City can be reimbursed for a portion of the overlay cost.

### **IMPACT ON CITY RESOURCES**

No appropriation of funds is needed. Once the overlay work has been completed, reimbursement from the County will be returned to project account 553-1107-637.65-00-116014.

### **ATTACHMENTS**

1. Construction Funding Agreement

## ROADWAY OVERLAY CONSTRUCTION FUNDING AGREEMENT

This Roadway Overlay Construction Funding Agreement, hereinafter "Agreement," is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017 by and between the City of Merced, a California charter municipal corporation, hereinafter "City," and the County of Merced, a subdivision of the State of California, hereinafter "County."

### RECITALS

WHEREAS, The project is located along Gerard Avenue, bounded by Tyler Road to the Union Pacific Railroad Right-of-Way, in the County of Merced; and,

WHEREAS, The City has an existing project to replace the sewer main along the aforementioned portion of Gerard Avenue; and,

WHEREAS, As part of the project, the City will be repaving trench work within the roadway; and,

WHEREAS, The County and the City have agreed it would be appropriate to perform a full roadway overlay concurrent with the City's sewer main replacement project.

### WITNESSETH

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 is hereby acknowledged and agreed, the Parties hereto do hereby agree as follows:

1. Construction of the Roadway Overlay. The City agrees to incorporate the roadway overlay into the "Gerard Avenue Sewer Main Replacement Phase 3" project and oversee construction.
2. Funding. The County agrees to pay for an equal share of the roadway overlay change order, a cost estimated not to exceed \$37,135 for roadway overlay along a portion of Gerard Avenue as identified in Exhibits A (Location Map) and B (Price Proposal). It is understood that once construction is complete, the County agrees to pay one-half (1/2) of the actual cost of the roadway overlay as evidenced by invoices paid to the City's contractor.
3. City as Lead. The City will serve as the lead for the Project and will supervise and superintend the same.
4. Notice. Any notices which either Party may desire to give to the other Party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the Party as set forth below or at any other address as that Party may later designate by

Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

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

To County: Merced County  
Department of Public Works  
715 Martin Luther King Jr. Way  
Merced, CA 95340  
Attn: Director

5. Litigation. Neither Party may commence litigation until such time as a notice of default has been properly served on the other Party and the Party fails to cure within twenty (20) days from the service of the notice of default. If either Party commences litigation against the other for the purposes of determining or enforcing its rights under this Agreement, the prevailing Party shall be entitled to receive its reasonable attorney fees and costs incurred in the prosecution or defense of the action.
6. General.
  - A. This Agreement contains the complete, final, entire, and fully integrated understanding and agreement between the Parties hereto. All prior negotiations, understandings, writings, and oral agreements pertaining to the subject matter hereof are superseded by this Agreement. No covenants, agreements, representations or warranties of any kind whatsoever have been made by any Party hereto, except as specifically set forth in this Agreement. All prior discussions, negotiations, and understandings have been and are merged and integrated into, and are superseded by, this Agreement.
  - B. Each Party is entering into this Agreement based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts such Party deems material.
  - C. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.
  - D. This Agreement may be amended only in writing, signed by the Parties.
  - E. The Parties understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the Parties to this Agreement and also govern the interpretation of this Agreement without regard to any applicable conflicts of law, including all matters of construction, validity, and performance.

The City has hired a General Contractor ("Contractor") to perform the work described in RECITALS. The Contractor's duty to indemnify COUNTY shall arise from County of Merced Encroachment Permit # EP2017-0008 which COUNTY issued to Contractor on January 13, 2017.

CITY shall indemnify, defend and hold harmless COUNTY, its officers, elected officials, employees and agents, from and against any claims, damages, costs, expenses, including any amount equal to reasonable attorney's fees, or liabilities arising of or in any way connected with this Agreement, including, without limitation, claims damages, expenses, or liabilities for loss or damage to any property, or for death or injury to any person or persons, but only in proportion to and to the extent such claims, damages, costs, expenses, attorney's fees, or liabilities are caused by the CITY's negligence, whether by action or omission, or willful misconduct.

COUNTY shall indemnify, defend and hold harmless CITY, its officers, employees and agents, from and against any claims, damages, costs, expenses, including any amount equal to reasonable attorney's fees, or liabilities arising out of or in any way connected with this Agreement, including, without limitation, claims, damages, expenses, or liabilities for loss or damage to any property, or for death or injury to any person or persons, but only in proportion to and to the extent such claims, damages, costs, expenses, attorney's fees, or liabilities are caused by the COUNTY's negligence, whether by action or omission, or willful misconduct.

The obligations set forth above shall survive expiration or termination of this Agreement.

- F. The Parties agree that jurisdiction and venue for any legal challenge to the provisions of this Agreement or the enforcement of the rights or obligations hereunder shall be brought in the Superior Court serving the County of Merced.
- G. The Parties agree to cooperate in taking any further actions or executing documents reasonably necessary to effectuate the provisions of this Agreement.
- H. Failure of either Party to insist upon strict observance of, or compliance with, all of the terms of this Agreement in one or more instances shall not be deemed a waiver of that Party's right to insist upon such observance or compliance with the other terms of the Agreement. The mere passage of time, or failure to act upon a breach, shall not be deemed as a waiver of any provision or term of this Agreement.
- I. Each Party acknowledges that, in entering into and performing under this Agreement, it is acting as an independent entity and not as an agent or employee of any of the other Party in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as creating the relationship of partners, joint ventures, employee/employer or any other association of any kind or nature between the Parties, jointly or severally.

- J. This Agreement is made and entered into for the sole benefit of the Parties and their successors in interest. No other person shall have any right of action based upon any provision of this Agreement.
- K. This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by each Party hereto are in the physical possession of the Party seeking enforcement thereof.
- L. The person or persons executing this Agreement on behalf of the Parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their Party to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF MERCED  
A California Charter Municipal  
Corporation

COUNTY OF MERCED

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Public Works

ATTEST:  
CITY CLERK

BY: \_\_\_\_\_  
Deputy City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

BY:  6-7-2017  
City Attorney Date

BY: \_\_\_\_\_  
County Counsel Date

ACCOUNT DATA:

*[To be entered by Requesting Department]:*

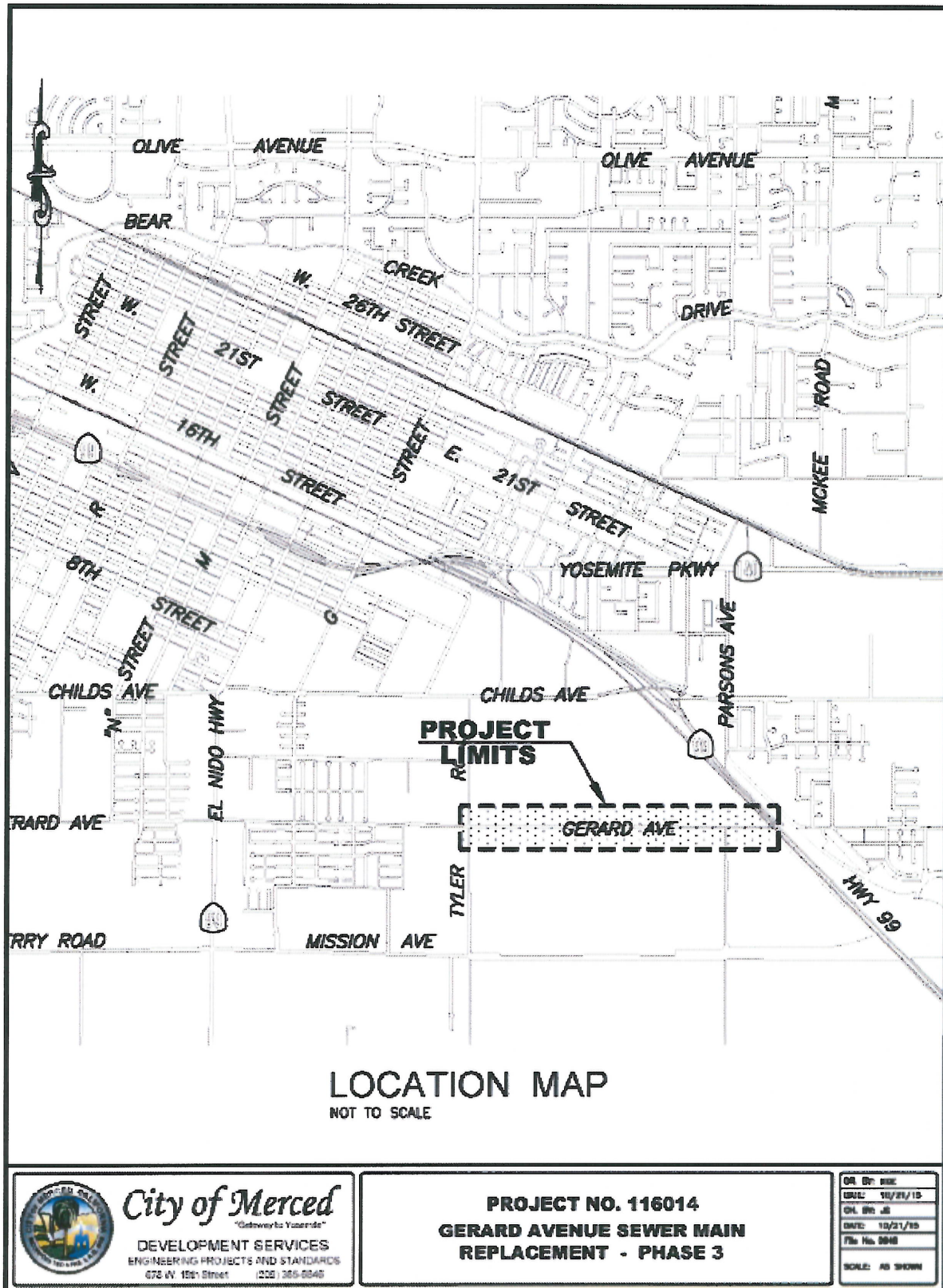
Account No.: \_\_\_\_\_

Amount \$ \_\_\_\_\_

VERIFIED:

BY: \_\_\_\_\_  
Finance Officer

# EXHIBIT A





## PROPOSAL

March 21, 2017

City of Merced  
678 West 18<sup>th</sup> Street  
Merced, CA 95340

Attn: Kenneth G. Elliott

PROJECT: Gerard Avenue Sewer Main Replacement Phase 3  
City Number: 116014  
Mozingo Number: 1646

We are pleased to submit the following proposal to perform work on the above-referenced project. The following information was used in preparing our proposal:

- ❖ Plans titled "Gerard Avenue Sewer Main Replacement – Phase 3
- ❖ City of Merced Standard Drawings and Specifications
- ❖ Various emails regarding street repair

### Proposal:

- See attached for included items and pricing.
  - Pulverize existing roadway up to four inches and overlay with two tenths of asphalt

### Conditions & Scope:

Furnish all labor, materials, tools, equipment, transportation, and incidentals necessary for the items listed on our proposal and further defined as follows:

- Sequence of Work
  - ❖ Grading and paving to be completed in one mobilization
  - ❖ No phasing
  - ❖ Final payment shall be per units quoted in this proposal and attached General Provisions.
  - ❖ Item quantity adjustments per Caltrans Standard Specifications also apply.
  - ❖ Purposed roadway section is per City design,

License No. 702625-A  
751 Wakefield Court • Oakdale, California 95361  
Phone: (209) 848-0160 • Fax: (209) 848-0161 • email: [info@mozingoconstruction.com](mailto:info@mozingoconstruction.com)

**MOZINGO CONSTRUCTION, INC.**

751 Wakefield Court

Oakdale, CA 95361

Phone: (209) 848-0160 • Fax (209) 848-0161

LIC. NO.

702625-A

**CHANGE ORDER REQUEST**TO: Ken Elliott  
City of Merced

DATE:

03/21/17

PROJECT: **Gerard avenue Sewer Main Replacement**  
Project Number 116014

JOB NO.:

1646

RE: Pulverize existing roadway and overlay with 0.2'

MOZINGO CHANGE ORDER #

2

CONTRACT CHANGE ORDER #

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL AMOUNT
1	GRI - Pulverize Existing Roadway (4"Max)	122516	SF	\$ 0.40	\$ 49,006.40
2	GRI - 0.2' AC Overlay/Paving, Full Roadway	1975	TN	\$ 97.00	\$ 191,575.00
3	GRI - Mobilization (Paving)	1	EA	\$ 6,550.00	\$ 6,550.00
4	GRI -Mobilization (Grading)	1	EA	\$ 8,550.00	\$ 8,550.00
5	Traffic Control (Mozingo)	9	DA	\$ 2,500.00	\$ 22,500.00
6	Bid Item 13 Hot Mix Asphalt	250	TN	\$ (300.00)	\$ (75,000.00)
7	Bid Item 15 Conform Paving at Driveway	3360	SF	\$ (12.00)	\$ (40,320.00)
8	Bid Item 11 Roadway Excavation	800	CY	\$ (35.00)	\$ (28,000.00)
9	Bid Item 12 Aggregate Base	660	CY	\$ (98.00)	\$ (64,680.00)
10	Bid Item 16 Paving	743	TN	\$ (40.00)	\$ (29,720.00)
11	Bid Item 16 Fabric	22000	SF	\$ (0.05)	\$ (1,100.00)
12	GRI mark-up at 5% Item 1,2,3,4	\$ 255,681.40	LS	\$ 0.05	\$ 12,784.07
13	Striping	1	LS	\$ 9,000.00	\$ 9,000.00
14	Shoulder backing South side	1	LS	\$ 13,125.00	\$ 13,125.00
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
TOTAL CHANGE ORDER REQUEST					\$ 74,270.47

**CONTRACT TIME EXTENSION REQUEST**

18

(WORKING DAYS)

**CONDITIONS/SCOPE:**

Work to be completed in one mobilization and phase

Bid Item 15 is included in item 1 and 2 - overlay existing

Item 14 includes shoulder backing and grading graveled driveways  
on the South side per section 10-1.21

SIGNED:

  
 MOZINGO CONSTRUCTION, INC.

DATE:

03/21/17

SIGNED:

OWNER / CONTRACTOR

DATE:

Owner/Contractor \* Project Management \* Accounting \* File



## ADMINISTRATIVE REPORT

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**Agenda Item H.12.**

Meeting Date: 7/5/2017

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**Report Prepared by :** *Rosa M. Kindred-Winzer, Insurance Coordinator*

**SUBJECT:** Property, Boiler and Machinery Insurance Renewal

### REPORT IN BRIEF

Consider approving the renewal of the City's policy through Alliant Property Insurance Programs (APIP) at 8.70% premium increase, amounting to \$193,426.15 for program year 2017/2018.

### RECOMMENDATION

**City Council** - Adopt a motion ratifying the renewal of the property and boiler and machinery insurance through the Alliant Property Insurance Programs (APIP), administered by Alliant Insurance Services for the period of July 1, 2017 through June 30, 2018; and authorizing the City Manager or Assistant City Manager to execute the necessary documents.

### ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Refer to staff for further study; or,
3. Take no action.

### AUTHORITY

Charter of the City of Merced, Article XI, Fiscal Administration.

### CITY COUNCIL PRIORITIES

As provided for in the 2017-18 Adopted Budget.

### DISCUSSION

The City of Merced joined the Public Entity Property Insurance Program (PEPIP), a group purchasing program, as authorized by the City Council in 1993. The PEPIP program changed its name to Alliant Property Insurance Programs (APIP) after having merged with two other large Alliant Insurance purchasing pools. APIP now insures approximately 8,000 members with a total insurance value of \$400 billion. The advantage of being a member of a purchasing group is that we are able to capitalize on lower premium rates based on the volume and value (per hundred dollars) of insured property.

The property market has been in a soft cycle for the last two years with underwriters giving decreases based on the lack of catastrophe losses worldwide and a record capacity and surplus in the marketplace. The City of Merced has experienced an increase of 9.11% of total insured values

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amounting to \$237,641,185. However, due to the soft cycle marketplace, the City experienced a reduction of 0.37% in account rate per hundred dollars of insured property value. The increased insurable values along with a decrease in account rate (per hundred dollars) results in an overall premium increase of 8.70% in the amount of \$193,426.15 for program year 2017/2018.

There are no changes to deductibles or levels of coverage to the property and boiler and machinery program for fiscal year 2017/2018.

### **IMPACT ON CITY RESOURCES**

No appropriation of funds is needed.

A black and white photograph of a modern glass skyscraper, the City of Merced building. The image shows the building's facade with large glass panels and dark structural elements. A person is visible walking on a balcony or walkway on the right side of the building.

# City of Merced

**2017 – 2018**

## **Alliant Property Insurance Program (APIP)**

Presented on May 30, 2017 by:

Kevin J. Bibler  
Senior Vice President

Evan Washburn  
Account Executive

## ALLIANT PROPERTY INSURANCE PROGRAM (APIP)

### EXECUTIVE SUMMARY

July 1, 2017 – July 1, 2018

Attached please find materials associated with the renewal of the Alliant Property Insurance Program for the 2017-2018 period. An overview of the most significant issues concerning this year's renewal are discussed here.

As has been the case for the past few years, the property insurance market continues to be soft with record amounts of financial capacity coming to the market in search of financial return. As such, underwriters are willing to price coverage competitively in spite of deteriorating loss ratios overall. This past year has seen an increase in the number of catastrophe losses throughout the world, and while none of these have been "signature" events such as 9/11, Hurricane Katrina, or Superstorm Sandy, 2016 has been dubbed "the year of the attritional catastrophe" which identifies a higher frequency of smaller events that lead to a higher than average catastrophe loss amount to the market. Consequently, for the 2017-2018 renewal, most insureds will see relatively flat to minor rate decreases over expiring. However, for those insureds that have either experienced significant shock losses, or persistent attritional loss activity, rates may increase to "right size" their rates relative to the risk they present. In keeping with the programs' general history however, we expect rates to remain below that which can be achieved in the market for similar coverage.

The primary \$2,500,000 layer will be renewed with the program's long-term partner, Lexington Insurance Company, A.M. Best Rated Au XV. Lexington will also continue to provide significant capacity in the \$22,500,000 x/s \$2,500,000 layer, sharing that layer with Lloyd's of London, A.M. Best Rated A XV. Excess limits up to \$1,000,000,000 will be placed with London, Bermudian, European, and U.S domestic markets, all A.M. Best Rated of at least A- VII. Members should note several key highlights for this year's renewal:

- Boiler & Machinery cover for participating members of the APIP Boiler Program will be maintained with Hartford Steam Boiler (HSB), who will also continue to perform required jurisdictional inspections.
- Cyber (Privacy Liability) Coverage for both 1<sup>st</sup> and 3<sup>rd</sup> parties from the Beazley Syndicate at Lloyd's, A.M. Best Rated A XV, (for those eligible insureds) with coverage as outlined on the following proposal will be maintained. **Please note claims reporting timeframe limitations for this coverage**
- Pollution Coverage for both 1<sup>st</sup> and 3<sup>rd</sup> parties from Illinois Union Insurance Company, A.M. Best Rated A++ XV, (for those eligible insureds) with coverage as outlined on the following proposal will be maintained. **Please note claims reporting timeframe limitations for this coverage**

Alliant Business Services (ABS) will continue to play a significant role not only in providing various types of loss control services, but also in providing appraisal services. For the 2017-2018 policy year, property valuations will continue to be a key focus. As a reminder, it is underwriters' intent to have all buildings with a scheduled value of \$5,000,000 or more appraised once every five to seven years. This service is included in the total program cost. Insureds may also choose to have lower valued buildings appraised. The cost to have all, or specific buildings appraised that are valued on a members schedule between \$25,000 and \$5,000,000 will be quoted at the time the request is made.

Please review important Disclosure and Loss Notification information included in your renewal materials. Your review and acknowledgement of these documents are required via your signature once you authorize a request to bind coverage with your Alliant representative.

## ALLIANT PROPERTY INSURANCE PROGRAM (APIP)

**July 1, 2017 – July 1, 2018**

### EXECUTIVE SUMMARY

The following table depicts key statistics relative to last year:

**Year-over-Year Rate and Premium Comparison**

<u>City of Merced</u>	<u>2014-2015</u>	<u>2015-2016</u>	<u>2016-2017</u> <u>(at 11/13/2016)</u>	<u>2017-2018</u>	<u>Variance</u>
Total Insured Values:	\$ 207,400,367	\$ 211,725,304	\$ 217,791,029	\$ 237,641,185	9.11%
Account Rate (per hundred dollars):	0.0867568	0.0835857	0.0817040	0.0813942	-0.37%
Earthquake TIV:	Not Applicable	Not Applicable	Not Applicable	Not Applicable	N/A
Earthquake Limit:	Not Covered	Not Covered	Not Covered	Not Covered	N/A
*Total Annual Cost:	\$ 179,933.00	\$ 176,972.00	\$ 177,944.01	\$ 193,426.15	8.70%

\* TOTAL COST includes: all premiums (except Cyber Enhancement option, if purchased), underwriting fees, commissions, loss control expenses, program administration charges, and applicable taxes

The following pages are coverage items currently under review with the APIP markets to be effective on July 1, 2017.

Thank you for your continued support of APIP. We look forward to working with you this next year.

Please let us know if you have any questions about your renewal.

## ALLIANT PROPERTY INSURANCE PROGRAM

### SUMMARY OF PROPOSED CHANGES

**THE FOLLOWING ITEMS ARE PROPOSED CHANGES MADE FOR THE 2017-2018 POLICY TERM**

Coverage	2016-2017	2017-2018 Proposed Changes	Status
Course of Construction and Additions (including New) for projects with project values not exceeding insured's sublimit	Up to \$50,000,000 in Total Project value available. Projects over \$25,000,000 are charged at account rate.	Up to \$100,000,000 in Total Project value available. Projects over \$25,000,000 are charged at account rate. Wood Frame construction is excluded if valued over \$50,000,000. All wood frame construction must have underwriting approval prior to binding	Pending
Communicable Disease	Not Covered	\$500,000 per occurrence and annual aggregate per insured limit subject to an aggregate of \$10,000,000 for all Declarations combined except Hospital Declarations	Pending
Drone "Unmanned Aerial Vehicle"	Not Covered	\$100,000 per occurrence while in Storage and in transit coverage subject to \$10,000 deductible. Not covered while in flight additional restrictions to apply	Pending
Mold / Fungus Resultant Damage	Not Covered	\$100,000 per occurrence, with a \$1,000,000 annual aggregate per Declaration.	Pending
Excess Terrorism	<p>\$500,000,000 Per Named Insured for Terrorism (Excess Layer) subject to:</p> <p>\$1,000,000,000 Per Occurrence, All Named Insureds combined in Declarations 1-9, 11-14, 18-22, 25-30 and 32-34 for Terrorism (Excess Layer) subject to;</p> <p>\$1,300,000,000 Annual Aggregate shared by all Named Insureds combined in Declarations 1-9, 11-14, 18-22, 25-30 and 32-34, as respects Property Damage, Business Interruption, Rental Income and Extra Expense combined for Terrorism (Excess Layer)</p>	<p><b>\$600,000,000</b> Per Named Insured for Terrorism (Excess Layer) subject to:</p> <p><b>\$1,100,000,000</b> Per Occurrence, All Named Insureds combined in Declarations 1-9, 11-14, 18-22, 25-30 and 32-34 for Terrorism (Excess Layer) subject to;</p> <p><b>\$1,400,000,000</b> Annual Aggregate shared by all Named Insureds combined in Declarations 1-9, 11-14, 18-22, 25-30 and 32-34, as respects Property Damage, Business Interruption, Rental Income and Extra Expense combined for Terrorism (Excess Layer)</p>	Approved
Pollution Coverage: Mold deductible	\$75,000 per occurrence	\$250,000 per occurrence	Approved
Cyber Coverage: Fraudulent Instruction Coverage Endorsement	Not Covered	\$50,000 Limit	Approved
Cyber Coverage: Telecommunication Fraud Endorsement	Not Covered	\$50,000 Limit	Approved

## ALLIANT PROPERTY INSURANCE PROGRAM

### SUMMARY OF PROPOSED CHANGES CONTINUED

THE FOLLOWING ITEMS ARE PROPOSED CHANGES MADE FOR THE 2017-2018 POLICY TERM

Coverage	2016-2017	2017-2018 Proposed Changes	Status
Cyber Coverage: Consequential Reputational Loss Endorsement	Not Covered	\$50,000 Limit	Approved
Cyber Coverage: First Party Computer Security Covg. Endorsement	a. Forensic Expense \$50,000 a. Dependent Business Interruption sublimit \$150,000 b. Hourly Business Interruption sub-limit c. Not Referenced	a. Forensic Expense limit \$100,000 b. Dependent Business Interruption sublimit \$500,000 c. Deleted the Hourly Business Interruption sub-limit d. Amended endorsement wording to refer to <u>bitcoins</u>	Approved

### Master Policy Form Wording Proposed Changes

Coverage	2016-2017	2017-2018 Proposed	Status
Policy Term	July 1, 2016 to July 1, 2017	July 1, 2017 to July 1, 2018	Renewal item
Section I, G. 6.	Library Book table	Updated library book values per US inflation calculator and updated list to Alliant Ins. Services, Inc. Programs' format.	Update
Section I, E. 2.p	p. Increased Cost of Construction <u>due to</u> <u>the enforcement of</u> building codes / ordinance or law. As per policy provisions;	p. Increased Cost of Construction <u>as a</u> <u>consequence of a requirement to comply</u> <u>with</u> building codes / ordinance or law. As per policy provisions;	Requested
Section II, B. 8.	This Policy is extended to include physical damage, business interruption loss, loss of interest and/or extra expense incurred and/or sustained by the Named Insured as a result of physical damage to or destruction of property, by the perils insured against occurring during the policy period and occasioned by <u>the</u> <u>enforcement of</u> any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures, which is in force at the time such a loss occurs, which necessitates the demolition of any portion of the covered building not damaged by the covered peril(s).	This Policy is extended to include physical damage, business interruption loss, loss of interest and/or extra expense incurred and/or sustained by the Named Insured as a result of physical damage to or destruction of property, by the perils insured against occurring during the policy period and occasioned by <u>a requirement to</u> <u>comply with</u> any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures, which is in force at the time such a loss occurs, which necessitates the demolition of any portion of the covered building not damaged by the covered peril(s).	Requested

## Master Policy Form Wording Proposed Changes Continued

Coverage	2016-2017	2017-2018 Proposed	Status
Section II, B. 9.	In the event of physical damage to property insured by a covered peril, this policy is extended to cover the cost of demolishing any undamaged portion of the covered property including the cost of clearing the site thereof, caused by loss from any covered peril(s) under this Policy and resulting from <u>enforcement of</u> any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time of loss which necessitates such demolition.	In the event of physical damage to property insured by a covered peril, this policy is extended to cover the cost of demolishing any undamaged portion of the covered property including the cost of clearing the site thereof, caused by loss from any covered peril(s) under this Policy and resulting from <u>a requirement to comply with</u> any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time of loss which necessitates such demolition.	Requested
Section II, B. 10.	In the event of physical damage to property insured by a covered peril, this Policy is extended to cover the increased cost of repair or replacement occasioned by the <u>enforcement of</u> any local or state ordinance or law including written guidelines used by the department of corrections in any state regulating the construction, repair or demolition of buildings or structures, which is in force at the time such a loss occurs or which comes into force within 6 months after such a loss occurs, which necessitates in repairing or replacing the building covered hereunder which has suffered damage or destruction by the covered peril(s) or which has undergone demolition, limited, however, to the minimum requirements of such ordinance or law.	In the event of physical damage to property insured by a covered peril, this Policy is extended to cover the increased cost of repair or replacement occasioned by <u>a requirement to comply with</u> any local or state ordinance or law including written guidelines used by the department of corrections in any state regulating the construction, repair or demolition of buildings or structures, which is in force at the time such a loss occurs or which comes into force within 6 months after such a loss occurs, which necessitates in repairing or replacing the building covered hereunder which has suffered damage or destruction by the covered peril(s) or which has undergone demolition, limited, however, to the minimum requirements of such ordinance or law.	Requested
Section III, B. 3.	The Company shall, in the case of loss covered under this Policy, be liable also for loss to the interest covered by the Policy, occasioned by the <u>enforcement of</u> any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time such loss occurs, which necessitates the demolition of any portion of the described building(s) not damaged by the covered peril(s). The Company shall also be liable for loss due to the additional period of time required for repair or reconstruction in conformity with the minimum standards of such ordinance or law of the building(s) described in this Policy damaged by a covered peril.	The Company shall, in the case of loss covered under this Policy, be liable also for loss to the interest covered by the Policy, occasioned by <u>a requirement to comply with</u> any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time such loss occurs, which necessitates the demolition of any portion of the described building(s) not damaged by the covered peril(s). The Company shall also be liable for loss due to the additional period of time required for repair or reconstruction in conformity with the minimum standards of such ordinance or law of the building(s) described in this Policy damaged by a covered peril.	Requested

### Master Policy Form Wording Proposed Changes Continued

Coverage	2016-2017	2017-2018 Proposed	Status
Section IV. B. Exclusions 11. e	Not restricted	With the limit increase for COC the following is added to this section:  e. Excluding wood construction valued over USD 50,000,000	Pending
Section IV. AG. Additional Insured's/Loss Payees	It is hereby understood and agreed that the interest of Additional Insured's and/or Loss Payees is automatically included, <u>as per schedule held on file with Alliant Insurance Services, Inc.</u>	It is hereby understood and agreed that the interest of Additional Insured's and/or Loss Payees is automatically included <u>where required by contract.</u>	Requested
Section VIII, 2.(h)	Boiler and Machinery Ordinance or Law item	Replacing "enforcement" with "a requirement to comply with any"	Requested
Section VIII, 8. g (a)	Loss to the Undamaged portion of the building is included in the Limit of Insurance that otherwise applies to the damaged building. But in no event will the amount the Company pay for loss to the building, including the loss in value of the undamaged portion of the building due to <u>enforcement</u> of an ordinance or law to which this coverage applies, exceed:	Loss to the Undamaged portion of the building is included in the Limit of Insurance that otherwise applies to the damaged building. But in no event will the amount the Company pay for loss to the building, including the loss in value of the undamaged portion of the building due to <u>a requirement</u> of an ordinance or law to which this coverage applies, exceed:	Requested
Endorsements	Not provided	Mold /Fungus Resultant Damage coverage added via endorsement to the Policy Form. Sub-limit is added as noted above.	Requested

## INVOICE

<b>Alliant Insurance Services Inc.</b> <b>2180 Harvard Street, Ste 460 Sacramento, CA 95815</b>
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<b>NAMED INSURED:</b> City of Merced	<b>INVOICE DATE:</b> May 30, 2017 <b>CUSTOMER NUMBER:</b> MERCED0-02 <b>EFFECTIVE DATE:</b> July 1, 2017
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<b>INSURANCE CO:</b> Various <b>POLICY NUMBER:</b> PPROP1718	<b>INVOICE NUMBER:</b> 1040274
<b>Total Property Premium:</b> <b>ABS Fee:</b> <b>Estimated SLT&amp;F's</b> <b>Broker Fee:</b>	\$ 180,334.00 \$ 5,049.00 \$ 5,841.15 \$ 0.00
<b>ALL RISK PROPERTY SUBTOTAL</b>	<b>\$ 191,224.15</b>

<b>INSURANCE CO:</b> Various <b>POLICY NUMBER:</b> PBOILER1718	<b>INVOICE NUMBER:</b> 2040274
<b>EXCESS BOILER &amp; MACHINERY SUBTOTAL</b>	<b>\$ 2,202.00</b>

<b>TOTAL DUE AT THIS TIME</b>	<b>\$ 193,426.15</b>
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*Total Due includes Premiums, Taxes and Fees where applicable. The Cyber Enhancement premium, should you have elected to purchase this coverage, is not included as part of this invoice.*

*Please return a copy of the invoice with your payment. Premiums are due and payable upon receipt of this invoice but no later than July 21, 2017. If payment is not received by the due date, policies may be subject to cancellation.*

*Alliant embraces a policy of transparency with respect to its compensation from insurance transactions. Details on our compensation policy, including the types of income that Alliant may earn on a placement, are available on our website at [www.alliant.com](http://www.alliant.com). For a copy of our policy or for any inquiries regarding compensation issues pertaining to your account you may also contact us at: Alliant Insurance Services, Attention: General Counsel, 701 B Street, 6th Floor, San Diego, CA 92101.*

**ALLIANT INSURANCE SERVICES, INC.**  
**ALLIANT PROPERTY INSURANCE PROGRAM (APIP)**  
**PROPERTY PROPOSAL**

**TYPE OF INSURANCE:**    ☒ Insurance    ☐ Reinsurance

**NAMED INSURED:**            City of Merced

**DECLARATION:**                2-Cities 2

**POLICY PERIOD:**            July 1, 2017 to July 1, 2018

**COMPANIES:**                 See Attached List of Companies

**TOTAL INSURED  
VALUES:**                        \$ 237,641,185 as of May 31, 2017

**ALL RISK  
COVERAGES &  
LIMITS:**

\$	1,000,000,000	Per Occurrence: all Perils, Coverages (subject to policy exclusions) and all Named Insureds (as defined in the policy) combined, per Declaration, regardless of the number of Named Insureds, coverages, extensions of coverage, or perils insured, subject to the following per occurrence and/or aggregate sub-limits as noted below.
\$	5,000,000	Flood Limit - Per Occurrence and in the Annual Aggregate (for those Named Insured(s) that purchase this optional dedicated coverage).
\$	5,000,000	Per Occurrence and in the Annual Aggregate for all locations in Flood Zones A & V (inclusive of all 100 year exposures). This Sub-limit does not increase the specific flood limit of liability for those Named Insured(s) that purchase this optional dedicated coverage.
	Not Covered	Earthquake Shock - Per Occurrence and in the Annual Aggregate (for those Named Insured(s) that purchase this optional dedicated coverage).
\$	100,000,000	Combined Business Interruption, Rental Income and Tax Revenue Interruption and Tuition Income (and related fees). However, if specific values for such coverage have not been reported as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc., this sub-limit amount is limited to \$500,000 per Named Insured subject to maximum of \$2,500,000 Per Occurrence for Business Interruption, Rental Income and Tuition Income combined, and \$5,000,000 per occurrence for Tax Revenue Interruption. Coverage for power generating plants is excluded, unless otherwise specified.
\$	50,000,000	Extra Expense.

**ALL RISK  
COVERAGES &  
LIMITS: (continued)**

\$	25,000,000	Miscellaneous Unnamed Locations for existing Named Insured's Excluding Earthquake coverage for Alaska and California Named Insureds. If Flood coverage is purchased for all scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.
	180 Days	Extended Period of Indemnity
See Policy Provisions	\$25,000,000	Automatic Acquisition up to \$100,000,000 or a Named Insured's Policy Limit of Liability if less than \$100,000,000 for 120 days excluding licensed vehicles for which a sub-limit of \$10,000,000 applies per policy Automatic Acquisition and Reporting Condition. Additionally a sub-limit of \$2,500,000 applies for Tier 1 Wind Counties, Parishes and Independent Cities for 60 days for the states of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas and/or situated anywhere within the states of Florida and Hawaii. The peril of EQ is excluded for the states of Alaska and California. If Flood coverage is purchased for all scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.
\$	1,000,000	Unscheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf and further subject to \$25,000 / 25 gallon maximum per item.
\$	5,000,000	or 110% of the scheduled values, whichever is greater, for Scheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf and further subject to \$25,000 / 25 gallon maximum per item.
\$	50,000,000	Errors & Omissions - This extension does not increase any more specific limit stated elsewhere in this policy or Declarations.
\$	25,000,000	Course of Construction and Additions (including new) for projects with completed values not exceeding the sub-limit shown.
\$	2,500,000	Money & Securities for named perils only as referenced within the policy.
\$	2,500,000	Unscheduled Fine Arts.
\$	250,000	Accidental Contamination per occurrence and annual aggregate per Named Insured with \$500,000 annual aggregate for all Named Insureds per Declaration.
\$	2,000,000	Unscheduled Tunnels, Bridges, Dams, Catwalks (except those not for public use), Roadways, Highways, Streets, Sidewalks, Culverts, Street Lights and Traffic Signals unless a specific value has been declared (excluding coverage for the peril of Earthquake Shock, and excluding Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) declared disasters, providing said declaration provides funding for repairs).

**ALL RISK  
COVERAGES &  
LIMITS: (continued)**

\$	50,000,000	Increased Cost of Construction due to the enforcement of building codes/ ordinance or law (includes All Risk and Boiler & Machinery).
\$	25,000,000	Transit.
\$	2,500,000	Unscheduled Animals; not to exceed \$50,000 per Animal, per Occurrence.
\$	2,500,000	Unscheduled Watercraft up to 27 feet.
	Included	Per Occurrence for Off Premises Vehicle Physical Damage.
\$	25,000,000	Off Premises Services Interruption including Extra Expense resulting from a covered peril at non-owned/operated locations.
\$	5,000,000	Per Occurrence Per Named Insured subject to an Annual Aggregate of \$10,000,000 for Earthquake Shock on Licensed Vehicles, Unlicensed Vehicles, Contractor's Equipment and Fine Arts combined for all Named Insured(s) in this Declaration combined that do not purchase optional dedicated Earthquake Shock coverage, and/or where specific values for such items are not covered for optional dedicated Earthquake Shock coverage as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc..
\$	5,000,000	Per Occurrence Per Named Insured subject to an Annual Aggregate of \$10,000,000 for Flood on Licensed Vehicles, Unlicensed Vehicles, Contractor's Equipment and Fine Arts combined for all Named Insured(s) in this Declaration combined that do not purchase optional dedicated Flood coverage, and/or where specific values for such items are not covered for optional dedicated Flood coverage as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc..
\$	3,000,000	Contingent Business Interruption, Contingent Extra Expense, Contingent Rental Values and Contingent Tuition Income separately.
\$	500,000	Jewelry, Furs, Precious Metals and Precious Stones Separately.
\$	1,000,000	Claims Preparation Expenses.
\$	50,000,000	Expediting Expenses.
\$	1,000,000	Personal Property Outside of the USA.
	Not Covered	Per Occurrence Per Declaration Upgrade to Green Coverage subject to the lesser of, the cost of upgrade, an additional 25% of the applicable limit of liability shown in the schedule of values or this sub limit.
\$	500,000	Per Occurrence and Annual Aggregate per insured limit for Communicable Disease subject to an APIP Program aggregate of \$10,000,000 for all declarations combined except Hospital declarations.

**VALUATION:**

- Repair or Replacement Cost
- Actual Loss Sustained for Time Element Coverages
- Contractor's Equipment /Vehicles either Replacement Cost or Actual Cash Value (ACV) as declared by each member. If not declared, valuation will default to Actual Cash Value (ACV)

**EXCLUSIONS**

**(Including but not limited to):**

- Seepage & Contamination
- Cost of Clean-up for Pollution
- Mold

**Deductibles: If two or more deductible amounts provided in the Declaration Page apply for a single occurrence the total to be deducted shall not exceed the largest per occurrence deductible amount applicable. (The Deductible amounts set forth below apply Per Occurrence unless indicated otherwise).**

**"ALL RISK"**
**DEDUCTIBLE:**

\$ 10,000 Per Occurrence, which will apply in the event a more specific deductible is not applicable to a loss.

**DEDUCTIBLES FOR  
SPECIFIC PERILS  
AND COVERAGES:**

\$ 100,000 All Flood Zones Per Occurrence excluding Flood Zones A & V.

\$ 250,000 Per Occurrence for Flood Zones A & V (inclusive of all 100 year exposures).

Not Covered Earthquake Shock: If the stated deductible is a flat dollar amount, the deductible will apply on a Per Occurrence basis, unless otherwise stated. If the stated deductible is on a percentage basis, the deductible will apply Per Occurrence on a Per Unit basis, as defined in the policy form, subject to the minimum deductible per occurrence.

\$ 1,000 Per Occurrence for Specially Trained Animals.

\$ 500,000 Per Occurrence for Unscheduled Tunnels, Bridges, Dams, Catwalks (except those not for public use), Roadways, Highways, Streets, Sidewalks, Culverts, Street Lights and Traffic Signals unless a specific value has been declared (excluding coverage for the peril of Earthquake Shock, and excluding Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) declared disasters).

\$ 10,000 Per Vehicle or Item for Licensed Vehicles, Unlicensed Vehicles and Contractor's Equipment subject to \$100,000 Maximum Per Occurrence, Per Named Insured for the peril of Earthquake for Named Insured(s) who do not purchase dedicated Earthquake limits.

**DEDUCTIBLES FOR  
SPECIFIC PERILS  
AND COVERAGES:  
(continued)**

\$ 50,000 Per Occurrence Per Named Insured for this Declaration for Fine Arts for the peril of Earthquake for Named Insured(s) who do not purchase dedicated Earthquake limits.

\$	10,000	Per Vehicle or Item for Licensed Vehicles, Unlicensed Vehicles and Contractor's Equipment subject to \$100,000 Maximum Per Occurrence, Per Named Insured for the peril of Flood for Named Insured(s) who do not purchase dedicated Flood limits.
\$	50,000	Per Occurrence Per Named Insured for this Declaration for Fine Arts for the peril of Flood for Named Insured(s) who do not purchase dedicated Flood limits.
	24 Hour	Waiting Period for Service Interruption for All Perils and Coverages.
	2.5%	of Annual Tax Revenue Value per Location for Tax Interruption.
\$	5,000	Per Occurrence for Off Premises Vehicle Physical Damage. If Off-Premises coverage is included/purchased, the stated deductible will apply to vehicle physical damage both on and off-premises on a Per Occurrence basis, unless otherwise stated. If Off-Premises coverage is not included, On-Premises/In-Yard coverage is subject to the All Risk (Basic) deductible.
	Replacement Cost	Vehicle Valuation Basis
\$	10,000	Per Occurrence for Contractor's Equipment.

**The following stand-alone coverages are provided by the APIP program but are not covered in the Limit of Liability or the Sub-Limits of Liability above or attached to the Master Policy Form Wording. However, the coverage costs are included in the APIP Total Cost noted below. Carriers providing these coverages are included in the Schedule of Carriers.**

\$	100,000,000	Per Named Insured Per Occurrence subject to \$200,000,000 Annual Aggregate of Declarations 1-14, 18-22, 25-30 and 32-34 combined as respects Property Damage, Business Interruption, Rental Income and Extra Expense Combined for Terrorism (Primary Layer).
\$	10,000	Per Occurrence Deductible for Primary Terrorism.
\$	600,000,000	Per Named Insured for Terrorism (Excess Layer) subject to;
\$	1,100,000,000	Per Occurrence, All Named Insureds combined in Declarations 1-9, 11-14, 18-22, 25-30 and 32-34 for Terrorism (Excess Layer) subject to;
\$	1,400,000,000	Annual Aggregate shared by all Named Insureds combined in Declarations 1-9, 11-14, 18-22, 25-30 and 32-34, as respects Property Damage, Business Interruption, Rental Income and Extra Expense combined for Terrorism (Excess Layer).
\$	500,000	Per Occurrence Deductible for Excess Terrorism (Applies only if the Primary Terrorism Limit is exhausted).
	Included	Information Security & Privacy Insurance with Electronic Media Liability Coverage. See Cyber Coverage Document for details of coverage terms, limits and deductibles

Included Pollution Liability Insurance Coverage. See attached Pollution Liability Insurance Coverage Document for applicable limits and deductibles.

**TERMS & CONDITIONS:** 25% Minimum Earned Premium and cancellations subject to 10% penalty

Except Cyber Liability Premium is 30% Earned at Inception

Except Pollution Liability Premium is 100% Earned at Inception

**NOTICE OF CANCELLATION:** 90 Days except 10 Days for non-payment of premium

	Annual Cost*
<b>Total Property Premium:</b>	\$ 180,334.00
<b>Excess Boiler:</b>	\$ 2,202.00
<b>ABS Fee:</b>	\$ 5,049.00
<b>SLT&amp;F's (Estimate)</b>	\$ 5,841.15
<b>Broker Fee:</b>	\$ 0.00
<b>TOTAL COST †: (Including Taxes and Fees)</b>	\$ 193,426.15
*Premiums are based on valid selectable options and the TIV's above. Changes in TIV's will require a premium adjustment.	
† TOTAL COST includes: premiums, underwriting fees, commissions, loss control expenses, program administration charges, and applicable taxes (excluding the Cyber Enhancement premium - should you have elected to purchase this coverage)	

**PRINT DATE:** May 31, 2017

**PROPOSAL VALID UNTIL:** July 1, 2017

**BROKER:** **ALLIANT INSURANCE SERVICES, INC.**  
**License No.** 0C36861  
 Kevin J. Bibler  
 Senior Vice President  
 Evan Washburn  
 Account Executive

**NOTES:**

- *Major pending and approved changes to the APIP Program are described in the Executive Summary.*
- *Change in Total Insurable Values will result in adjustment in premium*
- *Each line of coverage is rated separately therefore increases in TIV's on highly rated coverages such as Vehicles, CE, EQ or 100 year Flood Zones, etc may increase the member average account rate*
- *Some coverage, sub-limits, terms and conditions could change until negotiations with the insurance carriers have been finalized*
- *This indication is based on the current loss experience and is subject to change if this members loss ratio deteriorates further and/or if the markets suffer a catastrophic event*
- *Coverage outlined in this Proposal is subject to the terms and conditions set forth in the policy. Please refer to Policy for specific terms, conditions and exclusions*
- *The flood zones provided on the Schedule of Values (SOVs) are for rating purposes only. The actual flood zone will be determined at the time of loss.*

**ALLIANT INSURANCE SERVICES, INC.  
ALLIANT PROPERTY INSURANCE PROGRAM (APIP)  
BOILER & MACHINERY PROPOSAL**

**NAMED INSURED:** City of Merced  
**POLICY PERIOD:** July 1, 2017 to July 1, 2018  
**COMPANIES:** See Attached List of Companies  
**TOTAL INSURED VALUES:** \$ 237,641,185 as of May 30, 2017  
**STATUS/RATING:** See Attached List of Companies

**COVERAGES & LIMITS:**

\$	100,000,000	Boiler Explosion and Machinery Breakdown, (for those Named Insureds that purchase this optional dedicated coverage) as respects Combined Property Damage and Business Interruption/Extra Expense (Including Bond Revenue Interest Payments where Values Reported and excluding Business Interruption for power generating facilities unless otherwise specified). Limit includes loss adjustment agreement and electronic computer or electronic data processing equipment with the following sub-limits:
	Included	Jurisdictional and Inspections.
\$	10,000,000	Per Occurrence for Service/Utility/Off Premises Power Interruption.
	Included	Per Occurrence for Consequential Damage/Perishable Goods/Spoilage.
\$	10,000,000	Per Occurrence for Electronic Data Processing Media and Data Restoration.
\$	2,000,000	Per Occurrence, Per Named Insured and in the Annual Aggregate per Declaration for Earthquake Resultant Damage for Members who purchase Dedicated Earthquake Coverage.
\$	10,000,000	Per Occurrence for Hazardous Substances/ Pollutants/Decontamination.
	Included	Per Occurrence for Machine or Apparatus used for Research, Diagnosis, Medication, Surgical, Therapeutic, Dental or Pathological Purposes.

**NEWLY ACQUIRED LOCATIONS:**

\$ 25,000,000 Automatic Acquisition for Boiler & Machinery values at newly acquired locations. Values greater than \$25,000,000 or Power Generating Facilities must be reported within 120 days and must have prior underwriting approval prior to binding

**VALUATION:**

Repair or Replacement except Actual Loss sustained for all Time Element coverages

**EXCLUSIONS**

(Including but not limited to):

- Testing
- Explosion, except for steam or centrifugal explosion
- Explosion of gas or unconsumed fuel from furnace of the boiler

**OBJECTS EXCLUDED:**

(Including but not limited to):

- Insulating or refractory material
- Buried Vessels or Piping
- Furnace, Oven, Stove, Incinerator, Pot Kiln

**NOTICE OF CANCELLATION:**

90 days except 10 days for non-payment of premium

**DEDUCTIBLES:**

\$ 2,500	Except as shown for Specific Objects or Perils.
\$ 2,500	Electronic Data Processing Media.
\$ 2,500	Consequential Damage.
\$ 2,500	Objects over 200 hp, 1,000 KW/KVA/Amps or Boilers over 5,000 square feet of heating surface.
\$ 50,000	Objects over 350 hp, 2,500 KW/KVA/Amps or Boilers over 10,000 square feet of heating surface.
\$ 100,000	Objects over 500 hp, 5,000 KW/KVA/Amps or Boilers over 25,000 square feet of heating surface.
\$ 250,000	Objects over 750 hp, 10,000 KW/KVA/Amps or Boilers over 75,000 square feet of heating surface.
\$ 350,000	Objects over 25,000 hp, 25,000 KW/KVA/Amps or Boilers over 250,000 square feet of heating surface.
10 per foot / \$2,500 Minimum	Deep Water Wells.
24 Hour Waiting Period	Utility Interruption.
24 Hours	Business Interruption/Extra Expense Except as noted below.
30 Days	Business Interruption - Revenue Bond.
5 x 100% of Daily Value	Business Interruption - All objects over 750 hp or 10,000 KW/KVA/Amps or 10,000 square feet heating surface.
5 x 100% of Daily Value	Business interruption - All Objects at Waste Water Treatment Facilities and All Utilities.

**Annual Cost**

**COST:** Cost is included on Property Proposal

**PRINT DATE:** May 30, 2017

**PROPOSAL VALID UNTIL:** July 1, 2017

**BROKER:** **ALLIANT INSURANCE SERVICES, INC.**  
**License No.** 0C36861

Kevin J. Bibler  
Senior Vice President

Evan Washburn  
Account Executive

**NOTES:**

- *Major pending and approved changes to the APIP Program are described in the Executive Summary.*
- *Change in Total Insurable Values will result in adjustment in premium*
- *Some coverage, sublimits, terms and conditions could change until negotiations with the insurance carriers have been finalized*
- *Coverage outlined in this Proposal is subject to the terms and conditions set forth in the policy. Please refer to Policy for specific terms, conditions and exclusions*



## ADMINISTRATIVE REPORT

Agenda Item H.13.

Meeting Date: 7/5/2017

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

**SUBJECT:** Agreement for Labor Relations Consulting, Labor Contract Negotiations and Employee Related Legal Services With the Law Firm Liebert Cassidy Whitmore

### REPORT IN BRIEF

Considers approving an agreement for labor relations consulting, labor contract negotiations and employee related legal services with the law firm Liebert Cassidy Whitmore in the amount of \$60,000.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Approving an agreement for professional services with Liebert Cassidy Whitmore for labor relations services related to negotiations with American Federation of State, County, and Municipal Employees (AFSCME), Merced Association of City Employees (MACE), International Fire Fighter's Association Local 1479 (Fire) and Management Compensation Plan, in an amount not to exceed \$60,000, and;
- B. Authorizing the City Manager or Assistant City Manager to execute the necessary documents.

### ALTERNATIVES

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

### AUTHORITY

Charter of the City of Merced, Section 200, et seq.  
Merced Municipal Code Section 3.04

### CITY COUNCIL PRIORITIES

As provided for in the 2017-2018 adopted budget.

### DISCUSSION

The City has five represented bargaining units and four unrepresented employee groups. The Memorandums of Understanding (MOUs) for some the City's bargaining which include, AFSCME, MACE and the Merced City Firefighters (IAFF Local 1479) as well as the Management

---

Compensation Plan are set to expire on December 31, 2017. As this expiration date is approaching, the City will need to commence contract negotiations with these bargaining units. In the past, the City has contracted with an outside law firm to assist with labor negotiations and labor related legal services. This is a common practice used by other public agencies. While City staff will provide substantial support in preparation for and during the negotiation processes, internal City resources are not sufficient to meet the demands associated with the bargaining processes. In addition, the City and the bargaining processes will benefit from having the specialized legal expertise offered by a law firm that specializes in labor relations and labor negotiations to address complex legal issues such as employee benefits, compensation, pensions and other issues that are likely to arise during the bargaining processes.

The City has used Liebert Cassidy Whitmore for labor negotiation services since 2010. During that time, the City has generally completed negotiations in a timely manner without being subject to fact-finding or unfair labor practice charges. With the current landscape of labor relations issues, it is important to have an expert legal resource at the table with the City who can communicate well with City Council on labor negotiations issues. Accordingly, for the reasons stated above and for the continuity of knowledge for the bargaining processes, Staff recommends contracting with Liebert Cassidy Whitmore for labor relations legal services.

## **IMPACT ON CITY RESOURCES**

No additional appropriation is needed.

## **ATTACHMENTS**

1. LCW Agreement

## **AGREEMENT FOR SPECIAL SERVICES**

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

### **1. Conditions**

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

### **2. Attorney’s Services**

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

### **3. Fees, Costs, Expenses**

City agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including travel time billed one way only. Fees and costs under this Agreement are not to exceed \$60,000.00, without an amendment to this Agreement approved by the City.

The current range of hourly rates for Attorney time is from Two Hundred to Three Hundred Fifty Dollars (\$200.00 - \$350.00), One Hundred Ninety-Five Dollars to Two Hundred Thirty Dollars (\$195.00 - \$230.00) for time of Labor Relations/HR Consultant and from Seventy-Five to One Hundred Sixty Dollars (\$75.00 - \$160.00) for time of paraprofessional and litigation support staff. Attorney reviews its hourly rates on an

annual basis and, if appropriate, adjusts them effective July 1. Attorney will provide the City with written notification of any adjustment in the range of rates. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour.

City agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of City. Attorney bills photocopying charges at Fifteen Cents (\$0.15) per page and facsimile charges at Twenty-Five Cents (\$0.25) per page. A Public Agency Fee Schedule is attached to this Agreement.

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

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

#### **4. Arbitration of Professional Liability or Other Claims**

Disputes. If a dispute between City and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 5200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between City and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

**5. File Retention**

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

**6. Assignment**

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

7. **Independent Contractor**

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

8. **Authority**

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

9. **Term**

This Agreement is effective \_\_\_\_\_, 2017, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE,  
A Professional Corporation

CITY OF MERCED,  
A Municipal Corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Shelline K. Bennett

Name: \_\_\_\_\_

Title: Managing Partner, Fresno

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

 4.13.17

7. **Independent Contractor**

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

8. **Authority**

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

9. **Term**

This Agreement is effective \_\_\_\_\_, 2017, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE,  
A Professional Corporation

CITY OF MERCED,  
A Municipal Corporation

By: 

By: \_\_\_\_\_

Name: Shelline K. Bennett

Name: \_\_\_\_\_

Title: Managing Partner, Fresno

Title: \_\_\_\_\_

Date: 6/10/17

Date: \_\_\_\_\_

I. PUBLIC AGENCY FEE SCHEDULE

Hourly Rates (As of Agreement Effective Date)

Partners	\$350.00
Senior Counsel	\$305.00
Associates	\$200.00 - \$285.00
Labor Relations/HR Consultant	\$195.00 - \$230.00
Paraprofessionals & Litigation Support	\$75.00 - \$160.00

II. COST SCHEDULE

1. Photocopies	\$0.15 per copy
2. Facsimile Transmittal	\$0.25 per page



## ADMINISTRATIVE REPORT

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**Agenda Item I.1.**

Meeting Date: 7/5/2017

---

**Report Prepared by:** John Tresidder, Assistant City Clerk, City Clerk's Office

**SUBJECT:** Boards and Commissions Reappointments - Regional Airport Authority (1), Bicycle Advisory Commission (2), Recreation and Parks Commission (1), Personnel Board (1)

### REPORT IN BRIEF

Consider reappointing currently seated individuals to an additional term.

### RECOMMENDATION

**City Council** - Adopt a motion reappointing qualified individuals who are eligible for, and interested in, an additional term on their respective Board or Commission.

### ALTERNATIVES

1. Reappoint as recommended by staff; or,
2. Reappoint select individuals; or,
3. Refer back to staff with direction to resume recruitment of applicants.

### AUTHORITY

Article VII, Sections 700, 702, 702.1, 707 and 708 of the Merced City Charter.

### CITY COUNCIL PRIORITIES

Not applicable.

### DISCUSSION

Michael Bodine was appointed to the Regional Airport Authority on December 20, 2013 and has served one full term. Mr. Bodine is eligible for a second term on the Authority and has expressed his desire to be reappointed.

Isai Palma was appointed to the Bicycle Advisory Commission on July 1, 2013 and has served one full term. Thomas Hothem was appointed to the Bicycle Advisory Commission on August 5, 2013 and has served one full term. Both individuals are eligible and have expressed the desire to be reappointed.

Bianca Warren was appointed to the Recreation and Parks Commission on March 21, 2016 and has served a partial term. Ms. Warren is eligible for reappointment to a full term on the Commission and has expressed her desire for reappointment.

---

Yolanda Chavez was appointed to the Personnel Board on September 3, 2013 and has served one full term. Ms. Chavez is eligible for a second term on the Board and has expressed her desire to be reappointed.

**History and Past Actions:**

The Regional Airport Authority was created for the provision and maintenance of public airports and landing places for aerial traffic for the use of the public. The Authority consists of seven members who serve four-year terms of office.

The Bicycle Advisory Commission was created to hear matters relating to improving conditions for bicyclists, promoting bicycling as a means of transportation, and improving safety conditions for cyclists. The Commission consists of seven voting members and two ex-officio members who serve four-year terms of office.

The Recreation and Parks Commission was created to advise City Council on all matters pertaining to recreation and parks and to assist in the planning of recreation programs for the citizens of Merced. The Commission consists of seven members who serve four-year terms.

The Personnel Board, created by City Charter, recommends to City Council the adoption, amendment, or repeal of civil service rules and regulations, in addition to other personnel matters. The Board consists of five members who serve four-year terms of office.

Attached are current rosters for the Boards and Commissions and the current applications on file for members seeking reappointment. The matter is now before the Council.

**IMPACT ON CITY RESOURCES**

No impact on City resources.

**ATTACHMENTS**

1. Regional Airport Authority Roster
2. Application of Michael Bodine
3. Bicycle Advisory Commission Roster
4. Applications of Isai Palma and Thomas Hothem
5. Recreation and Parks Commission Roster
6. Application of Bianca Warren
7. Personnel Board Roster
8. Application of Yolanda Chavez



City of Merced, CA

# REGIONAL AIRPORT AUTHORITY

## BOARD ROSTER



**MICHAEL BODINE**

**1st Term** Dec 20, 2013 - Jul 01, 2017

**Position** Member

**Appointed by** City Council



**DESMOND JOHNSTON**

**1st Term** Jul 06, 2015 - Jul 01, 2019

**Position** Member

**Appointed by** City Council



**ALVIN OSBORN, JR.**

**1st Term** Jul 06, 2015 - Jul 01, 2019

**Position** Vice-Chair

**Appointed by** City Council



**WILLIAM A RUDD**

**1st Term** Dec 02, 2016 - Jul 01, 2019

**Position** Member

**Appointed by** City Council



**JOHN SUNDGREN**

**2nd Term** Dec 06, 2010 - Jul 01, 2017

**Position** Chair

**Appointed by** City Council



**VACANCY**

**Position** Member

**Appointed by** City Council



**VACANCY**

**Position** Member

**Appointed by** City Council

---

**Profile****Michael**

First Name

**O**

Middle Initial

**Bodine**

Last Name

**Retired**

Employer

Job Title

Email Address

Primary Phone

Alternate Phone

---

**Are you 18 years of age or older? (Required)**☒ Yes ☐ No

Street Address

City

Suite or Apt

State

Postal Code

---

**Regional Airport Authority**

Are you currently serving on a Board or Commission? If so please list:

---

**Which Boards would you like to apply for?**

Regional Airport Authority: Submitted

Questions apply to multiple boards.

---

**Highest Level of Education Completed: \***☒ Bachelor's Degree

---

## Communication

**The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?**

☒ Yes ☐ No

---

If you selected no, please identify how you would like to be contacted:

---

## Interests & Experiences

**Tell us about yourself, and why you are applying for this particular Board or Commission:**

Licensed Commercial pilot, single & multi-engine with instrument. Tenant on airport for 30 years. Owner of many general aviation aircraft, the last a B model Mooney. Currently president of local EAA Chapter 1401. Want to see the airport and general aviation grow and succeed.

**Please list your current employer and relevant volunteer experience.**

retired plant engineer and project manager. Active in church in many capacities, Festival Committee Chairperson, Facilities Maintenance Committee and usher. Helped repaint airport runway and taxiway markings. Active RAA member, assisted in selection of Boutique Air as our EAS carrier replacing Great Lakes.

**What is your understanding of the roles and responsibilities of this Board or Commission?**

Support the City of Merced's Regional Airport KMCE. Provide input to items brought to the board. for consideration.

**Do you have experience or special knowledge pertaining to this Board or Commission?**

Current member of RAA

**Any other comments you would like to add that may assist the City Council in their decision?**

---

Upload a Resume

---

## Requirements

Quest on app es to mu t p e boards.

### AB 1234 Ethics Training

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---

☒ I Agree \*

Quest on app es to mu t p e boards.

### Attendance Policy

---

---

☒ I Agree \*

### Statement of Economic Interests - FPPC Form 700

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☒ I Agree \*

Quest on app es to mu t p e boards.

### Oath of Office

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---

☒ I Agree \*

---

Quest on app es to mu t p e boards.

### Public Scrutiny

---

---

☒ I Agree \*

### How did you hear about this vacancy? \*

---

☒ A Friend

If you selected other, please indicate how you earned about the vacancy:

---


## Demographics

### Ethnicity

☒ Caucasian/Non-Hispanic

### Gender

☒ Male

  
Date of Birth

---

## Submission

### MOB

I declare under penalty of disqualification or termination that all statements in this application are true and complete to the best of my knowledge.



# BICYCLE ADVISORY COMMISSION

## BOARD ROSTER



**JULES COMEYNE**

**2nd Term** Jul 06, 2015 - Jul 01, 2019

**Position** Commissioner  
**Appointed by** City Council



**JUSTIN HICKS**

**1st Term** Aug 04, 2014 - Jul 01, 2019

**Position** Commissioner  
**Appointed by** City Council



**TOM HOTHEM**

**1st Term** Aug 05, 2013 - Jul 01, 2017

**Position** Vice-Chair  
**Appointed by** City Council



**LISA KAYSER-GRANT**

**2nd Term** Jul 01, 2013 - Jul 01, 2017

**Office** Merced Bicycle Coalition Representative  
**Position** Commissioner  
**Appointed by** City Council



**ISAI PALMA**

**1st Term** Jul 01, 2013 - Jul 01, 2017

**Position** Commissioner  
**Appointed by** City Council



**ANN W THURSTON**

**1st Term** Sep 22, 2016 - Jul 01, 2019

**Position** Commissioner  
**Appointed by** City Council



**ROBERT TYLER**

**2nd Term** Jul 01, 2013 - Jul 01, 2017

**Position** Chair  
**Appointed by** City Council



**VACANCY**

**Position** Ex-Officio  
**Appointed by** City Council



**VACANCY**

**Position** Ex-Officio  
**Appointed by** City Council

---

## Profile

Isai

First Name

Palma

Last Name

  
Middle InitialUnited Way of Merced County

Employer

Civic Engagement Coordinator

Job Title

[REDACTED]  
Email Address[REDACTED]  
Primary Phone[REDACTED]  
Alternate Phone

---

### Are you 18 years of age or older? (Required)

☒ Yes ☐ No

Question applies to multiple boards.

---

### Do you live within the City Limits of Merced? (Required)

☒ Yes ☐ No[REDACTED]  
Street Address[REDACTED]  
City[REDACTED]  
Suite or Apt  
State[REDACTED]  
Postal Code

Question applies to multiple boards.

---

### Are you a registered voter in the City of Merced? (Required)

☒ Yes ☐ No

---

### Bicycle Advisory Commission

Are you currently serving on a Board or Commission? If so, please list:

---

### Which Boards would you like to apply for?

---

Bicycle Advisory Commission: Submitted

---

Quest on app es to mu t p e boards.

**Highest Level of Education Completed: \***

☒ Bachelor's Degree

---

---

**Communication**

**The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?**

☒ Yes ☐ No

---

If you selected no please identify how you would like to be contacted:

---

**Interests & Experiences**

**Tell us about yourself, and why you are applying for this particular Board or Commission:**

I support the City of Merced in the drafting of the 2013 Bicycle Transportation Plan and want to be part of a body that can support the implementation of the plan.

**Please list your current employer and relevant volunteer experience.**

I am work for Building Healthy Communities out of the United Way and I am a community advocate. We have done a lot of work around Safe Routes to School and continuously find myself participating in activities that promote

**What is your understanding of the roles and responsibilities of this Board or Commission?**

Our role is to serve as an advisory board to the Merced City Council in regards to bicycle education, safety and promotion throughout the city.

**Do you have experience or special knowledge pertaining to this Board or Commission?**

I have serve one term as board member.

Any other comments you would like to add that may assist the City Council in their decision?

  
Upload a Resume

---

## Requirements

Question applies to multiple boards.

### AB 1234 Ethics Training

☒ I Agree \*

Question applies to multiple boards.

### Attendance Policy

☒ I Agree \*

### Statement of Economic Interests - FPPC Form 700

☒ I Agree \*

Question applies to multiple boards.

### Oath of Office

☒ I Agree \*

Quest on app es to mu t p e boards.

## Public Scrutiny

---

☒ I Agree \*

How did you hear about this vacancy? \*

---

☒ Other

current board member

f you se ected other p ease indicate how you earned about the vacancy:

---

## Demographics

Ethnicity

---

☒ Hispanic

Gender

---

☒ Male

---

Date of Birth

---

## Submission

IP

dec are under pena ty of disqua ification or termination that a statements in this app ication are true and comp ete to the best of my know edege

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## Profile

---

Thomas

First Name

---

Hothem

Last Name

Middle Initial

---

UC Merced

Employer

---

Associate Director, Merritt  
Writing Program

Job Title

---

  
Email Address

---

  
Primary Phone

---

  
Alternate Phone

---

### Are you 18 years of age or older? (Required)

☒ Yes ☐ No

Question applies to multiple boards.

---


### Do you live within the City Limits of Merced? (Required)

☒ Yes ☐ No

---

  
Street Address

---

  
Suite or Apt

State

---

  
City

---

  
Postal Code

Question applies to multiple boards.

---

### Are you a registered voter in the City of Merced? (Required)

☒ Yes ☐ No

---

### Bicycle Advisory Commission

Are you currently serving on a Board or Commission? If so, please list:

---

### Which Boards would you like to apply for?

---

Bicycle Advisory Commission: Submitted

---

Quest on app es to mu t p e boards.

**Highest Level of Education Completed: \***

☒ Doctoral Degree

---

---

**Communication**

**The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?**

☒ Yes ☐ No

thothem@ucmerced.edu

f you se ected no p ease identify how you wou d ike to  
be contacted:

---

**Interests & Experiences**

**Tell us about yourself, and why you are applying for this particular Board or Commission:**

I'm an avid bicycle commuter and explorer who teaches Writing for Engineering, Writing for Environmental Science and Policy, and General Education courses revolving around the concept of Sustainability. I also serve on the UC Merced Chancellor's Advisory Committee on Sustainability, on the Vernal Pools and Grasslands Advisory Board, as a California Naturalist instructor, and in particular as a League of American Bicyclists Certified Instructor (in association with the Merced Bicycle Coalition).

**Please list your current employer and relevant volunteer experience.**

I work for UC Merced, and have volunteered on various Merced Bicycle Coalition initiatives (including Safe Routes to School programs, bicycle surveys, safety instruction at elementary schools and WIC, and Building Healthy Communities initiatives).

**What is your understanding of the roles and responsibilities of this Board or Commission?**

It requires carefully examining and thoughtfully considering bicycle policy in Merced, to promote ridership and safety via alternative transportation.

**Do you have experience or special knowledge pertaining to this Board or Commission?**

Yes—I currently serve on it.

**Any other comments you would like to add that may assist the City Council in their decision?**

I'm dedicated to serving all Merced residents, especially those that are underrepresented when it comes to transportation infrastructure.



Upload a Resume

---

## Requirements

Question applies to multiple boards.

### AB 1234 Ethics Training

---

☒ I Agree \*

Question applies to multiple boards.

### Attendance Policy

---

☒ I Agree \*

### Statement of Economic Interests - FPPC Form 700

---

☒ I Agree \*

Question applies to multiple boards.

### Oath of Office

---

☒ I Agree \*

---

Quest on app es to mu t p e boards.

## Public Scrutiny

---

☒ I Agree \*

How did you hear about this vacancy? \*

---

☒ Other

## Bicycle Advisory Commission

f you se ected other p ease indicate how you earned about the vacancy:

---

## Demographics

### Ethnicity

---

☒ Caucasian/Non-Hispanic

### Gender

---

☒ Male

---

Date of Birth

---

## Submission

### TH

---

dec are under pena ty of disqua ification or termination that a statements in this app ication are true and comp ete to the best of my know edege



# RECREATION AND PARKS COMMISSION

## BOARD ROSTER



**MICHAEL R BELLUOMINI**

**1st Term** Dec 19, 2016 - Jul 01, 2019

**Position** Ex-Officio  
**Appointed by** City Council



**CORINNE A CHAVEZ**

**1st Term** Mar 21, 2016 - Jul 01, 2019

**Position** Commissioner  
**Appointed by** City Council



**JEREMY JENKINS**

**1st Term** May 05, 2014 - Jul 01, 2018

**Position** Commissioner  
**Appointed by** City Council



**ERIC NELSON**

**2nd Term** Sep 02, 2014 - Jul 01, 2018

**Position** Vice-Chair  
**Appointed by** City Council



**BIANCA WARREN**

**Partial Term** Mar 21, 2016 - Jul 01, 2017

**Position** Commissioner  
**Appointed by** City Council



**DR NAPOLEON WASHINGTON, JR.**

**1st Term** Sep 16, 2013 - Jul 01, 2017

**Position** Chair  
**Appointed by** City Council



**VACANCY**

**Position** Commissioner  
**Appointed by** City Council



**VACANCY**

**Position** Commissioner  
**Appointed by** City Council

---

## Profile

---

Bianca

First Name

---

Warren

Last Name

---

Employer

---

Job Title

---

Email Address

---

Primary Phone

---

Alternate Phone

---

### Are you 18 years of age or older? (Required)

☒ Yes ☐ No

Question applies to multiple boards.

---

### Do you live within the City Limits of Merced? (Required)

☒ Yes ☐ No

---

Street Address

---

Suite or Apt

State

---

City

---

Postal Code

Question applies to multiple boards.

---

### Are you a registered voter in the City of Merced? (Required)

☒ Yes ☐ No

---

Yes

Are you currently serving on a Board or Commission? If so, please list:

---

### Which Boards would you like to apply for?

---

Recreation and Parks Commission: Appointed

---

Quest on app es to mu t p e boards.

**Highest Level of Education Completed: \***

☒ Associate's Degree

---

---

**Communication**

**The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?**

☒ Yes ☐ No

**e-mail**

f you se ected no p ease identify how you wou d ike to be contacted:

---

**Interests & Experiences**

**Tell us about yourself, and why you are applying for this particular Board or Commission:**

I have lived in the Merced community since 2007. My family and I have volunteered and the community and I want to continue to be apart of the positive growth in Merced.

**Please list your current employer and relevant volunteer experience.**

---

**What is your understanding of the roles and responsibilities of this Board or Commission?**

To meet with the board, share ideas and those ideas are presented and it gives perspective to those that make the final decision.

**Do you have experience or special knowledge pertaining to this Board or Commission?**

I have volunteered for quite a few years and I an apart of a non-profit which helps in our community.

**Any other comments you would like to add that may assist the City Council in their decision?**

---

Upload a Resume

## Requirements

Question applies to multiple boards.

### AB 1234 Ethics Training

☒ I Agree \*

Question applies to multiple boards.

### Attendance Policy

☒ I Agree \*

### Statement of Economic Interests - FPPC Form 700

☒ I Agree \*

Question applies to multiple boards.

### Oath of Office

☒ I Agree \*

Question applies to multiple boards.

### Public Scrutiny

☒ I Agree \*

## How did you hear about this vacancy? \*

☒ Other

## NAACP

If you selected other, please indicate how you learned about the vacancy:

## Demographics

### Ethnicity

☒ African American

### Gender

☒ Female

  
Date of Birth

## Submission

### BPW

I declare under penalty of disqualification or termination that all statements in this application are true and complete to the best of my knowledge.



City of Merced, CA

## PERSONNEL BOARD

### BOARD ROSTER



**YOLANDA CHAVEZ**

**1st Term** Sep 03, 2013 - Jul 01, 2017

**Office** Board Nominated

**Position** Member

**Appointed by** City Council



**HELEN FLORES**

**1st Term** Oct 20, 2014 - Jul 01, 2018

**Office** Direct Council Appointee

**Position** Member

**Appointed by** City Council



**JACK LESCH**

**2nd Term** Aug 20, 2012 - Jul 01, 2020

**Office** Employee Nominated

**Position** Chair

**Appointed by** City Council



**NOBIE REYNOLDS**

**2nd Term** Sep 03, 2013 - Jul 01, 2017

**Office** Direct Council Appointee

**Position** Vice-Chair

**Appointed by** City Council



**VACANCY**

---

## Profile

Yolanda

First Name

Chavez

Last Name

Employer

Job Title

Email Address

Primary Phone

Alternate Phone

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### Are you 18 years of age or older? (Required)

☒ Yes ☐ No

Question applies to multiple boards.

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### Do you live within the City Limits of Merced? (Required)

☒ Yes ☐ No

Street Address

Suite or Apt

State

City

Postal Code

Question applies to multiple boards.

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### Are you a registered voter in the City of Merced? (Required)

☒ Yes ☐ No

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## Personnel Board

Are you currently serving on a Board or Commission? If so, please list:

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### Which Boards would you like to apply for?

Personnel Board: Submitted

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Question applies to multiple boards.

**Highest Level of Education Completed: \***

☒ Bachelor's Degree

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**Communication**

**The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?**

☒ Yes ☐ No

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If you selected no, please identify how you would like to be contacted:

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**Interests & Experiences**

**Tell us about yourself, and why you are applying for this particular Board or Commission:**

I have 20 years experience in HR with both MCSD and MUHSD. I have a Bachelor of Science degree from the University of San Francisco in organizational behaviors.

**Please list your current employer and relevant volunteer experience.**

Retired HR Manager at Merced Union High School District. Past board member Merced Multicultural Arts Center, Volunteer at the Food Bank, Classroom volunteer at Franklin and Peterson Schools.

**What is your understanding of the roles and responsibilities of this Board or Commission?**

This board is comprised of city employees, management, and community members to provide impartial decisions according to contract law.

**Do you have experience or special knowledge pertaining to this Board or Commission?**

Current sitting member.

**Any other comments you would like to add that may assist the City Council in their decision?**

I believe that because of both my educational and professional experience I can serve as a valuable member.

Upload a Resume

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## Requirements

Question applies to multiple boards.

### AB 1234 Ethics Training

☒ I Agree \*

Question applies to multiple boards.

### Attendance Policy

☒ I Agree \*

### Statement of Economic Interests - FPPC Form 700

☒ I Agree \*

Question applies to multiple boards.

### Oath of Office

☒ I Agree \*

Question applies to multiple boards.

## Public Scrutiny

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☒ I Agree \*

## How did you hear about this vacancy? \*

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☒ A Friend

## Current member

If you selected other, please indicate how you learned about the vacancy:

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## Demographics

### Ethnicity

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☒ Hispanic

### Gender

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☒ Female



Date of Birth

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## Submission

### Yc

I declare under penalty of disqualification or termination that all statements in this application are true and complete to the best of my knowledge.



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item J.1.**

Meeting Date: 7/5/2017

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**SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; California Department of Finance v. City of Merced, et al.; Sacramento County Superior Court Case No.34-2016-80002485; AUTHORITY: Government Code Section 54956.9(d)(1)