



CITY OF MERCED

Meeting Agenda

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

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

Monday, November 5, 2018

6:00 PM

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

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

NOTICE TO PUBLIC

WELCOME TO THE MEETING OF THE MERCED CITY COUNCIL

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

PUBLIC COMMENT: OBTAIN SPEAKER CARD FROM THE CITY CLERK

Members of the audience who wish to address the City Council are requested to complete a speaker card available at the podium against the right-hand side of the Council 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. CLOSED SESSION ROLL CALL

B. CLOSED SESSION

- B.1.** [18-568](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - Existing
Litigation Case: *Merced Citizens for Responsible Planning, et al. v.*
City of Merced, et al.; Merced County Superior Court Case No.
18CV-01143 Authority: Government Code Section 54956.9(d)(1)
- B.2.** [18-569](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - Existing
Litigation Case: *Mayra Contreras, et al. v. City of Merced*; Merced
County Superior Court Case No. 16CV-00260 Authority: Government
Code Section 54956.9(d)(1)

- B.3.** [18-581](#) **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Employee Organizations: Merced Police Officers' Association (MPOA); Merced Association of Police Sergeants. AUTHORITY: Government Code Section 54957.6
- B.4.** [18-583](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; McKinnon, et. al. v. City of Merced; Case No. 1:18-CV-01124-LJO-SAB; AUTHORITY: Government Code Section 54956.9(d)(1)
- B.5.** [18-584](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; Englert, et. al. v. City of Merced; Case No. 1:18-CV-01239-LJO-EPG; AUTHORITY: Government Code Section 54956.9(d)(1)

C. CALL TO ORDER

C.1. Invocation - Joel Dorman, First Baptist Church

C.2. Pledge of Allegiance to the Flag

D. ROLL CALL

D.1. In accordance with Government Code 54952.3, it is hereby announced that the City Council sits either simultaneously or serially as the Parking Authority and the Public Financing and Economic Development Authority. City Council members receive a monthly stipend of \$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

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. [18-527](#) **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. [18-576](#) **SUBJECT:** Information-Only Contracts for the Month of October, 2018

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$31,000 and of Public Works contracts under \$69,833.

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 2018-2019 threshold of \$69,833.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2018-2019 threshold of \$31,000.00, the contracts listed on the attached table were entered into by the City.

H.3. [18-554](#) **SUBJECT:** Information Only - Merced Regional Airport Authority Meeting Minutes of June 27, 2017; February 22, 2018; August 21, 2018; and September 18, 2018

RECOMMENDATION

For information only.

H.4. [18-524](#) **SUBJECT:** Information Only - Planning Commission Minutes of

September 18 and 19, 2018

RECOMMENDATION

For information only.

- H.5. [18-561](#) **SUBJECT:** Information Only - Site Plan Commission Minutes of August 16, 2018

RECOMMENDATION

For information only.

- H.6. [18-546](#) **SUBJECT:** City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of October 1, 2018 and October 8, 2018

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 October 1, 2018 and October 8, 2018.

- H.7. [18-491](#) **SUBJECT:** Acceptance of Donation of Four (4) Pet Oxygen Kits Valued at \$340.00 From Girl Scout Troop 3003

REPORT IN BRIEF

Considers accepting a donation of four (4) pet oxygen kits for fire department apparatus from Girl Scout Troop 3003.

RECOMMENDATION

City Council - Adopt a motion accepting the donation of four (4) pet oxygen kits valued at \$340.00 from Girl Scout Troop 3003 for the fire department to place on fire apparatus.

- H.8. [18-560](#) **SUBJECT:** Adoption of Resolution 2018-72 to Adopt the Annual Base Salary and Approve the Publically Adopted Pay Scale for the City Attorney as set forth in the City Attorney Employment Agreement as Approved by the City Council and Adoption of Resolution 2018-73 to Adopt the Annual Base Salary and Publically Adopted Pay Scale for the City Manager as set forth in the Second Amendment to the City Manager Employment Agreement as Approved by the City Council.

REPORT IN BRIEF

Considers the adoption of Resolution 2018-72 and 2018-73 to adopt the annual base salaries and the publically adopted pay scales for the City Attorney and City Manager as set forth in the City Attorney Employment Agreement and the Second Amendment to the City Manager Employment Agreement.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2018-72**, a Resolution of the City Council of the City of Merced, California approving the annual base salary and the publically adopted pay scale for the City Attorney as established by the employment agreement for the City Attorney and as approved by the City Council; and,

B. Adopting **Resolution 2018-73**, a Resolution of the City Council of the City of Merced, California approving the annual base salary and the publically adopted pay scale for the City Manager as established by the second amendment to the employment agreement for the City Manager and as approved by the City Council; and,

C. Authorizing staff to submit the adopted Resolutions to the California Public Employees' Retirement System (CalPERS) for confirmation of annual salary amounts and pay scales.

H.9. [18-435](#)

SUBJECT: Resolution Extending the Period for Development or Disposition of Properties Transferred to the Housing Successor Agency (Housing Division) for a Period of Five (5) Years

REPORT IN BRIEF

Request that City Council approve resolution requesting an extension of a period of time for an additional five (5) years to develop or dispose of the properties transferred to the Housing Division from the former Redevelopment Agency.

RECOMMENDATION

City Council - Adopt a motion approving **Resolution 2018-67**, a Resolution of the City Council of the City of Merced, California, extending the period for development or disposition of properties transferred from the former Merced Redevelopment Agency pursuant to Health and Safety Code Section 34176.1(e).

H.10. [18-514](#)

SUBJECT: Award Bid and Approve an Agreement in the Amount of \$798,955 with Avison Construction, Inc., for City Project No. 111066 for the CML-5085(029) Congestion Mitigation and Air Quality Improvement Program Westerly Bike Path Connection

REPORT IN BRIEF

Considers awarding a bid and approving an Agreement in the amount of \$798,955 with Avison Construction, Inc. for the construction of a concrete bicycle path near the intersection of Highway 59 and Buena Vista Drive and the installation of a bicycle and pedestrian bridge over Black Rascal Creek.

RECOMMENDATION

City Council - Adopt a motion:

A. Awarding a bid and approving an Agreement with Avison Construction, Inc. in the amount of \$798,955 for City Project No. 111066, the CML-5085(029) Congestion Mitigation and Air Quality (CMAQ) Westerly Bike Path Connection Project; and,

B. Authorizing the City Manager or Assistant City Manager to execute the necessary documents; and to approve change orders not to exceed \$79,895.50 (10% of the project cost.)

H.11. [18-549](#)

SUBJECT: Acceptance of Grant Funding in the Amount of \$346,000 from the California Office of Emergency Services (CAL OES) and \$105,000 in Geographic Information Systems (GIS) from the State of California for Upgrades to the City's 911 and GIS Systems

REPORT IN BRIEF

The City was recently awarded grant funds to upgrade its 911 and GIS systems. The Police Department will be using these funds to perform upgrades within the Public Safety Emergency Communications Center. These are direct funding grants, meaning that the grant funds will be held by CAL OES and the State and that all purchases will be directly funded by these agencies through a state purchasing program.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting the California Office of Emergency Services grant funding in the amount of \$346,000.00 for 911 systems and \$105,000.00 from the

State of California for GIS systems; and,

B. Approving the purchase and acceptance of items to upgrade the 911 and GIS systems through the state purchasing program.

H.12. [18-523](#)

SUBJECT: Acceptance of Department of Justice 2018 Bulletproof Vest Partnership Grant in the Amount of \$10,487.00 to Cover 50% of the Purchase Cost of New Vests

REPORT IN BRIEF

Accept grant award for reimbursement of bulletproof vest expenses.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a supplemental appropriation in the amount of \$10,487 in grant funds to account 061-1026-522.29-00 for 50% of the costs associated with the purchase of bulletproof vests; and,

B. Accepting and increasing the revenue budget in the amount of \$10,487 in account 061-1026-324.37-00 for the grant award amount; and,

C. Authorizing the use of pooled cash to cover the appropriation until grant funds are reimbursed.

H.13. [18-545](#)

SUBJECT: Authorization to Accept Grant Funding in the Amount of \$14,162 from the Merced County Remote Access Network Board (RAN) as Reimbursement Funding for the Purchase of a New Message Switch for Access to the California Law Enforcement Telecommunications System (CLETS)

REPORT IN BRIEF

Considers authorizing the acceptance of \$14,162 in Remote Access Network (RAN) funding from the Merced County RAN Board for the purchase of a new message switch for the City's use of the CLETS System by using pooled cash which will be reimbursed upon presentation of proof of purchase to the RAN Governing Board.

RECOMMENDATION

City Council - Adopt a motion:

A. Authorizing the acceptance of \$14,162 of grant funding from the Merced County RAN Board for the purchase of a CLETS message switch

for the City's police computer system. Increase Revenue in account 001-1002-324-02-00 by \$14,162.00 and appropriate the same to expenditures account 001-1002-523-43-00; and,

B. Authorizing the use of pooled cash for the purchase of the message switch until the City receives reimbursement funds; and,

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

H.14. [18-565](#)

SUBJECT: Second Reading and Adoption of Ordinance 2496 to Amend Chapter 15.36 "Rates and Charges" for Water Service

REPORT IN BRIEF

Adoption of previously introduced Ordinance to Amend Chapter 15.36 of the Merced Municipal Code "Rates and Charges".

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2496**, an Ordinance of the City Council of the City of Merced, California, amending various sections of Chapter 15.36, "Rates and Charges," of the Merced Municipal Code dealing with water service.

H.15. [18-566](#)

SUBJECT: Second Reading and Adoption of Ordinance 2497 to Amend Chapter 15.42.050 "Water Conservation Levels and Prohibitions"

REPORT IN BRIEF

Adoption of previously introduced Ordinance to Amend Chapter 15.42 of the Merced Municipal Code "Water Conservation Levels and Prohibitions."

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2497**, an Ordinance of the City Council of the City of Merced, California, amending Chapter 15.42.050, "Water Conservation Regulation," of the Merced Municipal Code.

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. [18-502](#) **SUBJECT:** Public Hearing - Vacation No. 18-02 for the Adoption of a Resolution Ordering the Vacation of an Approximately 5.88 Acre Park Site Generally Located at the Southwest Corner of M Street and Arrow Wood Drive (Extended)

REPORT IN BRIEF

The City Council will consider approving a Resolution to order the vacation of an approximately 5.88 acre park site generally located at the southwest corner of M Street and Arrow Wood Drive.

RECOMMENDATION

City Council - Adopt a motion approving **Resolution 2018-69**, a Resolution of the City Council of the City of Merced, California ordering the vacation of an approximately 5.88 acre park site generally located at the southwest corner of M Street and Arrow Wood Drive (extended) (Vacation #18-02).

- I.2. [18-580](#) **SUBJECT:** Public Hearing - Tax Equity and Fiscal Responsibility Act (TEFRA) - Resolution Approving the Issuance of Tax Exempt Bonds for the Benefit of the Gateway Terrace II Project, Located at 13th and K Streets

REPORT IN BRIEF

Due to errors in the original published notice, a corrected notice has been published and this item will now be heard at the November 19, 2018 Council Meeting.

RECOMMENDATION

For Information Only

J. BUSINESS

- J.1. [18-575](#) **SUBJECT:** Council Member Belluomini's Request to Discuss Police Community Relations

REPORT IN BRIEF

This item is in response to Council Member Belluomini's request to

discuss police community relations pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

J.2. [18-579](#)

SUBJECT: Update on Council Member Serratto's Request to Discuss City Council Code of Conduct Resolution (Ethics)

REPORT IN BRIEF

A subcommittee report and draft changes will be presented regarding Council Member Serratto's request to discuss a Council Code of Conduct Resolution update pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

J.3. Request to Add Item to Future Agenda

J.4. City Council Comments

K. ADJOURNMENT



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.1.

Meeting Date: 11/5/2018

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - Existing Litigation Case: *Merced Citizens for Responsible Planning, et al. v. City of Merced, et al.*; Merced County Superior Court Case No. 18CV-01143 Authority: Government Code Section 54956.9(d)(1)



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.2.

Meeting Date: 11/5/2018

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - Existing Litigation Case: *Mayra Contreras, et al. v. City of Merced*; Merced County Superior Court Case No. 16CV-00260 Authority: Government Code Section 54956.9(d)(1)



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.3.

Meeting Date: 11/5/2018

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative:
City Manager Steve Carrigan; Employee Organizations: Merced Police Officers' Association
(MPOA); Merced Association of Police Sergeants. AUTHORITY: Government Code Section
54957.6



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.4.

Meeting Date: 11/5/2018

SUBJECT: CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; McKinnon, et. al. v. City of Merced; Case No. 1:18-CV-01124-LJO-SAB; AUTHORITY: Government Code Section 54956.9(d)(1)



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.5.

Meeting Date: 11/5/2018

SUBJECT: CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; Englert, et. al. v. City of Merced; Case No. 1:18-CV-01239-LJO-EPG; AUTHORITY: Government Code Section 54956.9(d)(1)



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item H.1.

Meeting Date: 11/5/2018

SUBJECT: Reading by Title of All Ordinances and Resolutions

REPORT IN BRIEF

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

RECOMMENDATION

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item H.2.

Meeting Date: 11/5/2018

Report Prepared by: Kirkland Greene, Records Clerk II

SUBJECT: Information-Only Contracts for the Month of October, 2018

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$31,000 and of Public Works contracts under \$69,833.

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 2018-2019 threshold of \$69,833.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2018-2019 threshold of \$31,000.00, the contracts listed on the attached table were entered into by the City.

ATTACHMENTS

1. "Information-Only" Contracts Table for October 2018

Exhibit 1 – Table of Contracts11/5/2018 City Council Meeting

Department/Division	Vendor	Purpose/Location	Amount
1201 – Recreation and Parks	Merced Bicycle Coalition, Inc.	Agreement for Professional Services Providing Community Enrichment Services (to encourage bicycling, foster safe and lawful cycling habits, and provide free bicycle safety items).	\$ 5,000.00
1205 – Zoo	Jon Klingborg, DVM (DBA: Valley Animal Hospital)	Agreement for Veterinary Services at Applegate Zoo (September 1, 2018 through June 30, 2019).	\$ 8,500.00
0901 – Fire	Jeff Young	Agreement for Professional Services to Provide California State Fire Marshall (CSFM) Instruction. (Four Courses: Sept. 17, 2018 - March 15, 2019.)	\$ 8,620.00
0201 – City Manager	Excelerate Digital (a division of McClatchy Shared Services, Inc.)	Cost-Sharing Agreement With the County of Stanislaus for Strategic Education and Outreach Campaign (regarding the potential impacts of the State Water Quality Control Plan to mandate unimpaired flows of the San Joaquin River.	\$10,000.00
0803 – Engineering	Taylor Backhoe Services, Inc.	Furnish and install four (4) flagpoles (20 feet in length) on the "M" Street Bridge. (Statement of Services, PO #132124.)	\$15,826.00
0803 – Engineering	Troy Lea (DBA: Lea's Demolition)	Furnish all labor and materials to demolish and remove all structures, septic tank, trash, concrete, debris, etc., from 1800 Stretch Road. (Parsons Avenue Corridor Project No. 107023). (Statement of Services, PO #132148.)	\$19,100.00
1108 – WWTP	Howden North America, Inc. (DBA: Howden Roots, LLC)	Class I/II inspections services to be performed on Turblex Blowers #3 and #4 at the Wastewater Treatment Plant. (Statement of Services, PO #132409.)	\$26,885.00
0204 – Clerk's Office	Lucas Business Systems	Service Maintenance Agreement for the First-, Second-, and Third-Floor Copiers at City Hall (three-year term).	\$30,000.00

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item H.3.

Meeting Date: 11/5/2018

Report Prepared by: Jessika Musquiz, Temp Secretary, Merced Regional Airport

SUBJECT: Information Only - Merced Regional Airport Authority Meeting Minutes of June 27, 2017; February 22, 2018; August 21, 2018; and September 18, 2018

RECOMMENDATION

For information only.

ATTACHMENTS

1. Minutes of June 27, 2017
2. Minutes of February 22, 2018
3. Minutes of August 21, 2018
4. Minutes of September 18, 2018

**CITY OF MERCED
REGIONAL AIRPORT AUTHORITY MINUTES**

**MERCED REGIONAL AIRPORT
AIRPORT ADMINISTRATIVE OFFICE
20 MACREADY DRIVE
MERCED, CA**

**TUESDAY
JUNE 27, 2017**

A. CALL TO ORDER

Chair John Sundgren called the meeting to order at 12:06 p.m.

B. ROLL CALL

Members Present: John Sundgren, Alvin Osborn, Michael Bodine, Desmond Johnston, and Bill Rudd

Members Absent: None. Two vacancies.

Staff Present: Janet E. Young, Nancy Lee, Jon Kwiatkowski, and Karen Baker

C. WRITTEN PETITIONS AND COMMUNICATION

None.

D. ORAL COMMUNICATIONS

Airport Hangar Tenant Linton Wollen was present and expressed his observation of the airport field's condition and necessity of weed abatement.

Operations Technician Kwiatkowski indicated he was recently out of the office on vacation, since his return he will make an effort to maintain the airport field.

E. CONSENT CALENDAR

M/S/C – Bodine/Osborn motion to approve and file the minutes of April 10, 2017.

F. REPORTS

1. ESSENTIAL AIR SERVICE (EAS)

Airport Manager Young presented the Department of Transportation (DOT) order issued on June 26, 2017, re-selecting Boutique Air, Inc. to provide

Essential Air Service at Merced Regional Airport for a four-year period beginning August 1, 2017, through July 31, 2021.

Boutique Air, Inc. will continue to provide 19 nonstop round trips per week to Los Angeles International Airport (LAX) and 12 nonstop round trips per week to Oakland International Airport (OAK), using 8 or 9-seat Pilatus PC-12 aircraft.

2. AGRICULTURAL LEASE RENEWAL FOR JOHN GURR

M/S/C – Bodine/Johnston motion to approve the lease renewal with John Gurr and to recommend approval to the City Council.

3. AIRPORT MANAGER'S REPORT

Manager Young summarized the April/May/June 2017 Manager's Report.

G. AUTHORITY BUSINESS

1. POSSIBLE INCOMPATIBLE LAND USE ACTIVITY

No topics raised.

2. OTHER BUSINESS FROM AUTHORITY MEMBERS

Authority Member Bodine shared his interest in serving a second term on the Regional Airport Authority; he has communicated his interest to the City Clerk so that he can be reappointed by the City Council.

H. ADJOURNMENT

Chair Sundgren adjourned the meeting at 12:29 p.m. until the next Regional Airport Authority meeting on Tuesday, July 18, 2017, at 7:00 p.m. in the Council Chamber at 678 W. 18th Street, in the Civic Center.

M/S/C – Rudd/Bodine motion to approve the meeting adjournment until the next scheduled meeting.



Alvin Osborn, Vice Chair
Regional Airport Authority

**CITY OF MERCED
REGIONAL AIRPORT AUTHORITY MINUTES**

**MERCED REGIONAL AIRPORT
AIRPORT ADMINISTRATIVE OFFICE
20 MACREADY DRIVE
MERCED, CA**

**THURSDAY
FEBRUARY 22, 2018**

A. CALL TO ORDER

Chair John Sundgren called the meeting to order at 12:08 p.m.

B. ROLL CALL

Members present: John Sundgren, Alvin Osborn, Michael Bodine, Desmond Johnston, and Bill Rudd

Members absent: None. Two vacancies.

Staff Present: Martin Pehl, Jon Kwiatkowski

Other: Linton Wollen, Scott Malta, and Rich Hitt

C. WRITTEN PETITIONS AND COMMUNICATION

None.

D. ORAL COMMUNICATIONS

None.

E. CONSENT CALENDAR

None

F. AUTHORITY BUSINESS

**1. FAA'S PROPOSED AMENDMENT OF CASTLE AIRPORT'S CLASS D
AND CLASS E AIRSPACE**

M/S – Sundgren/Osborn motion to de-conflict the north departure out of Merced Regional Airport by adopting Highway 99 as the Southwest border of Castle Airport's Class D airspace by rotating the FAA's proposed airspace change counter-clockwise as recommended by the Castle Air Traffic Manager.

G. ADJOURNMENT

Chair Sundgren adjourned the meeting at 1:00 p.m. until the next Regional Airport Authority meeting on Tuesday, March 20, 2018, at 7:00 p.m. in the Council Chamber at 678 W 18th Street, in the Civic Center.

M/S/C – Bodine/Johnston motion to approve the meeting adjournment until the next scheduled meeting.

A handwritten signature in cursive script, reading "Alvin Osborn", written over a horizontal line.

Alvin Osborn, Vice Chair
Regional Airport Authority

**CITY OF MERCED
REGIONAL AIRPORT AUTHORITY MINUTES**

**COUNCIL CHAMBERS
MERCED CIVIC CENTER
678 W. 18TH STREET
MERCED, CA**

**TUESDAY
AUGUST 21, 2018**

A. CALL TO ORDER

Chair Alvin Osborn called the meeting to order at 7:00 p.m.

B. ROLL CALL

Members present: Alvin Osborn, Michael Bodine, Desmond Johnston, Bill Rudd, Travis Colby, and Rafael Velarde

Members absent: None. One vacancy.

Staff Present: Martin Pehl, Frank Quintero, Nancy Lee, and Jessika Musquiz

C. WRITTEN PETITIONS AND COMMUNICATION

None.

D. ORAL COMMUNICATIONS

Director of Economic Development Frank Quintero gave an introduction of Airport Staff and Authority Members.

E. CONSENT CALENDAR

M/S/C – Bodine/Rudd motion to approve and file the minutes of June 27, 2017, and February 22, 2018, as submitted.

F. REPORTS

1. AIRPORT AUTHORITY ANNUAL ATTENDANCE REPORT

M/S/C – Rudd/Bodine motion to approve the attendance report and to recommend approval to the City Council.

2. AIRPORT MANAGER'S REPORT

Director of Economic Development Quintero stated Airport Manager Pehl has been assigned to bring the Merced Regional Airport up-to-date on various tasks, such as: Airport Certification Manual, Airport Security Plan, hangar lease agreements, Merced Municipal Code, including other airport matters.

G. AUTHORITY BUSINESS

1. SELECTION OF CHAIR AND VICE CHAIR

The Board voted Mr. Bodine as Chair.

M/S/C – Rudd/Colby

The Board voted Mr. Johnston as Vice Chair.

M/S/C – Osborn/Bodine

2. CONSIDER STAFF RECOMMENDATION TO CHANGE MEETING SCHEDULE FROM MONTHLY TO QUARTERLY

Authority Member Johnston questioned why Airport Staff initiated the change of monthly Regional Airport Authority Meetings to quarterly meetings.

Airport Manager Pehl responded that the change would save staff time in combining airport matters to quarterly meetings. Mr. Pehl also added that special meetings would be held as necessary in between quarterly meetings.

Director of Economic Development Quintero agreed with Mr. Pehl adding that the meeting adjustment would not happen immediately.

Mr. Johnston voiced he already feels out-of-touch with airport matters and suggested to keep the meetings on a monthly basis. Mr. Johnston also commented on revisiting the Airport Master Plan and Airport Capital Improvement Program (ACIP).

Authority Member Bodine agreed with Mr. Johnston. Mr. Bodine stated he would like to be more acquainted with fellow Authority Members and preferred keeping the monthly meetings.

Mr. Quintero understood Mr. Johnston and Mr. Bodine's position on keeping monthly meetings. Mr. Quintero specified he would like Mr. Pehl to focus on other duties and assignments to allow him to bring the airport current before conducting regular monthly meetings.

Authority Member Velarde expressed his opinion in maintaining monthly meetings.

Authority Member Colby suggested to revisit the item in six months and make a decision then.

M/S/C – Colby/Osborn

3. OTHER BUSINESS FROM AUTHORITY MEMBERS

Director of Economic Development Quintero welcomed the Authority Members to provide a self-introduction.

H. ADJOURNMENT

Chair Osborn adjourned the meeting at 7:37 p.m. until the next Regional Airport Authority meeting on Tuesday, September 18, 2018, at 7:00 p.m. in the Council Chambers at 678 W. 18th Street, in the Civic Center.

M/S/C – Johnston/Bodine motion to approve the meeting adjournment until the next scheduled meeting.

A handwritten signature in black ink, appearing to read "Alvin Osborn", written over a horizontal line.

Alvin Osborn, Chair
Regional Airport Authority

**CITY OF MERCED
REGIONAL AIRPORT AUTHORITY MINUTES**

**SAM PIPES CONFERENCE ROOM
MERCED CIVIC CENTER
678 W. 18TH STREET
MERCED, CA**

**TUESDAY
SEPTEMBER 18, 2018**

A. CALL TO ORDER

Chair Michael Bodine called the meeting to order at 7:00 p.m.

B. ROLL CALL

Members present: Alvin Osborn, Michael Bodine, Desmond Johnston, Bill
Rudd, Travis Colby, and Rafael Velarde

Members absent: None. One vacancy.

Staff Present: Airport Manager Martin Pehl, Director of Economic
Development Frank Quintero, and Airport Secretary Jessika
Musquiz

C. WRITTEN PETITIONS AND COMMUNICATION

None.

D. ORAL COMMUNICATIONS

None.

E. CONSENT CALENDAR

M/S/C – Colby/Rudd motion to approve and file the minutes of August 21, 2018,
as submitted.

F. REPORTS

1. AIRPORT MANAGER’S REPORT

Martin shared his experience of attending the ACA Annual Conference. Mr.
Pehl stated that the Airport district office had a section at the conference and
they went over the planning process.

Mr. Pehl stated that there are is airport business, which need to be accomplished; he would like to get back in sync with airport processes.

Mr. Pehl also spoke about the issues that have risen up from the fuel farm. Martin mentioned it should be fixed within the next two weeks as he is already working with Donlee Pump Company.

G. AUTHORITY BUSINESS

1. DISCUSSION REGARDING AIRPORT PLANNING

Airport Manager Mr. Pehl advised the Authority members of an informal meeting he had with Chairperson Michael Bodine and their strategy of bringing the airport up to date.

Mr. Pehl would like the Regional Airport Authority Members to meet and address airport business, such as; the Airport Master Plan, Pavement Maintenance and Management Plan.

Mr. Pehl said he would like to go through the documents and see where the strengths are and immediately get to work to implement the plan.

Mr. Bodine added he would like to bring this topic to the City's attention and to create a committee to get involved on what needs to be done.

Director of Economic Development Frank Quintero advised Mr. Bodine to appoint an Ad Hoc Committee and work with Mr. Pehl on those items while at the same time provide copies of the reports to the authority members.

Authority Members Desmond Johnston and Rafael Velarde volunteered to be on the committee.

Authority Member Bill Rudd asked of adding auto fuel on the airport. Mr. Pehl explained why it would not work in an airport.

Business Owner of TDL Gateway Air Center Tom Lopes asked to address the Authority Members of the automobile fuel subject. He stated automobile fuel would not be a benefit because of separate containers and having it shipped from the state of Arizona. He does not think much of it would be sold, therefore the Airport and City would not benefit from it.

2. OTHER BUSINESS FROM AUTHORITY MEMBERS

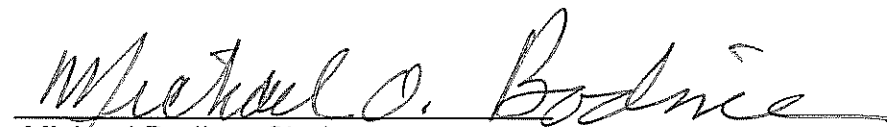
Authority Member Travis Colby inquired on obtaining updates on Boutique Air's deplanements and enplanements. He also said he would like an informal report of airport tenants.

Mr. Colby added, he would like to know the percentage on hangars that are leased and how many are vacant. He also voiced that he would like to know what we can do to fill the vacant hangars and address any unpaid balances.

H. ADJOURNMENT

Chair Bodine adjourned the meeting at 7:20 p.m. until the next Regional Airport Authority meeting on Tuesday, October 16, 2018, at 7:00 p.m. in the Council Chambers at 678 W. 18th Street, in the Civic Center.

M/S/C – Osborn/Rudd motion to approve the meeting adjournment until the next scheduled meeting.


Michael Bodine, Chair
Regional Airport Authority



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item H.4.

Meeting Date: 11/5/2018

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

SUBJECT: Information Only - Planning Commission Minutes of September 18 and 19, 2018

RECOMMENDATION

For information only.

ATTACHMENTS

1. PC Minutes 09-18 & -19-2018

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Tuesday, September 18, 2018
DAY 1

Vice-Chairperson CAMPER 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: Mary Camper, Scott G. Drexel, Michael Harris, Jeremy Martinez, and Peter Padilla,

Commissioners Absent: Sam Rashe (excused) and Chairperson Robert Dylina (excused)

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Principal Planner Hren, Associate Planner Nelson, Interim Deputy City Attorney Flores, Police Chief Goodwin, SCI Consultant Kyle Tankard, Secretary III Lane, and Recording Secretary Davis

1. APPROVAL OF AGENDA

M/S PADILLA-HARRIS, and carried by unanimous voice vote (two absent), to approve the Agenda as submitted.

2. MINUTES

M/S PADILLA-HARRIS, and carried by unanimous voice vote (two absent), to approve the Minutes of September 5, 2018, as submitted.

3. COMMUNICATIONS

None.

4. **ITEMS**

4.1 Overview of Other Commercial Cannabis Business Permit (CCBP) Retail Sales Applications.

Planning Manager ESPINOSA provided an overview of all the cannabis retail sales applications and explained to members of the public and the Commission how the meeting will proceed differently than most meetings in that all the public hearings for Items 4.2 through 4.5 will be conducted tonight without Planning Commission action. At tomorrow's meeting, the Planning Commission will take action on the individual applications.

Vice-Chairperson CAMPER opened public testimony at 7:08 p.m. to allow public comment as follows:

ZACH DRIVON, Drivon Consulting, Stockton, spoke as a representative of the 5th ranked dispensary applicant.

There were no speakers from the audience in opposition to the project.

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

4.2 Commercial Cannabis Business Permit #18-06R, initiated by Blue Fire, Inc., on a property owned by REM Land Group, LLC. This application is a request to permit the operation of a Retail Dispensary for medicinal and adult-use cannabis and cannabis-related products, including delivery services, at 1975 W. Olive Avenue, a parcel of 2.08 acres, within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND).

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #18-23.

Public testimony was opened at 7:24 p.m.

Speakers from the Audience in Favor:

DEVIN STETLER, Applicant, Modesto

NATASHA PARRA, Blue Fire Director of Operations, Modesto
RON ROBERTS, Property Owner, Oakdale

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 7:36 p.m.

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

- 4.3 Commercial Cannabis Business Permit #18-10R, initiated by Green Door, Inc., on property owned by Ray Barry McAuley and Jeanne R McAuley, trustees. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.17-acre parcel at 811 W. Main Street within a Regional/Central Commercial (C-C) Zone.

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #18-24.

Public testimony was opened at 7:49 p.m.

Speaker from the Audience in Favor:

CHRIS HESTER, Applicant, Sacramento

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

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

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

- 4.4 Commercial Cannabis Business Permit #18-17R, initiated by Merced Business Ventures, Inc., DBA Manzanita, on property owned by Robert Gray. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis, including delivery services, on a 0.3-acre parcel at 1594 W. 18th Street within a General Commercial (C-G) Zone.

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #18-25.

Public testimony was opened at 8:10 p.m.

Speakers from the Audience in Favor:

LUKE BRUNER, Applicant, Merced

JEFF LINDEN, Applicant, Merced

RENE GUTIERREZ, Merced Hispanic Chamber of Commerce, Merced

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 8:27 p.m.

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

- 4.5 Commercial Cannabis Business Permit #18-14R, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the

operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #18-26.

Public testimony was opened at 8:35 p.m.

Speaker from the Audience in Favor:

BEN KIMBRO, Applicant, Tulsa, OK

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 8:47 p.m.

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

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**

Vice-Chairperson CAMPER adjourned the meeting at 8:49 p.m., to the Planning Commission meeting of Wednesday, September 19, 2018.

-----September 19, 2018, Day 2-----
Merced City Council Chambers
Wednesday, September 19, 2018

[Secretary's Note:

Chairperson DYLINA delayed the commencement of the meeting in order to allow Chairperson MARTINEZ to arrive from a work obligation that ran late.]

Chairperson DYLINA called the meeting to order at 7:19 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Mary Camper, Scott G. Drexel, Michael Harris,
*Jeremy Martinez, Peter Padilla, Sam Rashe, and
Chairperson Dylina

*Commissioner Martinez arrived at 7:19 p.m.

Commissioners Absent: None

Staff Present: Director of Development Services McBride,
Planning Manager Espinosa, Principal Planner
Hren, Associate Planner Nelson, Interim Deputy
City Attorney Flores, Police Chief Goodwin, SCI
Consultant Kyle Tankard, and Recording Secretary
Davis

[Secretary's Note: Items 1 through 3 on the agenda were addressed at the previous meeting on Tuesday, September 18, 2018, Chairperson DYLINA chose to begin with Item 4.2 and to reopen the public hearing for each item.]

[Secretary's Note: Commissioner RASHE and Chairperson DYLINA disclosed to the Commission that since they were absent at the previous meeting, they did come in to City Hall to listen to the recording of the meeting and listened to all the public testimony on Agenda Items 4.1 through 4.5. Therefore, they were able to participate in the discussion and the vote.]

4. **ITEMS**

- 4.2 Commercial Cannabis Business Permit #18-06R, initiated by Blue Fire, Inc., on a property owned by REM Land Group, LLC. This application is a request to permit the operation of a Retail Dispensary for medicinal and adult-use cannabis and cannabis-related products, including delivery services, at 1975 W. Olive Avenue, a parcel of 2.08 acres, within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND).

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-23.]

There was no one present wishing to speak regarding this item; therefore, public testimony was re-opened and then closed at 7:20 p.m.

M/S PADILLA-HARRIS, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-19, and approve Commercial Cannabis Business Permit #18-06R, subject to the Findings and twenty (20) Conditions set forth in Staff Report #18-23 (RESOLUTION #4005):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

- 4.3 Commercial Cannabis Business Permit #18-10R, initiated by Green Door, Inc., on property owned by Ray Barry McAuley and Jeanne R McAuley, trustees. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.17-acre parcel at 811 W. Main Street within a Regional/Central Commercial (C-C) Zone.

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-24.]

Commissioner CAMPER recused herself.

Public testimony was re-opened at 7:26 p.m.

Speaker from the Audience (Neutral):

RICHARD SANDFORD, Merced

There were no speakers from the audience in support or opposition to the project.

Public testimony was completed at 7:27 p.m.

M/S PADILLA-DREXEL, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-23, and approve Commercial Cannabis Business Permit #18-10R, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #18-24 (RESOLUTION #4006):

AYES: Commissioners Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Camper

Commissioner CAMPER returned to the dais.

- 4.4 Commercial Cannabis Business Permit #18-17R, initiated by Merced Business Ventures, Inc., DBA Manzanita, on property owned by Robert Gray. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis, including delivery services, on a 0.3-acre parcel at 1594 W. 18th Street within a General Commercial (C-G) Zone.

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-25.]

Public testimony was re-opened at 7:29 p.m.; there being no one present wishing to speak regarding this item, Chairperson DYLINEA closed public testimony at 7:30 p.m.

M/S CAMPER-HARRIS, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-30, and approve Commercial Cannabis Business Permit #18-17R, subject to the Findings and twenty-one (21) Conditions set forth in Staff Report #18-25 (RESOLUTION #4007):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

- 4.5 Commercial Cannabis Business Permit #18-14R, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-26.]

Public testimony was re-opened at 7:31 p.m.

Speakers from the Audience in Opposition:

ZACH DRIVON, representative for Medallion Wellness, Stockton
MICHAEL O'LEARY, Applicant, Medallion Wellness

Mr. DRIVON presented information regarding the location chosen by Harvest of Merced, LLC, and questioned its proximity to a school in the area and whether it met the distance requirement from a school in the ordinance.

Mr. DRIVON noted three map images that he presented to the Commission during the meeting showing approximate distances between parcels.

Speaker from the Audience in Favor:

BEN KIMBRO, Applicant, Harvest of Merced, LLC, Tulsa, OK

[Secretary's Note: Planning Manager ESPINOSA noted that the applicant had time remaining from his fifteen minutes at the previous meeting and was allowed to use the remaining time of 4:16 to rebut Mr. DRIVON.]

Speaker from the Audience (Neutral):

DWIGHT LARKS, Merced

SUSAN BOUSCAREN, Merced

Public testimony was completed at 7:41 p.m.

Chairperson DYLINE allowed staff to comment on public testimony regarding the 1,000 ft. buffer and the web-based mapping tool.

Principal Planner HREN stated that they investigated the parcel in question by communicating with the MCOE (Merced County Office of Education) to confirm the use of the parcel and determined that it was not used as a school for children.

Commissioner PADILLA asked Interim Deputy City Attorney FLORES to define the use of "schools" in regards to the Cannabis Ordinance.

Planning Manager ESPINOSA spoke on staff's due diligence in keeping the web-based mapping tool updated and confirming active schools located on the aforementioned mapping tool.

Commissioner PADILLA confirmed with staff that the software was available to all the applicants during the process and that applicants were provided ample time to verify distances and measurements of the property they chose.

Commissioner MARTINEZ disclosed his concern of the accuracy of relying on software for cases that are in close proximity to sensitive uses. He recused himself from the vote due to a conflict of interest.

Commissioner RASHE and Chairperson DYLINEA both vouched for the accuracy of the GIS software and voiced their confidence in City staff and saw no reason to doubt software that has been in use by the City for many years without major discrepancies.

M/S PADILLA-RASHE, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-27, and approve Commercial Cannabis Business Permit #18-14R, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #18-26 (RESOLUTION #4008):

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Martinez

Chairperson DYLINEA asked Ms. FLORES, for the benefit of the members of the audience, to explain the appeal process regarding the commercial cannabis business permits.

[Secretary's Note: At the discretion of the Chairperson, Section 5, Informational Items, was omitted during this meeting since Ms. ESPINOSA reviewed upcoming meeting details during the previous meeting on Tuesday.]

6. **ADJOURNMENT**


There being no further business, Chairperson DYLINEA adjourned the meeting at 8:01 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 #4005

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-06R**, initiated by Blue Fire, Inc., on a property owned by REM Land Group, LLC. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for medicinal and adult use cannabis and cannabis-related products at 1975 W. Olive Avenue, a parcel of 2.08 acres, within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND); also known as Assessor's Parcel Number (APN) 058-030-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through M of Staff Report #18-23; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #18-19 and approve Commercial Cannabis Business Permits #18-06R, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner HARRIS, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 4005

Page 2

September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 4005
Commercial Cannabis Business Permit #18-06R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) – Attachments C and E of Staff Report #18-23, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment I of Staff Report #18-23) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment J of Staff Report #18-23) at the time of submittal for building permits for tenant improvement.
9. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
12. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation

by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.

13. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with 20.44.170(L).4, “Commercial Cannabis Business Permit Renewal (All Types)”, at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
14. As per Ordinance #2480, the use of vending machines to dispense cannabis is strictly prohibited. Any vending machines on the property must not contain cannabis or cannabis-based products.
15. The applicants shall provide or cause to be provided a trash enclosure on the property such that all waste is securely stored until it is removed from the premises. Access to this enclosure shall be provided to the City’s Department of Public Works.
16. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State standards and regulations.
17. The parking lot shall be repaved and restriped in compliance with the City of Merced’s City Standards.
18. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures if applicable, flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.
19. The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.

20. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.

n:\shared\planning\PC Resolutions: CCBP #18-06R Exhibit A

CITY OF MERCED
Planning Commission

Resolution #4006

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-10R**, initiated by Green Door, Inc., on property owned by Ray Barry McAuley and Jeanne R McAuley, trustees. This application is a request to permit the operation of a retail dispensary, including delivery services, for both medicinal and adult-use cannabis on a 0.17-acre parcel at 811 W. Main Street within a Regional/Central Commercial (C-C) Zone; also known as Assessor's Parcel Number (APN) 031-123-008; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through O of Staff Report #18-24; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #18-23 and approve Commercial Cannabis Business Permit #18-10R, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner DREXEL, and carried by the following vote:

AYES: Commissioners Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Camper

PLANNING COMMISSION RESOLUTION # 4006

Page 2

September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4006
Commercial Cannabis Business Permit #18-10R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plan) and Exhibit 3 (elevations) -- Attachments C, D, and E of Staff Report #18-24, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment J of Staff Report #18-24) shall apply. Particular attention shall be paid to MMC 20.44.170(F) "Additional Regulations for Dispensary and Retail Sales of Cannabis" and MMC 20.44.170(G) "Additional Regulations for Commercial Cannabis Delivery Services."
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy. Key access and/or a Knox Box to any perimeter fencing shall be provided to the City Fire, Police, and Public Works Departments.
9. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment K of Staff Report #18-24) at the time of submittal for building permits for tenant improvement.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Any non-public areas, including cannabis inventory storage room, restrooms, etc., within the facility shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises.

12. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
13. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L).4, "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees, and be subject to all aspects of the selection process.
15. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures (if applicable), flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.
16. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
17. The applicants shall provide a trash enclosure on the property such that all waste is securely stored until it is removed from the premises with access to the enclosure to be provided to the Refuse Division. The proposed enclosure as shown on the Site Plan is located at the northwest corner of APN 031-123-010, which may conflict with the approved food truck parking area on that lot, so the final location and design shall be

approved by the Refuse Division prior to issuance of a building permit. The cross access agreement described in Condition #19 will also include the final location of the trash enclosure and ensure the dispensary's access to that enclosure.

18. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.
19. A joint parking and cross access agreement shall be recorded by the property owner to ensure that the dispensary has access to the parking, trash enclosure, and any other required facilities on the adjacent parcels (APN #031-123-009 and -010).
20. The parking areas shall be repaved and striped to City Standards prior to obtaining a Certificate of Occupancy.
21. The final design of the exterior elevations and any signage shall be approved by Planning staff prior to obtaining a Certificate of Occupancy. The final design of the proposed mural on the west elevation may require approval from the City's new Arts Commission. Details to be worked out with staff.
22. The dispensary owners shall work with the property owners and food truck operators as approved with Conditional Use Permit #1226 to allow for the joint use of the parking area on APN #031-123-010. If agreement cannot be reached, the property owners will need to determine the future use of the property. If the food truck(s) remain, the dispensary owners shall be responsible for ensuring that cannabis products are not consumed on-site as required in MMC 20.44.170(F)(16).

CITY OF MERCED
Planning Commission

Resolution #4007

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-17R**, initiated by Merced Business Ventures, Inc., DBA Manzanita, on property owned by Robert Gray. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis, including delivery services, on a 0.3-acre parcel at 1594 W. 18th Street within a General Commercial (C-G) Zone; also known as Assessor's Parcel Number (APN) 031-351-031; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through O of Staff Report #18-25; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #18-30 and approve Commercial Cannabis Business Permit #18-17R, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner CAMPER, seconded by Commissioner HARRIS, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 4007

Page 2

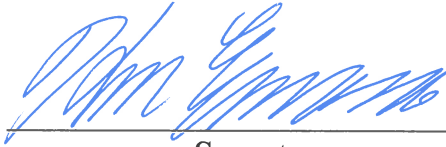
September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 4007
Commercial Cannabis Business Permit #18-17R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plan), and Exhibit 3 (elevations) -- Attachments C, D, and E of Staff Report #18-25, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment J of Staff Report #18-25) shall apply. Particular attention shall be paid to MMC 20.44.170(F) "Additional Regulations for Dispensary and Retail Sales of Cannabis" and MMC 20.44.170(G) "Additional Regulations for Commercial Cannabis Delivery Services."
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy. Key access and/or a Knox Box to any perimeter fencing shall be provided to the City Fire, Police, and Public Works Departments.
9. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment K of Staff Report #18-25) at the time of submittal for building permits for tenant improvement.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Any non-public areas, including cannabis inventory storage room, restrooms, etc., within the facility shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises.

12. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
13. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L).4, "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees, and be subject to all aspects of the selection process.
15. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures (if applicable), flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.
16. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
17. The applicants shall provide a trash enclosure on the property such that all waste is securely stored until it is removed from the premises with access to the enclosure to be provided to the Refuse Division. The proposed enclosure as shown on the Site Plan is located at the southwest corner of the parcel, but per the Refuse Division, it should be relocated closer to the northwest corner of the parcel. The final location and design

shall be approved by the Refuse Division prior to issuance of a building permit. The applicants have also agreed to post a sign on the enclosure making clear there is no cannabis product inside of it, and it will be locked.

18. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.
19. A joint parking and cross access agreement shall be recorded by the property owner to ensure that the dispensary has access to the parking, trash enclosure, and any other required facilities on the adjacent parcel to the east (APN #031-351-028).
20. The parking areas shall be repaved and striped to City Standards prior to obtaining a Certificate of Occupancy.
21. The final design of the exterior elevations and any signage shall be approved by Planning staff prior to obtaining a Certificate of Occupancy. Details to be worked out with staff.

Note: This item has been
appealed; therefore,
Resolution #4008 has not
yet gone into effect.
Efficacy of this Resolution
will be contingent on City
Council decision.

**CITY OF MERCED
Planning Commission**

Resolution #4008

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-14R**, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.; also known as Assessor's Parcel Number (APN) 031-173-012; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through M of Staff Report #18-26; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #18-27 and approve Commercial Cannabis Business Permit #18-14R, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner RASHE, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Martinez

PLANNING COMMISSION RESOLUTION # 4008

Page 2

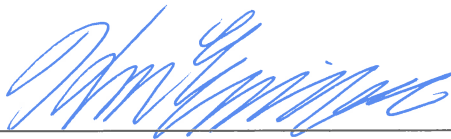
September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4008
Commercial Cannabis Business Permit #18-14R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Attachment C of Staff Report #18-26, and Exhibit 2 (floor plan), Attachment D of Staff Report #18-26, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment I of Staff Report #18-26) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment J of Staff Report #18-26) at the time of submittal for building permits for tenant improvement.
9. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
12. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be

adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.

13. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with 20.44.170(L).4, “Commercial Cannabis Business Permit Renewal (All Types)”, at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
14. As per Ordinance #2480, the use of vending machines to dispense cannabis is strictly prohibited. Any vending machines on the property must not contain cannabis or cannabis-based products.
15. The applicants shall provide or cause to be provided a trash enclosure on the property such that all waste is securely stored until it is removed from the premises. Access to this enclosure shall be provided to the City’s Department of Public Works.
16. Key access and/or a Knox Box to the perimeter fence shall be provided to the City of Merced Fire Department, Department of Public Works, and Police Department.
17. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State standards and regulations.
18. The parking lot shall be repaved and restriped in compliance with the City of Merced’s City Standard Designs.
19. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures if applicable, flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.

20. There shall be no shared access to the building sharing a common wall with 863 W. 15th Street. Any existing shared access point must be sealed prior to the issuance of a Certificate of Occupancy.
21. The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.
22. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.

n:\shared\planning\PC Resolutions: CCBP #18-14R Exhibit A



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item H.5.

Meeting Date: 11/5/2018

Report Prepared by: Stephani Davis, Secretary II, Planning Division

SUBJECT: Information Only - Site Plan Commission Minutes of August 16, 2018

RECOMMENDATION

For information only.

ATTACHMENTS

1. SP Minutes 08-16-2018

CITY OF MERCED
Site Plan Review Committee

MINUTES

Planning Conference Room
2nd Floor Civic Center
Thursday, August 16, 2018

Chairperson McBRIDE called the meeting to order at 1:35 p.m.

1. **ROLL CALL**

Committee Members Present: Development Services Director McBride,
Land Surveyor Cardoso (for City Engineer
Son), and Engineering Technician IV
England (for Chief Building Official
Frazier)

Committee Members Absent: None

Staff Present: Planner/Recording Secretary Mendoza-
Gonzalez, Planning Manager Espinosa,
Economic Development Director Quintero

2. **MINUTES**

M/S McBRIDE-CARDOSO, and carried by unanimous voice vote, to
approve the Minutes of AUGUST 2, 2018, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Site Plan Review Application #421, submitted by Hotel Tioga
Investors, LLC, property owner, to repair and restore the interior and
exterior of the Hotel Tioga building located at 1715 N Street within
a Central Commercial (C-C) Zone.

Planner MENDOZA-GONZALEZ reviewed the application for this item. For further information, refer to Draft Site Plan Review Committee Resolution #421.

Commissioner CARDOSO recommended modifying Condition #17, because the Engineering Department would prefer that the applicant engage in an agreement to use City right-of-way instead of an encroachment permit. In addition, Commissioner CARDOSO noted that the Committee should add Condition #22 to ensure that the developer meets FEMA requirements for development in their flood zone.

M/S McBRIDE - CARDOSO, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-52, and approve Site Plan Application #421, subject to the Findings and twenty-one (21) conditions set forth in the Draft Resolution #421 with a modification to Condition #17 and the addition of Condition #22 as follows:

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

“17. All structures extending over the public right-of-way shall require ~~encroachment permits~~ an agreement to use City right-of-way (including awnings, overhangs, and signs).

“22. The applicant will provide proof to the City Engineer of compliance with all FEMA flood regulations.”

AYES: Committee Members Cardoso, England, and Chairperson McBride

NOES: None

ABSENT: None

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

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

Site Plan Review Committee Minutes

Page 3

August 16, 2018

6. **ADJOURNMENT**

There being no further business, Chairperson McBRIDE adjourned the meeting at 1:59 p.m.

Respectfully submitted,



Kim Espinosa, Secretary

Merced City Site Plan Review Committee

APPROVED:



Scott McBride, Chairperson/Development
Services Director

Merced City Site Plan Review Committee

CITY OF MERCED
 SITE PLAN REVIEW COMMITTEE
 RESOLUTION #421

<u>Hotel Tioga Investors, LLC</u>	<u>Hotel Tioga building improvements, which include remodeling 70 residential units, and restoring the historic lobby and exterior façade.</u>
APPLICANT	PROJECT
<u>P.O. Box 447</u>	<u>1715 N Street</u>
ADDRESS	PROJECT SITE
<u>Englewood, CO 80151</u>	<u>031-131-008</u>
CITY/STATE/ZIP	APN
<u>(919) 669-9650</u>	<u>Central Commercial (C-C)</u>
PHONE	ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Merced City Site Plan Review Committee considered and approved Site Plan Review Application #421 on August 16, 2018, submitted by Hotel Tioga Investors, LLC, property owner, to repair and restore the interior and exterior of the Hotel Tioga building located at 1715 N Street within a Central Commercial (C-C) Zone. Said property being more particularly described as Lots 15 and 16 from Block 165 as shown on that Map entitled “Supplemental Map to Town of Merced,” recorded in Volume 2, Page 12 of Merced County Records; also known as Assessor’s Parcel Number (APN) 031-131-008.

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

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

- A) The proposal complies with the General Plan designation of Regional Community Commercial (RC) and the Zoning classification of Central Commercial (C-C).
- B) Hotel Tioga is an 85,000-square-foot, mixed-use building on a 0.35-acre lot with commercial uses on the ground floor and residential units on the second, third, fourth, fifth, and sixth floors.
- C) Hotel Tioga is registered as a historic building at the Federal, State, and local levels.
- D) The Site Plan Review Committee has determined that the proposal does not require a certificate of alteration because the portions of the building that are protected by historic preservation agencies, such as the historic lobby and exterior facade, are not being altered, they are being restored to their original state (“alter” as defined under MMC Section 17.54.020 – Definitions). This work shall be done as required by State and Federal historic agencies.

- E) The applicant is proposing to restore and repair the interior and exterior of Hotel Tioga. As shown at Exhibit E under Notes 1 and 2, the applicant will protect and retain all historic features. The applicant shall do this as required by the State Historic Preservation Office (SHPO) and the United States Department of the Interior National Park Service (see Condition #13). The applicant is proposing to reduce the number of apartments from 98 units to 70 units. This will be achieved by combining several units to create larger apartments. The ground floor commercial area will be reduced by approximately 50 percent. Interior modifications include upgrades to the electrical system, plumbing system, central heating and cooling systems, installing new flooring/paint, and restoring the historic lobby. Exterior modifications include patching walls, repairing windows and awnings, and protecting the roof mounted steel armature (structure for future sign restoration).
- F) The applicant has submitted plans to SHPO and the US Department of the Interior National Parks Department for their review and approval (see Exhibit H). SHPO has provided documentation recommending that the National Parks Department approve this proposal (Exhibit G). Issuance of the certificate of occupancy shall be contingent upon obtaining approval from SHPO and the US Department of the Interior National Parks Department (see Condition #12).
- G) The majority of Hotel Tioga will be used for apartment purposes. The building was converted into an apartment complex several decades ago with the property owner engaging in either monthly or annual leases with their tenants.
- H) As shown under Merced Municipal Code Section 20.68.060.C.2.E. Design Review Permit (Review Authority), “the Development Services Department may take action on façade improvements to existing structures which do not increase the floor area of the structure by more than 5 percent.” The Director of Development Services has reviewed the applicant’s proposal and determined that their request meets the above criteria, and that their proposal could be reviewed by the Site Plan Review Committee.
- I) The Site Plan Review Committee is of the opinion that the future roof-mounted sign may be installed with a staff level design review permit and building permit, if the new sign is similar to the previous sign shown at Exhibit F. If not, the sign may require a certificate of alteration from the Historic Preservation Commission or their designated review board (see Condition #8).
- J) The subject site is located within the City’s Downtown Parking District, which does not require off-street parking for uses on the first floor.
- K) Historically, this site has not provided parking for uses above the ground floor. The parking for this site is considered legal non-conforming and the applicant is not required to provide additional parking as long as they meet the eligibility requirements outlined under MMC Chapter 20.52 – Nonconforming Parcels, Uses, and Structures. Future increases in residential units shall require new parking as required by the Zoning Ordinance. This may include providing off-site parking on

a lot approved by the Director of Development Services (whom may refer the proposed parking plan to the Site Plan Review Committee), or by paying a park in-lieu fee as required by the City's Municipal Code.

- L) Hotel Tioga is located on one parcel with two lots. The applicant shall apply for a lot merger prior to issuance of the certificate of occupancy, so that the building is not on top of two lot lines (see Condition #15).

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Review Application #421, subject to the following conditions:

1. All applicable conditions contained in Site Plan Approval Resolution #79-1-Amended ("Standard Conditions for Site Plan Application") shall apply.
2. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply including, but not limited to, the California Building Code and fire codes.
3. The site shall be constructed as shown on Exhibit B (site plan), Exhibit D (floor plans), Exhibit E (elevations), and as modified by the conditions of approval within this resolution.
4. Notwithstanding all other conditions, all construction and improvements shall be in strict accordance with Zoning, Building, and all other codes, ordinances, standards, and policies of the City of Merced, including but not limited to, fire sprinklers and fire life safety systems.
5. All modifications shall meet or exceed the building codes in effect at the time of building permit application submittal.
6. The applicant shall use proper dust control procedures during site development as required by the San Joaquin Valley Air Pollution Control District.
7. All signing shall comply with the City's Sign Ordinance. Design review permits and building permits shall be obtained prior to installing any permanent signing. A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Freestanding or A-frame signs are not allowed.
8. The future roof-mounted sign may be installed with a staff level design review permit and building permit, if the sign is designed similarly to the previous sign shown at Exhibit F. If not, the new sign shall require a certificate of alteration from the Historic Preservation Commission or their designated review board.
9. All existing landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.
10. The premises shall remain clean and free of debris and graffiti at all times.
11. Future alterations to the building's historic features shall require a design review permit and/or a certificate of alteration from the Historic Preservation Commission or their designated review board.

August 16, 2018

12. The applicant shall provide proof of approval from the State Historic Preservation Office and the United States Department of the Interior National Park Service prior to issuance of the certificate of occupancy.
13. The applicant shall comply with all building rehabilitation and restoration requirements set forth by the State Historic Preservation Office and the United States Department of the Interior National Park Service.
14. All mechanical equipment (including roof-mounted equipment) shall be screened from public view. Instead of screening, roof-mounted equipment may be of a color that blends in with the building or sky (white or off-white).
15. Prior to issuance of certificate of occupancy, the applicant shall submit a lot merger application to merge the existing lots into one lot and remove the lot lines that are currently underneath the building.
16. The applicant shall work with the City's Engineering and Fire Departments to determine if the exterior fire escapes on the building are structurally safe. The exterior fire escapes may need to be removed if required by the City's Engineering and Fire Departments.
17. All structures extending over the public right-of-way shall require an agreement to use City right-of-way (including awnings, overhangs, and signs).
18. Building lighting shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots in compliance with the California Energy Code requirements.
19. The applicant shall work with the City's Refuse Department to determine the location and method for refuse service. In addition, the applicant shall work with the City's Refuse Department to determine if a recycling container will be required to comply with AB 341.
20. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing roads, sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
21. Any missing or damaged improvements along the property frontage shall be installed/repared to meet City Standards. Any improvements that do not meet current City Standards shall be replaced to meet all applicable standards.
22. The applicant will provide proof to the City Engineer of compliance with all FEMA flood regulations.

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

August 16, 2018

DATE


SIGNATURE

Planner

TITLE

Exhibits:

- A) Location Map
- B) Site Plan
- C) Demolition Plans
- D) Proposed Floor Plans
- E) Proposed Elevations
- F) Hotel Tioga Historic Sign
- G) SHPO Recommendation to the US Parks Department
- H) Application to the United States Department of the Interior National Park Service
- I) Categorical Exemption



PROJECT

HOTEL TIoga
1715 N STREET
MERCED, CA 95340

CLIENT
HOTEL TIoga INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
ARCHITECTS
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
T 415 362 5154 F 415 362 5552
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

- | | |
|---------------------------|------------|
| 1. TAX CREDIT APPLICATION | 05.15.2018 |
| 2. DESIGN DEVELOPMENT | 06.01.2018 |
| 3. PERMIT SET | 06.15.2018 |
| 4. SITE PERMIT | 07.11.2018 |

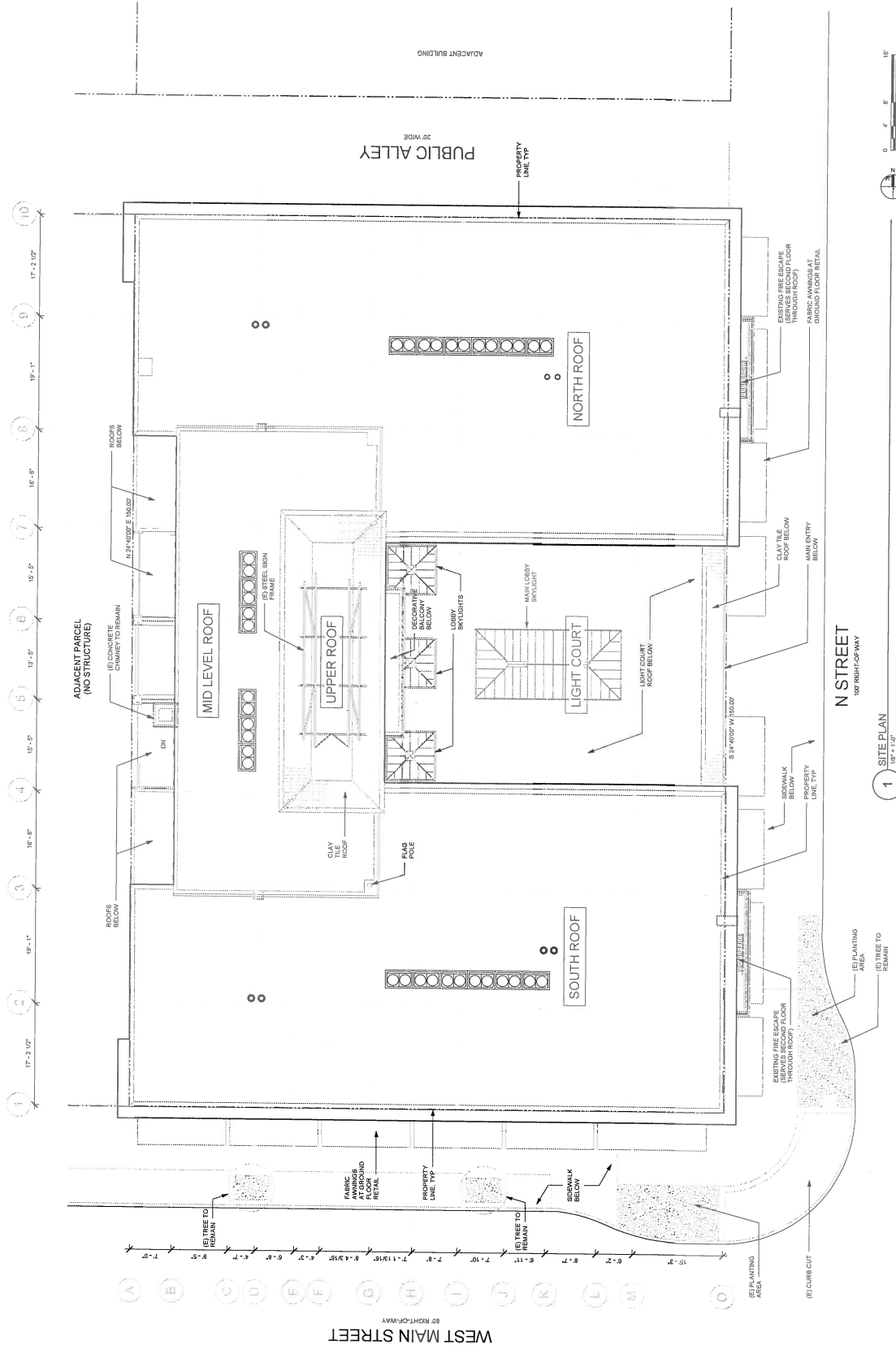
TITLE
SITE PLAN

PERMIT SET

ISSUE DATE 07/26/2018
DRAWN BY K.S.
CHECKED BY S.
JOB NUMBER 17314

© PAGE & TURNBULL, INC. 2014

A1.00



PROJECT

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
Page & Turnbull Architects, Inc. is a registered architect and interior design firm in the State of California.

417 Montgomery Street, 8th Floor, San Francisco, CA 94104

www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

BASEMENT DEMOLITION PLAN

PERMIT SET
ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY IK/JA
CHECKED BY SL
JOB NUMBER 17314

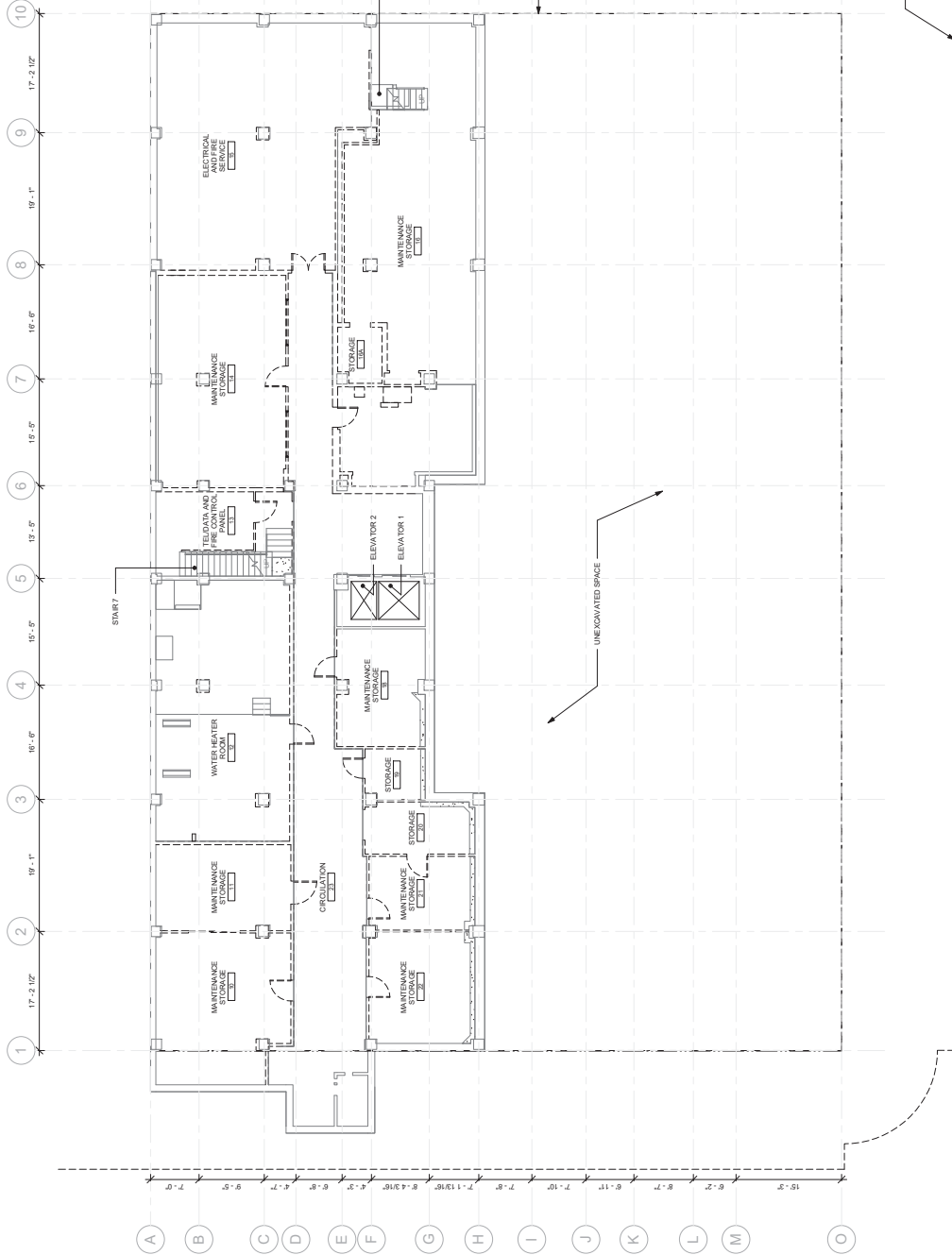
D2.00

© PAGE & TURNBULL, INC. 2018

- PLAN LEGEND
- (E) WALL TO REMAIN
 - (E) WALL TO BE DEMOLISHED
 - (N) WALL CONSTRUCTION

SHEET NOTES

1. RETAIN AND PROTECT HISTORICALLY SIGNIFICANT BUILDING ELEMENTS TO REMAIN
2. PROTECT BUILDING ELEMENTS TO REMAIN



1 BASEMENT DEMOLITION PLAN

1/8" = 1'-0"



0 4 8 16'

PROJECT

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
www.page-turnbull.com

CONSULTANT

SCALE: 1/8" = 1'-0"



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

FIRST FLOOR
DEMOLITION PLAN

PERMIT SET
ISSUE DATE: 07.08.2018
SCALE: 1/8" = 1'-0"
DRAWN BY: IK/JA
CHECKED BY: SL
JOB NUMBER: 17314

D2.01

© PAGE & TURNBULL, INC. 2018

PLAN LEGEND

- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (E) WALL CONSTRUCTION

FLOOR LEGEND

- REMOVE (E) TOP LAYER FLOORING -
PROTECT (E) HISTORIC FLOORING BELOW
- PROTECT (E) HISTORIC FLOORING
- REMOVE PORTION OF (E) FLOOR
REPLACE WITH NEW FLOORING AS REQUIRED. SPARK AS
NEEDED
- IN WOOD FLOOR FRAMING FOR STAIR
EXTENSIONS - S.S.D.

SHEET NOTES

1. RETAIN AND PROTECT HISTORICALLY
SIGNIFICANT MATERIALS AND
FEATURES.
2. PROTECT BUILDING ELEMENTS TO REMAIN

KEYNOTES

- 02.12 CAREFULLY REMOVE (E) TOP LAYER OF
FLOORING BELOW. RETAIN AND PROTECT (E)
HISTORIC FLOORING
- 02.13 REMOVE EXISTING MAILBOXES
- 02.14 EXISTING COUNTER AND CASEWORK TO REMAIN.
PROTECT IN PLACE
- 02.20 RETAIN AND PROTECT HISTORIC WOOD
WAINSCOT AT FORMER WALLS OF FORMER
KITCHEN. REMOVE WAINSCOT AND DETERMINE EXTENT OF
HISTORIC FINISHES. UNCOVERED

WEST MAIN STREET

PUBLIC ALLEY

N STREET

1 FIRST FLOOR DEMOLITION PLAN

1/8" = 1'-0"



PROJECT

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
www.page-turnbull.com
CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

MEZZANINE
DEMOLITION PLAN

PERMIT SET
ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY HK/JA
CHECKED BY SL
JOB NUMBER 17314

D2.01a

© PAGE & TURNBULL, INC. 2018

PLAN LEGEND

- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (N) WALL CONSTRUCTION

FLOOR LEGEND

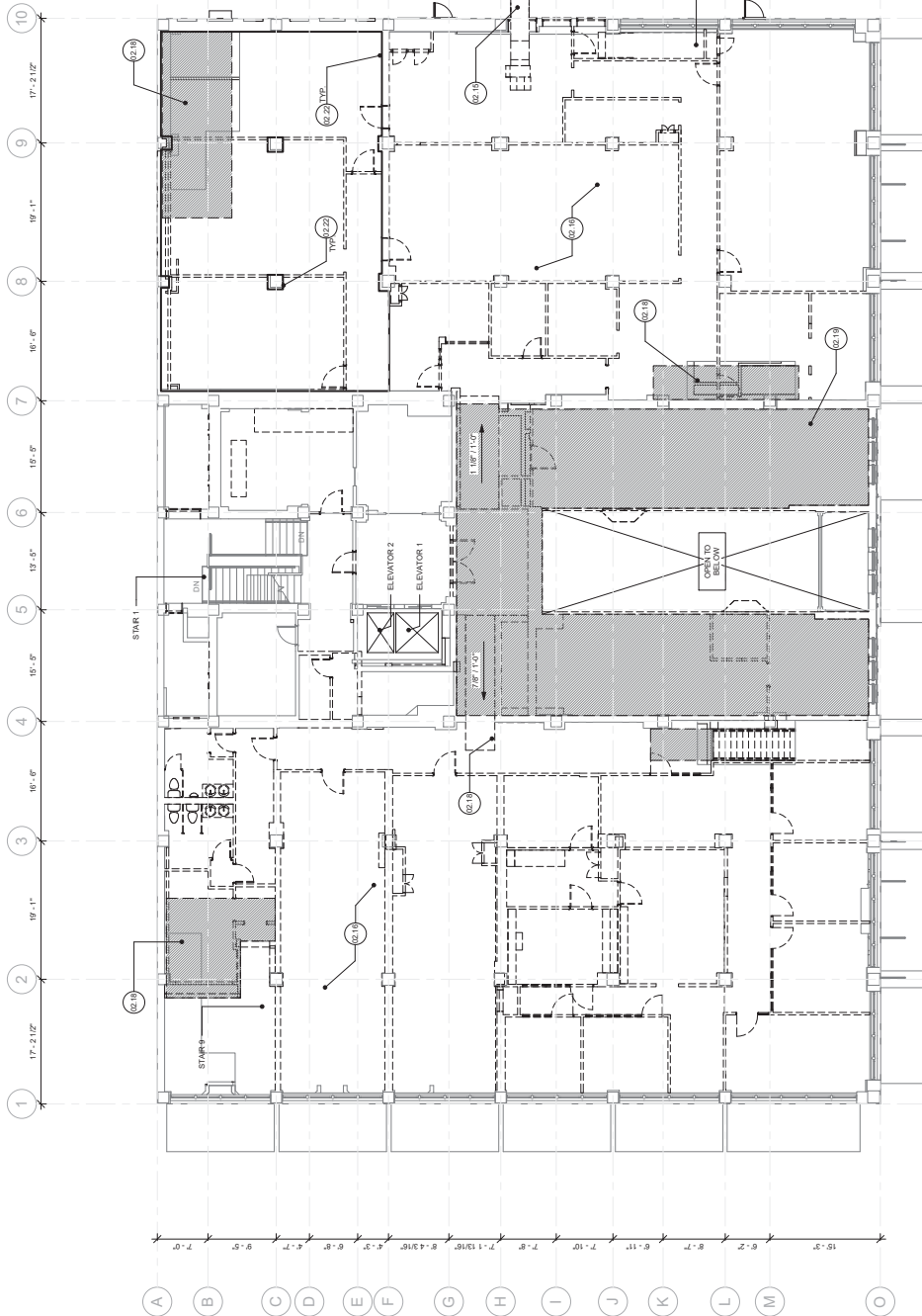
- REMOVE (E) TOP LAYER FLOORING - PROTECT (E) HISTORIC FLOORING BELOW
- PROTECT (E) HISTORIC FLOORING
- REMOVE PORTION OF (E) FLOOR FINISH AS REQUIRED. SPARK AS NEEDED
- (N) WOOD FLOOR RAILING FOR STAIR EXTENSIONS - S.S.O.

SHEET NOTES

1. RETAIN AND PROTECT HISTORICALLY SIGNIFICANT ELEMENTS AND FINISHES
2. PROTECT BUILDING ELEMENTS TO REMAIN

KEYNOTES

- 02.15 REMOVE EXISTING DUCTWORK
- 02.16 EXISTING WOOD FLOOR TO REMAIN. TYP. U.O.N. REMOVE (E) LIGHTWEIGHT CONCRETE TOPPING AND FINISHES WHERE OCCURS. PATCH AND REPAIR AS REQ'D.
- 02.18 REMOVE PORTION OF FLOOR TO ACCOMMODATE STAIR - SHORE AS REQUIRED
- 02.19 REMOVE PORTION OF (E) MEZZANINE FLOOR. RETAIN AND PROTECT HISTORIC ELEMENTS FINISHES
- 02.22 RETAIN AND PROTECT VISIBLE HISTORIC DRAINAGE. REMOVE (E) FINISHES. DRAINAGE ROOMS CAREFULLY REMOVE FINISHES BEHIND. RETAIN ANY (E) HISTORIC FINISHES UNCOVERED



1 MEZZANINE DEMOLITION PLAN
1/8" = 1'-0"



PROJECT

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
(415) 398-6000
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

SECOND FLOOR DEMOLITION PLAN

PERMIT SET
ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY IK, JA
CHECKED BY SL
JOB NUMBER 17314

PAGE & TURNBULL, INC. 2018

D2.02

PLAN LEGEND

- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (N) WALL CONSTRUCTION

ROOF LEGEND

- (E) ROOFING TO BE DEMOLISHED

FLOOR LEGEND

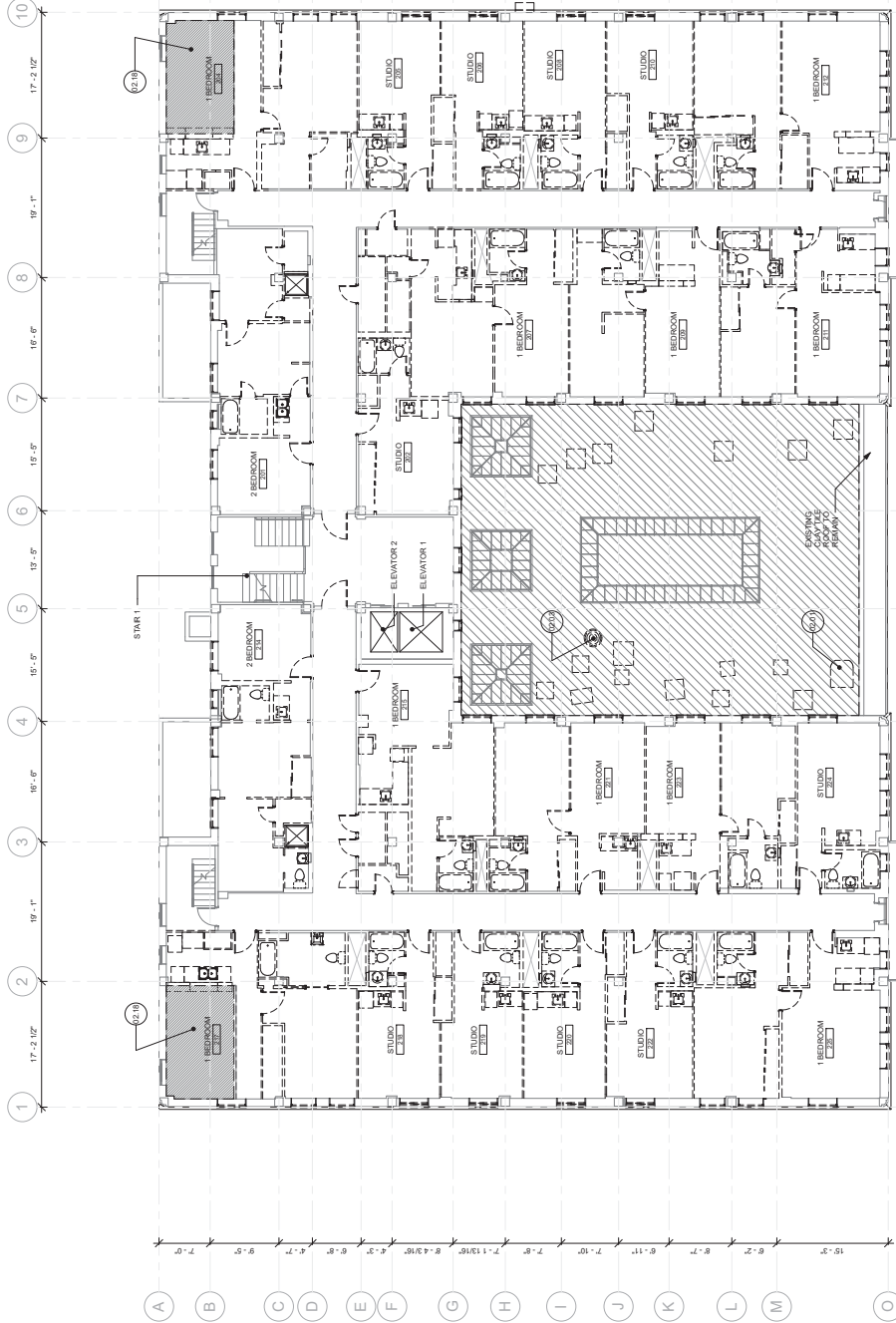
- REMOVE (E) TOP LAYER FLOORING - PROTECT (E) HISTORIC FLOORING BELOW
- PROTECT (E) HISTORIC FLOORING
- REMOVE PORTION OF (E) FLOOR - PATCH AS REQUIRED, SHORE AS NEEDED
- (N) WOOD FLOOR FRAMING FOR STAIR EXTENDING - S.S.D.

SHEET NOTES

1. RETAIN AND PROTECT HISTORICALLY SIGNIFICANT ELEMENTS AND FINISHES
2. PROTECT BUILDING ELEMENTS TO REMAIN

KEYNOTES

- 02.01 REMOVE EXISTING AC UNIT AT ROOF TOP
- 02.03 REMOVE EXISTING DOOR KEYS, TYP. PATCH CONCRETE AS REQUIRED
- 02.16 REMOVE PORTION OF FLOOR TO ACCOMMODATE STAIR - SHORE AS REQUIRED



1 SECOND FLOOR DEMOLITION PLAN
1/8" = 1'-0"

PROJECT

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
Page & Turnbull Architects, Inc.
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
(415) 398-2200
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

THIRD FLOOR DEMOLITION PLAN

PERMIT SET

ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY IK/JA
CHECKED BY SL
JOB NUMBER 17314

© PAGE & TURNBULL, INC. 2018



1 THIRD FLOOR DEMOLITION PLAN
1/8" = 1'-0"

- PLAN LEGEND**
- (E) WALL TO REMAIN
 - (F) WALL TO BE DEMOLISHED
 - (N) WALL CONSTRUCTION
- SHEET NOTES**
1. RETAIN AND PROTECT HISTORICALLY SIGNIFICANT BUILDING ELEMENTS TO REMAIN
 2. PROTECT BUILDING ELEMENTS TO REMAIN



PROJECT

HOTEL TIOPA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOPA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
page & turnbull architects llc
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

FOURTH FLOOR
DEMOLITION PLAN

PERMIT SET

ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY HK/JA
CHECKED BY SL
JOB NUMBER 17314

© PAGE & TURNBULL, INC. 2018

0 4 8' 16'



1 FOURTH FLOOR DEMOLITION PLAN
1/8" = 1'-0"

- PLAN LEGEND
- (B) WALL TO REMAIN
 - (B) WALL TO BE DEMOLISHED
 - (B) WALL CONSTRUCTION
- SHEET NOTES
1. RETAIN AND PROTECT HISTORICALLY SIGNIFICANT BUILDING ELEMENTS TO REMAIN
 2. PROTECT BUILDING ELEMENTS TO REMAIN



PROJECT

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
pageandturnbull.com
www.pageandturnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

FIFTH FLOOR
DEMOLITION PLAN

PERMIT SET
ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY HK/JA
CHECKED BY SL
JOB NUMBER 17314

D2.05

© PAGE & TURNBULL, INC. 2018

PLAN LEGEND

- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (N) WALL CONSTRUCTION

SHEET NOTES

1. RETAIN AND PROTECT HISTORICALLY SIGNIFICANT BUILDING ELEMENTS TO REMAIN
2. PROTECT BUILDING ELEMENTS TO REMAIN



1 FIFTH FLOOR DEMOLITION PLAN
1/8" = 1'-0"



PROJECT

HOTEL TIOPA

1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOPA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL

417 Montgomery Street, 8th Floor, San Francisco, CA 94104
415.774.8800
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

SIXTH FLOOR AND
MAIN ROOF
DEMOLITION PLAN

PERMIT SET
ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY HK/JA
CHECKED BY SL
JOB NUMBER 17314

D2.06

© PAGE & TURNBULL, INC. 2018

PLAN LEGEND

- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (N) WALL CONSTRUCTION

ROOF LEGEND

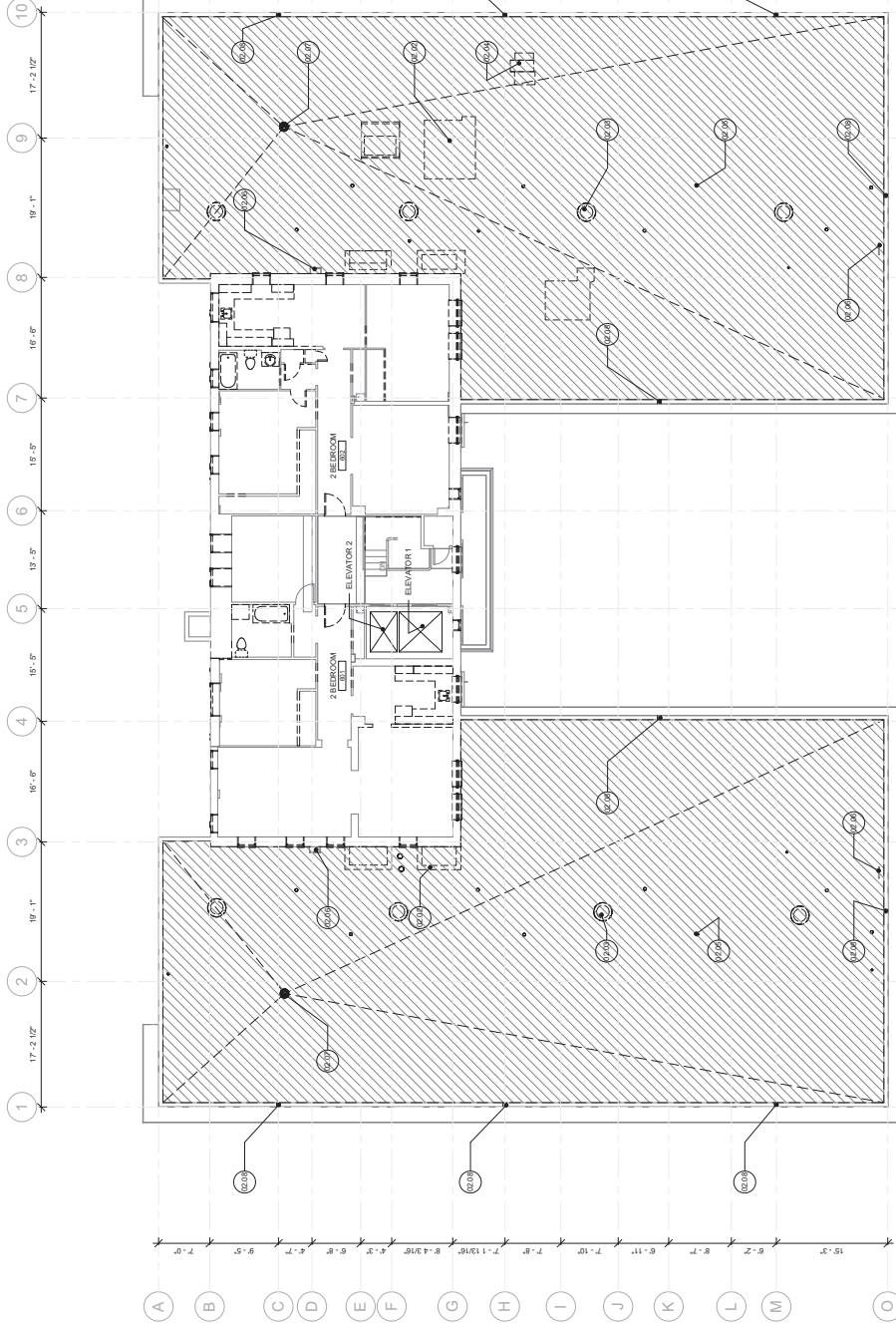
- (H) ROOFING TO BE DEMOLISHED

SHEET NOTES

1. RETAIN AND PROTECT HISTORICALLY SIGNIFICANT BUILDING ELEMENTS TO REMAIN
2. PROTECT BUILDING ELEMENTS TO REMAIN

KEYNOTES

- 02.02 REMOVE EXISTING ROOF EQUIPMENT, TYP.
- 02.03 REMOVE EXISTING ROOF VENTS, TYP. PATCH CONCRETE AS REQUIRED
- 02.04 REMOVE EXISTING FAN UNIT
- 02.05 REMOVE EXISTING PLUMBING VENTS, TYP. PATCH CONCRETE AS REQUIRED
- 02.06 EXISTING FIRE ESCAPE LADDER TO REMAIN. ENSURE SECURE ATTACHMENT, PREP AND PAINT
- 02.07 REMOVE EXISTING ROOF DRAIN, PATCH CONCRETE AS REQUIRED
- 02.08 EXISTING THROUGH-ROOF SCUPPER TO REMAIN



1 SIXTH FLOOR AND MAIN ROOF DEMOLITION PLAN
1/8" = 1'-0"

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

CLIENT
HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
 Inspiring change in global environments through design, research and technology
 417 Montgomery Street, 8th Floor, San Francisco, CA 94104
 T 415 362 5154 F 415 362 5500
www.page-turnbull.com

CONSULTANT



SEAL & SIGNATURE

ISSUE

- | | | |
|---|-------------------------|------------|
| 1 | TAX CREDIT APPLICATION | 05.15.2018 |
| 2 | 100% DESIGN DEVELOPMENT | 06.01.2018 |
| 3 | PERMIT SET | 07.06.2018 |

TITLE
BASEMENT FLOOR
PLAN

PERMIT SET	
ISSUE DATE	07.06.2018
SCALE	1/8" = 1'-0"
DRAWN BY	Author
CHECKED BY	Checker
JOB NUMBER	17314

© PAGE & TURNBULL, INC. 2013



PROJECT

HOTEL TIOGA

1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL

417 Montgomery Street, 8th Floor, San Francisco, CA 94104
415 Market Street, 10th Floor, San Francisco, CA 94102
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

FIRST FLOOR PLAN

PERMIT SET

ISSUE DATE 07.08.2018

SCALE 1/8" = 1'-0"

DRAWN BY JK

CHECKED BY SL

JOB NUMBER 17314

© PAGE & TURNBULL, INC. 2018

A2.01

PLAN LEGEND

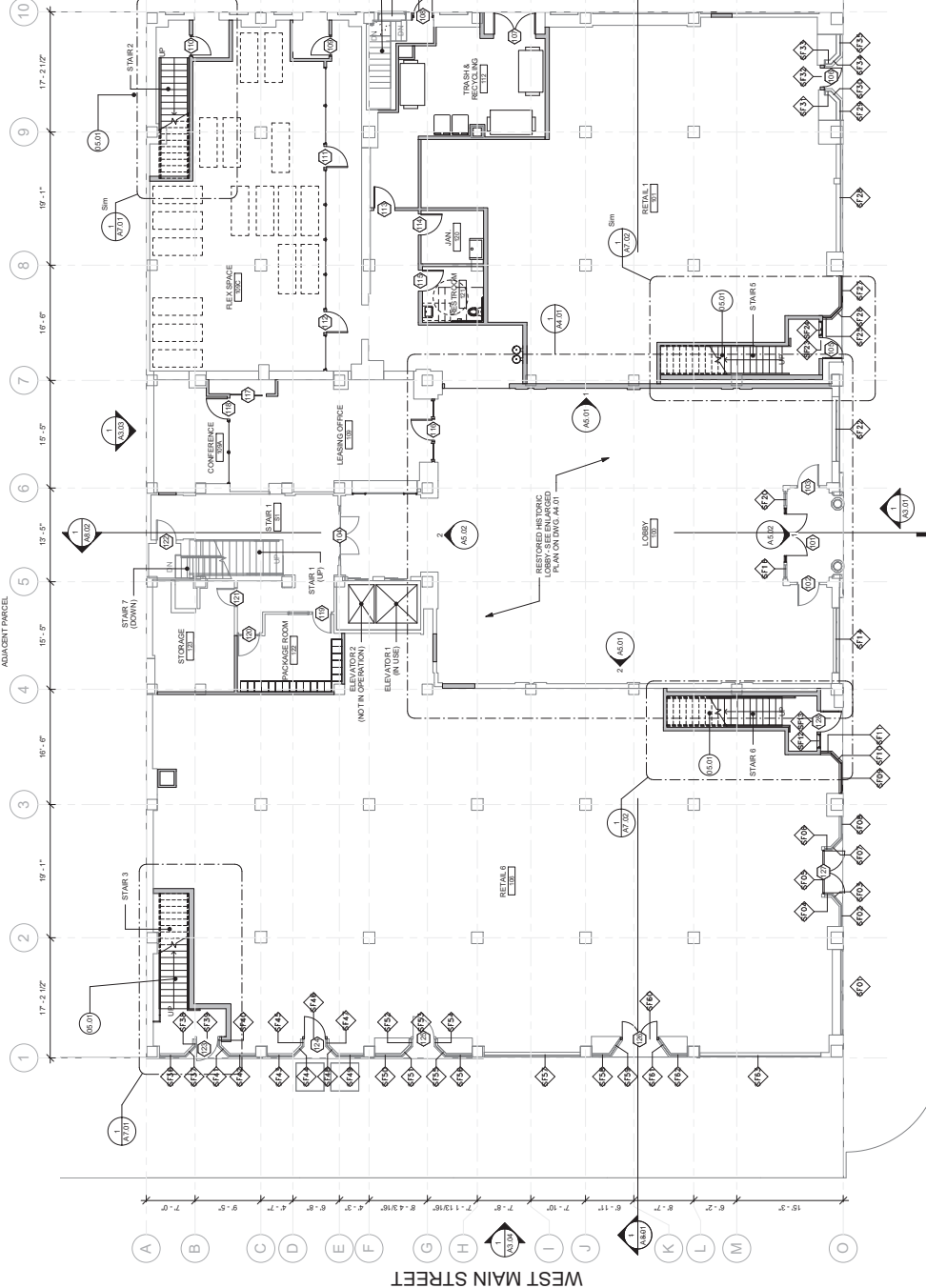
- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (N) WALL CONSTRUCTION

SHEET NOTES

1. SEE ENLARGED PLAN FOR LOBBY RESTORATION AND STAIRS. SEE ENLARGED PLAN FOR STAIRS AND AT DOORS AND PASSAGEWAYS
2. SEE ENLARGED PLAN FOR LOBBY RESTORATION AND STAIRS. SEE ENLARGED PLAN FOR STAIRS AND AT DOORS AND PASSAGEWAYS

KEYNOTES

1. STEEL PAN STAIR WITH STEEL STRINGERS AND TREADS
2. STEEL PAN STAIR WITH STEEL STRINGERS AND TREADS



N STREET

1 FIRST FLOOR PLAN

1/8" = 1'-0"

PROJECT

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
(415) 398-2600
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

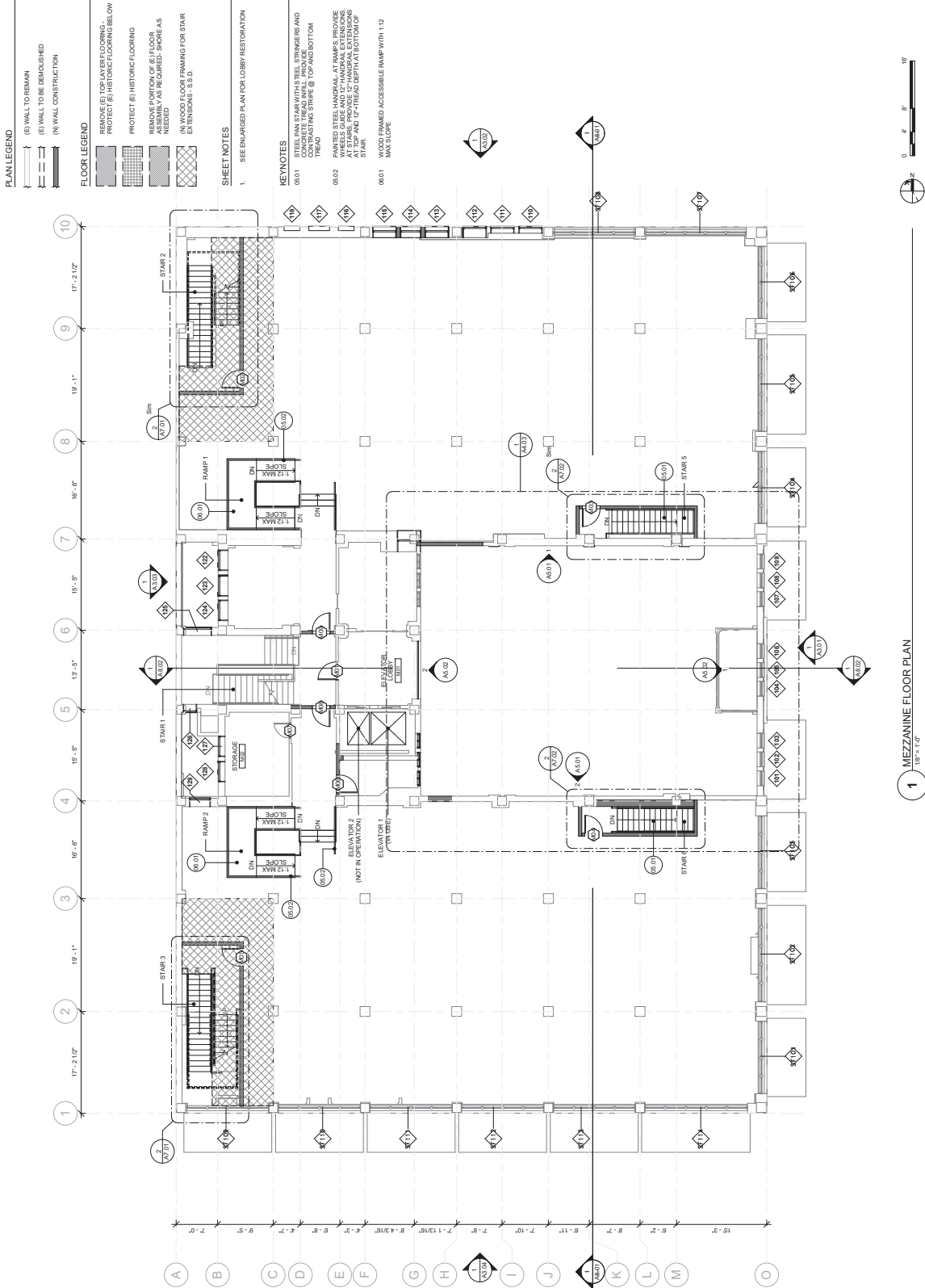
1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

**MEZZANINE FLOOR
PLAN**

PERMIT SET
ISSUE DATE 07.08.2018
SCALE 1/8" = 1'-0"
DRAWN BY SL/JA
CHECKED BY
JOB NUMBER 17314

A2.01a

© PAGE & TURNBULL, INC. 2018



1 MEZZANINE FLOOR PLAN
1/8" = 1'-0"

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

CLIENT
HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
imaging change in interior environments through design, research and technology

417 Montgomery Street, 8th Floor, San Francisco, CA 94104
T 415 362 5154 F 415 362 5560
www.page-turnbull.com

CONSULTANT



SEE A SIGNATURE

ISSUE

- | | | |
|---|-------------------------|------------|
| 1 | TAX CREDIT APPLICATION | 05.15.2018 |
| 2 | 100% DESIGN DEVELOPMENT | 06.01.2018 |
| 3 | PERMIT SET | 07.06.2018 |

[illegible]

SECOND FLOOR PLAN

PERMIT SET

ISSUE DATE 07 06 2018

SCALE 1/8" = 1'-0"

DRAWN BY	Author
----------	--------

CHECKED BY SL

CIRQUE DE LA LIBERTÉ INC. 2019



Category	0	4	8	16
No	~45%	~35%	~25%	~15%
Low	~35%	~35%	~35%	~35%
High	~15%	~25%	~35%	~45%
Very High	~5%	~5%	~10%	~5%

SECONDO IL CORRENTI

1/8" = 1'-0"

HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

CLIENT
HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
imaging change in habits, environments through design, research and technology
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
T 415 362 5154 F 415 362 5500
www.page-turnbull.com

CONSULTANT



SEAL & SIGNATURE

ISSUE

- | | | |
|---|-------------------------|------------|
| 1 | TAX CREDIT APPLICATION | 05.15.2018 |
| 2 | 100% DESIGN DEVELOPMENT | 06.01.2018 |
| 3 | PERMIT SET | 07.06.2018 |

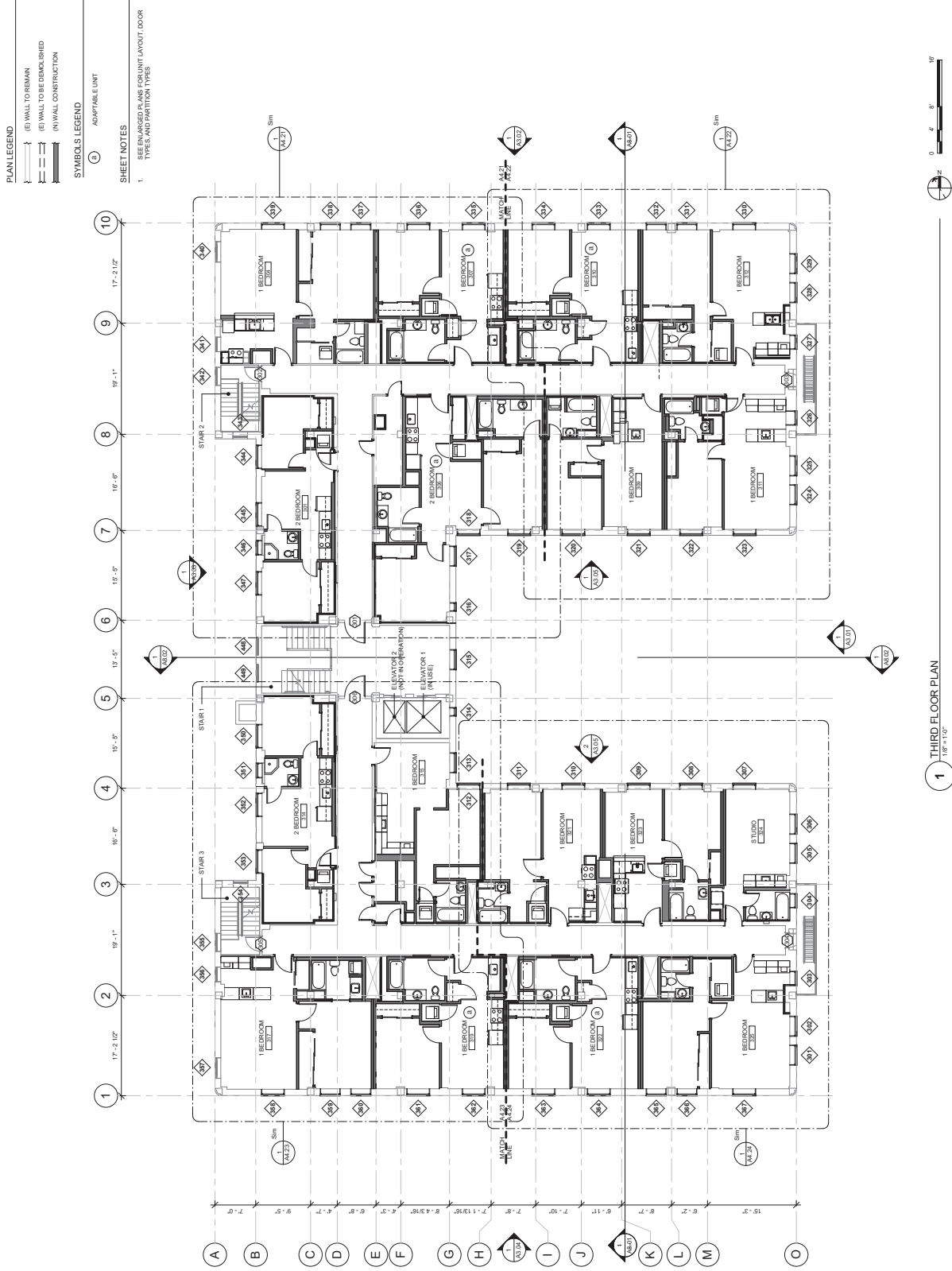
	TYPE II
1	0.0000
2	0.0000
3	0.0000
4	0.0000
5	0.0000
6	0.0000
7	0.0000
8	0.0000
9	0.0000
10	0.0000
11	0.0000
12	0.0000
13	0.0000
14	0.0000
15	0.0000
16	0.0000
17	0.0000
18	0.0000
19	0.0000
20	0.0000
21	0.0000
22	0.0000
23	0.0000
24	0.0000
25	0.0000
26	0.0000
27	0.0000
28	0.0000
29	0.0000
30	0.0000
31	0.0000
32	0.0000
33	0.0000
34	0.0000
35	0.0000
36	0.0000
37	0.0000
38	0.0000
39	0.0000
40	0.0000
41	0.0000
42	0.0000
43	0.0000
44	0.0000
45	0.0000
46	0.0000
47	0.0000
48	0.0000
49	0.0000
50	0.0000
51	0.0000
52	0.0000
53	0.0000
54	0.0000
55	0.0000
56	0.0000
57	0.0000
58	0.0000
59	0.0000
60	0.0000
61	0.0000
62	0.0000
63	0.0000
64	0.0000
65	0.0000
66	0.0000
67	0.0000
68	0.0000
69	0.0000
70	0.0000
71	0.0000
72	0.0000
73	0.0000
74	0.0000
75	0.0000
76	0.0000
77	0.0000
78	0.0000
79	0.0000
80	0.0000
81	0.0000
82	0.0000
83	0.0000
84	0.0000
85	0.0000
86	0.0000
87	0.0000
88	0.0000
89	0.0000
90	0.0000
91	0.0000
92	0.0000
93	0.0000
94	0.0000
95	0.0000
96	0.0000
97	0.0000
98	0.0000
99	0.0000
100	0.0000

THIRD FLOOR PLAN

PERMIT SET	
ISSUE DATE	07.06.2018
SCALE	1:8" = 1'-0"
DRAWN BY	Author
CHECKED BY	Checker
JOB NUMBER	17314

A2.03

© PAGE & TURNBULL, INC. 2011



PROJECT

HOTEL TIOGA

1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL

Page & Turnbull Architects, Inc.
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
Tel: 415.774.8800 Fax: 415.774.8801
www.page-and-turnbull.com

CONSULTANT

SCALE & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

FOURTH FLOOR PLAN

PERMIT SET

ISSUE DATE 07.08.2018

SCALE 1/8" = 1'-0"

DRAWN BY AJL/DF

CHECKED BY C/BSK

JOB NUMBER 17314

© PAGE & TURNBULL, INC. 2018



0 4 8' 16'

1 FOURTH FLOOR PLAN
162'-4 1/2" x 172'-2 1/2"

PLAN LEGEND

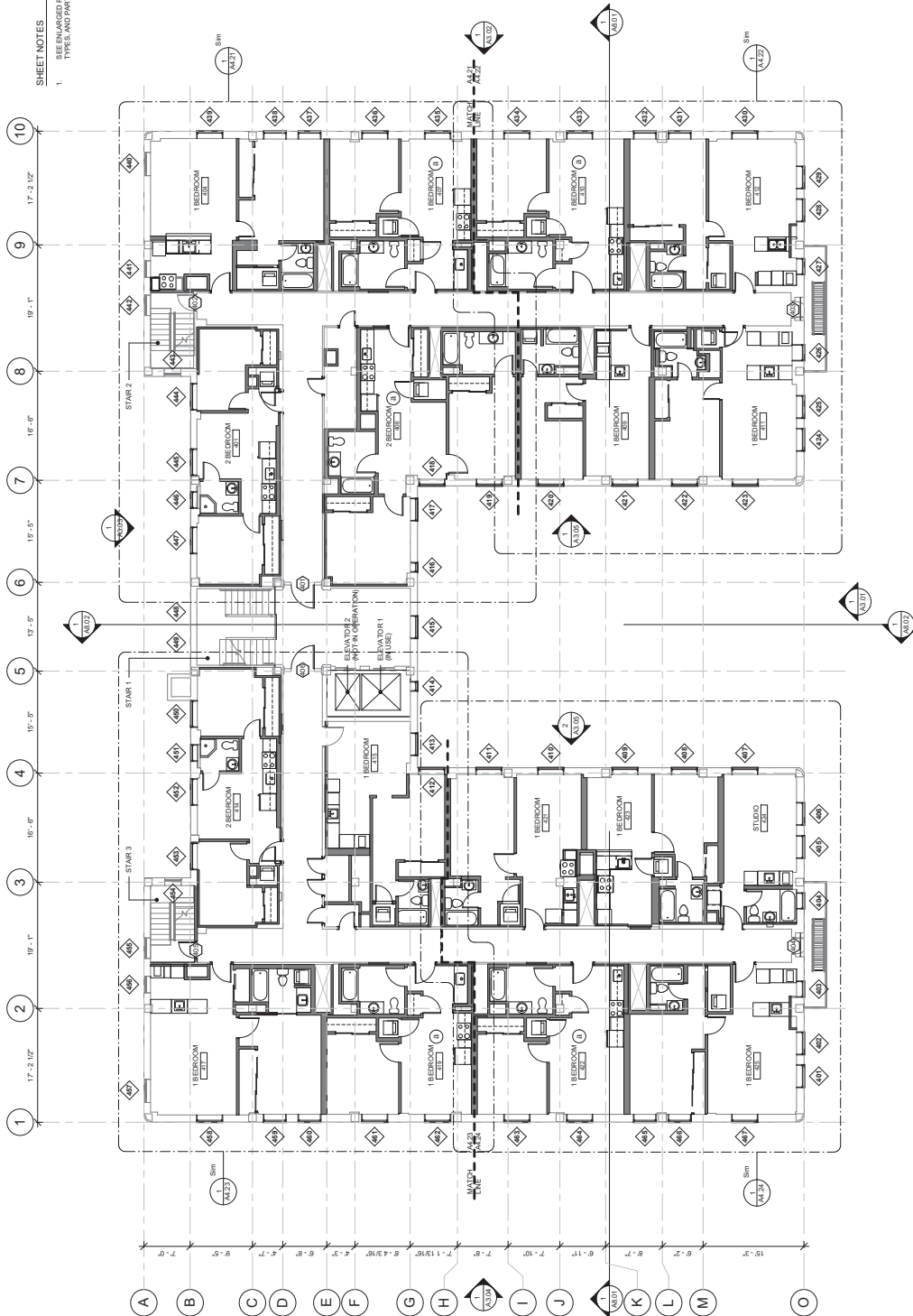
- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (N) WALL CONSTRUCTION

SYMBOLS LEGEND

- 1 ADJUSTABLE UNIT

SHEET NOTES

1. SEE ENARGED PLANS FOR UNIT LAYOUT, DOOR TYPES, AND PARTITION TYPES



PROJECT

HOTEL TIOPA

1715 N STREET
MERCED, CA 95340

OWNER

HOTEL TIOPA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL

Page & Turnbull Architects Inc.
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
Tel: 415.774.8800
www.page-anturnbull.com

CONSULTANT

SCALE 1/8"=1'-0"



ISSUE

1. TAX CREDIT APPLICATION 05.15.2018
2. 100% DESIGN DEVELOPMENT 06.01.2018
3. PERMIT SET 07.08.2018

TITLE

FIFTH FLOOR PLAN

PERMIT SET

ISSUE DATE 07.08.2018

SCALE 1/8" = 1'-0"

DRAWN BY IK/SJL

CHECKED BY SL

JOB NUMBER 17314

© PAGE & TURNBULL, INC. 2018

A2.05

PLAN LEGEND

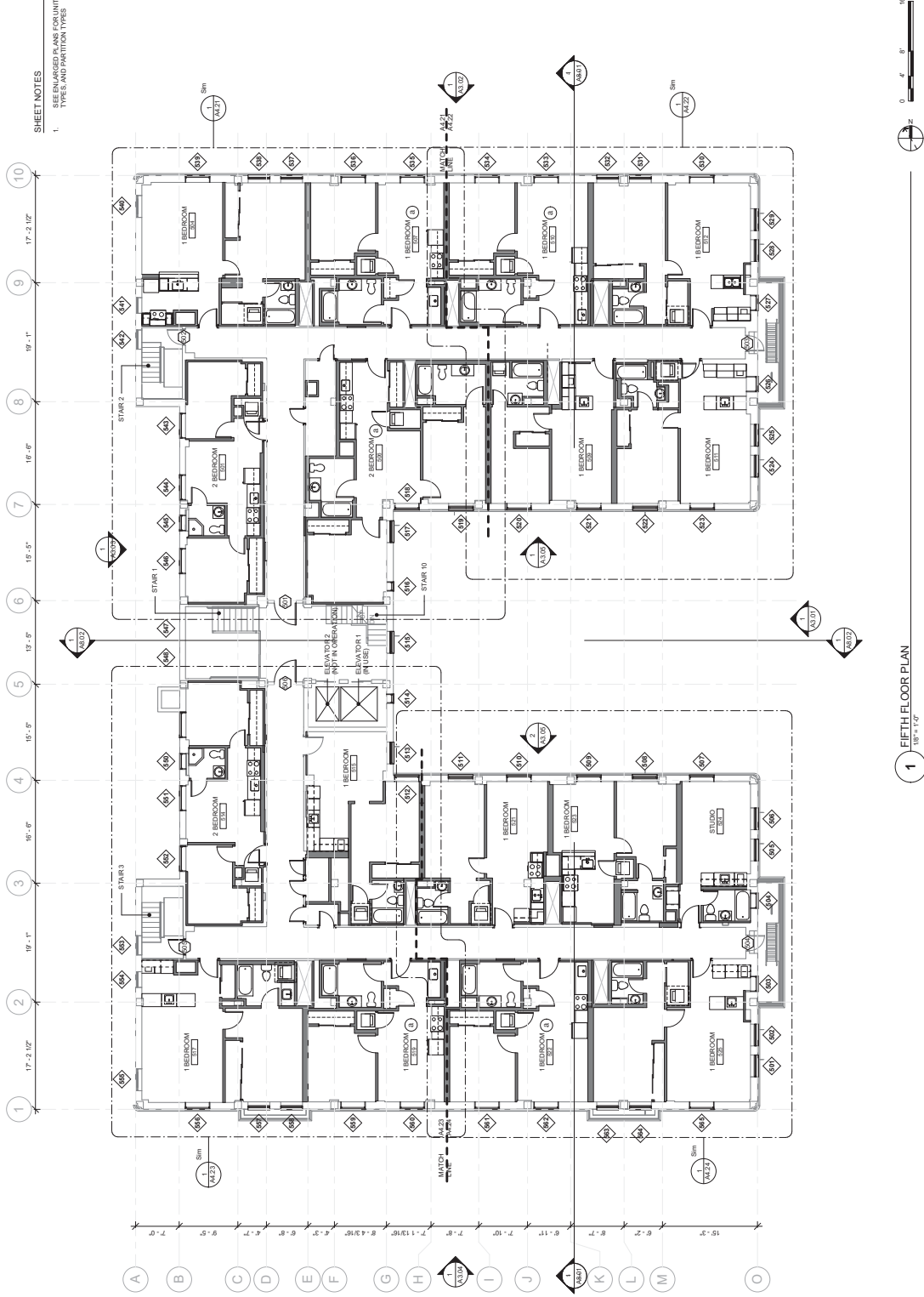
- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED
- (N) WALL CONSTRUCTION

SYMBOLS LEGEND

- (A) ADAPTABLE UNIT

SHEET NOTES

1. SEE ENLARGED PLANS FOR UNIT LAYOUT, DOOR TYPES, AND PARTITION TYPES



HOTEL TIOGA
1715 N STREET
MERCED, CA 95340

CLIENT
HOTEL TIOGA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
imaging change in habits, environments through design, research and technology
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
T 415 362 5154 F 415 362 5500
www.page-turnbull.com

CONSULTANT



SEAL & SIGNATURE

ISSUE

- | | | |
|---|-------------------------|------------|
| 1 | TAX CREDIT APPLICATION | 05.15.2018 |
| 2 | 100% DESIGN DEVELOPMENT | 06.01.2018 |
| 3 | PERMIT SET | 07.06.2018 |

	Year
1980	1980
1981	1981
1982	1982
1983	1983
1984	1984
1985	1985
1986	1986
1987	1987
1988	1988
1989	1989
1990	1990
1991	1991
1992	1992
1993	1993
1994	1994
1995	1995
1996	1996
1997	1997
1998	1998
1999	1999
2000	2000
2001	2001
2002	2002
2003	2003
2004	2004
2005	2005
2006	2006
2007	2007
2008	2008
2009	2009
2010	2010
2011	2011
2012	2012
2013	2013
2014	2014
2015	2015
2016	2016
2017	2017
2018	2018
2019	2019
2020	2020
2021	2021
2022	2022
2023	2023
2024	2024
2025	2025
2026	2026
2027	2027
2028	2028
2029	2029
2030	2030
2031	2031
2032	2032
2033	2033
2034	2034
2035	2035
2036	2036
2037	2037
2038	2038
2039	2039
2040	2040
2041	2041
2042	2042
2043	2043
2044	2044
2045	2045
2046	2046
2047	2047
2048	2048
2049	2049
2050	2050
2051	2051
2052	2052
2053	2053
2054	2054
2055	2055
2056	2056
2057	2057
2058	2058
2059	2059
2060	2060
2061	2061
2062	2062
2063	2063
2064	2064
2065	2065
2066	2066
2067	2067
2068	2068
2069	2069
2070	2070
2071	2071
2072	2072
2073	2073
2074	2074
2075	2075
2076	2076
2077	2077
2078	2078
2079	2079
2080	2080
2081	2081
2082	2082
2083	2083
2084	2084
2085	2085
2086	2086
2087	2087
2088	2088
2089	2089
2090	2090
2091	2091
2092	2092
2093	2093
2094	2094
2095	2095
2096	2096
2097	2097
2098	2098
2099	2099
2100	2100

SIXTH FLOOR AND
MAIN ROOF PLAN

PERMIT SET

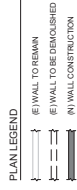
ISSUE DATE 07.06.2018

SCALE 1/8" = 1'-0"

DRAWN BY	SL
----------	----

PAGE & TURNBULL, INC. 2013

A2.06

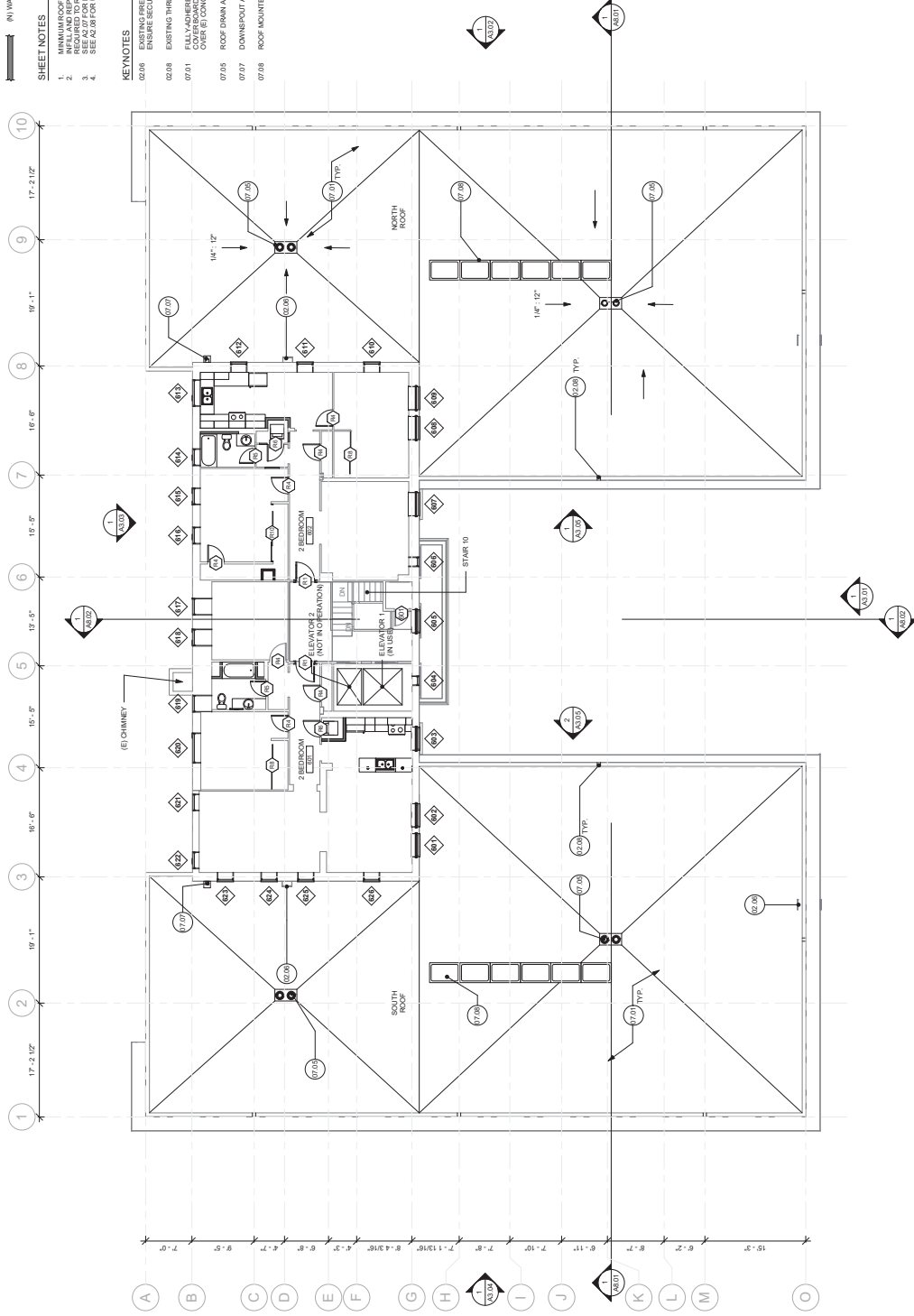


SHEET NOTES

1. MINIMUM ROOF SLOPE IS 1/4" IN 12"
2. INFILL AND REPAIR CONCRETE ROOF DECK AS REQUIRED TO RECEIVE ROOFING ASSEMBLY
3. SEE A2.07 FOR MID-LEVEL ROOF PLAN
4. SEE A2.08 FOR UPPER ROOF PLAN

KEYNOTES

- | | |
|-------|--|
| 02.06 | EXISTING FIRE ESCAPE LADDER TO REMAIN, ENSURE SECURE ATTACHMENT, PREP AND PAINT |
| 02.08 | EXISTING THRU-ROOF MET SUPPLIER TO REMAIN |
| 07.01 | FULLY ADHERED TPO ROOFING MEMBRANE OVER COVER BOARD OVER TAPERED RIGID INSULATION OVER (E) CONCRETE DECK |
| 07.05 | ROOF DRAIN AND OVERFLOW IN SLUMP PIT |
| 07.07 | DOWNSPOUT AND SPLASH BLOCK |
| 07.08 | ROOF MOUNTED CONDENSER UNITS |



1 SIXTH FLOOR AND MAIN ROOF PLAN
1/8" = 1'-0"

PROJECT

HOTEL TIoga
1715 N STREET
MERCED, CA 95340

22307
HOTEL TIoga INVESTORS LLC

ARCHITECT

PAGE & TURNBULL
417 Montgomery Street, 8th Floor, San Francisco, CA 94104
T 415 362 2154 F 415 362 2585
www.page-turnbull.com

CONSULTANT

SEAL & SIGNATURE



ISSUE

1. TAX CREDIT APPLICATION	06.15.2018
2. 100% DESIGN DEVELOPMENT	06.01.2018
3. PERMIT SET	07.06.2018
4. SITE PERMIT	07.11.2018

TITLE
EXTERIOR ELEVATION
- NORTH

PERMIT SET

ISSUE DATE: 07.06.2018
SCALE: 1/8" = 1'-0"
DRAWN BY: IR
CHECKED BY: SL
APP. NUMBER: 17311

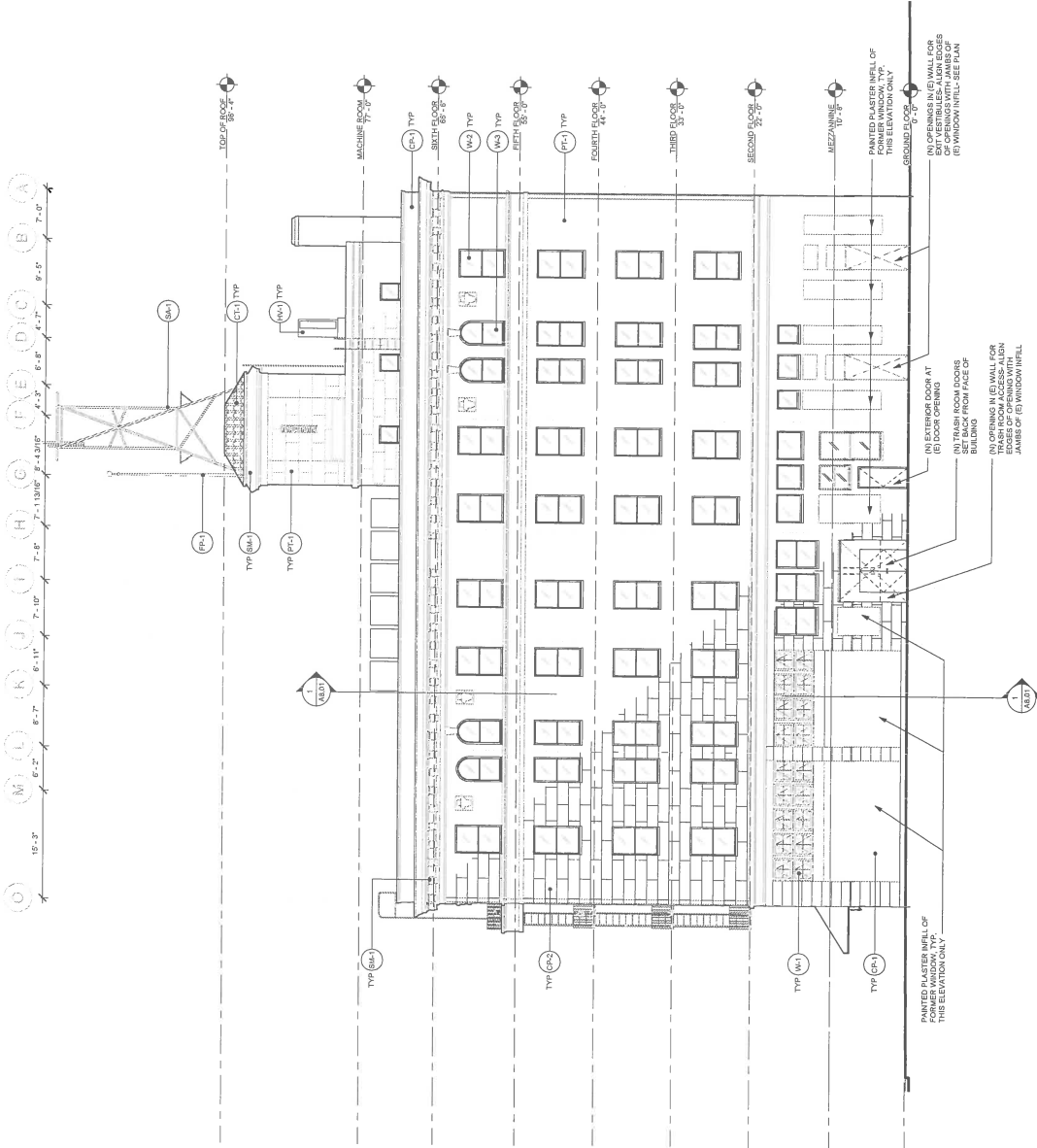
© PAGE & TURNBULL, INC. 2018

ELEVATION NOTES

- PROTECT AND RETAIN HISTORIC FEATURES
- SURVEY BUILDING EXTERIOR TO DETERMINE AREAS REQUIRING REPAIR, RESTORATION, AND REFINISH

KEYNOTES

- CP-1 SOUND AND SURVEY EXTERIOR GEMENT. PATCH CHIMNEYS TO MATCH EXISTING ADJACENT. DEMOUNTED OR DETERIORATED, PROVIDE ADJACENT IN TEXTURE, PROFILE AND SCORING PATTERNS. PRESERVE SURVIVING FRAMING AND PAINT.
- CP-2 REMOVE MISCELLANEOUS AND ADJACENT HISTORIC FERROUS. SURVEY BUILDING EXTERIOR TO DETERMINE AREAS REQUIRING REPAIR, RESTORATION, AND REFINISH. PATCH CHIMNEYS TO MATCH EXISTING ADJACENT. DEMOUNTED OR DETERIORATED, PROVIDE ADJACENT IN TEXTURE, PROFILE AND SCORING PATTERNS. PRESERVE SURVIVING FRAMING AND PAINT.
- CT-1 SURVEY CLAY TILE SHED ROOF. REMOVE EXISTING CLAY TILE. PATCH CHIMNEYS TO MATCH EXISTING ADJACENT. DEMOUNTED OR DETERIORATED, PROVIDE ADJACENT IN TEXTURE, PROFILE AND SCORING PATTERNS. PRESERVE SURVIVING FRAMING AND PAINT.
- PK-1 REMOVE AND INSTALL FLAG POLE TO MATCH (E) FLAG POLE.
- HK-1 REMOVE MOUNTED CONCRETE UNIT FOR HEATING/COOLING SYSTEM BEYOND.
- PP-1 REMOVE ALL UNBOUND, LOOSE PLANKING. PREPARE AND REPAIR DETERIORATED PORTIONS OF CORNICE THAT ARE UNBOUND. REPLACE TO MATCH HISTORIC. PREPARE SURFACES, PRIME AND PAINT.
- SB-1 PROTECT AND RETAIN STEEL ARMATURE FOR FUTURE SIGN RESTORATION.
- SB-2 SURVEY SHEET METAL CORNICE. REMOVE EXISTING CORNICE. PATCH CHIMNEYS TO MATCH EXISTING ADJACENT. DEMOUNTED OR DETERIORATED, PROVIDE ADJACENT IN TEXTURE, PROFILE AND SCORING PATTERNS. PRESERVE SURVIVING FRAMING AND PAINT.
- WH-1 REMOVE WINDOW SASHES FROM FRAME OF GLASS. SALVAGE, CATALOGUE AND STORE UNBOUND LAYERS OF EXISTING PAINTS AND JOINTS AS NEEDED. SAND WOOD SURFACES. PREPARE AND REPAIR DETERIORATED PORTIONS OF CORNICE THAT ARE UNBOUND. REPLACE TO MATCH HISTORIC. PREPARE SURFACES, PRIME AND PAINT.
- WH-2 PROVIDE AND INSTALL (N) RECTANGULAR WOOD RAILS. RETAIN AND REPAIR (E) WOOD FRAMES. REMOVE WOOD WINDOW SASHES FROM FRAME OF GLASS. SALVAGE, CATALOGUE AND STORE UNBOUND LAYERS OF EXISTING PAINTS AND JOINTS AS NEEDED. SAND WOOD SURFACES. PREPARE AND REPAIR DETERIORATED PORTIONS OF CORNICE THAT ARE UNBOUND. REPLACE TO MATCH HISTORIC. PREPARE SURFACES, PRIME AND PAINT.
- WH-3 REMOVE WOOD WINDOW SASHES FROM FRAME OF GLASS. SALVAGE, CATALOGUE AND STORE UNBOUND LAYERS OF EXISTING PAINTS AND JOINTS AS NEEDED. SAND WOOD SURFACES. PREPARE AND REPAIR DETERIORATED PORTIONS OF CORNICE THAT ARE UNBOUND. REPLACE TO MATCH HISTORIC. PREPARE SURFACES, PRIME AND PAINT.



1 EXTERIOR ELEVATION - NORTH
1/8" = 1'-0"

HOTEL TIOGA

1715 N STREET
MERCED, CA 95340

CLIENT

HOTEL TIOPA INVESTORS LLC

ARCHITECT

PAGE & TURNBULL

117 Montgomery Street, 8th Floor, San Francisco, CA 94104
415.362.5154 F 415.362.5580
www.page-turnbuilt.com

CONSULTANT

DATE & SIGNATURE



1998

TAX CREDIT APPLICATION	06.15.2018
100% DESIGN DEVELOPMENT	06.01.2018
PERMIT SET	07.06.2018
SITE PERMIT	07.11.2018

1

EXTERIOR ELEVATION
WEST

PERMIT SET

DATE	07.06.2018
SCALE	1/8" = 1'-0"
DRAWN BY	IK
CHECKED BY	SL
DRAWING NUMBER	17314

A3.03

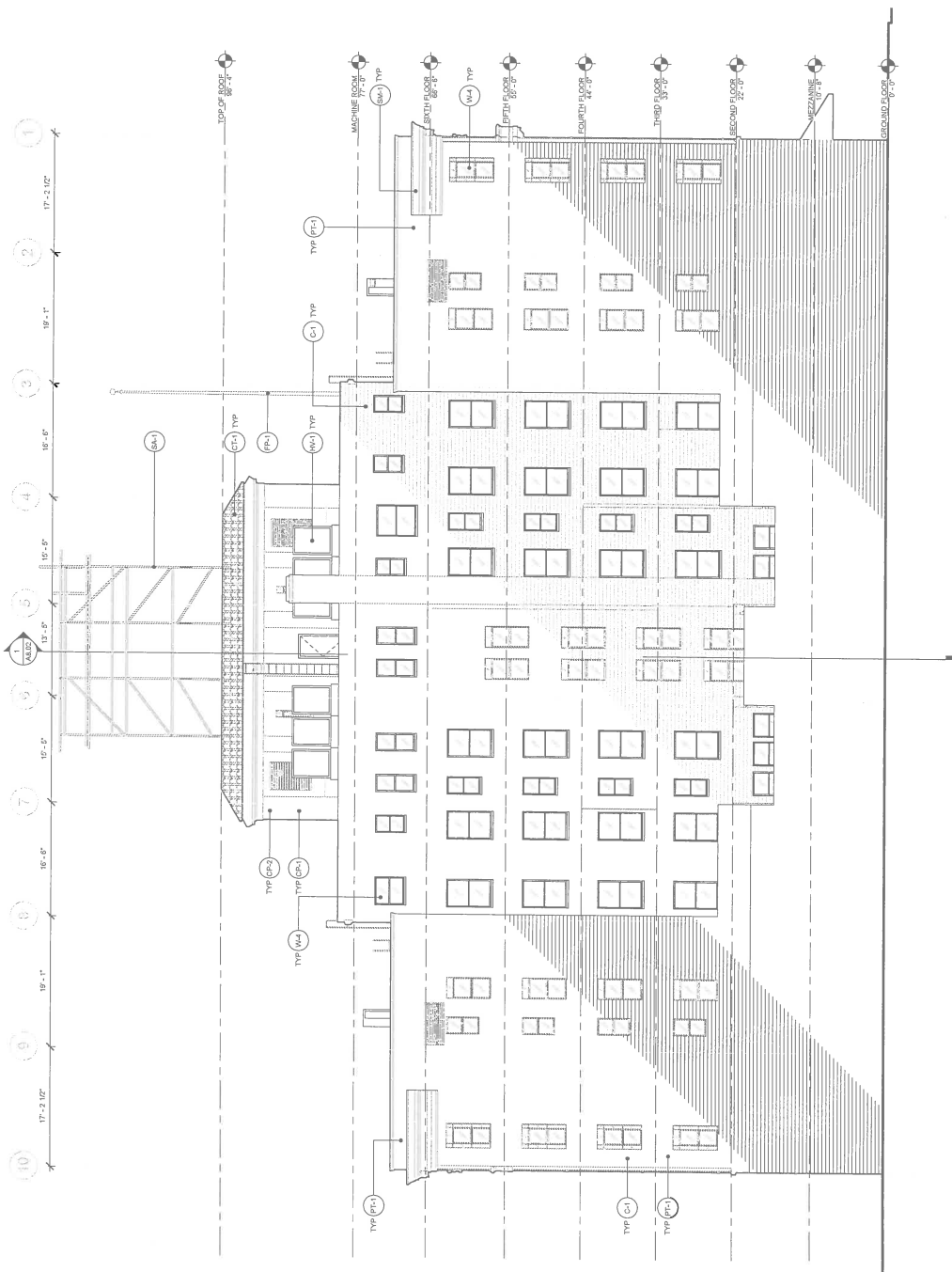
PAGE # TIONBIII MC 2010

ELEVATION NOTES

- PROTECT AND RETAIN HISTORIC FEATURES
- SURVEY BUILDING EXTERIOR TO DETERMINE AREAS REQUIRING REPAIR, RESTORATION, AND PATCHING

KEYNOTES

- [illegible]



Age Group	1990	1995	2000	2005
0-10	14.5	13.5	12.5	11.5
11-20	1.5	2.5	3.5	2.5
21-30	1.5	2.5	3.5	11.5
31-40	1.5	2.5	3.5	2.5
41-50	1.5	2.5	3.5	2.5
51-60	1.5	2.5	3.5	2.5
61-70	1.5	2.5	3.5	2.5
71+	1.5	2.5	3.5	2.5



UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Historic Preservation Certification Application

State Historic Preservation Office Review & Recommendation Sheet

Rehabilitation - - Part 2/Part 3

Project Number: Pending

NUMBER 1	OHP Ref. # 537.9-24-0004	
	<input type="checkbox"/> Preliminary done <input type="checkbox"/> Non-standard billing	
Hotel Tioga		
1715 N Street		
(Property) Merced, Merced County, CA 95340		
Certified Historic Structure? <input checked="" type="checkbox"/> yes <input type="checkbox"/> pending		
Type of Request: <input checked="" type="checkbox"/> Part 2 <input type="checkbox"/> Part 3 (Part 2 previously reviewed) <input type="checkbox"/> Part 3 (Part 2 not previously reviewed) <input type="checkbox"/> Amendment		
Date application received by State <u>5/16/2018</u>		
Date(s) additional information requested by State <u>6/11/2018</u>		
Complete information received by State <u>7/11/2018</u>		
Date transmitted to NPS <u>7/16/2018</u>		
Property visited by State staff? <u> </u> (before) <u> </u> (during) <u> </u> (after) <u> </u> rehab.		

SHPO REVIEW SUMMARY

☒ Fully reviewed by SHPO

☐ No outstanding concerns

☒ Owner informed of SHPO recommendation

☐ In-depth NPS review requested

NUMBER 2	STATE RECOMMENDATION:	
	<u>Mark C. Huck, AIA</u> , who meets the Secretary of the Interior's Professional Qualification Standards, has reviewed this application.	
The Project <u> </u> meets the Standards.		
<input checked="" type="checkbox"/> meets the Standards <i>only</i> if the attached conditions are met.		
<u> </u> does not meet Standard number(s) <u> </u> for the reasons listed on reverse.		
<u> </u> warrants denial for lack of information.		
<u> </u> This application is being forwarded without recommendation.		
For completed work previously reviewed, check as appropriate:		
<u> </u> completed rehabilitation conforms to work previously approved.		
<u> </u> completed rehabilitation differs substantively from work previously approved (describe divergences from Part 2 application on reverse)		

7/16/18 
Date Jenan Saunders, Deputy State Historic Preservation Officer

This is a review sheet only and does not constitute an official certification of rehabilitation.

NUMBER
3

ISSUES:

- | | |
|--|---|
| <input type="checkbox"/> Additions, including rooftop | <input type="checkbox"/> Alteration of significant exterior features or surfaces |
| <input type="checkbox"/> Alteration, removal, or covering of significant interior finishes or features | <input type="checkbox"/> Adjacent new construction, extensive site work, or demolition of adjacent structures |
| <input type="checkbox"/> Changes to significant interior spaces or plan features (including circulation patterns). | <input checked="" type="checkbox"/> Window replacements on any major elevation that do not match historic configuration, material, and profiles
window replacement w/o survey |
| <input type="checkbox"/> Damaging or inadequately specified masonry treatments | <input type="checkbox"/> Other (Explain) |

NUMBER
4

Basis for Recommendation. Focus on how the issues checked in NUMBER 3 are being addressed. Where denial is recommended, explain fully. Comment on noteworthy aspects of the project, including any technical or design innovations, or creative solutions.

STATE EVALUATION OF PROJECT & CONCERNS:

The Hotel Tioga is a five story with penthouse 'U' shaped hotel built in 1928 in a modest Italian Renaissance Revival style. The hotel was converted to apartments in the 1980's, and is proposed for reuse as apartments.

The rehabilitation as proposed appears to meet the Standards if the attached Conditions are met. Concerns and incomplete information regarding exterior and interior scopes of work were resolved with responses from the RFI, as described on the following pages.

continued on page 3

INNOVATIVE SOLUTIONS/NOTEWORTHY ASPECTS:

☐ new technical process ☐ creative design solution ☐ noteworthy project

☒ See attachments: ☒ plans ☐ specifications ☒ photographs ☒ other: Graphic response to RFI
☐ Items sent separately: ☐ plans ☐ specifications ☐ photographs ☐ other:
☐ Other documentation on file in State:

NPS COMMENTS:

Date _____ National Park Service Reviewer _____

Number 4	Basis for recommendation: Continued:
-------------	--------------------------------------

STATE EVALUATION OF PROJECT AND CONCERNS:**Exterior concerns:**Window Replacement

The window scope proposed includes the rehabilitation of arched and awning mezzanine wood windows, arched windows on other floors, and steel windows located on the west façade, which meets the Standards.

Non-original aluminum replacement windows and all other original wood double hung windows on all facades are proposed for replacement, which as submitted does not meet the Standards.

The photos showing conditions of arched windows proposed for repair appeared to show paint failure but wood material in otherwise good condition. A survey demonstrating the poor overall condition of wood double hung windows must be submitted before approval of a complete window replacement scope.

Aluminum replacement windows may be replaced with wood double hung windows closely matching the originals with the review and approval of replacement products. **See Conditions.**

Main lobby door replacement:

The existing non-original lobby doors were proposed for replacement but information was lacking on their appearance in the initial Part 2 submission. The RFI response provided a door schedule and annotated graphics better describing their proposed appearance, which includes a fully glazed wood door with head, jambs and stile matching the adjacent original wood side lobby doors.

The side lobby doors have a unique muntin pattern and provide physical evidence of the appearance of the original revolving doors, which original drawings included in the submission show also having the unique muntin pattern. Due to the proximity of original side doors to the main doors, OHP **strongly recommends** that the main doors include the muntin pattern as well.

Extensive changes to North secondary façade first floor:

While the north façade first floor is a secondary elevation, many changes were proposed removing or altering original features that either did not seem necessary or conflicted with the floor plan in the original Part 2 submission.

OHP proposed revisions in the RFI to retain some features and asked for clarification between the floor plan and elevation. The response accepted OHP's proposed modifications

Number 4

Basis for recommendation: Continued:

and coordinated the elevation and floor plan to match. Modifications are reviewed in Page & Turnbull's 11 x 17 document "Response to RFI dated June 11, 2018", pages 10 and 11, submitted with the RFI response.

New storefront scope clarifications:

The original application described only the work performed to existing storefront features and did not describe the two new egresses proposed on either side of the main entrance.

The RFI response describes the storefronts that continue the tiled bulkheads, beveled storefront facades, fully glazed wood doors, and aluminum storefront trim finished to match original bronze trim of the existing original storefronts. This treatment meets the Standards.

Interior concerns:**3" solid plaster wall removal**

Of concern was the original proposal to remove seemingly unique 3" solid plaster walls, due to their fragility, deficiencies in acoustic performance, lack of a cavity in which to run utilities, and fire separation deficiencies due to lack of full height from floor to ceiling.

Additional information provided in the RFI response showed the construction of these walls and their reference in past Graphic Standards. The response addressed OHP's concern regarding the retention of corridor wall location and finish with a proposal to build a code compliant wall on the unit side of the existing corridor wall. Replacement of the walls between units appears justified with the correction of deficiencies in the original construction.

Incomplete information on interior tripartite lobby windows and adjacent mezzanine railing:

Information that was missing regarding restoration of the south mezzanine tripartite windows facing the lobby and adjacent railing were supplied in the RFI response, and descriptions of the scopes of work meet the Standards.

Character and condition of corridor door frames and baseboards:

Additional information was supplied in the RFI response confirming the mix and condition of original and non-original door frames. Replacement of the door frames in their original locations meets the Standards.

Utility venting:

The venting of basement gas hot water heaters was clarified in the RFI response as occurring through the existing concrete chimney in the rear of the building.

If the attached Conditions are met, the project would appear to meet the Standards.

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

CONDITIONS SHEET

Historic Preservation Certification Application

Property Name: Hotel Tioga Project Number: Pending
OHP Ref. # 537.9-24-0004
Property Address: 1715 N Street, Merced, Merced County, CA 95340

The rehabilitation of this property as described in the Historic Certification Application Part 2 will meet the Secretary of the Interior's Standards for Rehabilitation provided that the following condition(s) are met:

CONDITIONS:

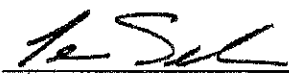
1. The removal of features that characterize a property must be avoided. Retain and repair original wood windows.
2. Future Work: This approval does not extend to any future work, undeveloped work or work to be revised, including but not limited to structural upgrades, non-original window replacement, signage, lighting, mechanical work, and substantive tenant improvement work, details of which have not been submitted for review and approval to the SHPO and the NPS.

Future rehabilitation work to be undertaken must preserve the integrity of the historic building and setting.

Revised drawings showing all necessary changes addressing the above conditions should be submitted for review and approval before proceeding with this work in order to ensure the project's overall conformance with the Standards.

July 16, 2018

Date



Jenan Saunders, Deputy State Historic Preservation Officer

Mark C. Huck, AIA, Architectural Review Unit (916-445-7011)

State Contact/Telephone Number

The National Park Service has determined that this project will meet the Secretary of the Interior Standards for Rehabilitation if the condition(s) listed in the box above are met.

Date

National Park Service Signature



UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

OMB Approved
No. 1024-0009
Form 10-168
Rev. 2014

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

NPS Project Number

Instructions: This page must bear the applicant's original signature and must be dated. The National Park Service certification decision is based on the descriptions in this application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings and specifications), the application form takes precedence. A copy of this form will be provided to the Internal Revenue Service.

1. Property Name Hotel Tioga
Street 1715 N St.
City Merced County Merced State CA Zip 95340
Name of Historic District n/a
☒ Listed individually in the National Register of Historic Places; date of listing October 3, 1980
☐ Located in a Registered Historic District; name of district _____
☐ Part 1 – Evaluation of Significance submitted? _____ Date submitted _____ Date of certification _____

2. Project Data
Date of building 1928 Estimated rehabilitation costs (QRE) \$11,300,000
Number of buildings in project 1 Floor area before / after rehabilitation 87,325 / 85,500 sq ft
Start date (estimated) August 2018 Use(s) before / after rehabilitation apartment / apartment
Completion date (estimated) August 2019 Number of housing units before / after rehabilitation 90 / 70
Number of phases in project 4 Number of low-moderate income housing units before / after rehabilitation 0 / 0

3. Project Contact (if different from applicant)
Name Carolyn Kiernat Company Page & Turnbull
Street 417 Montgomery St. City San Francisco State CA
Zip 94104 Telephone (415) 593-3218 Email Address kiernat@page-turnbull.com

4. Applicant
I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that [check one or both boxes, as applicable] (1) ☒ I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or (2) ☐ if I am not the fee simple owner of the above-described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (i) either is attached to this application form and incorporated herein, or has been previously submitted, and (ii) meets the requirements of 36 CFR § 67.3(a)(1) (2011). For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.
Name _____ Signature _____ Date _____
Applicant Entity _____ SSN _____ or TIN _____
Street _____ City _____ State _____
Zip _____ Telephone _____ Email Address _____
☐ Applicant, SSN, or TIN has changed since previously submitted application.

NPS Official Use Only

The National Park Service has reviewed the Historic Preservation Certification Application – Part 2 for the above-named property and has determined that:

- ☐ the rehabilitation described herein is consistent with the historic character of the property and, where applicable, with the district in which it is located and that the project meets the Secretary of the Interior's Standards for Rehabilitation. This letter is a preliminary determination only, since a formal certification of rehabilitation can be issued only to the owner of a "certified historic structure" after rehabilitation work is complete.
- ☐ the rehabilitation or proposed rehabilitation will meet the Secretary of the Interior's Standards for Rehabilitation if the attached conditions are met.
- ☐ the rehabilitation described herein is not consistent with the historic character of the property or the district in which it is located and that the project does not meet the Secretary of the Interior's Standards for Rehabilitation.

Date _____ National Park Service Authorized Signature _____

☐ NPS conditions or comments attached

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

Property name Hotel Tioga NPS Project Number _____
Property address 1715 N St. Merced Merced CA 95340

5. Detailed description of rehabilitation work Use this page to describe all work or create a comparable format with this information.
Number items consecutively to describe all work, including building exterior and interior, additions, site work, landscaping, and new construction.

Number	Feature	Background Information	Date of Feature
-			1928

Describe existing feature and its condition

The Hotel Tioga was constructed in 1928. The 7-story building was listed in the National Register of Historical Places in 1980 and, although not specifically stated in the National Register nomination, it appears that the period of significance for the building would be 1928, the year construction was completed.

In 1980, the former 150-room hotel was converted into an apartment building and the number of living units was reduced. The current unit count is 90. Although the corridor walls were retained, the floor plan configuration of the units was significantly altered at this time, and many corridor-facing doors were filled in. At the same time, a mezzanine floor was installed to subdivide the original double-height first floor space into two separate levels. When the mezzanine was installed, the original double-height main lobby space was reduced in size from three bays down to one bay.

Although the units and main gathering spaces in the building were significantly altered in 1980, the building's original vertical and horizontal circulation remain in place, and the building overall retains its historic character. The original corridor configuration exists on floors 2 through 5 and the main stair that rises from the first floor up to the sixth floor residential penthouse remains in place. The exterior of the building remains relatively unchanged, apart from loss of the building's original entrance canopy along N Street, removal of some original windows, and some modifications to the ground floor storefronts.

Other previous alterations are described in the application below.

Note: All Exhibit pages hereafter will be referred to as E-# to indicate the page number of the Exhibit document included.

Photo numbers Exhibits, pgs.20-27 Drawing numbers Exhibits, pgs.3-19

Describe work and impact on feature

N/A

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 1	Feature Project Phasing	Date of Feature n/a
-----------------	--------------------------------	----------------------------

Describe existing feature and its condition

n/a

Photo numbers n/a

Drawing numbers n/a

Describe work and impact on feature

The proposed project will be completed in the following four phases of work:

Phase 1:

Selective Demolition will include the removal of non-original, non-load-bearing interior partition walls, ceiling and floor finishes at the ground floor and mezzanine levels. At the second through sixth floors, non-original finishes and fixtures in the kitchens and bathrooms will be removed to facilitate the installation of new MEP systems. At the basement, all walls will be removed to provide appropriate spaces and rated assemblies for new utilities.

Phase 2:

Rehabilitation of the Main Building will involve restoration of the original main lobby, restoration of vertical and horizontal circulation spaces, extension of the existing exit stairs to the ground level, construction of new exit stairs from the Mezzanine level, construction of ground-floor amenity spaces, and rehabilitation of residential units on floors 2-6. Phase 2 will also include repair and rehabilitation of the building's exterior as well as a limited voluntary structural upgrade. In addition, all new MEP systems will be installed and the building will be fully sprinklered.

Phase 3:

Tenant Improvements at the Ground Story will provide a warm shell for future commercial tenants and flexible use of the spaces over time. Warm shell spaces will have finished walls and ceilings, and the subfloor will be prepared to be ready to receive new flooring materials. Phase 3 will be addressed as a future Amendment.

Phase 4:

Construction and Tenant Improvements at the Mezzanine Level will similarly provide a warm shell and flexible use of the spaces for future tenants at the mezzanine level. Phase 4 will be addressed as a future Amendment.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 2	Feature Site	Date of Feature 1928, various
-----------------	---------------------	--------------------------------------

Describe existing feature and its condition

Hotel Tioga is located at 1715 N Street, at the northwest corner of the intersection of N and W. Main streets in downtown Merced. The lot measures approximately 150'-0" in width (facing N Street) and 100'-0" in depth (facing W. Main Street). The primary (east) façade of the building sits on the property line fronting N Street. Originally, a one-story building was located on the adjacent property at the west side of the hotel; however, the one-story building has been demolished and the adjacent parcel is currently a vacant lot. The south façade fronts W. Main Street with storefronts at the ground level, while the north façade abuts a 20' public alleyway, providing vehicular access from N Street to the rear adjacent lot.

Historic photographs reveal that the site was originally sparse with no landscaping along either N or W. Main streets. A single light post at the southeast corner is visible in photos that date back to 1929, but it has since been replaced by two similar light posts. The light posts are located at the southeast and southwest sides of the building at the sidewalk.

The site is generally in good condition, with level concrete and brick sidewalks along W. Main and N Streets, and well-maintained concrete paving in the alleyway. While the original site consisted of a simple concrete sidewalk, the corner of W. Main and N streets has been updated with a bulb-out that has brick paving and slopes down to street grade. The bulb-out features small landscape strips and the non-original light posts on either side. A traffic light is also located at this corner. There is no landscaping on the sidewalk along N Street; however, there are three street trees along the W. Main Street sidewalk within a brick-paved strip that runs along the edge of the street. A street light is also located in the concrete sidewalk along N Street.

Photo numbers 1-5, 18-19, 26

Drawing numbers A1.00, E-50

Describe work and impact on feature

The site work at Hotel Tioga is limited in scope. Existing utilities including electrical, water, telecommunications, natural gas, and sewer will be replaced. The capacity of electrical and water services will be increased. The replacement of these utilities will require trenching in the street and sidewalk. Both the street and sidewalk will be repaired to their current state. Proposed site work will not impact the exterior appearance of Hotel Tioga or diminish its historic significance in any way.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 3	Feature Building Massing	Date of Feature 1928
-----------------	---------------------------------	-----------------------------

Describe existing feature and its condition

Since the Hotel Tioga has undergone no substantial exterior alterations or additions, its massing is original. The building is constructed up to the property line on all sides and measures approximately 150'-0" in width by 100'-0" in depth. All exterior façades feature concrete walls with punched windows that convey a heavy massing, with ground floor storefronts at the base of the West Main and N Street elevations.

The overall building massing forms a c-shape above a full ground floor. The original double-height ground floor is rectangular and fills the extent of the property. (In 1980, a mezzanine was constructed above almost the entire ground floor, creating a separate mezzanine level.) Above the ground floor / mezzanine level, two wings rise a total of four stories on the north and south sides of the central main entrance volume (approximately 69'-3" above grade); these stories are referred to as Levels 2 through 5. The rear (west) portion of the building also rises four stories and connects the north and south wings, forming the c-shape that faces onto a light court above the mezzanine level. A rectangular residential penthouse volume (Level 6) extends another story above the center of the west portion, and a smaller mechanical penthouse (Level 7) sits on the roof of the residential penthouse, rising to a total of seven stories.

Photo numbers 1-18

Drawing numbers A1.00, A3's, E-29

Describe work and impact on feature

No alterations or additions to the building's massing are proposed.

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Number 4	Feature Primary (East) Facade	Date of Feature 1928
-----------------	--------------------------------------	-----------------------------

Describe existing feature and its condition

The east façade is the primary façade of the building, which fronts N Street and contains the majority of the building's character-defining architectural features and ornamentation. These features are described below and date to the building's period of significance (1928).

The Hotel Tioga was designed in the Classical Revival style and all façades, excluding the rear (west) façade, feature a tripartite composition and a cement plaster finish that is scored to simulate stone.

Tripartite Composition:

The ground floor of the building, which now includes a mezzanine level, makes up the base of the building, which terminates at a simple belt course and frieze that features a repeating fleur de lys motif above the central entry portion. Another simple belt course and frieze divide the shaft of the main building from the capital between the fourth and fifth stories. The fifth story reads as the capital of the building. At the wings, the capital features decorative cement plaster shields between paired arched windows and terminates with a dentil course topped by a projecting sheet metal cornice. The penthouse volume features a slightly projecting belt course between the sixth and seventh stories and terminates with an understated frieze, sheet metal cornice and clay tile roof.

Main Entry Volume:

The main entry of the building is centered on the east façade and is conveyed as a two-story volume on the exterior. The main entry vestibule is centered below a slightly projecting archway, supported by spiral columns with simple capitals and curved brackets. The entry vestibule is flanked by two original wrought-iron sconces, restored ca. 1980.

Two full-height display windows flank the entry portico, in addition to two bronze plaques. The plaque on the south side of the entry commemorates the building's listing in the National Register of Historic Places. The plaque on the north side of the main entry indicates that the Merced Army Airfield opened its first office on October 15, 1941 in the building. The hotel's name 'TIOGA' is spelled across the arch with large, non-original capital letters.

Entry Vestibule:

The archway leads to an exterior entry vestibule with marble flooring and wall bases, and wood paneling at the wall and column edges. The vestibule is flanked by what appear to be original, fully glazed, and multi-lite wood doors at the south and north sides. The main entry doors are non-original, fully glazed aluminum doors with narrow sidelights within the original wood framing. The wood-framed entry contains sidelights topped with a tripartite arched transom. The lobby was originally accessed by a revolving door as can be seen from the circular pattern of the marble floor.

Three sets of triple barrel-arched windows at the mezzanine level distinguish the main entry of the building and are each centered above the opening below. The windows are multi-lite, single-hung, and feature original wood sash and wood framing. They are divided by pilasters with foliage ornamented capitals, which are topped by slightly projecting arch surrounds. The large storefront windows below feature a tri-partite composition with plate glass, aluminum sash, and wood framing.

The entry vestibule is capped with a clay tile shed roof. The clay tile roof is likely original and appears to be in fair condition with some cracked or missing tiles.

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

North and South Wings:

The east facades of the north and south wings of the building are symmetrical and exhibit identical fenestration as described below.

Ground and Mezzanine Levels:

The ground story of the north and south wings of the building feature a series of full-height storefront windows. The storefront bays are separated by concrete columns with a cement plaster finish and slightly inset center panels. Each storefront is sheltered by a non-original, metal-framed cloth awning. Storefront windows sit above a ceramic tile base (4" by 4" blue/black square tiles) with an accent trim detail of alternating blue, yellow, and green tiles. The tile base ranges from 1'-5" to 1'-8" in height and extends the length of the east façade. Some tile and areas of grout are missing or cracked, but overall, the base is in reasonably fair condition. Above the storefronts, there is a wood-clad pocket that was constructed to house the original awnings; however, the current awnings are not installed within that pocket.

Above the storefront and awnings are banks of multi-lite windows at the mezzanine level that feature original wood frames and sash. Windows are described in greater detail in section Number 9.

Levels Two through Five: Upper levels two through five feature vertically stacking, double-hung, wood sash windows in a regular, symmetrical pattern. Along the primary (east) façades of the north and south wings, the windows are organized into three separate bays that align with the large openings of the ground story. The outer bays' windows are grouped in pairs, while the central bay's windows feature smaller windows that flank recessed, partially glazed original wood doors at each story. The doors access a painted steel fire escape. The fire escapes span the center bay of both the north and south wings.

The fifth story of the north and south wings' east façades feature arched paired windows, with cement plaster keystones, which flank an exit door and smaller rectangular windows. The doors lead out to concrete balconies that align with the fire escapes below. The balconies access the fire escapes, which lead down to the second story (a ladder folds down to access the street level). The fifth stories of the south wing's north façade and north wing's south façade both feature arched windows with keystones in place of the standard rectangular windows in the second and fifth window bays.

Recessed East Façade (Facing Light Court): The recessed east façade features regularly spaced rectangular windows, which alternate between full-height and partial-height, narrow windows. The fifth story features arched windows with keystones, instead of the standard rectangular ones, which alternate with smaller, narrow windows. The partial sixth story features five single arched windows with pilaster surrounds, similar to those of the ground story main entry. The outermost arched windows feature slightly projecting balconettes. The middle three arched windows sit above a concrete balcony supported by curved ornamental brackets.

The mechanical penthouse at the seventh floor contains five evenly-spaced narrow slit openings, most of which are glazed, except for the two openings at the far ends that contain louvered vents. All penthouse façades feature decorative pilasters between the slit openings, and the volume is capped by a clay tile mansard roof.

In general, plaster ornamentation on the east façade appears to be in reasonably good condition. The sheet metal cornice does not show any visible signs of corrosion, but does exhibit flaking and delaminating paint. This feature will be evaluated once access to the exterior of the upper stories is available through swing stage or scaffold.

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

Describe work and impact on feature

The main entrance and entry vestibule will be restored. Non-historic entrance doors will be removed and replaced with compatible new doors. The non-historic "TIOGA" signage will be removed and the cement plaster surface of the arch will be restored.

All cement plaster façades will be patched, primed and repainted with a breathable coating appropriate to historic concrete and cement plaster. All new areas of cement plaster will match the existing in texture, profile, and color. All miscellaneous and non-functioning, non-original ferrous anchors and pipes will be removed and the substrate patched accordingly. Loose and flaking areas of substrate and laminated coatings will also be repaired and repainted. The existing historic fire escapes will be tested for secure attachments to the façade and treated for corrosion where necessary. The fire escapes will be prepared, primed, and painted with an appropriate corrosion-resistant coating. The storefronts' metal awning supports will be retained, and new cloth awnings will be installed.

At the upper stories, the sheet metal cornice of the primary, north, and south façades will be surveyed to detect areas of corrosion, repaired if needed and repainted. If there are portions of the cornice that are deteriorated beyond repair, they will be replaced to match the existing in profile.

Treatment of windows is described in Section 9 and treatment of storefronts is described in Section 10.

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Number 5	Feature Primary (South) Facade	Date of Feature 1928
-----------------	---------------------------------------	-----------------------------

Describe existing feature and its condition

The south façade of Hotel Tioga fronts W. Main Street and is not as elaborate as the east facade. The building's tripartite composition continues across the south façade with the same base, shaft, and capital organization, including both belt courses and the cornice.

Ground and Mezzanine Levels:

The W. Main Street south façade of the building features six storefronts at the ground level. The same ceramic tile base on the east façade continues across the south facade and is in reasonably good condition with few cracks or missing tile though the ceramic tile at the westernmost two bays has been painted. Like the east façade, storefronts are divided by concrete pilasters. Four of the storefronts have recessed angled entry vestibules and two others have display windows with no entries. Entry vestibules at this façade also have a slightly sloping tile landing and painted wood-paneled soffits above. Each storefront entry features a wood header and wood-framed transom. Similar to the east façade, the storefronts are sheltered by non-original metal-supported cloth awnings.

Like the east façade, the ground floor is topped by multi-lite wood-sash awning windows with upper pivoting sashes, which are described in further detail in section Number 9.

Levels 2 through 4:

The fenestration pattern of the south façade's upper stories matches that of the east façade with a regular pattern of vertically stacking single and paired double-hung wood windows. However, the windows at the upper stories at this façade do not align with the openings at the ground story. Two pairs of windows at the center of the façade have been replaced by aluminum sliding windows.

Level 5:

The fifth story features regular, double-hung wood windows as well as two pairs of arched windows with keystones and concrete balconies at either end of the façade, which are divided by fleur de lys bas reliefs. Like the east façade, the south façade terminates at the ornamental frieze and metal cornice.

Photo numbers 16-25

Drawing numbers A3.02, E-40, 50

Describe work and impact on feature

All cement plaster façades will be patched, primed and repainted with a breathable coating appropriate to historic concrete and cement plaster. All new areas of cement plaster will match the existing in texture, profile, and color. All miscellaneous and non-functioning, non-original ferrous anchors and pipes will be removed and the substrate patched accordingly. Loose and flaking areas of substrate and laminated coatings will also be repaired and repainted. The storefronts' metal awning supports will be retained, and new cloth awnings will be installed.

At the upper story, the sheet metal cornice of the south façade will be surveyed to detect areas of corrosion, repaired if needed and repainted. If there are portions of the cornice that are deteriorated beyond repair, they will be replaced to match the existing in profile.

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Number 6	Feature West (Rear) Facade	Date of Feature 1928
-----------------	-----------------------------------	-----------------------------

Describe existing feature and its condition

The rear (west) façade of the building does not feature any architectural ornamentation except for the cornice that wraps around from the north and south facades. The north and south wings project out slightly providing some relief to the otherwise sparse facade. This façade consists of exposed board form concrete that is painted at the upper stories to match the rest of the building. The concrete at the ground story is also painted though the color is a slightly different hue. The ground story (including the mezzanine) does not feature any openings. The upper stories contain a combination of single and paired stacking wood-sash, double-hung windows. Windows in the second, fifth, and seventh bays (at interior stairs) feature steel sash windows. A concrete chimney projects at the center of this façade.

Photo numbers 26

Drawing numbers A3.03, E-42, 50

Describe work and impact on feature

The exposed concrete walls of the rear façade will be surveyed to determine areas requiring repair. Anticipated repairs include removal of ferrous anchors and abandoned conduit. Cracked, spalled, and deteriorated concrete will be patched and repaired. Corroded steel that is uncovered will be treated. The entire rear façade will then be repainted to match the color of the primary facades.

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

Number 7

Feature North (Secondary) Facade

Date of Feature 1928

Describe existing feature and its condition

The north façade fronts onto a publicly accessible 20-foot wide alleyway. This façade features the same tripartite organization as the east and south facades, including the belt courses that divide the base from the shaft and the shaft from the capital. The ornamental cornice on the east façade continues across the north facade and ends after it wraps around the west façade. Similar to the east and south facades, the north façade has a cement plaster finish that is scored to simulate stone. A large, non-original metal duct runs vertically from one of the smaller windows to the top of the roof, visually bisecting the façade.

Ground and mezzanine levels

- Column lines between J and O: The two easternmost bays of the ground floor originally had large display windows that were the full size of the bay. The display windows have since been removed and the opening has been filled in and finished with cement plaster. The awning pockets, however, remain. A single utilitarian solid metal door has been installed in the easternmost bay. Two sets of the multi-lite wood transom windows, similar to the east and south façades, are located at the mezzanine level.
- Column lines between H and J: Originally this bay had three multi-lite wood windows at the ground level and three matching windows at the mezzanine level. The ground level windows have been infilled with plywood. The windows at the mezzanine level have been replaced with compatible wood double-hung windows. The replacement windows match the size of the original windows, though they are not multi-lite. The duct noted above runs through the westernmost mezzanine window.
- Column lines between F and H: This bay originally had a wood panel door with wire glazing in the top half. The door was flanked by two oversized windows and had a smaller double hung wood window above. The door has been replaced with a solid metal door and the windows on either side have been boarded-up. The small double hung window is still extant. A horizontal louvered vent at the mezzanine level aligns with the openings below.
- Column lines between A and F: These two bays had identical fenestration that consisted of a center multi-lite window with a window above. These two windows were flanked by multi-lite tall, narrow windows that were 11'-0" in height. The windows have been removed and the openings infilled. These windows originally emitted light into a double-height dining room at the northwest corner of the hotel.

Levels 2 through 4: The upper stories of the north façade match the east and south façades in terms of scored cement plaster cladding and fenestration. Windows are vertically stacking single and paired wood-sash and double-hung with some replacement metal sliding windows at the third bay.

Level 5: The fifth floor features arched windows and a cornice, with other architectural detailing and conditions consistent with that of the east and south façades.

Photo numbers 27-28, 28a - 28f

Drawing numbers A3.04, E-43, 50

Describe work and impact on feature

All cement plaster façades will be surveyed to detect deterioration, repaired where necessary, prepared, and repainted with a breathable coating appropriate to historic concrete and cement plaster. All new areas of cement plaster will match the existing in texture, profile, and color. All miscellaneous and non-functioning, non-original ferrous anchors and pipes will be removed as necessary and the substrate patched accordingly. Loose and flaking areas of substrate and laminated coatings will also be repaired as needed and repainted.

HISTORIC PRESERVATION CERTIFICATION APPLICATION PART 2 – DESCRIPTION OF REHABILITATION

Ground and mezzanine levels:

- Column lines between J and O: The existing utilitarian door at the westernmost bay will be removed and the non-historic opening will be infilled and finished with cement plaster to match the existing texture. The existing wood awning pockets will be retained, repaired and painted. The cement base will also be retained, repaired as required, and painted. The windows will be retained and repaired. The windows are further discussed in the window section Number 9.

- Column lines between H and J: The non-original windows at the mezzanine level will be retained and repaired. The easternmost previously infilled window opening at the ground level will remain infilled. A new vestibule opening is proposed where the two westernmost previously infilled windows are located. The new vestibule opening will be the width of the infilled windows (combined) so as to retain the outside jamb faces of the existing window openings. The existing plaster in this area will be patched as required and painted. The existing exterior duct that runs from the ground floor to the roof will be removed.

- Column lines between F and H: The mezzanine level louvers will be removed and replaced with three new, compatible awning wood windows that fit within the existing opening.

At the ground level, the existing windows above and to the right of the existing door will be retained, though a wall will be constructed on the interior side of the windows. The infilled window opening adjacent to the existing door will be retained. The existing metal door will be removed and a new door installed in the same location, as it provides a means of egress from the basement.

- Column lines between A and F: All the existing, infilled openings will remain infilled and will be patched as needed and repainted. Two new openings are proposed. The opening at column line B will lead to a small vestibule for the fire exit stair along the west wall. The opening between column lines D and E will lead to another small vestibule that provides egress from the first floor. At the mezzanine level, one set of three windows will be installed for future tenant use between column lines C and F. These windows will be awning wood sash and will have high sills so as not to conflict with the infilled windows below.

Levels 2 through 5:

Scope at these levels consists of repairs to the cement stucco finish and the cornice. See section Number 9 for more details regarding the window scope.

Alterations to the north façade are limited to the western portion of the ground and mezzanine levels and related to fire and life safety issues, as well as the functionality of the building. The new windows proposed for the mezzanine are compatible in material and size, though they will be differentiated from the existing windows.

The proposed alterations will face an alleyway at a portion of the building furthest away from the public thoroughfare, N Street and W. Main Street, and are therefore discreetly located. The historic character of this façade is largely defined by its tripartite composition, regular fenestration pattern, and ornate cornice at the top of the building. All of these features will be retained so that the integrity of this façade will not be diminished by the proposed changes.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 8	Feature Roof	Date of Feature 1928
-----------------	---------------------	-----------------------------

Describe existing feature and its condition

The lower roofs of the south and north wings and the upper roof of the western portion of the building are flat, with a concrete, cement plaster-finished parapet on all sides. The parapet walls are in fair condition, with some cracking and spalling present. The mechanical penthouse, which rises from the center of the western portion of the building, features a mansard-style roof. The penthouse roof is clad with what appears to be original clay tiles at the perimeter that are in fair condition, while the rest of upper and lower roofs have a non-original roofing membrane that covers the structure of the reinforced concrete roof deck. Mechanical penthouse and roof access is provided from within the building via a metal ladder from the sixth floor. The upper roof (sixth floor) is accessed from the mechanical penthouse via a metal-paneled door at the west side, which exhibits a corroded surface. An area of cement plaster to the right of this door has been removed to address repairs. The lower roof of the south and north wings (fifth floor) are accessed through doors at the sixth floor residential penthouse.

The metal support structure of the original 'Hotel Tioga' sign (letters are non-extant) remains mounted at the center of the mechanical penthouse roof. The condition of this structure has not been assessed and will be addressed in the future as part of a separate project. An original wood flagpole sits at the south side of the sixth floor roof. A matching flagpole at the north side of the sixth floor roof has been removed. The condition of the flagpole has not been assessed.

The mezzanine roof features a rectangular, metal-framed, hipped skylight in the center, which originally brought natural light into the double-height hotel lobby below. Three square-shaped metal-framed pyramidal skylights sit at the western edge of the mezzanine roof, all of which currently emit natural light into the mezzanine. All skylights are original to the building's design and are in generally poor to fair condition. Some corrosion is present on the exterior of the metal framing, with runoff from it discoloring areas of the skylight glazing and flashing. Several regularly-spaced exhaust vents and condensers sit at the mezzanine roof and upper roof levels but are not visible from the street. These are not original and likely replaced in the last few decades.

Photo numbers 29-38

Drawing numbers D2.06-08, A2.06-08, E-25,38,44-45,51

Describe work and impact on feature

The existing non-original roofing membrane and roof underlayment will be removed down to the existing structural concrete roof deck. All existing flashing will be removed. Cracks in the concrete roof deck and parapet walls will be epoxy injected, and significant spalls will be patched as necessary for repair. A new single ply roofing membrane will be installed over tapered rigid insulation over the entire roof. The clay tile roofing of the penthouse will be repaired and refastened. Broken or missing tiles will be replaced with new. Existing outdated and unused mechanical equipment will be removed from the upper roof and new mechanical equipment will be installed. New mechanical equipment will include fans to provide supply and exhaust air for the units, corridors, and retail spaces. There will also be condensers for heating and cooling, which will be installed towards the center of the lower roof's north and south wings, so they are not visible from the street level. The existing original metal sign framework will be retained for future potential restoration. The wood flagpole will be restored or replaced based on its condition.

At the mezzanine roof, all existing mechanical equipment will be removed, the skylights will be repaired and restored, and the roof membrane and flashing will be replaced. The proposed roof scope will not change the massing of the building nor will it impact the appearance of the building. As noted above, new mechanical equipment will be installed on the roof; however, its installation will not change the appearance of the building from the public right of way. See sightline diagram for reference.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 9	Feature Windows	Date of Feature 1928, 1980, various
-----------------	------------------------	--

Describe existing feature and its condition

The windows of the Tioga Hotel are a notable feature of the building and contribute to its historic character, however, they have not been maintained or painted through the years and are generally not in good condition.

Awning windows at mezzanine level:

The original awning windows at the mezzanine level occur across the entire east and south façades of the building. At the north façade, only the two easternmost bays have these windows. The windows consist of four pairs of stacked, wood multi-lite awning windows with a decorative mullion between each pair. The easternmost bay of the north façade slightly deviates in that there are five pairs of awning windows in that bay. These sets of windows span the full structural bay. These windows are generally in poor to fair condition. They exhibit wood rot, deteriorating/flaking paint, and dehydrated wood.

Arched windows at mezzanine level above the main entry:

The mezzanine level of the main entry features arched, double hung, wood multi-lite windows. Three small arched windows are centered above the entry and on either side of these are three larger arched windows. These windows are in poor to fair condition. They exhibit wood rot, deteriorating/flaking paint, and dehydrated wood.

Rectangular double-hung wood windows:

Windows on floors two through five are primarily one-over-one double-hung wood windows in a rectangular configuration. Though original, these windows have a standard design that includes ogee lugs at the bottom of the top sash. This window type is located at all façades. These windows are generally in poor condition. They exhibit wood rot, deteriorating/flaking paint, and dehydrated wood. Some of these windows were compromised when AC window units were installed, and a number of these windows at the north and south elevation were removed and replaced with sliding aluminum sash windows.

Arched double-hung wood windows:

The fifth floor of the north and south wings and the recessed east façade feature original arched double-hung wood windows. These windows are one-over-one with ogee lugs at the bottom of the upper sash. These windows are in poor to fair condition. They exhibit wood rot, deteriorating/flaking paint, and dehydrated wood.

Steel windows:

The west façade of the building has original steel sash windows which appear to be in fair condition. Some windows contain broken or missing hardware and areas of corrosion.

Aluminum windows: Several of the original double-hung wood windows at the north and south façades were replaced with aluminum sliding windows when AC window units were installed. These windows are not original to the building and are not in keeping with the character of the original wood windows.

In general, at all façades, the original double-hung wood sash and wood-framed windows are in fair to poor condition with substantial areas of cracking and flaking paint due to dehydration and lack of proper maintenance and care over time. Particularly adverse conditions include dehydrated sash and frames, overpaint on panes, and badly deteriorating/flaking paint, causing the wood to deteriorate. The same conditions apply to the wood frame and upper sash multi-lite windows at the mezzanine level.

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

Describe work and impact on feature

Mezzanine multi-lite wood windows:

The mezzanine multi-lite windows will be retained and repaired. Deteriorated elements will be repaired rather than replaced to the extent possible. Window sashes will be removed from frames, in addition to all putty and glazing. The glazing will be salvaged and catalogued for potential reuse. Sash joints will be glued and clamped as needed, and wood surfaces sanded. Restoration may involve the application of borate preservative and clear wood preservative to all exposed wood. All surfaces will be prepared, primed, and painted.

Due to their poor condition, some parts of the windows may require replacement. Replacement parts will match the existing in size and profile.

Rectangular double-hung wood windows:

The rectangular wood double-hung windows will be replaced with new double-hung wood windows with single pane glazing. The original double-hung windows are fairly standard, making replacement with a good match feasible. The replacement windows will match the originals in overall size and will have similar profiles, stiles, and rails.

We anticipate that the original window frames, while in poor condition, will be retained and only the sash will be replaced.

Arched double-hung wood windows:

The arched sash of the arched double-hung wood windows will be retained and repaired using the approach described for the mezzanine windows above. Similar to the double-hung rectangular windows, the lower sash will be replaced with a new sash that has similar profiles, stiles and rails.

Steel windows:

The existing steel windows will be retained and repaired. The glazing and putty will be removed to allow for proper treatment of the window. Corrosion will be removed and the windows will be prepared, primed, and painted. The glazing will be reinstalled or, if damaged, replaced with new.

Aluminum windows: The aluminum windows will be removed and replaced with new wood double-hung windows that match the original double-hung wood windows.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 10	Feature Ground Floor Storefronts	Date of Feature 1928, 1980, various
------------------	---	--

Describe existing feature and its condition

The original storefront system is bronze with a simple profile. Some original storefronts remain, while others have been replaced with a variety of materials. The original frames that remain are generally in fair condition with portions that have lost fasteners and will require reattachment. The storefront entries are typically recessed, angle toward the door, and have a slightly upward-sloping landing. The landings consist of mostly non-original tile with one small portion of original tile (in fair condition) and nine storefronts appear to feature original tile bases, which are also in fair condition with some tiles cracked or broken (see below for locations). Angled metal-framed storefront display windows flank the storefront entries. Entry soffits are painted wood-paneled, and a few feature mounted bulb or pendant light fixtures. Storefront doors are all fully glazed at the east façade and are topped with wood headers and wood-framed transoms. Doors exhibit both original wood and replaced aluminum door framing. The two bays on either side of the main entry have been altered and both deviate from the typical storefront configuration.

East Elevation

The following provides a summary of original and non-original fabric remaining at each storefront entry bay on the east elevation:

Bay between column lines 1 and 2:

- Original configuration
- Original display window
- Original awning pocket

Bay between column lines 2 and 3:

- Original configuration
- Original display windows
- Non-original soffit
- Non-original double doors
- Non-original landing
- Original awning pocket

Bay between column lines 3 and 4:

- Non-original configuration
- Non-original display windows
- Non-original doors
- Non-original landing
- Non-original wood cladding
- Non-original soffit
- Original awning pocket
- Non-original tile base

Bay between column lines 7 and 8:

- Non-original configuration
- Non-original off-centered door
- Non-original punched window
- Non-original landing
- Original awning pocket
- Likely original tile base

Historic photographs and the different texture of the cement plaster in this bay indicate that this configuration is not original.

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Bay between column lines 8 and 9:

- Original configuration
- Non-original display windows
- Original awning pocket
- Original tile base

Bay between column lines 9 and 10:

- Original configuration
- Non-original door
- Original transom
- Original soffit
- Non-original landing
- Original awning pocket
- Likely original tile base

South Elevation

The following provides a summary of original and non-original materials found at each of the storefront bays on the south elevation.

Bay between column lines A and C:

- Original configuration
- Original display windows (metal framing is painted)
- Original doors, non-original hardware
- Non-original landing
- Original soffit
- Original awning pocket
- Original tile base, painted

Bay between column lines C and F:

- Original configuration
- Original display windows (metal framing is painted)
- Non-original doors
- Non-original landing
- Original soffit
- Original awning pocket
- Original tile base, painted

Bay between column lines F and H:

- Original configuration
- Original display windows
- Original doors
- Mostly non-original tile landing, except for single band at edge of original black and white tiles in poor condition
- Original soffit
- Original awning pocket
- Original tile base, poor to fair condition

Bay between column lines H and J:

- Original configuration (no entry at this location)
- Original display windows
- Original awning pocket
- Original tile base

Bay between column lines J and L:

- Original configuration
- Original display windows
- Non-original double doors

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

- Non-original landing
- Original soffit
- Original awning pocket
- Original tile base

Bay between column lines L and O:

- Original configuration (no entry at this location)
- Original display windows
- Original awning pocket
- Original tile base, some poorly-matched tile

Photo numbers 5-14, 19-24

Drawing numbers A1.00, A3.01, A3.04, E-39,40,50

Describe work and impact on feature

Storefronts will be repaired, prepared and painted. Where the storefront frames are no longer properly secured, they will be mechanically reattached. The display glass will be replaced as required. Wood transoms will be retained, repaired, prepared, and painted. Non-original aluminum-framed doors will be replaced with fully glazed wood-framed doors similar to the original. Original wood-framed doors will be restored. The awning pockets and wood soffits will be repaired, prepared, and painted. New ceiling mounted lights will be installed within the soffit. The proposed lights will be submitted as a future amendment to the Part 2. The landings will be retained and repaired as required. The ceramic tile base will be repointed where the grout is missing or deteriorated. Tiles that are damaged will be repaired. Tiles damaged beyond repair will be replaced with new to match existing.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 11	Feature Ground Floor - Lobby and Office	Date of Feature 1928, 1980
------------------	--	-----------------------------------

Describe existing feature and its condition

In 1980, the original double-height, three-bay wide lobby space was significantly altered. What exists today is a central, double height bay, with both the northern and southern bays walled off and subdivided with a new mezzanine floor. Most historic features in the former lobby space have either been removed or obscured. The central bay provides access into the building from the main entrance as well as access to a passenger elevator, freight elevator, and a stair through a double door at its west end. A laylight is visible at the ceiling of the central bay. The north and south bays were converted into office space and commercial retail space.

At the front entry, a remnant portion of the original stone is visible along with a darker marble accent that once aligned with a revolving door that has since been removed. The original lobby walls were plaster with scoring and a texture that simulated stone. The walls were articulated with full-height pilasters that featured painted capitals and a mezzanine level band with regularly spaced modillions below it. Painted, ornamental grills were spaced between the pilasters. The ceiling featured coffered beams between the laylights. The beams were detailed with decorative painting and wall paper.

On the west side, a non-historic bridge at the mezzanine level allows views to the lobby below. The non-original south and north walls have small overlooks into the lobby with display bay windows below. Throughout the lobby, there is non-original ceramic tile flooring and wall base, which is in generally good condition and extends from the main entry to the elevator lobby. A center band of carpeting sits on top of the non-original tile flooring and extends from the main entry to the elevator lobby. At the main entry, the original revolving door has been removed, although the original wood trim surround was retained. The office space to the south side of the central lobby is accessed through French double doors and has typical modern-day office finishes including carpet tile, gypsum walls, and ceiling with fluorescent light fixtures.

Character-defining features in the lobby consist of both visible and hidden elements and include the decorative ceiling, the laylights, grills, some areas with original tile flooring, and pilasters. All ceiling ornamentation varies in condition. The portions still visible from the lobby appear to be in reasonably fair condition, with some needed plaster and wood patching and repainting. The condition of the walls and features that are enclosed by 1980s fabric is unknown.

A small elevator lobby is located at the west side of the main lobby. One of the two elevators appears to feature original wood doors and interior wood paneling in fair condition. The other elevator features an original wood surround but has non-original elevators doors. The elevator lobby features original tile flooring, while the rest of the lobby tile has been replaced. A pair of double wood-paneled doors on the west side of the elevator lobby appear to be part of the 1980 renovation and are not original. The door's stained glass sidelights and transoms also do not appear to be original. The mail area beyond the double doors at the far rear of the lobby also features original tile flooring, as does the first level and landing of the main stair. The original tiling continues into a small corridor adjacent to the mail room on the south side (See Exhibit Ground Floor Era of Construction diagram for reference).

The wood wainscoting on the lobby's gypsum board walls is not original, since these partition walls were built in 1980. A portion of the original marble reception desk is exposed at the base of the gypsum board wall across from the elevators and is in reasonably good condition. The original millwork reception desk with hardware sits in the room behind this marble portion and appears to be in fair condition.

Photo numbers 51-63

Drawing numbers D2.01, A2.01, A4.01-02, E-21,31,52

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

Describe work and impact on feature

The 1980s additions to the main lobby space will be removed and the original main lobby will be restored.

The original three-bay-wide configuration of the lobby will be restored by removing the current non-original interior demising walls and associated finishes. The original walls, and decorative ceiling with skylights will be retained and restored. Where original tile flooring exists, it will be restored. Non-original flooring will be removed and mock ups will be completed to determine whether any original flooring below can be restored. The wood entry will also be cleaned and refurbished.

At the ceiling of the lobby, areas newly exposed by the removal of the non-original interior walls will be patched with plaster and painted to match the surrounding ceiling areas. Similarly, portions of historic plaster walls, including pilasters and capitals, damaged by the removal of non-original walls, floors, and finishes will be cleaned, patched, and repainted. Decorative beams, capitals, and the perimeter cornice will be cleaned and painted to match the original colors where missing. Existing deteriorated decorative paper will be removed and replaced with new paper to match at the underside of ceiling beams.

Wood surrounds of the lobby laylights will be surveyed and repaired as necessary. The wood will be prepared and painted to match the existing and re-glazed in-kind. Non-original lobby wall sconces and fluorescent fixtures will be removed, and pendant light fixtures will be installed, which are compatible with the historic character of the interior.

HISTORIC PRESERVATION CERTIFICATION APPLICATION PART 2 – DESCRIPTION OF REHABILITATION

Number 12	Feature Ground Story - Commercial, Dining	Date of Feature 1928-2018
-----------	---	---------------------------

Describe existing feature and its condition

The south wing ground floor of the building originally contained double height retail spaces, while the north wing had a double-height coffee shop and dining room. The coffee shop was located at the northeast corner of the building facing N Street, while the dining room and its adjacent kitchen were located in the northwest corner of the building facing the alley. The old dining room space has been subdivided and is currently used for office and storage purposes. With the construction of the mezzanine above, it is no longer a double-height space. Similarly, the old café space and all the retail spaces have a mezzanine above and are no longer double height spaces. The eastern part of the north wing was converted to retail after the café closed; however, this area is currently vacant. Two of the south wing retail spaces are currently occupied and continue to function as retail spaces.

The ground floor tenant retail spaces, former kitchen/dining room, and coffee shop spaces currently exhibit a variety of interior conditions. The retail spaces have been renovated multiple times and no original finishes are visible. Floor finishes include carpet, linoleum, non-original wood, and exposed concrete. Ceilings are typically dropped with acoustic ceiling tiles or finished gypsum board with fluorescent fixtures. Original hollow clay tile walls (non-load-bearing) remain at column lines C, F, H, and J (south side) and F (north side). These walls are not visible and are currently furred out.

The former coffee shop at the northeast corner of the building has carpeting with acoustic tile ceilings and no remnants of the original space. At the rear northwest corner, few features of the original dining room and kitchen remain at the ground story. Once double-height spaces, the addition of the mezzanine floor and conversion of the coffee shop and dining room to commercial use have substantially altered the historic character of these spaces. Besides some wood wainscoting at the northwest corner's west and east exterior walls, and a bas relief panel above the former entry door to the dining room, few original architectural elements remain in the former dining room space (and no original elements remain in the coffee shop), and those that do appear as fragments without their original context (See Exhibit 'Existing Features to Remain' Ground Floor diagram for reference). The original columns in the dining room space were concealed by new walls during renovations in the 1980s and it is not known if original detailing remains. The capitals of the original columns and the original ceiling are not visible from the ground level because of the mezzanine floor that was constructed. See section 13 for additional information on the ceiling and column capitals.

Photo numbers 64-81

Drawing numbers D2.01, A2.01, E-32,46,52

Describe work and impact on feature

Commercial retail spaces:

The south wing's retail spaces (between column lines A and O; 1 and 4) have been substantially altered over time by tenant improvements and the only original fabric that appears to exist are hollow clay tile walls at column lines F and H. These walls are not character-defining features, are not structural, are likely to perform poorly during seismic events, and pose a life/safety threat. As part of the proposed project, the hollow clay tile walls will be removed. The walls will not be reconstructed until more is known about the space requirements for eventual tenants in the retail spaces.

The north side's retail spaces (between column lines A and O; 6 and 10) have very little remaining original fabric except for some original wood wall paneling and framing in the retail space between column lines 6 and 7.

At both the south and north retail spaces, it is currently proposed to demolish all interior partitions and provide a warm shell at existing commercial retail spaces to allow flexibility for future commercial tenant improvements. The warm shell will include

HISTORIC PRESERVATION CERTIFICATION APPLICATION PART 2 – DESCRIPTION OF REHABILITATION

finished walls and ceilings with emergency lighting, fire sprinklers, and a prepared floor ready for its final finish. New flooring will be deferred to the tenant improvement phase.

Old Dining Room:

The northwest portion of the building originally contained a double-height dining room and kitchen, which was substantially altered when the mezzanine level was expanded in 1980. The ground floor space has most recently housed offices and storage rooms. It is proposed to demolish interior partitions and provide new amenity and office spaces for the building, including an enlarged resident laundry room, fitness room, building management office, and conference room. A building trash and recycling room will be located at the north side with direct access to the alleyway. The rear northwest stair at the upper floors will extend down to the ground floor with egress access to the alleyway at the northwest corner.

The visible architectural features at the ground floor include the bas relief panel above the former dining room entry door and portions of wood wainscoting at the walls at column lines 7, A, and F. The bas relief panel will be relocated above an entry door in the new amenity area, though the exact placement is not yet determined. The wood wainscoting will be removed and salvaged to be reinstalled in the space (exact relocation also not yet determined). Although all currently hidden at the ground story, original columns will be uncovered and any original finishes will be restored. In the proposed layout of the amenity and offices spaces, three columns at column line 8 will be uncovered and will face the leasing office on one side (south), and the fitness center on the other (north). The column at 9 and F will remain enclosed and protected adjacent to a stair and janitor's closet. The column at 9 and C will be exposed and restored on the south side, facing the fitness room, but protected on the trash room side (north).

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Number 13	Feature Mezzanine	Date of Feature 1928, 1980
------------------	--------------------------	-----------------------------------

Describe existing feature and its condition

When the building was constructed in 1928, it included a small mezzanine in the westernmost portion of the building, between column lines A and G and between column lines 6 and 10. Except for areas occupied by the original mezzanine level, other first level spaces were double height.

The mezzanine was enlarged during remodeling that occurred in the 1980s, when it was installed throughout almost the entire ground floor (except the central lobby bay). At that time, the original elevator lobby at the mezzanine level was extended east to just past column line H and connected the new mezzanine level's north and south wings via ramps. Original square-shaped laylights illuminate this portion of the floor at the original rear of the lobby; these laylights appear to be in good condition. The original wall between the mezzanine-level elevator lobby and the main lobby is intact and features three pairs of original wood-sash windows with bas relief plaster panels below. These windows have amber glass with lead caning and bring light into a library/lounge north of the mezzanine elevator lobby. These windows, the carvings, and the laylights are character-defining features of the building and are in reasonably good condition.

The narrow, rectangular mezzanine space that was once the northern bay of the original lobby contains several character-defining features that would have been visible from the original lobby when it was a double-height space. These features include the original ceiling trim and ornamental capitals described in the previous section. There is also extensive flaking paint, delaminating decorative wallpaper, and deteriorated portions of the plaster ceiling due to water damage and cracking. The arched wood windows at the east (exterior) wall exhibit flaking paint and wood rot (further described in section Number 9). The original north wall and horizontal band with modillions also still survives. This space is generally in poor to fair condition.

The narrow, rectangular mezzanine space that was originally the southern bay of the lobby similarly exhibits original features from the original main lobby including character-defining column capitals, ceiling trim, and painted beams that are in fair condition. Construction has occurred more recently in this space as portions of the floor have been removed to expose wood framing and insulation below. Other partitions have been framed out but do not feature any finish.

At the rear northwest corner of the mezzanine floor, the beamed ceiling of the former double-height dining room is visible. Likewise, some of the original columns with decorative detailing and ornamental plaster capitals at the perimeter still remain. The ceiling paint is flaking, but the columns and capitals appear to be in fair condition, except where the non-original mezzanine walls and floor bisect them to varying degrees. While these columns and beams are contributing features to the overall significance of the building, the quality of their craftsmanship is lower than the columns and detailing of the original lobby ceiling. Furthermore, the historic integrity of these columns and the original double-height space of the dining room was significantly compromised by the installation of a mezzanine floor and interior partition walls in 1980. They are now fragments that have lost their overall context.

The remainder of the mezzanine features primarily non-historic drywall and exposed concrete and plywood subfloors. Ceilings are gypsum board in most spaces, except in former offices, which feature acoustic ceiling tiles.

Photo numbers 82-113

Drawing numbers D2.01a, A2.01a, E-32, 47, 53

HISTORIC PRESERVATION CERTIFICATION APPLICATION PART 2 – DESCRIPTION OF REHABILITATION

Describe work and impact on feature

Though a partial mezzanine was part of the original design of the building, this floor was substantially altered and expanded during the 1980 renovations when the hotel was converted to an apartment building. The existing wood-framed mezzanine floor structure is proposed to be retained and strengthened to meet current code.

Portions of the mezzanine along the north, south and west sides of the lobby, however, will be removed and the original volume and spatial quality of the lobby will be restored. In addition, all original character-defining architectural elements, including the ceiling trim, columns, tile flooring in the elevator and stair lobby, and ornamental capitals of the former double-height lobby will be restored.

When the hotel was originally constructed, two pairs of mezzanine level tripartite windows on either side of the elevator lobby overlooked the first floor lobby. The tripartite windows on the south side have since been removed. The proposed work includes the reconstruction of the windows on the south side. The extant tripartite windows will be used as reference for the proposed reconstruction. The new windows will match the extant historic windows in size and material. The two reconstructed windows that abut the elevators, will be blind windows. The proposed scope also includes the reconstruction of the decorative plaster panels below the new windows.

At the former dining room (northwest corner), the existing non-original mezzanine floor will be retained and the non-original partition walls will be demolished to provide a warm shell similar to the ground floor commercial retail spaces with sheet rock walls and ceilings, fire sprinklers, emergency lighting, stubbed out mechanical systems, and a finish-ready floor. This will allow maximum flexibility for future tenant improvements at the mezzanine level. The original ceiling beams will be retained and restored, except at the new egress stair at the northwest corner, where they will be removed. Unlike the ground floor, there are currently seven original columns that are partially visible in this space due to construction impacts in 1980, which bisected or concealed them to varying degrees. It is proposed to uncover these seven columns and restore the detailing of their pilasters and capitals. It is possible that two additional columns at the north exterior wall will be uncovered as well, which are currently hidden behind existing construction in 1980.

A guardrail was originally located at the eastern edge of the mezzanine elevator lobby that overlooked the first floor lobby. A new guardrail is proposed to be constructed in the same location. The historic photos are not sufficiently clear to allow a reconstruction of the original guardrail. To ensure compatibility, the new guard will be constructed of materials used in the railing of the existing stair that connects the mezzanine to the first floor. It will be made of wrought iron and will have a wood cap, though it will have a simpler design than the existing stair railing.

The only build out proposed for the mezzanine level will be exit stairs to address life/safety and ADA requirements. Three existing non-historic exit stairs will be demolished and four new code-compliant exit stairs will be constructed. The stairs are further described in section Number 14. Two new ADA accessible ramps will be located at the center-rear of the building.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 14	Feature Stairs	Date of Feature 1928, 1980
------------------	-----------------------	-----------------------------------

Describe existing feature and its condition

Stair 1:

Stair 1 dates from the original construction and is a poured-in-place concrete stair which rises from the ground floor to the fifth floor. At the upper floors, the stair is painted and has wood handrails and concrete railings capped with wood trim. At the mezzanine and lobby levels, the stair is clad with original ceramic tile to match the lobby flooring and has a cast iron metal railing with wood trim. This is the main communicating stair for the building tenants.

Stairs 2 and 3:

Two concrete exit stairs with metal railings flank the rear of the building, providing access between the second and fifth stories. These stairs terminate at level 2 and do not exit the building. The concrete stairs are all in reasonably good condition, although they are too steep to meet current code.

Stair 4:

A non-original metal stair is located at the far northeast side of the building, between column lines I and L along the north wall of the building. This stair was constructed in 1980 and provides egress from the mezzanine level to the alley.

Stair 5:

This is a proposed new stair, see description of work below.

Stair 6:

A non-original stair along column line 4 is located at the front of the building south of the lobby and provides an exit from the mezzanine to the exterior on N Street. This stair is constructed of wood and is in poor condition.

Stair 7:

One of two original concrete stairs that connects the existing basement to the first floor. This stair is located on the west side of the building between column lines 5 and 6.

Stair 8:

One of two original concrete stairs that connects the existing basement to the first floor. This stair is on the north side of the building between column lines F and G.

Stair 9:

A single non-original wood stair connects the first and second floors of the storefront between column lines A and C at the southwest corner of the building.

Stair 10:

A concrete stair across from the elevators on the fifth story, which provides access from the fifth floor to the sixth floor.

Fire escapes:

A secondary means of egress from the apartments to the street is provided via metal fire escapes at center of the north and south wings at the east façade. The fire escapes are original to the building.

Photo numbers 114-117

Drawing numbers D2.01a, A2.01a , E-49, 52-57

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

Describe work and impact on feature

Stair 1: No changes are proposed to the central communicating stair. This stair is a character-defining feature of the building and the stair will be retained and repaired as required.

Stairs 2 and 3: The flanking rear stairs are an original feature of the building and are proposed to be retained and extended down to the ground floor as they currently terminate at the second floor. The extension will result in the alteration of the first floor, mezzanine, and second floor. At Stair 2, the change will require the removal of original ceiling at the northwesternmost portion of the area where the old dining room was located. At Stair 3, the change will impact the southwesternmost storefront. The extensions will likely be pre-fabricated steel pan stairs with concrete filled treads. The extensions for both Stair 2 and 3 will address life safety concerns and provide the necessary fire-rated direct egress to the public way.

Stair 4: In order to accommodate new residential or office spaces, the existing, non-original stair at the far north side of the building will be demolished and relocated to north of the original lobby space. This stair will be replaced by Stair 5, see below.

Stair 5: This stair will replace Stair 4. It will be located on the north side of the original lobby between column lines K and O. This stair will provide an exit for the mezzanine level at the front of the building onto N Street. It will somewhat alter the existing and previously altered storefront between column lines 7 and 8. This stair is strategically located to provide required egress.

Stair 6: The stair at the south side of the original lobby will be reconstructed to provide egress from the renovated mezzanine directly to the street. It will somewhat alter the existing and previously altered storefront between column lines 3 and 4. This stair is strategically located to provide required egress.

Stair 7: This original stair connects the existing basement to the first floor and is located on the west side of the building between column lines 5 and 6. This stair is proposed to be retained and will be repaired as required.

Stair 8: This concrete stair between column lines F and G connects the basement to the first floor at the north side. It will remain and be repaired as required.

Stair 9: A single non-original wood stair between the ground floor and the mezzanine in the storefront space between column lines A and C will be demolished.

Stair 10: This original stair from the fifth story to the sixth story is proposed to be retained and repaired as required.

Fire escapes: The fire escapes are original and will be retained and repaired.

The design approach for the stairs is to retain stairs that are original and continue to use those as a means of egress. As noted above, the fire escapes will also be retained and used as a means of egress. Alterations, such as the extensions to stairs 2 and 3 and the new stairs 5 and 6, represent alterations required to provide adequate egress for the residents of the hotel. Those that will result in alterations to the interior of the building will only minimally change the look of the building as viewed from the exterior and the overall historic character of the building will be retained.

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Number 15	Feature Elevators	Date of Feature 1928, 1980
------------------	--------------------------	-----------------------------------

Describe existing feature and its condition

The building contains an elevator core with two elevators that extend from the basement up to the sixth floor penthouse level.

Elevator 1:

Elevator 1 was the primary elevator for guest use when the building was a hotel, and it is currently non-operational. At some point in the last few decades, the elevator was modernized. The original cab with its ornamental wood paneling remains, but a modern push button control panel has been installed in the original woodwork. Call buttons and direction indicators at elevator lobbies have also been modernized. As part of the modernization, the motor for this elevator was replaced and an electronic control system installed. Elevator 1 has non-historic doors at each level of the building.

Elevator 2:

Elevator 2 served as the service elevator used by bellhops when the building was a hotel and is currently not in operation. The original cab appears to remain and appears to be in poor condition. As it was a service elevator, it did not feature the ornamental wood paneling of Elevator 1. Elevator 2 is smaller in size than Elevator 1. Elevator 2 has what appear to be original wood doors with a glass porthole window at each level of the building (except at the basement level, where it has sliding metal doors).

Photo numbers 55-56, 187, 187a, 187b

Drawing numbers A2.01, E-52-59

Describe work and impact on feature

Elevator 1:

Elevator 1's machinery will be repaired and brought back to working order. No finishes or visible features will be altered.

Elevator 2:

Elevator 2 will be refurbished and brought back into operation. Elevator 2 will likely require a new motor but could be connected to the same control system currently in use for Elevator 1. If possible, the existing cab will be repaired. The current sliding gate will be changed to an interlocking sliding door to meet current elevator standards. In the cab, new controls, flooring, and lighting will be installed. Directional hall lanterns will also be added at each level, and the existing hall call buttons will be altered to suit operation of the two elevators.

HISTORIC PRESERVATION CERTIFICATION APPLICATION PART 2 – DESCRIPTION OF REHABILITATION

Number 16	Feature Typical Upper Floors, Levels 2-5	Date of Feature 1928-2018
-----------	--	---------------------------

Describe existing feature and its condition

Levels 2-5 have a c-shaped floor plan with double-loaded corridors that provide access to residential units. Each residential floor also has a small stair landing and elevator lobby.

East-west corridors are 5 feet wide, while north-south corridors are nearly 6 feet. Though the width and location of the corridors appear to be original, the height of the corridors was lowered to 7 foot-1.5 inches when a dropped acoustic tile ceiling was installed. Typical finishes in the corridors include non-original carpet tile in good condition, non-original wood-paneled doors (1980), wood bases, plaster walls, and acoustic tile ceilings with recessed fluorescent lights. Corridors were refurbished during the conversion of the hotel to apartments in 1980. They are in reasonably good condition. Few other original elements remain in the corridors, except for some metal fire hose cabinets towards the center of the floor plates.

When the hotel was converted into rental apartments in 1980, the original 150 guest rooms were reduced. The current unit count is 90. This required substantial alteration to the original guest room layout. While some original solid plaster demising walls exist from the hotel era, the original layout of the guest rooms has been lost and there is no character-defining fabric or detailing within the units. Ceilings have a popcorn finish, wall types and textures vary substantially from wall to wall reflecting inconsistent periodic updates and alterations, and corridors reveal where original guest room doors were removed and infilled with smooth plaster.

Residential unit layouts typically feature closets and bathrooms off the entry with bedrooms, living space and kitchens towards the fenestrated exterior of the building. Apartments have kitchen units that were added during the 1980s, typically including a freestanding stove, sink, upper and lower cabinets. In the bathrooms, some apartments still feature original hexagonal white ceramic floor tiling in fair to poor condition. Many tiles are missing or cracked. Some areas of original white subway wall tiling and wainscoting also remain. Some bathrooms also feature black trim tile. Although some units still feature original tile finishes, the quality and design of these elements are unremarkable and due to numerous alterations, their historic integrity is diminished. Most plumbing fixtures do not appear to be original, although some sink millwork and hardware may be original. In general, millwork appears to be in fair to poor condition and again would not be considered a character-defining of the building's period of significance (1928).

Many units appear to have retained their original bathroom doors and door hardware. The remainder of the doors within the units appear to have been replaced in 1980 with flush hollow core doors. Corridor doors and door hardware have all been replaced.

Photo numbers 119-170, 204, 205, 206,

Drawing numbers D2.02-06, A2.02-06, E-33-36, 48, 54-57

Ceilings: 213 - 215

Describe work and impact on feature

The proposed project brings the unit count of the building from 90 residential units down to 70 residential units. This is in an effort to reduce the number of small studio units and to provide more ADA adaptable 1-bedroom units.

The proposed project will retain the existing circulation, width, and configuration of corridors, location of unit doors, and the location and finish of the existing stair landings and elevator lobbies.

HISTORIC PRESERVATION CERTIFICATION APPLICATION PART 2 – DESCRIPTION OF REHABILITATION

The dropped acoustic tile ceilings in the corridors will be removed. The original corridor ceilings are simple and do not have any distinctive features and are not examples of craftsmanship that characterize the property. The ceilings are proposed to be removed to allow the insertion of mechanical and electrical systems as required. The new ceilings will be installed at the same height as the original ceilings and will have a similar plaster finish as the existing so that the spatial and visual qualities of the corridors are not altered.

Carpeting will be replaced, and walls will be patched and repaired as needed and repainted. Existing non-historic corridor doors and frames will be removed and new doors and frames in the character of the original will be installed. New surface-mounted lighting will be installed in the corridor ceiling. New corridor signage required by the building code will also be installed.

The layout of many of the apartments on levels 2 through 5 will be similar to their layout today, however several units on each floor will be merged to create more 1-bedroom units and fewer studio units. The new 1-bedroom units will be ADA adaptable, meaning they will have larger bathroom and kitchen areas to accommodate a potential future tenant with disabilities. The corridor walls will be retained, and the inconsistent mix of 1980 and 1928 walls inside the units will be demolished. Most of the original plaster demising walls will be re-built in their original locations to preserve the exiting unit layout of the units. (Note: the original demising walls shown on the Eras of Construction diagram are 3" solid plaster walls with little visible framing and a very poor acoustical rating. They are also friable, and when tenants hammer into them to hang a picture, they will likely damage large chunks of the wall.)

Apartments will be remodeled and renovated with modern fixtures and finishes. Kitchens will be updated to feature a more open layout with new casework, countertops, light fixtures, and appliances. New plumbing fixtures will be installed in bathrooms, in addition to new floor finishes, light fixtures, and accessories. All ceilings and walls will receive a new painted gypsum board finish. New carpeting will be installed in the living areas and bedrooms and resilient flooring will be installed in kitchens. Two units at the far rear center of the building will undergo major renovations (Units x01 and x14 on Typical Upper Floor Plan), but the bathroom will be kept in the same location. Studio x02 and one-bedroom x06 (north wing facing light court on Typical Upper Floor Plan) will be combined to create an additional two-bedroom apartment. There are eight studios that will be reconfigured to four one-bedroom units on the north and south sides of the building. Current one-bedroom units may be modified to provide an in-unit stackable washer/dryer. These units may also be modified to provide direct access to the bathroom from the living spaces.

As described in the previous section, the stairs at the rear west side of the building will provide egress from the apartments to the public right-of-way, while the central communicating stair will provide primary access from the apartment floors to the lobby. The secondary means of egress to the street will be provided via the restored existing fire escapes at the east façade of the north and south wings.

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Number 17	Feature 6th & 7th - Res. & Mech. Penthouse	Date of Feature 1928
------------------	---	-----------------------------

Describe existing feature and its condition

The sixth level is accessed by the elevator and by a stair from the fifth level. It contains two apartments flanking the elevator lobby and stair. The apartments are both two-bedroom units with full living room and dining room. The units appear to be in good condition, although kitchens have been updated with modern cabinets, finishes and appliances. Bathrooms appear to contain some original historic fabric, including floor and wall tile. Ceilings in both units have been replaced with a 'popcorn' finish.

The sixth floor penthouse elevator lobby consists of painted plaster walls and ceiling. The floor is finished with a non-original carpet. The doors that provide access to the two penthouse units are on the western side of the north and south walls. The elevators are located on the south wall. The open stair dominates the lobby and features solid guardrails with a plaster finish and a wood cap. The lobby has a non-original fluorescent ceiling mounted light.

Across from the elevators at the east side, a metal ladder provides access through a concrete shaft up to the mechanical roof penthouse. The mechanical penthouse features concrete floors, an exposed concrete deck ceiling, and concrete masonry unit walls. The mechanical penthouse shelters the elevator overrun, elevator machinery, and other utility equipment. Utilities appear to have been replaced in the last couple decades. The painted concrete finish appears to be in fair condition with some areas of spalling. Access is provided from the penthouse to the upper roof on the west side.

Photo numbers 171-186, 171a - 171d

Drawing numbers D2.06, A.06, E-37, 58

Describe work and impact on feature

The 2 two-bedroom penthouse units will retain their current layout and will remain as two-bedroom units. New kitchen and bathroom casework, and finishes will be installed. New ceilings will be installed throughout. New bathroom fixtures are proposed for the penthouse bathrooms. The new fixtures will not be same size as the existing fixtures and would require patching of the existing floor and wall finishes. Further, the installation of the fixtures will require access to plumbing and will result in the removal of existing finishes. Therefore, the proposed scope includes new floor and wall finishes for the penthouse bathrooms. The penthouse bathrooms are private spaces and therefore the replacement of the fixtures and finishes will not diminish the historic character of the hotel.

At the mechanical penthouse, the machinery for Elevator 2 will be upgraded to bring the elevator back in to service.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 18	Feature Basement	Date of Feature 1928
------------------	-------------------------	-----------------------------

Describe existing feature and its condition

The partial basement beneath the west side of the building is an unfinished space that is used for storage and utility equipment. A double-loaded corridor runs south to north with access to rooms of varying sizes. Doors are typically original wood-paneled and in fair to poor condition. Though no original basement floor plan exists, most walls appear to be original hollow clay tile, while a few walls feature a mix of exposed wood framing, concrete block at structural walls, and gypsum board (See Exhibit Eras of Construction Basement Floor diagram). Ceilings are exposed to the concrete deck above and have suspended fluorescent fixtures and exposed mechanical ductwork. Floors are exposed concrete. An original boiler is mounted on concrete pillars at the southwest side of the basement. New water heaters are located on the north side. Other mechanical equipment has largely been replaced or added at a later point. At the far south side of the corridor, natural light is emitted through a grid of prisms in the sidewalk above, an original feature which is in reasonably good condition. Under the sidewalk there is also a non-operational sidewalk lift cage. Some plywood and metal shelving units sit in the storage rooms, but otherwise the basement rooms are devoid of other furniture or architectural detailing. Stairs up to the ground floor are poured-in-place concrete with wall-mounted metal railings.

Both elevators in the building access the basement level.

Photo numbers 187-203

Drawing numbers D2.00, A2.00, E-30,59

Describe work and impact on feature

The basement will receive all new utility equipment. New domestic water and fire water service will be provided with a booster pump. New natural gas service will be provided as needed. The electrical switchgear at the far north side of the floor will be replaced to accommodate higher electrical loads. All existing walls will be removed from the basement, and new walls will be installed to define new utility and storage rooms.

Elevator access to the basement will be maintained, although it will be restricted with keycard or fob access.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 19	Feature Structure	Date of Feature 1928
------------------	--------------------------	-----------------------------

Describe existing feature and its condition

The building features a reinforced concrete structural system that consists of a pan-joint floor system and concrete columns, floors, exterior walls, and roof. Lower floors feature typical 22" by 22" concrete columns spaced approximately 16' center to center with smaller 16" x 16" concrete columns at the 2nd floor and above. 12" wide concrete beams of varying depths span between columns at the perimeter walls of the building and in an east-west direction at the interior of the building. Beams throughout the building are comprised of several depths ranging from 17.5" to 29.5".

Mezzanine and ground floor exterior walls appear to be of wood framing between the concrete columns. The mezzanine on the north side of the building consists of 2x12 wood framing supported by steel girders. On the south side of the building, the mezzanine is not continuous, instead, it spans between the hollow clay tile walls and consists of 2x12 wood framing.

The concrete columns at retail and mezzanine levels appear to have plaster directly applied to the exterior. At floors 2 through 6, exterior walls are of reinforced concrete with a cement plaster finish on the exterior and a furred wood and plaster wall at the interior. The west facade of the building is board-formed reinforced concrete with a painted finish.

Interior walls are non-load bearing partitions. The original walls between units appear to be approximately 3" thick solid plaster applied to metal lath over vertical steel channels. Many interior partitions were added or modified during the 1980 renovation, and these partitions appear to be 3 5/8" or 6" thick metal framing with 5/8" gypsum board on both sides.

The structural system of the building is under review but appears to be performing adequately. However, the ground level has been identified as having a possible seismic deficiency due to the large openings between the structural columns that may be resulting in a 'soft story condition,' see below.

Photo numbers 51-203	Drawing numbers A2.01-06, A8.01-02
----------------------	------------------------------------

Describe work and impact on feature

The existing original concrete structure of the building will be retained. A structural analysis is being performed to determine if there are any major seismic deficiencies. A voluntary seismic strengthening will be based on this forthcoming structural analysis of the building. In consultation with the structural engineer, it appears that the building may have a 'soft story' condition in which the relatively stiff upper floors could concentrate seismic forces to the tall columns at the ground level. If a soft story condition is confirmed, typical strengthening options would include a steel moment frame which would strengthen the existing concrete columns and beams. The moment frame could be of concrete or steel construction. If it is determined that seismic strengthening is required at the ground level, an amendment with this information will be submitted.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 20	Feature Mechanical/Electrical/Plumbing	Date of Feature 1928, 1980, various
------------------	---	--

Describe existing feature and its condition

Historically Hotel Tioga was naturally ventilated through the operable wood sash windows on the north, south, and east façades. At the west, operable steel sash windows along the property line and operable wood sash windows set back from the property line allowed for natural ventilation. When the building was converted to apartments in 1980, many tenants added window air conditioning units, which remain in the windows today. The window mounted air conditioners are in fair to poor condition and will be removed as part of the proposed work.

Condensers for air conditioning retail, lobby, and back-of-house spaces have been added incrementally over the years as needed. These condensers are mostly located in the light court on the roof of the original lobby space with some on the upper roofs. The condensers are generally in fair to poor condition.

The current electrical panel board in the basement was likely added during the 1980 restoration. It is unknown if wiring and conduit were replaced at that time. It appears that new load panels were added to each unit in 1980. Units have ceiling mounted light fixtures which do not appear to be original to the building. Ranges in the units are electric.

Domestic hot water was originally provided by a central boiler and hot water storage tank, but the boiler has been replaced with several gas-fired water heaters in the basement. The hot water storage tank is no longer in use. Domestic cold water is delivered to the units with the aid of a small booster pump so that adequate pressure is provided to units on upper floors. The backflow valve for domestic cold water is located in the basement. Few of the original plumbing fixtures remain but the supply and drain pipes are largely original to the building's construction. The original galvanized steel pipes are in fair to poor condition and failing.

Fire sprinklers were added to the basement at an unknown date. The system appears to be monitored. The double check valve for the fire water service is in the basement. The remainder of the building is not sprinklered.

Photo numbers 29-38, 188-191, 201-202

Drawing numbers M, E, and P series

Describe work and impact on feature

All new mechanical, electrical, plumbing, and fire protection systems will be provided. The design approach will be to install the mechanical, electrical, plumbing, and fire protection systems so that they are concealed.

Existing condensers and air conditioning units will be removed. The project proposes to use split-system heat pumps with a bank of variable refrigerant flow condensers on the roof. The condensers on the roof will connect to fan coils in each unit via individual copper refrigerant lines. This system will provide heating and cooling.

Bathrooms will be ventilated with mechanical exhaust with ducts running up through the building. Fans on the roof will provide fresh air to the units, corridors, and other spaces via ducts that run down from the roof and through the building. New mechanical equipment, such as condensers, exhaust fans, and supply air fans will be located on the roof towards the center of the lower roof wings so that it will not be visible from the public right of way. See section Number 8, Roof, for further discussion of the mechanical equipment.

A new electric service with increased capacity will be provided along with new panelboards and meters. Both the panelboards and meters will be in the basement. Each unit will receive a new load center and wiring. New energy efficient light fixtures will be installed throughout the building.

HISTORIC PRESERVATION CERTIFICATION APPLICATION

PART 2 – DESCRIPTION OF REHABILITATION

New data and telecommunications services will be brought in to the basement and distributed to the units above. A new security system will provide card reader access to the front door on N Street and the new amenity spaces on the ground floor.

Domestic hot water will be provided by new gas-fired water heaters in the basement. The gas heaters will vent via the existing concrete chimney on the west side of the building. Domestic cold-water service capacity will be increased and will continue to use a booster pump to deliver water to the units. Supply and drain pipes will be replaced throughout the building due to the age of the existing pipes.

A new fire protection system will be installed throughout the building. The new system will utilize all new piping that will likely run in the corridor ceilings at each level. A new check valve will be installed in the basement. At units and public spaces, sprinkler heads will generally be ceiling mounted. At historically significant spaces, paintable concealed drop-down sprinkler heads will be provided. The fire sprinkler plan and layout will be submitted as a future amendment when it is further developed.

Proposed ducts, refrigerant lines, pipes, and wiring will be run through the building within vertical chases and will not be visible.

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION**

Number 21	Feature <u>Lighting</u>	Date of Feature <u>1928, 1980, various</u>
------------------	--------------------------------	---

Describe existing feature and its condition

There is no original lighting that remains in the building except for the two sconces at the main entrance. Historic photographs of the lobby indicate that in addition to the natural light the laylights provided, the space used table lamps for lighting. No chandelier has been visible in the historic photographs to date. No interior photographs exist that provide information about lighting at the upper floors.

Photo numbers <u>5, 6</u>	Drawing numbers <u>E-21, 22, 24</u>
---------------------------	-------------------------------------

Describe work and impact on feature

The proposed lighting for the building has not been developed and will be submitted as a future amendment.

Number 22	Feature <u>Signage</u>	Date of Feature <u>1928, 1980, various</u>
------------------	-------------------------------	---

Describe existing feature and its condition

Originally, the Hotel Tioga had a rooftop sign and signage at the entrance canopy. The retail tenants would have also had signage, though the extent of retail signage is difficult to ascertain from the historic photographs. No original signage remains except for the armature of the original rooftop sign.

Photo numbers <u>29, 31</u>	Drawing numbers <u>E-25</u>
-----------------------------	-----------------------------

Describe work and impact on feature

The armature of the original rooftop sign will be retained and repaired. The current project does not include plans to reconstruct the original rooftop. After the signage for the building is further developed, it will be submitted as an amendment.

Add Item

NOTICE OF EXEMPTION

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

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

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

Project Title: SP #421 (Environmental Review #18-52)

Project Applicant: Hotel Tioga Investors, LLC (property owner)

Project Location (Specific): 1715 N Street **APN:** 031-131-008

Project Location - City: Merced

Project Location - County: Merced

Description of Nature, Purpose, and Beneficiaries of Project:

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Hotel Tioga Investors, LLC

Exempt Status: (check one)

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

Reasons why Project is Exempt: As defined under the above referenced Section, the proposed project consists of minor interior/exterior building alterations, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

Lead Agency: City of Merced

Contact Person: Francisco Mendoza-Gonzalez

Area Code/Telephone: (209) 385-6858

Signature:  **Date:** 8-8-2018 **Title:** Planner

 X Signed by Lead Agency **Date Received for Filing at OPR:** _____
(If applicable)

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



ADMINISTRATIVE REPORT

Agenda Item H.6.

Meeting Date: 11/5/2018

SUBJECT: City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of October 1, 2018 and October 8, 2018

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 October 1, 2018 and October 8, 2018.

ALTERNATIVES

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

ATTACHMENTS

1. Minutes of October 1, 2018
2. Minutes of October 8, 2018



CITY OF MERCED

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

Minutes

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

Monday, October 1, 2018

6:00 PM

A. CLOSED SESSION ROLL CALL

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

Absent: 0

B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:30 PM.

B.1.

SUBJECT: PUBLIC EMPLOYMENT - Title: City Attorney; Authority: Government Code Section 54957

Clerk's Note: Council adjourned from Closed Session at 5:52 PM.

C. CALL TO ORDER

Mayor Murphy called the Regular Meeting to order at 6:03 PM.

C.1. Invocation - Lamar Henderson, Human Services Agency (All Dads Matter)

The invocation was delivered by Lamar HENDERSON from the Human Services Agency (All Dads Matter).

C.2. Pledge of Allegiance to the Flag

Council Member BLAKE led the Pledge of Allegiance to the Flag.

D. ROLL CALL

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

Mayor MURPHY reported that the Council unanimously voted to appoint Phaedra NORTON as the new City Attorney. He also requested to move Item M.1. Approval of Employment Agreement with City Attorney for approval.

M.1. SUBJECT: Approval of Employment Agreement with City Attorney

REPORT IN BRIEF

It is requested that the City Council consider hiring a permanent City Attorney.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the Employment Agreement and announcing the new City Attorney; and,
- B. Authorizing the Mayor to sign on behalf of the City; and,
- C. Authorizing the Finance Officer to make the necessary budget adjustments.

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

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

No: 0

Absent: 0

F. CEREMONIAL MATTERS

F.1. SUBJECT: Proclamation - Domestic Violence Awareness Month

REPORT IN BRIEF

Received by a representative of the Valley Crisis Center.

Mayor MURPHY presented the Domestic Violence Awareness Month Proclamation to Che YANG from the Valley Crisis Center.

F.2. SUBJECT: Proclamation - Fire Prevention Month

REPORT IN BRIEF

Accepted by a representative of the Merced Fire Department.

Mayor MURPHY presented the Fire Prevention Month Proclamation to City of Merced Fire Chief Michael WILKINSON.

F.3. SUBJECT: Proclamation - Breast Cancer Awareness Month

REPORT IN BRIEF

Accepted by a representative from the Merced Fire Department.

Mayor MURPHY presented the Breast Cancer Awareness Month Proclamation to Fire Captain Morgan MADRUGA.

F.4. SUBJECT: Proclamation - Code Enforcement Officer Appreciation Week

REPORT IN BRIEF

Received by the City of Merced Code Enforcement Officers.

Mayor MURPHY presented the Code Enforcement Officer Appreciation Week Proclamation to Code Enforcement Officers Kenneth BOGLE and Ruby SANTIAGO.

F.5. SUBJECT: Proclamation - Merced Pride Weekend

REPORT IN BRIEF

Received by a representative of the Merced LGBTQ+ Alliance.

Mayor MURPHY presented the Merced Pride Weekend Proclamation to members of the LGBTQ+ community.

G. SPECIAL PRESENTATIONS

G.1. Youth Council Presentation

Members of the Youth Council gave a slide show presentation updating

Council on the Merced Youth Council activities.

Council Member PEDROZO and Council Member MARTINEZ
congratulated the Youth Council for their hard work and dedication.

G.2. LAFCO - Agriculture Preservation Presentation

LAFCo Representative Bill NICHOLSON and Senior Policy and Planning
Manager Serena UNGER gave a slide show presentation on Agricultural
Preservation.

Council Member BELLUOMINI and Mr. NICHOLSON discussed the
Agriculture Mitigation that the City of Awater imposed.

H. WRITTEN PETITIONS AND COMMUNICATIONS

There were none.

I. ORAL COMMUNICATIONS

Ricardo AGUILERA, Merced - spoke on the Merced Indoor Soccer Sports
Center.

Hope MEZA, Merced - spoke on the Merced Indoor Soccer Sports Center.

Karen ANN, Merced - spoke on the Merced Indoor Soccer Sports Center
and various topics.

Rodrigo ESPINOZA, Merced - spoke on the Merced Indoor Soccer Sports
Center.

Carmen PONCE, Merced - spoke on the Merced Indoor Soccer Sports
Center.

Monica VILLA, Merced - spoke on the Merced Indoor Soccer Sports
Center and various topics.

Dr. Sima ASADI, Merced - spoke on the Merced Indoor Soccer Sports
Center.

David ROWE, Merced - spoke on the need to repair Davonport Park and
the importance of recreation in the community.

J. CONSENT CALENDAR

Items J.6. Measure V Regional Project Funding Agreement with the
Merced County Association of Governments, J.8. Allocation of Fiscal Year

2018/19 Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) to Fund Sub-Recipient Agreements with Restore Merced for Neighborhood Clean-Up Program (\$60,000), Sierra Saving Grace for the Homeless Project (\$465,000), Merced Rescue Mission for the Hope for Families Project Program (\$250,000) and County of Merced for the Continuum of Care Program; and First Technical Amendment to the 2018 Department of Housing and Urban Development Annual Action Plan, J.9. Agreement to Negotiate Exclusively with the Richman Group of California, LLC for the Childs and B Street Affordable Housing, and J.11. Street Closure Request - 2018 Central California Band Review; were pulled for separate consideration.

Approval of the Consent Agenda

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

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

No: 0

Absent: 0

J.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.

J.2. SUBJECT: Information-Only Contracts

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$31,000 and of Public Works contracts under \$69,833.

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 2018-2019 threshold of \$69,833.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2018-2019 threshold of \$31,000.00, the contracts listed on the attached table were entered into by the City.

This Consent Item was approved.

J.3. **SUBJECT:** Information Only-Site Plan Review Minutes of August 2, 2018

RECOMMENDATION

For information only.

This Consent Item was approved.

J.4. **SUBJECT:** Information Only - Planning Commission Minutes of August 22, 2018

RECOMMENDATION

For information only.

This Consent Item was approved.

J.5. **SUBJECT:** City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of September 4, 2018

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 September 4, 2018.

This Consent Item was approved.

J.7. **SUBJECT:** Vacation #18-02 - Setting a Public Hearing to Vacate a 5.88-Acre Park Site Generally Located at the Southwest Corner of M Street and Arrow Wood Drive

REPORT IN BRIEF

Set a public hearing for November 5, 2018, to vacate a 5.88-acre park site generally located at the southwest corner of M Street and Arrow Wood Drive.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2018-64**, a Resolution of the City Council of the City of Merced, California, declaring its intention to vacate an approximately 5.88 acre park site generally located at the southwest corner of M Street and Arrow Wood Drive (extended) (Vacation #18-02) and setting time and place for Public Hearing.

This Consent Item was approved.

J.10.

SUBJECT: Approval of a Five-Year Agreement with Environmental Compliance Resources for Graffiti Abatement Services

REPORT IN BRIEF

Considers approving a five (5) year agreement for graffiti abatement services between the City of Merced and Environmental Compliance Resources for \$189,500 for the first year with 1.8% increases for each subsequent year.

RECOMMENDATION

City Council - Adopt a motion approving a five-year agreement for graffiti abatement services with Environmental Compliance Resources and authorizing the City Manager or Assistant City Manager to execute all the necessary documents.

This Consent Item was approved.

J.6.

SUBJECT: Measure V Regional Project Funding Agreement with the Merced County Association of Governments

REPORT IN BRIEF

Consider approving the Measure V Regional Project Funding Agreement template to be executed in the future for projects approved by the Measure V Eastside Regional Projects Committee and Merced County Association of Governments (MCAG) Governing Board.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the Measure V Regional Project Funding Agreement with Merced County Association of Governments; and,
- B. Authorizing the increase of revenue and appropriating the same of all future Regional Project funding and authorizing the Finance Officer to make the appropriate budget adjustments; and,
- C. Authorizing the City Manager or Assistant City Manager to execute the necessary documents.

Council Member BELLUOMINI pulled this item to highlight the project. He discussed how this project coincides with the Highway 59 and Santa Fe project.

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, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

J.8.

SUBJECT: Allocation of Fiscal Year 2018/19 Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) to Fund Sub-Recipient Agreements with Restore Merced for Neighborhood Clean-Up Program (\$60,000), Sierra Saving Grace for the Homeless Project (\$465,000), Merced Rescue Mission for the Hope for Families Project Program (\$250,000) and County of Merced for the Continuum of Care Program; and First Technical Amendment to the 2018 Department of Housing and Urban Development Annual Action Plan

REPORT IN BRIEF

Authorizes execution of Community Development Block Grant and HOME Investment Partnership Program Sub-Grantee Agreements with Restore Merced for Neighborhood Clean-Up Program in the amount of \$60,000, Sierra Saving Grace for the Homeless Project in the amount of \$465,000, Merced Rescue Mission for the Hope for Families Project Program in the amount of \$250,000 and Continuum of Care Program in the amount of \$38,000.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving agreements identified in the 2018 Department of Housing and Urban Development (HUD) Annual Plan with Community Development Block Grant (CDBG) funds from the 2018/19 Fiscal Year (Accounts 018-1301-552-17.00 / Professional Services, 018-1301-552-29.00 / Supplies and Services, and 033-1349-552-29.00 / Supplies and Services, per previous City Council recommendation for:

1. An agreement with Restore Merced for Neighborhood Clean-Up Program in the amount of \$60,000; and,
2. An agreement with Sierra Saving Grace for the Homeless Project in the amount of \$465,000; and,
3. An agreement with Merced Rescue Mission for the Hope for Families Project Program in the amount of \$250,000; and,
4. An agreement with County of Merced for the Continuum of Care Program in the amount of \$38,000; and,

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

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

Mayor MURPHY pulled this item to give the representatives from Restore Merced an opportunity to speak about their program.

Matt ST. PIERRE and Caleb MEDEFIND from Restore Merced spoke on their program and scope of work.

Gloria SANDOVAL, Merced - spoke on her concern for the homeless being left out of the program.

Monica VILLA, Merced - asked if participants are paid for their work and the process to be a part of the program.

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

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

No: 0

Absent: 0

J.9.

SUBJECT: Agreement to Negotiate Exclusively with the Richman Group of California, LLC for the Childs and B Street Affordable Housing Development

REPORT IN BRIEF

Approves the exclusive negotiating agreement with the Richman Group of California, LLC for the eventual development of an affordable housing project at Childs Avenue and B Street.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the exclusive negotiating agreement between the City of Merced and the Richman Group of California, LLC; and,

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

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

Council Member BELLUOMINI pulled this item to ask about a timeline for construction.

Housing Supervisor Mark HAMILTON explained the funding process and the variables that lead up to construction.

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, Mayor Pro Tempore McLeod, Council Member Pedrozo, Council Member Serratto, Mayor Murphy, and Council Member Blake

No: 0

Absent: 0

J.11.

SUBJECT: Street Closure Request- 2018 Central California Band Review

REPORT IN BRIEF

Consider allowing street closures on November 10, 2018, for portions of Parsons Avenue, Dinkey Creek, Watertown Drive, and East Childs Avenue to facilitate the Central California Band Review.

RECOMMENDATION

City Council - Adopt a motion approving the street closures of Parsons Avenue, from Merced Avenue to Dinkey Creek; Dinkey Creek, from Parsons Avenue to Watertown Drive; Watertown Drive, from Dinkey Creek to East Childs Avenue; and East Childs Avenue, from Coffee Street to Carol Avenue, as requested by Golden Valley High School Band Boosters Coordinator Kirsten Shulley for the 2018 Central California Band Review scheduled Saturday, November 10, 2018. The street closures will be between 6:00 a.m. and 3:30 p.m.; subject to the conditions of the administrative staff report.

Council Member MARTINEZ pulled this item to give the Golden Valley Band Director Mike VASQUEZ the opportunity to discuss the Band Review event.

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

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

No: 0

Absent: 0

K. PUBLIC HEARINGS

K.1.

SUBJECT: Continued Public Hearing - Annexation and Pre-Zoning Application #15-01, General Plan Amendment #15-04, and Pre-Annexation Development Agreement, Initiated by Louann Bianchi, and Quad LLC, Property Owners

REPORT IN BRIEF

Consider approval of the proposed annexation of 8.83 acres of land generally located at the northwest and southwest corners of North Highway 59 and Santa Fe Drive, along with changes in the General Plan

designation, pre-zoning, and approval of a Pre-Annexation Development Agreement.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving **Resolution 2018-60**, a Resolution of the City Council of the City of Merced, California, approving a Mitigated Negative Declaration for Annexation #15-01, Pre-Zoning Application #15-01, and General Plan Amendment #15-04 for 7.83 acres of land generally located at the northwest corner of North Highway 59 and Santa Fe Drive and 1.0 acre of land generally located at the southwest corner of North Highway 59 and Santa Fe Drive and approving General Plan Amendment #15-05 for the 7.83 acres of land generally located at the northwest corner of North Highway 59 and Santa Fe Drive changing the General Plan land use designation from Open Space (OS) to Thoroughfare Commercial (CT); and,

B. Approving **Resolution 2018-61**, a Resolution of the City Council of the City of Merced, California, to the Local Agency Formation Commission for the annexation of uninhabited property located at the northwest and southwest corners of North Highway 59 and Santa Fe Drive, as described herein; and,

C. Introducing **Ordinance 2494**, an Ordinance of the City Council of the City of Merced, California, amending the official zoning map by Pre-zoning land generally located at the northwest corner of North Highway 59 and Santa Fe Drive as Thoroughfare Commercial (C-T) and the land generally located at the southwest corner of North Highway 59 and Santa Fe Drive as Light Industrial (I-L); and,

D. Introducing **Ordinance 2495**, an Ordinance of the City Council of the City of Merced, California, approving a Pre-Annexation Development Agreement between the City of Merced and Lou Ann Bianchi for the Highway 59 and Santa Fe Annexation.

Planning Manager Kim ESPINOSA gave a slide show presentation on the Annexation and Pre-Zoning Application #15-01, General Plan Amendment #15-04, and Pre-Annexation Development Agreement.

Council, Ms. ESPINOSA, and City Engineer Steven SON discussed the advantages and disadvantages of a left turn in and no left out of the shopping center, warranted criteria for a traffic signal, and the development of the dual left lanes on Santa Fe. They also discussed the development of an additional lane on Highway 59, the development coinciding with the

widening of Highway 59, the usage of a traffic worm, and funding for the traffic portion of the project.

Council and Ms. ESPINOSA continued discussing traffic mitigation.

Mayor MURPHY opened the Public Hearing at 8:27 PM.

59 Petroleum Development Representative Surina MANN and Mr. SON discussed traffic mitigation.

KD Anderson and Associates representative Ken ANDERSON spoke on the traffic study and traffic mitigation.

Council and Mr. ANDERSON discussed left turns onto Santa Fe, traffic mitigation, and traffic safety.

Ben KURTZ, Merced - asked about fair share of development payment.

Ms. ESPINOSA explained the fair share portion of the project.

Mayor MURPHY closed the Public Hearing at 8:45 PM.

Interim City Attorney Jolie HOUSTON and Ms. ESPINOSA discussed adding conditions of approval to the pre-annexation development agreement.

A motion was made by Council Member Belluomini, seconded by Council Member Blake, approving Resolution 2018-60 and adding a median island and left turn island on Sant Fe to the Conditions of Approval for the Pre-Annexation Development Agreement. The motion carried by the following vote:

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

No: 1 - Council Member Martinez

Absent: 0

Clerk's Note: Council recessed at 8:51 PM and returned at 8:59 PM.

L. REPORTS

L.1.

SUBJECT: Pavement Management System Survey Results, Current Capital Improvement Projects, and Discussion of Future Streets Funding

REPORT IN BRIEF

Discuss the results of the Pavement Management System (PMS) survey completed by Merced County Association of Governments (MCAG), the current Capital Improvement Program (CIP) and provide direction on the programming of future Streets funding.

RECOMMENDATION

Provide staff direction for the implementation of the Pavement Management System survey results and future programming of Streets funding through the City's Capital Improvement Program.

City Engineer Steven SON gave a slide show presentation on the pavement management system survey results, current Capital Improvement Projects, and future streets funding.

Council and Mr. SON discussed the lifespan of the various types of street treatments, the type of equipment used to repair streets, enterprise funds to help repair underground utilities, and the deterioration of streets due to water.

Council Member BELLUOMINI discussed prioritizing the streets that have the most volume of traffic and most deterioration and advancing the completion of Parsons Avenue.

Council directed staff to develop a strategy to maintain the existing collector and arterial streets and a five to six year street repair program list.

Ben KUTRZ, Merced - spoke on the conditions of the bike paths, street conditions when riding a bike, and the cost of the upkeep of streets.

Clerk's Note: No formal action was taken.

L.2.

SUBJECT: Update on Goals and Priorities (1st Quarter)

REPORT IN BRIEF

Update on the City Council's goals and priorities for FY 2018-2019 1st Quarter.

RECOMMENDATION

For information only.

City Manager Steve CARRIGAN gave a presentation updating Council on the 1st Quarter Goals and Priorities.

Council and Assistant City Manager Stephanie DIETZ discussed Railroad Quiet Zones and the Childs Avenue Sidewalk Project.

M. BUSINESS

Clerk's Note: Item M.1. was moved up following Report Out of Closed Session.

M.2.

SUBJECT: Considers Approving the Second Amendment to the City Manager Employment Agreement

REPORT IN BRIEF

The City Council is asked to consider approving the Second amendment to the employment agreement for the City Manager.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the Employment Agreement with the City Manager/City Clerk; and,
- B. Authorizing the Mayor to sign on behalf of the City; and,
- C. Authorizing the Finance Officer to make the necessary budget adjustments

Clerk's Note: This item was moved to a future Council Meeting.

M.3. Request to Add Item to Future Agenda

Council Member BELLUOMINI requested to add an item on the PACE Program for the November 5th Council Meeting.

M.4. City Council Comments

Council Member MARTINEZ reported on attending the Merced Feast event, the Merced's Got Talent event, and the Merced High School Homecoming Football game. He also spoke about the loss of an El Capitan High School student.

Council Member SERRATTO reported on attending the Merced Feast event, the Taste of Merced event, and a park cleanup.

Council Member BELLUOMINI reported on attending the LAFCo meeting, meeting with staff and the Welcome Sign designer, the Merced Feast event, the Parks and Recreation Commission meeting, giving a presentation to the Board of Realtors on accessory dwelling units, an ethics training, the joint school board meeting, surveying the sidewalks in Merced with the Lions Club, and the Merced's Got Talent event.

Council Member PEDROZO reported on attending the Merced Feast event, the Merced County Association of Governments meeting, and the booster meeting hosted by Merced Irrigation District. He also thanked the Parks Department for fixing issues at Moreno Park and the Fire Fighters for their fundraising efforts for Breast Cancer.

Mayor MURPHY reported on attending a meeting with Kamela HARRIS, a tour of the Tioga Hotel, the Mainzer, and the El Capitan Hotel renovation sites, the Bay Area Council meeting, the Merced Feast event, the Merced's Got Talent event, the University Board of Regents meeting, the joint meeting with the school district, the San Joaquin Joint Powers Authority Board meeting, and the Taste of Merced event.

N. ADJOURNMENT

Clerk's Note: The Regular Meeting adjourned at 10:26 PM.

A motion was made by Council Member Martinez, seconded by Council Member Pedrozo, to adjourn the Regular Meeting in honor of Riley Hansen. The motion carried by the following vote:

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

No: 0

Absent: 0



CITY OF MERCED

City Council Chamber
Merced Civic Center
3rd Floor
678 W. 18th Street
Merced, CA 95340

Minutes

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

Monday, October 8, 2018

6:00 PM

CLOSED SESSION ROLL CALL

Mayor MURPHY called the Closed Session to order at 6:01 PM.

Clerk's Note: Council Member SERRATTO arrived at 7:18 PM.

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

Absent: 0

CLOSED SESSION

SUBJECT: PUBLIC CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(2). Significant Exposure to Litigation: Two Potential Actions; Facts and Circumstances are Known Under Section 54956.9(e)(2)

REPORT OUT OF CLOSED SESSION

There was no report.

ADJOURNMENT

Clerk's Note: The Closed Session was adjourned at 7:32 PM.

By:

Approved:

Jennifer Levesque
Deputy City Clerk

Mike Murphy
Mayor

Clerk's Note: In accordance with Council's prior agreement to waive the reading of ordinances and resolutions unless specifically requested to do so, the Clerk was directed to read summaries.



ADMINISTRATIVE REPORT

Agenda Item H.7.

Meeting Date: 11/5/2018

Report Prepared by: Billy Alcorn, Deputy Fire Chief

SUBJECT: Acceptance of Donation of Four (4) Pet Oxygen Kits Valued at \$340.00 From Girl Scout Troop 3003

REPORT IN BRIEF

Considers accepting a donation of four (4) pet oxygen kits for fire department apparatus from Girl Scout Troop 3003.

RECOMMENDATION

City Council - Adopt a motion accepting the donation of four (4) pet oxygen kits valued at \$340.00 from Girl Scout Troop 3003 for the fire department to place on fire apparatus.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200.

DISCUSSION

The City of Merced Fire Department has been given a donation from Girl Scout Troop 3003, located out of Merced, to receive four (4) pet oxygen kits to be placed on fire department apparatus and used to help save animals lives following structural fires. These kits are valued at \$85.00 per kit for a total donation of \$340.00. This donation will allow City of Merced Firefighters to enhance their life saving capabilities in dealing with pets during emergency incidents.

Girl Scout Troop 3003 is comprised of 10 girls between grades 4-6 and guided by troop leader Lily Walker. Their diligent fundraising efforts is what allowed them to provide our department with these items. These kits were purchased from "Wag'N O2 Fur Life." According to their website, 68% of U.S. households own at least one pet. That equates to 84.6 million pets (minimum) that deserve lifesaving in the event of a home fire or catastrophe. Since this company was founded in 2008, the Wag'N O2 Fur Life Program has provided over 13,243 pet oxygen masks kits to more than 5,083 Fire

& EMS departments in North America. With the acceptance of this donation, the City of Merced Fire Department will now be added to the list of emergency service agencies that have improved their emergency response capabilities with dealing with animals.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

None



ADMINISTRATIVE REPORT

Agenda Item H.8.

Meeting Date: 11/5/2018

Report Prepared by: Deneen Proctor, Director of Support Services

SUBJECT: Adoption of Resolution 2018-72 to Adopt the Annual Base Salary and Approve the Publically Adopted Pay Scale for the City Attorney as set forth in the City Attorney Employment Agreement as Approved by the City Council and Adoption of Resolution 2018-73 to Adopt the Annual Base Salary and Publically Adopted Pay Scale for the City Manager as set forth in the Second Amendment to the City Manager Employment Agreement as Approved by the City Council.

REPORT IN BRIEF

Considers the adoption of Resolution 2018-72 and 2018-73 to adopt the annual base salaries and the publically adopted pay scales for the City Attorney and City Manager as set forth in the City Attorney Employment Agreement and the Second Amendment to the City Manager Employment Agreement.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2018-72**, a Resolution of the City Council of the City of Merced, California approving the annual base salary and the publically adopted pay scale for the City Attorney as established by the employment agreement for the City Attorney and as approved by the City Council; and,
- B. Adopting **Resolution 2018-73**, a Resolution of the City Council of the City of Merced, California approving the annual base salary and the publically adopted pay scale for the City Manager as established by the second amendment to the employment agreement for the City Manager and as approved by the City Council; and,
- C. Authorizing staff to submit the adopted Resolutions to the California Public Employees' Retirement System (CalPERS) for confirmation of annual salary amounts and pay scales.

ALTERNATIVES

- 1. Refer the Resolutions back to the City Council for further review; or,
- 2. Take no action.

AUTHORITY

Charter of the City of Merced, Sections 200, 300, 500 and 600.

CITY COUNCIL PRIORITIES

N/A

DISCUSSION

On October 1, 2018, the City Council reported out of Closed Session that they approved the appointment of Phaedra A. Norton as the City Attorney, with an annual base salary of \$204,600. Immediately following the report out of Closed Session, the City Council approved an employment agreement with Ms. Norton, which set forth the annual base salary as well as certain benefits and terms and conditions of her employment.

On October 15, 2018, the City Council approved the second amendment to the employment agreement for the City Manager, which established an annual base salary of \$209,723 for that position, and also set forth certain benefits and terms and conditions of his employment.

The adoption of Resolution 2018-72 and 2018-73 is requested for the purpose of adopting the annual base salary and the publically adopted pay scale for the City Attorney and City Manager, which have already been approved by the City Council in the respective employment agreements. The adoption of these Resolutions will satisfy the requirements established by the California Public Employees' Retirement System (CalPERS) to qualify for future retirement benefits.

ATTACHMENTS

1. Resolution 2018-72
2. Resolution 2018-73

RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPOINTING PHAEDRA A. NORTON AS CITY
ATTORNEY AND APPROVING AN
EMPLOYMENT AGREEMENT THEREFORE
INCLUDING COMPENSATION AND OTHER
TERMS AND CONDITIONS OF EMPLOYMENT**

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

SECTION 1. The City Council hereby appoints Phaedra A. Norton as the City Attorney of the City of Merced to be effective on October 16, 2018.

SECTION 2. The City Attorney Employment Agreement is hereby approved and shall be effective from October 16, 2018 to October 15, 2021, as set forth on Exhibit "A" to this Resolution.

SECTION 3. The publicly adopted Pay Scale is set forth on Exhibit "B" to this Resolution. Said publicly adopted pay scale will be updated and approved by the City Council as necessary to comply with the terms and conditions of the City Attorney Employment Agreement as set forth in the Agreement.

SECTION 4. The Mayor is hereby authorized to execute the Employment Agreement with Phaedra A. Norton to serve as the City Attorney for the City of Merced.

///

///

///

///

///

///

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____, 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Kelly C. Fincher 10/29/18
City Attorney Date

CITY OF MERCED
CITY ATTORNEY EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered into this 1ST day of OCTOBER, 2018 by and between the CITY OF MERCED, a California municipal corporation and Charter City ("Employer" or "City") and PHAEDRA A. NORTON ("Employee") an individual, (collectively "the Parties").

RECITALS

A. City is a California Charter Municipal Corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Merced City Charter.

B. The Merced City Council conducted an extensive recruitment process for the City Attorney position, and after carefully evaluating Employee's knowledge, skills, and experience, as well as her administrative skills and abilities, it now desires to appoint Employee to the position of City Attorney.

C. The Parties mutually agree that this form of Agreement reflects the terms and conditions under which the Parties intend and desire to employ Employee.

NOW, THEREFORE, it is mutually agreed by and between the undersigned Parties as follows:

SECTION 1: Term

This Agreement shall become effective OCTOBER 16, 2018 ("Effective Date"). Subject to City's right to terminate Employee's employment at any time, as provided for in this Agreement. The term of this Agreement is three (3) years from the Effective Date, and may be extended for an additional term as determined by mutual agreement in writing between the parties. Six (6) months prior to the expiration of this Agreement, the parties agree that they shall meet to discuss the renewal of the Agreement and Employer shall at that time, or within a reasonable

time thereafter, notify Employee of their determination in that regard. City's election not to extend this Agreement shall not entitle Employee to severance pursuant to Section 7 of this Agreement.

SECTION 2: Duties and Authority

Employer agrees to employ Employee as City Attorney, to exercise the powers and authority and to perform the functions and duties specified in the Merced City Charter, the Municipal Code and all relevant resolutions, rules, regulations, procedures, applicable job description(s) and state codes, as they currently or may in the future exist. Employee shall exercise such power and authority and perform such other functions and duties, not inconsistent with this Agreement, as Employer, by its City Council, may legally assign.

SECTION 3: Compensation and Performance Evaluation.

A. Employer agrees to pay Employee at the rate of an annual base salary of Two Hundred, Four Thousand, Six Hundred Dollars (\$204,600.00), subject to deduction and withholding of any and all sums required for federal or state income tax, pension contributions, and all other taxes, deductions or withholdings required by then current state, federal or local law, prorated and paid on Employer's normal paydays for the City Manager, City Attorney, City Clerk, and any Department Directors not covered by collective bargaining agreements ("Executive Management Employees"). Employer shall also deduct sums Employee is obligated to pay because of participation in plans or programs described in Section 4 of this Agreement. The annual base salary of Employee shall be established by resolution of the City Council. Employee will receive an annual cost-of-living adjustment (COLA) to her salary on the first pay period of the calendar year commencing in 2020, of the actual COLA, but no greater than two and a half percent (2.5%). The COLA will be based on the California CPI for Urban Wage Earners and Clerical Workers for the 12 months between December and December as calculated by the Department of Industrial Relations as authorized by Government Code section 3511.1 and 3511.2.

This Agreement shall be deemed amended whenever the City Council adopts a resolution changing the base salary of Executive Management Employees

or the manner (but not the amount) by which Executive Management Employees are paid.

B. Employee and Employer, by and through the City Council, shall meet on an annual basis, or at any time or times during the period in which this Agreement remains in effect, in order for the City Council to conduct an evaluation of Employee's performance. The City Council may provide Employee with a written performance evaluation in such format as the City Council may determine.

C. Employee's compensation as discussed under this Section is not tied to the compensation of any other City employee or group of City employees, except as expressly provided in this Agreement.

SECTION 4: Employee Benefits

A. Administrative Leave, Vacation Leave and Sick Leave.

1. Upon commencing employment with the City, Employee shall be credited with ninety-six (96) hours of administrative leave. Thereafter, commencing on January 1st of each year Employee shall be credited with an additional ninety-six (96) hours of administrative leave per calendar year. Administrative leave must be taken in the calendar year in which it is credited to Employee, except that unused administrative leave credited for the 2018 calendar year shall be carried over to the 2019 calendar year. In lieu of time-off, Employee may opt to be paid for the administrative leave in December of the year earned, except for the 2018 calendar year. Administrative leave not paid or taken by December of the year earned shall be lost and not reimbursed to Employee.

2. Upon commencement of employment, Employee shall be credited with an initial bank of 96 hours of vacation time ("initial bank"). Thereafter, Employee's vacation leave shall accrue at 6.160 hours per pay period with a maximum accrual of 320 hours. Annual vacation leave shall be accrued and administered in the same manner as vacation leave is administered for Executive Management Employees.

3. Upon commencement of employment, Employee shall be credited with an initial bank of 96 hours of sick leave. Thereafter, sick leave

shall accrue at 3.696 hours per pay period with a maximum accrual of 1056 hours. Annual sick leave shall be accrued and administered in the same manner as sick leave is administered for Executive Management Employees.

B. Additional Benefits. Except as expressly provided herein, Employee shall receive the same health, dental and vision insurance, CALPERS retirement benefits, and be entitled to participate in plans and programs such as short term and long term disability plans, life insurance plans, and deferred compensation plans, as are available to the City's Executive Management Employees. This Agreement shall be deemed amended as to these benefits, and these benefits only, whenever the City Council adopts a resolution or takes action changing these benefits.

C. Cell Phone. Employee shall be entitled to the same benefits regarding the provision of a cell phone or reimbursement for cell phone expenses relating to business usage as provided to Executive Management members.

D. Car Allowance. Employee shall be entitled to the same benefits regarding the provision of a car as provided to Executive Management members as determined in accordance with City Council Resolution 86-7, as amended annually by the Finance Officer based upon the Internal Revenue Service's mileage rate.

SECTION 5: General Business Expenses

A. Employer recognizes that Employee may incur expenses of a non-personal, job related nature that are reasonably necessary to Employee's service to Employer. Employer agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to Employer's normal expense reimbursement procedures or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be supported by documentation meeting Employer's normal requirements and must be submitted within time limits established by Employer.

B. City shall reimburse Employee for expenses incurred in her attending a reasonable number of League of Cities conferences or other similar professional conferences relevant to the performance of her duties, as well as her annual dues to the California State Bar.

C. The expenses to be budgeted and paid in the Section 5, Paragraphs A and B above, are exclusive of reasonable expenses related to events, participation in organizations, or attendance at events or meetings on behalf of the City as required by the City Council. Employer will separately budget and pay for membership and participation in community, civic or other organizations or events in which Employer requires Employee to participate or attend.

SECTION 6: At-Will Employment Relationship

A. Consistent with Article VI of the City Charter, Section 500, Employee is appointed by, and serves at the pleasure of, the City Council. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employer to terminate this Agreement and the employment of Employee at any time, with or without Cause, and with or without notice. Employer shall pay Employee for all services through the Effective Date of termination and Employee shall have no right to any additional compensation or payment, except as provided in Section 7, Severance and Benefit Payoff at Termination, and General Release Agreement, below.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign from her employment with Employer, subject only to Employee's providing sixty (60) calendar days prior written notice to Employer of the effective date of her resignation.

SECTION 7: Severance and Benefit Payoff at Termination, and General Release Agreement

A. If Employer terminates this Agreement (thereby terminating Employee's Employment) without Cause, as determined by at least five (5) affirmative votes of the members of the City Council at a Regular Meeting of the City Council, and if Employee signs, delivers to the City Council, and does not revoke, the General Release Agreement in the form attached hereto as Exhibit A, Employer shall pay Employee a lump sum benefit equal to six (6) months of her then applicable base salary, and shall provide Employee six (6) months of continued medical and dental benefits, beginning on the Effective Date of termination (collectively "Severance").

B. If Employer terminates this Agreement (thereby terminating Employee's Employment) with Cause, as determined by at least five (5) affirmative votes of the members of the City Council at a Regular Meeting of the City Council, Employee shall not be entitled to any additional compensation or payment, including Severance. If the City Council intends to terminate with Cause, based on a reason or reasons set forth in subpart 5 or 6, immediately below, the Council shall first deliver to Employee a written Notice of Intent to Terminate, stating the reason or reasons for the proposed termination, and providing a thirty (30) day period for Employee to cure. If, in the City Council's independent judgment, Employee cures the identified reason or reasons for Cause termination, Employee shall not be terminated therefor. As used in this Agreement, Cause shall mean any of the following:

1. Conviction of a felony;
2. Conviction of a misdemeanor arising out of Employee's duties under this Agreement and involving a willful or intentional violation of law;
3. Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4;
4. Willful abandonment of duties;
5. Repeated failure to carry out a directive or directives of the City Council made by the City Council as a body;
6. Any grossly negligent action or inaction by Employee that materially and adversely: (a) impedes or disrupts the operations of Employer or its organizational units; (b) is detrimental to employees or public safety; or (c) violates properly established rules or procedures of Employer.
7. Disciplinary action by the State Bar of California which results in suspension and/or revocation of Employee's license to practice law in the State of California.

C. In no event may Employee be terminated without cause within ninety (90) days after any municipal election for the selection or recall of one or more of the members of the City Council.

D. If Employee terminates this Agreement (thereby terminating Employee's employment), Employee shall not be entitled to any additional compensation or payment, including Severance.

E. Upon termination (regardless of reason), Employee shall be compensated for all accrued but unused Administrative and Vacation Leave.

SECTION 8: Employee's Obligations and Hours of Work

Employee shall devote her full energies, interest, abilities and productive time to the performance of this Agreement and utilize her best efforts to promote Employer's interests. Employee's duties may involve expenditures of time in excess of the regularly established workday or in excess of a forty (40) hour workweek and may also include time outside normal office hours (including attendance at evening City Council meetings). Employee's base salary includes compensation for all hours worked and Employee shall be classified as an exempt employee for purposes of overtime and shall not be entitled to any form of compensation for overtime. In recognition of the significant time Employee will need to devote outside normal office hours to business activities of Employer and the exempt, salaried nature of the employment, employee is permitted to exercise a flexible work schedule. However, consistent with this flexibility and Employee's participation in activities out of the office, Employee will generally be expected to keep office hours at City Hall, Monday through Friday, during normal business hours.

SECTION 9: Confidentiality and Non-Disparagement

A. Employee acknowledges that in the course of her employment contemplated herein, Employee will be given or will have access to confidential and proprietary documents and information, relating to the City, its residents, businesses, employees, and customers ("Confidential Information"). Such Confidential Information may include, but is not limited to, all information given to or otherwise accessible to Employee that is not public information or would be exempt from public disclosure as confidential, protected, exempt or privileged information. Employee shall hold the Confidential Information in trust for City's benefit, and shall not disclose the Confidential Information to others without the express written consent of City.

B. Except as otherwise required by law, in the event the City terminates Employee with or without Cause, the City and Employee agree that no member of the City Council, the city management staff, nor the Employee shall make any written, oral, or electronic statement to any member of the public, the press, or any City employee concerning the Employee's termination except in the form of a joint press release or statement, which is mutually agreeable to City and Employee. The joint press release or statement shall not contain any text or information that is disparaging to either Party. Either Party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

C. The obligations of Employer and Employee under this Section 9 shall survive the termination of this Agreement.

SECTION 10: Outside Activities

Employee shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which is actually or potentially in conflict with or inimical to, or which materially interferes with her duties and responsibilities to Employer.

SECTION 11: Indemnification

A. Consistent with the California Government Code, Employer shall defend and indemnify Employee, using legal counsel of Employer's choosing, against expense or legal liability for acts or omissions by Employee occurring within the course and scope of Employee's employment under this Agreement. In the event there is a conflict of interest between Employer and Employee in such a case so that independent counsel is required for Employee, Employer may select the independent counsel after having considered the input of Employee and shall pay the reasonable fees of such independent counsel consistent with City litigation guidelines and standard rates received by City from its chosen special counsel.

B. Notwithstanding the foregoing, and consistent with Sections 53243 through 53243.3 of the Government Code, Employee shall be required, if convicted of a crime involving an abuse of her office or position, to fully reimburse the City for: (1) any paid leave salary offered by the City to the Employee; (2) any funds provided for the legal criminal defense of the Employee; (3) any cash

settlement related to the termination that Employee may receive; and (4) any other payments received by Employee from City that in any way relate to the foregoing.

SECTION 12: Other Terms and Conditions of Employment

Employer may fix other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or applicable law.

SECTION 13: Notices

Notice pursuant to this Agreement shall be given by depositing written notification in the custody of the United States Postal Service, postage prepaid, addressed as follows:

(1) **EMPLOYER:**

City of Merced
c/o City Clerk
678 West 18th Street
Merced, California 95340

(2) **EMPLOYEE:**

Phaedra A. Norton
Home address on file in Employee's personnel file

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable in civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service as provided by law.

SECTION 14: General Provisions

A. **Integration:** This Agreement sets forth the final, complete and exclusive agreement between Employer and Employee relating to the employment of Employee by Employer. Any prior discussions or representations by or between the parties are merged into this Agreement or are otherwise rendered null and void.

The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement. The foregoing notwithstanding, Employee acknowledges that, except as expressly provided in this Agreement, her employment is subject to Employer's generally applicable rules and policies pertaining to employment matters as they currently or may in the future exist, and her employment is, and will continue to be, at the will and pleasure of the City Council.

B. Binding Effect: This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Choice of Law: This Agreement shall be interpreted and construed pursuant to and in accordance with the laws of the State of California and all applicable City Charter provisions, Codes, Ordinances, Policies and Resolutions.

D. Severability: If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

E. Conflict with City Charter or Municipal Code. The City personnel ordinances, resolutions, rules and policies shall apply to Employee in the same manner as applied to other management employees, provided, however, in the event of a conflict between the provisions of this Agreement and the City Charter, or this Agreement and the Municipal Code, the City Charter or the Municipal Code shall prevail over this Agreement.

F. Employee's Independent Review: Employee acknowledges that she has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Employee acknowledges that she has made an independent judgment upon the financial and legal effects of this Agreement and has not relied upon any representation of Employer, its officers, agents or employees other than those expressly set forth in this Agreement. Employee

acknowledges that she has been advised to obtain, and has availed herself of legal advice with respect to the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates reflected below each signature.

EMPLOYER:

CITY OF MERCED,
A Municipal Corporation

By [Signature]
Date: 10/01/2018

EMPLOYEE:

PHAEDRA A. NORTON

By Phaedra A Norton Phaedra A Norton
Date: 9-25-18

APPROVED AS TO FORM:

By [Signature] 9/26/18
City Attorney Date

300768
FUNDS/ACCOUNTS VERIFIED
[Signature] 10/24/18
FINANCE OFFICE DATE
Funds available within payroll budget. ms10/15/18
FL1423/18

ATTEST:

By [Signature] 10/24/18
ASSISTANT City Clerk Date

Publicly Adopted Pay Scale as of October 1, 2018

<u>Class</u>	<u>Grade</u>	<u>Title</u>	<u>Salary (Annual)</u>
1850	928	City Attorney	\$204,600.00

EXHIBIT B

RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING THE SECOND AMENDMENT TO
CITY MANAGER EMPLOYMENT AGREEMENT**

WHEREAS, City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City; and

WHEREAS, on October 15, 2018, the Merced City Council approved an Amendment to the Employment Agreement with City Manager Steve Carrigan (“Employee”), effective January 25, 2019 (the “Employment Agreement”); and,

WHEREAS, the Parties desire to amend the Employment Agreement to clarify certain provisions in the Employment Agreement and extend the term of the Employment Agreement.

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

SECTION 1. The Second Amendment to City Manager Employment Agreement is hereby approved and shall be effective from January 25, 2019 to January 24, 2023, as set forth on Exhibit “A” to this Resolution.

SECTION 2. The publicly adopted Pay Scale is set forth on Exhibit “B” to this Resolution. Said publicly adopted pay scale will be updated and approved by the City Council as necessary to comply with the terms and conditions of the City Manager Employment Agreement as set forth in the Agreement and the Second Amended Agreement.

SECTION 3. The Mayor is hereby authorized to execute the Second Amendment to the City Manager’s Employment Agreement.

///

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

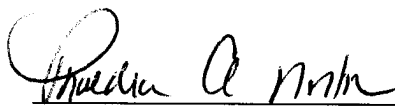
Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

 10.29-18

City Attorney Date

**SECOND AMENDMENT TO
CITY MANAGER EMPLOYMENT AGREEMENT**

This SECOND AMENDMENT TO CITY MANAGER EMPLOYMENT AGREEMENT is made and entered into this 15TH day of OCT., 2018, by and between the CITY OF MERCED, a California Municipal Corporation and Charter City ("Employer" or "City") and STEVE CARRIGAN ("Employee") an individual (collectively referred to herein as the "Parties").

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The Parties entered into the City Manager Employment Agreement on or about December 7, 2015 (the "Agreement"), and the Agreement was unanimously approved by the Merced City Council.
- C. The Agreement was/is effective as of January 25, 2016, for a period of three (3) years, and will expire, unless extended by written agreement of the Parties, on January 25, 2019.
- D. A First Amendment to the Agreement was entered into on June 20, 2016 (the "First Amendment").
- E. The Parties desire to amend certain provision of the Agreement and extend the term of the Agreement.

NOW, THEREFORE, it is mutually agreed by and between the Parties that the Agreement shall be amended and extended as follows:

- 1. This Second Amendment to the Agreement ("Second Amendment") shall become effective on January 25, 2019. Subject to the City's right to terminate Employee's employment at any time as provided in the Agreement, the term of this Second Amendment is four (4) years, and shall expire on January 24, 2023, unless extended for an additional term as determined by mutual agreement in writing between the Parties.

2. SECTION 3, Subsection A of the Agreement entitled "Compensation and Performance Evaluation," is hereby amended to read as follows:

A. Effective January 25, 2019, Employer agrees to increase Employee's annual base salary to Two Hundred Nine Thousand Seven Hundred Twenty-Three Dollars (\$209,723.00), effective January 25, 2019, subject to deduction and withholding of any and all sums required for federal or state income tax, pension contributions, and all other taxes, deductions or withholdings required by then current state, federal or local law, prorated and paid on Employer's normal paydays for the City Manager, City Attorney, City Clerk, and any Department Directors not covered by collective bargaining agreements ("Executive Management Employees"). Employer shall also deduct sums Employee is obligated to pay because of participation in plans or programs described in Section 4 of this Agreement. The annual base salary of Employee shall be established by resolution of the City Council. Based on Employee's performance, as determined by the City Council in the exercise of its sole discretion, Employee may receive an annual cost-of-living adjustment (COLA) to his salary on the first pay period of the calendar year, commencing on January 1, 2020, of the actual COLA, but no greater than two and a half percent (2.5%). The COLA will be based on the California CPI for Urban Wage Earners and Clerical Workers for the 12 months between December and December as calculated by the Department of Industrial Relations as authorized by Government Code section 3511.1 and 3511.2.

This Agreement shall be deemed amended whenever the City Council adopts a resolution changing the base salary of Executive Management in Employees or in the manner (but not the amount) by which Executive Management Employees are paid.

3. SECTION 4, Subsection A of the Agreement entitled "Employee Benefits," is hereby amended to read as follows:

A. Administrative Leave, Vacation Leave, and Sick Leave.

Commencing on January 25, 2019, Employee shall be credited with fifteen (15) days of administrative leave per calendar year. Administrative leave must be taken in the calendar year in which it is credited to Employee. In lieu of time-off, Employee may opt to be paid for the management leave in December of the year in which it

was earned. Administrative leave not paid or taken by December of the year in which it was earned shall be lost and not reimbursed to Employee.

In lieu of vacation and/or sick leave, Employee shall accrue Paid Time Off ("PTO") at 10.158 per pay period with a maximum accrual of 1392 hours. Annual PTO shall be accrued and administered in the same manner as leave is administered for Executive Management Employees. Employee's Sick Leave accrued prior to the effective date of this Agreement shall remain in a separate Sick Leave account and is to be used as such.

4. SECTION 4, Subsection E of the Agreement entitled "Moving and Relocation Expenses," shall be revoked and of no further force and effect.

5. Except as set forth herein, all remaining terms and conditions of the Agreement shall remain in full force and effect.

The effective date of this Second Amendment shall be January 25, 2019.

IN WITNESS WHEREOF, the Parties have caused this Second Amendment to City Manager Employment Agreement to be executed on the date first above written.

EMPLOYER
CITY OF MERCED

By: [Signature]
Michael Murphy, Mayor

Date: 10/15/2018

EMPLOYEE

By: [Signature]
Steve Carrigan

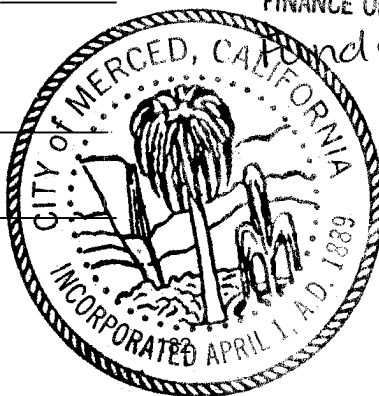
Date: 10/24/18

APPROVED AS TO FORM:

By: [Signature]
City Attorney
Date: 9-28-2018

301173
FINANCE OFFICE
DATE 10/24/18

ATTEST:
By: [Signature]
Assistant City Clerk
Date: 10/25/18



within the payroll budget. ms 10/18/18
FL1923/18

Publicly Adopted Pay Scale as of January 25, 2019

<u>Class</u>	<u>Grade</u>	<u>Title</u>	<u>Salary (Annual)</u>
1900	935	City Manager	\$209,723.00

EXHIBIT B



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item H.9.

Meeting Date: 11/5/2018

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

SUBJECT: Resolution Extending the Period for Development or Disposition of Properties Transferred to the Housing Successor Agency (Housing Division) for a Period of Five (5) Years

REPORT IN BRIEF

Request that City Council approve resolution requesting an extension of a period of time for an additional five (5) years to develop or dispose of the properties transferred to the Housing Division from the former Redevelopment Agency.

RECOMMENDATION

City Council - Adopt a motion approving **Resolution 2018-67**, a Resolution of the City Council of the City of Merced, California, extending the period for development or disposition of properties transferred from the former Merced Redevelopment Agency pursuant to Health and Safety Code Section 34176.1(e).

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 consideration 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 City of Merced, Sec. 200.

CITY COUNCIL PRIORITIES

As provided for in the 2018-19 Council Priorities.

DISCUSSION

The California Health and Safety Code (HSC) 34176.1(e) requires that all properties acquired by the former City of Merced Redevelopment Agency (RDA) prior to February 1, 2012, and transferred to the City of Merced Housing Successor Agency (Housing Division) are to be developed or disposed of within five years from the date the California Department of Finance approved the transfer of RDA property assets to the Housing Successor Agency (Housing Division).

The California Department of Finance approved the transfer of properties from RDA to the City of

Merced Housing Successor Agency on February 25, 2013. Since the first development and disposition deadline expired this year, the City Housing Division requests Council approval to extend the deadline as permitted by the HSC to the full five-year extent to a new deadline of February 25, 2023. This extension will provide staff an opportunity to develop options and choices for the Council to consider in moving forward with the development of these properties.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Resolution 2018-67
2. Housing Asset Map

RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
EXTENDING THE PERIOD FOR DEVELOPMENT
OR DISPOSITION OF PROPERTIES
TRANSFERRED FROM THE FORMER MERCED
REDEVELOPMENT AGENCY PURSUANT TO
HEALTH AND SAFETY CODE SECTION
34176.1(e)**

WHEREAS, pursuant to Health and Safety Code (“HSC”) Section 34176, the City of Merced (“City”), as the entity that authorized the creation of the dissolved Merced Redevelopment Agency (“RDA”), elected to retain the housing assets and functions previously performed by the former RDA, including all rights, powers, assets, liabilities, duties and obligations associated with the housing activities of the former RDA, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, to the City of Merced Housing Successor Agency (Housing Division), as provided in Resolution No. 2012-5 adopted on January 12, 2012; and

WHEREAS, HSC Section 34176.1(e) requires all real properties acquired by the former RDA prior to February 1, 2012 and transferred to the City of Merced Housing Successor Agency (Housing Division) to be developed pursuant to the requirements detailed in HSC Section 33334.16, with time periods commencing on the date the Department of Finance (“DOF”) approved such properties as a housing asset; and

WHEREAS, HSC Section 33334.16 provides that within five years from the date a property is acquired with Low and Moderate Income Housing Funds, activities must be initiated consistent with the development of the property for affordable housing purposes, or the property must be sold and sales proceeds shall be deposited into the Low and Moderate Income Housing Fund (now the Low and Moderate Income Housing Asset Fund established pursuant to HSC 34176(d)); and

WHEREAS, HSC 33334.16 further states that the legislative body may extend the aforementioned property development or disposition deadline for one additional period not to exceed five years; and

WHEREAS, on February 25, 2013, DOF approved the transfer of real property assets listed on a Housing Asset Transfer Form from the former RDA to the City of Merced Housing Successor Agency (Housing Division) (Exhibit A); and

WHEREAS, property was transferred to the County of Merced as the Designated Local Authority by Resolution No. 2017-03 on January 17, 2017 because the properties were not purchased with Low and Moderate Income Housing Funds by the former RDA (Exhibit B); and

WHEREAS, property was retained for the use of Governmental Use and Parking Authority Properties to be retained by the City (property being used for right-of-way and the parking authority (collectively referred to as the "Properties", see Exhibit C); and

WHEREAS, property was retained by the Housing Division that comprised of vacant land purchased by the former RDA with Low and Moderate Income Housing Funds (collectively referred to as the "Remaining Properties", see Exhibit D); and

WHEREAS, due to market conditions and the loss of funds resulting from the dissolution of redevelopment agencies in California, the City of Merced Housing Successor Agency (Housing Division) has been unable to initiate affordable housing activities at the Remaining Properties; and

WHEREAS, the City of Merced Housing Successor Agency (Housing Division) is developing a strategy to develop or dispose of the Remaining Properties; and

WHEREAS, under HSC 34176.1(e), the property development and disposition deadline imposed by HSC 33334.16 for the Remaining Properties is February 25, 2018, which is five years from the date the Department of Finance approved the housing assets transferred from the former RDA to the City of Merced Housing Successor Agency (Housing Division); and

WHEREAS, the City of Merced Housing Successor Agency (Housing Division) desires to retain the Remaining Properties for up to an additional five years, or February 25, 2023, to develop or dispose of the property as required by HSC 33334.16 and 34176.1(e).

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

SECTION 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. Intent to Initiate Affordable Housing Activities. The City finds and determines it is the City's intention that the parcels listed at Exhibit "C" be developed for affordable housing purposes, or sold to fund other affordable housing activities as permitted by the HSC.

SECTION 3. Approval of Deadline Extension. The City of Merced finds and determines that the Housing Successor Agency (Housing Division) may retain the Remaining Properties for an additional period not to exceed five years, or February 25, 2023 for the purpose of initiating affordable housing development activities.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2018, 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:


 9-12-2018
City Attorney Date

Exhibit A

Successor Agency Contact Information

Name of Successor Agency:	<u>Merced Designated Local Authority</u>
County:	<u>Merced County</u>
Primary Contact Name:	Mark Persico
Primary Contact Title:	Staff to the Successor Agency c/o Kosmont Companies 865 South Figueroa Street, 35th Floor Los Angeles, CA 90017 (818)857-7333
Address	
Contact Phone Number:	<u>(818)857-7333</u>
Contact E-Mail Address:	<u>mpersico@kosmont.com</u>
Secondary Contact Name:	Michael Amabile
Secondary Contact Title:	Chair, Merced Designated Local Authority
Secondary Contact Phone Number:	<u>(209) 631-9865</u>
Secondary Contact E-Mail Address:	<u>michaelamabile@comcast.net</u>

SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 Filed for the January 1, 2013 to June 30, 2013 Period

Name of Successor Agency: Merced Designated Local Authority

	Total Outstanding Debt or Obligation
Outstanding Debt or Obligation	\$ 100,301,026
Current Period Outstanding Debt or Obligation	Six-Month Total
A Available Revenues Other Than Anticipated RPTTF Funding	10,796,772
B Enforceable Obligations Funded with RPTTF	3,636,603
C Administrative Allowance Funded with RPTTF	-
D Total RPTTF Funded (B + C = D)	3,636,603
Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be same amount as ROPS form six-month total</i>	\$ 14,431,275
E Enter Total Six-Month Anticipated RPTTF Funding <i>(Obtain from county auditor-controller)</i>	3,636,603
F Variance (E - D = F) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	-
Prior Period (January 1, 2012 through June 30, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a))	
G Enter Estimated Obligations Funded by RPTTF <i>(Should be the same amount as RPTTF approved by Finance, including admin allowance)</i>	2,762,722
H Enter Actual Obligations Paid with RPTTF	-
I Enter Actual Administrative Expenses Paid with RPTTF	-
J Adjustment to Redevelopment Obligation Retirement Fund (G - (H + I) = J)	2,762,722
K Adjustment to RPTTF	\$ 872,781.00

Certification of Oversight Board Chairman:
 Pursuant to Section 34177(m) of the Health and Safety code,
 I hereby certify that the above is a true and accurate Recognized
 Obligation Payment Schedule for the above named agency.

_____ Name	_____ Title
_____ Signature	_____ Date

Name of Successor Agency Merced Designated Local Authority
 County Merced County

Oversight Board Approval Date _____

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III)
 January 1, 2013 through June 30, 2013

Item #	Project Name / Debt Obligation	Contract/ Agreement Execution Date	Contract/ Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2012-13	Funding Source						Six-Month Total
									LMI/HF	Bond Proceeds	Reserve Balance	Admin Allowance	RPTTF	Other	
	Grand Total						\$ 100,301,026	\$ 19,142,755	\$ 106,733	\$ 983,318	\$ -	\$ -	\$ 3,639,503	\$ 10,095,521	\$ 14,431,278
1	Project Area #2/1999 Tax Allocation Bonds	3/25/1999	12/1/2015	U.S. Bank	TAB Payments for Bond Issue	Project Area #2	8,107,639.00	2,087,450.00					\$ 1,033,725.00		1,033,725
2	Project Area #2/2003 Tax Allocation Bonds	5/28/2003	12/31/2023	U.S. Bank	TAB Payments for Bond Issue	Project Area #2	17,745,172.00	174,384.00					\$ 88,501.25		88,501
3	Project Area #2/Trustee Services	3/25/1999	12/31/2023	U.S. Bank	Bond agent professional services	Project Area #2		5,000.00					\$ 5,000.00		5,000
4	Project Area #2/Continuing Disclosure	11/13/2003	12/31/2023	Widman Financial Services	Continuing Disclosure	Project Area #2		2,450.00					\$ 2,450.00		2,450
5	Project Area #2/Merced County Administration	3/25/1999	12/31/2023	Merced County	Administrative Expense Auditor	Project Area #2		162,750.00					\$ 162,750.00		162,750
6	Project Area #2/Loan Guarantees			Wells Fargo	Loan Guarantees - Laurel Glen Apartments	Project Area #2		60,148.00					\$ 30,173.98		30,374
7	Project Area #2/Simpson's DDA			City of Merced	Loan from Sewer Enterprise Fund-Ratepayer	Project Area #2		1,278,627							
8	Project Area #2/Brownfield Remediation			Various Environmental Consultants	Environmental Guarantee	Project Area #2	2,000,000.00	-					1,278,627		1,278,627
9	Project Area #2/Cosco, Inc. DDA	4/16/1992		Various Environmental Consultants	Environmental Guarantee	Project Area #2	4,000,000.00	-					-		-
10	Project Area #2/Merced Center DDA's	11/7/2005		Various Environmental Consultants	Environmental Guarantee	Project Area #2	4,000,000.00	-					-		-
11	Gateways/Tax Allocation Bonds (2001)	11/28/2001	8/1/2031	U.S. Bank	TAB Payments for Bond Issue	Gateways		168,895					55,848		55,848
12	Gateways/Tax Allocation Bonds (2009)	5/19/2009	9/1/2039	U.S. Bank	TAB Payments for Bond Issue	Gateways	27,741,634.00	961,643					388,322		388,322
13	Gateways/Trustee Services	11/28/2001	9/1/2039	U.S. Bank	Bond agent professional services	Gateways		8,000					-		-
14	Gateways/Continuing Disclosure	11/13/2003	9/1/2039	Widman Financial Services	Continuing Disclosure	Gateways		4,200					-		-
15	Gateways/Reimbursement Agreement for PFEDA	1/31/2011		City of Merced PFEDA	Reimbursement and Cooperation Agmt	Gateways		533,468					533,468		533,468
16	Gateways/Commercial Façade Improvement			Sunil Ratanji	Commercial Rehabilitation Project	Gateways	10,850.00	10,850					-		-
17	Property, Development Rights & Environmental Identity Obligations	11/7/2005		Alman Hospitality Group	Merced Center Site DDA (Environmental)	Project Area #2	Unknown, potential	-					-		-
18	Property, Development Rights & Environmental Identity Obligations	4/16/1992		Cosco, Inc. (note 3 & 4)	Cosco Parking Lot & Related Rights DDA	Project Area #2	Unknown, potential	-					-		-
19	Property, Development Rights & Environmental Identity Obligations	11/7/2005		Merced Community College District	Merced Center Site DDA	Project Area #2	Unknown, potential	-					-		-
20	Property, Development Rights & Environmental Identity Obligations			Westamerica Bancorporation	Merced Center Lease-1601 M Street	Project Area #2	Unknown, potential	-					-		-
21	Property, Development Rights & Environmental Identity Obligations	11/4/1996		Joseph and Michelle Convello/CBS Motors	DDA for 254 West 16th Street	Project Area #2	Unknown, potential	-					-		-
22	Property, Development Rights & Environmental Identity Obligations	8/5/2006		Nico Properties LLC, DSI Properties LLC	DDA for 64 West 16th Street	Project Area #2	Unknown, potential	-					-		-
23	Property, Development Rights & Environmental Identity Obligations	10/27/1992		Cory Lawrence, Two Wheels	DDA for Merced Power Sports-265 W. 15th St.	Project Area #2	Unknown, potential	-					-		-
24	Property, Development Rights & Environmental Identity Obligations	5/31/1999		Christine McFadden	Valley Veterinary Hospital DDA	Project Area #2	Unknown, potential	-					-		-
25	Property, Development Rights & Environmental Identity Obligations	1/3/1994		Merced Realtors	DDA for 635 West Main Street	Project Area #2	Unknown, potential	-					-		-
26	Property, Development Rights & Environmental Identity Obligations			Identity Obligation (note 5)	Identification	Project Area #2 & Gateways	Unknown, potential	-					-		-
27	Property, Development Rights & Environmental Identity Obligations	2/2/1996		Stahl/Scott Falzer Metal Products Company	DDA Stahl Truck Bodies-1130 Stuart Dr	Gateways	Unknown, potential	-					-		-
28	Project Area #2/Land Acquisition			Construction Rental Sys	Rental fee for vacant property, contingent liability of RDA	Project Area #2	167.02	168					168		168
29	Project Area #2/Residential Façade Grant			Kim Dolina	Residential improvement at 101 W 20th, contingent liability of RDA	Project Area #2	6,487.50	8,468					-		-

30	Project Area #2/Fencing Services for Agency Property			Merced Fence Co.	Rental fencing for Agency property, contingent liability of RDA.	Project Area #2	3,118.00	3,118					1,559	1,559
31	Project Area #2/Rehab 951 West 7th St			City of Merced	Engineering Services, contingent liability of RDA	Project Area #2	542.91	543					109	109
32	Project Area #2/Highway 99 Multi-Family Housing Pro.			Marced Pacific Associates, LLC	Development of 75 units-tax credit, contingent liability of RDA	Project Area #2	3,074,887.00	-					-	-
33	Gateways/Highway 99 Signalization Project			City of Merced	Engineering charges for project, contingent liability of RDA	Gateways	58,389.04	58,389					32,438	32,438
34	Gateways/Highway 99 Multi-Family Housing Project			Technicon Engineering	Engineering services for road project, contingent liability of RDA	Gateways	2,630.00	2,630					-	-
35	Gateways/Highway 99 Multi-Family Housing Project			City of Merced	Lot merger for Highway 99 Housing, contingent liability of RDA	Gateways	404.00	404					-	-
36	Gateways/Highway 99 Multi-Family Housing Project			Weedman/Spence	Spraying of vacant lots, contingent liability of RDA	Gateways	3,371.00	3,371					-	-
37	Gateways/Highway 99 Multi-Family Housing Project			Weedman/Spence	Spraying of vacant lots, contingent liability of RDA	Gateways	1,815.00	1,815					-	-
38	Gateways/Highway 99 Multi-Family Housing Project			Weedman/Spence	Spraying of vacant lots, contingent liability of RDA	Gateways	1,815.00	1,815					-	-
39	Gateways/Highway 99 Multi-Family Housing Project			Construction Rental Svc.	Rental fencing for vacant property, contingent liability of RDA	Gateways	1,557.64	1,558					909	909
40	Gateways/Highway 99 Multi-Family Housing Project			Merced Fence Co.	Rental fencing for vacant property, contingent liability of RDA	Gateways	8,738.00	8,738					5,097	5,097
41	Gateways/Highway 99 Multi-Family Housing Project			Merced Fence Co.	Rental fencing for vacant property, contingent liability of RDA	Gateways	1,950.00	1,950					1,138	1,138
42	Gateways/Highway 99 Multi-Family Housing Project			Golden Valley Engineering	Engineering site development, contingent liability of RDA	Gateways	5,000.00	5,000					5,000	5,000
43	Gateways/Highway 99 Multi-Family Housing Project			City of Merced	Lot merger and planned development, contingent liability of RDA	Gateways	10,000.00	10,000					10,000	10,000
44	Insurance Premium estimate	1/1/2013	6/30/2013	Alliant Insurance Services	DLA Board Insurance	All	4,200.00	4,200					1,999	1,999
45	DLA Administration	1/1/2013	6/30/2013	Kosmont Companies	DLA Administration and legal services	All	210,000.00	105,000					105,000	105,000
46	Project Area #2/Annual Audit Fees	8/1/2011		Gallina, LLP	Annual Audit Fees	Project Area #2	7,017.38	7,017					7,017	7,017
47	Project Area #2/Annual Audit Fees	8/1/2011		Gallina, LLP	Annual Audit Fees	Project Area #2	7,017.38	7,017					7,017	7,017
48	Project Area #2/Annual Audit Fees	8/1/2011		City of Merced-HUD	Rehabilitation of single family home	Project Area #2	30,800.00	30,800					30,800	30,800
49	Project Area #2/Annual Audit Fees	8/1/2011		Merced County Arts Council	Merced Arts Center Annual Improvements	Project Area #2	24,850.00	24,850					12,425	12,425
50	Project Area #2/Annual Audit Fees	8/1/2011		Merced County	Environmental Clearance for remediation	Project Area #2	7,011.75	7,011					7,011	7,011
51	Project Area #2/Annual Audit Fees	8/1/2011		Castle Analytical Lab	Testing for environmental clearance	Project Area #2	388.00	388					184	184
52	Project Area #2/Annual Audit Fees	8/1/2011		Advanced Chemical Trans.	Hazardous waste transport-#108043	Project Area #2	2,550.00	2,550					2,550	2,550
53	Project Area #2/Annual Audit Fees	8/1/2011		Provost & Pritchard	Merced Center Parcel-Assessment	Project Area #2	12,220.00	12,220					6,110	6,110
54	Project Area #2/Annual Audit Fees	8/1/2011		Downey Brand LLP	Legal Representation for Merced Center	Project Area #2	40,342.57	40,343					20,171	20,171
55	Project Area #2/Annual Audit Fees	8/1/2011		ProTech Security	Monitor testing site for #108043-MC	Project Area #2	540.00	540					270	270
56	Project Area #2/Annual Audit Fees	8/1/2011		Provost & Pritchard	R Street Property Clean-up	Project Area #2	103,258.67	103,259					51,629	51,629
57	Project Area #2/Annual Audit Fees	8/1/2011		Provost & Pritchard	EPA Merced Center Brownfield Assessment	Project Area #2	156,867.00	156,867					78,434	78,434
58	Project Area #2/Annual Audit Fees	8/1/2011		Wells Fargo Bank, N.A.	Federal Tax Credit Guarantee **	Project Area #2	14,768,802.00	3,938,099					4,682,402	4,682,402
59	Project Area #2/Annual Audit Fees	8/1/2011		F & M Bank	Debt Service Funding Agreement	Project Area #2	2,633,768.00	2,633,768					2,587,496	2,587,496
60	Project Area #2/Annual Audit Fees	8/1/2011		Lewis C. Nelson General Contractors	Contractor for renovation project	Project Area #2	2,079,909.50	2,079,909					2,079,909	2,079,909
61	Project Area #2/Annual Audit Fees	8/1/2011		Reznick Group	Consulting for Audit and Cost Certification	Project Area #2	45,000.00	45,000					45,000	45,000
62	Project Area #2/Annual Audit Fees	8/1/2011		City of Merced	Engineering Services-Project Manager	Project Area #2	40,000.00	40,000					40,000	40,000
63	Project Area #2/Annual Audit Fees	8/1/2011		WMB Architects, Inc.	Architectural and project management	Project Area #2	125,007.75	125,008					125,008	125,008
64	Project Area #2/Annual Audit Fees	8/1/2011		Merced Theatre Landlord, LLC	Reserve Bases for Theatre Operations	Project Area #2	125,000.00	25,000					25,000	25,000
65	Project Area #2/Annual Audit Fees	8/1/2011		Bank of New York Mellon	HUD 108 Loan - The Grove Apartments	Gateways	3,858,070.00	330,980	63,280				63,280	63,280
66	Project Area #2/Annual Audit Fees	8/1/2011		Wells Fargo	Loan Guarantee - The Grove Apartments	Gateways	88,946	43,473					43,473	43,473
67	Project Area #2/Annual Audit Fees	8/1/2011		Maxwell Construction	Development of affordable housing	Gateways	1,500,000.00	793,518		593,518			593,518	593,518
68	Project Area #2/Annual Audit Fees	8/1/2011		Marced Pacific Associates, LLC	Development of 75 units-tax credit	Gateways	4,371,113.00	3,000,000					-	-

Name of Successor Agency: Merced Designated Local Authority
County: Merced County

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III) -- Notes (Optional)
January 1, 2013 through June 30, 2013

[illegible]

Name of Successor Agency: Merced Designated Local Authority
 County: Merced County

Pursuant to Health and Safety Code section 34186 (a)
 PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS
 RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS I)
 January 1, 2012 through June 30, 2012

Page/ Form	Line	Project Name / Debt Obligation	Payee	Description/Project Scope	Project Area	LMI/HF		Bond Proceeds		Reserve Balance		Admin Allowance		RPTTF		Other	
						Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
		Grand Total				\$ 106,733	\$ -	\$ 593,518	\$ -	\$ -	\$ -	\$ 505,681	\$ -	\$ 2,792,722	\$ -	\$ 9,974,489	\$ -
1/RPTTF	1	Project Area #2/1999 Tax Allocation Bonds	U.S. Bank	TAB Payments for Bond Issue	Project Area #2												
1/RPTTF	2	Project Area #2/2003 Tax Allocation Bonds	U.S. Bank	TAB Payments for Bond Issue	Project Area #2									170,150	-		
1/RPTTF	3	Project Area #2/Trustee Services	U.S. Bank	Bond agent professional services	Project Area #2									11,020	-		
1/RPTTF	4	Project Area #2/Cost of Continuing Disclosure	Wildan Financial Services	Continuing Disclosure	Project Area #2									5,000	-		
1/RPTTF	5	Project Area #2/Merced County Administration	Merced County	Administration Expense-Auditor	Project Area #2									2,450	-		
1/RPTTF	6	Project Area #2/Loan Guarantee	Wells Fargo	Loan Guarantee - Laurel Glen Apartments	Project Area #2									162,750	-		
1/RPTTF	7	Project Area #2/Loan City of Merced (2003 & 2009)	City of Merced	Loan from Sewer Enterprise Fund-Ratepayer	Project Area #2									30,374	-		
1/RPTTF	8	Project Area #2/Simpson's DDA-Brownfield Rem	Various Environmental	Environmental Guarantee	Project Area #2									1,278,627	-		
1/RPTTF	9	Project Area #2/Coastal, Inc. DDA-Brownfield	Various Environmental	Environmental Guarantee	Project Area #2									-	-		
1/RPTTF	10	Project Area #2/Merced Center DDA's	Various Environmental	Environmental Guarantee	Project Area #2									-	-		
1/RPTTF	11	Gateways/Tax Allocation Bonds (2001)	U.S. Bank	TAB Payments for Bond Issue	Gateways									56,549	-		
1/RPTTF	12	Gateways/Tax Allocation Bonds (2009)	U.S. Bank	TAB Payments for Bond Issue	Gateways									391,696	-		
1/RPTTF	13	Gateways/Trustee Services	U.S. Bank	Bond agent professional services	Gateways									8,000	-		
1/RPTTF	14	Gateways/Cost of Continuing Disclosure	Wildan Financial Services	Continuing Disclosure	Gateways									4,200	-		
1/RPTTF	15	Gateways/Merced County Administration	Merced County	Administration Expense-Auditor	Gateways									52,000	-		
1/RPTTF	16	Gateways/Reimbursement Agreement for PFEDA	City of Merced PFEDA	Reimbursement and Cooperation Agmt	Gateways									533,488	-		
1/RPTTF	17	Gateways/Commercial Facade Improvement	Sunil Retanj	Commercial Rehabilitation Project	Gateways									-	-		
1/RPTTF	18	Property, Development Rights & Environmental Idemnity	Altman Hospitality Group	Merced Center Site DDA (Environmental)	Project Area #2									-	-		
1/RPTTF	19	Property, Development Rights & Environmental Idemnity	Costco, Inc.*** (note 3 & 4)	Costco Parking Lot & Related Rights DDA	Project Area #2									-	-		
1/RPTTF	20	Property, Development Rights & Environmental Idemnity	Merced Community College District	Merced Center Site DDA	Project Area #2									-	-		
1/RPTTF	21	Property, Development Rights & Environmental Idemnity	Westamerica Bancorporation	Merced Center Lease-1801 M Street	Project Area #2									-	-		
1/RPTTF	22	Property, Development Rights & Environmental Idemnity	Joseph and Michale Corvello/C&S Motors	DDA for 254 West 18th Street	Project Area #2									-	-		
1/RPTTF	23	Property, Development Rights & Environmental Idemnity	Nico Properties LLC, DSI Properties LLC	DDA for 64 West 16th Street	Project Area #2									-	-		
1/RPTTF	24	Property, Development Rights & Environmental Idemnity	Cyril Lawrence, Two Wheels	DDA for Merced Power Sports-265 W 15th St	Project Area #2									-	-		
1/RPTTF	25	Property, Development Rights & Environmental Idemnity	Christine McFadden	Valley Veterinary Hospital DDA	Project Area #2									-	-		
1/RPTTF	26	Property, Development Rights & Environmental Idemnity	Merced Restlors	DDA for 635 West Main Street	Project Area #2									-	-		
1/RPTTF	27	Property, Development Rights & Environmental Idemnity	Idemnity Obligation (note 5)	Idemnification	Project Area #2 & Gateways									-	-		

Page/ Form	Line	Project Name / Debt Obligation	Payee	Description/Project Scope	Project Area	LMIHF		Bond Proceeds		Reserve Balance		Admin Allowance		RPTTF		Other	
						Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
1/RPTTF	28	Property, Development Rights & Environmental Identity	Stahl/Scott Felzer Metal Products	DDA Stahl Truck Bodies-1130 Stuart Dr.	Gateways												
1/RPTTF	29	Project Area #2/Land Acquisition	Construction Rental Svc	Rental fencing for vacant property, contingent liability of RDA	Project Area #2									-	-		
1/RPTTF	30	Project Area #2/Residential Facade Grant	Kim Dolina	Residential improvement at 101 W 20th, contingent liability of RDA	Project Area #2									168	-		
1/RPTTF	31	Project Area #2/Fencing Services for Agency Property	Merced Fence Co	Rental fencing for Agency property, contingent liability of RDA	Project Area #2									-	-		
1/RPTTF	32	Project Area #2/Rehab 951 West 7th St	City of Merced	Engineering Services, contingent liability of RDA	Project Area #2									1,559	-		
1/RPTTF	33	Project Area #2/Highway 99 Multi-Family Housing Pro.	Merced Pacific Associates, LLC	Development of 75 units-tax credit, contingent liability of RDA	Project Area #2									109	-		
1/RPTTF	34	Gateways/Highway 99 Signalization Project	City of Merced	Engineering charges for project, contingent liability of RDA	Gateways									-	-		
1/RPTTF	35	Gateways/Highway 99 Signalization Project	Technicon Engineering	Engineering services for road project, contingent liability of RDA	Gateways									32,438	-		
1/RPTTF	36	Gateways/Highway 99 Multi-Family Housing Project	City of Merced	Lot merger for Highway 99 Housing, contingent liability of RDA	Gateways									-	-		
1/RPTTF	37	Gateways/Site maintenance	Weedman/Spence	Spraying of vacant lots, contingent liability of RDA	Gateways									-	-		
1/RPTTF	38	Gateways/Site maintenance	Weedman/Spence	Spraying of vacant lots, contingent liability of RDA	Gateways									-	-		
1/RPTTF	39	Gateways/Fencing Services for Agency Property	Construction Rental Svc	Rental fencing for vacant property, contingent liability of RDA	Gateways									-	-		
1/RPTTF	40	Gateways/Fencing Services for Agency Property	Merced Fence Co	Rental fencing for vacant property, contingent liability of RDA	Gateways									909	-		
1/RPTTF	41	Gateways/Demolition of blighted residences	Merced Fence Co	Rental fencing for vacant property, contingent liability of RDA	Gateways									5,097	-		
1/RPTTF	42	Gateways/Engineering for 18th & 1st Street DDA	Golden Valley Engineering	Engineering site development, contingent liability of RDA	Gateways									1,138	-		
1/RPTTF	43	Gateways/Lot entitlements for 18th & 1st Street DDA	City of Merced	Lot merger and planned development, contingent liability of RDA	Gateways									5,000	-		
														10,000	-		
1/Other	1	Project Area #2/Rehabilitation of 951 W 7th Street	City of Merced-HUD CDBG Program	Rehabilitation of single family home	Project Area #2												
1/Other	2	Project Area #2/Merced County Arts Council Lease	Merced County Arts Council	Merced Arts Center Annual Improvements	Project Area #2											30,900	-
1/Other	3	Project Area #2/Merced County Environmental Health	Merced County	Environmental Clearance for remediation	Project Area #2											12,425	-
1/Other	4	Project Area #2/Castle Analytical Lab	Castle Analytical Lab	Testing for environmental clearance	Project Area #2											7,011	-
1/Other	5	Project Area #2/Advanced Chemical Transport	Advanced Chemical Trans	Hazardous waste transport-#108043	Project Area #2											184	-
1/Other	6	Project Area #2/Provost & Pritchard Testing	Provost & Pritchard	Merced Center Parcel-Assessment	Project Area #2											2,550	-
1/Other	7	Project Area #2/Downey Brand LLP	Downey Brand LLP	Legal Representation for Merced Center	Project Area #2											6,110	-
1/Other	8	Project Area #2/Security Monitoring for Environmental	ProTech Security	Monitor testing site for #108043-MC	Project Area #2											20,171	-
1/Other	9	Project Area #2/Provost & Pritchard Testing	Provost & Pritchard	R Street Property Clean-up	Project Area #2											270	-
1/Other	10	Project Area #2/Provost & Pritchard Testing	Provost & Pritchard	EPA Merced Center Brownfield Assessment	Project Area #2											51,629	-
1/Other	11	Project Area #2/Merced Theatre Tax Credit Guarantee	Wells Fargo Bank, N.A. and PNC Bank	Federal Tax Credit Guarantee **	Project Area #2											78,434	-
1/Other	12	Project Area #2/Debt Service Funding Agreement	F & M Bank	Debt Service Funding Agreement	Project Area #2											4,882,402	-
1/Other	13	Project Area #2/Merced Theatre Renovation	Lewis C. Nelson General Contractors	Contractor for renovation project	Project Area #2											2,567,486	-
1/Other	14	Project Area #2/Merced Theatre Renovation	Reznick Group	Consulting for Audit and Cost Certification	Project Area #2											2,079,908	-
1/Other	15	Project Area #2/Merced Theatre Renovation	City of Merced	Engineering Services-Project Manager	Project Area #2											45,000	-
1/Other	16	Project Area #2/Merced Theatre Renovation	WMB Architects, Inc	Architectural and project management	Project Area #2											40,000	-
																125,008	-

Exhibit B

REVERSAL OF ASSET TRANSFERS – PROPERTIES TO BE CONVEYED BY THE CITY TO THE CITY OF MERCED DESIGNATED LOCAL AUTHORITY

Property	Address	APN
South Merced Lots	376 S. West Avenue	059-240-018
G Street Properties	2490 G Street	033-032-015
Santa Fe Properties	25 E Santa Fe	033-032-012
Parsons Residential	33 N. Parsons Ave	035-140-018
PD 14	823 W. 14th Street	031-213-012
	843 W. 14th Street	031-213-015
	849 W. 14th Street	031-213-016
	1011 W. 14th Street	031-203-019
		031-203-018

Exhibit C

LIST OF GOVERNMENTAL USE PROPERTIES

1. GOVERNMENTAL USE PROPERTIES TO BE RETAINED BY THE CITY:

APN	Address	Existing Use
030-204-010	2321 G Street	Sidewalk, landscaping, sloped grade for "G" Street Undercrossing
033-032-014	2498 G Street	Sidewalk, landscaping, sloped grade for "G" Street Undercrossing
033-032-013	25 E. Santa Fe	Right-of-way, sidewalk, landscaping for "G" Street Undercrossing, and realignment of Santa Fe Avenue
030-204-012	15 W. 23rd Street	Right-of-way (Lorenzo Lane)
058-110-058	2820 N. Highway 59 (formerly 2800 N. Highway 59)	Right-of-way, sidewalk, landscaping
058-110-057	2822 N. Highway 59 (formerly 2808/2810 N. Highway 59)	Right-of-way, sidewalk, landscaping
058-110-054	2830 N. Highway 59 (formerly 2824 N. Highway 59)	Right-of-way, sidewalk, landscaping
058-110-070	2852 N. Highway 59 (formerly 2872 N. Highway 59)	Right-of-way, sidewalk, landscaping
058-110-068	2900 N. Highway 59 (formerly 2874 N. Highway 59)	Right-of-way, sidewalk, landscaping
058-110-066	2902 N. Highway 59 (formerly 2906 N. Highway 59)	Right-of-way, sidewalk, landscaping
058-110-064 058-110-062 058-110-060	2910 N. Highway 59 (formerly 2922 N. Highway 59) 2920 N. Highway 59 (formerly 2940 N. Highway 59) 2930 N. Highway 59 (formerly 2960 N. Highway 59)	Right-of-way, sidewalk, landscaping

2. GOVERNMENTAL USE PROPERTIES TO BE RETAINED BY THE PARKING AUTHORITY:

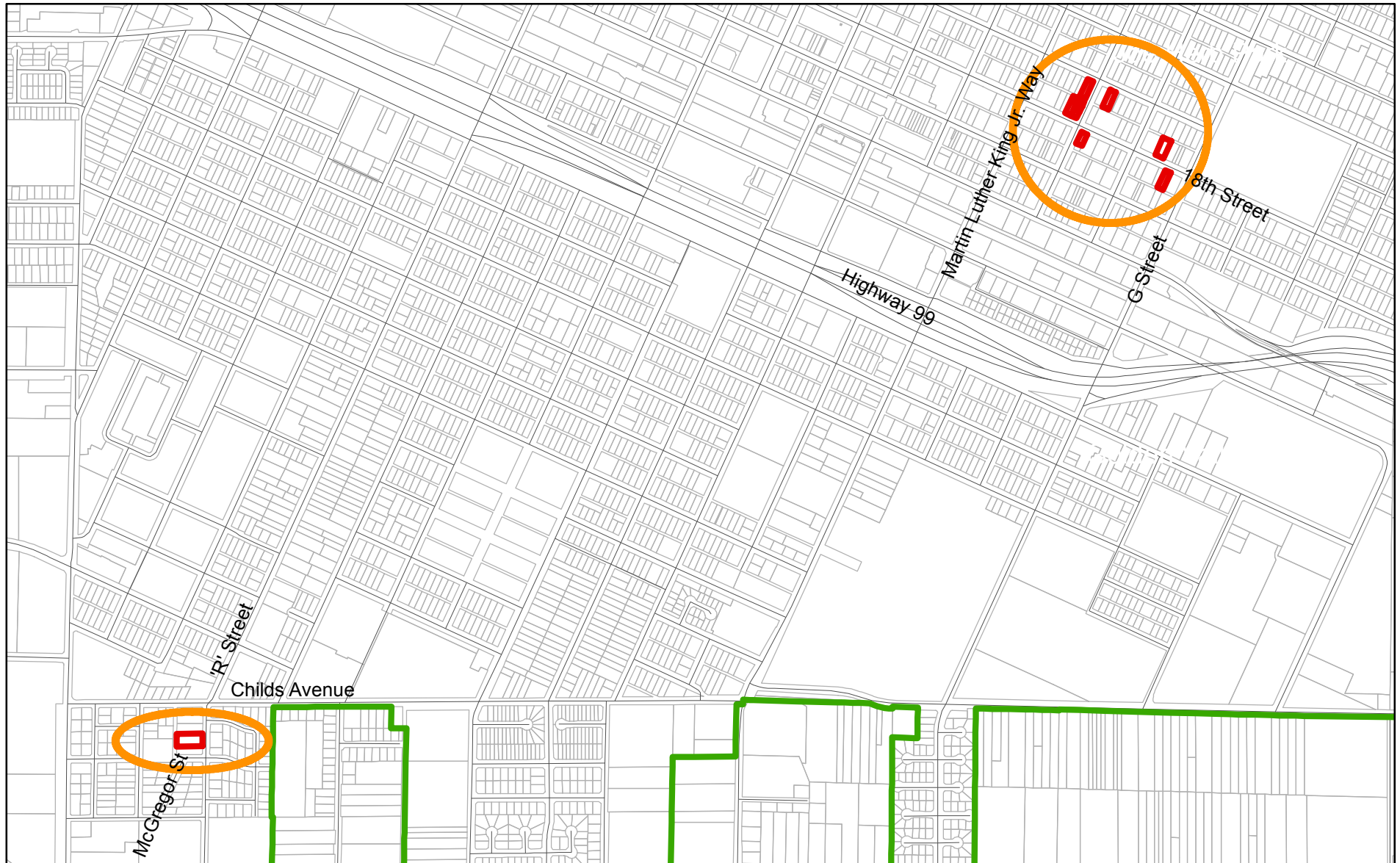
APN	Address	Existing Use
031-054-027 031-054-026	1801 M Street 606 W. 19th Street	Public Parking Structure

Exhibit D

LIST OF HOUSING ASSETS

APN	Address	Existing Use
031-161-001	1744 I Street	Vacant Land
031-074-010	1815 I Street	Vacant Land
031-074-009	1823 I Street	Vacant Land
031-082-002	150 W. 19th Street	Vacant Land
031-074-008	202 W. 19th Street	Vacant Land
031-074-011	205 W. 18th Street	Vacant Land
031-074-012	211 W. 18th Street	Vacant Land
031-084-011	49 W. 18th Street	Vacant Land
059-256-004	73 S. R Street	Vacant Land

Housing Assets - Vacant Properties



0 850 1,700 3,400 5,100 6,800 Feet





ADMINISTRATIVE REPORT

Agenda Item H.10.

Meeting Date: 11/5/2018

Report Prepared by: Joe Cardoso, PLS, City Surveyor, Engineering Division

SUBJECT: Award Bid and Approve an Agreement in the Amount of \$798,955 with Avison Construction, Inc., for City Project No. 111066 for the CML-5085(029) Congestion Mitigation and Air Quality Improvement Program Westerly Bike Path Connection

REPORT IN BRIEF

Considers awarding a bid and approving an Agreement in the amount of \$798,955 with Avison Construction, Inc. for the construction of a concrete bicycle path near the intersection of Highway 59 and Buena Vista Drive and the installation of a bicycle and pedestrian bridge over Black Rascal Creek.

RECOMMENDATION

City Council - Adopt a motion:

- A. Awarding a bid and approving an Agreement with Avison Construction, Inc. in the amount of \$798,955 for City Project No. 111066, the CML-5085(029) Congestion Mitigation and Air Quality (CMAQ) Westerly Bike Path Connection Project; and,
- B. Authorizing the City Manager or Assistant City Manager to execute the necessary documents; and to approve change orders not to exceed \$79,895.50 (10% of the project cost.)

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Reject all bids and direct Staff to rebid the project; or,
3. Continue to a future meeting (date and time to be specified in the motion).

AUTHORITY

Charter of the City of Merced, Article XI, Section 1109 - Contracts on Public Works, and Merced Municipal Code Chapter 3.04, Article IV - Public Works Contracts.

CITY COUNCIL PRIORITIES

As provided for in the 2018-19 Adopted Budget.

DISCUSSION

The work to be done will occur adjacent to Black Rascal Creek near the intersections of State Route Highway 59 and Buena Vista Drive. The work will consist, in general, of the removal of existing asphalt and concrete bike paths, the construction of a new concrete bike path, subgrade preparation,

clearing and grubbing, the installation of a new 90-foot truss bridge, railings, and signs; tree removal and planting of new trees.

Staff prepared construction plans and specifications, and the project was advertised for bids in Merced County Times. The bids were opened on September 25, 2018, with the following results:

1. Avison Construction, Inc. (Madera, CA)	\$ 798,955.00
2. Granite Construction (Fresno, CA)	\$ 977,235.00
3. Hobbs Construction (Fresno, CA)	\$ 1,013,400.00
4. George Reed, Inc. (Modesto, CA)	\$ 1,144,580.00
5. Sierra Communications (Catheys Valley, CA)	\$ 1,299,580.20
6. RNR Construction (Sacramento, CA)	\$ 1,139,965.00

The following is the proposed budget for the project:

Construction	\$ 798,955.00
Contingency	\$ 79,895.50
Engineering, Testing & Inspection	\$ 39,947.75
TOTAL:	\$ 918,798.25

In addition, the City of Merced recently accepted proposals for wetland scientist services for this project. Request for Proposals (RFP) were due October 5, 2018. Engineering staff is in the process of making a selection and drafting the agreement. The Agreement for Professional Services for wetland scientist services will be scheduled at a future City Council meeting for approval.

History and Past Actions

The City of Merced (City) received a grant from the CMAQ Program for preliminary engineering related to the construction of a Class I Bike Path along State Route 59 and the Bear Creek Corridor, bounded by Buena Vista Drive and 16th Street. As part of the preliminary engineering, the City hired an outside consultant to complete the environmental technical studies required by the California Department of Transportation (Caltrans).

In January 2012, the City entered into an agreement in the amount of \$21,177 with Quad Knopf, Inc., to prepare the environmental documents for the Bear Creek Bike Path Project. After the initial documents were completed and sent to Caltrans, the City received comments from Caltrans which required the documents to be revised and resubmitted. In addition to their comments, Caltrans also required additional documents, including a Water Quality Memorandum and a Noise Technical Memorandum, which were not part of Quad Knopf's original agreement.

In March 2013, Quad Knopf's agreement was amended for an additional \$4,800, to complete the revisions and prepare the additional documents. Again, the City received comments from Caltrans regarding the Natural Environmental Study (NES) which required the documents to be revised and resubmitted.

In March 2015, Quad Knopf's agreement was amended for a second time for an additional \$2,000 to complete the NES revisions.

On December 7, 2015, Council approved the Third Amendment to Professional Services Agreement with Quad Knopf, Inc., in the amount of \$27,054 for the preparation of environmental technical studies for future construction of a Class I Bike Path along State Route Highway 59. To avoid further environmental delays, the project scope was altered by adjusting the project boundaries. The revised boundary encompasses Buena Vista Drive to the existing concrete bike path behind Walmart. The revised project scope was presented to the Bicycle Advisory Commission at their October 27, 2015, meeting.

On March 19, 2018, the City Council approved a construction Agreement with BNSF Railway Company to allow the City to construct a bike path in their right-of-way.

On August 6, 2018, Council approved a California Department of Transportation Program Supplement for the use of \$996,000 in CMAQ Grant funding for construction engineering and project construction of the Westerly Bike Path Connection. The local match of \$129,000 is from Measure V - Alternative Modes.

IMPACT ON CITY RESOURCES

This project was established as a Capital Improvement Project funded by CMAQ (Fund 450 - Streets & Signals CIP Fund) and Fund 075 - Measure V Alternative Modes. Fund 075 contributes 11.47% and Fund 450 funds 88.53% of the total project cost. Accounts 450-1104-637.65-00 and 075-1145-637.65-00 -111066 contain sufficient funding to complete the project.

ATTACHMENTS

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



LOCATION MAP NOT TO SCALE



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

PROJECT NO. 111066
CMAQ - WESTERLY BIKE
PATH CONNECTION

DR. BY: KGE
DATE: 2/6/17
CH. BY: JS
DATE: 2/6/17
File No. 0914
SCALE: NONE

CITY OF MERCED
PROJECT NO. 111066
CMAQ WESTERLY BIKE PATH CONNECTION

Bid Opening 9/25/2018

				AVISON CONSTRUCTION MADERA, CA			GRANITE CONSTRUCTION FRESNO, CA			HOBBS CONSTRUCTION FRESNO, CA			RNR CONSTRUCTION SACRAMENTO, CA			GEORGE REED, INC. MODESTO, CA			SIERRA COMMUNICATIONS CATHEY'S VALLEY, CA		
NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL				
1	Permits, Bonds & Licenses	LS	1	\$ 35,000.00	\$ 35,000.00	\$ 5,000.00	\$ 5,000.00	\$ 75,000.00	\$ 75,000.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 20,000.00	\$ 20,000.00	\$ 38,000.00	\$ 38,000.00				
2	Public Convenience & Safety	LS	1	\$ 3,500.00	\$ 3,500.00	\$ 2,500.00	\$ 2,500.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 15,000.00	\$ 15,000.00	\$ 19,575.00	\$ 19,575.00	\$ 10,500.00	\$ 10,500.00				
3	Surveying Services	LS	1	\$ 9,500.00	\$ 9,500.00	\$ 9,500.00	\$ 9,500.00	\$ 10,000.00	\$ 10,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 15,480.00	\$ 15,480.00	\$ 15,000.00	\$ 15,000.00				
4	Monumentation	LS	1	\$ 5,000.00	\$ 5,000.00	\$ 1,000.00	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 28,000.00	\$ 28,000.00	\$ 17,000.00	\$ 17,000.00				
5	Water Pollution Control	LS	1	\$ 2,500.00	\$ 2,500.00	\$ 2,000.00	\$ 2,000.00	\$ 15,000.00	\$ 15,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 60,000.00	\$ 60,000.00	\$ 54,000.00	\$ 54,000.00				
6	Clearing and Grubbing	LS	1	\$ 20,000.00	\$ 20,000.00	\$ 10,000.00	\$ 10,000.00	\$ 31,000.00	\$ 31,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 50,000.00	\$ 50,000.00	\$ 11,500.00	\$ 11,500.00				
7	Remove Existing AC	SF	26,400	\$ 0.75	\$ 19,800.00	\$ 1.00	\$ 26,400.00	\$ 1.00	\$ 26,400.00	\$ 2.25	\$ 59,400.00	\$ 2.25	\$ 59,400.00	\$ 1.50	\$ 39,600.00	\$ 0.80	\$ 21,120.00				
8	Remove Existing Concrete Bike Path	SF	575	\$ 8.00	\$ 4,600.00	\$ 3.00	\$ 1,725.00	\$ 6.00	\$ 3,450.00	\$ 15.00	\$ 8,625.00	\$ 15.00	\$ 8,625.00	\$ 11.00	\$ 6,325.00	\$ 1.60	\$ 920.00				
9	Earthwork	LS	1	\$ 65,000.00	\$ 65,000.00	\$ 149,000.00	\$ 149,000.00	\$ 163,400.00	\$ 163,400.00	\$ 220,000.00	\$ 220,000.00	\$ 220,000.00	\$ 220,000.00	\$ 140,600.00	\$ 140,600.00	\$ 66,000.00	\$ 66,000.00				
10	Tree Removal	EA	6	\$ 2,300.00	\$ 13,800.00	\$ 1,000.00	\$ 6,000.00	\$ 1,250.00	\$ 7,500.00	\$ 5,000.00	\$ 30,000.00	\$ 5,000.00	\$ 30,000.00	\$ 2,000.00	\$ 12,000.00	\$ 2,400.00	\$ 14,400.00				
11	4" Class 1 Concrete Bikeway	SF	38,000	\$ 5.25	\$ 199,500.00	\$ 6.00	\$ 228,000.00	\$ 5.00	\$ 190,000.00	\$ 5.50	\$ 209,000.00	\$ 5.50	\$ 209,000.00	\$ 6.45	\$ 245,100.00	\$ 11.11	\$ 422,180.00				
12	8" Class 1 Concrete Bikeway	SF	480	\$ 9.00	\$ 4,320.00	\$ 12.00	\$ 5,760.00	\$ 10.00	\$ 4,800.00	\$ 25.00	\$ 12,000.00	\$ 25.00	\$ 12,000.00	\$ 12.00	\$ 5,760.00	\$ 19.79	\$ 9,499.20				
13	90-Foot Truss Bridge	LS	1	\$ 120,000.00	\$ 120,000.00	\$ 170,000.00	\$ 170,000.00	\$ 140,000.00	\$ 140,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 178,100.00	\$ 178,100.00	\$ 126,500.00	\$ 126,500.00				
14	Structural Concrete	CY	78	\$ 1,300.00	\$ 101,400.00	\$ 1,900.00	\$ 148,200.00	\$ 1,000.00	\$ 78,000.00	\$ 850.00	\$ 66,300.00	\$ 850.00	\$ 66,300.00	\$ 990.00	\$ 77,220.00	\$ 2,034.00	\$ 158,652.00				
15	12" Storm Drain	LF	36	\$ 240.00	\$ 8,640.00	\$ 200.00	\$ 7,200.00	\$ 100.00	\$ 3,600.00	\$ 250.00	\$ 9,000.00	\$ 250.00	\$ 9,000.00	\$ 285.00	\$ 10,260.00	\$ 130.00	\$ 4,680.00				
16	Flared End Section	EA	4	\$ 1,500.00	\$ 6,000.00	\$ 1,500.00	\$ 6,000.00	\$ 800.00	\$ 3,200.00	\$ 2,000.00	\$ 8,000.00	\$ 2,000.00	\$ 8,000.00	\$ 1,220.00	\$ 4,880.00	\$ 935.00	\$ 3,740.00				
17	Underdrain Pipe and Basins	EA	2	\$ 8,000.00	\$ 16,000.00	\$ 5,000.00	\$ 10,000.00	\$ 7,000.00	\$ 14,000.00	\$ 7,500.00	\$ 15,000.00	\$ 7,500.00	\$ 15,000.00	\$ 7,000.00	\$ 14,000.00	\$ 6,750.00	\$ 13,500.00				
18	Tubular Hand Railing	LF	32	\$ 100.00	\$ 3,200.00	\$ 300.00	\$ 9,600.00	\$ 150.00	\$ 4,800.00	\$ 250.00	\$ 8,000.00	\$ 250.00	\$ 8,000.00	\$ 125.00	\$ 4,000.00	\$ 350.00	\$ 11,200.00				
19	Subgrade Preparation	SF	39,500	\$ 0.75	\$ 29,625.00	\$ 1.00	\$ 39,500.00	\$ 2.00	\$ 79,000.00	\$ 0.80	\$ 31,600.00	\$ 0.80	\$ 31,600.00	\$ 0.70	\$ 27,650.00	\$ 0.65	\$ 25,675.00				
20	Aggregate Base Class 2	CY	722	\$ 85.00	\$ 61,370.00	\$ 75.00	\$ 54,150.00	\$ 125.00	\$ 90,250.00	\$ 70.00	\$ 50,540.00	\$ 70.00	\$ 50,540.00	\$ 115.00	\$ 83,030.00	\$ 124.00	\$ 89,528.00				
21	Hot Mix Asphalt	TN	12	\$ 750.00	\$ 9,000.00	\$ 200.00	\$ 2,400.00	\$ 500.00	\$ 6,000.00	\$ 2,000.00	\$ 24,000.00	\$ 2,000.00	\$ 24,000.00	\$ 1,500.00	\$ 18,000.00	\$ 445.00	\$ 5,340.00				
22	Furnish and Install R1 Traffic Sign	EA	2	\$ 300.00	\$ 600.00	\$ 275.00	\$ 550.00	\$ 500.00	\$ 1,000.00	\$ 500.00	\$ 1,000.00	\$ 500.00	\$ 1,000.00	\$ 280.00	\$ 560.00	\$ 600.00	\$ 1,200.00				
23	Furnish and Install R44A Traffic Sign	EA	2	\$ 300.00	\$ 600.00	\$ 275.00	\$ 550.00	\$ 500.00	\$ 1,000.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 280.00	\$ 560.00	\$ 600.00	\$ 1,200.00				
24	Project Identification Sign	EA	2	\$ 1,300.00	\$ 2,600.00	\$ 1,250.00	\$ 2,500.00	\$ 2,000.00	\$ 4,000.00	\$ 1,500.00	\$ 3,000.00	\$ 1,500.00	\$ 3,000.00	\$ 360.00	\$ 720.00	\$ 614.00	\$ 1,228.00				
25	Trees	EA	18	\$ 300.00	\$ 5,400.00	\$ 400.00	\$ 7,200.00	\$ 250.00	\$ 4,500.00	\$ 1,500.00	\$ 27,000.00	\$ 1,500.00	\$ 27,000.00	\$ 360.00	\$ 720.00	\$ 614.00	\$ 1,228.00				
26	Irrigation System	LS	1	\$ 5,000.00	\$ 5,000.00	\$ 4,000.00	\$ 4,000.00	\$ 3,500.00	\$ 3,500.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 16,800.00	\$ 16,800.00	\$ 11,494.00	\$ 11,494.00				
27	Restoration	LS	1	\$ 6,000.00	\$ 6,000.00	\$ 5,000.00	\$ 5,000.00	\$ 6,000.00	\$ 6,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 73,100.00	\$ 73,100.00				
				BASE BID \$ 757,955.00		\$ 913,735.00		\$ 970,900.00		\$ 1,079,965.00		\$ 1,106,580.00		\$ 1,239,180.20							
28	Trail Lights	EA	5	\$ 8,200.00	\$ 41,000.00	\$ 12,700.00	\$ 63,500.00	\$ 8,500.00	\$ 42,500.00	\$ 12,000.00	\$ 60,000.00	\$ 12,000.00	\$ 60,000.00	\$ 7,600.00	\$ 38,000.00	\$ 12,080.00	\$ 60,400.00				
				BASE BID + ADDITIVE ALTERNATE \$ 798,955.00		\$ 977,235.00		\$ 1,013,400.00		\$ 1,139,965.00		\$ 1,144,580.00		\$ 1,299,580.20							
								Adjusted Total													

GENERAL CONSTRUCTION CONTRACT

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

WITNESSETH:

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

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

- (1) This Contract;
- (2) Plans for PROJECT NO. 111066 CML-5085(029);
- (3) Special Provisions for PROJECT NO. 111066 CML-5085(029);
- (4) Notice to Contractors;
- (5) Proposal to the City of Merced;
- (6) Caltrans Standard Specifications, dated 2010;
- (7) Caltrans Standard Plans, dated 2010;
- (8) The latest revisions to the General Prevailing Wage Rates;
- (9) The Federal Wage Rates dated **September 7, 2018**; and,
- (10) Federal Requirements for Federal-Aid Construction Projects (FHWA-1273).

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

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

2. THE WORK. Said Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete in a good and workmanlike manner all work of improvement in accordance with Contract Documents as called for, and in the manner designated in, and in strict conformity with, the Project Plans for PROJECT NO. 111066 CML-5085(029), prepared by the City Engineer, and adopted by the Owner, which said Plans are entitled, "PROJECT NO. 111066 CML-5085(029) - CMAQ WESTERLY BIKE PATH CONNECTION," project plans for construction in Merced County in Merced, awarded _____.

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

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

BASE BID SCHEDULE:

ITEM NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1	Permits, Bonds, Licenses & Insurance	LS	1	\$ 35,000.00	\$ 35,000.00
2	Public Convenience and Safety	LS	1	\$ 3,500.00	\$ 3,500.00
3	Surveying Services	LS	1	\$ 9,500.00	\$ 9,500.00
4	Monumentation	LS	1	\$ 5,000.00	\$ 5,000.00
5	Water Pollution Control	LS	1	\$ 2,500.00	\$ 2,500.00
6	Clearing and Grubbing	LS	1	\$ 20,000.00	\$ 20,000.00
7	Remove Existing Asphalt	SF	26,400	\$ 0.75	\$ 19,800.00
8	Remove Existing Concrete	SF	575	\$ 8.00	\$ 4,600.00
9	Earthwork	LS	1	\$ 65,000.00	\$ 65,000.00
10	Tree Removal	EA	6	\$ 2,300.00	\$ 13,800.00
11	4" Class 1 Concrete Bikeway	SF	38,000	\$ 5.25	\$ 199,500.00
12	6" Class 1 Concrete Bikeway	SF	480	\$ 9.00	\$ 4,320.00
13	90-Foot Truss Bridge	LS	1	\$ 120,000.00	\$ 120,000.00
14	Structural Concrete	CY	78	\$ 1,300.00	\$ 101,400.00
15	12" Storm Drain	LF	36	\$ 240.00	\$ 8,640.00
16	Flared End Section	EA	4	\$ 1,500.00	\$ 6,000.00
17	Underdrain Pipe and Basin	EA	2	\$ 8,000.00	\$ 16,000.00
18	Tubular Hand Railing	LF	32	\$ 100.00	\$ 3,200.00
19	Subgrade Preparation	SF	39,500	\$ 0.75	\$ 29,625.00
20	Aggregate Base Class 2	CY	722	\$ 85.00	\$ 61,370.00
21	Hot Mix Asphalt	TN	12	\$ 750.00	\$ 9,000.00
22	Furnish and Install R1 Traffic Sign	EA	2	\$ 300.00	\$ 600.00
23	Furnish and Install R44A Traffic Sign	EA	2	\$ 300.00	\$ 600.00
24	Project Identification Sign	EA	2	\$ 1,300.00	\$ 2,600.00
25	Trees	EA	18	\$ 300.00	\$ 5,400.00
26	IrrigationL System	LS	1	\$ 5,000.00	\$ 5,000.00
27	Restoration	LS	1	\$ 6,000.00	\$ 6,000.00

TOTAL BASE BID SCHEDULE - ITEMS 1 THROUGH 27 \$ 757,955.00

BID ALTERNATE NO. 1:

ITEM NO.	ITEM	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1	Trail Lights	EA	5	\$ 8,200.00	\$ 41,000.00

TOTAL BID ALTERNATE NO. 1 \$ 41,000.00

TOTAL BASE BID AND ALTERNATE NO. 1 \$ 798,955.00

450. TERMINATION. If the Contractor should be adjudged as bankrupt or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his subcontractors should violate any of the provisions of the Contract Documents, the Owner may serve written notice upon him and his surety of its intention to terminate the Contract; such notice to contain the reasons for such intention to terminate the Contract, and, unless within ten (10) days after serving of such notice such violation shall cease and satisfactory arrangements for correction thereof be made, the Contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided however, that if the surety within fifteen (15) days after the serving upon it of notice of termination does not give the Owner written notice of its intention to take over and perform the Contract or does not commence performance thereof within thirty (30) days from the date of the serving of such notice, the Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant, and other property belonging to the Contractor as may be on the site of the work and necessary therefore.

450. NOTICE AND SERVICE THEREOF. Any notice from one party to the other under the Contract shall be in writing and shall be dated and signed by the party giving such notice, or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in the following manner; namely, (a) if the notice is given to the Owner, per personal delivery thereof to the Director of Public Works of said Owner, or by depositing the same in the United States mails enclosed in a sealed envelope. Addressed to the Owner, postage prepaid and registered; (b) if the notice is given to the Contractor, by personal delivery thereof to said Contractor or to his duly authorized representative at the site of the project, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to said Contractor at 40434 Brickyard Drive, Madera, CA 93636, postage prepaid and registered; and (c) if the notice is given to the surety or any other person, by personal delivery to such surety or other person, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to such surety or person, as the case may be, at the address of such surety or person last communicated by him to the party giving the notice, postage prepaid and registered.

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

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

8. INSURANCE. The Contractor shall not commence work under this Contract until he has obtained all insurance required and such insurance has been approved by the City Attorney of Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance

required of the subcontractor has been so obtained and approved. Contractor shall furnish the Owner with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract, and particularly paragraph 9 hereof. Said insurance obtained by the Contractor shall be primary and noncontributory as to any insurance maintained by owner. **Endorsement for additional insured shall be submitted on standard form CG 20101185. Endorsement forms CG 20101001 and CG 20371001, when used together, are acceptable in lieu of CG 20101185 for Public Works projects.** Any policy of insurance required of the Contractor under this Contract shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to the Owner of any pending change in the limits of liability or of any cancellation or modification of the policy.

The Contractor shall furnish the City a policy or certificate of liability insurance in which the City is the named insured or is named as an additional insured with the Contractor. Notwithstanding any inconsistent statement in the policy or any subsequent endorsement attached thereto, the City shall be the insured or named as an additional insured covering the work, whether liability is attributable to the Contractor or the City. The policy shall insure the City, its officers, employees and agents while acting within the scope of their duties on the work, against all claims arising out of or in connection with the work.

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

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

Property Damage...	\$250,000.00	each occurrence
\$500,000.00		aggregate

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

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

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

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

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

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

CANCELLATION CLAUSE

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

9. **HOLD HARMLESS.** The contractor will indemnify, defend with counsel selected by the Owner, save, keep, and hold harmless, the Owner and all officers, employees, and agents thereof from all damages, costs, or expenses, in law or in equity, that may at any time arise or be set up because of personal injury or damage to property sustained by any person or persons by reason of, or in the course of the performance of said work, or by reason of any infringement or alleged infringement of the patent rights of any person or persons, firm or corporation, in consequence of the use in, on, or about said work, of any article or material supplied or installed under this Contract. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Notwithstanding the above, the Contractor shall, wherever it is necessary, keep and maintain at his sole cost and expense during the course of his operations under this Contract such warnings, signs, and barriers as may be required to protect the public. The provisions of the preceding sentence shall not impose any liability upon the Owner and are for the express benefit of the general public.

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

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

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

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

450. PAYMENT. The Owner will make partial and final payment to the Contractor except that the Owner will retain the five percent (5%) of the final payment amount until the expiration of

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

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

Each month, the Contractor will submit its own invoice for work performed to the closure date and the Engineer will make an approximate measurement of the work performed to the closure date and as a basis for making monthly payments, estimate its value based on the contract unit prices or as the Engineer deems appropriate. The owner will endeavor to, not later than twenty (20) working days after receipt of the Contractor's invoice, make partial payment to the Contractor, based on work performed and material incorporated in the project as of the closure date of the particular calendar month, providing that the Contractor's invoice for the work performed agrees with the Engineer's determination. If the Engineer's determination differs from the Contractor's invoice, the Owner will make payment to the Contractor for those items or portions of items not in dispute not later than payment would have been made had no dispute occurred. Within ten (10) calendar days after agreement on disputed work is achieved between the Owner and the Contractor, the Owner shall pay the Contractor for any additional monies due as a result of settling any dispute. When the work has been satisfactorily completes, the Engineer will determine the quantity of work performed and prepare the final estimate.

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

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

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

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

FEDERAL REQUIREMENTS FOR FEDERAL-AID CONSTRUCTION PROJECTS

DLA-OB 12-05 - Attachment 1 - LAPM Exhibit 12-E, Attachment B 1

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- . General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.
9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of

race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid

(including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors..

Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.⁶

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in

excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:9

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:
 - a. To the extent that qualified persons regularly residing in the area are not available.
 - b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
 - c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.
2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.
3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Female and Minority Goals

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000.

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

Minority Utilization Goals		
Economic Area		Goal (Percent)
174	Redding CA: Non-SMSA Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA:	
	SMSA Counties:	
	7120 Salinas-Seaside-Monterey, CA	28.9
	CA Monterey	
	7360 San Francisco-Oakland	25.6
	CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	
	7400 San Jose, CA	
	CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA	
	CA Santa Cruz	14.9
177	7500 Santa Rosa	
	CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA	
	CA Napa; CA Solano	17.1
	Non-SMSA Counties:	
	CA Lake; CA Mendocino; CA San Benito	23.2
178	Sacramento, CA:	
	SMSA Counties:	
	6920 Sacramento, CA	16.1
	CA Placer; CA Sacramento; CA Yolo	
	Non-SMSA Counties	14.3
179	CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	
	Stockton-Modesto, CA:	
	SMSA Counties:	
	5170 Modesto, CA	12.3
	CA Stanislaus	
	8120 Stockton, CA	24.3
179	CA San Joaquin	
	Non-SMSA Counties	19.8
	CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Toulumne	
	Fresno-Bakersfield, CA	
	SMSA Counties:	
179	0680 Bakersfield, CA	19.1
	CA Kern	
	2840 Fresno, CA	26.1
	CA Fresno	
Non-SMSA Counties:		23.6
CA Kings; CA Madera; CA Tulare		

180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange 4480 Los Angeles-Long Beach, CA CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA CA Ventura 6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	11.9 28.3 21.5 19.0 19.7 24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego Non-SMSA Counties CA Imperial	 16.9 18.2

For each July during which work is performed under the contract, you and each non-material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

TRAINING

For the Federal training program, the number of trainees or apprentices is ____-0-____.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the City of Merced:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the City of Merced's approval for this submitted information before you start work. The City of Merced credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the

extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.

Do not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.

In your training program, establish the minimum length and training type for each classification. The City of Merced and FHWA approves a program if one of the following is met:

1. It is calculated to:
 - Meet the your equal employment opportunity responsibilities
 - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

Obtain the State's approval for your training program before you start work involving the classification covered by the program.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City of Merced reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:
 - Contribute to the cost of the training
 - Provide the instruction to the apprentice or trainee
 - Pay the apprentice's or trainee's wages during the off-site training period
3. If you comply this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training
2. Certification showing the type and length of training satisfactorily completed

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

ATTEST:

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

By: _____
Deputy City Clerk

By: _____
City Manager

APPROVED AS TO FORM:

AVISON CONSTRUCTION, INC.
(Here in called Contractor)

By: _____
City Attorney

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

ACCOUNT DATA:

111066 –CMAQ – CML – 5085(029)

Contract No. _____

Project Account No./Amount:

450-1104-637.65-00- 111066 \$ 798,955.00

LICENSE NO. **823535**

TAXPAYER I.D. NO. _____

VENDOR NO. _____

ADDRESS: 40434 Brickyard Drive

MADERA, CA 93636

PHONE: (559) 431-0317

FAX: (559) 431-0321

EMAIL: cshort@avisoninc.com

By: _____
Finance Officer Verification

(SEAL)



ADMINISTRATIVE REPORT

Agenda Item H.11.

Meeting Date: 11/5/2018

Report Prepared by: Marvin Dillsaver, Communications Supervisor, Police Department

SUBJECT: Acceptance of Grant Funding in the Amount of \$346,000 from the California Office of Emergency Services (CAL OES) and \$105,000 in Geographic Information Systems (GIS) from the State of California for Upgrades to the City's 911 and GIS Systems

REPORT IN BRIEF

The City was recently awarded grant funds to upgrade its 911 and GIS systems. The Police Department will be using these funds to perform upgrades within the Public Safety Emergency Communications Center. These are direct funding grants, meaning that the grant funds will be held by CAL OES and the State and that all purchases will be directly funded by these agencies through a state purchasing program.

RECOMMENDATION

City Council - Adopt a motion:

- A. Accepting the California Office of Emergency Services grant funding in the amount of \$346,000.00 for 911 systems and \$105,000.00 from the State of California for GIS systems; and,
- B. Approving the purchase and acceptance of items to upgrade the 911 and GIS systems through the state purchasing program.

AUTHORITY

City of Merced Charter Section 200.

CITY COUNCIL PRIORITIES

Enhancement of public safety and public emergency communication systems.

DISCUSSION

The State of California, E911 Branch is a mechanism that allows agencies to ensure high quality and best value for the procurement and maintenance of 911-customer premise equipment (CPE) on a five-year replacement cycle. The CPE allotment is determined per agency based on the agencies 911 and emergency call volume per agency.

The main funding obligation of the CA E911 division is for the delivery of 911 calls to the 911-call taker. The allotment is primarily designed to provide adequate funding for the replacement of all 911-phone equipment needed to achieve this goal.

The CA E911 branch provides to Public Safety Answering Points (PSAP's) the ability to obtain equipment from any vendor; however, the reimbursable costs cannot exceed those that have been approved by the CA E911 branch. The goal is to enable each Public Safety Answering Point (PSAP) to provide the fastest, most reliable, and cost-effective access to emergency service for any 911 caller within California. There are two ways to purchase; the first is through direct funding through the State of California E911 branch, where all bills are sent directly to the state for payment. The second would be through replacement funds where the City of Merced would purchase first, then pay and send completed paperwork to the state for reimbursement. Either way requires prior authorization from the State of California E911 board to spend any funding.

The Merced Police Department has been awarded \$346,000 in E911 funding and an additional \$105,000 in Geographic Information System (GIS) funding. The purpose of this funding is to solely provide PSAP's the necessary funding to provide upgrades, equipment purchases and services necessary to support the PSAP.

Through this funding, the Police Department will be using the E911 direct funding process to procure all equipment and software necessary to upgrade our existing phone, voice, and radio recorder. There will be no impact on the current budget, as purchases will be made through a direct funding process with the State.

The primary purchase will be a phone system upgrade. The upgrade will consist of all new PC computers and new servers to support the Emergency Communications Center. The phone system that is being purchased has redundant servers in an effort to keep the system up and running at all times. The phone system will also be purchased with onsite maintenance support. With the addition of this new technology, the City of Merced will also be able to implement text to 911 capability.

The existing voice and radio recorder has also surpassed its life span, and the technology has continued to move forward. The new recorder will have the ability to store and purge all audio recordings based on the current city adopted retention schedule. The new recorder will also have the ability to store all data on a network drive which can be backed up and restored if there was some type of hard drive failure on the recorder.

All funding necessary for these purchases plus the maintenance for the next five years will be funded through the State of California E911 funds. There will be no city funds used for this purchase

IMPACT ON CITY RESOURCES

No appropriation of funds is needed - Purchases will be direct billed to the State of California.

ATTACHMENTS

1. State of California Customer Premise Equipment Allotment Funding Letter
2. State of California GIS Funding Allotment Increase Letter



January 29, 2018

Tracking Number: 21215

Marvin Dillsaver
Merced Police Department
611 W. 22nd St.
Merced, CA 95340

Subject: Customer Premise Equipment (CPE) Fixed Allotment Funding

Dear Mr. Dillsaver:

The California 9-1-1 Emergency Communications Branch (CA 9-1-1 Branch) has received your January 26, 2018 Advance Notification for CPE Funding letter of intent to replace the 9-1-1 telephone system at your Public Safety Answering Point (PSAP). Acceptance of CPE Allotment funds from the CA 9-1-1 Branch commits your agency to PSAP operations 24 hours-a-day, seven days-a-week, for a minimum of five years. If PSAP operations are not maintained at that level, the Merced Police Department may become financially responsible for all subsequent CPE maintenance and 9-1-1 network service charges. Our evaluation of recent 9-1-1 emergency call volume qualifies the Merced Police Department for a Fixed Allotment in the amount of \$346,000.00. The Fixed Allotment funding will expire June 30, 2019 if your CPE approval process has not been initiated. Years six (6) and seven (7) of extended maintenance will not be deducted from your Fixed Allotment. Extended maintenance cost in year eight (8) and beyond is the PSAPs responsibility.

The CA 9-1-1 Branch has implemented a non-mandatory Master Purchase Agreement (MPA) that enables participating vendors to invoice the CA 9-1-1 Branch directly for the purchase of 9-1-1 systems and services. User instructions for the MPA are available at:

<http://www.caloes.ca.gov/for-governments-tribal/public-safety/ca-9-1-1-emergency-communications-branch/ca-9-1-1-services-contracts>

Please contact me directly with any questions at yvonne.winn@caloes.ca.gov or (916) 657-9460.

Sincerely,

YVONNE WINN, 9-1-1 Advisor
California 9-1-1 Emergency Communications Branch

cc: Norm Andrade



Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

January 22, 2018

Tracking Number: 15112

Marvin Dillsaver, Communications Manager
Merced Police Department
611 W. 22nd St
Merced, CA 95340
Subject: Geographic Information System (GIS) Funding Allotment Increase

Dear Mr. Dillsaver:

This letter will serve as notification of an increase to your funding allotment for a geographic information system (GIS). In 2011, our office indicated that you may be eligible for a maximum of \$60,000.00. Based on an updated analysis of your call volume and your commitment to answer wireless E9-1-1 calls directly within one year as shown by the Wireless E9-1-1 Implementation Plan, the Merced police Department may be eligible for a maximum of \$105,000.00. The Wireless E9-1-1 Plan can be located on the State website at:

<http://www.calema.ca.gov/PSC/Pages/Services/911/we911.aspx>.

In future correspondence, and communication related to this request, please refer to the assigned funding request tracking number 15112.

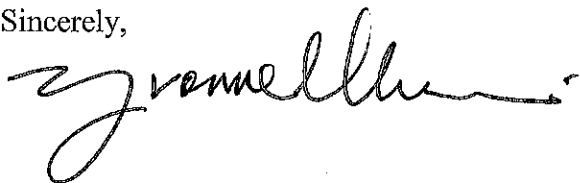
GIS funding is a one-time allotment that may be used in current and future years toward the purchase of a GIS. GIS funding may be used for software, hardware and services necessary to provide the 9-1-1 call-taker with GIS mapping for the display of wireless Phase II latitude and longitude of the person that has dialed 9-1-1. Should your agency later decide not to answer wireless E9-1-1 calls, any GIS funding provided by the California 9-1-1 Emergency Communications Branch may be deducted from your annual 9-1-1 customer premises equipment allotment.

To obtain final approval, your agency must submit a GIS Plan identifying the scope (task and/or item elements with a description of how the mapping requirement will be met), schedule and resources (itemization of proposed costs). For step-by-step instructions on the funding processes for GIS, please refer to the 9-1-1 Manual, Chapter III, Funding. The entire 9-1-1 Manual can be found on the State website at:

<http://www.calema.ca.gov/PSC/Pages/Publications/911-Operations-Manual.aspx>

If you have any questions or need guidance through this process, please do not hesitate to email me at yvonne.winn@caloes.ca.gov or contact me by email at (916) 657-9470.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yvonne Winn', with a stylized, flowing script.

YVONNE WINN, 9-1-1 Consultant
California 9-1-1 Emergency Communications Branch

cc: Tonya Mora, Finance – Merced Police Department



ADMINISTRATIVE REPORT

Agenda Item H.12.

Meeting Date: 11/5/2018

Report Prepared by: Lance Eber, Crime Analyst, Police

SUBJECT: Acceptance of Department of Justice 2018 Bulletproof Vest Partnership Grant in the Amount of \$10,487.00 to Cover 50% of the Purchase Cost of New Vests

REPORT IN BRIEF

Accept grant award for reimbursement of bulletproof vest expenses.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving a supplemental appropriation in the amount of \$10,487 in grant funds to account 061-1026-522.29-00 for 50% of the costs associated with the purchase of bulletproof vests; and,
- B. Accepting and increasing the revenue budget in the amount of \$10,487 in account 061-1026-324.37-00 for the grant award amount; and,
- C. Authorizing the use of pooled cash to cover the appropriation until grant funds are reimbursed.

ALTERNATIVES

- 1. Approve, as recommended by Staff; or,
- 2. Deny; or,
- 3. Refer back to Staff for recommendation 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 2018-19 Adopted Budget.

DISCUSSION

In March 2018, the U.S. Department of Justice, Bureau of Justice Assistance (BJA) announced that the Fiscal Year 2018 Bulletproof Vest Partnership (BVP) Program application period was open. The BVP covers 50% of the costs of purchasing new bulletproof vests for the officers. The City of Merced Police Department (MPD) submitted an application.

The BJA notified the MPD via email on Wednesday, October 3rd that our application for grant funding was approved. There are no agreements/contracts that need to be signed. Grant funds are added to the remaining balance available in our account at BJA from previous years' grant balances. The MPD budget accounts for regular replacement of vests as part of its annual budget and will absorb the upfront cost 100%. This is a reimbursement program, so funds will be expended up front and reimbursement requests are submitted by the MPD to BJA as expenses are incurred throughout the grant period. Staff estimate that approximately 25 vests will be purchased as a result of this award

The MPD has received funding from BJA for the BVP program for many consecutive years. City Council has approved accepting the grant funding each of those years.

IMPACT ON CITY RESOURCES

Each vest carries an upfront cost of approximately \$840 (depending on model). The BVP Grant will reimburse the City 50% for each vest purchased.

ATTACHMENTS

1. Award Notice



ADMINISTRATIVE REPORT

Agenda Item H.13.

Meeting Date: 11/5/2018

Report Prepared by: Marvin Dillsaver, Communications Supervisor, Police Department

SUBJECT: Authorization to Accept Grant Funding in the Amount of \$14,162 from the Merced County Remote Access Network Board (RAN) as Reimbursement Funding for the Purchase of a New Message Switch for Access to the California Law Enforcement Telecommunications System (CLETS)

REPORT IN BRIEF

Considers authorizing the acceptance of \$14,162 in Remote Access Network (RAN) funding from the Merced County RAN Board for the purchase of a new message switch for the City's use of the CLETS System by using pooled cash which will be reimbursed upon presentation of proof of purchase to the RAN Governing Board.

RECOMMENDATION

City Council - Adopt a motion:

- A. Authorizing the acceptance of \$14,162 of grant funding from the Merced County RAN Board for the purchase of a CLETS message switch for the City's police computer system. Increase Revenue in account 001-1002-324-02-00 by \$14,162.00 and appropriate the same to expenditures account 001-1002-523-43-00; and,
- B. Authorizing the use of pooled cash for the purchase of the message switch until the City receives reimbursement funds; and,
- C. Authorizing the City Manager or Assistant City Manager to execute all necessary documents.

ALTERNATIVES

- 1. Approve, as recommended by Staff; or,
- 2. Deny; or,
- 3. Refer back to staff for recommendation of specific items

AUTHORITY

City of Merced Charter Section 200.

CITY COUNCIL PRIORITIES

As provided for in the 2018-19 Adopted Budget.

DISCUSSION

The State of California Department of Justice operates the California Identification System (CAL-ID), which is an automated system that retains finger print files and other related law enforcement information and databases. The Remote Access Network (RAN) is a uniform statewide network of equipment and procedures, which allows local law enforcement agencies direct access to the CAL-ID system. To assist with the funding for this system, the State established a county level fee that is assessed as part of state vehicle registration fees.

To oversee and distribute the funding received by RAN, a seven member RAN Board was established pursuant to California Penal Code section 11112.4, subdivision (b). Pursuant to that section, membership in the Board consists of the following people or positions: a member of the County Board of Supervisors, the Merced County Sheriff, the Merced County District Attorney, the Merced Police Chief, one other Police Chief who is selected by the Police Chiefs in Merced County, a member-at-large and a Mayor from a city within the county.

As part of their fiscal year 2018-2019 budget, the RAN Board approved \$14,162 in funding to the City of Merced for the purchase of a new message switch so that the Police Department can receive CLETS information from the California Department of Justice (DOJ). This award is reflected in the Minutes from the Merced County RAN Board meeting of May 15, 2018. This is reimbursable grant funding. Accordingly, to receive the offered grant funding, the City must first purchase the switch and then provide proof of payment to the RAN Board for reimbursement.

The Police Department is seeking to upgrade its existing CLETS message switch as it has exceeded its useful life span. This grant funding will allow the department to replace the existing CLETS switch with a more technologically advanced message switch. The purchase of this equipment includes installation services. The new message switch will assist the Police Department with obtaining valuable and confidential CLETS information from the DOJ.

IMPACT ON CITY RESOURCES

Increase \$14,162 in revenue account 001-1002-324-02-00 and an appropriation of the same amount to expense account 001-1002-523-43-00 is needed for the purchase and replacement of the message switch. The City will be reimbursed for the cost of the equipment upon submission of proof of payment to the RAN Board.

ATTACHMENTS

1. RAN Minutes



MERCED COUNTY REMOTE ACCESS NETWORK BOARD

Members

Ruben Chavez, Chairperson
Vern Warnke, Vice Chairperson
Larry D. Morse
Chris Goodwin
Mike Villalta
Daron McDaniel
Gary Brizzee

MEETING MINUTES

Tuesday, May 15, 2018-10:00 a.m.

Merced County District Attorney Office
550 W. Main Street, Merced, California

The regular meeting of the RAN Board was called to order by Chairperson Ruben Chavez at 10:06 am.

RAN Board members present:

Chief Ruben Chavez	Livingston Police Department
Captain Greg Sullivan	Merced County Sheriff's Office Designee
Chief Bill Olson	Merced District Attorney's Office Designee
Acting Chief Chris Goodwin	Merced Police Department
Mike Villalta	Los Banos Mayor
Chief Gary Brizzee	Los Banos Police Department

RAN Board members not in attendance or represented:

Daron McDaniel	Merced County Board of Supervisors
----------------	------------------------------------

Other Attendees:

Mary Rose Rutikanga	Merced County Sheriff's Office
Chief Rich McEachin	Dos Palos Police Department

Public Comment – None

Approval of Minutes – Motion by Chief Olson, Seconded by Acting Chief Goodwin, passed unanimously

Budget Discussion – A summary of the budget was provided as to item 18-1 encompassing all approved items. Captain Sullivan outlined the County Budget approval process. All agencies were reminded that if any Project Funding Requests are needed which meet the RAN Funding guidelines, please submit. Any items under \$5,000 do not need to go to the County Board, however items over that amount are required to be approved by the County Board of Supervisors. Items 18-1, also referred to as the "County RAN Board Budget" was approved unanimously by the board. On further discussion, Chief Brizzee inquired whether RAN resources were available to cover the annual agency costs for the CLETS switch. It was discussed that it was a possibility for

future requests, however at this juncture, all agencies had already included these costs in their annual budgets and the RAN Board will entertain this item in the future.

The following projects are voted as follows:

17-4	Livingston Police	CLETS Server	\$5595.53	Approved (1 abstention)
17-5	Livingston Police	SRO Mobile Computer	\$4158.45	Approved (1 abstention)
17-6	Merced DA	ID Fingerprint Hood	\$5,568.95	Approved (1 abstention)
18-1	Merced SO	Cal-ID Budget	\$680,944.00	Approved
18-2	Merced SO	Mobile Computers	\$151,247	Approved (1 abstention)
18-3	Los Banos PD	FT CSO	\$65,500	Approved
18-4	Merced PD	CLETS Switch	\$14,162.00	Approved
18-5	County Wide	Broadband	\$130,000.00	Approved
18-6	Livingston PD	mobile Computers	\$19,625.00	Approved

Recent Budget Audit: – Captain Sullivan provided a summary of the recent State Audit that was conducted at the Sheriff’s Office on several trust funds including the RAN Fund. Many questions were asked and answered and as a result, a report was produced that addressed these funds statewide, refer to the State Auditors website under report 2017-126. Captain Sullivan discussed a DNA fund which primarily supports agencies with Crime Labs, which Merced County does not have.

Mary Rose provided some future possible options where funding could be amended by the County Board with an MOU in place for all agencies to utilize the resources for projects related to DNA. Mary Rose discussed that many of the penalty assessments have been reduced and is having an impact to the county budget. The DNA budget has over 1 million and is seldom used due to the fact the county lacks a Crime Lab. Mayor Villalta proposed possible options of using the fund somehow to the benefit of each agency for mobile crime labs of sort. The possible funding of projects such as crime vans for each agency will be discussed at a future meeting, however at this time, much work is being done to determine if this is an option.

Captain Sullivan briefly discussed the status of Mobile ID and the technology issues that Merced is currently experiencing. The Cal ID funding of fingerprints kits is an authorized expenditure from the RAN board as are the administrative costs for the County related to supportive roles of the RAN goals. Mary Rose concluded by saying she is looking at modifying the Resolution and changing the MOU to include the DNA fund for usage.

Next Meeting – Tuesday, September 25, 2018.

The meeting concluded at 10:40 am



ADMINISTRATIVE REPORT

Agenda Item H.14.

Meeting Date: 11/5/2018

SUBJECT: Second Reading and Adoption of Ordinance 2496 to Amend Chapter 15.36 "Rates and Charges" for Water Service

REPORT IN BRIEF

Adoption of previously introduced Ordinance to Amend Chapter 15.36 of the Merced Municipal Code "Rates and Charges".

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2496**, an Ordinance of the City Council of the City of Merced, California, amending various sections of Chapter 15.36, "Rates and Charges," of the Merced Municipal Code dealing with water service.

ALTERNATIVES

1. Approve the changes in the water rates and Capital Facility Charges and amend the ordinance as recommended; or,
2. Deny the changes to the water rates and Capital Facility Charges; or,
3. Refer to staff for reconsideration of specific items; or,
4. Continue action to a future City Council meeting, specify date.

AUTHORITY

Article II, Section 200 and Article IV, Section 405 of the Charter of the City of Merced, and Article XIII D of the California State Constitution in accordance with Title 15 of the Merced Municipal Code.

CITY COUNCIL PRIORITIES

As provided for in the 2018-19 Adopted Budget.

DISCUSSION

The City last revised its water service charges in 2012 with no increases through the year 2017. On January 1, 2018, the base water service charge was adjusted based on a formula set forth in Merced Municipal Code (MMC) Section 15.36.045.

On December 18, 2017, the City entered into an Agreement for Professional Services with Stantec Consulting Services, Inc, for the completion of a Water Rate Study. The study was completed and a report of the water rate study was drafted with assistance of staff and input from members of the City Council's Utility Rate Review Committee, which included City Councilmembers Matthew Serratto,

Joshua Pedrozo, and Jill McLeod. On August 20, 2018, the City Council unanimously accepted the Draft Water Rate & Capital Facility Charge Study and directed staff to proceed with issuing the Proposition 218 notification process.

The 218 Notice of Public Hearing on the Proposed Water Rate Adjustment was mailed to all water customers and was delivered by August 31, 2018. Notice of the Public Hearing was also published in the Merced County Times on October 4, 2018. The Public Hearing was held on October 15, 2018.

The proposed rate structure was designed to:

- Fairly and equitably recover costs through rates;
- Conform to accepted industry practice and legal requirements;
- Provide fiscal stability and recovery of fixed costs of the system; and,
- Promote affordability for customers that try to minimize water usage.

The overall changes proposed result in a net increase of 2% per year beginning January 1st, then every July 1st thru 2021, to coincide with our Fiscal Year start date.

The new water rates and Capital Facility charges are reflected in the proposed amendment to Chapter 15.36 "Rates and Charges."

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Ordinance 2496

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING VARIOUS SECTIONS IN CHAPTER
15.36, "RATES AND CHARGES," OF THE
MERCED MUNICIPAL CODE DEALING WITH
WATER SERVICE**

WHEREAS, the Council finds that adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of: meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials; meeting financial reserve needs and requirements; and obtaining funds for capital projects, necessary to maintain service within existing service areas. California Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273(a).

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. AMENDMENT TO CODE. Sections 15.36.045, "Formula—Base Water Service Charge, 15.36.050, "Residential, Industrial, and Commercial Metered Service – Schedule," 15.36.070, "Flat Rate – Residence and Church," 15.36.080, "Reserved," 15.36.090, "Flat Rate – Hydrants and Fire Protection Service," and 15.36.160, "Connection – Major Water Facilities," of the Merced Municipal Code are hereby amended to read as follows:

"15.36.045 Formula—Base Water Service Charge.

Unless otherwise indicated, starting July 1, 2022, all base water service rates and charges in this Chapter shall be adjusted annually by an amount equal to the percent change in the All Urban Consumers Index, U.S. City Average (USCA), as supplied by the Bureau of Labor

Statistics, unless or until such time new rates are set by the City Council. The amount of such base water charge shall be computed as follows:

		Current Consumer Year		
Monthly Water Rate	=	<u>Price Index</u> (USCA) Ending Scheduled Year CPI (USCA	x	Base Charge

**15.36.050 Residential, Industrial, and Commercial
Metered Service – Schedule.**

The base rate for metered water service per one hundred cubic feet or fraction thereof is as follows:

Base Rate	January 2019	July 2019	July 2020	July 2021
Charge per HCF	\$0.73	\$0.74	\$0.75	\$0.77

A minimum base monthly fee will be charged as follows:

Minimum Base Monthly Fee					
Meter Size	Water Use Included (hcf)	January 2019	July 2019	July 2020	July 2021
3/4-inch or smaller	20	\$30.39	\$31.00	\$31.62	\$32.25
1-inch meter	20	\$30.39	\$31.00	\$31.62	\$32.25
1-1/2 inch meter	40	\$60.32	\$61.53	\$62.76	\$64.02
2-inch meter	64	\$96.24	\$98.16	\$100.12	\$102.12
3-inch meter	128	\$192.01	\$195.85	\$199.77	\$203.77
4-inch meter	200	\$299.76	\$305.76	\$311.88	\$318.12

6-inch meter	400	\$599.06	\$611.04	\$623.26	\$635.73
8-inch meter	640	\$958.22	\$977.38	\$996.93	\$1,016.87
10-inch meter	960	\$1,437.10	\$1,465.84	\$1,495.16	\$1,525.06
12-inch meter	1350	\$2,020.74	\$2,061.15	\$2,102.37	\$2,144.42

In addition, for each reduced pressure backflow preventer served from the same service connection, a base monthly fee for annual testing and inspection shall be paid as follows:

Base Rate	January 2019	July 2019	July 2020	July 2021
Backflow Device Charge	\$8.75	\$8.93	\$9.11	\$9.29

* Starting July 1, 2022, the base water service charge shall be adjusted annually based on a formula set forth in Section 15.36.045.

The new rates set forth in this Section shall be implemented on January 1, 2019, with subsequent scheduled increases implemented on July first of each year.

15.36.070 Drought Water Rate Schedule.

The rate schedule includes a Drought Rate Schedule, which will be implemented only during times of significant drought. This Drought Rate Schedule will only go into effect in the event of a Level 3 Drought as declared by the City Council.

Monthly Charges

Meter Size	Included (hcf)	January 2019	July 2019	July 2020	July 2021
3/4-inch or smaller	20	\$31.10	\$31.72	\$32.35	\$33.00
1-inch meter	20	\$31.10	\$31.72	\$32.35	\$33.00
1-1/2 inch meter	40	\$61.74	\$62.97	\$64.23	\$65.51
2-inch meter	64	\$98.51	\$100.48	\$102.49	\$104.54
3-inch meter	128	\$196.56	\$200.49	\$204.50	\$208.59
4-inch meter	200	\$306.86	\$313.00	\$319.26	\$325.65
6-inch meter	400	\$613.26	\$625.53	\$638.04	\$650.80
8-inch meter	640	\$980.94	\$1,000.56	\$1,020.57	\$1,040.98
10-inch meter	960	\$1,471.18	\$1,500.60	\$1,530.61	\$1,561.22
12-inch meter	1350	\$2,068.66	\$2,110.03	\$2,152.23	\$2,195.27
Volumetric Charge		\$0.98 / HCF	\$1.00 / HCF	\$1.02 / HCF	\$1.04 / HCF

15.36.080 Outside the City Boundaries Surcharge.

The City of Merced provides water service to retail customers located outside of the City's jurisdictional boundaries and is authorized to receive a reasonable return on investment and risk for its delivery of services to non-owner customers. The water service rates includes the following outside the City surcharge:

Outside City Monthly Charge

Meter Size	January 2019	July 2019	July 2020	July 2021
3/4-inch or smaller	\$5.51	\$5.62	\$5.73	\$5.84
1-inch meter	\$5.51	\$5.62	\$5.73	\$5.84
1-1/2 inch meter	\$11.03	\$11.25	\$11.48	\$11.71

2-inch meter	\$17.64	\$17.99	\$18.35	\$18.72
3-inch meter	\$35.28	\$35.99	\$36.71	\$37.44
4-inch meter	\$55.13	\$56.23	\$57.35	\$58.50
6-inch meter	\$110.25	\$112.46	\$114.71	\$117.00
8-inch meter	\$176.40	\$179.93	\$183.53	\$187.20

15.36.090 Flat Rate – Hydrant and Fire Protection Service.

A. For public fire hydrant service on private property, the per hydrant base charge is as follows:

Flat Rate-Hydrants and Fire Protection Service				
	January 2019	July 2019	July 2020	July 2021
Fire Hydrants	\$15.19	\$15.49	\$15.80	\$16.12

B. 1. For private fire protection service, the following base rates shall be applicable to all automatic fire sprinkler systems:

Flat Rate-Hydrants and Fire Protection Service Private Fire Monthly Charges				
Connection Size	January 2019	July 2019	July 2020	July 2021
2"	\$1.36	\$1.39	\$1.42	\$1.45
3"	\$3.96	\$4.04	\$4.12	\$4.20
4"	\$8.44	\$8.61	\$8.78	\$8.96
6"	\$24.53	\$25.02	\$25.52	\$26.03
8"	\$52.28	\$53.33	\$54.40	\$55.49
10"	\$94.01	\$95.89	\$97.81	\$99.77
12"	\$151.85	\$154.89	\$157.99	\$161.15

2. The applicant shall pay the cost of installing the fire sprinkler service.

3. The above rates are applicable only to fire sprinklers systems to which no connections for other than fire protection purposes are allowed, which are regularly inspected by the underwriters having jurisdiction, are installed according to the specifications of the City and are maintained to the satisfaction of the City.

4. If a distribution main of adequate size to serve a fire sprinkler system in addition to all other normal service does not exist in the street or alley adjacent to the premises to be served hereunder, a service main from the nearest existing main of adequate capacity will be installed by the City at the expense of the applicant.

5. The City may install, at the applicant's expense, the standard detector type meter approved by the board of fire underwriters for protection against theft, leakage, or waste of water.

6. The City will be required to supply only such water at such pressure as may be available from time to time as a result of the normal operation of the system. Customers may take water under this schedule only in case of fire or for purpose of periodical tests and inspections.

C. For service from fire hydrants, the following rates shall apply to water service furnished from fire hydrants for municipal, construction, and temporary usages:

1. For the City (internal service charge), flushing sewers and street sweepers shall be charged on a monthly basis \$84.19*.

2. At the option of the City, a meter may be installed, at the applicant's expense, for service under this schedule.

3. Applicants for service under this schedule must obtain specific authority from the City prior to taking any delivery of water and shall use only the hydrants designed by the City.

* Starting July 1, 2022, the base water service charge shall be adjusted annually based on a formula set forth in Section 15.36.045.

The new rates set forth in this Section shall be implemented on January 1, 2019, with subsequent scheduled increases implemented on July first of each year.

**Unless otherwise indicated, starting July 1, 2022 all base water service rates and charges in this Chapter shall be adjusted annually by an amount equally to the percent change in the All Urban Consumer Index, U.S. Average (USCA), as supplied by the Bureau of Labor Statistics, unless or until such time new rates are set by the City Council. The amount of such base water charge shall be computed as follows:

$$\text{Monthly Water Rate} = \frac{\text{Current Year Consumer Price Index (USCA)}}{\text{Ending Scheduled Year CPI (USCA)}} \times \text{Base Charge}$$

Capital Facility Charge Schedule

Meter Size	Capital Facility Charge
1"	\$6,037
1.5"	\$12,074

2"	\$19,318
3"	\$38,637
4"	\$60,370
6"	\$120,740
8"	\$193,184
10"	\$289,776
12"	\$407,498

15.36.160 Connection – Major Water Facilities.

A. Each property owner who applies for connection of any building or premises to the City water system, or who applies for replacement of an existing water service connection with one (1) of larger size, shall, prior to issuance of the permit for such connection or replacement, pay to the City a major water facilities charge, based upon the size of the water service required for such building or premises. Each quarter, the major water facilities charge shall be adjusted by an amount equal to the percent change in the All Urban Consumers Index, U.S. City Average (USCA), as supplied by the Bureau of Labor Statistics.

The amount of such major water facilities charge shall be computed as follows:

$$\begin{array}{l} \text{Major} \\ \text{Water} \\ \text{Facility} \\ \text{Charge} \end{array} = \begin{array}{l} \text{Current} \\ \text{Quarter} \\ \text{CPI} \\ \text{(USCA)} \\ 184^* \end{array} \times \text{Basic Charge}$$

*Base year index (January 2004)

Base Water Facilities Charge

Meter Size	Capital Facility Charge
1"	\$6,037
1.5"	\$12,074
2"	\$19,318
3"	\$38,637
4"	\$60,370
6"	\$120,740
8"	\$193,184
10"	\$289,776
12"	\$407,498

Fire Flow Charge:

Fire Flow Charge will be calculated for any extra fire flow required above the standard (1" meter) fire flow requirement of 1,500 gpm for 2 hours. The Fire Flow Charge will be based on the incremental increase in the fire flow requirements above the "Standard" (1" meter). The incremental Fire Flow Charge will be calculated as follows:

Fire Flow Charge

$$= \left[\left(\frac{\text{Fire Flow Req't (gpm)} \times \text{Duration (hours)}}{1,500 \text{ gpm} \times 2 \text{ hours}} \right) - 1 \right] \times \text{Capital Facility Charge for 1" Meter}$$

B. In the case of replacement of an existing water service connection with one (1) of larger size, credit shall be given against the major water facilities charge for the amount which was paid for the smaller connection, or would have paid therefore if this Section had been in effect at the time such smaller connection

was applied for provided the service is actually removed from the system.

C. All funds collected pursuant to this Section shall be deposited in the water fund.”

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2018, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2018, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Kelly Fincher 10-10-18
City Attorney Date



ADMINISTRATIVE REPORT

Agenda Item H.15.

Meeting Date: 11/5/2018

SUBJECT: Second Reading and Adoption of Ordinance 2497 to Amend Chapter 15.42.050
“Water Conservation Levels and Prohibitions”

REPORT IN BRIEF

Adoption of previously introduced Ordinance to Amend Chapter 15.42 of the Merced Municipal Code
“Water Conservation Levels and Prohibitions.”

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2497**, an Ordinance of the City Council of the City of Merced, California, amending Chapter 15.42.050, “Water Conservation Regulation,” of the Merced Municipal Code.

ALTERNATIVES

1. Adopt the ordinance as recommended; or,
2. Deny the changes to section 15.42.050 “Water Conservation Levels and Prohibitions; or,
3. Refer to staff for reconsideration of specific items; or,
4. Continue action to a future City Council meeting, specify date.

AUTHORITY

Article II, Section 200 and Article IV, Section 405 of the Charter of the City of Merced, and Article XIII D of the California State Constitution in accordance with Title 15 of the Merced Municipal Code.

CITY COUNCIL PRIORITIES

As provided for in the 2018-19 Adopted Budget.

DISCUSSION

Staff is seeking to amend Section 15.42.050 of MMC Chapter 15.42 “Water Conservation Levels and Prohibitions” to allow the City Council to declare Level 3 Conservation Water Restrictions. The current language of Section 15.42.050 provides that Level 3 Restrictions are triggered by the Governor declaring a State of Emergency. The amendment also allows the City Council to implement the drought Water Rate schedule set forth in MMC section 15.36.070.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Ordinance 2497

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING SECTION 15.42.050, "WATER
CONSERVATION LEVELS AND
PROHIBITIONS," OF THE MERCED MUNICIPAL
CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. AMENDMENT TO CODE. Section 15.42.050, "Water Conservation Levels and Prohibitions," of the Merced Municipal Code is hereby amended to read as follows:

**"15.42.050 Water Conservation Levels and
Prohibitions.**

Notwithstanding any other provision of this Chapter, at least one (1) of the following four (4) levels of water conservation restrictions shall apply at all times. The applicable level(s) of water conservation restrictions shall be based upon the Condition of Groundwater Basin determination of the California State Department of Water Resources then in effect, or by resolution of the City Council based upon a recommendation by the Director.

The current level of water conservation restrictions, and any change in said level of water conservation restrictions, shall be communicated to the public by reasonable means to ensure compliance, including but not limited to, posting on the City's website, publishing in the local newspaper, and written notice to be included with the City's water bills.

All persons using water supplied by the City shall comply with the following mandatory water conservation restrictions:

A. Level 1: This level is in effect at all times and establishes the baseline conservation measures for the City.

1. Water Waste Prohibition: The following uses of water are defined as 'water waste' and are hereby prohibited except as otherwise authorized:

(a) The washing of sidewalks, driveways, filling station aprons, porches or other outdoor surfaces except when necessary to protect the public health and safety.

(b) The washing of the exterior of dwellings, buildings, and structures, with the following exceptions:

- (1) Window washing,
- (2) Washing in conjunction with the painting of the exterior of a dwelling, building or structure,
- (3) Washing of a dwelling, building or structure may be allowed once every twelve (12) months.

All exceptions listed above must comply with Sections 15.42.100(A) and (B) and the hose(s) must be fitted with an automatic shutoff device(s).

(c) The operation of any ornamental fountain or other such structure making use of water from the City domestic water

system, unless such fountain or structure uses a recirculating water system.

(d) The use of water, except for domestic use, where an adequate source of water is available whether such alternate source is reclaimed water, well water, spring water, or other source.

(e) The external washing of trailers, trailer houses, mobile homes, and home exteriors unless in conjunction with painting the exterior of such trailers, or homes with an automatic shut-off device.

(f) The washing of boats or motor vehicles with a hose that is not fitted with an automatic shut-off device.

(g) The indiscriminate running of water or washing with water not otherwise prohibited above which is wasteful and without reasonable purpose.

(h) The application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall.

(i) All car wash fundraisers must be held at an established car washing facility that collects and recycles the run-off water before it enters the City's sewer system. When held in a parking lot, car washes can cause pollutants such as soap, dirt, oil grease, and other automotive fluids to enter the storm drain system.

(j) The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to

restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.

(k) To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

B. Level 2: This level shall be in effect when the Department of Water Resources determines the condition of Groundwater Basin is in a state of critical Over Draft. During any time in which Level 2 restrictions are imposed the following mandatory conservation restrictions shall apply in addition to all Level 1 restrictions on water waste.

1. Three Day Watering Schedule:

(a) Any sprinkling, watering, or irrigation between the mid-day hours of nine a.m. and nine p.m. is prohibited.

(b) Watering by persons with even numbered addresses or on properties without an assigned address is only allowed on Tuesdays, Thursdays, and Saturdays.

(c) Watering by persons with odd numbered addresses is only allowed on Wednesdays, Fridays, and Sundays.

(d) Any watering by persons on Mondays with the exception of parks is prohibited.

C. Level 3: This level shall be in effect when the City Council has declared a state of emergency due to drought. During any time in which level 3 restrictions are imposed the following mandatory conservation restrictions shall apply in addition to all non-conflicting Level 1 and Level 2 restrictions.

1. Two Day Watering Schedule:

(a) Any sprinkling, watering, or irrigation between the mid-day hours of nine a.m. and nine p.m.

(b) Watering by persons with even numbered addresses or on properties without an assigned address is only allowed on Tuesdays and Saturdays.

(c) Watering by persons with odd numbered addresses is only allowed on Wednesdays and Sundays.

(d) Parks, commercial nurseries, cemeteries, and schools are exempt from subsections C.1 of this section but will be requested to curtail all nonessential water use.

2. The Drought Water Rate Schedule pursuant to Merced Municipal Code Section 15.36.070 will be implemented.

D. Level 4: This level shall be in effect during times of catastrophe, i.e., system failure, natural disaster and/or when City Council deems it necessary. During any time in which Level 4 restrictions are imposed the following mandatory conservation restrictions shall apply in addition to all non-conflicting Level 1, Level 2, and Level 3 restrictions.

1. Restricted Watering:

(a) All landscape irrigation shall be prohibited.

(b) Minimal essential watering of trees and shrubs with a bucket, handheld hose with a positive shutoff nozzle, or low volume non-spray irrigation shall be allowed.

(c) Maintenance of landscaping within active public parks and playing fields, schools, and cemeteries, provided that such irrigation does not exceed two (2) days per week according to the schedule established in Level 3.

(d) All leaks detected in landscape irrigation systems or water systems shall be repaired within twenty four (24) hours of notification by the City of Merced unless other arrangements are made with the Director.”

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2018, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2018, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Kelly Emmer 10-8-18
City Attorney Date



ADMINISTRATIVE REPORT

Agenda Item I.1.

Meeting Date: 11/5/2018

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

SUBJECT: Public Hearing - Vacation No. 18-02 for the Adoption of a Resolution Ordering the Vacation of an Approximately 5.88 Acre Park Site Generally Located at the Southwest Corner of M Street and Arrow Wood Drive (Extended)

REPORT IN BRIEF

The City Council will consider approving a Resolution to order the vacation of an approximately 5.88 acre park site generally located at the southwest corner of M Street and Arrow Wood Drive.

RECOMMENDATION

City Council - Adopt a motion approving **Resolution 2018-69**, a Resolution of the City Council of the City of Merced, California ordering the vacation of an approximately 5.88 acre park site generally located at the southwest corner of M Street and Arrow Wood Drive (extended) (Vacation #18-02).

ALTERNATIVES

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

AUTHORITY

Section 8335 of the Streets and Highways Code authorizes the City Council to vacate a right-of-way or easement by adopting a resolution of vacation. Section 8336 of that Code requires the City Clerk to record a certified copy of the resolution of vacation. Additionally, City of Merced Administrative Policy A-6 provides direction to staff for processing vacation requests, and City Resolution 76-80 establishes a policy concerning costs associated with the vacation.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

The developer of Bellevue Ranch, Stonefield Home, Inc., is requesting the vacation of approximately 5.88 acres of land generally located at the southwest corner of M Street and Arrow Wood Drive (Attachment 1). This park site (Attachment 2) was dedicated as part of the Bellevue Ranch Village 12, Phase 1 subdivision (Attachment 3) in accordance with the conditions of approval for Tentative

Map #1304 for Bellevue Ranch Village 12.

The proposed vacation of the park site is part of the overall plan to move the park site from the current location at M Street and Arrow Wood Drive to the southeast corner of the future Catherine A Hostetler Boulevard and Freemark Avenue (extended) as shown on the map in Attachment 4. On September 17, 2018, the City Council approved General Plan Amendment No. 18-01, which changed the land use designation of the property from Open Space/Park (OS) to Low-Medium Density Residential (LMD), thereby allowing the construction of single-family dwellings at this location. General Plan Amendment No. 18-01 also approved the relocation of the park site to the southeast corner of the future Catherine A Hostetler Boulevard and Freemark Avenue (extended), which is adjacent to the future school site. As a condition of the General Plan Amendment, the dedication of the new park site is required. The new park site would be dedicated with the Large Lot Final Map for Bellevue Ranch West. This map will be coming before the City Council for approval in the near future.

As provided for in the Resolution for this vacation, as a condition of the vacation and prior to the recording a certified copy of the Resolution, the developer must dedicate a new park site adjacent to the future school site. This requirement is also set forth in Planning Commission Resolution No. 3098.

History and Past Actions

At the Planning Commission meeting of January 18, 2017, the Planning Commission reviewed the vacation for consistency with the City's General Plan and found, by unanimous vote of those present, that the proposed vacation does not conflict with any General Plan policies, text, or maps, and is, therefore, consistent with the General Plan.

On October 1, 2018, the City Council adopted a Resolution of Intention (Resolution No. 2018-64 - Attachment 5) and set November 5, 2018, as the date for the public hearing to consider Vacation #18-02.

Recommendation

Staff is recommending the adoption of the Resolution at Attachment 6 to abandon the park site as described above.

IMPACT ON CITY RESOURCES

The approval of the requested vacation would not result in any impacts on City resources.

ATTACHMENTS

1. Location Map
2. Abandonment Area
3. Bellevue Ranch West, Village 12, Phase 1 Map
4. Proposed New Park Site
5. Council Resolution 2018-64

- 6. Draft City Council Resolution Ordering Vacation
- 7. Presentation



BELLEVUE

VACANT
COMMERCIAL

M

VACANT
COMMERCIAL

BARC

VACANT
MULTI-FAMILY
RESIDENTIAL

COUNTY

G

BANCROFT

ARROW WOOD

SINGLE FAMILY
RESIDENTIAL

MERRILL

M

SINGLE FAMILY
RESIDENTIAL

CARDELLA

MERCED
COLLEGE

LEHIGH

 City Limit



LEGAL DESCRIPTION

VILLAGE 12, PHASE 1, LOT A

All that certain real property situate, lying, and being Lot A (Park), as shown on that certain map of "Bellevue Ranch West, Village 12 – Phase 1", filed in Volume 80 of Official Plats, at Pages 1 through 6, Merced County Records, lying in the City of Merced, County of Merced, State of California.

Containing a total of 5.88 acres, more or less.

D.N. 2018-003677, M.C.R.

ARROW WOOD DRIVE

M STREET

LOT A (PARK)
5.88 ACRES

N0°10'03"W 338.46'

N45°10'03"W
21.21'

S89°49'57"W 529.07'

N89°02'16"W 59.00'
S45°23'51"W 21.00'

N0°57'44"E 35.29'

N89°02'16"W 100.44'

S0°57'44"W 377.25'

SCALE

1" = 150'

BELLEVUE RANCH WEST
VILLAGE 12 - PHASE 1
80-O.P.-1

NOTES

1. ALL DISTANCES AND DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
2. ALL RECORD INFORMATION SHOWN IS FROM MERCED COUNTY RECORDS.

DATE: 8/10/2018 10:04 FILE: M:\125971\Survey Drawings\PARK SITE\LOT A.dwg



BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
915 17TH STREET • MODESTO, CALIFORNIA • 95354
(209) 548-9300 FAX:(209) 548-9305

PHASE 1 - LOT A
BELLEVUE RANCH WEST
MERCED, CALIFORNIA

DRAWN BY: SYD
DATE: 2018-08-10
SHEET: 1 OF 2
JOB: 125971

TRACT NO. 5358 BELLEVUE RANCH WEST VILLAGE 12 - PHASE 1

BEING A SUBDIVISION OF A PORTION OF SECTION 6,
TOWNSHIP 7 SOUTH, RANGE 14 EAST,
MOUNT Diablo BASE AND MERIDIAN
CITY OF MERCED, COUNTY OF MERCED, STATE OF CALIFORNIA
MAY 2017

BENCHMARK ENGINEERING, INC.

915 17TH STREET, MODESTO, CALIFORNIA, 95354

LEGEND:

NOTE: ALL PIPE SIZES ARE INSIDE DIAMETER

- FOUND MONUMENT AS NOTED
- FOUND MONUMENT IN MONUMENT WELL, AS NOTED
- FOUND GPS MONUMENT, AS SHOWN ON REF. G.
- SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040
- SET 3/4" x 24" IRON PIPE, WITH PLASTIC PLUG STAMPED LS 8040 AT ALL REAR LOT CORNERS, AND LOT ANGLE POINTS, UNLESS NOTED AS A WITNESS CORNER

RESTRICTED ACCESS

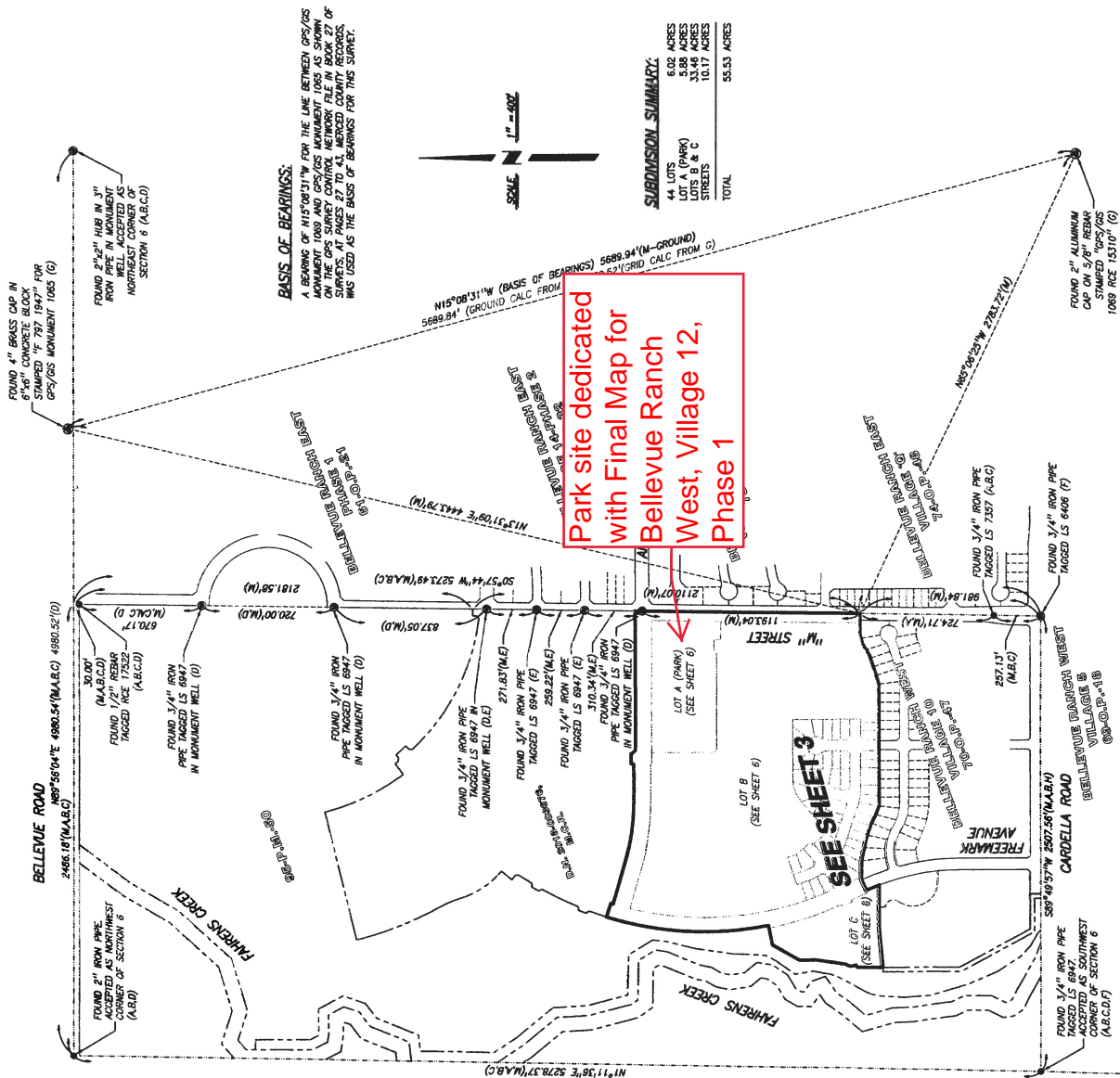
- O.R. OFFICIAL RECORDS
- I.A. INSTRUMENT NUMBER
- D.A. DOCUMENT NUMBER
- R.S. RECORD OF SURVEY
- P.M. PARCEL MAP
- O.P. OFFICIAL PLATS
- (M) MEASURED ON THIS SURVEY
- (R) RADIAL BEARING
- SPW SEARCHED, FOUND NOTHING
- P.U. PUBLIC UTILITY EASEMENT
- C42 CURVE TABLE REFERENCE
- L99 LINE TABLE REFERENCE
- CALC CALCULATED FROM REFERENCE
- M.C.R. MERCED COUNTY RECORDS

REFERENCES:

- (A) BELLEVUE RANCH WEST, VILLAGE 10, BOOK 70 OF OFFICIAL PLATS, PAGES 47 TO 55, M.C.R.
- (B) BELLEVUE RANCH WEST, VILLAGE 5, BOOK 69 OF OFFICIAL PLATS, PAGES 18 TO 28, M.C.R.
- (C) PARCEL MAP NO. 04-02, BOOK 69 OF OFFICIAL PLATS, PAGES 50 TO 51, M.C.R.
- (D) BELLEVUE RANCH WEST, VILLAGE 1, BOOK 68 OF OFFICIAL PLATS, PAGES 32 TO 37, M.C.R.
- (E) BELLEVUE RANCH WEST, VILLAGE 14-PHASE 2, BOOK 73 OF OFFICIAL PLATS, PAGES 32 TO 37, M.C.R.
- (F) BELLEVUE RANCH WEST, VILLAGE 1, BOOK 68 OF OFFICIAL PLATS, PAGES 41 TO 51, M.C.R.
- (G) GPS SURVEY CONTROL NETWORK, BOOK 27 OF SURVEYS, PAGES 43 TO 48, M.C.R.
- (H) DOCUMENT NO. 2018-003876, M.C.R.
- (I) DOCUMENT NO. 2012-032101, M.C.R.

NOTES:

- ALL BEARINGS AND DISTANCES SHOWN HEREON ARE MEASURED UNLESS OTHERWISE NOTED.
- ALL DISTANCES AND DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
- ALL BEARING INFORMATION SHOWN IS IN MERIDIAN RECORDS.
- WITNESS CORNERS ARE SET ON THE LOT LINE, OR EXTENSION THEREOF, AT THE DISTANCE NOTED.



SUBDIVISION SUMMARY:

44 LOTS	6.02 ACRES
LOT A (PARK)	5.88 ACRES
LOTS B & C	33.48 ACRES
STREETS	10.17 ACRES
TOTAL	55.53 ACRES

GENERAL PLAN LAND USE CHANGES GENERAL PLAN AMENDMENT #18-01

High Density
Residential

High Density
Residential

GENERAL PLAN:
Site # 2 - Change from Low-Medium Density
Residential (LMD) to
Open Space/Park (OS) (Approximately 5.0 Acres)

Low-Medium
Density
Residential

Future
School

Low-Medium
Density
Residential

Low Density
Residential

GENERAL PLAN:
Site #1 - Change from OpenSpace/Park (OS) to
Low-Medium Density Residential (LMD)
(Approximately 5.88 Acres)

ARROW WOOD



RESOLUTION NO. 2018- 64

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
DECLARING ITS INTENTION TO VACATE AN
APPROXIMATELY 5.88 ACRE PARK SITE
GENERALLY LOCATED AT THE SOUTHWEST
CORNER OF M STREET AND ARROW WOOD
DRIVE (EXTENDED) (VACATION #18-02) AND
SETTING TIME AND PLACE FOR PUBLIC
HEARING**

WHEREAS, the City Engineer of the City of Merced has recommended that the hereinafter described portion of public right-of-way is unnecessary for prospective public purposes; and

WHEREAS, the City Engineer has filed maps or plans with the City Clerk of the City of Merced showing the portion of the public right-of-way to be vacated at a specific time that will be determined.

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

SECTION 1. The City Council of the City of Merced declares its intention to proceed under the provisions of Part 3 of the Streets and Highways Code of the State of California, being the Public Streets, Highways, and Service Easements Vacation Law, Chapter 3, to vacate an approximately 5.88 acre parcel of land generally located at the southwest corner of M Street and Arrow Wood Drive (extended) as described in Exhibit "A" and shown on the map at Exhibit "B," attached hereto and incorporated herein by this reference.

SECTION 2. Reference is made to the maps and plans which are filed in the office of the City Clerk of the City of Merced for further particulars as to the proposed vacation and reservation.

SECTION 3. November 5, 2018, at the hour of 6:00 p.m. of said day in the Council Chamber of the City Council, 678 West 18th Street, Merced, California, is fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation. Said hearing may be postponed or continued.

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____

Assistant/Deputy City Clerk

(SEAL)



APPROVED AS TO FORM:

K. Flores 8/21/18
City Attorney Date

LEGAL DESCRIPTION

VILLAGE 12, PHASE 1, LOT A

All that certain real property situate, lying, and being Lot A (Park), as shown on that certain map of "Bellevue Ranch West, Village 12 – Phase 1", filed in Volume 80 of Official Plats, at Pages 1 through 6, Merced County Records, lying in the City of Merced, County of Merced, State of California.

Containing a total of 5.88 acres, more or less.

D.N. 2018-003677, M.C.R.

ARROW WOOD DRIVE

N89°49'57"E 725.22'

LOT A (PARK)
5.88 ACRES

N0°10'03"W 338.46'

N45°10'03"W
21.21'

S89°49'57"W 529.07'

N89°02'16"W
59.00'
S45°23'51"W
21.00'

N0°57'44"E
35.29'

N89°02'16"W
100.44'

S0°57'44"W 377.25'

M STREET

SCALE

1" = 150'

BELLEVUE RANCH WEST
VILLAGE 12 - PHASE 1
80-O.P.-1

NOTES

1. ALL DISTANCES AND DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
2. ALL RECORD INFORMATION SHOWN IS FROM MERCED COUNTY RECORDS.

DATE: 8/10/2018 10:04 FILE: M:\125971\Survey Drawings\PARK SITE\LOT A.dwg



BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
915 17TH STREET • MODESTO, CALIFORNIA • 95354
(209) 548-9300 FAX(209) 548-9305

PHASE 1 - LOT A
BELLEVUE RANCH WEST
MERCED, CALIFORNIA

DRAWN BY: SYD
DATE: 2018-08-10
SHEET: 1 OF 2
JOB: 125971

EXHIBIT B

RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MERCED, CALIFORNIA
ORDERING THE VACATION OF AN
APPROXIMATELY 5.88 ACRE PARK SITE
GENERALLY LOCATED AT THE
SOUTHWEST CORNER OF M STREET AND
ARROW WOOD DRIVE (EXTENDED)
(VACATION #18-02)**

WHEREAS, by adoption of Resolution No. 2018-_____ on _____, 2018, the City Council declared its intention to consider the vacation of a portion of public right-of-way in the City of Merced, consisting of an approximately 5.88 acre park site generally located at the southwest corner of M Street and Arrow Wood Drive, as described in Exhibit "A" and shown on the map at Exhibit "B," attached hereto; and

WHEREAS, Resolution No. 2018-64 fixed a time and place for hearing all persons interested in or objecting to the proposed vacation to wit: On Monday, November 5, 2018, at the hour of 6:00 p.m. of said day, in the Council Chambers of the City Council, 678 West 18th Street, Merced, California, which said time was not less than fifteen (15) days from the above-mentioned date and passage of Resolution No. 2018-64; and

WHEREAS, Resolution No. 2018-64 was published in the manner prescribed by Section 8320 of the Streets and Highways Code of the State of California; and

WHEREAS, the public hearing occurred on November 5, 2018; and

WHEREAS, On October 3, 2018, notices were conspicuously posted along the lines of the property proposed to be vacated, not more than three hundred (300) feet apart, which notices consisted of copies of Resolution No. 2018-03 and

WHEREAS, the vacation of the public right-of-way as proposed by Resolution No. 2018-64 was submitted to the Planning Commission on September 5, 2018, which found the proposed vacation to be in conformity with the general plan.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council finds from all of the evidence submitted that the public right-of-way in the City of Merced, as described in Exhibit "A" and shown on the map at Exhibit "B," is unnecessary for present or prospective park purposes.

SECTION 2. It is hereby ordered that the public right-of-way lying within the above described territory be and the same is hereby abandoned and vacated, pursuant to the provisions of Part 3, Division 9, of the Streets and Highways Code of the State of California, being the Public Streets, Highways, and Services Easements Vacation Law.

SECTION 3. The City Clerk is directed to cause a certified copy of this resolution, attested under seal of the City of Merced, to be recorded in the Office of the County Recorder of Merced County.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ of _____, 2018, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Kelly Turner 10-1-18
City Attorney Date

LEGAL DESCRIPTION

VILLAGE 12, PHASE 1, LOT A

All that certain real property situate, lying, and being Lot A (Park), as shown on that certain map of "Bellevue Ranch West, Village 12 – Phase 1", filed in Volume 80 of Official Plats, at Pages 1 through 6, Merced County Records, lying in the City of Merced, County of Merced, State of California.

Containing a total of 5.88 acres, more or less.

D.N. 2018-003677, M.C.R.

ARROW WOOD DRIVE

M STREET

LOT A (PARK)
5.88 ACRES

N0°10'03"W 338.46'

N45°10'03"W
21.21'

S89°49'57"W 529.07'

N89°02'16"W 59.00'
S45°23'51"W 21.00'

N0°57'44"E 35.29'

N89°02'16"W 100.44'

S0°57'44"W 377.25'

SCALE

1" = 150'

BELLEVUE RANCH WEST
VILLAGE 12 - PHASE 1
80-O.P.-1

NOTES

1. ALL DISTANCES AND DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
2. ALL RECORD INFORMATION SHOWN IS FROM MERCED COUNTY RECORDS.

DATE: 8/10/2018 10:04 FILE: M:\125971\Survey Drawings\PARK SITE\LOT A.dwg



BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
915 17TH STREET • MODESTO, CALIFORNIA • 95364
(209) 548-9300 FAX:(209) 548-9305

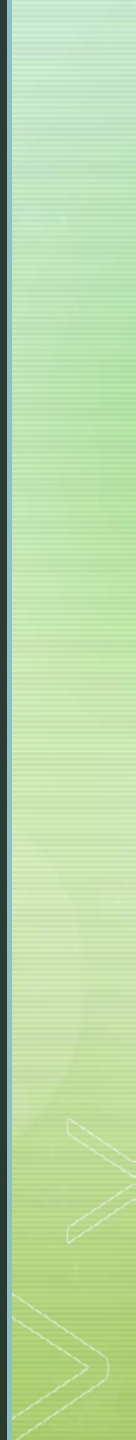
PHASE 1 - LOT A
BELLEVUE RANCH WEST
MERCED, CALIFORNIA

DRAWN BY: SYD
DATE: 2018-08-10
SHEET: 1 OF 2
JOB: 125971

EXHIBIT B

BELLEVUE RANCH PARK SITE

Vacation #18-02



Background

- General Plan Amendment (GPA) #18-01 approved the change in land use for the subject site from Park to Low-Medium Density Residential (Council Action 9/17/2018).
- A new park site was designated as part of GPA #18-01.
- After vacation, the subject site would be developed as a single-family subdivision.
- On September 5, 2018, the Planning Commission found that the proposed vacation is consistent with the General Plan, subject to the approval of General Plan Amendment #18-01.

General Plan Amendment

Site #2 - Change approximately 5.0 acres from LMD to OS/PK

Future School Site

Site #1 - Change approximately 5.8 acres from OS/PK to LMD

New Park Site Dedication

- As a condition of approval for the General Plan Amendment the new park site shall be dedicated with the Large Lot Final Map or by separate deed.
- This dedication shall take place prior to recording the certified resolution for the vacation.
- Dedication will be made by the Large Lot Final Map coming before the Council for approval in December.





Public Hearing

- City Council Adopted Resolution 2018-64 setting the public hearing for 11/5/2018.
- Notice of the proposed vacation was posted on the site.
- City Council should open the public hearing for comment.
- After hearing all comments, City Council will take action on the proposed vacation.





CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.2.

Meeting Date: 11/5/2018

SUBJECT: Public Hearing - Tax Equity and Fiscal Responsibility Act (TEFRA) - Resolution Approving the Issuance of Tax Exempt Bonds for the Benefit of the Gateway Terrace II Project, Located at 13th and K Streets

REPORT IN BRIEF

Due to errors in the original published notice, a corrected notice has been published and this item will now be heard at the November 19, 2018 Council Meeting.

RECOMMENDATION

For Information Only



ADMINISTRATIVE REPORT

Agenda Item J.1.

Meeting Date: 11/5/2018

SUBJECT: Council Member Belluomini's Request to Discuss Police Community Relations

REPORT IN BRIEF

This item is in response to Council Member Belluomini's request to discuss police community relations pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

ATTACHMENTS

1. Memo from Council Member Belluomini
2. Stockton Police Plan

TO : Merced City Council, City Manager, and City Attorney

November 5, 2018

FROM : Michael Belluomini

Reference : IMPROVING POLICE AND COMMUNITY RELATIONS

BACKGROUND : Over the last few years the city has experienced unrest over allegations of misconduct by police officers. Accusations of excessive force, abusive language, discrimination, neglect of duty , and abuse of authority, have been made regarding police officers handling of enforcement actions, especially with people of color and the homeless. These allegations and unsubstantiated information regarding police behavior have increased mistrust of the police and a sense of an adversarial relationship between some of the citizens of Merced and the police. Lack of trust and lack of cooperation between the police and citizens benefits criminal activity thus reducing the safety of everyone in Merced.

The current citizens complaint procedure regarding police misconduct is for a detailed statement to be written by the citizen with the help of an investigating police officer. An investigation within the police department is conducted by police personnel. When completed it is reviewed by the Police Chief who makes a determination that 1) acts complained of did not occur; 2) acts complained of did occur but were justified; 3) there is insufficient evidence to prove the allegation; or 4) the acts complained of occurred and are sustained. The complaint form indicates that if a complaint is sustained the Chief of Police may take disciplinary action against the employee involved (emphasis added). Which of the four determinations above was made will be communicated to the citizen complaining, no other information will be released. The internal investigation release of determination can take up to 18 months from the time of incident causing the complaint. This long delay in acting on a complaint and the basis that disciplinary action may/might occur is frustrating to citizens who believe they have been wronged. It does not build trust between the police and citizens. State law protecting police officer records supports this procedure.

CHANGES IN STATE LAW : Senate Bill 1421 of 2018 changes the Penal Code effective January 1, 2019 to make police officer personnel records available to the public when the records relate to the report, investigation, or findings of 1) the discharge of a firearm at a person by a police officer; 2) the use of force by a police officer resulting in death or great bodily injury; 3) sexual assault by a police officer which is verified by a sustained finding by a law enforcement agency; and 4) dishonesty by police officer relating to the reporting, investigation or prosecution of a crime, or to the reporting of, or investigation of misconduct by another police officer, which is verified by a sustained finding by a law enforcement agency.

Assembly Bill 748 of 2018 changes the Government Code effective July 1, 2019 to require a video or audio recording relating to 1) discharge of a firearm at a person by a police officer; or 2) use of force by a police officer resulting in death or great bodily injury to be available to the public within 45 days of the incident. Exceptions are when such release substantially

interferes with the investigation by the police, or the privacy of persons depicted in the video/audio which privacy issues cannot be addressed by redaction technology. This law states that a police agency may provide greater public access to video or audio recordings than the minimum standards set in AB 748.

IMPROVING POLICE COMMUNITY RELATIONS : To reduce crime we must gain community trust of the police. Trust makes police work safer, and crime is reduced. People obey the law partly because they believe the law has legitimacy owing to how they are treated by the police. People want to believe the actions of the police are done for good reason, are fair, show respect and include listening. A national program to improve police community relations and reduce crime is ongoing in six cities in the USA, Stockton is one such city.

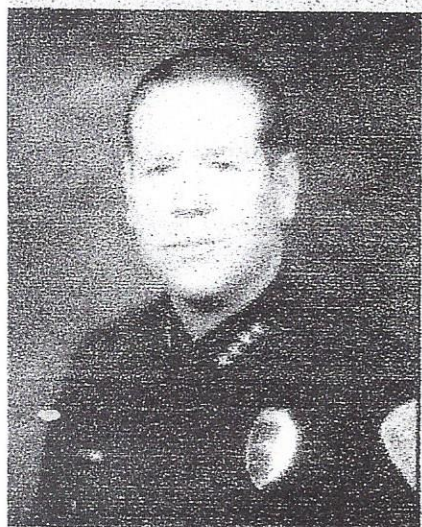
Attached is the Stockton Police Department Strategic Plan for 2017-2019. It sets as its second goal "Increased Trust Between Community and Police". Briefly the strategy includes four components: 1) Procedural Justice or Fairness, that is , that all citizens are treated in the same fair way regardless of ethnicity, age, neighborhood, or socio-economic status. Training of police officers plus wording of standards of procedure, and criteria of performance evaluation improve procedural justice: 2) Implicit Bias Training for police examines subconscious psychological processes that shape police actions and lead to disparate actions based on race or socio-economic status; 3) Community Outreach in the form of Neighborhood Impact Teams and an Advisory Board to the Chief of Police including leaders of local churches, NAACP, Lao Family, public schools, youth sports organizations, local colleges, and business owners. The Board meets with the Chief monthly and organizes town hall meetings for him. The Neighborhood Impact Teams are police staff who are assigned to spend much time in high crime areas to share information, resources, and demonstrate their concern for the neighborhood; and 4) Principled Policing Philosophy is training and a daily emphasis on values for police which are important to improving trust such as transparency, accountability, high standards of professional behavior, two way communication, and joint problem solving. The Merced City Attorney and City Manager worked for the City of Stockton and are somewhat familiar with the police department strategies.

PROPOSAL : Direct staff to prepare a report regarding 1) Revisions to the Police Department procedures to conform with changes in state law in SB 1421 and AB 748 regarding release of police records; 2) Revisions to the Police Department Citizen's Complaint Procedure and form to improve responsiveness within the limits of state law; and 3) How additional training and an advisory board modeled on Stockton Police Department can be used to improve police community relations, to be presented to the city council on January 21, 2019.

Strategic Plan 2017-2019



To work in partnership with our community, to build and maintain relationships founded on trust and mutual respect, while reducing crime and improving the quality of life.



Chief Eric Jones

Message

From the Chief

Our department is committed to the success and safety of Stockton, and I am incredibly proud of the Stockton Police Department (SPD) staff for the tireless work invested to that end. The sheer volume of 400,000 calls-for-service annually is significant, however, our department members look beyond workload and instead look at work product and what we can do to improve the City we serve. I am also incredibly proud of our community in helping us to make Stockton a better place.

We have had many successes in recent years, such as our early adoption of Real-Time Policing, to an evolution of data-driven strategies and dedication to evidenced-based practices. The SPD has led trust-building efforts with the community we serve and, in the process, developed a refined policing philosophy now recognized as Principled Policing. This innovative approach resulted in expanded work with both the State Attorney General's Office, through its 21st Century Policing Working Group, and the U.S. Department of Justice - National Initiative for Building Community Trust and Justice. Our department has since been recognized as a leader at the national level for contributions to the law enforcement profession, attested by the fact that our programs are being replicated in other cities.

Among these programs are those which expand our community outreach.

The Police Chief's Community Advisory Board has helped shape spaces for candid dialogue with our community. The Neighborhood Impact Teams have put our staff and volunteers into neighborhoods that need them the most, allowing them to share information and resources, and simply show we care. The SPD has also worked hard on improving the quality of life and reducing blight in Neighborhood Blitz zones across Stockton, and we've increased our Animal Shelter's live release rates. The hiring of police officers and other staff continues to climb, and we recently experienced the lowest total crime rate for Stockton in the last 16 years. We have also shown a commitment to our employees by the development of a very robust Wellness Network.

These successes are significant and the SPD is already an outstanding organization. However, we also recognize the need and opportunity for continual improvement. To that end, what follows is the result of much collaboration amongst and within SPD staff. I'm excited to move forward in pursuit of the goals and objectives included in this strategic plan; and confident that this plan's successful implementation will keep the SPD positioned at the forefront of contemporary, effective law enforcement organizations nationwide.

Chief Eric Jones

Introduction

A strategic plan communicates the common goals, roles, and benchmarks for an organization and all its members. To be successful, the strategic plan must be flexible to adjust to the unexpected, promote innovation, progress and development, and fluidly transition from one strategic planning cycle to the next. It recognizes an organization's strengths and weaknesses and builds a foundation and structure supporting the action needed to reach its goals. This document sets forth the Stockton Police Department's policing strategy. It acknowledges the past, addresses our current challenges, and looks to our future.

In November 2013, the Stockton Police Department (SPD) created and implemented its first three-year strategic plan. Much of the plan was focused on implementing the Marshall Plan on Crime, which contained four primary objectives: (1) hiring additional police staff, (which had been drastically cut during the preceding financial crisis), (2) implementation of Operation Ceasefire, an evidence-based violence reduction strategy, (3) creation of the Neighborhood Blitz Team (NBT) to provide a targeted approach to blight reduction and improve quality of life, and (4) creation of the Office of Violence Prevention (OVP), which seeks to build community by connecting those in need

with services to help them succeed.

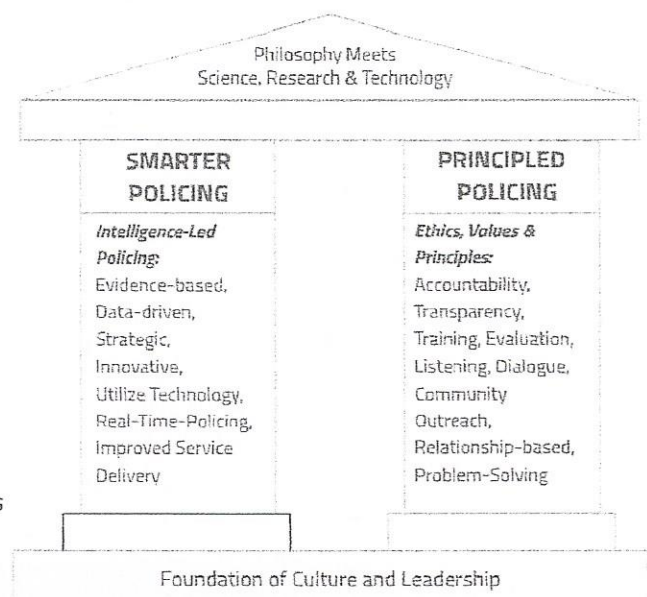
Between 2013-2016, the SPD hired record numbers of new employees and realized a net gain of over 70 sworn officers. Sworn staffing levels surpassed 420 — the highest level since 2009. These staffing gains, combined with the implementation of Operation Ceasefire and the department's focused policing strategies, helped Stockton realize significant and steady annual decreases in its overall crime rate, reaching a 15-year low in 2015. While violent crime remains a significant and persistent challenge, this reduction in overall crime is a positive step in the right direction.

As the plan's three-year time frame neared conclusion, development of this newly refined plan began. The approach taken included obtaining input from key stakeholders through an extensive community survey conducted in partnership with the University of the Pacific. It also included the formation of an internal strategic plan development committee to validate the primary goals and objectives, garner input and ideas from across the entire department, and lead a series of feedback and review sessions with the management team of the Stockton Police Department.

Two primary factors guided the above plan development work:

1. The City's overall direction and focus as established by the City Council per its Strategic Workplan. Specific to public safety, that plan seeks to achieve improved police response times, customer service and follow-ups, and the hiring of additional personnel to increase diversity.
2. The Chief's refined policing philosophy, which is founded upon the pillars of Smarter Policing and Principled Policing.

Finally, with the institutionalization of the tenets of Procedural Justice in mind, the department updated its Mission Statement to better reflect the current values and focus of the agency.



Mission, Values and Strategic Goals

To work in partnership with our community, to build and maintain relationships founded on trust and mutual respect, while reducing crime and improving the quality of life.

Mission Statement

Our core values define who we are and what we as an organization hold as paramount. They are unchanging and universal. The Core Values for the Stockton Police Department include:

- Integrity
- Professionalism
- Sensitivity
- Cooperation
- Innovation

Our values are the lens through which we view our decisions and actions. These values are reflected in our Mission Statement.

Also, it is important as a department that we hold ourselves to the highest standards when it comes to:

- Accountability
- Transparency
- Training
- Evaluation
- Communication
- Community Outreach
- Relationship-based Policing
- Problem-solving

To continually evaluate ourselves and our efforts while training to be better at what we do, to reach out to the community and commit to dialogue, even when uncomfortable and difficult, and to maintain an attitude of problem-solving through relationship-based policing. These are the standards to which we hold ourselves accountable.

Our Core Values

The Stockton Police Department will focus on accomplishing the following goals over the next three years:

1. Reduce crime and blight
2. Increase trust between the community and police
3. Recruit and hire a qualified, diverse workforce
4. Employ staff that are highly trained, knowledgeable and prepared

Our Strategic Goals for 2017-2019

Strategic Goal 1

REDUCE CRIME AND BLIGHT

We have developed four primary objectives in support of overall crime and blight reduction: (1) reducing violent crime, (2) reducing property crime, (3) reducing traffic collisions, and (4) reducing blight. Our overarching framework also remains the "Four P's" – Partnership, Prediction, Prevention, and Pursuit.

While various specialized sections and units within the department will focus on specific objectives and strategies, we recognize that our uniformed patrol officers play a critical role in achieving our goals. Accordingly, 75% of Measure A will support uniformed field assignments, while 25% will support non-uniformed investigative assignments.

PARTNERSHIP

We will partner with community members, groups, and other law enforcement agencies to analyze and respond to community problems that lead to crime.

PREDICTION

Effective policing demands a data-driven and evidence-based approach informed by the latest technologies. Through Project ForeBoDe (Forecast Based Deployment) we use advanced technology to analyze intelligence and data to forecast crime (area-based) and deploy resources. Through our regular Operation Ceasefire shooting reviews, we identify individuals most at risk of being involved in violent criminal activity (person-based) for focused interventions.

PREVENTION

We prevent criminal activity by maintaining a visible presence in areas and at times when crime is most likely to occur. We educate the community on crime prevention and safety, using concepts such as Crime Prevention Through Environmental Design (CPTED), Neighborhood and Business Watch groups, and through social media. We work with our partners to reach out to those most at risk of being involved in crime and offer them alternatives to the lifestyles carrying them down that path, using proven intervention efforts.

PURSUIT

We conduct detailed and thorough investigations of criminal activity to identify and arrest those responsible.

Council Goals Addressed

This goal supports several City Council Priority Goals by working to improve police response times and customer service, through the hiring of additional officers and implementation of the Marshall Plan.

Objective 1: Reduce Violent Crime

The department will focus and manage its violent crime reduction efforts through our monthly location-based Information, Communication, and Planning (ICAP) meetings; coupled with our Operation Ceasefire individual-based group violence intervention strategy. Both ICAP and Operation Ceasefire are premised upon our commitment to data-driven, intelligence-led, and evidence-based policing strategies.

Information, Communication, and Planning (ICAP)

Key department personnel meet during monthly ICAP meetings to share and analyze intelligence gleaned from investigations, staff expertise, community contacts, and our forecasting model – Project ForeBoDe. Plans are developed and managed specific to those neighborhoods identified as having the highest risk for violent crime. Resources are then focused into these areas to prevent crime and interrupt violence through presence, education and focused enforcement. Results are analyzed for effectiveness and used to inform future strategy development.

Operation Ceasefire

Operation Ceasefire is a proven evidence- and partnership-based violence prevention strategy. In partnership with the City's Office of Violence Prevention and community leaders, Operation Ceasefire reaches out to groups and individuals identified as being most at risk for involvement in firearms-related violence to provide education on the impact of violence to those involved, their families and the community. Resources are offered to assist individuals in making positive life changes that

lower their risk of gang/group violence. Additionally, the department partners with other local, state, and federal law enforcement agencies to conduct targeted enforcement and prosecution of those who ignore the message and continue their violent behaviors. As additional personnel from Measure A are allocated, Operation Ceasefire will continually be evaluated and refined for greatest effectiveness.

Objective 2: Reduce Property Crime

The department will use community groups, increase and improve the quality of investigations, and leverage Strategic Community Officers to reduce property crime.

Watch Groups

Our Crime Prevention Section is responsible for building Neighborhood, Business and Apartment Watch groups throughout the City. They also work in partnership with the Housing Authority of the County of San Joaquin to provide Crime Free Multi-Housing program training and certification to properties choosing to participate in this program. These formal partnerships promote information sharing between the Watch Groups and the department about problems in the community and provide regular opportunities for crime prevention education.

Increased Follow-up Investigations

Patrol officers and community service officers conduct most initial investigations of property crimes reported to the Stockton Police Department. Increased patrol staffing will allow time for more thorough investigations by patrol and community service officers. Staffing increases and additional Investigators assigned to the General Crimes Unit will allow more time to conduct investigative follow-up on cases.

Strategic Community Officers

In 2015, the department implemented the Strategic Community Officer (SCO) assignment as staffing levels improved. SCOs are uniformed police officers primarily assigned to geographical areas who work in the Strategic Operations Section along with the Crime Prevention Unit. SCOs partner with the community and watch groups to

address ongoing problems. One area of focus for SCOs is to work with the General Crimes Unit and Field Operations Division to develop and implement strategies in response to crime trends and series.

Objective 3: Reduce Collisions

The department will increase staffing in the Traffic Section. Evidence shows traffic violations, accidents, and crime are reduced in areas where high-visibility traffic enforcement is conducted.

Through Measure A, Traffic Section staffing can be increased significantly. Special enforcement areas will be determined using accident data and ICAP.

The Traffic Section will continue to educate the public regarding traffic safety through community meetings, presentations at local schools, participation in National Bicycle Safety Month, involvement with collaborative courts (DUI Court), and assisting the California Highway Patrol with the "Every 15 Minutes" program, which focuses on educating high school students on the consequences of drinking and driving.

Objective 4: Blight Reduction

The department's Neighborhood Services Section (NSS), responsible for enforcing the Health & Safety Code, will use multiple tools to reduce blight and nuisance properties. Through partnerships such as the Neighborhood Blitz Team and Greater Valley Conservation Corps, and using strategies such as Stockton's Top Offending Properties (STOP) program, the department will continue to be proactive with neighborhood clean sweeps and graffiti,



blight, garbage, junk, and debris abatement. NSS will also be implementing audits for the Residential Rental Program, ensuring rental properties meet minimum code standards for tenants.

Neighborhood Blitz Team (NBT)

The NBT is an innovative approach to reducing blight and crime in narrowly-defined target neighborhoods through the combined effort of code enforcement personnel and sworn police officers. Team members partner with area residents, businesses, community groups and service providers to address the needs of the area.

Community Events

The NSS Community Service Officer (CSO) will proactively engage neighborhoods through the coordination of community events to build trust, increase interaction and improve communication with our residents.

Stockton's Top Ten Offending Properties

The newly created Stockton's Top Offending Properties (STOP) Program identifies Stockton's top ten nuisance properties and proactively addresses blight and health and safety issues at each location.



Strategic Goal 2

INCREASE TRUST BETWEEN THE COMMUNITY AND POLICE

To improve trust and relationships between the police and the community, it is important that we build and enhance our partnerships through community oriented policing and increase legitimacy using Procedural Justice. While providing a stellar level of service to our community, the officers and civilian employees of the Stockton Police Department regularly handle over a thousand calls for service each day. However, we also acknowledge that there is always room for improvement and we will use the following objectives to build an even greater relationship with our community. The department will continue leading the nation by remaining at the forefront of agencies working to strengthen the public's perception and understanding of law enforcement using Principled Policing and Procedural Justice.

As mentioned, one of the pillars of our policing philosophy is Principled Policing, which speaks to our ethics, values, and principles and uses relationship-based policing to solve problems. Our three-year strategic goal to improve trust between the department and the community directly aligns with this philosophy. Accomplishing this goal will result in a community more actively engaged in the police department's programs and outreach, improved two-way communication between the community and the police department, reduced citizen complaints, and a department that fully supports and applies Procedural Justice.

Council Goals Addressed

This goal supports the City Council's Priority Goal No. 1 by working to improve the department's level of customer service.

Objective 1: National Initiative for Building Community Trust and Justice

The National Initiative for Building Community Trust and Justice (often referred to as simply the National Initiative) has highlighted three areas that research indicates hold great promise for concrete, rapid progress in building

community trust, police legitimacy, and reconciliation. Stockton Police Department personnel have been receiving intensive training in three areas:

- Procedural Justice focuses on how the characteristics of police interactions with the public shape the public's views of the police, the public's willingness to obey the law, and actual crime rates. Beyond the intensive training department employees receive in this area, the department has begun assessing its employees on their ability to practice Procedural Justice and acknowledges those who show exceptional progress through special assignments, promotions, and annual evaluations. Additionally, departmental policies are being revised to integrate Procedural Justice.
- Implicit Bias focuses on how largely subconscious psychological processes can shape authorities' actions and lead to racially disparate outcomes, even where actual prejudice is not present.
- Reconciliation facilitates honest conversations between communities and police that allow them to address historical tensions, grievances, and misconceptions with the ultimate goal of resetting relationships.

Procedural Justice will be applied throughout the department, included in policies, employee evaluations, and special assignment requests.

Objective 2: Public Information Officer (PIO)

The department's Public Information Officer is tasked with answering questions from the media and disseminating press releases. We plan to expand this office to facilitate improved two-way dialog with the community, increase transparency, and communicate in a timely and accurate manner through several avenues including social media and face-to-face contact. We will continue using Facebook, Twitter, Instagram, blogging and other outreach tools to remain proactive in the dissemination of information.

Objective 3: Neighborhood Impact Team (NIT)

The Neighborhood Impact Team works in partnership with the Stockton Police Chaplaincy. This team, consisting of the PIO, volunteers and Community Service Officers (CSOs), goes into the community after a traumatic event, such as a homicide or an officer involved shooting. The team talks to affected community members about the incident and the many resources available to them, answers questions and helps build trust through disseminating accurate information as well as gaining input from the community.

Objective 4: Chief's Community Advisory Board (CAB)

The Chief's Community Advisory Board is comprised of a cross-section of Stockton's civic, business and religious leaders. The CAB encourages two-way communication between the department and the community. The CAB meets with the Chief on a regular basis to share concerns on crime and police relations and to receive information on current department initiatives. Courageous Conversations, the latest project being worked on by the CAB, reaches further into the community to create additional dialogue.

Courageous Conversations

CAB members help shape spaces for candid dialogue with our community and facilitate town hall style meetings in schools, churches and community centers where participants are encouraged to discuss issues such as racial prejudice and police community relations.

Objective 5: Operation Ceasefire

Operation Ceasefire is a proven group violence intervention strategy which focuses resources on those most likely to be involved in gun violence – those most likely to shoot or be shot. Operation Ceasefire comprises a partnership of community-based organizations, service providers, and law enforcement, which communicates with those at risk through "call-ins," offering help and resources to get out of the violent lifestyle. Those who do not take advantage of these resources and continue to engage in violence face criminal sanctions by a broad array

of committed criminal justice system partners at the local, state, and federal levels.

Operation Ceasefire's partnership-based, focused enforcement and direct, respectful communication impacts violent crime while also establishing trust with individuals and families most affected by violence.

Objective 6: Body Worn Camera Program

We believe Body Worn Cameras (BWCs) tend to reduce the overall number of police use-of-force incidents and lower the incidence of complaints against officers – thus benefiting both officer and citizen safety. In 2015, the department implemented the BWC program and has now deployed 350 BWCs. Having cameras on our officers makes the department more accountable and often provides valuable evidence in all manner of investigations.

A recent survey of our officers showed a large majority believe the BWC is a positive tool for policing and they are in favor of using them. The same study found 26 percent of officers believe they have had to use less force now that they are wearing the cameras.

Objective 7: Strategic Community Officers

The Strategic Community Officer (SCO) program places officers in communities challenged with higher levels of crime and blight where there is great potential for strengthening relationships. These officers integrate themselves into the community by attending meetings

and talking with people where they help develop and implement solutions to problems. These officers maintain relationships with the community members to ensure satisfaction and continued resolutions.

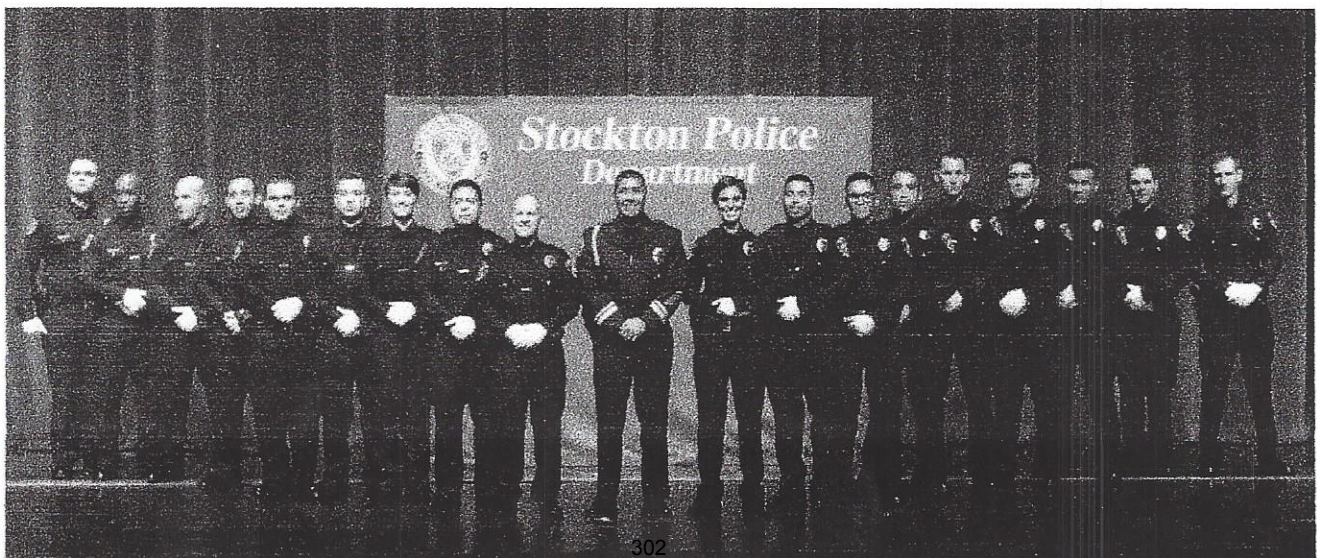
Strategic Goal 3

RECRUIT AND HIRE A QUALIFIED DIVERSE WORKFORCE

The department is committed to maintaining its high standards for hiring and values all forms of diversity, including ethnicity, gender, culture, education, and experience, understanding it is important to build a department that is representative of the community it serves. With a reinvigorated focus in 2012, the department changed its recruiting approach to be more transparent, robust, and focused on attracting a highly qualified, diverse workforce to better reflect the makeup of our community. Many law enforcement agencies are actively hiring and competition is high so attracting quality candidates over the past three years has been an immense challenge – one compounded by our community's increased level of violent crime, high poverty, and low literacy rates.

Stockton is home to over 300,000 people, with a nearly equal split in gender. Census data from 2010 shows the largest ethnic group is Hispanic or Latino, at 40 percent. The next most represented group is White at 23 percent, followed by Asian at 21.5 percent and Black at 12 percent.

The department values diversity and has demonstrated



its strong interest in employing a police force reflective of the community in which they serve, yet much work remains. The residents of Stockton are also asking for a police force with ties to Stockton — officers who see service as a calling and not just an occupation. Residents desire a police force that is moved to engage with the community beyond the margins of work. The department has developed a framework by which to achieve a more diverse workforce while maintaining the high standards expected by our community and our profession.

Council Goals Addressed

This goal mirrors the City Council Strategic Work Plan Priority Goal No. 1 by working to improve officer diversity.

Objective 1: Recruitment and Hiring

Strategic recruitment should be focused, purposeful and attract quality candidates representative of the community without lowering standards. There are several short-term strategies utilized by the department to attract a robust applicant pool, including a recruiting team and expanded volunteer opportunities. Both are important components of a robust strategy. However, it is important the department also recognizes the need to instill a belief throughout the organization that every employee, in every assignment, plays a role in recruiting the department's next generation. All employees should incorporate recruiting into all existing presentations such as: Neighborhood Watch and Business Watch groups, active shooter demonstrations/training, and business safety awareness. The ideal applicant in these opportunities is a working adult who wants to make a difference in their community and may be contemplating a career change.

Recruitment Team

The department created an extremely diverse recruitment team consisting of a cross-section of the organization, specifically selected and specially trained to engage interested candidates, establish rapport and form a relationship which helps guide candidates throughout the application, testing, and background process. Online interest cards are solicited and prospective applicants are quickly connected to a recruiter to explain the process,

provide information, and inspire continued interest. Orientation sessions are held for interested applicants to better prepare them for the rigorous hiring process. The Recruitment Team also attends local and national job fair events and uses diverse strategies of marketing and advertising such as online ads, billboards, magazine, radio, and videos to entice additional applications. This team was recently expanded to include civilian staff and incorporate similar recruitment strategies for the non-officer vacancies within the department.

Volunteer Programs

Police volunteer programs provide for community participation in the police department and an opportunity for community members to explore their interest, and potentially a career in law enforcement. The department restructured its volunteer programs to fill age gaps and realign volunteer resources. A reorganized Cadet program provides opportunities for those aged 14-17, and a newly created Sentinel program allows for volunteers between the ages of 18 and 40. These volunteers contribute to the department and community by participating in such duties as: assisting with traffic control, finding missing persons, conducting special checks and participating in the Neighborhood Impact Team (NIT). Both programs have gained tremendous support and interest, as demonstrated by the staffing levels of 25 people in each program.



Public Safety Academy

In August 2016, Stockton's first ever Public Safety Academy (PSA) opened on the grounds of Stagg High School. Designed as a criminal justice career pipeline for Stockton's youth, the PSA is a partnership with Stockton Unified School District, Stockton Police Department, San Joaquin Delta College Police Department and California Highway Patrol. The PSA initially opened for youth in 5th-8th grade with a curriculum built on criminal justice and a focus on character building based on the Six Pillars of Character. Each subsequent year, one grade will be added until the program includes the 12th grade. Ultimately, youth in grades 11 and 12 will be able to begin working on their AA or AS degree before completing high school by taking administrative justice classes through San Joaquin Delta College.

Strategic Goal 4

EMPLOY STAFF THAT ARE HIGHLY TRAINED, KNOWLEDGEABLE AND PREPARED

Due to severe financial challenges in past years, the department lost an enormous amount of experienced and well-trained employees, as well as a significant portion of the resources to train them. Since 2012, over 330 sworn officers have been hired; however, with an unusually high turnover rate, the department has realized only a net gain of a little more than 100 officers. With emphasis and resources placed on hiring, it has been a struggle to complete California Commission on Peace Officer Standards and Training (POST) mandated training. Specialty and team training was not possible. Moreover, joint training with other sections within the police department, such as code enforcement, dispatch, Animal Services and Field Evidence Technicians, was not an option.

While the department has consistently met minimum training requirements, those requirements have changed and the number of staff has increased. Moving forward, the department will need to accomplish the following objectives to meet the overall goal of having highly trained, knowledgeable and prepared staff.

Work is needed to achieve additional diversity within management. The promotional path from subordinate to supervisor and manager must support and encourage this

through skills preparation and testing, which includes a renewed mentorship and training program.

Council Goals Addressed

This goal supports several City Council Priority Goals by working to improve police response times, customer service and implementation of the Marshall Plan.

Objective 1: Implement a Comprehensive Training Plan

We will create a training plan for all sections within the department that identifies preferred POST schools and required POST training, identifies relevant specialty training and tracks all such training. To accomplish this objective, we will establish a Training Committee tasked with the following:

1. Considering all mandated and specialty training as it applies to each section within the department,
2. Identifying the most desired and beneficial POST schools and take advantage of Train the Trainer courses, thus saving money by locally training employees and eliminating travel costs,
3. Tracking employee training in the Training Management System (TMS),
4. Conducting in-house on the job training in team settings,
5. Identifying nationwide crime trends, crime reduction strategies, and response tactics to ensure our staff receives relevant training.



Objective 2: Develop Professional Training Staff

To accomplish this objective, we will:

1. We will develop full and part time trainers to meet the needs of a growing department. Each shift will have an appointed trainer within all areas of the police department to ease the heavy burden being placed on trainers. With this in mind, we will need to identify appropriate Train-the-Trainer courses to develop quality training staff.
2. Work with other agencies, such as the District Attorney's Office and mental health workers, to take advantage of their expertise with training our trainers.
3. Hold quarterly trainer development workshops to ensure consistency and quality of training.

Objective 3: Succession and Career Planning

With the anticipated supervisory and management turnover during the next three years, succession and career planning is important to plan for the long-term success of the department. To prepare for this turnover and to increase the diversity within the supervisory and management ranks, we will complete the following:

1. Partner with the University of the Pacific to develop an in-house and custom-fit leadership and promotion course. This course will be designed to prepare employees for the challenges associated with supervisory and management positions.
2. Have all Field Training Officers (FTOs) complete the Tactical Sergeant Course, which prepares them for the role and challenges of being a field sergeant.
3. Create and develop a Special Assignment Tour of Duty Plan. This plan will allow patrol officers to temporarily work in the various special assignments throughout the department to expose patrol officers to the different aspects associated with solving and managing crime.
4. Develop an in-house mentorship program where supervisors and managers are encouraged to mentor and develop their employees, preparing them for career advancement.

Objective 4: Training Facility

Thousands of hours are spent every year conducting POST-mandated and in-house training. POST requires semi-annual training for all police officers in three specific areas: Firearms, Arrest and Control Techniques, and Emergency Vehicle Operations. Additionally, the department conducts in-house specialty training such as Procedural Justice, mental health, use of force, and tactical training. Tactical training consists of classroom lecture and field training. Special teams, such as SWAT, Mobile Field Force and K-9, train at least once each month. Training needs have and will continue to grow as the department expands its ranks.

The department's training facility is located within the Port of Stockton and leased from the Port. It consists of four shooting ranges and a 1940s era range-house, which need significant upgrades and repairs. Additionally, the facility does not have an Emergency Vehicle Operations Course or Arrest and Control Techniques training area. This necessitates the use of outside training locations. A comprehensive plan needs to be developed that outlines the current and future training needs of the department and the necessary resources required to acquire and build these facilities.



Implementation and Evaluation of the Strategic Goals

It is critical that the department implements the four strategic goals of:

- Reducing crime and blight
- Increasing trust between the community and police
- Recruiting and hiring a qualified, diverse workforce
- Employing staff that are highly trained, knowledgeable and prepared

To ensure the success and implementation of these goals, each member of the Stockton Police Department will be held accountable. Beyond the continuous monitoring and updating, progress will be tracked and measured and annual reviews and updates will be implemented.

Accountability

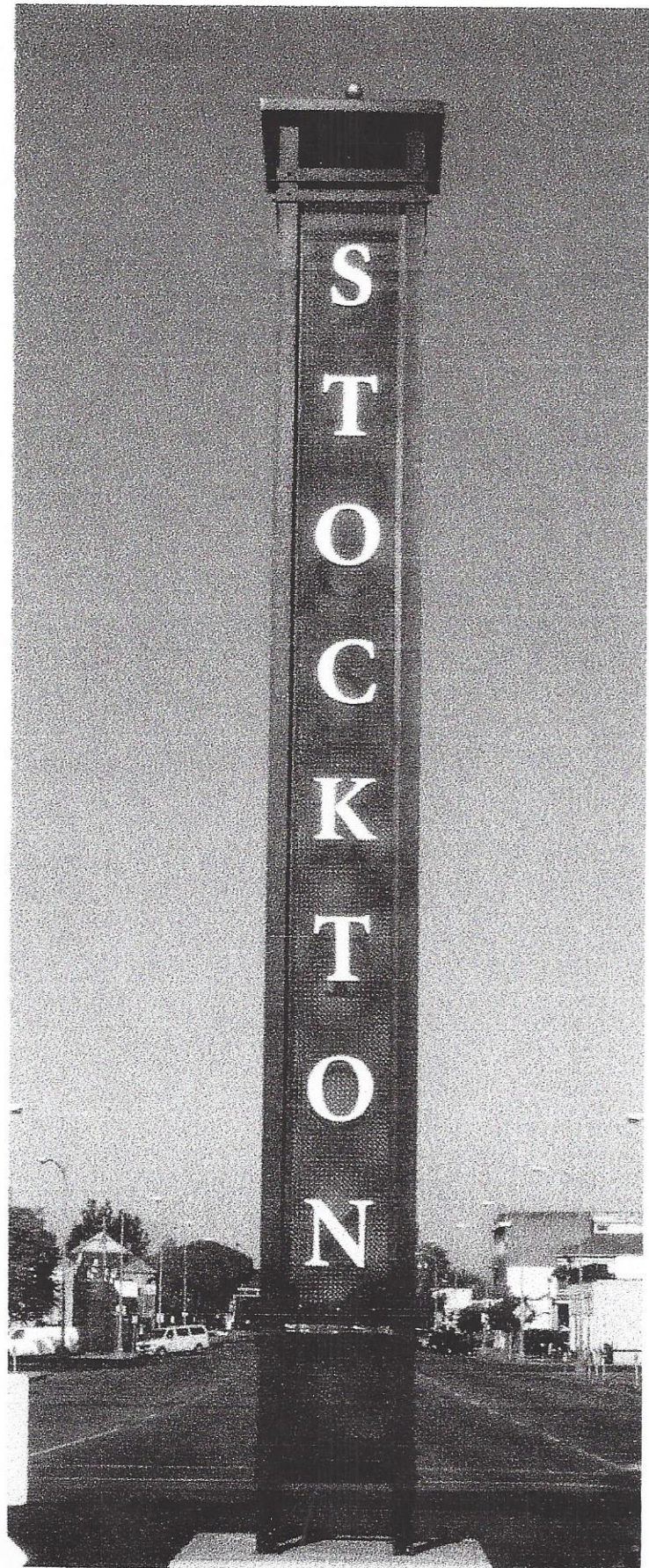
The department's top leadership is committed to the successful implementation of this strategic plan. The Chief of Police, Deputy Chiefs and Captains take personal responsibility for the strategic plan objectives. They will work together as a team to assign strategy leaders and balance resources as the department moves forward with the plan.

Tracking and Measurement

Strategic plan progress is continually tracked, measured, and reviewed during monthly Information, Communication and Planning (ICAP) strategy meetings. In addition to the monthly ICAP meetings, progress reports highlighting key accomplishments and progress are reviewed during quarterly management team meetings and are distributed department-wide for the benefit of all employees.

Annual Review and Update

The strategic plan is reviewed and updated as needed on an annual basis, in conjunction with the City's annual budget preparation cycle. The department's overall objectives and strategies are assessed and reprioritized if necessary, based on operating expenses, service indicators, crime statistics, or special initiatives. This process allows for plan flexibility given ever changing realities, ensuring the strategic plan remains a viable and legitimate tool that supports annual operating budget development, capital improvement project (CIP) development, and equipment and personnel planning. The report is available for download from the City's website at <http://stocktongov.com/government/departments/police/default.html>.





ADMINISTRATIVE REPORT

Agenda Item J.2.

Meeting Date: 11/5/2018

SUBJECT: Update on Council Member Serratto's Request to Discuss City Council Code of Conduct Resolution (Ethics)

REPORT IN BRIEF

A subcommittee report and draft changes will be presented regarding Council Member Serratto's request to discuss a Council Code of Conduct Resolution update pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

ATTACHMENTS

1. Memo from Council Member Serratto
2. Resolution 2017-10
3. Examples of Council Code of Conduct
4. Redline Draft Resolution
5. Proposed Draft Resolution

ETHICS RESOLUTION

- Most California cities have ethics ordinances. These can be values-based or conduct-based, general or specific, or some blend of either.
 - We have attached a number of samples from various other cities for your consideration. Many others are available online. California's large cities tend to have the more elaborate, detailed ethics ordinances.
- Ethics ordinances typical begin with a "preamble" or "purpose" or some other introductory statement which proclaims their intent, for example, to promote "responsible, fair and honest local government" or maintain "the highest standards of personal professional conduct in municipal government."
 - See attached ordinances for examples.
- Ethics ordinances may apply to any or all of the following: elected officials, appointed members of city commissions, high-level city officials or even all city employees.
 - See attached for examples. The City of Poway goes as far as to apply their ordinance to their city volunteers.
- Merced actually already has an ethics ordinance of sorts. However, we feel that we can improve upon it, and that doing so would constitute a step towards proactively cementing the culture that our council and our city government already have.
 - See attached for Resolution 2017-10, our "Values Statement" and "Rules of Order and Procedure."
- We included a limitation on gifts from "restricted sources." If, for example, a city councilmember receives more than \$50 in gifts in one year from a "restricted source," he or she would have to recuse him or herself from all votes involving that "restricted source."
 - See attached for the FPPC's rules on gifts, plus sample ordinances from Los Angeles and San Jose.

RESOLUTION NO. 2017-10

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
RESCINDING RESOLUTION NO. 2009-30 AND
RESOLUTION 2009-64 AND ADOPTING A
VALUES STATEMENT, ADOPTING RULES OF
ORDER AND PROCEDURE FOR THE CONDUCT
OF CITY COUNCIL MEETINGS, AND ADOPTING
A CODE OF CONDUCT FOR CITY COUNCIL
MEETINGS**

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

SECTION 1. RESCISSION OF RESOLUTIONS. Resolution No. 2009-30
and Resolution 2009-64 are hereby rescinded.

VALUES STATEMENT

SECTION 2. VALUES STATEMENT. The City Council of the City of
Merced values the creation of an atmosphere at City Council meetings that
encourages and fosters public input and involvement in the decision making
process. The City Council believes that diversity in the community is a positive
attribute that is reflected in those elected to represent the citizens of Merced.

It is the City Council's goal to be tolerant of different opinions, to show
respect and concern on all issues, to demonstrate leadership by its actions, and to
pledge support or disagreement without being disagreeable in our best effort to
keep Merced a city where good things happen.

It is the objective of the City Council to establish the uniform procedures
prescribed herein for the conduct of public hearings to ensure that all persons
appearing before the City Council are treated fairly and equally.

All other Boards and Commissions of the City shall strive to comply with
this Values Statement.

RULES OF ORDER AND PROCEDURE

SECTION 3. POSTING OF AGENDAS. All agendas of the City Council meetings, and of the other Boards and Commissions of the City, shall be posted on or near the entrance to City Hall, located at 678 West 18th Street, Merced, California, at least seventy-two (72) hours prior to a regular or adjourned meeting, and at least twenty-four (24) hours for a special meeting. The City Clerk or Secretary of the Board or Commission shall prepare a certificate of posting for each such posting.

SECTION 4. CONTENTS OF AGENDA. Each agenda shall contain a brief, general description of each item to be transacted or discussed at the meeting.

SECTION 5. CITIZEN PARTICIPATION. In accordance with Charter Section 411 and these Rules, each agenda for a regularly scheduled City Council, Board, or Commission meeting shall provide an opportunity for members of the public to personally, or through counsel, address the City Council, Board, or Commission on items of interest to the public that are within the subject matter jurisdiction of the City Council, or respective Board or Commission. In accordance with Section 411 of the City Charter, at special or emergency meetings, grievances and comments shall be limited to the topic of the special or emergency meeting, unless waived by the City Council, Board, or Commission.

Unless less restrictive rules are adopted or are waived by the City Council, Board or Commission, the following rules shall apply:

1. Except as provided below, citizen participation shall take place at the opening of oral communications for non-agenda items and for public hearings and other agenda items, public comment shall follow the administrative staff report for that item and shall be limited to five (5) minutes with no speaker given more than five (5) minutes to speak on any agenda item. In order to speak during oral communications, on an agenda item, or at a public hearing, a speaker must first complete a Request to Speak card and submit it to the City Clerk. For Oral Communications, the Request to Speak card shall be submitted prior to the City Clerk's calling for speakers. For agenda items other than Public Hearings, the Request to Speak card shall be submitted before the item is closed to public testimony. For Public Hearings where there is an applicant, permit holder, or appellant, the Request to Speak card shall be submitted prior to the call for rebuttal testimony or the matter being placed before the City Council in the event there is no rebuttal testimony. At the time for public comment, the Mayor or Chair shall

ask the City Clerk or Secretary of the Board or Commission to read the names from the Request to Speak cards. The City Clerk or Secretary of the Board or Commission shall call three (3) to five (5) speakers at a time and base the order of the speakers on the order in which the Request to Speak cards were submitted.

If more than three (3) speakers desire to speak at a public hearing or on an agenda item, then the Mayor or Chairperson may limit each speaker to three (3) minutes at the discretion of the City Council, Board, or Commission.

Speakers shall be timed by the City Clerk or Secretary of the Board or Commission who shall inform speakers when their time has expired. As a courtesy to the City Council, Board, or Commission and other speakers, and those waiting to be heard on agenda items, speakers will not be allowed to continue beyond their allotted time.

2. For those agenda items where there is an applicant for a permit, license, or other entitlement, or the proposed revocation thereof, a spokesperson for the applicant, or the applicant themselves, shall be entitled to fifteen (15) minutes, including any time for rebuttal, and a spokesperson for any appellant or group opposing the application shall be entitled to fifteen (15) minutes, including any time for rebuttal. All other speakers commenting on the item shall be limited to five (5) minutes and shall be subject to the Request to Speak card procedure hereinbefore prescribed.

3. For oral communications, each speaker must complete and submit a Request to Speak card and shall be subject to the procedures hereinbefore prescribed. The City Council or respective Board or Commission may limit non-agenda items to thirty (30) minutes after which any additional speakers may speak on non-agenda items at the end of the scheduled business.

4. No public input needs to be heard on a subject not within the subject matter jurisdiction of the City Council or respective Board or Commission and the Mayor or Chair shall rule the speaker out of order.

5. Any non-agenda item that requires action shall be referred by the Mayor or Chairperson to the City Manager for a report. The City Council, Board, or Commission shall not discuss the item until a report is prepared and heard unless the item meets one of the exceptions contained in Government Code Section 54954.2(b).

SECTION 6. ACTING ON NON-AGENDA ITEMS. No action shall be taken on agenda items not posted in accordance with Government Code Section 54954.2 or 54956 unless the item meets one of the exceptions contained in Government Code Section 54954.2(b).

SECTION 7. PROCEDURE UPON DEMAND TO CURE ACTION ALLEGED TO VIOLATE THE BROWN ACT. Upon receipt of a demand to cure or correct an alleged violation of the Brown Act, Government Code Section 54950 *et seq.*, the following rules shall apply:

1. The item shall be considered in two parts at the next meeting of the City Council, Board, or Commission.
2. The City Council, Board, or Commission shall first consider whether or not to reconsider the matter in which an alleged violation of the Brown Act occurred. If the City Council, Board, or Commission determines to reconsider the matter, the City Council, Board, or Commission shall thereafter rehear the matter on the merits and determine whether or not to supersede or rescind the challenged action as of the effective date of the corrective action. In making any corrective action, all previous testimony, as well as any new testimony, shall be considered part of the record.

SECTION 8. PROCEDURE FOR AGENDA ITEMS.

1. The presiding officer shall be the Mayor for all matters before the City Council and the Chair of the Board or Commission for all matters before the Board or Commission. In the event of the absence or non-participation for any reason of the Mayor or Chair, the presiding officer shall be the member upon whom the chairmanship of a regular meeting of the body devolves in such event.
2. The order of presentation of evidence in each case shall be determined by the presiding officer in their discretion. The presiding officer shall rule out of order the presentation of abusive, profane, or unduly repetitive evidence.
3. Evidence shall not be required to be presented under oath or affirmation nor shall there be a right of cross-examination, except for any revocation hearing held pursuant to subsection 9 of this Section.
4. No proceeding need be conducted according to any technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is

the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in a court of law.

5. Rulings on questions of order or procedure shall be made by the Mayor or Chair of the Board or Commission unless a specific rule to the contrary is provided by the Charter of the City of Merced, a statute applicable to charter cities, City Ordinance, or these rules. Such rulings on questions of order or procedure are subject to appeal to the entire City Council or Board or Commission by a Member of the City Council, Board, or Commission in which case a majority vote thereof shall conclusively govern and conclusively determine such question of order or procedure. *Robert's Rules of Order*, if used, shall only be used as a guide and is not conclusive authority on any question of order or procedure.

6. When a matter is contested and a request is filed in writing with the City Clerk at least forty-eight (48) hours before the hour set for the hearing, a record of any hearing or continued hearing subsequently held in the matter shall be made and duly preserved, provided that the City Clerk shall require a deposit in advance from the person making the request. A copy of such record shall be available at cost.

7. Administrative staff reports shall be made public prior to or at the beginning of the hearing and shall be a matter of public record.

8. The action or recommendation of the City Council, Board, or Commission shall appear in the minutes of the respective body prepared for the meeting. Such minutes shall be public records, which shall be open to inspection and available for copying at cost in accordance with rules applicable to public records generally.

9. The following additional rules shall apply to public hearings set for the purpose of determining whether a conditional use permit; variance; or any other entitlement, license, or permit shall be revoked and shall prevail over any of the foregoing rules inconsistent herewith.

A. Notice of revocation hearing shall be transmitted by certified mail at least ten (10) days before the hearing to the owner of the affected property at the address shown on the current records of the County Assessor.

- B. The decision of the body before which the public hearing was held shall be sent to the affected property owner by certified mail at the address shown on the current records of the County Assessor within ten (10) days of the making of such decision.

SECTION 9. CITY COUNCIL MEETINGS.

1. Effective May 1, 2017, regular sessions of the City Council shall be held on the first and third Mondays of each month, holidays excepted, at the hour of 5:30 p.m., and adjourned and special meetings at such time as the City Council may order. The time between 5:30 p.m. and 6:00 p.m. shall be reserved for closed sessions with the regular agenda commencing at 6:00 p.m.

2. The proceedings of special City Council meetings shall be limited to the subjects set forth in the call therefore.

SECTION 10. POWERS AND DUTIES OF MAYOR.

1. The Mayor shall take the Chair at the hour appointed for the City Council to meet. The Mayor shall immediately call the members to order, and except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules.

2. The Mayor shall preserve order and decorum and shall decide all questions of order and procedure, subject to appeal, which appeal shall be decided without debate, except that the appellant may state the grounds upon which he/she bases his/her appeal.

SECTION 11. POWERS AND DUTIES OF MAYOR PRO TEMPORE.

The Mayor Pro Tempore shall be selected by the City Council to act as presiding officer during the absence of the Mayor and said Mayor Pro Tempore shall serve at the pleasure of the City Council.

SECTION 12. ABSENCE OF MAYOR AND MAYOR PRO TEMPORE.

In the absence of the Mayor and Mayor Pro Tempore, the Chair shall be occupied by one of the City Council Members present, selected alphabetically in rotation on an annual basis.

SECTION 13. ORDER OF BUSINESS.

1. The City Manager shall prepare or cause to be prepared and cause to be printed for each meeting a list in detail of all matters ready for consideration at the City Council, Board or Commission meetings; said list shall be known as the agenda and shall include all communications from other officers and boards, petitions and communications, reports, resolutions, ordinances, and any other matters which have been presented to the City Council, Board, or Commission and which remain undetermined. In case any matters on the agenda of a particular meeting are not acted upon, they shall be continued upon the agenda of the next meeting and of each succeeding meeting in their order of introduction until finally disposed of by the City Council.

2. The business of regular meetings of the City Council, Board or Commission shall be transacted as far as practicable in the following order:

- A. Study Session (if applicable)
- B. Closed Session (if applicable)
- C. Call to Order
- D. Roll Call
- E. Report Out of Closed Session (if applicable)
- F. Ceremonial Matters (if applicable)
- G. Special Presentations (if applicable)
- H. Written Petitions and Communications
- I. Oral Communications
- J. City Council Consent Calendar
- K. City Council Public Hearings
- L. City Council Reports
- M. Business from City Council
- N. Adjournment

It is understood that matters set for public hearing shall be taken up at the hour set or as soon thereafter as possible.

3. The first item on the consent calendar shall be a motion that reads as follows:

“To approve the reading by title of all Ordinances and Resolutions which appear on the public agenda. Said Ordinances and Resolutions which appear on the public

agenda shall be determined to have been read by title and further reading waived pursuant to Merced City Charter Section 412.”

CODE OF CONDUCT

SECTION 14. RIGHTS AND DUTIES OF MEMBERS.

1. When a Member is about to speak they shall address the Mayor or Chair, and when two or more Members desire to speak at once, the Mayor or Chair shall name the Member who is to speak, and the Member shall confine himself/herself to the question under debate and avoid personalities.
2. Whenever the Mayor recognizes a Member desiring to speak that Member may initially address the City Council or question staff, an applicant or a witness for a period not to exceed five (5) minutes after which the Mayor shall recognize the next Member desiring to speak or question staff, an applicant, or a witness. Once all Members have had an initial five (5) minutes to speak on a matter, the Mayor shall allow a second and subsequent rounds of speaking and/or questioning by the City Council until the question is called or all Members have completed their speaking and/or questioning.
3. Every Member present when a question is put shall vote by signifying yes, no, or abstain either by voice vote or electronic means as appropriate.
4. No Member shall divulge information on any aspect of a “closed session” called under the provisions of the Ralph M. Brown Act of the State of California, except as required by law, nor shall the Member violate any confidences received as a result of their official office. (Merced Municipal Code Section 2.04.050).
5. Members shall conduct themselves in a proper manner at all times as befitting their official office and in accordance with the responsibility entrusted to them by the citizens of this community.

SECTION 15. DUTIES OF CITY CLERK.

1. The City Clerk, Assistant City Clerk, or Deputy City Clerk shall attend all meetings of the City Council (except closed sessions) and shall maintain

a record of the proceedings of the City Council and shall record the ayes and noes upon all questions.

2. It shall be the duty of the City Clerk to keep a complete record of the proceedings of the City Council in the form of minutes.

3. The City Clerk shall keep an index of records convenient for reference of all ordinances, resolutions, petitions, and other matters introduced or presented to the City Council, together with a complete chronological record of all action taken thereon by the City Council.

4. The City Clerk shall notify all Members of the City Council of the time set for any special or adjourned meetings, and shall, at the request of the Mayor, call all meetings of special committees and notify parties interested in the matters pending before said special committee of the time and place of said meeting.

5. The City Clerk shall time all speakers and inform a speaker when the speaker's allotted time has expired.

6. The City Clerk shall collect the Request to Speak cards and read the names therefrom when called to by the Mayor or Chair.

SECTION 16. MISCELLANEOUS PROVISIONS. Except as herein otherwise provided, the proceedings of this City Council shall be governed by the City Charter, City Ordinances, statutes applicable to charter cities, and these rules, and it shall be the duty of the Mayor to adhere to and enforce such rules, as well as the rules herein set forth.

SECTION 17. VALIDITY OF ACTIONS. Violations of any of these rules shall not affect the validity of any action, inaction or recommendation regardless of whether taken by ordinance, resolution or motion, except upon specific allegation and proof of the procedural error complained of sufficient to demonstrate that such error was prejudicial and that by reason thereof the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

SECTION 18. IMPLEMENTATION. These Rules of Order and Procedure shall be implemented at the first meeting of the City Council, Board, or Commission occurring on May 1, 2017.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the 21ST day of February 2017, by the following vote:


AYES: 6 Council Members: BLAKE, MARTINEZ, MCLEOD, MURPHY,
PEDROZO, SERRATTO

NOES: 1 Council Members: BELLUOMINI

ABSENT: 0 Council Members: NONE

ABSTAIN:0 Council Members: NONE

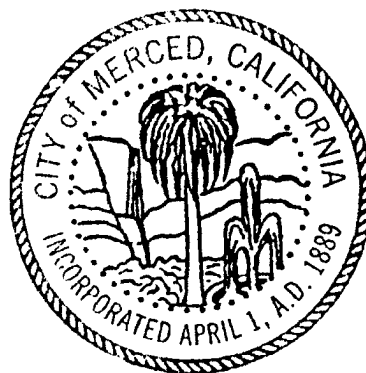
APPROVED:


Mayor

ATTEST:
CITY CLERK

BY: [Signature]
Assistant/Deputy City Clerk

(SEAL)



APPROVED AS TO FORM:

Kelley Fincher 2/22/17
City Attorney Date

CODE OF ETHICS

Preamble

The citizens and businesses of Poway are entitled to responsible, fair and honest local government which has earned the public's full confidence for integrity. The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to those they serve.

Accordingly, the Poway City Council has adopted this Code of Ethics to:

- Describe the standards of behavior to which its leaders aspire
- Provide an ongoing source of guidance to city officials in their day-to-day service to the city
- Promote and maintain a culture of ethics

This Code of Ethics builds upon the City of Poway's ideals, which include:

- Open and honest communication at all times
- Mutual respect
- Honor of the public trust as stewards of the community

Elected officials, officers, employees, members of committees, and volunteers shall comply with the laws of the nation, the State of California and the City of Poway in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Poway Municipal Code, laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and city ordinances and policies.

The purpose of this Code of Ethics is to set a standard of conduct for all elected officials, officers, employees, members of committees and commissions, and volunteers for the City of Poway. The Code will be reviewed and evaluated periodically.

We Maintain Open & Honest Communication at All Times

- I am honest and forthright with my fellow officials, the public and others, even when it is uncomfortable to do so
- I encourage diverse public engagement in our decision-making processes and support the public's right to know

We Maintain Mutual Respect

- I treat my fellow city officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community
- I promote consistency, equity and non-discrimination in public agency decision-making

We Honor the Public Trust as Stewards of the Community

- I am a steward of the public trust
- I understand that the community expects me to serve with dignity and respect for my office, as well as to be an agent of the democratic process acting in the public interest
- I avoid actions that might cause the public to question my independent judgment

- I am a prudent steward of public resources and actively consider the impact of my decisions on the financial and social stability of the city and its residents
- I understand that as an elected official, or as a representative appointed by the City Council, I cannot act on behalf of, or commit the city to any action or policy that has not been authorized by the City Council
- I am prepared to make decisions in the public's best interest based on the merits and substance of the matter at hand, and to take responsibility for my actions, whether those decisions are popular or not

We will hold ourselves as individuals and the City of Poway organization as a whole accountable for acting consistently with this Code of Ethics.

Ethics Training - AB 1234

Effective January 1, 2006, state law (AB 1234) requires (among other things) that local officials that receive compensation, salary, stipends, or expense reimbursements must receive training in public service ethics laws and principles every two years. The requirement applies not only to the governing body of a local agency, but also commissions, committees, boards, or other local agency bodies, whether permanent or temporary, decision-making or advisory.

To help local officials meet their ethics training requirements, the Institute for Local Government and the Fair Political Practices Commission have developed the ethics training course available on their website. The course has been approved by the Attorney General's Office and Fair Political Practices Commission.

How to File a Complaint

- Conflict of interest, financial and campaign disclosures
 - California Fair Political Practices Commission
Ph: 916-322-5660
- Criminal
 - San Diego County District Attorney's Office
Ph: 619-531-4040
 - State of California Office of the Attorney General, Public Inquiry Unit
Ph: 800-952-5225

Ethics Code

AB 1234 Ethics 2006 [PDF]

Background

The laws of the State of California govern all aspects of public service ethics including full disclosure of personal economic interests, loans, gifts and honoraria, full disclosure of campaign contributions and other issues that might be considered conflicts of interest as well as criminal misconduct.

Purpose

While it is understood that the State of California has numerous sets of laws that guide the ethical behavior of public officials and employees, the City of Barstow wishes to establish that this is a community whose ethical values are clearly stated and fully understood not only by its elected officials and appointed leaders, but this Ethics Code is recognized and acknowledged by its employees and its citizen representatives to represent the values this community holds in highest regard.

Applicability

The community of Barstow, California is entitled to fair, accountable and ethical local government. Therefore the City of Barstow will require from its public officials, both elected and appointed, all public employees and citizens of Barstow that they comply with the letter and spirit of all laws governing the operations of government.

The City of Barstow will further require that public officials, both elected and appointed,

- Be fair and objective in their judgment and actions without consideration of their personal good and with an understanding that their position is not for personal gain but for public good;
- Conduct themselves in a way that brings pride to the community and not in a way that brings disdain, embarrassment, or mockery;
- Be independent, fair and impartial in their judgment and actions;
- Perform as role models for the community within an atmosphere of respect and civility;
- Understand that the professional and personal conduct of members must be above reproach and avoid even the slightest appearance of impropriety;
- Refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of councils, boards and commissions, the staff or the public;
- Perform their duties in accordance with the processes and rules of order established by the City Council and boards and commissions governing the deliberation of public policy issues, to include meaningful involvement of the public and implementation of policy decisions;
- Prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; using gestures, facial expressions or general body language that is offensive, discourteous, or otherwise interfering with the orderly conduct of meetings.

To this end, we set forth the following code of ethics and statement of conduct with the expectation that all public officials, elected or appointed, all public employees and citizens of Barstow will incorporate the spirit of this document into their lives and will represent the community of Barstow with the utmost integrity.

Implementation and Enforcement

This statement of ethics is intended to be self-enforcing. This statement will be included in the orientations for candidates, appointed members of boards and committees, and all new employees. They shall sign a statement affirming that they have read and understood the statement of ethics, are thoroughly familiar with it and embrace its provisions. The statement will be reviewed annually for any necessary revisions with full consideration from boards and commissions as it is deemed necessary.

The City Council may impose sanctions on members whose conduct is not in compliance with the ethical standards as set forth. Those sanctions may include but are not limited to: reprimand, formal censure, budget restrictions and removal from boards and commissions.

Code of Ethics and Statement of Conduct

As a public official, elected or appointed, and/or as a candidate for public office or nominee for a board I sign my name below with full understanding of the expectations that this community holds for me.

- I will always be honest with my fellow elected officials, the public and others and take responsibility for my actions even when it is difficult for me to do so.
- The decisions I make may appear to be unpopular but those decisions will be made in the public's best interest without knowingly using false or inaccurate information.
- I will not accept unauthorized gifts or services, special considerations or favors because of my public position which holds the public's trust.
- I will excuse myself from participating in decisions where my family's financial interest might be affected by my decision or my agency's decision nor will I use information gained in that capacity to further personal advantages.
- Even when in disagreement, I will treat my fellow officials, staff, and each citizen with patience, courtesy and civility behaving in such a way that builds respect instead of disdain.
- I am in this position to address the merits of proposals brought forth and not the personalities of those involved.
- The decisions I make will be based on current research and facts as I look toward the short and long-term goals of the community.

Elected and appointed officials code:

- Community service is our mission
- Openness, respect and courtesy is an expectation
- Understanding what is being said to me is more important than my being understood
- No one has a higher priority than each citizen of this and any forthcoming generation
- Compassion and commitment to the needs of the citizen majority is primary in my actions
- Integrity and honesty is reflected by my supporting that which is right in the long run and not what is right for me and my friends
- Loyalty to our community and its future generations will be our legacy.

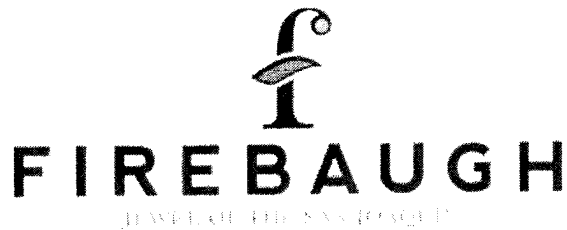
Barstow staff code:

- Barstow staff and officials serve on behalf of all Barstow citizens
- Actions should reflect dignity and integrity
- Respect, courtesy, openness: the hallmark of our performance
- Service to our community is our primary goal
- Treat each person with same level of respect and understanding that you feel is due you

- **Offer to help.** Getting involved makes for a better community
- **We will work together** for the community of Barstow's long-term growth and well-being.

Citizen code:

- **Common courtesy.** Show it to each citizen regardless of their public status.
- **Offer to help.** Getting involved makes for a better community.
- **Make a difference** by helping and not just complaining.
- **Make your voice known.** Leadership listens to those who speak up.
- **Unite.** Divisiveness creates more divisiveness.
- **Neighbors.** Get to know them. It will make the entire community a better and safer place.
- **Invest in the future generations** by investing time and attention to the children of the community.
You will make a tremendous difference in the lives of those involved.
- **Treat each person** with the same level of respect and understanding that you feel is due you.
- **You are just as responsible** for this community as anyone else.

[HOME](#)[ABOUT](#)[CITY COUNCIL](#)[CITY DIRECTORY](#)[CITY DEPARTMENTS](#)[BUSINESS DEVELOPMENT](#)[CONTACT INFORMATION](#)[SENIOR CENTER](#)

Code of Conduct

- > [About](#)
- > [Code of Conduct](#)
- > [Demographics](#)
- > [Maps](#)
- > [History](#)
- > [City Profile](#)
- > [Economic Profile Download](#)

Code of Conduct

PERSONAL CODE OF CONDUCT/ETHICS FOR THE CITY OF FIREBAUGH

PREAMBLE

The residents and businesses of City of Firebaugh are entitled to have fair, ethic and accountable local government. Such a government requires that public officials:

- **Comply with both the letter and the spirit of the laws and policies affective operations of the government.**
- **Be independent, impartial and fair in their judgment and actions.**
- **Use their public office for the public good, not for personal gain.**
- **Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.**

To this public confidence in the integrity of local government and its fair and effective operation. And, the City of Firebaugh City Council has adopted this Code of Ethics to encourage

Elected and Appointed officials shall sign this personal code of conduct at time of their election to office.

City Staff and Volunteers shall sign this personal code of conduct at time of employment.

1. **Act in the Public Interest** Recognizing that stewardship of the public interest must be their principal concern, everyone shall work for the common good of the personal code of the City of Firebaugh and not for any private or personal interest, and they will endeavor to treat all persons, claims and transactions in fair and equitable manner.
2. **Comply with the Law** Everyone shall comply with the laws of the nation, the State of California and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the City of Firebaugh General City, laws pertaining to conduct of interest, election campaigns, financial disclosures, employer responsibilities and open processes of government; and City ordinance and policies.
3. **Conduct of Members** Everyone shall refrain from abusive conduct, verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff or the public.
4. **Respect for Process** Duties shall be performed in accordance with the processes and rules of order established by the City Council.
5. **Conduct of Public Meetings** Everyone shall inform themselves of public issues, listen attentively to public discussions before the body and focus on the business at hand.
6. **Decisions Based on Merit**
Shall be based upon the merits and substance of the matter at hand.
7. **Communication** It is the responsibility of everyone to publicly share substantive information that is relevant to a matter under consideration that they received from sources outside of the public decision-making processes.
8. **Disclosure of Corruption** Everyone shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State and the Federal government. As part of this

oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or action that may qualify as corruption, abuse, fraud, bribery or other violators the law.

9. **Conflict of Interest**In order to assure their independence and impartiality on behalf of the public good, everyone shall not use their official positions to influence government decisions in which they have a financial interest where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

10. Gifts and Favors

Everyone shall not take advantage of services or opportunities personal gain by virtue of their public offices that are not available to the public in general. They shall refrain from accepting gifts, favors or promises of future benefits that might compromise their independence judgment or action or give the appearance of being compromised.

11. Confidential Information

Everyone shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their person's financial or private interests.

12. Representation of Private Interests

In keeping with their role as stewards of the public trust, everyone shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission or committee or proceeding the City.

13. Advocacy

To the best of their ability, everyone shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

16. Improper Influence

Everyone shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commission or committees.

17. Policy Role of Members

Everyone shall respect and adhere to the Council-Manager structure of the City of Firebaugh City Government as provided in State law the General City.

18. Positive Work Environment

Everyone shall support the maintenance of a positive and constructive environment for residents, businesses and City employees.

19. Implementation

Ethics standards shall be included in the regular orientations for Staff and Volunteers. All members shall sign a statement affirming they read and understand the City of Firebaugh City Council Code of Ethics.

20. Compliance and Enforcement

Everyone has the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have full confidence in the integrity of City government.

This personal code of conduct shall be considered to be a summary of ethical conduct by Firebaugh Staff and Volunteers.

I affirm that I have read and understand the City of Firebaugh City Council Personal Code of Conduct.

I acknowledge that I may be removed from my appointed office or volunteer position by the City Council if my conduct falls below these ethical standards.

CITY OF FIREBAUGH**RESOURCES****CONTACT**

- County of Fresno
- Fresno Council of Governments
- State of California

Address: 1133 P St.
Firebaugh, CA 93622
Phone: (559) 659-2043

City of Firebaugh Powered by Vortal, Inc.

[HOME](#) [ABOUT](#) [CITY COUNCIL](#) [CITY DIRECTORY](#)

CITY DEPARTMENTS BUSINESS DEVELOPMENT
CONTACT INFORMATION SENIOR CENTER

Website design generously funded through a grant from the USDA's Rural Community Development Initiative





CITY OF LODI Code of Ethics and Values

EXHIBIT A

PREAMBLE

The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to the people they serve. The City of Lodi has adopted this Code of Ethics and Values to promote and maintain the highest standards of personal professional conduct in the City's government. All elected and appointed officials are required to subscribe to this Code, understand how it applies to their specific responsibilities, and practice its eight core values in their work. Because we seek public confidence in the City's services and public trust of its decision-makers, our decisions and our work must meet the most demanding ethical standards and demonstrate the highest levels of achievement in following this Code.

**1. As a representative of the City of Lodi, I will be ethical.
In practice, this value looks like:**

- a) I am trustworthy, acting with the utmost integrity and moral courage.
- b) I am truthful, do what I say I will do, and am dependable.
- c) I make impartial decisions, free of bribes, unlawful gifts, narrow political interests, and financial and other personal interest that impair my independence of judgment or action.
- d) I am fair, distributing benefits and burdens according to consistent and equitable criteria.
- e) I extend equal opportunities and due process to all parties in matters under consideration. If I engage in unilateral meetings and discussions, I do so without making voting decisions.
- f) I show respect for persons, confidences, and information designated as "confidential" to the extent permitted by California law.
- g) I use my title(s) only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether I am exceeding or appearing to exceed my authority.

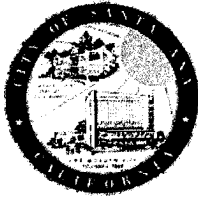
**2. As a representative of the City of Lodi, I will be professional.
In practice, this value looks like:**

- a) I apply my knowledge and expertise to my assigned activities and to the interpersonal relationships that are part of my job in a consistent, confident, competent, and productive manner.
- b) I approach my job and work-related relationships with a positive attitude.
- c) I keep my professional knowledge and skills current and growing.

**3. As a representative of the City of Lodi, I will be service-oriented.
In practice, this value looks like:**

- a) I provide friendly, receptive, courteous service to everyone.
- b) I am attuned to, and care about, the needs and issues of citizens, public officials, and City workers.
- c) In my interactions with constituents, I am interested, engaged, and responsive.

4. **As a representative of the City of Lodi, I will be fiscally responsible.**
In practice, this value looks like:
- a) I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the City, especially its financial stability.
 - b) I demonstrate concern for the proper use of City assets (e.g. personnel, time, property, equipment, and funds) and follow established procedures.
 - c) I make good financial decisions that seek to preserve programs and services for City residents.
5. **As a representative of the City of Lodi, I will be organized.**
In practice, this value looks like:
- a) I act in an efficient manner, making decisions and recommendations based upon research and facts, taking into consideration short- and long-term goals.
 - b) I follow through in a responsible way, keeping others informed, and responding in a timely fashion.
 - c) I am respectful of established City processes and guidelines.
6. **As a representative of the City of Lodi, I will be communicative.**
In practice, this value looks like:
- a) I convey the City's care for and commitment to its citizens.
 - b) I communicate in various ways that I am approachable, open-minded, and willing to participate in dialog.
 - c) I engage in effective two-way communication, by listening carefully, asking questions, and determining an appropriate response, which adds value to conversations.
7. **As a representative of the City of Lodi, I will be collaborative.**
In practice, this value looks like:
- a) I act in a cooperative manner with groups and other individuals, working together in a spirit of tolerance and understanding.
 - b) I work toward consensus-building and gain value from diverse opinions.
 - c) I accomplish the goals and responsibilities of my individual position, while respecting my role as a member of a team.
 - d) I consider the broader regional and state-wide implications of the City's decisions and issues.
8. **As a representative of the City of Lodi, I will be progressive.**
In practice, this value looks like:
- a) I exhibit a proactive, innovative approach to setting goals and conducting the City's business.
 - b) I display a style that maintains consistent standards, but is also sensitive to the need to compromise, "thinking outside the box," and improving existing paradigms when necessary.
 - c) I promote intelligent and thoughtful innovation in order to forward the City's policy agenda and City services.



THE CITY OF SANTA ANA

CODE OF ETHICS AND CONDUCT

ADOPTED JUNE 2, 2008

The people of the City of Santa Ana, at an election held on February 5, 2008, approved an amendment to the City Charter of the City of Santa Ana which states: "The City of Santa Ana shall adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government elected and appointed officials." Consistent with the vote of the people, the following Code of Ethics and Conduct is hereby adopted by the City of Santa Ana to ensure effective and fair operation of the local government of the City of Santa Ana.

I.

PREAMBLE

It is the intent of this code to achieve fair, ethical, and accountable local government for the City of Santa Ana. The people of Santa Ana expect public officials, both elected and appointed, to comply with both the letter and the spirit of the laws of the State of California, the United States of America, and the Charter, Municipal Code, and established policies of the City of Santa Ana affecting the operations of local government. In addition, public officials are expected to comply with the provisions of this Code of Ethics and Conduct established pursuant to the expressed will of the people. All persons covered by this code will aspire to meet the highest ethical standards in the conduct of their responsibility as an elected or appointed official of the City of Santa Ana.

This code addresses various aspects related to the governance of the City of Santa Ana and supplements, but does not supplant other laws and rules that prescribe the legal responsibilities of City officials. These include, but are not limited to, the Federal and State Constitutions, various provisions of the California Government Code (such as the Brown Act and the Political Reform Act), the Labor Code, laws prohibiting discrimination and harassment, and the City of Santa Ana Charter and Municipal Code. Elected and appointed officials are expected to be familiar with these laws to ensure that they exercise their public responsibilities in a proper fashion. This code is not designed to be used as a tool to remove appointed officials, as the City Council retains the right under the Charter and Municipal Code to remove appointed officials in accordance with those provisions.

While it is not possible to anticipate and provide a rule of conduct and ethics for all situations that public officials may face, this Code of Ethics and Conduct is designed to provide a framework to guide public officials in their daily duties.

II.

SCOPE

The provisions of this Code of Ethics and Conduct shall apply to the Mayor and members of the City Council, and to all members of the boards, commissions, and committees appointed by the City Council or the Mayor or the Mayor and City Council, including any *ad hoc* committees. Further, the provisions of this Code of Ethics and Conduct shall only apply to these officials and members acting in their official capacities and in the discharge of their duties.

III.

CORE VALUES

Attitudes, words, and actions should demonstrate, support, and reflect the following qualities and characteristics for the well being of our community. The five core values and expressions that reflect these core values are as follows:

INTEGRITY/ HONESTY

- I am honest with my fellow elected officials, the public and others.
- I do not promise what I believe to be unrealistic.
- I am prepared to make unpopular decisions when my sense of the public's best interests requires it.
- I credit others' contributions to moving our community's interests forward.
- I do not knowingly use false or inaccurate information to support my position or views.
- I safeguard the ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial and social relationships and transactions that may compromise, or give the appearance of compromising, objectivity, independence, and honesty.

RESPONSIBILITY/PROTECTING THE PUBLIC'S INTERESTS

- I do not accept gifts, services or other special considerations because of my public position.
- I excuse myself from participating in decisions when my or my immediate family's financial interests may be affected by my agency's actions.
- I do not give special treatment or consideration to any individual or group beyond that available to any other individual.

- I refrain from disclosing confidential information concerning litigation, personnel, property, or other affairs of the City, without proper legal authority, nor use such information to advance my financial or other personal interests.

FAIRNESS/ACCOUNTABILITY

- I promote meaningful public involvement in the agency's decision-making processes.
- I treat all persons, claims and transactions in a fair and equitable manner; I make decisions based on the merits of the issue.
- If I receive substantive information that is relevant to a matter under consideration from sources outside the public decision-making process, I publicly share it with my fellow governing board members and staff.
- I work to contribute to a strong organization that exemplifies transparency and open communication.

RESPECT FOR FELLOW ELECTED OR APPOINTED OFFICIALS, STAFF, AND THE PUBLIC

- I treat my fellow officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.
- I work towards consensus building and gain value from diverse opinions.
- I respect the distinction between the role of office holder and staff; I involve staff in meetings with individuals, those with business before the agency, officials from other agencies and legislators to ensure proper staff support and to keep staff informed
- I conduct myself in a courteous and respectful manner at all times during the performance of my official City duties.
- I encourage full participation of all persons and groups; I am aware and observe important celebrations and events which reflect the values of our diverse population.

PROPER AND EFFICIENT USE OF PUBLIC RESOURCES

- I do not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes.
- I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.
- I demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures.
- I am a prudent steward of public resources and actively consider the impact of my decisions on the financial and social stability of the City and its residents.

IV.

IMPLEMENTATION AND ENFORCEMENT

City of Santa Ana elected and appointed officials of the various boards, commissions and committees have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. This code of ethics will be most effective when the elected and appointed officials are thoroughly familiar with it and embrace its provisions.

Upon adoption of this code, all current elected or appointed officials shall be given a copy of the code and asked to affirm in writing that they have received the code, understand its provisions, and pledge to conduct themselves by the code. All new members of the City Council, upon election or reelection, and members of boards, commissions, and committees appointed by the City Council, upon appointment or reappointment, shall be given a copy of the code and are required to affirm in writing they have received the code and understand its provisions, and pledge to conduct themselves by the code. (See Attachment) Additionally, all members of the City Council, boards, commissions, and committees, as part of their AB1234 training, shall be provided additional training clarifying the provisions and application of this code. The City Attorney, or his/her designee, shall serve as a resource person to those persons covered by the code to assist them in determination of appropriate actions consistent with the code.

A periodic review of the code shall be conducted to ensure that the code is an effective and vital document.

This Code of Conduct is intended to be a reflection of the community's values as articulated by the Mayor and City Council as they represent the will of the people of the City of Santa Ana.

CITY OF SANTA ANA – CODE OF ETHICS AND CONDUCT

CERTIFICATION

As an elected or appointed official of the City of Santa Ana, California, I herein certify that I have received a copy of the Code of Ethics and Conduct of the City of Santa Ana, have been offered training and assistance in understanding this code, and am aware of the provisions of the code and its application to my responsibilities. Consistent with the code, I pledge the following in the conduct of my duties:

INTEGRITY/ HONESTY

- I am honest with my fellow elected officials, the public and others.
- I do not promise what I believe to be unrealistic.
- I am prepared to make unpopular decisions when my sense of the public's best interests requires it.
- I credit others' contributions to moving our community's interests forward.
- I do not knowingly use false or inaccurate information to support my position or views.
- I safeguard the ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial and social relationships and transactions that may compromise, or give the appearance of compromising, objectivity, independence, and honesty.

RESPONSIBILITY/PROTECTING THE PUBLIC'S INTERESTS

- I do not accept gifts, services or other special considerations because of my public position.
- I excuse myself from participating in decisions when my or my family's financial interests may be affected by my agency's actions.
- I do not give special treatment or consideration to any individual or group beyond that available to any other individual.
- I refrain from disclosing confidential information concerning litigation, personnel, property, or other affairs of the City, without proper legal authority, nor use such information to advance my financial or other personal interests.

FAIRNESS/ACCOUNTABILITY

- I promote meaningful public involvement in the agency's decision-making processes.
- I treat all persons, claims and transactions in a fair and equitable manner; I make decisions based on the merits of the issue.

- If I receive substantive information that is relevant to a matter under consideration from sources outside the public decision-making process, I publicly share it with my fellow governing board members and staff.
- I work to contribute to a strong organization that exemplifies transparency and open communication.

RESPECT FOR FELLOW ELECTED OR APPOINTED OFFICIALS, STAFF, AND THE PUBLIC

- I treat my fellow officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.
- I work towards consensus building and gain value from diverse opinions.
- I respect the distinction between the role of office holder and staff; I involve staff in meetings with individuals, those with business before the agency, officials from other agencies and legislators to ensure proper staff support and to keep staff informed
- I conduct myself in a courteous and respectful manner at all times during the performance of my official City duties.
- I encourage full participation of all persons and groups; I am aware and observe important celebrations and events which reflect the values of our diverse population.

PROPER AND EFFICIENT USE OF PUBLIC RESOURCES

- I do not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes.
- I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.
- I demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures.
- I am a prudent steward of public resources and actively consider the impact of my decisions on the financial and social stability of the City and its residents.

Signed this _____ day of _____, 2008

Signature: _____

City Code of Ethics

City Code of Ethics

The City of Oakley has adopted this Code of Ethics to foster public trust and public confidence by promoting and maintaining the highest standards of conduct. The City Council, appointed officials, City management and City staff are expected to follow this Code and to practice its core values.

HONESTY

As I serve Oakley, I am honest. I keep my word and lead by example. I base my actions on behalf of the City on the best available information. I go out of my way to build trust, and consider carefully the impact of my actions on public confidence. I maintain integrity at all times and consistently do what I believe is in the best interest of this community.

LAWFUL

I comply with the laws of the nation, the State of California and the City of Oakley in the performance of my public duties. These laws include, but are not limited to: the United States and California constitutions; the Oakley Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

RESPECTFUL

As I serve Oakley, I treat everyone with respect and dignity, the way I would want to be treated. I

practice patience, courtesy, and civility even when we disagree. I maintain confidentiality, am sensitive about other people's time, and am careful with the public's property. I listen actively, engage in effective two-way communication, and demonstrate responsive public service.

FAIRNESS

As I serve Oakley, I am fair. I treat everyone equitably. I value peoples' right to know, encourage public input, and listen to all sides. I honor due process. I make impartial decisions, using relevant and consistent criteria, caring for special needs, and giving priority to merit. I refrain from taking any special advantage of services, opportunities, or public resources for personal gain, by virtue of my public office, which would not otherwise be available to the public in general. I refrain from accepting gifts, favors, or promises of future benefits, which might compromise or tend to impair independence of judgment or action.

TEAMWORK

As I serve Oakley, I emphasize teamwork. I reach out to all individuals and groups, involving them in the process, and partnering with them. I value diversity, seek differing and divergent viewpoints, and ask for and consider all opinions. I recognize that good ideas and better solutions can come from anyone. I understand Oakley's Council-Manager form of government and the different roles and contributions of the City Council, City Manager and staff. While serving on a committee, commission or board, I recognize that I represent the City, and will not exceed the authority vested in me.

STEWARDSHIP

As I serve Oakley, I foster, protect, and conserve the community's financial, environmental, and cultural resources. I practice fiscal responsibility and preserve natural resources. I respect

individual rights and uphold the public trust. I am committed to the long-term stability and growth of the community.

ACCOUNTABILITY

As I serve Oakley, I hold myself to high standards and am accountable to those I serve. I am willing to explain my actions and decisions, give and receive criticism, accept consequences, and engage in continuous improvement.

The City Council has signed this document as the official City Code of Ethics and each Councilmember has completed ethics training in compliance with AB1234.

[Municipal Code](#)

[Events](#)

[News](#)

[Job Openings](#)

[Contact Us](#)

[Classes / Programs](#)

[FAQ](#)

[Make a Complaint](#)

[Building Permits](#)

[Departments](#)

City Code of Ethics

Starting a Business

City Hall Hours

8:00 - 6:00 pm Monday - Thursday

8:00 - 5:00 pm Friday (Closed 1st and 3rd Fridays of the month)

3231 Main Street, Oakley, CA 94561

(925) 625-7000

info@ci.oakley.ca.us

Copyright © 2015 by City of Oakley. All rights reserved.

Designed and developed by Digital Gear

City of Arcata Code of Ethics

Adopted by the City Council July 20, 2005

For Members of City Council, Boards, Commissions, Committees and Task Forces

Preamble:

The citizens, businesses and organizations of the City of Arcata are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. In keeping with the City's commitment to excellence, the effective functioning of democratic government, therefore, requires that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public office be used for public good, not for personal gain;
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the City Council of the City of Arcata has adopted a Code of Ethics for members of the City Council and of the City's Boards, Commissions, Committees and Task Forces to assure public confidence in the integrity of local government and its effective and fair operation.

Acts in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the City Council, Boards, Commissions and Committees.

Comply with the Law. Members shall adhere to their sworn oath of office to support and defend the Constitution of the United States of America and the Constitution of the State of California against all enemies foreign and domestic. These laws include but are not limited to: the United States and California Constitutions, laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities and open processes of government and City ordinances and policies.

Conduct of Members. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of council, boards and commissions, the staff or public.

Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council and boards and commissions governing the deliberation of public policy issues, meaningful involvement of the public and implementation of policy decisions of the City Council by City staff.

Conduct of Public Meetings. Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body or otherwise interfering with the orderly conduct of meetings.

Decisions Based on Merit. Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

Communication. Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

Conflict of Interest. In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

Gifts and Favors. Members shall not take any special advantage of services or opportunities for personal gain by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits, which might compromise their independence of judgment or action or give the appearance of being compromised.

Confidential Information. Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City of Arcata. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

Use of Public Resources. Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

Representation of Private Interests. In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City of Arcata, nor shall members of Boards, Commissions and Committees appear before their own bodies or before the Council on behalf of private interests of third parties on matters related to the areas of service of their bodies.

Advocacy. Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When representing their individual opinions and positions, members shall explicitly state they do not represent their body or the City, nor will they allow the inference that they do.

Independence of Boards, Commissions, Committees and Task Forces. Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Commission, Committee or Task Force proceedings.

Positive Work Place Environment. Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

Implementation. As an expression of the standards of conduct for members expected by the City, the Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, ethical standards shall be included in the regular orientations for candidates for City Council, applicants to boards and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City Code of Ethics. In addition, the Code of Ethics shall be annually reviewed by the City Council, Boards, Commissions and Committees, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

Compliance and Enforcement. The Code of Ethics expresses standards of ethical conduct expected for members of the City Council, Boards, Commissions and Committees. Members themselves have the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have full confidence in the integrity of government.

RESOLUTION NO. R-05-067

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH ADOPTING A
CODE OF ETHICS FOR CITY COUNCIL, BOARDS AND COMMISSION MEMBERS**

WHEREAS, the Citizens of Pismo Beach are entitled to have fair, ethical and accountable local government; and

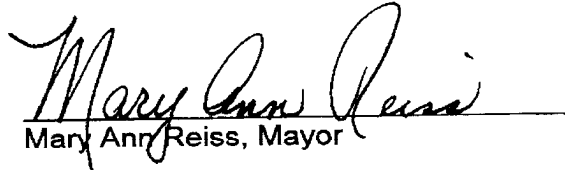
WHEREAS, Pismo Beach maintains a commitment to excellence and effective functioning of democratic government; and

WHEREAS, integrity of officials of local government is key to effective and fair operation of government.

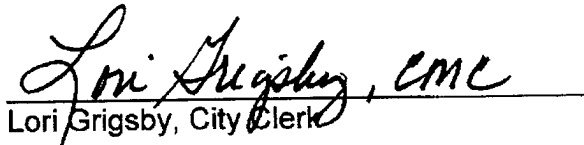
NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Pismo Beach hereby adopts this Code of Ethics which pertains to members of the City Council and all members of the City Boards and Commissions and also to those vendors doing business with the City.

UPON MOTION OF Councilmember Natoli, seconded by Councilmember Rabenaldt, the foregoing resolution was passed, approved and adopted by the City Council of the City of Pismo Beach this 4th day of October, 2005, on the following roll call, to wit:

AYES: Councilmembers Natoli, Rabenaldt, Gonzales-Gee, Higginbotham and Mayor
Reiss
NOES: None
ABSENT: None
ABSTAIN: None


Mary Ann Reiss, Mayor

ATTEST:


Lori Grigsby, City Clerk

CODE OF ETHICS
For The City of Pismo Beach
Council, Boards and Commission Members

Adopted by the Pismo Beach City Council
Date approved – October 4, 2005

Preamble

All citizens and businesses of Pismo Beach are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. In keeping with the City of Pismo Beach's commitment to excellence, the effective functioning of democratic government, therefore, requires that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public office be used for public good, not for personal gain;
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

This Code of Ethics, as adopted by the Pismo Beach City Council pertains to members of the City Council and of the City's boards and commissions and to those vendors doing business with our city, to assure public confidence in the integrity of local government and its effective and fair operation.

1. Acts in the Public Interest

Members will work for the common good of the people of Pismo Beach and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Pismo Beach City Council, boards and commissions.

2. Comply with the Law

Members shall comply with the laws of the nation, the State of California and the City of Pismo Beach in the performance of their public duties. These laws include but are not limited to: The United States and California constitutions, Fair Political Practices laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities and open processes of government and adopted City ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the council, boards and commissions, the public and staff.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City council and boards and commissions governing the deliberation of public policy issues, meaningful involvement of the public and implementation of policy decisions of the City Council by staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

In accordance with the law, members shall disclose investments, interests in real property, source of income, and gifts, and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

9. Gifts and Favors

Members shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

10. Confidential Information

Members shall respect the confidentiality of information concerning property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or private interests.

11. Use of Public Resources

Members shall not use public resources unavailable to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Public Interests

In keeping with their role as stewards of the public interest, members shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. Advocacy

Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Pismo Beach, nor will they allow inference that they do.

14. Policy Role of Members

Members shall respect and adhere to the council-manager structure of Pismo Beach City government as outlined by the Pismo Beach Municipal Code. In this structure, the City Council determines the policies of the City, with the advice, information and analysis provided by the public, boards and commissions and City staff.

Except as provided by the City Municipal Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff, nor shall they impair the ability of staff to implement Council policy decisions.

15. Independence of Boards and Commissions

Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place for the City employees and for the citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

17. Implementation

The Pismo Beach Code of Ethics is intended to be self-enforcing, and is an expression of standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientations for candidates for City Council, applicants to boards and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understand the City of Pismo Beach Code of Ethics. The Code of Ethics shall be reviewed annually by the City Council, boards and commissions, and the City

Council shall consider recommendations from boards and commissions and update as necessary.

18. Compliance and Enforcement

The chairs of boards and commissions and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics are brought to their attention. The City Council may impose sanctions on members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or committee assignment, or budget restriction. Under the City's Municipal Code, the City Council may also remove members of boards and commissions from office. A violation of this Code of Ethics shall not be considered as a basis for challenging the validity of a council, board or commission decision.



City of Belmont

Code of Ethics and Conduct For Elected and Appointed Officials

*"Always do right. This will gratify some people and
astonish the rest."*

-- Mark Twain

Adopted June 10, 2014 by Resolution No. 2014-095
Amended February 11, 2016 by Resolution No. 2016-019
Amended February 2, 2017 by Resolution No. 2017-008

Policy Purpose

The Belmont City Council adopts this Code of Ethics and Conduct to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of Belmont's City government.

A. ETHICS

The citizens and businesses of Belmont are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, City Treasurer, and City Clerk and of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Belmont and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of California and the City of Belmont in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

7. **Communication.** For adjudicative matters pending before the body, members shall refrain from receiving information outside of an open public meeting or the agenda materials, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.
8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or other appropriate state agency, a member shall not participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the Mayor and the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.
12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the

Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Belmont, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Belmont City government as outlined in the Belmont City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.
16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. CONDUCT GUIDELINES

The Conduct Guidelines are designed to describe the manner in which elected and appointed officials should treat one another, City staff, constituents, and others they come into contact with while representing the City of Belmont.

1. Elected and Appointed Officials' Conduct with Each Other in Public Meetings

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

(a) *Honor the role of the chair in maintaining order*

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

- (b) *Practice civility and decorum in discussions and debate*
Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- (c) *Avoid personal comments that could offend other members*
If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.
- (d) *Demonstrate effective problem-solving approaches*
Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

2. **Elected and Appointed Officials' Conduct with the Public in Public Meetings**

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- (a) *Be welcoming to speakers and treat them with care and gentleness.*
While questions of clarification may be asked, the official's primary role during public testimony is to listen.
- (b) *Be fair and equitable in allocating public hearing time to individual speakers.*
The chair will determine and announce limits on speakers at the start of the public hearing process.
- (c) *Practice active listening*
It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions, and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.
- (d) *Maintain an open mind*
Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.
- (e) *Ask for clarification, but avoid debate and argument with the public*
Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

3. **Elected and Appointed Officials' Conduct with City Staff**

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

(a) *Treat all staff as professionals*

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

(b) *Do not disrupt City staff from their jobs*

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate staff, and hampers staff's ability to do their job objectively.

(c) *Never publicly criticize an individual employee*

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding staff to the City Manager or the Mayor.

(d) *Do not get involved in administrative functions*

Elected and appointed officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

(e) *Do not solicit political support from staff*

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

(f) *No Attorney-Client Relationship*

Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

4. **Council Conduct with Boards, Committees and Commissions**

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- (a) *If attending a Board, Committee or Commission meeting, be careful to only express personal opinions*

Councilmembers may attend any Board, Committee or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board, Committee or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

- (b) *Limit contact with Board, Committee and Commission members to questions of clarification*
It is inappropriate for a Councilmember to contact a Board, Committee or Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board, Committee or Commission members in order to clarify a position taken by the Board, Committee or Commission.

- (c) *Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers*
The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council. But Board, Committee and Commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board, Committee or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

- (d) *Be respectful of diverse opinions*
A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but must be fair and respectful of all citizens serving on Boards, Committees and Commissions.

- (e) *Keep political support away from public forums*
Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

C. SANCTIONS

- (a) *Acknowledgement of Code of Ethics and Conduct*
Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold office.

(b) *Ethics Training for Local Officials*

Councilmembers, City Treasurer, City Clerk, Board, Committee and Commission Members who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees, and may be subject to sanctions.

(c) *Behavior and Conduct*

The Belmont Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Belmont City Council, Boards, Committees and Commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

Councilmembers:

Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority or committee assignments (both within the City of Belmont and with intergovernmental agencies) or other privileges afforded by the Council. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by the Council.

Individual Councilmembers should point out to the offending Councilmember perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Vice Mayor. It is the responsibility of the Mayor (or Vice Mayor) to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor (or Vice Mayor), then the alleged violation(s) can be brought up with the full Council.

Board, Committee and Commission Members:

Counseling, verbal reprimands and written warnings may be administered by the Mayor to Board, Committee and Commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective Board, Committee or Commission, the City Clerk, the City Attorney, the City Manager, and the City Council.

The City Council may impose sanctions on Board, Committee and Commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of Board, Committee or Commission member conduct. Also, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the City Manager or the City Attorney to investigate the

allegation and report the findings.

These sanctions are alternatives to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law. In order to protect and preserve good government, any individual including the City Manager and the City Attorney after complying with Rule 3-600(B) of the State Bar Rules of Professional Conduct, who knows or reasonably believes a member acts or intends or refuses to act in a manner that is or may be a violation of law reasonably imputable to the organization, or in a manner which is likely to result in substantial injury to the organization, may report the violation to the appropriate governmental authorities.

D. IMPLEMENTATION

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, City Treasurer, City Clerk, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign a statement (example below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it as necessary.

Example:

I affirm that I have read and understand the City of Belmont Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

Division 6 - CODE OF ETHICS

Sec. 1-6-101. - Declaration of policy.

- A. The proper operation of democratic government requires that public officials and public employees be independent, impartial, responsible, and accountable to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office and public employment not be used for personal gain; and that the citizens and businesses of the City have confidence in the integrity of their government.
- B. As used in this division, "City officials and employees" shall mean and include the following individuals: the Mayor; the Mayor Pro Tem; members of the City Council; City Council Executive Assistants; the City Manager; Assistant City Managers; the City Clerk; Department Directors; Deputy Department Directors; the Police Chief; the Deputy Police Chief, the City Attorney; the Zoning Administrator; and members of the Planning Commission, the Community Services Commission, the Finance Commission, and any other commission that is advisory in nature.
- C. The following principles are intended to encourage the highest standard of conduct to serve as guidelines for ethical behavior:
 - 1. *Public interest.* Public office and public employment is a trust to be used to advance the public interest, and not to be used for personal gain.
 - 2. *Objective judgment.* Decisions are to be made on the merits, free of partiality or prejudice, and unimpeded by conflicts of interest.
 - 3. *Accountability.* Government is to be conducted openly, efficiently, equitably, and honorably so the public can make informed judgments and hold public officials accountable.
 - 4. *Democracy.* City officials and employees shall demonstrate honor and respect for democratic principles, and observe the letter and spirit of laws.
 - 5. *Public trust.* City officials and employees shall safeguard public confidence in the integrity of government by upholding the highest standards of personal and professional conduct.
 - 6. *Professional conduct.* City officials and employees shall support the maintenance of a positive and constructive workplace environment and demonstrate a high degree of professionalism when dealing with citizens. The Mayor is charged with maintaining order and decorum during public meetings in accordance with Robert's Rules of Order as adopted by the City. Subject to the limitations provided in California Government Code § 54954.3(c), a provision of the Brown Act, City officials and employees are encouraged to conduct themselves in a manner that is responsive, respectful and befitting their public position.
- D. The purpose of this division is to establish ethical standards of conduct for City officials and employees by setting forth those acts or actions that are incompatible, inconsistent, or in conflict with the foregoing principles and the best interests of the City.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-102. - Responsibilities of public office and employment.

City officials and employees are agents of public purpose and hold office or employment for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of the State of California, and to carry out impartially the laws of the nation, State and the City, and thus to foster respect for all governments. They shall make their decisions and take their actions fairly and impartially and base them on the merits and substance of each matter. They are bound to observe in their official acts, the highest standards of performance and to discharge faithfully the duties of their office and employment, regardless of personal considerations. Recognizing that the public interest must be their primary concern, their conduct in both their official and private affairs should be above reproach.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-103. - No preferential treatment.

- A. City officials and employees shall not accept more favorable treatment than other residents of the City. Any transactions should be obtained on terms consistent with those available to the general public.
- B. All citizens and businesses in the City are entitled to fair and equal treatment. City officials and employees shall not give preferential consideration or special advantages to any person or organization beyond those that are available to any other person or organization.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-104. - City allegiance and proper conduct.

- A. *Incompatible employment or service.* Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local agency (county, city or special district) located in the County of Orange.
 - 1. This paragraph A shall not be applicable to lobbying as an in-house employee on behalf of his or her employer (as opposed to a client of the employer).
 - 2. For purposes of this paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.
 - 3. Notwithstanding any other provision of this division, this paragraph A shall not become effective until January 1, 2007.
- B. *Interest in City contracts.* City officials and employees shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-105. - Disclosure of confidential information.

City officials and employees shall respect and maintain the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information or records without proper and legally required authorization, nor use such information or records to advance their personal, financial or other private interests, or the private gain or advantage of others. Public records may be requested through the City Clerk/Office of Records and Information consistent with the rights of citizens under the California Public Records Act.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-106. - Use of City resources.

City officials and employees shall not use City-owned equipment, automobiles, trucks, instruments, tools, supplies, machines, including computers and related computer systems, or any other item that is the property of the City for other than City business, nor shall City officials and employees allow any unauthorized person or organization to rent, borrow or use any such City resources.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-107. - Future employment.

- A. *General prohibitions.* It shall be improper for City officials and employees, for a period of two years following the termination of their office or employment, to:
1. Represent, appear or lobby before any City agency, official or employee for compensation on behalf of any person or any organization. For purposes of this paragraph A, "lobby" shall mean making any oral or written communication (including an electronic communication) to an official of the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the City, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.
 2. Accept employment or otherwise receive compensation from a person or organization that entered into a contract with the City within one year prior to the termination of the office or employment, where the former official or employee personally and substantially participated in the award of the contract.
 3. Participate as a competitor in any competitive selection process for a City contract where the former official or employee recommended or approved the project or the work that is the subject of the contract, nor shall any City contract be awarded to such a former official or employee.
- B. *Exceptions.* The provisions of paragraph A shall not preclude the hiring of a former City employee as a consultant to the City, provided that such hiring is approved in advance by the City Council. Nor shall paragraph A apply to any City official or employee who left office or whose City employment or service terminated prior to the effective date of this section; provided, however, that a person who returns to City office, employment or service on or after the effective date of this section shall be subject to the requirements hereof.
- C. *Enforcement.* Notwithstanding the provisions of Section 1-6-110, any former City official or employee who knowingly violates the provisions of this section may be liable in a civil action brought by the District Attorney, the City Attorney, or by a special prosecutor authorized by the City Council, for a fine of up to \$10,000 per

violation, in addition to such other penalties or remedies as may be available.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-108. - No nepotism.

- A. All hiring decisions shall be made on the basis of merit and in accordance with the City's Personnel Rules and Procedures, which establish limits and guidelines on the employment of relatives, in order to avoid problems associated with supervision, safety or morale.
- B. City officials and employees shall not influence or attempt to influence the awarding of a City contract to or execution of a City agreement with a relative as defined in Section 2 of the City's Personnel Rules and Procedures.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-109. - Whistle blower protection.

To the extent not otherwise prohibited by State law, City officials and employees shall not use or threaten to use any official authority or influence to discourage, restrain or interfere with or to effect a reprisal against any person, including, but not limited to, a City official or employee, for the purpose or with the intent of preventing such person from acting in good faith to report or otherwise bring to the attention of the City or other appropriate agency, office or department, any information that, if true, would constitute a gross waste of City funds, a gross abuse of authority, a specified and substantial danger to public health or safety due to any act or omission of an City official or employee, or the use of a City office or position or of City resources for personal gain.

(Ord. No. 06-01, § 1, 1-24-06)

Sec. 1-6-110. - Enforcement.

- A. This division expresses standards of ethical conduct expected for City officials and employees. As an expression of such standards, this division is intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.
- B. A violation of this division shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.
- C. All suspected violations of this division that also pertain to provisions of the Political Reform Act (California Government Code § 81000 et seq.) should be reported to the Fair Political Practices Commission of the State of California.
- D. All suspected violations of this division that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the Office of the Orange County District Attorney.
- E. Except as otherwise expressly provided by this division or by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of this division:
 - 1. Alleged violations of this division committed by a member of the City Council, a member of a City commission, or the City Manager should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation,

advising such person of the alleged violation and endeavoring to avoid future violations in the event one has occurred.

2. Alleged violations of this division committed by the City Clerk, a City Council Executive Assistant, an Assistant City Manager, the City Attorney, a Department Director, or a Deputy Department Director should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, or his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager or the appointing authority may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.
3. In the event that the City Attorney or City Manager (or his or her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

(Ord. No. 06-01, § 1, 1-24-06)

SCU.EDU

[OFFICES & SERVICES](#) ▲[SCHOOLS & CENTERS](#) ▲

Q

[ABOUT THE CENTER](#)[FOCUS AREAS](#)[ETHICS RESOURCES](#)[EVENTS](#)[DONATE](#)[CONTACT US](#)

California Government Ethics Laws

[Home](#) › [Markkula Center for Applied Ethics](#) › [Focus Areas](#) › [Government Ethics](#) › [Government Ethics Resources](#) › California Government Ethics Laws

Government Ethics Resources

Hana Callaghan

UNETHICAL ACT	DESCRIPTION OF ACT	ETHICAL VIRTUES IMPACTED	CALIFORNIA GOVERNMENT ETHICS LAWS*
Bribery	A bribe occurs when something of value is conferred on a public official in exchange for a promise of official action (or inaction). Asking for official favors by a briber, asking for a bribe by a public official, and receiving a bribe by an official are all illegal activities.	Duty of loyalty, duty of integrity	Cal. Penal Code §86
Extortion	Extortion occurs when a public official wrongfully uses his or her public position to obtain a personal benefit.	Duty of loyalty, duty of integrity	Cal. Penal Code §518
Honest services fraud	Pursuant to Federal Law, the public has the right to the "honest services" of public officials. That right is violated when a public official makes a decision that is not motivated by the public's interest but instead by his or her personal interests.	Duty of Loyalty, duty of honesty	18 USC §§1341, 1343, 1346

[What is Government Ethics?](#)

[Articles](#)

[Cases](#)

[Online Courses](#)

[Videos](#)

Government Ethics Stories



[Former President Obama on the Ethics of Governing](#)

Comments included a call for bipartisanship and finding common ground.



[Rants Against NFL Players Violate Presidential Norms](#)



[End the Statute of Limitations](#)

What government can do in response to the child sexual abuse crisis.

Conflict of interest	A public official may not make, participate in, or influence a governmental decision that will have a reasonably foreseeable and material financial effect on the official, the official's immediate family, or any of the official's financial interests.	Duty of loyalty, duty of fairness,	Cal. Gov Code §§ 87100, 87103
Self dealing (contractual conflict of interest)	California law forbids public officials from having an economic interest in their agencies' contracts	Duty of loyalty, duty of fairness	Cal. Gov. Code §1090
Using official position to advance private future employment	"Public officials may not influence agency decisions when the interests of a prospective employer are at stake. In addition revolving door laws regulate an official's actions even after he or she leaves office. In order to prevent public officials from trading on past relationships and from using insider information, elected officials and chief executives who leave government service must not represent people for pay before their former agencies for one year after leaving their agency."	Duty of loyalty, duty of fairness	Cal. Gov. Code §§87406 et seq.
Public employee sitting on governing board	Local agency employees must resign their employment before taking a seat on the governing board of their local agency.	Duty of loyalty, duty of fairness	Cal. Gov Code §53227

Receiving honoraria	Giving a speech, writing an article, or attending a public or private conference, convention, meeting or social event are considered part of a public official's job. Accordingly, no public official may receive outside payment for these activities.	Duty of loyalty, duty of integrity	Cal. Gov. Code §89502
Excessive expense reimbursement	An official is a steward of the public funds. He or she cannot be reimbursed for an expense unless the expense was "actual and necessary" in the official's performance of official duties.	Duty of loyalty, duty of accountability	Cal. Gov. Code §53232.2
Use of public resources for private or political purposes	Using public resources for either personal or political purposes is illegal. "Public resources" include such things as: public funds, staff time; public equipment; and supplies.	Duty of loyalty, duty of fairness	Cal. Gov. Code §8314;
Misappropriation of public funds	It is a criminal offense for a public official to misappropriate or embezzle public funds.	Duty of loyalty, duty of integrity	Cal. Pen Code §424
Use of public resources on ballot measure or candidate related activities	Public officials and local agencies may take positions on ballot measures in open meetings where all points of view can be heard. However, public officials and agencies may not use public resources to engage in campaign type advocacy with respect to those positions.	Duty of loyalty, duty of fairness	Cal. Gov. Code §54964

Mass mailings at public Expense	It is a misuse of public resources if government officials use public funds to pay for mass mailings to constituents as a stealth mode of campaigning. It is also deemed unfair if incumbents have access to free means of communicating with voters, not available to other candidates. Accordingly, California law prevents public officials from making mass mailings at public expense.	Duty of loyalty, duty of fairness	Cal. Gov. Code §89001
Receiving excessive gifts; non disclosure of acceptable gifts.	"To avoid the appearance that political favors are being bought with gifts, there is an annual limit on the aggregate value of gifts a public official can receive from a single source. Officials must also report gifts over a certain amount."	Duty of loyalty, duty of transparency , duty of fairness	Cal. Gov. Code §§86203,89503, 89506
Receiving gifts of travel from transportation companies	Because of the influence of Rail Road entities in the 1800s, California's Constitution forbids elected and appointed public officials from accepting free passes or discounted travel from transportation companies. This prohibition applies to all travel — not just that done on behalf of the government.	Duty of loyalty, duty of fairness	Cal. Const. art XII, sec. 7
Non disclosure of economic interests	In order to shine a light on an official's potential conflicts, he or she must disclose sources of income, real property interests, investment, business positions; and sources of gifts.	Duty of transparency, duty of loyalty	Cal. Gov. Code §§87200 et seq.

Non disclosure of behested payments	Because donations made to an official's favorite charity might be motivated by the wish to curry favor and influence governmental decisions, the citizenry has a right to know what charitable contributions are being on behalf of, or at the request of, a government official.	Duty of transparency , duty of loyalty, duty of independence	" Cal. Gov. Code § 82015(b)(2)(B) (iii); 2 Cal. Code Regs. §18215.3 (a)."
Failure to retain public Records and/or failure to allow public access to public records	Transparency in government requires that the people have access to materials created by government officials when conducting the people's business. Public records include written documents, images, computer data, e-mails, facsimiles, and photographs.	Duty of transparency, duty of accountability	The Public Record Act: Cal. Gov. Code §§6250-70; Cal Gov. Code §§34090-34090.8

Failure to conduct government business in the open	"Transparency in government requires that all government business be conducted in the public eye. The Brown Act provides that: "... public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."	Duty of transparency, duty of accountability	The Brown Act: Gov. Code §§ 54950 et seq.
Failure to treat all members of the public in a fair and unbiased manner.	The citizenry has the right to a fair and unbiased decision maker. Accordingly, a public official must make official decisions free from personal bias. Examples of personal bias might include a personal, but not necessarily financial interest in the outcome of a decision; strong dislike of a petitioner or colleague; or strong attachment or loyalty to a petitioner, colleague, or party.	Duty of fairness, duty of loyalty	Common law and constitutional notions of due process

Vote trading	It is illegal in California for a public official to vote or offer to vote in a certain manner in exchange for another public official's vote on the same or another matter before the body.	Duty of fairness, duty of independence, duty of integrity	Cal. Penal Code §86
Personal loans within the agency	California law prohibits a public official from receiving a personal loan from any other official, employee, or consultant of the official's agency.	Duty of loyalty	Cal. Gov Code §87460
Making decisions based on campaign contribution bias	As a general rule, the receipt of campaign contributions is not perceived as giving rise to a duty to disqualify for bias. An official does have an ethical duty to make independent decisions not swayed by the fact or promise of a political contribution. In certain licensing and permitting decisions, however, a local agency official must disqualify himself or herself if the official has received cash or in-kind contributions worth more than \$250 during the previous twelve months from any party or participant in the proceeding. Additionally, it is illegal to receive or solicit campaign contributions worth more than \$250 from any party in a license or permit proceeding while the proceeding is pending and for three months after the proceeding.	Duty of fairness, duty of loyalty, duty of independence	Cal. Gov. Code 84308

Involving agency staff in political activities	"It is illegal for an incumbent candidate to make employment decisions based on a an employee's support of his or her candidacy. In addition, an incumbent may not solicit campaign contributions from public employees, unless such solicitation is part of a larger solicitation to the general public."	Duty of loyalty, duty of fairness	Ca.I Gov. Code §§3204; 3205; 3205.5; 3206; 3207; 3302; 8314
Holding multiple public offices	Holding multiple offices creates inherent conflicts of interest and divided loyalties. Accordingly the law puts limitations on an official's ability to be hold multiple offices at the same time.	Duty of loyalty	Cal. Gov. Code §1126
Unfair contractual bidding practices	The public has a right to the best services and products available for the best price. In addition, all citizens, including contractors, have the right to be treated fairly. Public contracting laws are designed to promote competition and to avoid favoritism, partisanship, and/or corruption in the bidding process.	Duty of fairness	See California Public Contracting Code
Retaliation against whistle blowers	To help ensure compliance with the ethics laws, California whistle-blowing legislation make it unlawful for public employers to retaliate against employees who inform about ethics violations or who refuse to participate in unlawful activities.	Duty of fairness, duty of accountability, duty of loyalty	Cal. Labor Code §§1102.5, 1102.6, 1102.7, 1102.8, 1103, 1106

****Legislation is constantly being revised and updated. Please contact your legal counsel for the current status of these code sections.***

Hana Callaghan is the director of government ethics at the Markkula Center for Applied Ethics


Jun 1, 2015

SANTA CLARA UNIVERSITY

500 El Camino Real
Santa Clara, CA 95053
(408) 554-4000
[Maps & Directions](#)
[Contact Us](#)



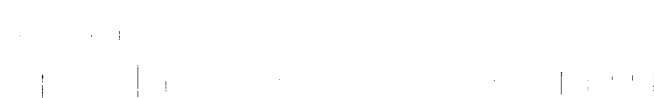
RESOURCES

[Emergency Info](#)
[Careers](#)
[Login](#)
 [Accessibility](#)

OUR CAMPUS

[The Mission](#)
[Event Calendar](#)
[News](#)

© 2018 Santa Clara University



[Home](#) | [Learn](#) | [Public Officials and Employees Rules](#)

Gifts and Honoraria

- [Ethics Training](#)
- [Communications Sent Using Public Funds](#)
- [Gifts and Honoraria](#)
- [Conflicts of Interest](#)
- [Rules on Leaving Government Service](#)
- [Reporting Ceremonial Role Events and Ticket/Admission Distribution - Form 802](#)
- [Behested Payment Report - Form 803](#)
- [Agency Report of Public Official Appointments - Form 806](#)

How to Request Advice

If you have questions about your obligations under the Act you can request advice directly from FPPC staff

[Request Advice](#)

Gifts, Honoraria, Travel Payments, and Loans

Public officials and employees are subject to certain restrictions related to receiving gifts, honoraria, travel payments, and loans.

- [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans for Local Public Officials](#)
- [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans for State Public Officials](#)

General Rules for Gifts and Honoraria

\$10 Lobbyist Gift Limit: Elected state officials, including members of the legislature, and legislative employees may not accept a gift or gifts totaling more than \$10 in a calendar month from any individual who is registered as a lobbyist under state law. The \$10 limit also applies to gifts received by officials and employees of state

agencies if their agency is listed on the registration statement of the lobbyist's employer or firm.

\$470 Gift Limit (Effective January 1, 2017 - December 31, 2018): State and local officials and employees are prohibited from receiving a gift or gifts totaling more than \$470 in a calendar year from certain sources. For elected state officials and many others, the prohibition is applicable to gifts from any source, although there are exceptions (for example, gifts from family members). For state and local officials and employees who file Statements of Economic Interests (Form 700s) under an agency's conflict of interest code, the gift limit is applicable only to individuals and entities that would have to be disclosed on the Form 700. This gift limit is adjusted for inflation every odd-numbered year. (Note: Judges are not subject to the Act's gift prohibitions, but are covered by the Code of Civil Procedure.)

Honoraria: An honorarium is a payment received for making a speech, publishing an article or attending any public or private conference, convention, meeting, social event, meal or similar gathering. State and local elected officers and candidates for those offices and all officials holding positions listed in Government Code Section 87200 are prohibited from receiving honoraria payments. Likewise, an employee designated under a state or local government agency's conflict of interest code is prohibited from receiving honoraria payments from any source of gifts or income the employee is required to report on his or her Statement of Economic Interests (Form 700). Some limited exceptions apply, such as income earned from a bona fide business or profession.

Exceptions for Travel: Certain payments for travel are excluded from the gift limits and honoraria prohibition. Refer to the appropriate gift fact sheet to determine if your travel payment is subject to the gift limit.

Loan Restrictions: Public officials who are required to file Statements of Economic Interests (Form 700s) or who are exempt employees may not receive any personal loan aggregating more than \$250 from an official, employee, or consultant of, or from anyone who contracts with, their governmental agencies. In addition, elected officials may not receive any personal loan aggregating more than \$500 from a single lender unless certain terms of the loan are specified in writing. Under certain circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

An Exception:

Gifts from most family members and a person with whom an official has a bona fide dating relationship are not restricted and do not need to be reported under City law. Gifts from the following family members fall under this exception:

- a spouse;
- registered domestic partner;
- domestic partner's child;
- child;
- parent;
- grandparent;
- grandchild;
- brother;
- sister;
- aunt;
- uncle;
- niece;
- nephew; and a
- first cousin.

This exception does not apply, however, if a family member is acting as an agent or intermediary for another person who is the true source of a gift. Other limited exceptions may apply.

Step 2: Determine the Gift's Value

Once the source of a gift has been identified, it is important to determine the value of the gift. This enables City officials to understand whether or not a gift from a source is permitted under the law. If the value falls within the applicable gift limit for that source, the gift is permissible. When determining whether a gift is permissible, it is important to remember that all gifts received from that source in the calendar year must be considered. However, please note that state law requires a specific method of valuation for certain types of events, tickets and passes, and plane tickets.

The easiest way to determine a gift's value is to ask the giver. If that is not possible, you may make a good faith estimate of the item's fair market value by reviewing the value of similar items at a store or on the Internet. Either way, the law requires you to make a good faith estimate to determine the value of any gift you may receive to ensure it is within applicable limits.

Step 3: Disclose Reportable Gifts

For any gift from a source that is reportable, the official receiving a gift valued at \$50 or more must report that gift on his or her next Statement of Economic Interests. In addition, if a reportable gift is presented through an intermediary, or third party agent between an official and the true source of a gift, the recipient must disclose the name, address, and business activity of both the donor and the intermediary.

List of commonly reportable gifts:

- Tickets and passes to sporting or entertainment events;
- Tickets and passes to amusement parks;
- Food, beverages, and accommodations, including those provided in direct connection with your attendance at a convention, conference, meeting, or social event even if you gave a speech at the event;
- Rebates/discounts not made in the regular course of business to members of the public without regard to official status;
- Wedding gifts;
- Forgiveness of a loan; and
- Parking passes.

Please note that in some limited circumstances, an item of value a City official may receive may not be limited or disclosable because it is considered a "gift to a public agency." Generally, these can include items given to an agency that the agency determines who ultimately receives or uses them. Under state law, while those individuals do not have a reporting requirement, the agency has specific public disclosure requirements. Please contact the City Ethics Commission for more information on gifts to a public agency.

*For a complete list of positions defined as "high-level officials," see the City's Governmental Ethics Ordinance [at Los Angeles Municipal Code section 49.5.2], which is also available on the Commission's website at http://ethics.lacity.org/PDF/Law_geo.pdf

**Section 87200 of the state's Political Reform Act applies to elected officials, City Treasurer, City Administrative Officer, Citywide Planning Commissioners, Pension Board Members, and other City employees and consultants who manage public investments.



Los Angeles

CITY ETHICS COMMISSION



Los Angeles

CITY ETHICS COMMISSION

...preserving the public trust.

The City Ethics Commission is committed to helping City officials and employees understand their requirements under the law. For information about the City Ethics Commission, its programs, and/or the laws discussed on this brochure, please contact our office. For questions regarding state law, please contact the Office of the City Attorney at (213) 978-7100.

Address:

Los Angeles City Ethics Commission
200 N. Spring St. — CITY HALL
24th Floor
Los Angeles, CA 90012

General Office:

(213) 978-1960 Phone
(213) 978-1989 Fax

24 Hour Whistleblower Hotline:

1-800-824-4825

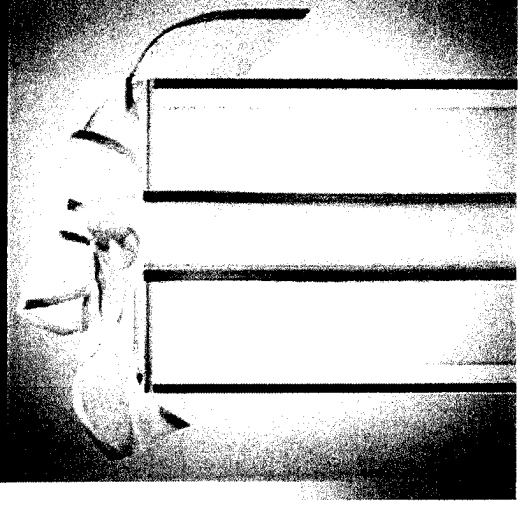
TTY:

(213) 978-2609

Website:

<http://ethics.lacity.org>

Gift Limits and Restrictions For City Officials



Gift Limits and Restrictions for City Officials

In Los Angeles, comprehensive state and City laws help ensure that all City decision-making is, and is perceived to be, fair and impartial. Gifts that are intended to influence City officials in their decision-making may never be accepted. Because even the most well-intentioned of gifts may create a conflict of interest for the official, or create an appearance of a conflict, public disclosure and gift limits can help preserve the public trust. Ethics laws help achieve this by limiting the value of gifts that public officials can receive from certain sources (and in some situations, by prohibiting their acceptance), and by requiring officials to publicly report gifts that meet a threshold amount.

Under the law, a "gift" is anything a City official receives of value, provided consideration of equal or greater value has not been provided to the gift giver and can include discounts, rebates, and, in some cases, personal loans. Gifts to the official's spouse, registered domestic partner, and child may also be considered to be gifts to the official.

To narrow down whether City and state ethics laws permit a gift or whether it is prohibited, City officials should consider a two-step process:

- 1) Identify his or her relationship to the source of the gift; then
- 2) Determine the gift's value.

Step 1: Identify the Gift Source

The Ban on Gifts from Lobbyist or Lobbying Firms

Since the passage of Measure R by Los Angeles voters in 2006, lobbyists and lobbying firms may not give any gifts to officials they lobby. This means a high-level* official may not receive a gift of any value from any registered lobbyist or lobbying firm. All other City officials may not accept a gift of any value from a lobbyist or lobbying firm that lobbies their agency.

A list of lobbyists and lobbying firms is regularly updated by the City Ethics Commission and can be found on our website's lobbying page at <http://ethics.lacity.org/lobby/lobby.cfm>. Gifts from these sources must either be declined or turned over to a charitable organization within thirty days, with no tax deduction benefit taken by the official.

Example:
Jane Doe, a City official with the Bureau of Sanitation, is presented with a gift by a lobbyist that lobbies her Bureau. Since gifts from lobbyists are prohibited regardless of their value, Jane has two options. She may either decline the gift or turn the gift over to a charitable organization within thirty days. If Jane decides to turn the gift over to a charitable organization, she may not take a tax deduction on the donation.

Gifts from "Restricted Sources" Are Limited

City law limits a City official from accepting more than \$100 in gifts from any "restricted source" each calendar year. Please note that advances or reimbursements for travel from a restricted source are completely prohibited. Officials can determine whether a gift source is a restricted source by asking a series of questions:

- 1) Is the source doing or seeking to do business with my agency?
- 2) Is the source a business or entity that is required to register as a lobbying firm or lobbyist employer? If the source is an individual, is he or she required to register as a lobbyist?
- 3) Even if the answers to the questions in #2 are "no", has the source attempted to influence me on any City matter?
- 4) Does the source have any matter involving a license, permit or other entitlement for use pending before me, or was there such a matter pending before me in the last nine months?

If the answer to any of those questions is yes, the source is considered a restricted source to you. For officials who are "high-level officials,"

however, restricted sources are defined to include any entity or individual engaging in the activities shown above at any City agency (not only their own). For more information, see LAMC sec. 49.5.2.

Total gifts from a restricted source must be kept within the \$100 annual gift limit. Anything over that amount must be declined or paid down so that the total from that source does not exceed the \$100 annual limit. Alternatively, an unused gift may be turned over to a charitable organization within thirty days with no tax deduction benefit taken by the official.

Example:
Sally Mae, a City official with the Department of Cultural Affairs, is presented with a gift basket valued at \$120 by a consultant that submitted a Request for Proposal to her agency six months ago. Because the consultant is seeking to do business with Sally's agency, he or she is considered a restricted source to Sally. Sally, therefore, has three options. First, she may decline the gift since the value exceeds the restricted source gift limit. Second, provided she has not already accepted another gift from the consultant in the same calendar year, Sally may accept the \$120 gift basket only if she pays the consultant back the \$20 difference. Under this scenario, Sally should also document the transaction for reference and she must report the gift on her next Statement of Economic Interests because the gift is valued at more than \$50 (see Step 3: Disclosing Reportable Gifts). Third, as an alternative, Sally may give the unused gift basket to a charitable organization within thirty calendar days without taking a tax deduction benefit on the donation. In that case, Sally would have no disclosure requirement because she would not be considered to have received a gift under the law.

Gifts from "Disclosable Sources of Income" Are Limited by State Law

Throughout California, a public official is limited under State law to accepting no more than \$420 in gifts per calendar year from any "disclosable source of income." To determine whether a gift giver is a disclosable source of income, City officials should consult their department's Conflict of Interest (COI) Code. Required by state law, a COI Code identifies the positions in each department that make or participate in making governmental decisions. To help avoid

conflicts of financial interests, it also identifies the types of income sources that may cause such conflicts to those officials based on their duties and responsibilities. Officials are required to publicly disclose any income received from disclosable sources of income on periodic Statements of Economic Interests, also called Form 700. Copies of each department's COI Code can be obtained from the department's ethics liaison or on the City Ethics Commission's website at <http://ethics.lacity.org/govethics/coindex.cfm>.

Total gifts from a disclosable source of income must be kept within the \$420 annual gift limit. Anything over that amount must be declined or can be paid down so that the total from that source does not exceed this annual limit. Alternatively, a gift may be turned over to a charitable organization within thirty days with no tax deduction benefit taken by the official. If you are an "87200 filer**", you may never accept a gift or a combination of gifts valued at over \$420 from anyone, unless an exception applies.

Example:
Tom Jones, a City official with the Department of Transportation (DOT), receives a gift valued at \$300 from the owner of a taxi cab company in the City of Los Angeles. According to the DOT's Conflict of Interest Code, the company is a disclosable source of income to Tom, in which case the gift acceptance limit would ordinarily be \$420 for the calendar year. However, because this company has an operating permit from the DOT, it also falls under the definition of a restricted source to Tom, making the applicable gift limit \$100 for the calendar year. Consequently, Tom has three options. First, provided he has not accepted another gift from this company during the same calendar year, he may accept the gift and pay down the \$200 difference in excess his gift limit. If he accepts the gift, Tom must remember to report it on his next Statement of Economic Interests because it is valued at more than \$50 (see Step 3: Disclosing Reportable Gifts). Second, Tom may decline the gift to avoid any appearance of a conflict of interest. Third, Tom may turn the gift over to a charitable organization within thirty days without taking a tax deduction benefit on the donation.

Governmental Ethics Ordinance

Los Angeles Municipal Code Chapter IV, Article 9.5

Added by Ordinance No.165618, effective 4/21/90.

Amended in its entirety by Ordinance No.182842, effective 2/10/14.

SEC. 49.5.1. TITLE, FINDINGS AND PURPOSE.

A. Title. This Article shall be known as the City of Los Angeles Governmental Ethics Ordinance.

B. Findings. The following findings are adopted in conjunction with the enactment of this Article:

1. As one of the great international cities of the world, Los Angeles will continue to confront great and complex opportunities and problems of both local and global significance.
2. One of the best ways to attract talented people to public service is to assure that the government is respected for its honesty and integrity; that its decisions are made on the merits, untainted by any consideration of private gain; and that the rules governing their conduct during and after leaving government service are as clear and complete as possible.
3. A governmental ethics ordinance that is as clear, tough, fair, comprehensive and effective as any in the nation is therefore needed.

C. Purposes. This Article is adopted to accomplish the following purposes:

1. To assure that individuals and interest groups in our society have a fair and equal opportunity to participate in the governmental process.
2. To assure that the governmental process itself promotes fairness and equity for all residents of the City regardless of race, color, creed, religion,

national origin, age, sex, marital status, sexual orientation or disability.

3. To require elected City officers and key City officials to disclose investments, interests in real property and income in order to prevent conflicts of interests.
4. To prevent elected City officers and key City officials from receiving outside earned income that creates a potential conflict of interests.
5. To prevent City officials from lobbying the City for certain periods of time after they leave City service.
6. To increase understanding of the City Charter and ordinances, the roles of elected City officers and other public officials, the roles of City agencies, and the City election process.
7. To help restore public trust in governmental and electoral institutions.
8. To assure that this Article is vigorously enforced.

SEC. 49.5.2. DEFINITIONS.

The following terms have the meanings identified below. Other terms used in this Article have the meanings identified in the state's Political Reform Act.

A. "Agency" means the City of Los Angeles or any City department, bureau, office, board, commission, or entity required to adopt a conflict of interests code subject to City Council approval. With respect to employees of a City Council member's staff and employees of the Chief Legislative Analyst's office, "agency"

means the City Council. The term does not include a governmental entity that is not within the City's control, even if the entity is required to adopt a conflict of interests code subject to City Council approval, unless the entity elects to be subject to this Article.

- B. **"Bidder"** means a person who bids on or submits a proposal or other response to a City contract solicitation including a request for proposals, request for bids, request for qualifications, or any other request for purposes of entering into a contract.
- C. **"City official"** means an elected City officer or an agency board member, officer, employee, commissioner, or consultant who, because of the individual's service to an agency, is required to file a statement of economic interests pursuant to the Political Reform Act.
- D. **"Confidential information"** means information that, if it were contained in a document, would not be subject to disclosure under the state's Public Records Act.
- E. **"Contract"** means an agreement, lease, right of entry, franchise, or concession, including but not limited to an agreement for the performance of work, the rendition of service, or the provision of materials, equipment, or supplies to the City or the public, which is let, awarded, or entered into with or on behalf of an agency.
- F. **"Elected City officer"** means a person who is a City Council member, City Attorney, Controller, or Mayor, whether appointed or elected.
- G. **"Matter pending"** means a matter in which a non-ministerial action is required to proceed with or resolve the matter but has not yet been taken.
- H. **"Political activity"** means activity directed at the success or failure of any ballot measure or candidate for elective office in a future election and includes but

is not limited to: endorsing a candidate; engaging in fundraising; developing, displaying, or distributing campaign materials; conducting research; or posting comments on social media or other Internet sites.

- I. **"Political Reform Act"** means the California Political Reform Act of 1974 (California Government Code Sections 81000 et seq.) and the related regulations of the California Fair Political Practices Commission as amended from time to time.

- J. **"Restricted source"** means the following:

1. For elected City officers, a restricted source is the following:
 - a. A person who files as a lobbying firm or lobbyist or is required to file as a lobbying firm or lobbyist, as defined in Section 48.02.
 - b. A person who has entered into, performs under, or seeks a contract with the City. This does not include the following:
 - i. An individual who has entered into or performs under an agreement with the City regarding employment; or
 - ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.
 - c. A person who, during the prior 12 months, attempted to influence the elected City officer in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual's own City compensation, benefits, or retirement.

- d. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the elected City officer, the City Council, or a board, commission, committee, or other similar body of which the elected City officer is a voting member.
2. For all other City officials, a restricted source is the following:
- a. A person who seeks to influence decisions of the City official's agency and files as a lobbying firm or lobbyist, or is required to file as a lobbying firm or lobbyist as defined in Section 48.02;
 - b. A person who has entered into, performs under, or seeks a contract with the City official's agency. This does not include the following:
 - i. An individual who has entered into or performs under an agreement with the City official's agency regarding employment; or
 - ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.
 - c. A person who, during the prior 12 months, attempted to influence the official in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual's own City compensation, benefits, or retirement.
 - d. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the official or before a board, commission, committee, or

other similar body of which the official is a voting member.

History:

*Amended by Ord. 167949, effective 7/5/92.
 Amended by Ord. 168056, effective 8/8/92.
 Amended by Ord. 170655, effective 9/21/95.
 Amended by Ord. 172891, effective 12/11/99.
 Amended by Ord. 173363, effective 7/29/00.
 Amended by Ord. 176824, effective 8/27/05.
 Amended by Ord. 182842, effective 2/10/14.*

SEC. 49.5.3. CONFIDENTIAL INFORMATION.

A current or former City official or agency employee shall not misuse or disclose confidential information acquired as a result of City service.

History:

Amended by Ord. 182842, effective 2/10/14.

SEC. 49.5.4. PROTECTION AGAINST RETALIATION.

- A. City officials and agency employees shall not use or threaten to use any official authority or influence to discourage, restrain, or interfere with another person's attempt to report possible violations of law to the Ethics Commission or another governmental entity.
- B. City officials and agency employees shall not use or threaten to use any official authority or influence to effect any action as a reprisal against another person who reports a possible violation of law to the Ethics Commission or another governmental entity.
- C. A person who believes that he or she has been subjected to an action prohibited by this Section may file a confidential complaint with the Ethics Commission.
- D. The Ethics Commission may refer retaliation complaints to appropriate agencies for disciplinary purposes.

History:

*Amended by Ord. 168708, effective 5/13/93.
 Amended by Ord. 182842, effective 2/10/14.*

financial effect on the source of the payment.

4. A request for approval from the Ethics Commission shall be treated as a request for written advice under Charter Section 705(b).

History:

Amended by Ord. 168056, effective 8/8/92.

Amended by Ord. 172942, effective 1/21/00.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.9).

SEC. 49.5.8. GIFTS.

- A. A person shall not offer or make and a City official shall not solicit or accept a gift when it is reasonably foreseeable that the City official could be influenced by the gift in the performance of an official act.
- B. City officials shall comply with the gift requirements and restrictions in the Political Reform Act and California Constitution. When the Political Reform Act's gift provisions, other than gift limits, refer to a lobbying entity, the reference shall include a City lobbying firm and lobbyist.
- C. In addition to the state requirements and restrictions identified in Subsection B, City officials shall also comply with the following gift restrictions for restricted sources.
 1. A City official shall not solicit a gift from a restricted source. A City official shall not accept a gift that exceeds the applicable gift limit from a restricted source.
 2. A person who is a restricted source to a City official shall not offer or make a gift that exceeds the applicable gift limit to that City official.
 3. A restricted source shall not act as an agent or intermediary in or arrange for the making of a gift by another person to a City official that exceeds the applicable gift limit.

4. The applicable gift limits are as follows:
 - a. For restricted sources identified in Section 49.5.2(J)(1)(a) or Section 49.5.2(J)(2)(a), the applicable gift limit is zero.
 - b. For all other restricted sources, the applicable gift limit is one-hundred dollars (\$100) per calendar year.
5. The applicable gift limits for restricted sources do not apply to the following:
 - a. Items received by a City official from a union representing that City official.
 - b. Food and beverages received by a City official from a union representing a bargaining unit of City officials.
 - c. Items received by a City official acting in an official City capacity from an organization to which the City, the City official, or the City official's agency belongs as a member.
 - d. Nominal and routine office courtesies received by a City official in a restricted source's place of business, as long as the courtesies are available to any person who visits that place of business.
 - e. Payments for travel and meals that are made by an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, a bona fide educational institution as defined by Section 203 of the California Revenue and Taxation Code, or a governmental entity and where the payments are exempt from the gift limits in the Political Reform Act.
6. A City official has the duty to determine whether a person is a restricted source to him or her. A

person offering or making a gift to a City official has the duty to determine whether he or she is a restricted source to that City official.

a. For restricted sources identified in Sections 49.5.2(J)(1)(a) and 49.5.2(J)(2)(a), the following apply:

i. A City official may presume that a person is not a restricted source to him or her if the person is not identified in the electronic filing system for lobbying entities under Section 48.06(B) on the date the gift is offered or made, the City official has conducted a reasonable inquiry into whether the person is a restricted source between database updates, and the City official does not have personal knowledge that the person qualifies as a restricted source.

ii. The electronic filing system for lobbying entities is a reference for compliance and enforcement purposes for gifts offered or made as of the date the database was last updated.

b. For restricted sources identified in Sections 49.5.2(J)(1)(b) and 49.5.2(J)(2)(b), the following apply:

i. A City official may presume that a person is not a restricted source to him or her if the person is not identified in the database in Section 49.5.11(B) on the date the gift is offered or made, the City official has conducted a reasonable inquiry into whether the person is a restricted source between database updates, and the City official does not have personal knowledge that the person qualifies as a restricted source.

ii. The restricted source gift limit does not apply to sources that

are only identified in Section 49.5.2(J)(1)(b) or Section 49.5.2(J)(2)(b) until the Ethics Commission and the City Council initially certify that the database in Section 49.5.11(B) provides enough information for a City official to determine whether a person is a restricted source to him or her under Section 49.5.2(J)(1)(b) or 49.5.2(J)(2)(b).

iii. The database is a reference for compliance and enforcement purposes for gifts offered or made from the date the database is certified through the date the database was last updated.

c. For restricted sources identified in Sections 49.5.2(J)(1)(c), 49.5.2(J)(1)(d), 49.5.2(J)(2)(c), and 49.5.2(J)(2)(d), the following apply:

i. A City official may presume that a person is not a restricted source to him or her if the City official has conducted a reasonable inquiry into whether the person is a restricted source and does not have personal knowledge that the person qualifies as a restricted source.

ii. The Ethics Commission will not maintain a database.

d. A reasonable inquiry includes asking the source, asking a responsible employee in the relevant agency, and reviewing the City Clerk's council file management system.

D. A ticket or pass distributed by an agency to a City official in accordance with Chapter 5 of Los Angeles Administrative Code Division 24 is not a gift to the City official.

Chapter 12.08 - PROHIBITION OF GIFTS^[5]

Part 1 - TITLE AND DEFINITIONS

12.08.010 - Title.

This Chapter will be known as the San José Gift Ordinance.

(Ord. 30016.)

12.08.020 - Definitions.

The definitions in this Part govern the application and interpretation of this Chapter.

(Ord. 30016.)

12.08.030 - Gift.

"Gift" has the same meaning as under the Political Reform Act.

(Ord. 30016.)

12.08.040 - Restricted Source.

"Restricted Source" means any individual, firm or entity whose interest or whose employer's or client's interest:

- A. Has been materially affected by the work of such officer or employee of the City or Successor Agency within the two years prior to the time the gift is given; or
- B. In the future could reasonably be foreseen to be materially affected by the work of such officer or employee of the City or Successor Agency.

(Ord. 30016.)

Part 2 - ACCEPTANCE OF GIFTS

12.08.100 - Gifts Prohibited.

No officer or designated employee of the City or the Successor Agency may accept any gift, directly or indirectly, from a Restricted Source, except as provided in this Chapter.

(Ord. 30016.)

12.08.110 - Gifts Not Prohibited.

This Chapter does not prohibit the acceptance or receipt of:

- A. Any gift that meets one of the exceptions under the Political Reform Act.
- B. Any gift, including meals and beverages, provided to an officer or employee in a business or social setting that has a value of fifty dollars or less, as long as the total value of all such gifts received from any one Restricted Source does not exceed fifty dollars in any calendar year.

(Ord. 30016.)

12.08.120 - Receipt, Promise, Acceptance, and Return of Gifts.

For purposes of this Chapter, the promise, receipt, acceptance, and return of gifts are governed by the Political Reform Act. In addition, a gift is not considered accepted or received under this Chapter if:

- A. It is treated as and remains the property of the City or the Successor Agency
- B. It is received by an officer or designated employee in his or her official capacity or as a representative of the City or the Successor Agency, it is reported to the City Council or Successor Agency board, and the City Council or Successor Agency board, as applicable, approves of the official or designated employee retaining the gift.

(Ord. 30016.)

Part 3 - REPORTING OF GIFTS

12.08.200 - Reporting Requirements.

- A. The reporting and disclosure of gifts must be done in accordance with the requirements of the Political Reform Act and the requirements in this Chapter.
- B. The gift limitations and disqualification requirements under the Political Reform Act are applicable to gifts which are not prohibited by this Chapter.

(Ord. 30016.)

12.08.210 - Reporting Gifts to Domestic Partner, Spouse, and Children.

- A. At the time of filing the annual disclosure statement required by the Political Reform Act or any applicable conflict-of-interest code,³⁸² each City officer, officer of the Successor Agency, or

designated employee shall file a family gift report on a form provided by the City Clerk.

- B. The officer or designated employee shall indicate on such report any gifts known to have been accepted during the relevant reporting period by such officer's or employee's domestic partner, spouse, and any dependent child where such gifts would have been prohibited to the officer or employee. The value of any such gift and the donor must be disclosed. If the officer or employee has no knowledge of any such gift having been received, the report must so state.
- C. For purposes of this section, "domestic partner" means any person registered as a domestic partner by an employee with the City of San José.

(Ord. 30016.)

RESOLUTION NO. 2018-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, RESCINDING RESOLUTION NO. 2017-10 AND ADOPTING A VALUES STATEMENT, ADOPTING RULES OF ORDER AND PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS, AND ADOPTING THE ETHICS AND CODE OF CONDUCT FOR CITY COUNCIL MEETINGS

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

SECTION 1. RESCISSION OF RESOLUTION. Resolution No. 2017-10 is hereby rescinded.

VALUES STATEMENT

SECTION 2. VALUES STATEMENT. The City Council of the City of Merced values the creation of an atmosphere at City Council meetings that encourages and fosters public input and involvement in the decision making process. The City Council believes that diversity in the community is a positive attribute that is reflected in those elected to represent the citizens of Merced.

It is the City Council's goal to be tolerant of different opinions, to show respect and concern on all issues, to demonstrate leadership by its actions, and to pledge support or disagreement without being disagreeable in our best effort to keep Merced a city where good things happen.

It is the objective of the City Council to establish the uniform procedures prescribed herein for the conduct of public hearings to ensure that all persons appearing before the City Council are treated fairly and equally.

All other Boards and Commissions of the City shall strive to comply with this Values Statement.

ETHICS/CODE OF CONDUCT

SECTION 3. PURPOSE.

While it is understood that the State of California has numerous sets of laws that guide the ethical behavior of public officials and employees, the City of Merced wishes to establish that this is a community whose ethical values are clearly stated and fully understood not only by its elected officials and appointed leaders, but this Ethics Code is recognized and acknowledged by its employees and its citizen representatives to represent the values this community holds in highest regard.

SECTION 4. ETHICS.

The citizens and businesses of Merced are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Merced and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.

2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of California and the City of Merced in the performance of their public duties.

3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council, Boards, Committees and Commissions, the staff or public.

4. **Request for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.

5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.

6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

7. **Communication.** For adjudicative matters pending before the body, members shall refrain from receiving information outside of an open public meeting or the agenda materials, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.

8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or

other appropriate state agency, a member shall not participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the Mayor and the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

A. The applicable gift limit set forth in the Political Reform Act is reduced to fifty dollars (\$50) per calendar year for a restricted source.

1. For members, a “restricted source” is the following:

- a. A person who has entered into, performs under, or seeks a contract with the City.
- b. A person who, during the prior 12 months, attempted to influence the elected City officer in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual’s own City compensation, benefits, or retirement.
- c. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the elected City officer, the City Council, or a Board, Commissions, Committee, or

other similar body of which the elected City officer is a voting member.

- B. A member should recuse himself/herself from a decision affecting a restricted source if s/he has received a gift that exceeds the applicable gift limit set forth in paragraph 9.A.

10. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.

12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of the Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Merced, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.

14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Merced City government as outlined in the Merced Municipal Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards,

Committees and Commissions, and the public. Except as provided by the Municipal Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of the Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.

16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

RULES OF ORDER AND PROCEDURE

SECTION 5. POSTING OF AGENDAS. All agendas of the City Council meetings, and of the other Boards and Commissions of the City, shall be posted on or near the entrance to City Hall, located at 678 West 18th Street, Merced, California, at least seventy-two (72) hours prior to a regular or adjourned meeting, and at least twenty-four (24) hours for a special meeting. The City Clerk or Secretary of the Board or Commission shall prepare a certificate of posting for each such posting.

SECTION 6. CONTENTS OF AGENDA. Each agenda shall contain a brief, general description of each item to be transacted or discussed at the meeting.

SECTION 7. CITIZEN PARTICIPATION. In accordance with Charter Section 411 and these Rules, each agenda for a regularly scheduled City Council, Board, or Commission meeting shall provide an opportunity for members of the public to personally, or through counsel, address the City Council, Board, or Commission on items of interest to the public that are within the subject matter jurisdiction of the City Council, or respective Board or Commission. In accordance with Section 411 of the City Charter, at special or emergency meetings, grievances and comments shall be limited to the topic of the special or emergency meeting, unless waived by the City Council, Board, or Commission.

Unless less restrictive rules are adopted or are waived by the City Council, Board or Commission, the following rules shall apply:

1. Except as provided below, citizen participation shall take place at the opening of oral communications for non-agenda items and for public hearings and other agenda items, public comment shall follow the administrative staff report for that item and shall be limited to five (5) minutes with no speaker given more than five (5) minutes to speak on any agenda item. In order to speak during oral communications, on an agenda item, or at a public hearing, a speaker must first complete a Request to Speak card and submit it to the City Clerk. For Oral Communications, the Request to Speak card shall be submitted prior to the City Clerk's calling for speakers. For agenda items other than Public Hearings, the Request to Speak card shall be submitted before the item is closed to public testimony. For Public Hearings where there is an applicant, permit holder, or appellant, the Request to Speak card shall be submitted prior to the call for rebuttal testimony or the matter being placed before the City Council in the event there is no rebuttal testimony. At the time for public comment, the Mayor or Chair shall ask the City Clerk or Secretary of the Board or Commission to read the names from the Request to Speak cards. The City Clerk or Secretary of the Board or Commission shall call three (3) to five (5) speakers at a time and base the order of the speakers on the order in which the Request to Speak cards were submitted.

If more than three (3) speakers desire to speak at a public hearing or on an agenda item, then the Mayor or Chairperson may limit each speaker to three (3) minutes at the discretion of the City Council, Board, or Commission.

Speakers shall be timed by the City Clerk or Secretary of the Board or Commission who shall inform speakers when their time has expired. As a courtesy to the City Council, Board, or Commission and other speakers, and those waiting to be heard on agenda items, speakers will not be allowed to continue beyond their allotted time.

2. For those agenda items where there is an applicant for a permit, license, or other entitlement, or the proposed revocation thereof, a spokesperson for the applicant, or the applicant themselves, shall be entitled to fifteen (15) minutes, including any time for rebuttal, and a spokesperson for any appellant or group opposing the application shall be entitled to fifteen (15) minutes, including any time for rebuttal. All other speakers commenting on the item shall be limited to five (5) minutes and shall be subject to the Request to Speak card procedure hereinbefore prescribed.

3. For oral communications, each speaker must complete and submit a Request to Speak card and shall be subject to the procedures hereinbefore prescribed. The City Council or respective Board or Commission may limit non-agenda items to thirty (30) minutes after which any additional speakers may speak on non-agenda items at the end of the scheduled business.

4. No public input needs to be heard on a subject not within the subject matter jurisdiction of the City Council or respective Board or Commission and the Mayor or Chair shall rule the speaker out of order.

5. Any non-agenda item that requires action shall be referred by the Mayor or Chairperson to the City Manager for a report. The City Council, Board, or Commission shall not discuss the item until a report is prepared and heard unless the item meets one of the exceptions contained in Government Code Section 54954.2(b).

SECTION 8. ACTING ON NON-AGENDA ITEMS. No action shall be taken on agenda items not posted in accordance with Government Code Section 54954.2 or 54956 unless the item meets one of the exceptions contained in Government Code Section 54954.2(b).

SECTION 9. PROCEDURE UPON DEMAND TO CURE ACTION ALLEGED TO VIOLATE THE BROWN ACT. Upon receipt of a demand to cure or correct an alleged violation of the Brown Act, Government Code Section 54950 *et seq.*, the following rules shall apply:

1. The item shall be considered in two parts at the next meeting of the City Council, Board, or Commission.

2. The City Council, Board, or Commission shall first consider whether or not to reconsider the matter in which an alleged violation of the Brown Act occurred. If the City Council, Board, or Commission determines to reconsider the matter, the City Council, Board, or Commission shall thereafter rehear the matter on the merits and determine whether or not to supersede or rescind the challenged action as of the effective date of the corrective action. In making any corrective action, all previous testimony, as well as any new testimony, shall be considered part of the record.

SECTION 10. PROCEDURE FOR AGENDA ITEMS.

1. The presiding officer shall be the Mayor for all matters before the City Council and the Chair of the Board or Commission for all matters before the Board or Commission. In the event of the absence or non-participation for any reason of the Mayor or Chair, the presiding officer shall be the member upon whom the chairmanship of a regular meeting of the body devolves in such event.

2. The order of presentation of evidence in each case shall be determined by the presiding officer in their discretion. The presiding officer shall rule out of order the presentation of abusive, profane, or unduly repetitive evidence.

3. Evidence shall not be required to be presented under oath or affirmation nor shall there be a right of cross-examination, except for any revocation hearing held pursuant to subsection 9 of this Section.

4. No proceeding need be conducted according to any technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in a court of law.

5. Rulings on questions of order or procedure shall be made by the Mayor or Chair of the Board or Commission unless a specific rule to the contrary is provided by the Charter of the City of Merced, a statute applicable to charter cities, City Ordinance, or these rules. Such rulings on questions of order or procedure are subject to appeal to the entire City Council or Board or Commission by a Member of the City Council, Board, or Commission in which case a majority vote thereof shall conclusively govern and conclusively determine such question of order or procedure. *Robert's Rules of Order*, if used, shall only be used as a guide and is not conclusive authority on any question of order or procedure.

6. When a matter is contested and a request is filed in writing with the City Clerk at least forty-eight (48) hours before the hour set for the hearing, a record of any hearing or continued hearing subsequently held in the matter shall be made and duly preserved, provided that the City Clerk shall require a deposit in advance from the person making the request. A copy of such record shall be available at cost.

7. Administrative staff reports shall be made public prior to or at the beginning of the hearing and shall be a matter of public record.

8. The action or recommendation of the City Council, Board, or Commission shall appear in the minutes of the respective body prepared for the meeting. Such minutes shall be public records, which shall be open to inspection and available for copying at cost in accordance with rules applicable to public records generally.

9. The following additional rules shall apply to public hearings set for the purpose of determining whether a conditional use permit; variance; or any other entitlement, license, or permit shall be revoked and shall prevail over any of the foregoing rules inconsistent herewith.

- A. Notice of revocation hearing shall be transmitted by certified mail at least ten (10) days before the hearing to the owner of the affected property at the address shown on the current records of the County Assessor.
- B. The decision of the body before which the public hearing was held shall be sent to the affected property owner by certified mail at the address shown on the current records of the County Assessor within ten (10) days of the making of such decision.

SECTION 11. CITY COUNCIL MEETINGS.

1. Effective May 1, 2017, regular sessions of the City Council shall be held on the first and third Mondays of each month, holidays excepted, at the hour of 5:30 p.m., and adjourned and special meetings at such time as the City Council may order. The time between 5:30 p.m. and 6:00 p.m. shall be reserved for closed sessions with the regular agenda commencing at 6:00 p.m.

2. The proceedings of special City Council meetings shall be limited to the subjects set forth in the call therefore.

SECTION 12. POWERS AND DUTIES OF MAYOR.

1. The Mayor shall take the Chair at the hour appointed for the City Council to meet. The Mayor shall immediately call the members to order, and

except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules.

2. The Mayor shall preserve order and decorum and shall decide all questions of order and procedure, subject to appeal, which appeal shall be decided without debate, except that the appellant may state the grounds upon which he/she bases his/her appeal.

SECTION 13. POWERS AND DUTIES OF MAYOR PRO TEMPORE.

The Mayor Pro Tempore shall be selected by the City Council to act as presiding officer during the absence of the Mayor and said Mayor Pro Tempore shall serve at the pleasure of the City Council.

SECTION 14. ABSENCE OF MAYOR AND MAYOR PRO TEMPORE.

In the absence of the Mayor and Mayor Pro Tempore, the Chair shall be occupied by one of the City Council Members present, selected alphabetically in rotation on an annual basis.

SECTION 15. ORDER OF BUSINESS.

1. The City Manager shall prepare or cause to be prepared and cause to be printed for each meeting a list in detail of all matters ready for consideration at the City Council, Board or Commission meetings; said list shall be known as the agenda and shall include all communications from other officers and boards, petitions and communications, reports, resolutions, ordinances, and any other matters which have been presented to the City Council, Board, or Commission and which remain undetermined. In case any matters on the agenda of a particular meeting are not acted upon, they shall be continued upon the agenda of the next meeting and of each succeeding meeting in their order of introduction until finally disposed of by the City Council.

2. The business of regular meetings of the City Council, Board or Commission shall be transacted as far as practicable in the following order:

- A. Study Session (if applicable)
- B. Closed Session (if applicable)
- C. Call to Order
- D. Roll Call
- E. Report Out of Closed Session (if applicable)
- F. Ceremonial Matters (if applicable)

- G. Special Presentations (if applicable)
- H. Written Petitions and Communications
- I. Oral Communications
- J. City Council Consent Calendar
- K. City Council Public Hearings
- L. City Council Reports
- M. Business from City Council
- N. Adjournment

It is understood that matters set for public hearing shall be taken up at the hour set or as soon thereafter as possible.

3. The first item on the consent calendar shall be a motion that reads as follows:

“To approve the reading by title of all Ordinances and Resolutions which appear on the public agenda. Said Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and further reading waived pursuant to Merced City Charter Section 412.”

SECTION 16. RIGHTS AND DUTIES OF MEMBERS.

1. When a Member is about to speak they shall address the Mayor or Chair, and when two or more Members desire to speak at once, the Mayor or Chair shall name the Member who is to speak, and the Member shall confine himself/herself to the question under debate and avoid personalities.

2. Whenever the Mayor recognizes a Member desiring to speak that Member may initially address the City Council or question staff, an applicant or a witness for a period not to exceed five (5) minutes after which the Mayor shall recognize the next Member desiring to speak or question staff, an applicant, or a witness. Once all Members have had an initial five (5) minutes to speak on a matter, the Mayor shall allow a second and subsequent rounds of speaking and/or questioning by the City Council until the question is called or all Members have completed their speaking and/or questioning.

3. Every Member present when a question is put shall vote by signifying yes, no, or abstain either by voice vote or electronic means as appropriate.

4. No Member shall divulge information on any aspect of a “closed session” called under the provisions of the Ralph M. Brown Act of the State of California, except as required by law, nor shall the Member violate any confidences received as a result of their official office. (Merced Municipal Code Section 2.04.050).

5. Members shall conduct themselves in a proper manner at all times as befitting their official office and in accordance with the responsibility entrusted to them by the citizens of this community.

SECTION 17. DUTIES OF CITY CLERK.

1. The City Clerk, Assistant City Clerk, or Deputy City Clerk shall attend all meetings of the City Council (except closed sessions) and shall maintain a record of the proceedings of the City Council and shall record the ayes and noes upon all questions.

2. It shall be the duty of the City Clerk to keep a complete record of the proceedings of the City Council in the form of minutes.

3. The City Clerk shall keep an index of records convenient for reference of all ordinances, resolutions, petitions, and other matters introduced or presented to the City Council, together with a complete chronological record of all action taken thereon by the City Council.

4. The City Clerk shall notify all Members of the City Council of the time set for any special or adjourned meetings, and shall, at the request of the Mayor, call all meetings of special committees and notify parties interested in the matters pending before said special committee of the time and place of said meeting.

5. The City Clerk shall time all speakers and inform a speaker when the speaker’s allotted time has expired.

6. The City Clerk shall collect the Request to Speak cards and read the names therefrom when called to by the Mayor or Chair.

SECTION 18. MISCELLANEOUS PROVISIONS. Except as herein otherwise provided, the proceedings of this City Council shall be governed by the

City Charter, City Ordinances, statutes applicable to charter cities, and these rules, and it shall be the duty of the Mayor to adhere to and enforce such rules, as well as the rules herein set forth.

SECTION 19. VALIDITY OF ACTIONS. Violations of any of these rules shall not affect the validity of any action, inaction or recommendation regardless of whether taken by ordinance, resolution or motion, except upon specific allegation and proof of the procedural error complained of sufficient to demonstrate that such error was prejudicial and that by reason thereof the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

SECTION 20. IMPLEMENTATION. These Rules of Order and Procedure shall be implemented at the first meeting of the City Council, Board, or Commission occurring on _____, 2018.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____, 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
CITY CLERK

BY: _____

Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney	Date
---------------	------

RESOLUTION NO. 2018-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, RESCINDING RESOLUTION NO. 2017-10 AND ADOPTING A VALUES STATEMENT, ADOPTING RULES OF ORDER AND PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS, AND ADOPTING THE ETHICS AND CODE OF CONDUCT FOR CITY COUNCIL MEETINGS

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

SECTION 1. RESCISSION OF RESOLUTION. Resolution No. 2017-10 is hereby rescinded.

VALUES STATEMENT

SECTION 2. VALUES STATEMENT. The City Council of the City of Merced values the creation of an atmosphere at City Council meetings that encourages and fosters public input and involvement in the decision making process. The City Council believes that diversity in the community is a positive attribute that is reflected in those elected to represent the citizens of Merced.

It is the City Council's goal to be tolerant of different opinions, to show respect and concern on all issues, to demonstrate leadership by its actions, and to pledge support or disagreement without being disagreeable in our best effort to keep Merced a city where good things happen.

It is the objective of the City Council to establish the uniform procedures prescribed herein for the conduct of public hearings to ensure that all persons appearing before the City Council are treated fairly and equally.

All other Boards and Commissions of the City shall strive to comply with this Values Statement.

ETHICS/CODE OF CONDUCT

SECTION 3. PURPOSE.

While it is understood that the State of California has numerous sets of laws that guide the ethical behavior of public officials and employees, the City of Merced wishes to establish that this is a community whose ethical values are clearly stated and fully understood not only by its elected officials and appointed leaders, but this Ethics Code is recognized and acknowledged by its employees and its citizen representatives to represent the values this community holds in highest regard.

SECTION 4. ETHICS.

The citizens and businesses of Merced are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Merced and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.

2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of California and the City of Merced in the performance of their public duties.

3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council, Boards, Committees and Commissions, the staff or public.

4. **Request for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.

5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.

6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

7. **Communication.** For adjudicative matters pending before the body, members shall refrain from receiving information outside of an open public meeting or the agenda materials, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.

8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or

other appropriate state agency, a member shall not participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the Mayor and the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

A. The applicable gift limit set forth in the Political Reform Act is reduced to fifty dollars (\$50) per calendar year for a restricted source.

1. For members, a “restricted source” is the following:

- a. A person who has entered into, performs under, or seeks a contract with the City.
- b. A person who, during the prior 12 months, attempted to influence the elected City officer in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual’s own City compensation, benefits, or retirement.
- c. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the elected City officer, the City Council, or a Board, Commissions, Committee, or

other similar body of which the elected City officer is a voting member.

- B. A member should recuse himself/herself from a decision affecting a restricted source if s/he has received a gift that exceeds the applicable gift limit set forth in paragraph 9.A.

10. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.

12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of the Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Merced, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.

14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Merced City government as outlined in the Merced Municipal Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards,

Committees and Commissions, and the public. Except as provided by the Municipal Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of the Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.

16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

RULES OF ORDER AND PROCEDURE

SECTION 5. POSTING OF AGENDAS. All agendas of the City Council meetings, and of the other Boards and Commissions of the City, shall be posted on or near the entrance to City Hall, located at 678 West 18th Street, Merced, California, at least seventy-two (72) hours prior to a regular or adjourned meeting, and at least twenty-four (24) hours for a special meeting. The City Clerk or Secretary of the Board or Commission shall prepare a certificate of posting for each such posting.

SECTION 6. CONTENTS OF AGENDA. Each agenda shall contain a brief, general description of each item to be transacted or discussed at the meeting.

SECTION 7. CITIZEN PARTICIPATION. In accordance with Charter Section 411 and these Rules, each agenda for a regularly scheduled City Council, Board, or Commission meeting shall provide an opportunity for members of the public to personally, or through counsel, address the City Council, Board, or Commission on items of interest to the public that are within the subject matter jurisdiction of the City Council, or respective Board or Commission. In accordance with Section 411 of the City Charter, at special or emergency meetings, grievances and comments shall be limited to the topic of the special or emergency meeting, unless waived by the City Council, Board, or Commission.

Unless less restrictive rules are adopted or are waived by the City Council, Board or Commission, the following rules shall apply:

1. Except as provided below, citizen participation shall take place at the opening of oral communications for non-agenda items and for public hearings and other agenda items, public comment shall follow the administrative staff report for that item and shall be limited to five (5) minutes with no speaker given more than five (5) minutes to speak on any agenda item. In order to speak during oral communications, on an agenda item, or at a public hearing, a speaker must first complete a Request to Speak card and submit it to the City Clerk. For Oral Communications, the Request to Speak card shall be submitted prior to the City Clerk's calling for speakers. For agenda items other than Public Hearings, the Request to Speak card shall be submitted before the item is closed to public testimony. For Public Hearings where there is an applicant, permit holder, or appellant, the Request to Speak card shall be submitted prior to the call for rebuttal testimony or the matter being placed before the City Council in the event there is no rebuttal testimony. At the time for public comment, the Mayor or Chair shall ask the City Clerk or Secretary of the Board or Commission to read the names from the Request to Speak cards. The City Clerk or Secretary of the Board or Commission shall call three (3) to five (5) speakers at a time and base the order of the speakers on the order in which the Request to Speak cards were submitted.

If more than three (3) speakers desire to speak at a public hearing or on an agenda item, then the Mayor or Chairperson may limit each speaker to three (3) minutes at the discretion of the City Council, Board, or Commission.

Speakers shall be timed by the City Clerk or Secretary of the Board or Commission who shall inform speakers when their time has expired. As a courtesy to the City Council, Board, or Commission and other speakers, and those waiting to be heard on agenda items, speakers will not be allowed to continue beyond their allotted time.

2. For those agenda items where there is an applicant for a permit, license, or other entitlement, or the proposed revocation thereof, a spokesperson for the applicant, or the applicant themselves, shall be entitled to fifteen (15) minutes, including any time for rebuttal, and a spokesperson for any appellant or group opposing the application shall be entitled to fifteen (15) minutes, including any time for rebuttal. All other speakers commenting on the item shall be limited to five (5) minutes and shall be subject to the Request to Speak card procedure hereinbefore prescribed.

3. For oral communications, each speaker must complete and submit a Request to Speak card and shall be subject to the procedures hereinbefore prescribed. The City Council or respective Board or Commission may limit non-agenda items to thirty (30) minutes after which any additional speakers may speak on non-agenda items at the end of the scheduled business.

4. No public input needs to be heard on a subject not within the subject matter jurisdiction of the City Council or respective Board or Commission and the Mayor or Chair shall rule the speaker out of order.

5. Any non-agenda item that requires action shall be referred by the Mayor or Chairperson to the City Manager for a report. The City Council, Board, or Commission shall not discuss the item until a report is prepared and heard unless the item meets one of the exceptions contained in Government Code Section 54954.2(b).

SECTION 8. ACTING ON NON-AGENDA ITEMS. No action shall be taken on agenda items not posted in accordance with Government Code Section 54954.2 or 54956 unless the item meets one of the exceptions contained in Government Code Section 54954.2(b).

SECTION 9. PROCEDURE UPON DEMAND TO CURE ACTION ALLEGED TO VIOLATE THE BROWN ACT. Upon receipt of a demand to cure or correct an alleged violation of the Brown Act, Government Code Section 54950 *et seq.*, the following rules shall apply:

1. The item shall be considered in two parts at the next meeting of the City Council, Board, or Commission.

2. The City Council, Board, or Commission shall first consider whether or not to reconsider the matter in which an alleged violation of the Brown Act occurred. If the City Council, Board, or Commission determines to reconsider the matter, the City Council, Board, or Commission shall thereafter rehear the matter on the merits and determine whether or not to supersede or rescind the challenged action as of the effective date of the corrective action. In making any corrective action, all previous testimony, as well as any new testimony, shall be considered part of the record.

SECTION 10. PROCEDURE FOR AGENDA ITEMS.

1. The presiding officer shall be the Mayor for all matters before the City Council and the Chair of the Board or Commission for all matters before the Board or Commission. In the event of the absence or non-participation for any reason of the Mayor or Chair, the presiding officer shall be the member upon whom the chairmanship of a regular meeting of the body devolves in such event.

2. The order of presentation of evidence in each case shall be determined by the presiding officer in their discretion. The presiding officer shall rule out of order the presentation of abusive, profane, or unduly repetitive evidence.

3. Evidence shall not be required to be presented under oath or affirmation nor shall there be a right of cross-examination, except for any revocation hearing held pursuant to subsection 9 of this Section.

4. No proceeding need be conducted according to any technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in a court of law.

5. Rulings on questions of order or procedure shall be made by the Mayor or Chair of the Board or Commission unless a specific rule to the contrary is provided by the Charter of the City of Merced, a statute applicable to charter cities, City Ordinance, or these rules. Such rulings on questions of order or procedure are subject to appeal to the entire City Council or Board or Commission by a Member of the City Council, Board, or Commission in which case a majority vote thereof shall conclusively govern and conclusively determine such question of order or procedure. *Robert's Rules of Order*, if used, shall only be used as a guide and is not conclusive authority on any question of order or procedure.

6. When a matter is contested and a request is filed in writing with the City Clerk at least forty-eight (48) hours before the hour set for the hearing, a record of any hearing or continued hearing subsequently held in the matter shall be made and duly preserved, provided that the City Clerk shall require a deposit in advance from the person making the request. A copy of such record shall be available at cost.

7. Administrative staff reports shall be made public prior to or at the beginning of the hearing and shall be a matter of public record.

8. The action or recommendation of the City Council, Board, or Commission shall appear in the minutes of the respective body prepared for the meeting. Such minutes shall be public records, which shall be open to inspection and available for copying at cost in accordance with rules applicable to public records generally.

9. The following additional rules shall apply to public hearings set for the purpose of determining whether a conditional use permit; variance; or any other entitlement, license, or permit shall be revoked and shall prevail over any of the foregoing rules inconsistent herewith.

- A. Notice of revocation hearing shall be transmitted by certified mail at least ten (10) days before the hearing to the owner of the affected property at the address shown on the current records of the County Assessor.
- B. The decision of the body before which the public hearing was held shall be sent to the affected property owner by certified mail at the address shown on the current records of the County Assessor within ten (10) days of the making of such decision.

SECTION 11. CITY COUNCIL MEETINGS.

1. Effective May 1, 2017, regular sessions of the City Council shall be held on the first and third Mondays of each month, holidays excepted, at the hour of 5:30 p.m., and adjourned and special meetings at such time as the City Council may order. The time between 5:30 p.m. and 6:00 p.m. shall be reserved for closed sessions with the regular agenda commencing at 6:00 p.m.

2. The proceedings of special City Council meetings shall be limited to the subjects set forth in the call therefore.

SECTION 12. POWERS AND DUTIES OF MAYOR.

1. The Mayor shall take the Chair at the hour appointed for the City Council to meet. The Mayor shall immediately call the members to order, and

except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules.

2. The Mayor shall preserve order and decorum and shall decide all questions of order and procedure, subject to appeal, which appeal shall be decided without debate, except that the appellant may state the grounds upon which he/she bases his/her appeal.

SECTION 13. POWERS AND DUTIES OF MAYOR PRO TEMPORE.

The Mayor Pro Tempore shall be selected by the City Council to act as presiding officer during the absence of the Mayor and said Mayor Pro Tempore shall serve at the pleasure of the City Council.

SECTION 14. ABSENCE OF MAYOR AND MAYOR PRO TEMPORE.

In the absence of the Mayor and Mayor Pro Tempore, the Chair shall be occupied by one of the City Council Members present, selected alphabetically in rotation on an annual basis.

SECTION 15. ORDER OF BUSINESS.

1. The City Manager shall prepare or cause to be prepared and cause to be printed for each meeting a list in detail of all matters ready for consideration at the City Council, Board or Commission meetings; said list shall be known as the agenda and shall include all communications from other officers and boards, petitions and communications, reports, resolutions, ordinances, and any other matters which have been presented to the City Council, Board, or Commission and which remain undetermined. In case any matters on the agenda of a particular meeting are not acted upon, they shall be continued upon the agenda of the next meeting and of each succeeding meeting in their order of introduction until finally disposed of by the City Council.

2. The business of regular meetings of the City Council, Board or Commission shall be transacted as far as practicable in the following order:

- A. Study Session (if applicable)
- B. Closed Session (if applicable)
- C. Call to Order
- D. Roll Call
- E. Report Out of Closed Session (if applicable)
- F. Ceremonial Matters (if applicable)

- G. Special Presentations (if applicable)
- H. Written Petitions and Communications
- I. Oral Communications
- J. City Council Consent Calendar
- K. City Council Public Hearings
- L. City Council Reports
- M. Business from City Council
- N. Adjournment

It is understood that matters set for public hearing shall be taken up at the hour set or as soon thereafter as possible.

3. The first item on the consent calendar shall be a motion that reads as follows:

“To approve the reading by title of all Ordinances and Resolutions which appear on the public agenda. Said Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and further reading waived pursuant to Merced City Charter Section 412.”

SECTION 16. RIGHTS AND DUTIES OF MEMBERS.

1. When a Member is about to speak they shall address the Mayor or Chair, and when two or more Members desire to speak at once, the Mayor or Chair shall name the Member who is to speak, and the Member shall confine himself/herself to the question under debate and avoid personalities.

2. Whenever the Mayor recognizes a Member desiring to speak that Member may initially address the City Council or question staff, an applicant or a witness for a period not to exceed five (5) minutes after which the Mayor shall recognize the next Member desiring to speak or question staff, an applicant, or a witness. Once all Members have had an initial five (5) minutes to speak on a matter, the Mayor shall allow a second and subsequent rounds of speaking and/or questioning by the City Council until the question is called or all Members have completed their speaking and/or questioning.

3. Every Member present when a question is put shall vote by signifying yes, no, or abstain either by voice vote or electronic means as appropriate.

4. No Member shall divulge information on any aspect of a “closed session” called under the provisions of the Ralph M. Brown Act of the State of California, except as required by law, nor shall the Member violate any confidences received as a result of their official office. (Merced Municipal Code Section 2.04.050).

5. Members shall conduct themselves in a proper manner at all times as befitting their official office and in accordance with the responsibility entrusted to them by the citizens of this community.

SECTION 17. DUTIES OF CITY CLERK.

1. The City Clerk, Assistant City Clerk, or Deputy City Clerk shall attend all meetings of the City Council (except closed sessions) and shall maintain a record of the proceedings of the City Council and shall record the ayes and noes upon all questions.

2. It shall be the duty of the City Clerk to keep a complete record of the proceedings of the City Council in the form of minutes.

3. The City Clerk shall keep an index of records convenient for reference of all ordinances, resolutions, petitions, and other matters introduced or presented to the City Council, together with a complete chronological record of all action taken thereon by the City Council.

4. The City Clerk shall notify all Members of the City Council of the time set for any special or adjourned meetings, and shall, at the request of the Mayor, call all meetings of special committees and notify parties interested in the matters pending before said special committee of the time and place of said meeting.

5. The City Clerk shall time all speakers and inform a speaker when the speaker’s allotted time has expired.

6. The City Clerk shall collect the Request to Speak cards and read the names therefrom when called to by the Mayor or Chair.

SECTION 18. MISCELLANEOUS PROVISIONS. Except as herein otherwise provided, the proceedings of this City Council shall be governed by the

City Charter, City Ordinances, statutes applicable to charter cities, and these rules, and it shall be the duty of the Mayor to adhere to and enforce such rules, as well as the rules herein set forth.

SECTION 19. VALIDITY OF ACTIONS. Violations of any of these rules shall not affect the validity of any action, inaction or recommendation regardless of whether taken by ordinance, resolution or motion, except upon specific allegation and proof of the procedural error complained of sufficient to demonstrate that such error was prejudicial and that by reason thereof the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

SECTION 20. IMPLEMENTATION. These Rules of Order and Procedure shall be implemented at the first meeting of the City Council, Board, or Commission occurring on _____, 2018.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____, 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
CITY CLERK

BY:_____

Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

Date