



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, July 1, 2019

6:00 PM

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

Closed Session at 5:30 PM

NOTICE TO PUBLIC

WELCOME TO THE MEETING OF THE MERCED CITY COUNCIL

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

PUBLIC COMMENT: OBTAIN SPEAKER CARD FROM THE CITY CLERK

Members of the audience who wish to address the City Council are requested to complete a speaker card available at the podium against the right-hand side of the Council 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. [19-371](#) SUBJECT: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; California Department of Finance v. City of Merced, et al.; Sacramento County Superior Court Case No.34-2016-80002485; AUTHORITY: Government Code Section 54956.9(d)(1)

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. CEREMONIAL MATTERS

F.1. [19-320](#) **SUBJECT:** Proclamation - Merced Pride Weekend

REPORT IN BRIEF

Received by a representative of the Merced LGBTQ+ Alliance.

G. WRITTEN PETITIONS AND COMMUNICATIONS

H. ORAL COMMUNICATIONS

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

I. CONSENT CALENDAR

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

I.1. [18-640](#) **SUBJECT:** Reading by Title of All Ordinances and Resolutions

REPORT IN BRIEF

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

with further reading waived.

RECOMMENDATION

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

I.2. [19-325](#)

SUBJECT: Information-Only Contracts for the Month of June 2019

REPORT IN BRIEF

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

I.3. [19-324](#)

SUBJECT: Information Only - Planning Commission Meeting Minutes of May 8, 2019

RECOMMENDATION

For information only.

I.4. [19-309](#)

SUBJECT: Information Only - Traffic Committee Minutes of July 10, 2018, November 13, 2018, and March 12, 2019

RECOMMENDATION

For information only.

I.5. [19-347](#)

SUBJECT: Information Only - Site Plan Review Committee Meeting Minutes of May 16, 2019

RECOMMENDATION

For information only.

I.6. [19-361](#)

SUBJECT: Information Only - Arts and Culture Advisory Commission Meeting Minutes of February 8, 2019, March 14, 2019, and April 18, 2019

RECOMMENDATION

For information only.

I.7. [19-322](#)

SUBJECT: Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of June 3, 2019

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

City Council/Public Financing and Economic

Development/Parking Authority - Adopt a motion approving the meeting minutes of June 3, 2019.

I.8. [19-369](#)

SUBJECT: Authorization for Retroactive Submittal of the Burners Without Borders Program Community Micro-Grant Application for Funding of a Community Art Project to the Arts and Cultural Advisory Commission and Authorization to Submit Grant Application(s) for Future Projects that do not Exceed \$5,000 Each, and Which do not Require Matching Funds on an Annual Basis

REPORT IN BRIEF

Considers granting retroactive authority for submittal of Burners Without Borders community micro-grant application that was due June 3, 2019 for funding of a community art project and granting the Arts and Cultural Advisory Commission to submit additional grant applications.

RECOMMENDATION

City Council - Adopt a motion granting retroactive authority to the Arts and Culture Advisory Commission for the submittal of the Burners Without Borders community micro-grant application that was due June 3, 2019 for a community art project and provide authority for the Arts and Culture Advisory Commission to submit future grant applications for projects less than \$5,000 each which do not require a match on an annual basis.

I.9. [19-365](#)

SUBJECT: Approval of the Property, Boiler and Machinery Insurance Renewal Through Alliant Property Insurance Programs in the Amount of \$336,652.81 for Program Year 2019/2020

REPORT IN BRIEF

Consider approving the renewal of the City's policy through Alliant Property Insurance Programs (APIP) at 35.44% premium increase, amounting to \$336,652.81 for program year 2019/2020.

RECOMMENDATION

City Council - Adopt a motion ratifying the renewal of the property and boiler and machinery insurance through the Alliant Property Insurance Programs (APIP), administered by Alliant Insurance Services for the period of July 1, 2019 through June 30, 2020; and authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

I.10. [19-356](#)

SUBJECT: Adoption of Resolution Authorizing the City Manager or His

Designee to Sign a Letter of Commitment for a Multi-Jurisdictional
Local Hazard Mitigation Planning (LHMP) Grant

REPORT IN BRIEF

Considers adopting a Resolution authorizing the City Manager or his Designee to sign a LHMP Letter of Commitment for a Multi-Jurisdictional LHMP Grant through the Merced County Operational Area (OA).

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-37**, A Resolution of the City Council of the City of Merced, California authorizing the City Manager or his Designee to sign a letter of commitment for the Merced County Multi-Jurisdictional Local Hazard Mitigation Planning grant.

I.11. [19-216](#)

SUBJECT: Approval of Agreement for Professional Services for a One Year Term with THOR, Inc. for AS/400 Programming Consulting Services in the Amount of \$178,000

REPORT IN BRIEF

Authorizes the execution of a one-year professional services agreement with THOR, Inc. for \$178,000 for AS/400 programming consulting services to support Central Square (formally Sungard) application suite.

RECOMMENDATION

City Council - Adopt a motion approving professional services agreement with THOR, Inc.; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

I.12. [19-328](#)

SUBJECT: Approval of a Five Year Software Maintenance Contract with Superion for Support and Hosting of the Current Enterprise Resource Planning System in the Amount of \$858.910.40 with Provisions to Reduce Costs by Completing an Annual Review of Modules Migrated to the New Enterprise Resource Planning System

REPORT IN BRIEF

Authorize the execution of a five year software maintenance contract with Superion for support and hosting of the current enterprise resource planning software in the amount of \$858.910.40 with provisions to reduce costs by completing an annual review of modules migrated to the new enterprise resource planning system.

RECOMMENDATION

City Council - Adopt a motion approving the agreement with Superion and authorizing the City Manager or the Assistant City Manager to execute the necessary documents including future contract amendments for cancelling select modules to reduce future maintenance and hosting costs; as well as future professional services contract amendments with Superion below the bid threshold as required.

I.13. [19-313](#)

SUBJECT: Approval of Memorandum of Understanding (MOU) Between the City of Merced and Merced Union High School District (MUHSD) for Police Services in the District's Four (4) High Schools for a Term of Three Years, Fiscal Year 2019 - 2022, with an Option to Extend the Term for One Additional Year

REPORT IN BRIEF

Requests council approval of a MOU between Merced Union High School District and the City of Merced to provide Police Services at the District four (4) high schools.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a Memorandum of Understanding between the City of Merced and Merced Union High School District to provide police services in the District's four high schools; and,

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

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

I.14. [19-334](#)

SUBJECT: Approval of Memorandum of Understanding (MOU) Between the City of Merced and Merced City School District (MCSD) for Police Services in the District's Four (4) Middle Schools for a Term of Three Years at a Reimbursement Amount per Attached Agreement and Exhibit A

REPORT IN BRIEF

Requests council approval of a MOU between Merced City School District and the City of Merced to provide Police Services at the Districts four (4) middle schools for a term of three years for an amount stated on the MOU

and Exhibit A attached.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving a Memorandum of Understanding between the City of Merced and Merced City School District to provide police services in the District's four middle schools; and,
- B. Authorizing the City Manager or the Assistant City Manager to execute the agreement; and,
- C. Authorizing the Finance Officer to make the appropriate budget adjustments.

I.15. [19-315](#)

SUBJECT: Authorization to Accept and Appropriate a Donation of Five Hundred Dollars (\$500.00) from Benny Dfanda to be Used to Purchase Equipment and Supplies for the Merced Police K9 Unit

REPORT IN BRIEF

Considers accepting and appropriating a donation of five hundred dollars (\$500.00) from Benny Dfanda to offset the costs of the Merced Police K9 Program.

RECOMMENDATION

City Council - Adopt a motion:

- A. Accepting the donation of five hundred dollars (\$500.00) from Benny Dfanda for use in the Police K9 Program; and,
- B. Depositing the five hundred dollar (\$500.00) donation to revenue account #001-1001-360-02-01 and appropriate the same amount to account #001-1027-522-29-00 to purchase equipment and supplies for the K9 Unit.

I.16. [19-228](#)

SUBJECT: Approval of Agreement for Professional Services with Friedman and Bruya, Incorporated, for Specialized Laboratory Services in Support of the City's Groundwater Investigation, for a Three-Year Term in the Amount of \$10,291.05 Annually

REPORT IN BRIEF

Considers an agreement for professional services with Friedman and

Bruya, Incorporated, for laboratory services to support the City's groundwater investigation

RECOMMENDATION

City Council - Adopt a motion approving the agreement for professional services with Friedman and Bruya, Inc., for a three-year term in the amount of \$10,291.05 annually for each of the fiscal years FY 2019/20, FY 2020/21, and FY 2021/22, to provide laboratory analytical services; and authorizing the City Manager or the Assistant City Manager to execute necessary documents.

I.17. [19-230](#)

SUBJECT: Approval of Third Amendments to Two Separate Agreements with Provost and Pritchard Engineering Group, Incorporated for Environmental Remediation Services Including Groundwater Cleanup and Reporting for a Combined Total of \$284,700

REPORT IN BRIEF

Considers approving third amendment to two amendments to agreements for professional services with Provost and Pritchard Engineering Group, Incorporated for a combined amount not to exceed \$284,700.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the third amendment to agreement for professional services (cleanup contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$224,400 for groundwater cleanup; and,

B. Approving the third amendment to agreement for professional services (reporting contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$60,300 for report drafting; and,

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

I.18. [19-274](#)

SUBJECT: Adoption of Resolution Approving Program Supplement No. F031 to Administering Agency - State Agreement for Federal Aid Projects No. 10-5085F15 and Acceptance of Congestion Mitigation and Air Quality Improvement (CMAQ) Grant Funds, CML-5085(050) 119069 CMAQ-SDWK, in the Amount of \$61,336 for Preliminary Engineering for the Sidewalks Near South R, T Street Between Childs

Ave and Stuart Drive and Stuart Drive and Childs Avenue and South R Street

REPORT IN BRIEF

Considers a resolution approving a California Department of Transportation Program Supplement for the use of \$61,336 in CMAQ Grant funding for Preliminary Engineering for the sidewalks near South R Street, T Street between Childs Ave and Stuart Drive and Stuart Drive between Childs Avenue and South R Street.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2019-29**, a Resolution of the City Council of the City of Merced, California, approving Federal-Aid Projects Program Supplement Agreement No. F031; and,
- B. Accepting CMAQ grant funds and increasing revenue in account 450-1104-321-32-00 by \$61,336 and appropriating the same to account 450-1104-637-65 (Project No. 119069) for preliminary engineering costs associated with design of sidewalk near South R Street, T Street between Childs Ave and Stuart Drive and Stuart Drive between Childs Avenue and South R Street; and,
- C. Approving the use of pooled cash until reimbursement is received from the grant; and,
- D. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

I.19. [19-275](#)

SUBJECT: Adoption of Resolution Approving the Administering Agency State Program Supplement No. F032 and Agreement Summary (E-76) for a Congestion Mitigation and Air Quality Improvement (CMAQ) Grant CML-5085(052), (Project No. 119070), CMAQ-SDWK for the Use of \$36,679 in CMAQ Grant Funding for Preliminary Engineering for the Sidewalks on 7th Street and 8th Street Between West Avenue and Linda Lane Between 7th Street and Lopes Avenue

REPORT IN BRIEF

Considers a resolution approving a California Department of Transportation Program Supplement for the use of \$36,679 in CMAQ Grant funding for Preliminary Engineering for the sidewalks on 7th Street

and 8th Street between West Ave, and Linda Lane between 7th Street and Lopes Avenue.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2019-36**, a Resolution of the City Council of the City of Merced, California, approving Federal-Aid Projects Program Supplement Agreement No. F032; and,

B. Accepting CMAQ grant funds and increasing revenue in account 450-1104-321-32-00 by \$36,679 and appropriating the same to account 450-1104-637-65 (Project No. 119070) for preliminary engineering costs associated with design of sidewalk on 7th Street and 8th Street between West Ave, and Linda Lane between 7th Street and Lopes Avenue; and,

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

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

I.20. [19-263](#)

SUBJECT: Approval of Recreation and Parks Commission's Recommendation to Grant a Request by the Merced Rescue Mission for the Co-Sponsored Rental Rate for the Merced Senior Community Center on October 19, 2019 for its Annual Bingo Bash

REPORT IN BRIEF

Considers approving the Recreation and Parks Commission's recommendation to approve a request for the co-sponsored rate for the rental of the Merced Senior Community Center by the Merced Rescue Mission to hold its annual Bingo Bash on October 19, 2019.

RECOMMENDATION

City Council - Adopt a motion approving the Recreation and Park Commission's recommendation to rent the Merced Senior Community Center to the Merced Rescue Mission on October 19, 2019, at the co-sponsored rental rate.

I.21. [19-327](#)

SUBJECT: Approval of Recreation and Parks Commission's Recommendation to Grant a Request by the California Highway Patrol for a Rental Rate Waiver (no Charge) for the Merced Senior Community Center on July 25, 2019 for its Memorial Sign Dedication

Ceremony

REPORT IN BRIEF

Considers approving the Recreation and Parks Commission's recommendation to approve a request for a rental rate waiver for the Merced Senior Community Center on July 25, 2019 for the California Highway Patrol Memorial Sign Dedication Ceremony.

RECOMMENDATION

City Council - Adopt a motion approving the Recreation and Park Commission's recommendation to waive the rental rate for use of the Merced Senior Community on July 25, 2019 for the California Highway Patrol's Memorial Sign Dedication Ceremony.

I.22. [19-337](#)

SUBJECT: Authorization to Accept Volunteer Labor and Donated Materials Valued at Approximately \$4,400 from Correct Craft to Repair Applegate Park Zoo Exhibit Barrier Fencing, Touch-Up Painting of the Facility, Removing and Replacing the Existing Bulletin Board, and Constructing a New Bulletin Board

REPORT IN BRIEF

Considers approving acceptance of labor and materials valued at approximately \$4,400 for Applegate Park Zoo improvements from Correct Craft.

RECOMMENDATION

City Council - Adopt a motion accepting a donation from Correct Craft for volunteer labor and materials valued at approximately \$4,400 for improvements to Applegate Park Zoo.

J. PUBLIC HEARINGS

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

J.1. [19-271](#)

SUBJECT: Public Hearing - Adoption of a Categorical Exemption (Environmental Review #19-04) and Introduction of Ordinance Amending Section 20.42 and Various Other Sections of the Merced Municipal Code Regarding Accessory Dwelling Units (Zoning Ordinance Amendment #19-02)

REPORT IN BRIEF

The City Council will consider the adoption of a Categorical Exemption and the introduction of an Ordinance which would modify the City's zoning regulations regarding accessory dwelling units.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting a Categorical Exemption (Environmental Review #19-04); and,

B. Introducing **Ordinance 2502**, An Ordinance of the City Council of the City of Merced, California, Amending Sections 20.42 ("Second Units") as well as Tables 20.08-1 ("Permitted Land Uses in the Residential Zoning Districts"), 20.16-1 ("Permitted Land Uses in the Urban Village Zoning Districts"), and 20.38-1 ("Off-Street Parking Requirements"); and Sections 20.08.030.F.1 ("Development Standards for Residential Zoning Districts, Parking"), 20.20.010.C.3 ("Urban Transition Zoning District, Development Standards"); 20.46.010 ("Residential Design Standards, Purpose"), and 20.90.020 ("Glossary, Definitions") of the Merced Municipal Code."

K. REPORTS

K.1. [19-351](#)

SUBJECT: Update to the City Council on the Public Survey Results for the Proposed Public Facilities Bond Measure and Charter Amendment

REPORT IN BRIEF

City Staff will provide an update to the City Council on the results of a recent public option survey conducted to test the viability of a Public Facilities Bond Measure and a Charter Amendment on the March 2020 ballot.

RECOMMENDATION

Provide staff direction on next steps for pursuing items to be placed on the March Public Facilities financing options and a Charter Amendment.

L. BUSINESS

L.1. [19-352](#)

SUBJECT: Approval of Reappointments to Recreation and Parks Commission (1), Regional Airport Authority (1), and Bicycle Advisory Commission (1)

REPORT IN BRIEF

Considers reappointing currently seated individuals to an additional term.

RECOMMENDATION

City Council - Adopt a motion reappointing qualified individuals who are eligible for, and interested in, an additional term on the Recreation and Parks Commission, Regional Airport Authority, and Bicycle Advisory Commission.

L.2. [19-354](#)

SUBJECT: Approval of Replacement Appointment to the Citizens Advisory Charter Review Committee for Vacant District 1 Seat

REPORT IN BRIEF

Considers the appointment of an individual to the Citizens Advisory Charter Review Committee to fill a vacancy left by the resignation of Bernadette Soares.

RECOMMENDATION

City Council - Adopt a motion accepting nomination and appointing one individual to the District 1 seat as a replacement on the Citizens Advisory Charter Review Committee.

L.3. Request to Add Item to Future Agenda

L.4. City Council Comments

M. ADJOURNMENT



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.1.

Meeting Date: 7/1/2019

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item F.1.

Meeting Date: 7/1/2019

SUBJECT: Proclamation - Merced Pride Weekend

REPORT IN BRIEF

Received by a representative of the Merced LGBTQ+ Alliance.

ATTACHMENTS

1. Merced Pride Weekend Proclamation



Proclamation

WHEREAS, Lesbian, Gay, Bisexual, Transgender, and Queer Pride celebrates human diversity and takes a position against discrimination; and

WHEREAS, LGBTQ+ community members are historically more vulnerable to sanctioned violence than their heterosexual and cisgender counterparts and there is a need for more resources for LGBTQ+ youth; and

WHEREAS, The City of Merced actively supports fostering inclusivity and re-affirmation of all its residents and acknowledges the efforts of the Merced LGBTQ+ Alliance to move towards a unified City.

NOW, THEREFORE, I, MIKE MURPHY, Mayor of the City of Merced hereby recognize July 5th-7th as Merced Pride Weekend.

Signed this 1st day of July 2019.

Mike Murphy, Mayor of Merced



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.1.

Meeting Date: 7/1/2019

SUBJECT: Reading by Title of All Ordinances and Resolutions

REPORT IN BRIEF

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

RECOMMENDATION

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.2.

Meeting Date: 7/1/2019

Report Prepared by: Kirkland Greene, Records Clerk II

SUBJECT: Information-Only Contracts for the Month of June 2019

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 June 2019

Exhibit 1 – Table of Contracts7/1/2019 City Council Meeting

Page 1 of 2

Department/Division	Vendor	Purpose/Location	Amount
0403 – Information Technology	Entisys Solutions, Inc. (DBA: Entisys360)	State Enterprise Technology Contract No. 1-19-70-19H-1, for the Purchase of Hewlett Packard Enterprise (HPE) Data Center Equipment (“piggyback” contract; three-year term).	(No funds.)
0403 – Information Technology	Insight Public Sector, Inc.	State Enterprise Technology Contract No. 1-19-70-19C-3, for the Purchase of Commvault Data Center Equipment (“piggyback” contract; three-year term).	(No funds.)
0403 – Information Technology	SLED I.T. Solutions, Inc.	State Enterprise Technology Contract No. 1-19-70-19G-1, for the Purchase of Fortinet (Entisys 360) Data Center Equipment (“piggyback” contract; three-year term).	(No funds.)
1205 – Zoo	Jon Klingborg, DVM (DBA: Valley Animal Hospital)	First Amendment to Agreement for Veterinary Services at Applegate Park Zoo (Fiscal Year 2018/2019).	\$ 2,172.00
2002 – Economic Development	Andres Rodriguez-Soto (DBA: AC Industries, Inc.)	Repair damaged concrete wall in Parking Lot No. 6 at Main Street and Martin Luther King, Jr. Way. (Statement of Services, PO #134545.)	\$ 2,600.00
0402 – Personnel	Liebert Cassidy Whitmore	Agreement for Supervisory Personnel Training Services With the San Joaquin Valley Employment Relations Consortium to Assist in Workforce Management and Employee Relations for Fiscal Year 2019/2020.	\$ 3,560.00
1106 – PW - Water Systems	San Luis Pump Company	Removal of pump, motor, etc. from well casing at Well Site No. 5B, for inspection; make video survey of well casing and provide cost estimate for any needed repairs. (Statement of Services, PO #134660.)	\$ 4,000.00
1120 – PW - Parks	Odyssey Landscaping Company, Inc.	Remove dead bushes and tree stumps; install 34 plants of various types in designated spots along Black Rascal Creek Bike Path in Oakmont Maintenance District No. 103. (Statement of Services, PO #134516.)	\$ 4,600.00
0901 – Fire	ESO Solutions, Inc.	Master Subscription and License Agreement for the Firehouse Cloud Software-as-a-Service (SaaS) Records Management System (12-month term).	\$ 9,158.38
0803 – Engineering	Technicon Engineering Services, Inc.	Kibby Ave. Sewer Main Replacement - Soil compaction testing (Project No. 117020). (Statement of Services, PO #134531.)	\$11,114.00

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

Exhibit 1 – Table of Contracts (Continued)7/1/2019 City Council Meeting

Page 2 of 2

0803 – Engineering	Taylor Backhoe Service, Inc.	Furnish materials and traffic control to locate underground utilities for a new storm drain line on Main St. from "N" to "M," and locate underground utilities on "M" St. from 16th to 18 th , for full depth reclamation. (Reconstruction of Main Street - "M" to "N" Streets – Proj. Nos. 119058 & 119002.) (Statement of Services, PO #134712.)	\$17,000.00
0403 – Information Technology	Merced County Office of Education (MCOE)	Public Access Cable Services Agreement to Designate the MCOE as an Independent, Non-Profit Access Management Entity.	\$17,500.00
1201 – Recreation and Parks	Boys and Girls Club of Merced, Inc.	Agreement for Professional Services to Provide Assistance With a Summer Camp Program for Fiscal Year 2019-2020.	\$20,000.00
2002 – Economic Development	E. T. Abatement, Inc.	Removal and disposal of asbestos mastic, sheetrock, transite, and roofing, at 636 and 640 West Main Street. (Statement of Services, PO #134615.)	\$24,247.00
1119 – PW - Facilities	Emcor Services Mesa Energy Systems	HVAC Repairs at the Central Police Station: Emergency replacement of Multi-Zone 2 Automation with Distech Eclipse S1000 advanced controller. (Statement of Services, PO #134744.)	\$24,297.00
1120 – PW - Parks	Odyssey Landscaping Company, Inc.	Install a concrete walkway from playground to swing set at Applegate Park, place ADA-compliant ramp at entrance of swing enclosure, and install concrete retaining barrier around swing set. (Statement of Services, PO #134442.)	\$26,150.00
0201 – City Manager	Fairbank, Maslin, Maullin, Metz & Associates, Inc. (FM3)	Agreement for Professional Services to Conduct a Feasibility Survey Regarding 2020 Ballot Measures.	\$29,750.00
2002 – Economic Development	Dalen Unruh (DBA: Unruh Bobcat Service)	Furnish all labor and materials to completely demolish, remove, and dispose of the 4,800-sq.-ft. building structure and foundation, located at 636 and 640 W. Main Street. (Statement of Services, PO #134760.)	\$53,800.00

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 I.3.

Meeting Date: 7/1/2019

Report Prepared by: Taylor Hensley, Secretary I, Planning Division

SUBJECT: Information Only - Planning Commission Meeting Minutes of May 8, 2019

RECOMMENDATION

For information only.

ATTACHMENTS

1. Minutes

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, May 8, 2019

Chairperson DYLINEA 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, Michael Harris, Sam Rashe, Peter Padilla, and Chairperson Robert Dylina

Commissioners Absent: Scott G. Drexel (excused), and Jeremy Martinez, (excused)

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Chief Deputy City Attorney Fincher, Secretary I Hensley, 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 CAMPER-RASHE, and carried by unanimous voice vote (two absent), to approve the Minutes of April 17, 2019, as submitted.

3. COMMUNICATIONS

None.

4. **ITEMS**

- 4.1 Zoning Ordinance Amendment #19-02, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.42 (“Second Units”). This amendment would modify the City’s requirements for “accessory dwelling units” (previously known as “second units” or “secondary dwelling units”) to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees.

Planning Manager ESPINOSA reviewed the report on this item. She noted a memo from staff amending Section 20.080.0303(F)(1), Section 20.20.010(F)(1), Section 20.42.040(C)(1), and Section 20.090.020, which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #19-13 and memo dated May 8, 2019.

There was no one present wishing to speak regarding this project; therefore, public testimony was opened and closed at 7:37 p.m.

Commissioner PADILLA wondered if there was a way to isolate the Accessory Dwelling Unit from the Primary Unit to avoid utility-related disputes.

Planning Manager ESPINOSA clarified that city standards only allow one connection per single family home, and that they would be treated as a single unit when discussing fees.

Commissioner CAMPER asked for clarifications about whether or not an Accessory Dwelling Unit could be located in the front of a property.

Ms. ESPINOSA shared some examples of Accessory Dwelling Units in the City that are located in front of the Primary Dwelling Unit, and emphasized that setbacks would still apply.

Chairperson DYLINE asked for clarification regarding the language “subordinate appearance” and suggested that language be removed from the ordinance.

Commissioners HARRIS and PADILLA expressed concern that requiring owner occupancy as a condition of Accessory Dwelling Units would hinder their development in the City.

Commissioner RASHE observed that removing the owner occupancy requirement from the ordinance would be a great opportunity to improve the housing situation in Merced.

Commissioner CAMPER expressed her desire for owner occupancy to remain in the ordinance, and expressed concern over property maintenance and the amount of on-street parking in neighborhoods without owner occupancy.

Commissioner PADILLA felt that parking and maintenance was an issue with landlords and that it was discriminatory to require owner occupancy.

Commissioner RASHE explained that part of the issue with parking was related to the lack of affordable housing and the rising population.

Chairperson DYLINEA stated that the spirit of Accessory Dwelling Units was to create housing as quickly as possible. He also expressed concern over the parking requirements and its effect on garage conversions.

Ms. ESPINOSA explained that many more people ask to convert garages than to build traditional Accessory Dwelling Units, and what limits garage conversions is the requirements to provide an additional parking space. Ms. ESPINOSA explained that the owner occupancy requirement has likely slowed the growth of Accessory Dwelling Units in the City.

Commissioner PADILLA expressed concerns over garage conversions, but noted that in order to increase the housing stock, it would be necessary.

Chairperson DYLINEA asked for clarification regarding the Option 1B in Finding F regarding parking.

Planning Manager ESPINOSA clarified that both primary and secondary residents would be able to park in the setback.

M/S HARRIS-PADILLA, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #19-04, and to recommend approval of Zoning Ordinance Amendment #19-02 as outlined in Planning Commission Staff Report #19-13, with revisions as shown in Option 1B of Finding F, and revisions shown in Option 2B of Finding H of Planning Commission Staff Report #19-13, and with the amendments to Section 20.080.030(F)(1), Section 20.20.010(C)(3), Section 20.42.040(C)(1), Section 20.42.030(D)(3), and Section 20.90.020 as follows (RESOLUTION #4020):

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

**“20.08.030-“DEVELOPMENT STANDARDS FOR
RESIDENTIAL ZONING DISTRICTS**

F. Parking

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may ~~not~~ be located within any required exterior setback area, but these spaces may not be covered.”

**“20.20.010 URBAN TRANSITION (U-T) ZONING
DISTRICT**

C. Development Standards

3. **Residential Density.** Except for ~~secondary units~~ accessory dwelling units permitted under Chapter 20. 42 (~~Second Units~~ Accessory Dwelling Units), residential density of the lot may not be increased. ~~However the accessory dwelling unit may not exceed the allowable density for the lot.~~”

“20.42 ACCESSORY DWELLING UNITS

20.42.030-Site and Design Standards

ED. Relationship to Primary Dwelling

1. An accessory dwelling ~~second~~ unit may be within, attached to, or detached from the primary dwelling, or within an attached or detached accessory structure. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.

2. An accessory dwelling ~~second~~ unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. The ~~secondary~~ accessory dwelling unit shall be clearly subordinate to the primary dwelling by size, appearance, and location on the parcel.”

“20.42.040 Occupancy Standards

C. Fees and Other Requirements.

1. Accessory dwelling units are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service; the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system; and any utility fee or charge imposed on the creation of a detached accessory dwelling unit must not exceed the reasonable cost of providing the service.”

“20.90.020 - DEFINITIONS

1861a. ~~Second Units or Secondary~~ Accessory Dwelling Units.

Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. **Secondary-Accessory** dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no separate lease, or utility service, and still functioning as one “household” per 20.90.020(99) may not be considered to be a ~~second-unit~~ **an accessory unit**. See Chapter 20.42 (~~Second Units~~ Accessory Dwelling Units).

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

NOES: Commissioner Camper

ABSENT: Commissioners Drexel and Martinez

ABSTAIN: None

4.2 Cancellation of May 22, 2019, Planning Commission Meeting due to a lack of items

M/S PADILLA-HARRIS, and carried by unanimous voice vote, to cancel the Planning Commission meeting of May 22, 2019, due to a lack of items.

5. **INFORMATION ITEMS**

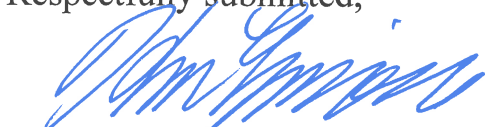
5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

There being no further business, Chairperson DYLINEA adjourned the meeting at 8:03 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 #4020

WHEREAS, the Merced City Planning Commission at its regular meeting of May 8, 2019, held a public hearing and considered **Zoning Ordinance Amendment #19-02**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.42 (“Second Units”). This amendment would modify the City’s requirements for “accessory dwelling units” (previously known as “second units” or “secondary dwelling units”) to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #19-13; 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 recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #19-04, and approval of Zoning Ordinance Amendment #19-02, as set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners Harris, Padilla, Rashe, and Chairperson Dyline
NOES: Commissioner Camper
ABSENT: Commissioners Drexel, and Martinez
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4020

Page 2

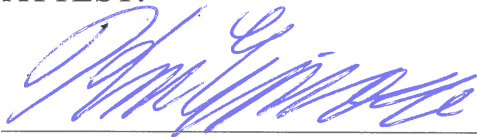
May 8, 2019

Adopted this 8th day of May 2019



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Draft Ordinance

n:\shared\planning\PC Resolutions\ZOA#19-02

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.42 (“SECOND UNITS”) AS WELL AS TABLES 20.08-1 (“PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS”), 20.16-1 (“PERMITTED LAND USES IN THE URBAN VILLAGE ZONING DISTRICTS”), AND 20.38-1 (“OFF-STREET PARKING REQUIREMENTS”); AND SECTIONS 20.08.030.F.1 (“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS, PARKING”), 20.20.010.C.3 (“URBAN TRANSITION ZONING DISTRICT, DEVELOPMENT STANDARDS”); 20.46.010 (“RESIDENTIAL DESIGN STANDARDS, PURPOSE”), AND 20.90.020 (“GLOSSARY, DEFINITIONS”) OF THE MERCED MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT TO CODE. Table 20.08-1, “Permitted Land Uses in the Residential Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

SECTION 2. AMENDMENT TO CODE. Section 20.08.030(F)(1), “Development Standards for Residential Zoning Districts, Parking” of the Merced Municipal Code is hereby amended to read as follows:

“20.08.030-“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS

F. PARKING

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may ~~not~~ be located within any required exterior setback area, but these spaces may not be covered.”

SECTION 3. AMENDMENT TO CODE. Table 20.16-1, “Permitted Land Uses in the Urban Village Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

SECTION 4. AMENDMENT TO CODE. Section 20.20.010(C)(3), “Urban Transition Zoning District, Development Standards, Residential Density,” of the Merced Municipal Code is hereby amended to read as follows:

“20.20.010 - Urban Transition (U-T) Zoning District

C. Development Standards _____

3. **Residential Density.** Except for ~~secondary units~~ accessory dwelling units permitted under Chapter 20.42 (~~Second Units- Accessory Dwelling Units~~), residential density of the lot may not be increased.”

SECTION 5. AMENDMENT TO CODE. Table 20.38-1, “Off-Street Parking Requirements,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’) is replaced by “Accessory Dwelling Units” and the corresponding “Required Number of Parking Spaces” is amended to read as follows:

**“One or ~~two~~ more bedrooms: 1 per unit;
~~Three or more bedrooms: 2 per unit”~~**

SECTION 6. AMENDMENT TO CODE. Chapter 20.42, “Second Units,” of the Merced Municipal Code is hereby repealed and amended to read as follows:

“20.42 Accessory Dwelling Units ~~Second Units~~

Sections:

20.42.010 Purpose

20.42.020 Minor Use Permit Required

20.42.030 Site and Design Standards

20.42.040 ~~Occupancy Standards~~ Fees and Other Requirements

20.42.010 Purpose

This chapter establishes standards for the location and construction of ~~second units (also known as “secondary~~

~~dwelling units~~) accessory dwelling units (“ADU’s”) in conformance with Government Code Section 65852.2. These standards are intended to allow for ~~second~~ accessory dwelling units as an important form of affordable housing while preserving the character and integrity of residential neighborhoods within the City.

20.42.020 Minor Use Permit Required

Approval of a Minor Use Permit is required prior to the establishment of any ~~second~~ accessory dwelling unit or a subdivision with multiple ~~second~~ accessory dwelling units.

20.42.030 Site and Design Standards

A. Location. ~~Second-Accessory dwelling~~ units shall be permitted in ~~residential zoning districts~~ districts zoned to allow single-family or multi-family use as provided in Part 2 (Zoning Districts).

B. Site Requirements

1. ~~Second-Accessory dwelling~~ units that comply with this chapter shall be permitted on all legally established residential parcels, regardless of parcel size so long as the parcel size permits at least an ‘efficiency unit’ to be constructed in compliance with local design standards. [An ‘efficiency unit’ provides for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities.]
2. An accessory dwelling ~~second~~-unit may only be established if a single-family dwelling unit (“primary dwelling”) exists on the parcel or is being built at the same time.

~~C. Maximum Number Permitted~~

- ~~1. Only one second unit shall be allowed on a single parcel.~~
- ~~2. A second unit is not permitted on parcels already containing two or more dwelling units.~~

DC. Size

1. *Attached ~~Second~~ Accessory Dwelling Units.* The floor area of an attached second unit shall not exceed 50 percent of the living area of the primary dwelling or ~~1,000~~1,200 square feet, whichever is ~~greater~~less. Garages and carports are excluded from floor area calculations for both the primary dwelling and ~~second~~ accessory unit.
2. *Detached ~~Second~~ Accessory Dwelling Units.* The floor area of a detached ~~second~~accessory dwelling unit shall not exceed 1,200 square feet, excluding any space devoted to a carport or garage.

~~ED.~~ Relationship to Primary Dwelling

1. *An accessory dwelling ~~second~~-unit* may be within, attached to, or detached from the primary dwelling, or within an attached or detached accessory structure. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.
2. *An accessory dwelling ~~second~~-unit* shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. The ~~secondary~~accessory dwelling unit shall be clearly subordinate to the primary dwelling by size, ~~appearance, and location on the parcel.~~

~~FE.~~ Development Standards

1. *An accessory dwelling ~~second~~-unit* shall comply with all current development and design standards of the General Plan and Zoning Ordinance that are applicable to the primary dwelling, including, but not limited to, building setbacks, parcel coverage, building height, and architectural design, with certain exceptions, discussed herein. As long as existing setbacks are sufficient for fire safety, no setback shall be required for an accessory dwelling unit contained within the existing space of a single-family residence or accessory structure, including an existing garage, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.
2. The ~~secondary~~accessory dwelling unit in compliance with this section shall not be considered to

exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot.

3. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the ~~second~~-accessory dwelling unit independently of the primary dwelling unit or any portion of the property. This stipulation shall be included in a recorded deed restriction on the property.

4. The ~~secondary~~-accessory dwelling unit must be eligible to receive City sewer and water services. Creation of a detached accessory dwelling unit may require installation of a new or separate utility connection.

GF. Design Requirements

1. An accessory dwelling ~~second~~-unit shall be compatible with the primary dwelling and the surrounding neighborhood with respect to structure height, scale, and massing.

2. The architectural design and detailing, roof color and material, and exterior color and finish materials of an ~~second~~-accessory dwelling unit shall match the primary dwelling to the extent possible.

3. The parcel shall retain a single-family appearance and the ~~second~~-accessory dwelling unit shall be integrated into the design of the existing improvements of the property.

4. The addresses of both the primary dwelling and the ~~second~~-accessory dwelling unit shall be displayed and clearly visible from the street.

HG. Parking

1. Second-Accessory dwelling units with ~~one or two~~ at least one bedrooms shall provide one additional off-street parking space in addition to those spaces required for the primary dwelling. Off-street parking may be provided in the setback areas or as tandem parking on a driveway, unless the City determines that such options

are not feasible on the existing property, based on fire and life safety conditions.

~~2. If the second unit has three or more bedrooms, two off-street parking spaces shall be provided in addition to those spaces required for the primary dwelling.~~

~~32. The creation of an accessory dwelling ~~second~~ unit through the conversion of all or a portion of a garage is prohibited unless replacement parking is provided elsewhere on the property in conformance with required parking standards as defined in Chapter 20.38 (Parking and Loading).~~

~~3. The parking standards provided in this section and otherwise in this code does not apply to an accessory dwelling unit in any of the following instances: (a) it is located within one-half mile of public transit; (b) it is located within an official architecturally and historically significant historic district; (c) it is part of the proposed or existing primary residence or an accessory structure; (d) on-street parking permits are required but not offered to occupants of an accessory dwelling unit; and, (e) a car share vehicle is located within one block of the accessory dwelling unit. To qualify for any of the above exemptions, the applicant shall provide supporting evidence as part of a Minor Use Permit or building permit application.~~

20.42.040 Occupancy Standards Fees and Other Requirements

~~A. *Owner Occupancy.* The owner of a parcel occupied by a second unit shall reside in either the primary dwelling or the second unit.—~~

~~B. *Deed Restrictions.* Prior to the issuance of a building permit for a second unit, a covenant of restriction to run with the land shall be recorded which specifies that the second unit cannot be sold separately, transferred, or otherwise disposed of independently from the primary dwelling unit that the property owner shall reside in either the primary or second unit, and that these restrictions shall be binding on successors in ownership.—~~

~~C. *Other Requirements.*~~

A. Accessory dwelling units are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service; the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system; and any utility fee or charge imposed on the creation of a detached accessory dwelling unit must not exceed the reasonable cost of providing the service.

B. Accessory dwelling units contained within the existing space of a single family residence or accessory structure that have an independent exterior access and setbacks that meet fire safety requirements are not required to install a new or separate utility connection and cannot be charged for a related connection fee or capacity charge.

1. Prior to occupancy of the second unit, a new address shall be assigned by Department of Development Services.

2C. A new ~~second~~ accessory dwelling unit shall be required to pay all applicable fees, including impact fees.

D. Prior to occupancy of the accessory dwelling unit, a new address shall be assigned by Department of Development Services.

SECTION 7. AMENDMENT TO CODE. Section 20.46.010, “Residential Design Standards, Purpose,” of the Merced Municipal Code is hereby amended to read as follows:

“20.46.010 -Purpose

This chapter establishes design standards for residential uses, in addition to regulations set forth in Chapter 20.08 (Residential Zones), except that parking, location, and address requirements in Section 20.46.020 do not apply to accessory dwelling units.”

SECTION 8. AMENDMENT TO CODE. Section 20.90.020, “Definitions,” of the Merced Municipal Code is hereby amended to read as follows:

“20.90.020 - Definitions

~~1861a.~~ ~~Second Units or Secondary Accessory Dwelling Units.~~ Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. ~~Secondary Accessory~~ dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no separate ~~address, lease, or utility service,~~ and still functioning as one “household” per 20.90.020(99) may not be considered to be ~~an accessory unit, second unit.~~ See Chapter 20.42 (~~Second Units- Accessory Dwelling Units~~).

186. *Second Units or Secondary Dwelling Units.* See Accessory Dwelling Units (#1a).”

SECTION 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 10. 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 11. 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 _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, 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:

City Attorney

Date

PUBLIC NOTICE OF ADOPTION OF ORDINANCE

CITY OF MERCED

ORDINANCE NO. _____

NOTICE IS HEREBY GIVEN that on _____, 2019, the City Council of the City of Merced adopted Ordinance No. _____, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.42 (“SECOND UNITS”) AS WELL AS TABLES 20.08-1 (“PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS”), 20.16-1 (“PERMITTED LAND USES IN THE URBAN VILLAGE ZONING DISTRICTS”), AND 20.38-1 (“OFF-STREET PARKING REQUIREMENTS”); AND SECTIONS 20.08.030.F.1 (“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS, PARKING”), 20.20.010.C.3 (“URBAN TRANSITION ZONING DISTRICT, DEVELOPMENT STANDARDS”); 20.46.010 (“RESIDENTIAL DESIGN STANDARDS, PURPOSE”), AND 20.90.020 (“GLOSSARY, DEFINITIONS”) OF THE MERCED MUNICIPAL CODE

Ordinance No. _____ amends Merced Municipal Code Section 20.42 (“Second Units”), which regulates Accessory Dwelling Units (previously known as “second units”), as well as other sections of the Municipal Code which make reference to Accessory Dwelling Units.

Ordinance No. _____ was adopted by the following roll call vote of the City Council:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

A copy of the full text of Ordinance No. _____ is available for review in the Office of the City Clerk, City of Merced, 678 West 18th Street, Merced, California, and on the City's website at www.cityofmerced.org.

ASSISTANT CITY CLERK

PUBLISH:



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.4.

Meeting Date: 7/1/2019

Report Prepared by: Tania Olmos, Temp Secretary I - Engineering Department

SUBJECT: Information Only - Traffic Committee Minutes of July 10, 2018, November 13, 2018, and March 12, 2019

RECOMMENDATION

For information only.

ATTACHMENTS

1. Minutes of July 10, 2018
2. Minutes of November 13, 2018
3. Minutes of March 12, 2019

TRAFFIC COMMITTEE

MINUTES

July 10, 2018

A. CALL TO ORDER

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

B. ROLL CALL

Present: Chairperson: Steven Son, City Engineer

Committee Members: Michael Wilkinson, Fire Chief

Jacob Struble, Police Chief Designee

Corey Plagenza, Director of Public Works Proxy Designee

Absent: Michael Hren, Planning Manager Designee

C. ORAL COMMUNICATIONS

1. Program Manager of Central Valley Regional Center, Barbara Hurtado, was present to voice her concern of the center-turn lane on M Street between Loughborough/Collins Drive and Olive Avenue. Ms. Hurtado specified that road improvement is warranted due to the nose-to-nose traffic turning into Central Valley Regional Center or into PG&E in the opposite direction. Ms. Hurtado specified that she would be submitting her request for the Traffic Committee to take action in a future meeting.
2. Claudia Corchado was present to address her concern of speeding vehicles on Austin Avenue. Ms. Corchado mentioned she was at a relative's residence on Austin Avenue and witnessed several vehicles speeding in the area. She also stated that she would be submitting a citizen request for the Traffic Committee to take action in a future meeting.

D. CONSENT CALENDAR

1. Traffic Committee Minutes of May 8, 2018

RECOMMENDATION:

Approve and file.

Michael Wilkinson Moved, Steven Son Seconded

Vote: 4-0

Voting Aye: Steven Son, Michael Wilkinson, Jacob Struble, Corey Plagenza

Absent: Michael Hren

Clerk's Note: Staff recommendation approved.

E. REPORTS

1. Committee Member Reports

None.

F. BUSINESS

1. Request #18-009 – Request an Evaluation of the Posted Speed Limit on W. Olive Avenue at College Avenue (Sheryl Klein)

(Citizen requests an evaluation of the posted and effective speed limit on W. Olive Ave. near College Avenue and determine what measures can be achieved to promote pedestrian safety.)

Note: Ms. SHERYL KLEIN was unable to attend the meeting and conveyed her apologies via email.

Committee Member STRUBLE indicated that the area of concern is actually “East” Olive Avenue, not “West” Olive Avenue. Mr. STRUBLE also clarified that the current speed limit is set at 40 MPH and the current speed study being completed by the consultant suggests to increase the speed limit to 45 MPH.

Chairperson SON suggested that the item be delayed until the amended speed limit ordinance is adopted to make a definitive decision.

MOTION: To continue the item, pending adoption of the new speed limit ordinance.

COUNCIL ACTION REQUIRED: None at this time.

Struble Moved, Wilkinson Seconded

Vote: 4-0

Voting Aye: Steven Son, Michael Wilkinson, Jacob Struble, Corey Plagenza

Absent: Michael Hren

2. Request #18-010 – Request for a Handicap Parking Space in Front of the Residence of 73 Sonoma Street (David Rivero)
(Citizen requests a handicap parking space in front of 73 Sonoma Street due to disability and special needs.)

Resident of 73 Sonoma Street, Mr. DAVID RIVERO, shared his opinion on why a handicap parking space should be installed in front of the property. Mr. RIVERO informed there are three families who park in front of his residence because there are two trees in front of his yard which supply shade. Mr. RIVERO expressed that he often receives headaches and has other health issues, thus having a designated handicap parking space would be a benefit to him.

Committee Member STRUBLE replied that he opposed the request since disabled on-site parking is not ADA compliant.

Chairperson SON added that disabled on-site parking would entail several improvements to meet ADA requirements, which include: path of travel, driveway modifications, signage, and more.

Mr. RIVERO said there are people who park in the area for a long duration.

Mr. STRUBLE informed Mr. RIVERO to contact Police Dispatch if he observe vehicles parked in an area for more than 72 hours.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Steven Son Moved, Michael Wilkinson Seconded

Vote: 4-0

Voting Aye: Steven Son, Michael Wilkinson, Jacob Struble, Corey Plagenza

Absent: Michael Hren

3. Request #18-011 – Request Installation of Handicap Parking Spaces Adjacent to Regal Cinema Hollywood Merced 13, K Street Side (Levonne Phillips)

(Citizen requests the installation of handicap parking spaces located immediately adjacent to Regal Cinema Hollywood, "Downtown Theater," on the K Street side.)

Ms. LEVONNE PHILLIPS explained that it is an inconvenience for those with disabilities to park across the street from the theater and that close handicap parking spaces should be installed.

Chairperson SON described the location indicating that there are adequate off-site handicap parking in the vicinity.

Ms. PHILLIPS then suggested handicap parking be placed next to the ramp on K Street, between 18th & Main Streets, leading up to the theater.

Mr. SON responded that the ramp cannot be used as a handicap path-of-travel since it is not ADA compliant.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Jacob Struble Moved, Steven Son Seconded

Vote: 3-0

Voting Aye: Steven Son, Jacob Struble, Corey Plagenza

Abstain: Michael Wilkinson

Absent: Michael Hren

4. Request #18-012 – Request the Removal of a 2-Hour Parking Sign on the 600 Block of W. 22nd Street (Jessica Phillips)
(City Parking Enforcement Officer Jessica Phillips requests the removal of a 2-hour parking sign on the 600 block of W. 22nd Ave. to provide an additional five parking spaces without time restriction.)

Committee Member STRUBLE specified that the 2-Hour parking sign is necessary to allow adequate customer parking.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Jacob Struble Moved, Corey Plagenza Seconded

Vote: 4-0

Voting Aye: Steven Son, Michael Wilkinson, Jacob Struble, Corey Plagenza

Absent: Michael Hren

5. Request #18-013 – Request Painting of Red Curb on Kelly Avenue, Between Baker Drive to Hwy 140, to Allow Enough Lane Space for Traffic Traveling in Opposite Directions (Corey Plagenza)
(City Traffic Signal/Lighting Technician Corey Plagenza is requesting the curb along Kelly Ave, between Baker Drive and Hwy 140, be painted red because vehicles parked along the curb does not leave enough space for traffic, causing vehicles to cross centerline.)

Public Works designated proxy and City Traffic Signal/Lighting Technician, COREY PLAGENZA, articulated that there is not enough road space for vehicles traveling in opposite directions when there are vehicles parked along the curb, therefore drivers travel in the centerline. Mr. PLAGENZA indicated he would like the curb painted red - 60 feet on the west side of Kelly Avenue, although he is open to suggestions.

Chairperson SON responded he would like to inspect the location with Mr. PLAGENZA and delay the item until the next meeting to determine a resolution.

MOTION: To delay the item to the next meeting in September.

COUNCIL ACTION REQUIRED: None at this time.

Steven Son Moved, Michael Wilkinson Seconded

Vote: 3-0

Voting Aye: Steven Son, Michael Wilkinson, Jacob Struble

Abstain: Corey Plagenza

Absent: Michael Hren

6. Request #18-014 – Request to Install Additional One-Way Signs in the Alley in the 700 W. Block, Between 19th & 20th and N & O Streets (Don Green)

(Citizen requests additional One-Way signs installed in the alley way between 19th & 20th and N & O Streets to safely organize the heavy flow of traffic.)

Resident DON GREEN shared his observance of the traffic congestion in the alley way. Mr. GREEN indicated close to half of the area is for parking, the next block over where the banks are situated is already a one-way alley, and continuing the one-way direction would help with traffic flow.

Chairperson SON concurred with Mr. GREEN's suggestion.

MOTION: To approve the extension of a one-way alley in the 700 W. block between 19th & 20th and “N” & “O” Streets.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to add the one-way alley.

Jacob Struble Moved, Corey Plagenza Seconded

Vote: 4-0

Voting Aye: Steven Son, Michael Wilkinson, Jacob Struble, Corey Plagenza

Absent: Michael Hren

G. ADJOURNMENT

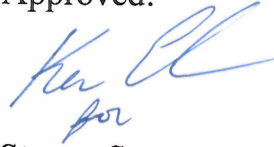
The meeting was adjourned at 2:56 p.m.

By:



Nancy Lee
Secretary II/Recording Secretary

Approved:



Steven Son
City Engineer/Chairperson

TRAFFIC COMMITTEE

MINUTES

November 13, 2018

A. CALL TO ORDER

The meeting was called to order at 2:06 p.m.

B. ROLL CALL

Present: Chairperson: Steven Son, City Engineer

Committee Members: Michael Hren, Planning Manager Designee
Juan Olmos, Director of Public Works Designee
Craig McKeeman, Police Chief Proxy Designee

Absent: Michael Wilkinson, Fire Chief

C. ORAL COMMUNICATIONS

None.

D. CONSENT CALENDAR

1. Traffic Committee Minutes of July 10, 2018

RECOMMENDATION:

Approve and file.

Clerk's Note: Committee Members and proxy designees who were present at the July meeting were not present at the September meeting to make a quorum to approve the Minutes of July 10, 2018. The Minutes will be forwarded to the March 2019 meeting for approval.

2. Traffic Committee Minutes of September 11, 2018

RECOMMENDATION:

Approve and file.

Committee Member Hren noted that on Page 4, Request #18-016 of the Minutes, under members “Absent”, he was present and Wilkinson was absent; the minutes would require an amendment to reflect the last name change.

Michael Hren Moved, Craig McKeeman Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

Clerk's Note: Staff recommendation approved.

E. REPORTS

1. Committee Member Reports
None.

F. BUSINESS

1. Request #18-013 – Re-Address Painting of Red Curb on Kelly Avenue, Between Baker Drive to Hwy 140, to Allow Enough Lane Space for Traffic Traveling in Opposite Directions (Corey Plagenza)
(City Traffic Signal/Lighting Technician Corey Plagenza is requesting the curb along Kelly Ave, between Baker Drive and Hwy 140, be painted red because vehicles parked along the curb does not leave enough space for traffic, causing vehicles to cross centerline. This item was previously heard at the July 10, 2018, and September 11, 2018, Traffic Committee Meetings.)

Chairperson SON, considering the width of the street, traffic flow, and parking; specified that painting 100’ of red curb along the east and west sides of Kelly Avenue would be adequate.

Committee Member HREN questioned if there are bike lanes in the vicinity.

After an aerial view of the street, the existence of the bike lane was not

clear, therefore Mr. HREN indicated that he would request the Bicycle Advisory Commission (BAC) to review this matter and re-address it at a future meeting.

MOTION: To paint 100' of red curb on the east and west sides of Kelly Avenue, north of Highway 140, and defer the bike lane matter to Mr. HREN for the BAC's review.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to add the red cub on Kelly Avenue.

Son Moved, Olmos Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

2. Request #18-015 -- Re-Address the Request to Replace the 30-Minute Green Parking Space to Disabled Parking on Main Street, Between Martin Luther King, Jr. and N Street (Annisssa Fragoso)
(Citizen requests replacing the 30-minute timed parking to disabled parking to accommodate disabled persons. This item was previously heard at the September 11, 2018, Traffic Committee Meeting.)

Chairperson SON stated that there are three disabled parking spaces in the back parking lot.

Committee Member HREN recommended parking signs, specifically stating that handicap parking is available in the back, would be helpful.

Committee Member OLMOS replied that way-finding signs are estimated at \$2,500 per sign.

Mr. SON concluded that he intends to speak with the Director of Economic Development to resolve the handicap parking matter in the vicinity.

MOTION: To deny with a future study in ADA parking in the Downtown District.

COUNCIL ACTION REQUIRED: None at this time.

Michael Hren Moved, Steven Son Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

3. Request #18-019 – Request for Additional Police Enforcement or Traffic Calming Measures be Installed on S. Coffee Street – Between E. Childs Avenue and E. Gerard Avenue, to Slow Traffic Down for School Children (Stephanie Butticci)

(Citizen requests additional police enforcement of posted speed limits, larger speed limit signs, or speed bumps on S. Coffee Street near Pioneer and Weaver schools to slow traffic down.)

Committee Member OLMOS indicated that the speed limit is 30 MPH on Gerard Avenue and a sign is posted in the zone.

Committee Member HREN suggested there be more police enforcement.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Michael Hren Moved, Craig McKeeman Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

4. Request #18-020 – Request for Installation of Speed Bumps on Gannet Court to Slow Vehicles Down (Lorena Gutierrez)

(Citizen requests the installation of three to four speed bumps on Gannet Court to protect neighborhood children from getting hit by speeding vehicles.)

Chairperson SON determined that speed bumps are not warranted in the area since it slows emergency vehicles down.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Juan Olmos Moved, Michael Hren Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

5. Request #18-021 – Request for Permission to Install Student Drop Off Signs Along South “N” Street for Alicia Reyes Elementary School (Aaron Alexander, Principal of Alicia Reyes Elementary School)
(Citizen requests permission to install already-bought student pick up and drop off signs along the N Street park strip for organization of loading and unloading of students, and for safety purposes.)

Committee Member OLMOS informed that the requested signs do not meet the US Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD) therefore Merced Police cannot enforce them.

Police Chief Proxy Designee, Officer McKeeman, stated their Traffic Division could increase police enforcement in the school zone.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Steven Son Moved, Juan Olmos Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

6. Request #18-022 – Request to Stripe the Double Left-Turn Lanes on Yosemite Avenue Turning onto M Street (Christopher Butler)
(Citizen requests street striping of the double left-turn lanes onto M Street from Yosemite Avenue to guide drivers and prevent lane merging while making a left-turn.)

CHRISTOPHER BUTLER was present and conveyed the need of the guided double left-turn lanes.

Chairperson SON affirmed that he would like to revisit this matter in March 2019 for a possibility of restriping.

MOTION: To suspend the request until March 2019.

COUNCIL ACTION REQUIRED: None at this time.

Michael Hren Moved, Craig McKeeman Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

7. Request #18-023 – Request for Installation of Traffic Calming Measure on Shirley Street for Safety of Residents and Children (Rose Valdez)
(Citizen requests some sort of traffic calming measure be installed on Shirley Street to deter drivers from speeding through neighborhood and to ensure safety of young pedestrians traveling to school bus stop in the area.)

ROSE VALDEZ, NORMA MARTINEZ, and GUADALUPE GONZALEZ were present to express the issues they have observed and the need for the installation of speed bumps or 25 MPH signs on Shirley Street.

Chairperson SON recommended installing 25 MPH signs at both ends of Shirley Street for the reasons that the nearest cross streets (Yosemite Parkway and Merced Avenue) are highly traveled streets and there are businesses in the locality.

MOTION: To install 25 MPH signs at both ends of Shirley Street.

COUNCIL ACTION REQUIRED: Approves amending the current ordinance to add the 25 MPH speed limit signs on Shirley Street.

Michel Hren Moved, Craig McKeeman Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

8. Request #18-024 – Request for Implementation of 2-Hour Curb Parking on Canal Street – Between 18th & Main St, and on 18th Street – Between “M” & Canal St. (Keval McNamara)

(Citizen requests the installation of 2-hour parking signs be installed on portions of Canal Street and 18th Street to allow ample customer parking.)

Committee Member OLMOS recalled removing customer parking in 2013. During that time, members addressed parking on a block-by-block basis.

Chairperson SON determined that this matter would require meeting with Director of Economic Development for a resolution.

MOTION: To continue to a future meeting.

COUNCIL ACTION REQUIRED: None at this time.

Michel Hren Moved, Steven Son Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

9. Request #18-025 – Request for Mercy Avenue by Mansionette Drive/3-Way Stop to be Restriped to Avoid Confusion and Prevent Vehicle Collision (Sylvia & Melinda Bias)

(Citizens request the street restriping on Mercy Avenue near Mansionette Drive. Drivers heading westbound on Mercy Avenue uses the “emergency lane” at the 3-way stop to turn left onto Mansionette Drive.)

Chairperson SON asserted that he is aware of this matter and the Engineering Division will be working with the developer to come to a resolution.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Steven Son Moved, Michael Hren Seconded

Vote: 4-0

Voting Aye: Steven Son, Juan Olmos, Michael Hren, Craig McKeeman

Absent: Michael Wilkinson

G. ADJOURNMENT

The meeting was adjourned at 3:16 p.m.

By:



Nancy Lee
Secretary II/Recording Secretary

Approved:



Ken Elwin
Interim City Engineer/Chairperson

TRAFFIC COMMITTEE

MINUTES

March 12, 2019

A. CALL TO ORDER

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

B. ROLL CALL

Present: Chairperson: Joe Cardoso, City Surveyor

Committee Members: Michael Hren, Planning Manager Designee
Juan Olmos, Director of Public Works Designee
Dan Dabney, Police Chief Proxy Designee

Absent: Billy Alcorn, Fire Chief

C. ORAL COMMUNICATIONS

None.

D. CONSENT CALENDAR

1. Traffic Committee Minutes of July 10, 2018

RECOMMENDATION:

Approve and file.

Michael Hren Moved, Dan Dabney Seconded

Vote: 4-0

Voting Aye: Joe Cardoso, Juan Olmos, Michael Hren, Dan Dabney

Absent: Billy Alcorn

Clerk's Note: Staff recommendation approved.

2. Traffic Committee Minutes of November 13, 2018

RECOMMENDATION:

Approve and file.

Michael Hren Moved, Dan Dabney Seconded

Vote: 4-0

Voting Aye: Joe Cardoso, Juan Olmos, Michael Hren, Dan Dabney

Absent: Billy Alcorn

Clerk's Note: Staff recommendation approved.

E. REPORTS

1. Committee Member Reports

Committee Member HREN reported that the Kelly Avenue bike lane concern, which stemmed from the red curb painting and was heard at the November 13, 2018, Traffic Committee Meeting; went before the Bicycle Advisory Commission (BAC) at their December 11, 2018, meeting. Mr. HREN requested the bike lane concern be scheduled for the May 14, 2019, Traffic Committee meeting to discuss the BAC's recommendation (the BAC's Meeting Minutes of December 11, 2018, was provided by Mr. HREN at the Traffic Committee Meeting and is attached).

2. Brown Act Training (Chief Deputy City Attorney Fincher)

Chief Deputy City Attorney Fincher conducted a PowerPoint presentation on the Brown Act. The presentation was engaging and resourceful to the Committee.

F. BUSINESS

1. Request #18-022 – Re-Address the Request to Stripe the Double Left-Turn Lanes on Yosemite Avenue Turning onto M Street (Christopher Butler)
(Citizen requests street striping of the double left-turn lanes onto M Street from Yosemite Avenue to guide drivers and prevent lane merging while making a left-turn. This item was previously heard at the November 13,

2018, Traffic Committee Meeting)

Chairperson CARDOSO questioned if there had been any accidents in the vicinity.

Committee Member DABNEY responded, to his recollection, there had not been any accidents in the area. Mr. DABNEY added that the left-turns from Yosemite Avenue onto M Street are awkward.

MOTION: To reschedule the item to the next Traffic Committee Meeting to allow the Police Department to obtain an accident report in the vicinity of W. Yosemite Avenue and M Street.

COUNCIL ACTION REQUIRED: None at this time.

Hren Moved, Olmos Seconded

Vote: 4-0

Voting Aye: Joe Cardoso, Juan Olmos, Michael Hren, Dan Dabney

Absent: Billy Alcorn

2. Request #19-001 – Request to Install Speed Bumps on Wildcat Drive to Reduce the Speed of Random Drivers Speeding through Residential Area (Mario Rivera)

(Citizen requests the installation of speed bumps on Wildcat Drive. The safety of children is at risk because drivers speed through area.)

Committee Member HREN indicated vehicles will slow down and speed up while going over a speed bump therefore he is not in favor of approving the installation of speed bumps.

Committee Member OLMOS replied that in residential areas, the speed limit is 25 MPH by default.

Committee Member DABNEY stated the Police Department - Traffic Division will enforce the speed limit if they are notified by residents.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Michael Hren Moved, Dan Dabney Seconded

Vote: 4-0

Voting Aye: Joe Cardoso, Juan Olmos, Michael Hren, Dan Dabney

Absent: Billy Alcorn

3. Request #19-002 – Request to Install Speed Bumps on Modoc Street to Reduce the Speed of Random Drivers Speeding through Residential Area (Daniel Patterson)

(Citizen requests the installation of speed bumps on Modoc Street near Seminole Drive to deter random drivers from speeding through area while children are at play.)

Committee Member HREN, again, voiced he is not in favor of speed bumps and that they slow down emergency vehicles. Mr. HREN recommended law enforcement to look out for these types of issues.

Committee Member DABNEY suggested area residents contact the Police Department – Traffic Division to patrol the area.

MOTION: To deny.

COUNCIL ACTION REQUIRED: None at this time.

Michael Hren Moved, Juan Olmos Seconded

Vote: 4-0

Voting Aye: Joe Cardoso, Juan Olmos, Michael Hren, Dan Dabney

Absent: Billy Alcorn

4. Request #19-003 – Request for an Audible Pedestrian Signal at the Traffic Signal on G and 18th Streets to Assist Blind and Visually Impaired Persons (Margaret Buchmann-Garcia)

(The Center of Vision Enhancement (COVE), Resource Center for the Blind and Low Vision, moved to 1901 G Street in December 2018. COVE staff and clients that use the fixed route bus system for transportation

cross the traffic signal at G and 18th Streets to get to the business. Traffic patterns do not always provide the clues necessary for a blind/visually impaired person to know whether the light is green for them to safely cross; an audible pedestrian signal is required to ensure this.)

Mrs. Margaret Buchmann-Garcia was present and stressed the need for an audible pedestrian signal at the traffic signal on G and 18th Streets. Mrs. Buchmann-Garcia is a staff member of COVE. She indicated that they recently moved to their current location in December 2018 and are on a six-year lease; they are not intending to leave any time soon.

Committee Member HREN asked Committee Member OLMOS, who holds the position of Public Works Supervisor of Streets/Street Lights, how much it would cost to install an audible pedestrian signal.

Mr. OLMOS answered he ran an estimate of materials and it would cost approximately \$6,000. He also identified that this intersection contains an older traffic signal and older traffic signals do not have audible pedestrian signals installed.

Mr. OLMOS questioned if there had been any accidents at the intersection.

Committee Member DABNEY replied there was a fatal vehicle-pedestrian accident in November 2018, however investigators determined the pedestrian was at fault.

Chairperson CARDOSO concluded that a controlled intersection with crosswalks and ADA curb cuts are warranted. Mr. CARDOSO mentioned that a request, such as this one, requires Public Works Department's review and would need to be incorporated as a Public Works Capital Improvement Program (CIP) project. The process would entail funding allocation, an engineer's design, and advertisement for public bidding.

MOTION: To approve an audible pedestrian signal, a controlled intersection with crosswalks, and ADA curb cuts on G and 18th Streets.

COUNCIL ACTION REQUIRED: None at this time.

Dan Dabney Moved, Michael Hren Seconded

Vote: 4-0

Voting Aye: Joe Cardoso, Juan Olmos, Michael Hren, Dan Dabney

Absent: Billy Alcorn

G. ADJOURNMENT

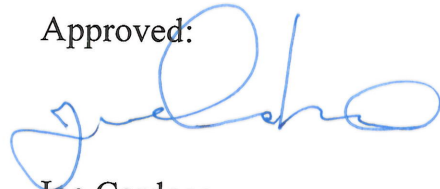
The meeting was adjourned at 2:46 p.m.

By:



Nancy Lee
Secretary II/Recording Secretary

Approved:



Joe Cardoso
City Surveyor/Chairperson



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.5.

Meeting Date: 7/1/2019

Report Prepared by: Taylor Hensley, Secretary I, Planning Division

SUBJECT: Information Only - Site Plan Review Committee Meeting Minutes of May 16, 2019

RECOMMENDATION

For information only.

ATTACHMENTS

1. Minutes

CITY OF MERCED
Site Plan Review Committee

MINUTES

Planning Conference Room
2nd Floor Civic Center
Thursday, May 16, 2019

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

1. **ROLL CALL**

Committee Members Present: Chief Building Official Frazier, Acting City Engineer Beltran, and Director of Development Services McBride

Committee Members Absent: None

Staff Present: Land Surveyor Cardoso, Planning Manager Espinosa, and Associate Planner/Recording Secretary Mendoza-Gonzalez

2. **MINUTES**

M/S FRAIZER - BELTRAN, and carried by unanimous voice vote, to approve the Minutes of April 19, 2019, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Site Plan Application #437, submitted by Thai Cuisine II, applicant for Promenade Center Limited Partnership, property owner, to allow the installation of a fenced outdoor patio with alcohol service for a restaurant located at 779 East Yosemite Avenue (Suites G and F), within Planned Development (P-D) #48, with a General Plan designation of Neighborhood Commercial (CN).

Site Plan Review Committee Minutes

Page 2

May 16, 2019

Associate Planner MENDOZA-GONZALEZ reviewed the application. Refer to Draft Site Plan Resolution #437 for further information.

Chief Building Official FRAIZER recommended modifying Condition #10 requiring the patio gate to remain unlocked when the building is occupied. In addition, said gate should be the same width as Exit Door #1 shown on the floor plan at Exhibit B.

City Engineer Beltran recommended adding Condition #27 requiring that the applicant comply with all relevant Covenants, Conditions, and Restrictions for this site.

M/S FRAIZER - BELTRAN, and carried by the following vote to adopt a Categorical Exemption regarding Environmental Review #19-11, and approve Site Plan Application #437, subject to the Findings and twenty-six (26) conditions set forth in Draft Resolution #437 with the modification of Condition #10 and the addition of Condition #27 as follows:

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

“10. The exit gate shall not be locked ~~during business hours~~ when the building is occupied. Entrance into the outdoor patio shall be kept open at all times during hours of operation. ~~During the building permit stage, the applicant shall work with the Building and Fire Departments to determine if panic hardware will be required based on occupant load.~~ The applicant shall install panic hardware on the exit gate. The width of the exit gate shall be the same size as Exit 1 shown at Exhibit B.

“27. The developer/applicant shall construct and operate the project in strict compliance with approved Covenants, Conditions, and Restrictions.”

AYES: Committee Members Beltran, Fraizer, and Chairperson McBride

NOES: None

ABSENT: None

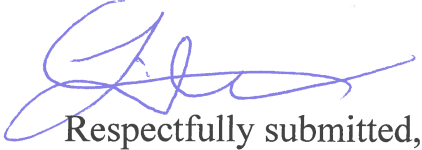
5. **INFORMATION ITEMS**

5.1 **Calendar of Meetings/Events**

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

6. **ADJOURNMENT**

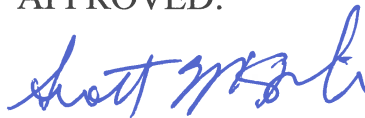
There being no further business, Chairperson McBride adjourned the meeting at 2:05 p.m.



Respectfully submitted,

Francisco Mendoza-Gonzalez, Secretary
Merced City Site Plan Review Committee

APPROVED:



Scott McBride, Chairperson/
Director of Development Services
Merced City Site Plan Review Committee

CITY OF MERCED
SITE PLAN REVIEW APPLICATION
RESOLUTION #437

Thai Cuisine II	Fenced outdoor patio with alcohol service for a restaurant (Thai Cuisine II).
APPLICANT	PROJECT
779 E. Yosemite Avenue, Suites G and F	779 E. Yosemite Avenue, Suites G and F
ADDRESS	PROJECT SITE
Merced, CA 95348	231-180-005
CITY/STATE/ZIP	APN
(209) 631-2555	Planned Development (P-D) #48
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 #437 on May 16, 2019, submitted by Thai Cuisine II, applicant for Promenade Center Limited Partnership, property owner, to allow the installation of a fenced outdoor patio with alcohol service for a restaurant located at 779 East Yosemite Avenue (Suites G and F), within Planned Development (P-D) #48, with a General Plan designation of Neighborhood Commercial (CN). Said property being more particularly described as Parcel E, as shown on that certain map entitled "Parcel Map for Pearson Scott, LLC," recorded August 29, 2005, in Volume 100, Page 24 of Parcel Maps, Merced County Records; also known as Assessor's Parcel Number (APN) 231-180-005.

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

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

- A) The proposal complies with the General Plan designation of Neighborhood Commercial (CN) and the Zoning classification of Planned Development (P-D) #48.
- B) The subject site has a conditional use permit to serve beer, wine, and distilled spirits with food (Type 47 Alcoholic Beverage Control License), per the conditions shown at Exhibit E.
- C) The applicant is requesting approval to install a fenced outdoor patio that would be 17 feet long by 16 feet wide. The metal fence would be 3-feet-tall and include an access gate that aligns directly with the building access door to Suite F (Exhibits B, C, and D).

- D) The applicant is requesting approval to allow alcohol consumption outdoors within the fenced patio area.
- E) This request does not allow the restaurant to operate as a bar or nightclub. These uses would require conditional use permit approval from the Planning Commission.
- F) The patio will be used for standing room only. Additional parking will not be required because the applicant is not proposing to provide seats within the patio area or add seats inside the restaurant (see Condition #25).
- G) There are currently several restaurants within the Promenade Shopping Center that have City approval to serve alcohol, including Agaves Mexican Grill, Turmeric Cuisine, Strings, and Wingstop. Most of these restaurants have approval to serve alcohol within their respective outdoor patios.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Review Application #437, subject to the following conditions:

- 1) All conditions contained in Site Plan Approval Resolution #79-1 ("Standard Conditions of Site Plan Approval") shall apply.
- 2) The proposed project shall be constructed/designed as shown on Exhibit B (site plan), Exhibit C (patio area), and Exhibit D (fence materials).
- 3) The applicant shall comply with the conditions set forth in Planning Commission Resolution #2864 for Conditional Use Permit #1086 previously approved for this business.
- 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, 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 (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of

the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

- 6) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- 7) The outdoor patio shall be enclosed by a minimum 3-foot-tall fence. The fence shall delineate the patio from the remainder of the shopping center. No alcoholic drinks shall be allowed outside the fenced area.
- 8) Signs shall be posted on the fence stating "No Alcohol Allowed Outside This Area." The signs shall be a maximum of 1-square-foot and shall be posted on each side of the outdoor patio area in an area visible to customers.
- 9) The metal fence shall be painted a color that matches or compliments the existing building. Fencing color samples shall be submitted to the Planning Department for approval prior to installation.
- 10) The exit gate shall not be locked when the building is occupied. Entrance into the outdoor patio shall be kept open at all times during hours of operation. The applicant shall install panic hardware on the exit gate. The width of the exit gate shall be the same size as Exit 1 shown at Exhibit B.
- 11) No temporary signs shall be attached to the metal fence. All temporary signs shall be approved and a "Temporary Sign Permit" shall be obtained prior to installation.
- 12) An employee shall monitor the outdoor patio area at all times when alcohol is being served.
- 13) The business shall comply with all applicable rules of the California Department of Alcohol Beverage Control (ABC).
- 14) The business shall comply with all applicable requirements from the Merced County Health Department.
- 15) The City reserves the right to periodically review the area for potential problems. Should excessive calls for service or violation of these conditions of approval occur, the City may consider revocation of the Site Plan Review following the procedures spelled out in the Merced Municipal Code.
- 16) If new signage is installed, it shall comply with the North Merced Sign Ordinance and the Master Sign Program for the Promenade Shopping Center.
- 17) All existing landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.

- 18) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
- 19) Alcohol sales in the outdoor patio shall end by 10:00 p.m. or earlier.
- 20) Exterior doors shall not be propped open during business operations. If sufficient complaints are received regarding noise from music or other activities, the restaurant shall provide a means for suppressing the noise coming from the building. The means and method used to suppress noise shall be approved by the Building Department prior to installation.
- 21) Any music played over outdoor speakers in the patio area shall be kept to a minimum so as not to travel outside the immediate area around the restaurant.
- 22) Sufficient lighting shall be provided throughout the outdoor patio area. A lighting plan shall be included with the building permit application for the patio.
- 23) Receptacles for the disposal of smoldering remnants and discarded debris associated with smoking tobacco products (such as ashes and cigarette butts) shall be made available in the patio. The receptacles shall be included in the plans for the patio.
- 24) Any outdoor heating units shall need to be listed and approved by the Fire Department.
- 25) This request does not include approval for outdoor seating. Outdoor seating could subsequently be approved by the Director of Development Services. Additional parking may be required if there is a net gain of seats for the restaurant.
- 26) The existing knox box shall be relocated outside the fenced patio area so that it is accessible to emergency responders. The new location of the knox box shall be reviewed and approved by the Fire Department during the building permit stage.
- 27) The developer/applicant shall construct and operate the project in strict compliance with approved Covenants, Conditions, and Restrictions.

May 16, 2019

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

May 16, 2019

DATE



SIGNATURE

Associate Planner

TITLE

Exhibits:

- A) Location Map
- B) Site Plan
- C) Patio Area
- D) Material Example
- E) Resolution #2864 and Minutes for CUP #1086
- F) Notice of Categorical Exemption

Low Density Residential

PAULSON

SPARROW

CARDINAL

St. Patrick's Church

Subject Site
(Thai Cuisine II)

Low Density Residential

Restaurants

ORIOLE

Starbucks

YOSEMITE

Commercial Offices

DOE

Low Density Residential

CENTURY

EXHIBIT A



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.6.

Meeting Date: 7/1/2019

Report Prepared by: Jennifer Levesque, Deputy City Clerk, City Clerk's Office

SUBJECT: Information Only - Arts and Culture Advisory Commission Meeting Minutes of February 8, 2019, March 14, 2019, and April 18, 2019

RECOMMENDATION

For information only.

ATTACHMENTS

1. ACA Minutes 02-8-2019
2. ACA Minutes 03-14-2019
3. ACA Minutes 04-18-2019



CITY OF MERCED

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

Minutes

Arts and Culture Advisory Commission

Friday, February 8, 2019

4:00 PM

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

Chairperson DENNIS called the Special Meeting to order at 4:02 PM.

3. ROLL CALL

Present: 5 - Member Colton Dennis, Dob Francise, Rob Hypes, Monika Modest and Member Diana Odom Gunn

Absent: 1 - Monika Saini

4. PUBLIC COMMENT

UC Students stated they were there to observe the meeting and requested to interview the Commissioners after the meeting.

5. CONSENT CALENDAR

5.1. SUBJECT: Arts and Culture Advisory Commission Minutes of January 10, 2019

REPORT IN BRIEF

Arts and Culture Advisory Commission Minutes from the meeting of January 10, 2019.

RECOMMENDATION

Adopt a motion approving and filing the Arts and Culture Advisory Commission minutes of January 10, 2019.

A motion was made by Member Odom Gunn, seconded by Member Hypes, that this agenda item be approved. The motion carried by the following vote:

Aye: 5 - Dennis
Member Francise
Member Hypes
Member Modest
Member Odom Gunn

No: 0

Absent: 1 - Member Saini

Clerk's Note: Member SAINI arrived at 4:05 PM.

6. REPORTS

6.1. **SUBJECT: Brown Act Training for Committee Members**

REPORT IN BRIEF

Training will include an overview of the Brown Act.

RECOMMENDATION

Information - Only

City Attorney Phaedra NORTON gave a slide show presentation on the Brown Act.

6.2. **SUBJECT: Discussion on Establishing an Arts and Cultural District in Downtown Merced**

REPORT IN BRIEF

Discuss the Background and Processes Associated with the Formation of an Arts and Cultural District.

RECOMMENDATION

Direct staff to investigate further and provide additional information on the application requirements.

Assistant City Manager Stephanie DIETZ gave a slide show presentation on Establishing an Arts and Cultural District in Downtown Merced.

Commissioners directed Staff to provide additional information on partnerships.

Clerk's Note: No formal vote was taken.

6.3. **SUBJECT: Appropriation of Funds for Use by the City's Arts and Culture Advisory Commission**

REPORT IN BRIEF

The City Council accepted a grant award from PG&E Corporation

Foundation in the amount of \$3,000 and appropriated the funds for use by the City's Arts and Culture Advisory Commission.

RECOMMENDATION

Direct Staff where to appropriate funds.

Assistant City Manager Stephanie DIETZ gave a brief presentation on the appropriation of funds for use by the Arts and Culture Advisory Commission.

Commissioners discussed the different uses of the funds.

Commissioners directed staff to look into cost for art maintenance at the G Street underpass and potential opportunities for a community calendar.

Clerk's Note: No formal vote was taken.

6.4.

SUBJECT: City of Merced Entry Signs

REPORT IN BRIEF

The City Manager will present the history of the City's entry signs and review the renderings from a contractor for potential entry signs to be presented to the City Council.

RECOMMENDATION

Information-Only.

City Manager Steve CARRIGAN gave a slide show presentation on Entry Signs.

Commissioners and Mr. CARRIGAN discussed entry signs and timeline.

7. BUSINESS

7.1.

SUBJECT: Developing an Arts and Culture Advisory Commission Mission Statement

REPORT IN BRIEF

Develop a Mission Statement for the Arts and Culture Advisory Commission.

RECOMMENDATION

Direct Staff to publish a mission statement.

Commissioners gave staff key terms and direction for the Arts and Cultural

Commission Mission Statement.

7.2. Request to Add Item to Future Agenda

Ex-Officio Member PRATT requested to add an item to discuss changing the meeting time.

8. ADJOURNMENT

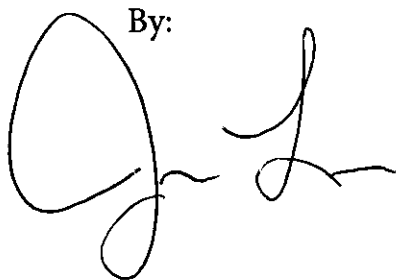
Clerk's Note: The Special Meeting adjourned at 5:26 PM.

A motion was made by Member Hypes, seconded by Member Francise, to adjourn the Special Meeting. The motion carried by the following vote:

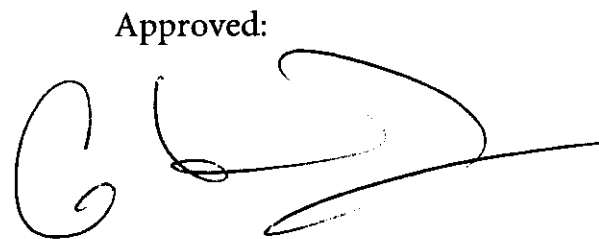
Aye: 6 - Dennis
Member Francise
Member Hypes
Member Modest
Member Saini
Member Odom Gunn

No: 0

Absent: 0

By: 

Jennifer Levesque
Deputy City Clerk

Approved: 

Colton Dennis
Chair



CITY OF MERCED

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

Minutes

Arts and Culture Advisory Commission

Thursday, March 14, 2019

3:00 PM

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

Chair DENNIS called the Arts and Culture Advisory Commission to order at 3:04 PM.

3. ROLL CALL

Present: 6 - Chairperson Colton Dennis, Dob Francise, Rob Hypes, Monika Modest, Monika Saini and Vice Chair Diana Odom Gunn

Absent: 0

Present Ex-Officio Members:

Kim GARNER
Anthony MARTINEZ (Arrived at 3:14 PM)
Patricia PRATT (Arrived at 3:07 PM)

Absent Ex-Officio Members:
Harley HERMOSILLO

Clerk's Note: Commissioner MODEST arrived to the meeting at 3:46 PM.

4. PUBLIC COMMENT

There were none.

5. CONSENT CALENDAR

5.1. **SUBJECT:** Arts and Culture Advisory Commission Minutes of February 8, 2019

REPORT IN BRIEF

Arts and Culture Advisory Commission Minutes from the meeting of

February 8, 2019.

RECOMMENDATION

Adopt a motion approving and filing the Arts and Culture Advisory Commission minutes of February 8, 2019.

A motion was made by Member Hypes, seconded by Member Odom Gunn, that this agenda item be approved. The motion carried by the following vote:

Aye: 5 - Dennis
Member Francise
Member Hypes
Member Saini
Vice Chair Odom Gunn

No: 0

Absent: 1 - Member Modest

6. REPORTS

6.1. SUBJECT: City of Merced Entry Signs

REPORT IN BRIEF

Discuss options for the City of Merced entry signs.

RECOMMENDATION

Provide a formal recommendation to City Council for next steps on entry signs.

City Manager Steve CARRIGAN gave a slide show presentation on the City of Merced Entry Signs.

Commissioners, Ex-Officio Members, and Mr. CARRIGAN discussed the entry signs options and made suggestions.

Michael BELLUOMINI, Merced - spoke on the City's entry sign contest and the City's slogan.

6.2. SUBJECT: Discussion on the List of Public Art in the City of Merced and possible next steps to Develop an Official Public Art Inventory for the City of Merced

REPORT IN BRIEF

Discuss the list of public art in the City of Merced and next steps to develop an official public art inventory for the City of Merced.

RECOMMENDATION

Provide direction on next steps to develop an official public art inventory for the City of Merced.

Assistant City Manager Stephanie DIETZ gave a slide show presentation on the List of Public Art in the City of Merced and possible next steps to develop an Official Public Art Inventory for the City of Merced.

Commissioners and Ms. DIETZ discussed walking tours of districts and creating an art map.

Clerk's Note: An Ad-Hoc Committee for Public Art inventory was developed with Commissioner FRANCISE, Commissioner MODEST, Ex-Officio Member PRATT, and Ex-Officio GARNER being part of the committee.

7. BUSINESS

7.1.

SUBJECT: Adoption of an Arts and Culture Advisory Commission Mission Statement

REPORT IN BRIEF

Considers the adoption of the Arts and Culture Advisory Commission draft Mission Statement.

RECOMMENDATION

Adopt a motion approving the Arts and Culture Advisory Commission Mission Statement.

Assistant to the City Manager Mike CONWAY presented the draft mission statement for Commissioner's review.

Commissioners, Ex-Officio Members, and staff discussed simplifying the mission statement and made revisions.

A motion was made by Member Francise, seconded by Member Modest, to have staff bring back the revised Mission Statement to the April 18th Meeting. The motion carried by the following vote:

Aye: 6 - Dennis
Member Francise
Member Hypes
Member Modest
Member Saini
Vice Chair Odom Gunn

No: 0

Absent: 0

7.2. **SUBJECT: Discussion on Changing the Day and Time of the Arts and Culture Advisory Commission**

REPORT IN BRIEF

Discuss changing the day and time of the Arts and Culture Advisory Commission.

RECOMMENDATION

Provide direction to staff to make the revisions to the Ordinance regarding the meeting time and date.

Assistant City Manager Stephanie DIETZ briefly discussed the process of changing the day and time of the Arts and Culture Advisory Commission meetings.

Commissioners agreed to change the day and time of the meetings to the third Thursdays of every odd numbered month at 4:00 PM and directed staff to make those revisions to the Ordinance.

7.3. **SUBJECT: Arts and Culture Advisory Commission to Set FY 2019/20 Goals and Priorities**

REPORT IN BRIEF

Discuss the Goals and Priorities for the Arts and Culture Advisory Commission for FY 2019/20.

RECOMMENDATION

Provide staff direction on Goals and Priorities for FY 2019/20.

Assistant City Manager Stephanie DIETZ gave a presentation on setting the Arts and Culture Advisory Commission FY 2019/20 Goals and Priorities.

Commissioners and Ex-Officio Members discussed and revised their goals and priorities list.

Eric MOORE, Merced - spoke on grants and how it ties in with projects.

Clerk's Note: This item will be brought back to the April 18, 2019 meeting to be approved.

7.4. **SUBJECT: Discussion on Current Projects**

REPORT IN BRIEF

Discuss the current projects that the Commission has had Staff work on.

RECOMMENDATION

Information-Only.

Assistant City Manager Stephanie DIETZ gave a brief update on the current projects that the Commission has had Staff work on.

Commissioner MODEST and Ms. DIETZ discussed using grant money to maintain art and the Bob Hart Square lettering.

Commissioners, Ex-Officio Members, and Ms. DIETZ discussed a citywide events calendar.

7.5. Request to Add Item to Future Agenda/Commissioner Comments

Ex-Officio Member PRATT spoke about the World Justice Summit event and the Ceasar Chavez March event.

Commissioner MODEST spoke on the Starry Night Homeless project.

Ex-Officio Member GARNER reported on attending Arts Week at UC Merced.

Chair DENNIS spoke on the County Courthouse Museum Yosemite exhibit, a new Artistic Director at the Playhouse Merced, the Women in Art event, a new creative collective play, the Art Hop April event, and Kid's Day at the Multicultural Art Center.

8. ADJOURNMENT

Clerk's Note: The Arts and Culture Advisory Commission meeting adjourned at 5:12 PM.

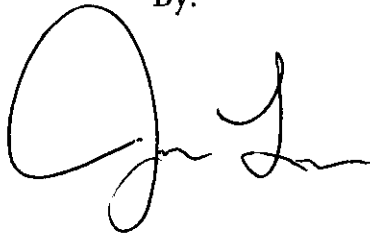
A motion was made by Member Francise, seconded by Member Hypes, to adjourn the Arts and Culture Advisory Commission meeting. The motion carried by the following vote:

Aye: 6 - Dennis
Member Francise
Member Hypes
Member Modest
Member Saini
Vice Chair Odom Gunn

No: 0

Absent: 0

By:



Jennifer Levesque
Deputy City Clerk

Approved:



Colton Dennis
Chair



CITY OF MERCED

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

Minutes

Arts and Culture Advisory Commission

Thursday, April 18, 2019

4:00 PM

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

Chair DENNIS called the Arts and Culture Advisory Commission Special Meeting to order at 4:02 PM.

3. ROLL CALL

Present Ex-Officio Members:

Kim GARNER

Absent Ex-Officio Members:

Harley HERMOSILLO

Anthony MARTINEZ

Patricia PRATT

Present: 5 - Chairperson Colton Dennis, Dob Francise, Monika Modest, Monika Saini and Vice Chair Diana Odom Gunn

Absent: 1 - Rob Hypes

4. PUBLIC COMMENT

None.

5. CONSENT CALENDAR

5.1. SUBJECT: Arts and Culture Advisory Commission Minutes of March 14, 2019

REPORT IN BRIEF

Arts and Culture Advisory Commission Minutes from the meeting of March 14, 2019.

RECOMMENDATION

Adopt a motion approving and filing the Arts and Culture Advisory Commission minutes of March 14, 2019.

A motion was made by Chairperson Dennis, seconded by Vice Chair Odom Gunn, that this agenda item be approved. The motion carried by the following vote:

Aye: 5 - Dennis
Member Francise
Member Modest
Member Saini
Vice Chair Odom Gunn

No: 0

Absent: 1 - Member Hypes

5.2. SUBJECT: Annual Arts and Culture Advisory Commission Attendance Report

REPORT IN BRIEF

Yearly attendance report for Arts and Culture Advisory Commission.

RECOMMENDATION

For Information Only.

This Consent Item was approved.

Aye: 5 - Dennis
Member Francise
Member Modest
Member Saini
Vice Chair Odom Gunn

No: 0

Absent: 1 - Member Hypes

6. REPORTS

6.1. SUBJECT: Discussion on the Official Public Art Inventory

REPORT IN BRIEF

Discuss the official list of public art inventory.

RECOMMENDATION

Information - Only

The Public Art Inventory Ad-Hoc Committee discussed their approach to chronicle all of the City of Merced's Public Art.

Clerk's Note: No formal vote was taken, this item was an information-only item.

6.2. **SUBJECT:** Discussion on the Estimated Cost of Art Maintenance for the G Street Underpass and Bob Hart Square Art Pieces

REPORT IN BRIEF

Discuss the cost and use of the \$3,000 grant funding for art maintenance.

RECOMMENDATION

Provide staff direction for the use of the \$3,000 grant funding.

Tax Services Manager Carl BROWN discussed options and cost estimates of maintaining the art for the G Street Underpass and Bob Hart Square art pieces.

Commissioners discussed the options that were presented to them.

A motion was made by Member Francise, seconded by Member Modest, to direct staff to allocate funds to the Downtown Fund and to stain the Bob Hart Square cement lettering and defer the color choice to the original artist. The motion carried by the following vote:

Aye: 5 - Dennis
 Member Francise
 Member Modest
 Member Saini
 Vice Chair Odom Gunn

No: 0

Absent: 1 - Member Hypes

7. BUSINESS

7.1. **SUBJECT:** Adoption of an Arts and Culture Advisory Commission Mission Statement

REPORT IN BRIEF

Considers the adoption of the Arts and Culture Advisory Commission draft Mission Statement.

RECOMMENDATION

Adopt a motion approving the Arts and Culture Advisory Commission Mission Statement.

Assitant to the City Manager Mike CONWAY presented the draft mission

statement for Commissioner's approval.

Commissioners, Ex-Officios Member, and Staff discussed simplifying the mission statement and made their final revisions.

A motion was made by Member Francise, seconded by Member Modest, that this agenda item be approved as amended. The motion carried by the following vote:

Aye: 5 - Dennis
Member Francise
Member Modest
Member Saini
Vice Chair Odom Gunn

No: 0

Absent: 1 - Member Hypes

7.2.

SUBJECT: Updated Arts and Culture Advisory Commission FY 2019/20 Goals and Priorities

REPORT IN BRIEF

Discuss the updated Goals and Priorities for the Arts and Culture Advisory Commission for FY 2019/20.

RECOMMENDATION

Arts and Culture Advisory Commission - Adopt a motion approving the Arts and Culture Advisory Commission FY 2019/20 Goals and Priorities.

Assistant City Manager Stephanie DIETZ presented the updated FY 2019/2020 Arts and Culture Advisory Commission Goals and Priorities.

Commissioners, Ex-Officio Member, and Staff discussed and revised their goals and priorities list.

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

Aye: 5 - Dennis
Member Francise
Member Modest
Member Saini
Vice Chair Odom Gunn

No: 0

Absent: 1 - Member Hypes

8. ADJOURNMENT

Clerk's Note: The Arts and Culture Advisory Commission Special

Meeting adjourned at 4:47 PM.

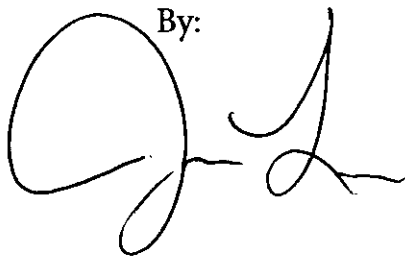
A motion was made by Member Francise, seconded by Member Saini, to adjourn the Special Meeting. The motion carried by the following vote:

Aye: 5 - Dennis
Member Francise
Member Modest
Member Saini
Vice Chair Odom Gunn

No: 0

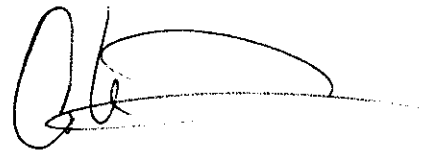
Absent: 1 - Member Hypes

By:



Jennifer Levesque
Deputy City Clerk

Approved:



Colton Dennis
Chair



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.7.

Meeting Date: 7/1/2019

SUBJECT: Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of June 3, 2019

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

City Council/Public Financing and Economic Development/Parking Authority - Adopt a motion approving the meeting minutes of June 3, 2019.

ALTERNATIVES

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

ATTACHMENTS

1. Minutes of June 3, 2019



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, June 3, 2019

6:00 PM

A. CLOSED SESSION ROLL CALL

Present: 5 - Mayor Pro Tempore Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Delray Shelton, and Council Member Fernando Echevarria
Absent: 2 - Council Member Jill McLeod, and Council Member Matthew Serratto

B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:34 PM.

Clerk's Note: Council Member SERRATTO arrived at 5:35 PM.

B.1.

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

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

C. CALL TO ORDER

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

C.1. Invocation - Imam Abdur Raqeeb Wali, Ahmadiyya Muslim Community

The invocation was delivered by Imam Khalid KHAN from Ahmadiyya Muslim Community.

C.2. Pledge Allegiance to the Flag

Mayor Pro Tempore MARTINEZ led the Pledge of Allegiance to the Flag.

D. ROLL CALL

Present: 6 - Mayor Pro Tempore Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria
Absent: 1 - Council Member Jill McLeod

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

E. REPORT OUT OF CLOSED SESSION

There was no report.

F. WRITTEN PETITIONS AND COMMUNICATIONS

The Clerk's Office received a letter from Bright Development regarding Agenda Item K.2. the Appeal of the Planning Commission's Decision to Grant a One-Year Extension to Bright Development for Vesting Tentative Subdivision Map #1291 Public Hearing Item that was printed and placed on the dais.

G. SPECIAL PRESENTATIONS

G.1. NAACP - Summer Programs Presentation

NAACP President Allen BROOKS, Nicola ADAMS, Kelly TURNER, and Tamera COBB presented on the NAACP Youth Summer Programs.

H. CEREMONIAL MATTERS

H.1. **SUBJECT:** Recognition of El Capitan High School Boys Track Team

REPORT IN BRIEF

A certificate will be received by the Division III Section Champions, El Capitan High School Boys Track Team.

Mayor MURPHY and Council Member SHELTON presented a Certificate of Recognition to the El Capitan High School Boys Track Team.

H.2. **SUBJECT:** Proclamation - Juneteenth

REPORT IN BRIEF

Received by Allen Brooks, NAACP President

Mayor MURPHY presented the Juneteenth Proclamation to NAACP President Allen BROOKS.

I. ORAL COMMUNICATIONS

Gina PETERS, Merced - spoke on the homeless issue at Applegate Park.

Jorge GARIBAY, Merced - spoke on the homeless issue at his neighborhood park.

Sair LARA, Merced - spoke on the homeless issue at Applegate Park.

Rodrigo ESPINOSO, Livingston - spoke on the shading and seating at McNamara Park and asked the City about installing solar lights in South Merced.

Justin ANDERSON, Merced - spoke on the need for volunteers to help with the High School Sober Grad event.

Fernando AGUILERA, Merced - gave an update on the Merced Soccer Academy's non-profit status.

Rachelle ABRIL, Merced - spoke on curb and flooding issues at her residence.

J. CONSENT CALENDAR

Items J.2. Information Only-Planning Commission Meeting Minutes for the Month of May 2019, J.7. Approval Of Professional Services Agreement with ABS Direct, Inc. to Provide Printing and Mailing Services for City Billing Statements for the Five-Year Period July 1, 2019 Through June 30, 2024, for an Approximate Annual Cost of \$33,800 Plus Postage Expenses, J.8. Approval of Professional Services Agreement with Data Ticket, Inc. to Provide Parking Citation Processing and Collection Services for the Five-Year Period July 1, 2019 Through June 30, 2024 for an Amount not to Exceed \$70,000 Per Year, and J.10. Adoption of Resolution Authorizing Fiscal Year 2019-20 Annual Special Tax Rates for Community Facilities District (CFD) No. 2003-2 (Services); were pulled for separate consideration.

Approval of the Consent Agenda

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

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

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.3. **SUBJECT:** Information Only-Planning Commission Meeting Minutes of April 17, 2019

RECOMMENDATION

For information only.

This Consent Item was approved.

J.4. **SUBJECT:** Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of May 6, 2019

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

City Council/Public Financing and Economic Development/Parking Authority - Adopt a motion approving the meeting minutes of May 6, 2019.

This Consent Item was approved.

J.5. **SUBJECT:** Approval of Street Closure Request #19-10 by Merced LGBTQ Alliance to Host the Annual Merced LGBTQ Alliance Pride 2019 Event, Located on W. Main Street Between M and K Streets (Including Bob Hart Square); and Canal Street Between W. Main Street and Arbor Lane, on Saturday, July 6, 2019, from 2:00 p.m. to 10:00 p.m.

REPORT IN BRIEF

Considers approving a request by the Merced LGBTQ Alliance for the closure and use of City streets and Bob Hart Square on Saturday, July 6, 2019, for the Annual Merced LGBTQ Alliance Pride 2019 event. The request seeks approval to close W. Main Street, between M and K Streets, including Bob Hart Square, and Canal Street between W. Main Street and Arbor Lane, on Saturday, July 6, 2019, from 2:00 p.m. to 10:00 p.m.

RECOMMENDATION

City Council - Adopt a motion approving the street closure of W. Main Street between M and K Streets, including the use of Bob Hart Square, and Canal Street between W. Main Street and Arbor Lane, on Saturday, July 6, 2019, from 2:00 p.m. to 10:00 p.m., subject to the details and conditions outlined in the administrative staff report.

This Consent Item was approved.

J.6.

SUBJECT: Approval of the Second Meeting in November as the Date to Receive the Fire Department's Annual State Mandated Fire Inspection Compliance Report as Required by California Health and Safety Code Sections 13146.2 through 13146.4

REPORT IN BRIEF

California Health and Safety Code Section 13146.4 requires the Fire Department to provide City Council with an annual report confirming that it has completed the inspection of certain structures as required by California Health and Safety Code Sections 13146.2 and 13146.3.

RECOMMENDATION

City Council - Adopt a motion allowing the Fire Chief or designee to present the Council with its Annual Inspection report on its compliance pursuant to California Health and Safety Code Section 13146.2 and 13146.3, during the second Council meeting in November of each year for the reporting period October 1st (previous year) to September 30th (current year).

This Consent Item was approved.

J.9.

SUBJECT: Approval of a Professional Services Agreement with LABWORKS, LLC, in the Total Amount of \$174,200 Over Five (5) Years, for the Laboratory Information Management System (LIMS) at the Wastewater Treatment Plant (WWTP) Water Quality Control Laboratory

REPORT IN BRIEF

Consider awarding a software contract for the LIMS program for the WWTP Water Quality Control Laboratory.

RECOMMENDATION

City Council - Adopt a motion approving the professional services agreement with LABWORKS, LLC, in the total amount of \$174,200 over a five year term, for the LIMS software program at the WWTP Water Quality Control Laboratory; and authorizing the City Manager or the Assistant City Manager to execute all necessary documents.

This Consent Item was approved.

J.11.

SUBJECT: Introduction of Ordinance to Amend Section 15.32.080, "State Connection Regulations - Backflow Control Devices" of the Merced Municipal Code to Mandate that the Only Approved Residential Fire Sprinkler Systems Allowed to Be Installed Within the City be a Multipurpose Design and a "Passive Purge" System Pursuant to NFPA 13D and the California Building Code

REPORT IN BRIEF

Introduction of Ordinance to Amend Section 15.32.080, "State Connection Regulations - Backflow Control Devices," mandating that the only approved Residential Fire Sprinkler Systems allowed to be installed within the City be a Multipurpose Design and a "Passive Purge" System Pursuant to NFPA 13D and the California Building Code.

RECOMMENDATION

City Council - Adopt a motion introducing **Ordinance 2501**, an Ordinance of the City Council of the City of Merced, California, amending Section 15.32.080, "State Connection Regulations - Backflow Control Devices" of the Merced Municipal Code.

This Consent Item was approved.

J.2.

SUBJECT: Information-Only Contracts for the Month of May 2019

REPORT IN BRIEF

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

Council Member ECHEVARRIA pulled this item to discuss the contracts and contract amounts.

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

Aye: 5 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, and Council Member Shelton

No: 1 - Council Member Echevarria

Absent: 1 - Council Member McLeod

J.7.

SUBJECT: Approval of Professional Services Agreement with ABS Direct, Inc. to Provide Printing and Mailing Services for City Billing Statements for the Five-Year Period July 1, 2019 Through June 30, 2024, for an Approximate Annual Cost of \$33,800 Plus Postage Expenses

REPORT IN BRIEF

Considers approving a five-year Professional Services Agreement with ABS Direct, Inc. for \$33,800 annually to provide printing, folding, inserting, sealing and applying postage on the statements for municipal services, business licenses and miscellaneous receivables.

RECOMMENDATION

City Council - Adopt a motion approving a Professional Services Agreement with ABS Direct, Inc. to provide printing and mailing services for City billing statements and authorize the City Manager or the Assistant City Manager to execute all necessary documents.

Council Member ECHEVARRIA pulled this item to ask about bilingual notices.

Deputy Finance Officer Julie TRUJILLO stated that the billing statements are in multiple languages and that she would verify if the delinquent notices were bilingual.

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

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

- J.8.** **SUBJECT:** Approval of Professional Services Agreement with Data Ticket, Inc. to Provide Parking Citation Processing and Collection Services for the Five-Year Period July 1, 2019 Through June 30, 2024 for an Amount not to Exceed \$70,000 Per Year

REPORT IN BRIEF

Considers approving a five-year Professional Services Agreement with Data Ticket, Inc., for an annual amount not to exceed \$70,000, to provide parking citation processing and collections services.

RECOMMENDATION

City Council - Adopt a motion approving a Professional Services Agreement with Data Ticket, Inc. to provide parking citation processing and collections services and authorize the City Manager or the Assistant City Manager to execute all necessary documents.

Council Member ECHEVARRIA pulled this item to ask about bilingual customer service and if the tickets are also bilingual.

Deputy Finance Officer Julie TRUJILLO stated she will verify if the electronic tickets are bilingual.

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

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

- J.10.** **SUBJECT:** Adoption of Resolution Authorizing Fiscal Year 2019-20 Annual Special Tax Rates for Community Facilities District (CFD) No. 2003-2 (Services)

REPORT IN BRIEF

Consider setting the Annual Special Tax Rates for Fiscal Year 2019-20 for Community Facilities District (CFD) No. 2003-2 (Services) for the City of Merced.

RECOMMENDATION

City Council - Adopt a motion approving **Resolution 2019-26**, a Resolution of the City Council of the City of Merced, California, Acting

as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced, Authorizing the Establishment of an Annual Special Tax for Said District for Fiscal Year 2019-2020.

Mayor Pro Tempore MARTINEZ pulled this item to request clarification on the Community Facilities District reports explaining the fund balances.

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

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

K. PUBLIC HEARINGS

K.1.

SUBJECT: Public Hearing - Affords the Interested Public an Opportunity to Provide Input on the Content of the City Council, Public Financing and Economic Development Authority and the Parking Authority Fiscal Year 2019-20 Proposed Budget

REPORT IN BRIEF

Public Hearing to afford the interested public an opportunity to provide input on the content of the 2019-20 City Council, Public Financing and Economic Development Authority, and Parking Authority Proposed Budget

RECOMMENDATION

City Council/Public Financing and Economic Development Authority/Parking Authority - It is recommended that the City Council/Authorities conduct the Public Hearing and provide direction to the City Manager on the content of the Fiscal Year 2019-20 Budget; and adopt a motion continuing the Public Hearing to the June 17, 2019 Council Meeting.

City Manager Steve CARRIGAN, Finance Officer Venus RODRIGUEZ, and Assistant City Manager Stephanie DIETZ gave a slide show presentation on the Fiscal Year 2019/2020 Budget and presented four options to balance the budget.

Council and staff discussed the City owned property at 27th and K Street and the budget options presented.

Mayor MURPHY opened the Public Hearing at 7:36 PM.

Patricia PRATT, Merced - spoke on her interest to operate a youth arts program at the City owned property at 27th and K Street.

Jazz DIAZ, Merced - spoke on her interest to operate youth arts program at the City owned property at 27th and K Street.

Gloria SANDAVOL, Merced - spoke on the City's outsourcing of various professional services. She asked about the enterprise resource planning. She also spoke on the Calpers cost.

Mayor MURPHY explained that the enterprise resource planning is a software that the City uses to communicate amongst the departments.

Mayor MURPHY continued the Public Hearing to the June 17th Council Meeting.

Council and staff continued discussing the budget.

A motion was made by Council Member Blake, seconded by Council Member Serratto, to combine options three and four and appropriate \$40,000 for repairs on the building at 27th and K Street. The motion carried by the following vote:

Aye: 5 - Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 1 - Mayor Pro Tempore Martinez

Absent: 1 - Council Member McLeod

A motion was made by Council Member Blake, seconded by Council Member Shelton, to continue the Public Hearing to June 17, 2019. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

Clerk's Note: Council recessed at 7:58 PM and returned at 8:08 PM.

K.2.

SUBJECT: Public Hearing - Consideration of an Appeal of the Planning Commission's Decision to Grant a One-Year Extension to Bright Development for Vesting Tentative Subdivision Map #1291 for the Subdivision Involving 39.8 Acres Generally Located on the East

Side of G Street at Merrill Place (Extended)

REPORT IN BRIEF

Considers the appeal filed by BP Investors, LLC, Leeco, LLC, Exposition Properties, LLC and Rick Telegan, as adjacent landowners, of the Planning Commission's decision to grant a one-year extension for Vesting Tentative Subdivision Map (VTSM) #1291 to Bright Development. Requests that direction be given to staff to prepare findings either in support of the appeal (overturning the Planning Commission's decision) or denying the appeal (upholding the Planning Commission's decision).

RECOMMENDATION

City Council:

To **Approve** the appeal and overturn the Planning Commission's decision to grant a one-year extension of VTSM #1291, adopt a motion:

- A. Providing Direction for staff to prepare Findings in support of the appeal of the extension of Vesting Tentative Subdivision Map (VTSM) #1291 for Bright Development, thus overturning the Planning Commission's decision to grant a one-year extension for VTSM #1291.

OR

To **Deny** the appeal and uphold the Planning Commission's decision to grant a one-year extension of VTSM #1291, adopt a motion:

- B. Providing Direction for staff to prepare Findings to deny the appeal of the extension of Vesting Tentative Subdivision Map (VTSM) #1291 for Bright Development, thus upholding the Planning Commission's decision to grant a one-year extension for VTSM #1291.

AND

- C. Directing staff to bring a Resolution back for consideration of adoption at a future meeting to include the findings made by the City Council to either approve or deny the appeal.

Associate Planner Julie NELSON gave a slide show presentation on the Appeal of the Extension of Vesting Tentative Subdivision Map.

Council Member ECHEVARRIA and Ms. NELSON discussed the temporary emergency vehicle access.

Mayor MURPHY opened the Public Hearing at 8:25 PM.

BP Investors representative Rick TELEGAN (Appellant), Fresno - spoke on his request to appeal the Planning Commissions decision to grant a one-year extension to Bright Development for Vesting Tentative Subdivision Map and stated that he is appealing the vesting tentative subdivision map because he did not give his consent to any changes to the map. He also discussed the pre-annexation development agreement between BP Investors, Bright Development, and the of Merced.

Bright Development representative Mark BEISSWANGER, Modesto - discussed the project history and stated that the vesting tentative map had been extended in the past without any objection.

Council and Mr. BEISSWANGER discussed the extension of the vesting tentative subdivision map.

Mr. TELEGAN clarified who the owners of one of the properties were, the term of "temporary", and discussed the pre-annexation development agreement.

Council and Mr. TELEGAN discussed the emergency vehicle access, the pre-annexation development agreement, and his objections to the emergency vehicle access.

Mayor MURPHY and Mr. BEISSWANGER discussed the pre-annexation development agreement.

Mayor MURPHY closed the Public Hearing at 8:58 PM.

Council, City Attorney Phaedra NORTON, and staff discussed the appeal process and the emergency vehicle access.

Clerk's Note: Backup materials provided at the Council meeting are available for review in the City Clerk's Office.

A motion was made by Council Member Serratto, seconded by Council Member Shelton, to deny the appeal and uphold the Planning Commission's decision to grant a one-year extension of the Vesting Tentative Subdivision Map #1291. The motion approved by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

L. REPORTS

L.1. **SUBJECT:** Report - Fourth of July Illegal Fireworks Enforcement Strategies and Public Outreach Campaign by the City of Merced and Adopt a Motion Approving the Placement of Banners on Light Poles in Downtown Merced and G Street to Support Prevention Efforts

REPORT IN BRIEF

Provides an update to the City Council on the City's efforts to combat illegal fireworks within the City limits and the public outreach efforts being made to deter people from using, selling and possessing illegal fireworks and approves the placement of banners on light poles in downtown Merced and G Street.

RECOMMENDATION

City Council - Adopt a motion receiving the informational report on the City's efforts to combat illegal fireworks and approving the request to place banners on light poles downtown and on G Street from June 4, 2019 to July 6, 2019.

City Manager Steve CARRIGAN, Fire Chief Billy ALCORN, and Police Chief Christopher GOODWIN gave a slide show presentation on Celebrate Safe Illegal Fireworks 2019 Campaign.

Mayor Pro Tempore MARTINEZ, Police Chief GOODWIN, Fire Chief ALCORN discussed the outcome of confiscated fireworks and the Fire Department ability to issue citations.

A motion was made by Council Member Blake, seconded by Mayor Pro Tempore Martinez, to allow staff to place banners on light poles downtown and on G Street from June 4, 2019 to July 6, 2019. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

L.2. **SUBJECT:** Report - Approval of Locations for Highway Entry Signs, a Downtown Archway, and Possible Next Steps for the Project

REPORT IN BRIEF

Staff will present proposed locations for highway entry signs and a

downtown archway and seek direction on next steps.

RECOMMENDATION

Provide staff direction on next steps for the City of Merced Entry Signs.

City Manager Steve CARRIGAN gave a slide show presentation on the locations for Highway Entry Signs, a Downtown Archway, and possible next steps for the project.

Council discussed the proposed locations of the welcome signs, the slogan, the structure of the signs, the plaza and archway tie-in, and referring the designs to the Arts and Culture Advisory Commission for suggestions.

Directed staff to take Council input to the Arts and Culture Advisory Commission and bring it back to a future Council meeting for further direction.

L.3.

SUBJECT: Report - Allows for Public Input on Various Maintenance Districts' Engineer's Reports and Budgets for Fiscal Year 2019/2020 During the Public Meeting

REPORT IN BRIEF

Considers public input on the various Maintenance Districts' budgets during the public meeting, without taking action on the determination of assessment levy until the close of the public hearing scheduled for Monday, June 17, 2019.

RECOMMENDATION

City Council - Adopt a motion seeking public input on the Fiscal Year 2019/2020 Maintenance Districts' budgets, without taking action until the public hearing is closed on June 17, 2019.

Public Works Director Ken ELWIN gave a slide show presentation on the Various Maintenance Districts' Engineer's Reports and Budgets for Fiscal Year 2019/2020.

Council and Mr. ELWIN discussed the landscaping, funding, and fund balances.

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

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

M. BUSINESS

M.1. **SUBJECT:** Mayor Murphy's Request to Discuss a Sister City in Thailand

REPORT IN BRIEF

This item is in response to Mayor Murphy's request to discuss adding a Sister City in Thailand pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

Mayor MURPHY discussed adding a sister city in Thailand.

A motion was made by Mayor Murphy, seconded by Council Member Blake, to direct staff to bring back a report on the next steps to establish a sister city relationship in Thailand. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

M.2. Request to Add Item to Future Agenda

There were no items added.

M.3. City Council Comments

Council Member ECHEVARRIA reported on attending a meeting with Jorge GARIBAY about the homeless issue and he spoke on the Parent Cafe meeting.

Mayor Pro Tempore MARTINEZ reported on attending the Hoover Middle School carnival, the Southeast Asian American Professionals Associations annual scholarship ceremony, and the Air Pollution Board meeting.

Mayor MURPHY reported on attending the Habitat for Humanity ground breaking ceremony, the Peace Officer's Memorial event, the Merced County Association of Governments meeting, the Bike Ride with the Mayor event, the Merced College Choir performance, the High Speed Rail hearing, a County wide homeless meeting, the East Side Measure V

meeting, judging the Realtors Association rib cook-off, and the American Legion ceremony.

N. ADJOURNMENT

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

A motion was made by Mayor Murphy, seconded by Council Member Blake, to adjourn the Regular Meeting in memory of Cassie Luce. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod



ADMINISTRATIVE REPORT

Agenda Item I.8.

Meeting Date: 7/1/2019

SUBJECT: Authorization for Retroactive Submittal of the Burners Without Borders Program Community Micro-Grant Application for Funding of a Community Art Project to the Arts and Cultural Advisory Commission and Authorization to Submit Grant Application(s) for Future Projects that do not Exceed \$5,000 Each, and Which do not Require Matching Funds on an Annual Basis

REPORT IN BRIEF

Considers granting retroactive authority for submittal of Burners Without Borders community micro-grant application that was due June 3, 2019 for funding of a community art project and granting the Arts and Cultural Advisory Commission to submit additional grant applications.

RECOMMENDATION

City Council - Adopt a motion granting retroactive authority to the Arts and Culture Advisory Commission for the submittal of the Burners Without Borders community micro-grant application that was due June 3, 2019 for a community art project and provide authority for the Arts and Culture Advisory Commission to submit future grant applications for projects less than \$5,000 each which do not require a match on an annual basis.

ALTERNATIVES

1. Approve as recommended by staff;
2. Approve, subject to conditions outlined by Council;
3. Continue to future meeting;
4. Deny.

DISCUSSION

The Burners Without Borders Program has provided grants for over 100 projects that have made a positive impact around the world, by leveraging a relatively small amount of money to a community that has the capacity to make a difference. The grant program's goal is to jump-start creative civic projects that both grow the community and make a positive impact. The deadline for the grant application was on June 3, 2019.

Arts and Culture Advisory Commission Vice-Chair Diana Odom Gunn requested staff to add this item to the May 9, 2019 Arts and Culture Advisory Commission agenda. Due to a lack of a quorum, the May 9, 2019 Arts and Culture Advisory Commission meeting was cancelled. After discussing options with staff, Ms. Gunn moved forward and submitted the grant application in order to meet the deadline.

At the Arts and Culture Advisory Commission Special Meeting on June 20, 2019, Ms. Gunn

discussed the grant program and the proposed project with the Commission. Ms. Gunn and fellow Commissioner Monika Modest worked together to come up with a giant Jenga game that can be available for members of the public at community events. The community would be able to paint the blocks at a community event. The grant money would be used for materials and the community would provide the talent and labor. The grant award will be announced in July and the City is not required to match the funds received.

The Arts and Culture Advisory Commission also requests approval from the City Council for authorization on other future possible grant opportunities, similar to the Burners Without Borders Program Community Micro-Grant, on an annual basis for no more than \$5,000 not requiring a match. Should these opportunities become available staff will provide an information item to the Council regarding the grant application submitted. If awarded, staff will seek acceptance authority from the Arts and Culture Advisory Commission and the City Council.

ATTACHMENTS

1. Burners without Borders Program community micro-grant
2. Application

[HOME](#) [MISSION](#) [NEWS BLOG](#) [CONTACT](#)

International Disaster Relief
+ Community Initiatives

CREATE A PROJECT
+ How to Get Funded

CONTRIBUTE
Donate – Volunteer

PROJECTS
Explore + Get Involved

[Share](#)¹⁰²

Everyday, Burners Without Borders transforms communities through innovative disaster relief programs and community initiatives that make a lasting impact.

[PROJECTS HOME](#) / [FEATURED PROJECTS](#) / [COMMUNITY INITIATIVES](#) / [DISASTER RELIEF](#)



Photo Gallery

Apply Now: 2019 BWB Community Micro-Grant Program

LOCATION: - [MAP IT](#)

STATUS: Active

BWB is excited to announce the launch of our 11th annual community micro-grant program, and **you are invited to apply!** To date, BWB has provided over \$216K in grants for over 100 projects that have made a positive impact around the world, by leveraging a relatively small amount of money against the mighty power of the community's capacity to make a difference.

GRANT DETAILS

Applications Due: **June 3, 2019 at 11:59pm PDT**

Grant Awards: **\$100-\$1,500**

Link to Online Application: <https://forms.gle/bNlezk6LeZIDuXnj6>

(If you have any issues with the online form- please email the address below and we'll send you a simple word document application)

We aspire to be in touch with all of our applicants by July, and to send funds to grant recipients by August of 2019.

BWB GRANT PROGRAM VISION

Through BWB's grant program, we are committed to jump-starting creative, civic projects that both grow

community and make a positive impact. We know that real change starts at the grassroots level and healthy communities emerge from citizens participating in actively creating the kinds of communities they want to live in. BWB prides itself on accomplishing a lot with very little money by engaging the power of community and innovative problem solving to make a difference.

GRANT GUIDELINES

BWB hasn't got to where we are at today by creating a lot of restrictive rules. BWB is about giving ourselves permission to evoke the *wildest parts of our imaginations* to tackle issues we care about. Really, the sky is the limit. You are encouraged to collaborate with members of your community and dream big! What do you care about? How can your community creatively address a particular issue to make a positive impact? What elements can you invite in that will make it engaging and fun?

We suggest you submit a formatted budget. Here is a [link to some budget templates](#)– any of which would be appropriate. You can copy any of the budget templates into your own spreadsheet or google form to use.

Suggestions for a quality grant proposal:

- Look at the [BWB Grant Impact & Criteria Document](#) to see how we think about grants.
- Reach out to your local [Burning Man Regional Contact](#) and ask if they might be an advisor.
- Watch our video "[How to write Quality Grants: Burning Man 101](#)" (Starts rough but gets going at 9:00 in)
- Listen to our podcast "[Targeted Grant Writing: with Meta-Regional Jacqui Latendresse](#)"

WHAT WE DON'T FUND: Paying salaries or stipends or art projects that lack a community, civic engagement component. Fundraising Events. Capital Campaigns.

If you are looking for inspiration to create your own project, check out the [2018 award winners](#), [2017 award winners](#) & [2016 award winners](#) to get an idea of the types of project we fund.

QUESTIONS WE ASK OURSELVES WHEN REVIEWING SUBMISSIONS:

In an attempt to help you consider whether or not your project is suitable for our grant program, we've provided a list of questions our judges ask when reviewing submissions. These questions are not hard-lines, but rather touch points and things to consider.

Feasibility

- Does the project's mission/goals fit with BWB's? Is it civic/community service minded (vs. art for art's sake)?
- How well does this project leverage volunteer resources and community resources against a relatively small injection of money?
- Does the project seem reasonable/feasible given the budget, timeframe and volunteers who are available to complete the project?
- What experience does the project leader have in organizing projects? How much support will they require from BWB to make the project successful?
- Is this project likely to get funded from a different donor? Is our grant important for this project's existence?
- What other funds need to be raised for this project to be successful?
- Will this particular grant money make a significant impact to the project?
- Will there be any income from this project? If so, how will the profit be used in service of the community?

Community Engagement and Impact

- Is the project interactive and participatory? Does it engage the broader community beyond the grant recipients? Does the project bring together a variety of stakeholders or communities?
- How many people will this project touch and in what way?
- How will this project affect the community over time? What is the life of the project after the grant has been given and the initial project is completed?
- Is the community inviting this project and is there a demonstrated need for this project?
- How will the impacts be measured? What is the quality of the impact vs the quantity?
- How does this project promote community leadership?
- Is the execution of the project engaging and fun for volunteers?

Innovation

- How does the project engage creative ideas or processes?

Questions? bwbgrants@burningman.org

Privacy Statement:

Your privacy and trust are important to us. Burners Without Borders strives to follow the best practices for data and protection and privacy. We do not share the information you share with us beyond our internal systems, which may include your local [regional contact](#) in order to further connect you into the Burning Man Network.



BWB Community Grant Winners 2016- Communitere Nepal

[> How to create a Project.](#)

[NEWS BLOG](#) [PARTNERS](#) [RESOURCES LINKS](#) [GALLERIES](#) [FAQ](#)

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BWB Micro-Grant Application

Merced Community Building Blocks

Merced, California

Diana Odom Gunn, Ph.D.

Monika Modest, Colton Dennis, Alyse Neubert

Relevant weblinks--

Merced City Arts and Culture Advisory Commission:

https://www.cityofmerced.org/depts/cityclerk/boards_n_commissions/arts_and_culture_advisory_commission/default.asp

Merced County Arts Council: <http://www.artsmerced.org/>

Playhouse Merced: <http://www.playhousemerced.com/>

[REDACTED]

[REDACTED]

funding request \$1080

total project cost \$3046

No previous BWB or BM grants

Project Information

To build our community, we want to create a set of giant blocks, decorated by community members, to engage residents in a “Jenga”-type game at local events for shared fun. Blocks would be available for community gatherings of all sorts, encouraging people to interact with each other in joyful ways and bond with their neighbors.

The City of Merced is experiencing a large influx of affluence and gentrification of downtown. We have a new University of California which is spurring fast growth, maybe faster than the community can adapt. Our population is diverse and segregated, with wide income gaps and language barriers to overcome. The purpose of this project is to bring people together in interactive play to experience shared fun to connect neighbors and improve intergroup relations in the community.

The project will begin at the announcement of funding. We will collect estimates and order materials right away in August with the debut of the finished product on December 7, 2019, at the Annual Christmas Parade. Insurance estimates Parade attendance is up to 30,000 people and about 10,000 stay afterward for a Tree Lighting ceremony. These events occur on Bob Hart Square, in the center of downtown.

The Community Building Blocks will be created by the community and for the community. The blocks are sized for a “Jenga”-type game but can also be used to build various structures. Grant funds will be used to purchase materials only. Everything else will come from the community. Blocks will be cut by the set building crew at Playhouse Merced Community Theater. Then, community volunteers will paint the blocks in any way they like. We expect to recruit volunteers from the general population and from local organizations. We are prepared to accommodate up to 500 volunteer decorators for these blocks.

The blocks will be setup in the center of Bob Hart Square and available for play as a “Jenga” type game throughout the day of the Annual Christmas Parade until the Tree Lighting is done. We expect at least 5,000 people will experience the game as players or as observers. In addition to observational measures, participants and observers will be surveyed on their community attitudes.

The blocks will be stored and managed by the local Arts Center and offered for use by other towns throughout Merced County. We expect the game to appear at many local events and become a favorite. Through the interactive participation and shared fun, we hope to strengthen the sense of community in Merced.

“Merced is a City on the Rise” according to our Mayor, Mike Murphy. Merced is a medium sized City of about 85,000 residents. We have a new University of California campus in town bring lots of new investment throughout the City. Social class divisions have widened significantly. We are also the County seat hosting about 325,000 residents in in California’s agricultural Central Valley. Merced County is underserved, especially in our unincorporated towns. About 42% of the population do not speak English, and about half (47%) are on welfare benefits for poverty.

Our local community is struggling both socially and economically. Our diverse population is splintering. Students dislike the Townies who dislike the students. The large Latino population (46%) is isolated on the wrong side of the freeway through town. The Hmong and Lao populations (13%) are equally isolated by language barriers. Our small Black population is completely disenfranchised. The expensive new area of town near the University is separated from the rest of the City by large suburban expanses and lots of gates. Larry Harvey claimed that communities are not born out of sentiment, they emerge from shared struggles. Merced has struggles but we are not sharing to overcome them. Our community is suffering for it. Interactive participation in a game setting would help us to get acquainted across our divisions. Shared fun will soften negative impressions. The Merced community needs such opportunities. The current project would begin to fill that need and build resilience into our community.

The game produced by this project, although spearheaded by the City, would be shared with communities throughout Merced County. The blocks are easily transported and durable. Administration of these “gifts” would be handled by the Merced Multicultural Arts Center office and easily accessible to other community groups and towns.

Projected Timeline:

August, if funding is received, lumber and paint quotes will be collected and compared. Accounting processes established. Materials purchased. Recruit volunteer carpenters to cut the blocks. Arrange necessary equipment and supplies.

September, collect all materials and cut the blocks. Book facilities for decoration at the Merced Multicultural Arts Center. Begin promoting the project.

October, organize community volunteers to paint the blocks. Recruit organizations and individual community members. Begin painting sessions at the Multicultural Arts Center.

November, finish painting sessions. Promote project launch at the Annual Christmas Parade.

December 7, 2019, launch the project at the Merced Christmas Parade gathering. Blocks will be setup in Bob Hart Square on Main Street, the City's main gathering space, for residents to play while waiting for the Parade and Tree Lighting. Evaluations will be solicited.

December, schedule other events for the blocks and arrange transportation to those events. Establish procedures for sharing blocks across Merced County.

2020 and Beyond, Share the blocks at many local events in communities within the City and across the County.

Community members are engaged at every step through the Community Building Blocks project. Volunteers will paint and decorate the blocks in their own ways. Painting will occur in small groups to encourage social interaction. The finished blocks will be available for play in the community at large. Players interact with the art and with each other to succeed in the game. The game is fun to watch so observers are also engaged in the play, encouraging more participation.

Collaborators: The City of Merced Arts and Culture Advisory Commission, Merced County Arts Council, Playhouse Merced and the Merced Multicultural Arts Center are collaborating on this project. Community participants will be recruited from the general population and from groups such as the Hmong Center, The Lao Association, the Rescue Mission, Boys and Girls Club, Senior Center, the Merced Soccer Academy, the Rotary Clubs, Lions Club, the Greater Merced Chamber of Commerce, the Merced Hispanic Chamber of Commerce, and others.

The Community Building Blocks will last many years, given solid construction and minimal care. We will make extra blocks to replace those that may go missing to retain a full "Jenga" set of 54 blocks. The blocks will be managed by the Merced Multicultural Arts Center and will be available for local events in Merced City and shared throughout Merced County. We expect regular use to continue for years into the future.

When we hear laughter and people talking to one another while playing with Community Building Blocks, we will feel the glow of success. Observers will rate the level of laughter in the crowd on scales, from 1-10. We will track the number of people actively playing the game, and the number of passive observers in the crowd to indicate community engagement. We will record comments we hear about the game. And distribute a brief survey at the launch event, the Annual Christmas Parade, to assess community attitudes and positive feelings toward neighbors.

The 10 Principles of Burning Man are embraced by this project in several ways. Most importantly, shared Communal Effort through organizational and individual Participation will be necessary to create the blocks. The resulting games are Participatory and interactive. Everyone can be involved as creators and as players, consistent with the Principles of Radical Inclusion and Radical Self-Expression through art. The game is clean and leaves no MOOP behind. The game experience is Immediate fun for both players and observers. The result is a warm and joyful feeling which bonds people together and builds our community. The “Jenga” game provides our community with a shared struggle (of less significance than the pressing challenges we face) to build community out of division and encourage a sense of belonging together that we hope will grow and endure.

Project Leads:

Monika Modest, MFA, will lead the project. Monika has successfully led 14 different community-engaged art projects around Merced since 2009. One recent project involved 1400 community member volunteers who painted ceramic poppies to decorate the entrance to Bob Hart Square (the City’s downtown gathering space for community events). Monika has the experience and talent to successfully complete the current project.

Colton Dennis will provide support and access to facilities at the Merced Multicultural Arts Center to house the project. Colton is Executive Director of the Center and heads the Merced County Arts Council. Colton has worked successfully with Monika in the past on many projects.

Alyse Neubert, Artistic Director at Playhouse Merced will facilitate construction on their premises. Colton enjoys excellent relations with the Playhouse, being their former Director for many years.

Budget

Materials:

Lumber to cut 75 blocks (size 2” x 4” x 10.5”), 54 for game, plus replacements)

9 each 2” x 4” x 8’ planks	\$ 300
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Sandpaper (120-180 grit)	\$ 20
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Platform base for the game structure

1 each 2" x 4" x 6' plank	\$ 20
18" x 18" x 3/4" plywood board	\$ 30
4 each threaded feet	\$ 50
15 kreg screws	\$ 10
Paint (many colors!)	
Interior/Exterior high-gloss enamel (25 quarts)	\$ 600
Unforeseen costs (about 5%)	\$ 50
Subtotal materials	\$1080
Tools, rental equivalents:	
Orbital sander	\$25
Drill kit	\$20
Miter saw	\$50
Circular saw	\$50
Kreg jig	\$15
Tape measure	\$ 1
Pencil	\$ 0
Safety gear (e.g. goggles)	\$ 5
Subtotal tools	\$ 166
Labor (estimated at \$20 per hour):	
Construction of blocks	\$ 100
Painting of blocks (463 surfaces)	\$ 400
Administration for sharing blocks	\$ 500
Transportation of blocks	\$ 200
Subtotal labor	\$1200
Venue for construction at Playhouse Merced	\$ 100
Storage at Multicultural Arts Center	\$ 500
Subtotal	\$ 600

Total project cost

\$3046

Grant funds will only be used to buy materials to construct the building blocks. All other needs of the project will be donated by collaborators. Tools and workspace will be provided by Playhouse Merced. Labor will be done entirely by community volunteers. Blocks will be stored and managed by the Merced Multicultural Arts Center. And the overall project will be managed by the City Arts and Culture Advisory Commission, with the City of Merced.

We are going to make the biggest blocks we can afford that are also reasonably easy for anyone to lift and place. If we have more money, we make bigger blocks (more lumber and paint). If we have less money, we make smaller blocks (less lumber and paint).

I am a Burner. I learned about this opportunity on the Burning Man Volunteer Announcements email list and later in the Jackrabbit Speaks. I also saw it on the Burners Without Borders/San Francisco page on Facebook.



ADMINISTRATIVE REPORT

Agenda Item I.9.

Meeting Date: 7/1/2019

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

SUBJECT: Approval of the Property, Boiler and Machinery Insurance Renewal Through Alliant Property Insurance Programs in the Amount of \$336,652.81 for Program Year 2019/2020

REPORT IN BRIEF

Consider approving the renewal of the City's policy through Alliant Property Insurance Programs (APIP) at 35.44% premium increase, amounting to \$336,652.81 for program year 2019/2020.

RECOMMENDATION

City Council - Adopt a motion ratifying the renewal of the property and boiler and machinery insurance through the Alliant Property Insurance Programs (APIP), administered by Alliant Insurance Services for the period of July 1, 2019 through June 30, 2020; and authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

ALTERNATIVES

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

AUTHORITY

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

CITY COUNCIL PRIORITIES

As provided for in the FY2019-20 Adopted Budget.

DISCUSSION

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

The property market has been in a soft cycle for the past few years. Late in 2017, the market started to firm due to an increase in catastrophe losses primarily originating from Hurricanes Harvey, Irma

and Maria (HIM). Most every insured experienced rate increase in 2018, and now moving into 2019, coupled with the real wildfire risk that has become apparent, the aforementioned catastrophes have effectively changed the market with carriers now pushing meaningful rate increase across the board. The City of Merced has experienced an increase of 18.23% in total insured values amounting to \$317,386,428. Due to the correction taking place in the marketplace, the City experienced an increase of 14.55% in account rate per hundred dollars of insured property value. The increased insurable values along with an increase in account rate (per hundred dollars) results in an overall premium increase of 35.44% in the amount of \$336,652.81 for program year 2019/2020.

There are no changes to deductibles or levels of coverage to the property and boiler and machinery program for fiscal year 2019/2020.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed. Funding is available within the Fiscal Year 2019-20 Adopted Budget.

ATTACHMENTS

1. 2019-2020 City of Merced Proposal Package

A photograph of a modern glass skyscraper, likely the City of Merced building. The glass reflects the sky and surrounding environment. A person is visible walking on a balcony or walkway on one of the upper floors.

City of Merced

2019 – 2020

Alliant Property Insurance Program (APIP)

Presented on June 6, 2019 by:

Kevin J. Bibler
Senior Vice President

Evan Washburn
Account Executive

ALLIANT PROPERTY INSURANCE PROGRAM (APIP)

July 1, 2019 – July 1, 2020

EXECUTIVE SUMMARY

Attached please find the renewal summary of the Alliant Property Insurance Program (APIP) for the 2019-2020 period. An overview of the most significant issues concerning this year's renewal are discussed here.

Between 2012 and 2017, the property insurance market was in a relatively "soft" cycle with record amounts of capacity entering the market in search of financial return. While members with significant or attritional losses saw increases in an effort to better match premium to losses, there was not a widespread trend in the market to push rate increases on the whole. Rate changes, up or down, were selectively made based on the characteristics of the risk. Late In 2017, the market started to firm due to an increase in catastrophe losses primarily originating from Hurricanes Harvey, Irma and Maria (HIM). Most every insured experienced rate increases in 2018, and now moving into 2019, coupled with the real wildfire risk that has become apparent, the aforementioned catastrophes have effectively changed the market with carriers now pushing meaningful rate increases across the board, and significantly for insureds that have had losses, or appear to be in a position to have such losses. This correction, while unwelcome, is somewhat predictable as on the whole the commercial insurance industry has not been profitable in any of the last three years. Exacerbating the trend, two of the largest writers of commercial property, AIG and FM Global are re-underwriting their entire books of business with a keen eye towards shedding risk. Few underwriters are aggressively pursuing new business in the current environment. Consequently, for the 2019-2020 renewal period, insureds will see rate increases over expiring. For those insureds that have either experienced significant shock losses, or persistent attritional loss activity, rates will increase significantly higher than average in a so called "right sizing" of premium to risk. In keeping with the programs' general history however, we still expect overall rates, in most cases, to remain below that which can be achieved in the open market for similar coverage.

A combination of Lexington, Lloyd's and U.S. domestic underwriters will continue to provide coverage for the first \$25,000,000 of the program. Excess limits up to \$1,000,000,000 will be placed with London, Bermudian, European, and U.S domestic markets, all A.M. Best Rated of at least A- VII. Members should note several key highlights for this year's renewal:

- Boiler & Machinery cover for participating members of the APIP Boiler Program will be maintained with Hartford Steam Boiler (HSB), who will also continue to perform required jurisdictional inspections.
- Cyber (Privacy Liability) Coverage for both 1st and 3rd parties from the Beazley Syndicate at Lloyd's, A.M. Best Rated A XV, (for those eligible insureds) with coverage as outlined on the following proposal will be maintained. Additional excess options are available, if requested. **Please note claims reporting timeframe limitations for this coverage**
- Pollution Coverage for both 1st and 3rd parties from Illinois Union Insurance Company, A.M. Best Rated A++ XV, (for those eligible insureds) with coverage as outlined on the following proposal will be maintained. **Please note claims reporting timeframe limitations for this coverage**
- Vehicles/Contractor's Equipment – please note on the attached proposal whether the vehicle/contractors equipment valuation is Replacement Cost (new) or Actual Cash Value (ACV). If Replacement Cost (new) valuation is needed, the member must submit a schedule of vehicles or a vehicle valuation reporting form (provided in the pre-renewal packet) and vehicles must be valued at today's Replacement Cost (new). If values are not reported at Replacement Cost (new), the vehicle/contractor's equipment valuation basis will be ACV

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

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

The following table depicts key financial statistics relative to last year:

ALLIANT PROPERTY INSURANCE PROGRAM (APIP)
July 1, 2019 – July 1, 2020
EXECUTIVE SUMMARY

Year-over-Year Rate and Premium Comparison

<u>City of Merced</u>	<u>2018-2019</u>	<u>2019-2020</u>	<u>Variance</u>
Total Insured Values:	\$ 268,432,128	\$ 317,386,428	18.23%
Account Rate (per hundred dollars):	0.0925936	0.1060703	14.55%
Earthquake TIV:	\$ 0	\$ 0	N/A
Earthquake Limit:	Not Covered	Not Covered	N/A
*Total Annual Cost:	\$ 248,551.05	\$ 336,652.81	35.44%

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

The following pages are coverage items currently under review with the APIP markets to be effective on July 1, 2019.

Thank you for your continued support of APIP. We look forward to working with you this next year. Please let us know if you have any questions about your renewal.

APIP SUMMARY OF PROPOSED CHANGES

THE FOLLOWING ITEMS ARE PROPOSED CHANGES FOR THE 2019-2020 POLICY TERM

Coverage	2018-2019	2019-2020 Proposed Changes	Status
Flood A&V sub-limit coverage wording	Per Occurrence and in the Annual Aggregate for all locations in Flood Zones A & V (inclusive of all 100 year exposures). This Sub-limit does not increase the specific flood limit of liability for those Named Insured(s) that purchase this optional dedicated coverage.	Per Occurrence and in the Annual Aggregate for <u>scheduled</u> locations in Flood Zones A & V (inclusive of all 100 year exposures). This Sub-limit does not increase the specific flood limit of liability for those Named Insured(s) that purchase this optional dedicated coverage.	Clarification
Combined Business Interruption	Combined Business Interruption, Rental Income and Tax Revenue and Tuition Income (and related fees). However, if specific values for such coverage have not been reported as part of the Named Insured's schedule of values held on file with Alliant Insurance Services Inc., this sub-limit amount is limited to \$500,000 per Named Insured subject to maximum of \$2,500,000 Per Occurrence for Business Interruption, Rental Income and Tuition Income combined, and \$5,000,000 Per Occurrence for Tax Revenue Interruption. Coverage for power generating plants is excluded, unless otherwise specified.	Combined Business Interruption, Rental Income and Tuition Income (and related fees). However, if specific values for such coverage have not been reported as part of the Named Insured's schedule of values held on file with Alliant Insurance Services Inc., this sub-limit amount is limited to \$500,000 per Named Insured subject to maximum of \$2,500,000 Per Occurrence, <u>Per Declaration</u> for Business Interruption, Rental Income and Tuition Income combined. Coverage for power generating plants is excluded, unless otherwise specified.	Clarification
Tax Revenue sub-limit	Combined Business Interruption, Rental Income and Tax Revenue and Tuition Income (and related fees). However, if specific values for such coverage have not been reported as part of the Named Insured's schedule of values held on file with Alliant Insurance Services Inc., this sub-limit amount is limited to \$500,000 per Named Insured subject to maximum of \$2,500,000 Per Occurrence for Business Interruption, Rental Income and Tuition Income combined, and \$5,000,000 Per Occurrence for Tax Revenue Interruption. Coverage for power generating plants is excluded, unless otherwise specified.	Coverage moved to it's own specific field: <u>\$ 3,000,000 Tax Revenue Interruption – Per Policy Provisions. However, if specific values for such coverage have not been reported as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc., this sub-limit amount is limited to \$1,000,000 Per Occurrence – Per Policy Provisions.</u>	Update

APIP SUMMARY OF PROPOSED CHANGES CONTINUED

THE FOLLOWING ITEMS ARE PROPOSED CHANGES FOR THE 2019-2020 POLICY TERM

Coverage	2018-2019	2019-2020 Proposed Changes	Status
Miscellaneous Unnamed Locations	Miscellaneous Unnamed Locations for existing Named Insured's Excluding Earthquake coverage for Alaska and California Named Insureds. If Flood coverage is purchased for all scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.	Miscellaneous Unnamed Locations for existing Named Insured's <u>excluding</u> Earthquake coverage for Alaska and California <u>locations</u> . If Flood coverage is purchased for scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V	Clarification
Unscheduled Landscaping sub-limit wording	Unscheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf and further subject to \$25,000 / 25 gallon maximum per item.	Unscheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf and further subject to \$25,000 / 25 gallon maximum per item <u>for existing Named Insureds excluding Earthquake coverage for Alaska and California locations</u> . If Flood coverage is purchased <u>for scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.</u>	Update
Unscheduled Infrastructure	Unscheduled Tunnels, Bridges, Dams, Catwalks (except those not for public use), Roadways, Highways, Streets, Sidewalks, Culverts, Street Lights and Traffic Signals unless a specific value has been declared (excluding coverage for the peril of Earthquake Shock, and excluding Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) declared disasters, providing said declaration provides funding for repairs).	Unscheduled <u>infrastructure including but not limited to</u> Tunnels, Bridges, Dams, Catwalks (except those not for public use), Roadways, Highways, Streets <u>(including guardrails)</u> , Sidewalks <u>(including guardrails)</u> , Culverts, <u>Channels, Levees, Dikes, Berms, Embankments</u> , Street Lights, Traffic Signals, <u>Meters, Roadway or Highway Fencing, and all similar property</u> unless a specific value has been declared. <u>Unscheduled infrastructure coverage is excluded</u> for the peril of Earthquake and excluded for Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) declared disasters, providing said declaration provides funding for repairs-).	Clarification
Pollution Policy	Summary of Proposed changes is provided with the Pollution Proposal for those who request the coverage.		
Cyber Policy	Summary of Proposed changes is provided with the Cyber Proposal for those who request the coverage.		

Master Policy Form Wording Proposed Changes

Coverage	2018-2019	2019-2020 Proposed	Status
Policy Term	July 1, 2018 to July 1, 2019	July 1, 2019 to July 1, 2020	Update
Section I, E., 2. g.	<p>Unscheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf if specific values for such items have not been reported as part of the Named Insured(s) schedule of values held on file with Alliant Insurance Services, Inc.;</p>	<p>Unscheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf if specific values for such items have not been reported as part of the Named Insured(s) schedule of values held on file with Alliant Insurance Services, Inc. <u>This coverage extension does not apply to the peril of Earthquake in the states of California, or Alaska. If Flood coverage is purchased for scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.</u></p>	Update
Section I, E., 2. o.	<p>Unscheduled Tunnels, bridges, dams, catwalks (except those not for public use), roadways, highways, streets, sidewalks, culverts, street lights and traffic signals unless specific values for such items have been reported as part of a Named Insured(s) schedule of values held on file in the offices of Alliant Insurance Services, Inc. excluding Federal Emergency Management Agency (F.E.M.A.) and/or any State Office of Emergency Services (O.E.S.) declared disasters, providing said declaration provides funding for repairs;</p>	<p>Unscheduled infrastructure including but not limited to Tunnels, bridges, dams, catwalks (except those not for public use), roadways, highways, streets <u>(including guardrails)</u>, sidewalks <u>(including guardrails)</u>, culverts, <u>channels, levees, dikes, berms, embankments</u>, street lights, traffic signals, <u>meters, roadway or highway fencing, and all similar property</u> unless specific values for such items have been reported as part of a Named Insured(s) schedule of values held on file in the offices of Alliant Insurance Services, Inc. <u>Unscheduled infrastructure coverage is excluded for the peril of Earthquake, and for Federal Emergency Management Agency (F.E.M.A.) and/or any State Office of Emergency Services (O.E.S.) declared disasters, providing said declaration provides funding for repairs;</u></p>	Update

Master Policy Form Wording Proposed Changes Continued

Coverage	2018-2019	2019-2020 Proposed	Status
Section II, B. 19	The Company retains the right to determine the acceptability of all such property(ies) once it has been reported. Additional premium will be calculated from the date of acquisition.	Replacing complete sentence with: After the reporting of a location added under automatic acquisition, the Company retains the right to determine acceptability of all such property(ies). Additional premium will be calculated from the date of acquisition, if values are in excess of USD25,000,000.	Enhancement
Section II, B. 20	Coverage is extended to include property at locations (including buildings or structures, owned, occupied or which the Named Insured is obligated to maintain insurance) located within the territorial limitations set by this policy. Coverage provided by this clause is limited to any sub-limit noted on the Declaration Page attached to this form, and by terms and conditions of this policy form. This coverage extension does not apply to the peril of Earthquake Shock in the states of California, or Alaska. If Flood coverage is purchased for all scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.	Coverage is extended to include property at locations (including buildings or structures, owned, occupied or which the Named Insured is obligated to maintain insurance) located within the territorial limitations set by this policy. Coverage provided by this clause is limited to any sub-limit noted on the Declaration Page attached to this form, and by terms and conditions of this policy form. This coverage extension does not apply to the peril of Earthquake Shock in the states of California, or Alaska. If Flood coverage is purchased for <u>all</u> scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.	Clarification
Section II, C. 8.	Unscheduled tunnels, bridges, dams, catwalks (except those not for public use), roadways, highways, streets, sidewalks, culverts, streetlights, and traffic signals, excess of the sub-limit terms provided on the Declaration Page.	Deleted in its entirety	Clarification

Master Policy Form Wording Proposed Changes Continued

<p>Section III, B. 5. (3rd paragraph)</p>	<p>If the Named Insured has reported Tax Revenue Interruption values for which premium has been charged, such loss recovery after deductible shall be limited to whichever is the least of:</p> <ol style="list-style-type: none"> 1. The sub-limit insured on the Policy; 2. The actual loss sustained; 3. The difference in amount between 97.5% of the anticipated revenue and the actual total revenue after the loss. <p>If the Named Insured has not reported Revenue Interruption values, such loss recovery after deductible shall be limited to whichever is the least of:</p> <ol style="list-style-type: none"> 1. The actual loss sustained; 2. USD5,000,000 per occurrence 	<p>If the Named Insured has reported <u>Tax</u> Revenue Interruption values for which premium has been charged, such loss recovery after deductible shall be limited to whichever is the least of:</p> <ol style="list-style-type: none"> 1. <u>USD3,000,000 per occurrence</u> 2. The actual loss sustained; 3. The difference in amount between 97.5% of the anticipated revenue and the actual total revenue after the loss. <p>If the Named Insured has not reported <u>Tax</u> Revenue Interruption values, such loss recovery after deductible shall be limited to whichever is the least of:</p> <ol style="list-style-type: none"> 1. The actual loss sustained; 2. USD<u>1</u>,000,000 per occurrence 	<p>Update</p>
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ALLIANT INSURANCE SERVICES, INC.
ALLIANT PROPERTY INSURANCE PROGRAM (APIP)
PROPERTY PROPOSAL

TYPE OF INSURANCE: ☒ Insurance ☐ Reinsurance

NAMED INSURED: City of Merced

DECLARATION: 2-Cities 2

POLICY PERIOD: July 1, 2019 to July 1, 2020

COMPANIES: See Attached List of Companies

**TOTAL INSURED
VALUES:** \$ 317,386,428 as of June 06, 2019

ALL RISK COVERAGES & LIMITS:	\$ 1,000,000,000	Per Occurrence: all Perils, Coverages (subject to policy exclusions) and all Named Insureds (as defined in the policy) combined, per Declaration, regardless of the number of Named Insureds, coverages, extensions of coverage, or perils insured, subject to the following per occurrence and/or aggregate sub-limits as noted below.
	\$ 5,000,000	Flood Limit - Per Occurrence and in the Annual Aggregate (for those Named Insured(s) that purchase this optional dedicated coverage).
	\$ 5,000,000	Per Occurrence and in the Annual Aggregate for scheduled locations in Flood Zones A & V (inclusive of all 100 year exposures). This Sub-limit does not increase the specific flood limit of liability for those Named Insured(s) that purchase this optional dedicated coverage.
	Not Covered	Earthquake Shock - Per Occurrence and in the Annual Aggregate (for those Named Insured(s) that purchase this optional dedicated coverage).
	\$ 100,000,000	Combined Business Interruption, Rental Income and Tuition Income (and related fees). However, if specific values for such coverage have not been reported as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc., this sub-limit amount is limited to \$500,000 per Named Insured subject to maximum of \$2,500,000 Per Occurrence, Per Declaration for Business Interruption, Rental Income and Tuition Income combined. Coverage for power generating plants is excluded, unless otherwise specified.
	\$ 50,000,000	Extra Expense.
	\$ 25,000,000	Miscellaneous Unnamed Locations for existing Named Insured's excluding Earthquake coverage for Alaska and California locations. If Flood coverage is purchased for scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.

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

180 Days Extended Period of Indemnity

See Policy Provisions	\$25,000,000	Automatic Acquisition up to \$100,000,000 or a Named Insured's Policy Limit of Liability if less than \$100,000,000 for 120 days excluding licensed vehicles for which a sub-limit of \$10,000,000 applies per policy Automatic Acquisition and Reporting Condition. Additionally a sub-limit of \$2,500,000 applies for Tier 1 Wind Counties, Parishes and Independent Cities for 60 days for the states of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas and/or situated anywhere within the states of Florida and Hawaii. The peril of EQ is excluded for the states of Alaska and California. If Flood coverage is purchased for all scheduled locations, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.
\$	1,000,000	Unscheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf and further subject to \$25,000 / 25 gallon maximum per item for existing Named Insureds excluding Earthquake coverage for Alaska and California locations. If Flood coverage is purchased for scheduled locations, this extension includes Flood coverage for any location not situated in Flood Zones A or V.
\$	5,000,000	or 110% of the scheduled values, whichever is greater, for Scheduled Landscaping, tees, sand traps, greens, athletic fields and artificial turf and further subject to \$25,000 / 25 gallon maximum per item.
\$	50,000,000	Errors & Omissions - This extension does not increase any more specific limit stated elsewhere in this policy or Declarations.
\$	25,000,000	Course of Construction and Additions (including new) for projects with completed values not exceeding the sub-limit shown.
\$	2,500,000	Money & Securities for named perils only as referenced within the policy.
\$	2,500,000	Unscheduled Fine Arts.
\$	250,000	Accidental Contamination per occurrence and annual aggregate per Named Insured with \$500,000 annual aggregate for all Named Insureds per Declaration.
\$	750,000	Unscheduled infrastructure including but not limited to Tunnels, Bridges, Dams, Catwalks (except those not for public use), Roadways, Highways, Streets (including guardrails), Sidewalks (including guardrails), Culverts, Channels, Levees, Dikes, Berms, Embankments, Street Lights, Traffic Signals, Meters, Roadways or Highway Fencing, and all similar property unless a specific value has been declared. Unscheduled infrastructure coverage is excluded for the peril of Earthquake and excluded for Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) declared disasters, providing said declaration provides funding for repairs.

ALL RISK COVERAGES & LIMITS: (continued)	\$	50,000,000	Increased Cost of Construction due to the enforcement of building codes/ ordinance or law (includes All Risk and Boiler & Machinery).
	\$	25,000,000	Transit.
	\$	2,500,000	Unscheduled Animals; not to exceed \$50,000 per Animal, per Occurrence.
	\$	2,500,000	Unscheduled Watercraft up to 27 feet.
		Included	Per Occurrence for Off Premises Vehicle Physical Damage.
	\$	25,000,000	Off Premises Services Interruption including Extra Expense resulting from a covered peril at non-owned/operated locations.
	\$	5,000,000	Per Occurrence Per Named Insured subject to an Annual Aggregate of \$10,000,000 for Earthquake Shock on Licensed Vehicles, Unlicensed Vehicles, Contractor's Equipment and Fine Arts combined for all Named Insured(s) in this Declaration combined that do not purchase optional dedicated Earthquake Shock coverage, and/or where specific values for such items are not covered for optional dedicated Earthquake Shock coverage as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc..
	\$	5,000,000	Per Occurrence Per Named Insured subject to an Annual Aggregate of \$10,000,000 for Flood on Licensed Vehicles, Unlicensed Vehicles, Contractor's Equipment and Fine Arts combined for all Named Insured(s) in this Declaration combined that do not purchase optional dedicated Flood coverage, and/or where specific values for such items are not covered for optional dedicated Flood coverage as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc..
	\$	3,000,000	Contingent Business Interruption, Contingent Extra Expense, Contingent Rental Values and Contingent Tuition Income separately.
	\$	3,000,000	Tax Revenue Interruption – Per Policy Provisions. However, if specific values for such coverage have not been reported as part of the Named Insured's schedule of values held on file with Alliant Insurance Services, Inc., this sub-limit amount is limited to \$1,000,000 Per Occurrence – Per Policy Provisions.
	\$	500,000	Jewelry, Furs, Precious Metals and Precious Stones Separately.
	\$	1,000,000	Claims Preparation Expenses.
	\$	50,000,000	Expediting Expenses.
	\$	1,000,000	Personal Property Outside of the USA.

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

	Not Covered	Per Occurrence Per Declaration Upgrade to Green Coverage subject to the lesser of, the cost of upgrade, an additional 25% of the applicable limit of liability shown in the schedule of values or this sub limit.
\$	500,000	Per Occurrence and Annual Aggregate per named insured for Communicable Disease subject to an APIP Program aggregate of \$10,000,000 for all declarations combined except Hospital declarations.
\$	100,000	Per Occurrence while in Storage and In Transit coverage subject to \$10,000 Deductible for Unmanned Aircraft as more fully defined in the Policy. Not Covered while in Flight.
\$	100,000	Per Occurrence with a \$1,000,000 Annual Aggregate per Declaration for Mold/Fungus Resultant Damage as more fully defined in the policy.

VALUATION:

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

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

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

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

**"ALL RISK"
DEDUCTIBLE:**

\$	10,000	Per Occurrence, which will apply in the event a more specific deductible is not applicable to a loss.
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**DEDUCTIBLES FOR
SPECIFIC PERILS
AND COVERAGES:**

\$	100,000	All Flood Zones Per Occurrence excluding Flood Zones A & V.
\$	250,000	Per Occurrence for Flood Zones A & V (inclusive of all 100 year exposures).
	Not Covered	Earthquake Shock: If the stated deductible is a flat dollar amount, the deductible will apply on a Per Occurrence basis, unless otherwise stated. If the stated deductible is on a percentage basis, the deductible will apply Per Occurrence on a Per Unit basis, as defined in the policy form, subject to the minimum deductible per occurrence.
\$	1,000	Per Occurrence for Specially Trained Animals.

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

\$	500,000	Per Occurrence for Unscheduled infrastructure including but not limited to Tunnels, Bridges, Dams, Catwalks (except those not for public use), Roadways, Highways, Streets (including guardrails), Sidewalks (including guardrails), Culverts, Channels, Levees, Dikes, Berms, Embankments, Street Lights, Traffic Signals, Meters, Roadways or Highway Fencing, and all similar property unless a specific value has been declared. Unscheduled infrastructure coverage is excluded for the peril of Earthquake and excluded for Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) declared disasters, providing said declaration provides funding for repairs.
\$	10,000	Per Vehicle or Item for Licensed Vehicles, Unlicensed Vehicles and Contractor's Equipment subject to \$100,000 Maximum Per Occurrence, Per Named Insured for the peril of Earthquake for Named Insured(s) who do not purchase dedicated Earthquake limits.
\$	50,000	Per Occurrence Per Named Insured for this Declaration for Fine Arts for the peril of Earthquake for Named Insured(s) who do not purchase dedicated Earthquake limits.
\$	10,000	Per Vehicle or Item for Licensed Vehicles, Unlicensed Vehicles and Contractor's Equipment subject to \$100,000 Maximum Per Occurrence, Per Named Insured for the peril of Flood for Named Insured(s) who do not purchase dedicated Flood limits.
\$	50,000	Per Occurrence Per Named Insured for this Declaration for Fine Arts for the peril of Flood for Named Insured(s) who do not purchase dedicated Flood limits.
	24 Hour	Waiting Period for Service Interruption for All Perils and Coverages.
	2.5%	of Annual Tax Revenue Value per Location for Tax Interruption.
\$	5,000	Per Occurrence for Off Premises Vehicle Physical Damage. If Off-Premises coverage is included/purchased, the stated deductible will apply to vehicle physical damage both on and off-premises on a Per Occurrence basis, unless otherwise stated. If Off-Premises coverage is not included, On-Premises/In-Yard coverage is subject to the All Risk (Basic) deductible.
	Replacement Cost	Contractor's Equipment/Vehicle Valuation Basis
\$	10,000	Per Occurrence for Contractor's Equipment.

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

\$	100,000,000	Per Named Insured Per Occurrence subject to \$200,000,000 Annual Aggregate of Declarations 1-14, 18-30 and 32-34 combined as respects Property Damage, Business Interruption, Rental Income and Extra Expense Combined for Terrorism (Primary Layer).
\$	10,000	Per Occurrence Deductible for Primary Terrorism.
\$	600,000,000	Per Named Insured for Terrorism (Excess Layer) subject to;
\$	1,100,000,000	Per Occurrence, All Named Insureds combined in Declarations 1-14, 18-21, 23-30 and 32-34 for Terrorism (Excess Layer) subject to;
\$	1,400,000,000	Annual Aggregate shared by all Named Insureds combined in Declarations 1-14, 18-21, 23-30 and 32-34, as respects Property Damage, Business Interruption, Rental Income and Extra Expense combined for Terrorism (Excess Layer).
\$	500,000	Per Occurrence Deductible for Excess Terrorism (Applies only if the Primary Terrorism Limit is exhausted).
	Included	Information Security & Privacy Insurance with Electronic Media Liability Coverage. See Cyber Coverage Document for details of coverage terms, limits and deductibles
	Included	Pollution Liability Insurance Coverage. See attached Pollution Liability Insurance Coverage Document for applicable limits and deductibles.

TERMS & CONDITIONS:

Sub-limits, terms and conditions are subject to change.

25% Minimum Earned Premium and cancellations subject to 10% penalty

Except Cyber Liability Premium is calculated on a pro-rata basis, unless there is a claim in which case the premium is deemed fully earned.

Except Pollution Liability Premium is 25% Earned at Inception, unless there is a claim in which premium is deemed fully earned

NOTICE OF CANCELLATION:

90 Days except 10 Days for non-payment of premium

	Annual Cost*
Total Property Premium:	\$ 318,170.00
Excess Boiler:	\$ 2,949.00
ABS Fee:	\$ 5,258.00
SLT&F's (Estimate)	\$ 10,275.81
Broker Fee:	\$ 0.00
TOTAL COST : (Including Taxes and Fees)	\$ 336,652.81
<p>*Premiums are based on valid selectable options and the TIV's above. Changes in TIV's will require a premium adjustment.</p> <p>TOTAL COST includes: premiums, underwriting fees, commissions, loss control expenses, program administration charges, and applicable taxes (excluding the Cyber Enhancement premium - should you have elected to purchase this coverage)</p>	

PRINT DATE: June 6, 2019

PROPOSAL VALID UNTIL: July 1, 2019

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

Kevin J. Bibler
Senior Vice President

Evan Washburn
Account Executive

NOTES:

- *Major pending and approved changes to the APIP Program are described in the Summary of changes.*
- *Some coverage, sub-limits, terms and conditions could change.*
- *Coverage outlined in this Proposal is subject to the terms and conditions set forth in the policy. Please refer to Policy for specific terms, conditions and exclusions*
- *Change in Total Insurable Values will result in adjustment in premium*
- *Each line of coverage is rated separately therefore increases in TIV's on highly rated coverages such as Vehicles, CE, EQ or 100 year Flood Zones, etc may increase the member average account rate*

The flood zones provided on the Schedule of Values (SOVs) are for rating purposes only. The actual flood zone will be determined at the time of loss.

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

BOILER & MACHINERY PROPOSAL

NAMED INSURED: City of Merced
POLICY PERIOD: July 1, 2019 to July 1, 2020
COMPANIES: See Attached List of Companies
TOTAL INSURED VALUES: \$ 317,386,428 as of June 6, 2019
STATUS/RATING: See Attached List of Companies

COVERAGES & LIMITS: \$ 100,000,000 Boiler Explosion and Machinery Breakdown, (for those Named Insureds that purchase this optional dedicated coverage) as respects Combined Property Damage and Business Interruption/Extra Expense (Including Bond Revenue Interest Payments where Values Reported and excluding Business Interruption for power generating facilities unless otherwise specified). Limit includes loss adjustment agreement and electronic computer or electronic data processing equipment with the following sub-limits:

Included Jurisdictional and Inspections.

\$ 10,000,000 Per Occurrence for Service/Utility/Off Premises Power Interruption.

Included Per Occurrence for Consequential Damage/Perishable Goods/Spoilage.

\$ 10,000,000 Per Occurrence for Electronic Data Processing Media and Data Restoration.

\$ 2,000,000 Per Occurrence, Per Named Insured and in the Annual Aggregate per Declaration for Earthquake Resultant Damage for Named Insureds who purchase Dedicated Earthquake Coverage.

\$ 10,000,000 Per Occurrence for Hazardous Substances / Pollutants / Decontamination.

Included Per Occurrence for Machine or Apparatus used for Research, Diagnosis, Medication, Surgical, Therapeutic, Dental or Pathological Purposes.

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

VALUATION:	Repair or Replacement except Actual Loss sustained for all Time Element coverages	
EXCLUSIONS (Including but not limited to):	<ul style="list-style-type: none"> • Testing • Explosion, except for steam or centrifugal explosion • Explosion of gas or unconsumed fuel from furnace of the boiler 	
OBJECTS EXCLUDED: (Including but not limited to):	<ul style="list-style-type: none"> • Insulating or refractory material • Buried Vessels or Piping 	
TERMS & CONDITIONS:	Some sub-limits, terms and conditions will change. Terms and Conditions are per expiring.	
	25% Minimum Earned Premium and cancellations subject to 10% penalty	
NOTICE OF CANCELLATION:	90 days except 10 days for non-payment of premium	
DEDUCTIBLES:	\$ 2,500	Except as shown for Specific Objects or Perils.
	\$ 2,500	Electronic Data Processing Media.
	\$ 2,500	Consequential Damage.
	\$ 2,500	Objects over 200 hp, 1,000 KW/KVA/Amps or Boilers over 5,000 square feet of heating surface.
	\$ 50,000	Objects over 350 hp, 2,500 KW/KVA/Amps or Boilers over 10,000 square feet of heating surface.
	\$ 100,000	Objects over 500 hp, 5,000 KW/KVA/Amps or Boilers over 25,000 square feet of heating surface.
	\$ 250,000	Objects over 750 hp, 10,000 KW/KVA/Amps or Boilers over 75,000 square feet of heating surface.
	\$ 350,000	Objects over 25,000 hp, 25,000 KW/KVA/Amps or Boilers over 250,000 square feet of heating surface.
	\$ 10 per foot / \$2,500 Minimum	Deep Water Wells.
	24 Hour Waiting Period	Utility Interruption.
	24 Hours	Business Interruption/Extra Expense Except as noted below.
	30 Days	Business Interruption - Revenue Bond.
	5 x 100% of Daily Value	Business Interruption - All objects over 750 hp or 10,000 KW/KVA/Amps or 10,000 square feet heating surface.
	5 x 100% of Daily Value	Business interruption - All Objects at Waste Water Treatment Facilities and All Utilities.

Annual Cost

COST: Cost is included on Property Proposal

PRINT DATE: June 6, 2019

PROPOSAL VALID UNTIL: July 1, 2019

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

Kevin J. Bibler
Senior Vice President

Evan Washburn
Account Executive

NOTES:

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

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

TYPE OF COVERAGE: Information Security & Privacy Insurance with Electronic Media Liability Coverage

PROGRAM: Alliant Property Insurance Program (APIP) inclusive of Public Entity Property Insurance Program (PEPIP), and Hospital All Risk Property Program (HARPP)

NAMED INSURED: Any client(s), entity(ies), agency(ies), organization(s), enterprise(s) and/or individual(s), attaching to each Declaration insured under the ALLIANT PROPERTY INSURANCE PROGRAM (APIP) as their respective rights and interests may appear which now exist or which hereafter may be created or acquired and which are owned, financially controlled or actively managed by the herein named interest, all jointly, severally or in any combination of their interests, for account of whom it may concern (all hereinafter referred to as Client(s) / Entity(ies))

DECLARATION: Various Declarations as on file with Insurer

POLICY PERIOD: July 1, 2019 to July 1, 2020

POLICY #: Per Insured's Evidence of Coverage

TERRITORY: WORLD-WIDE

RETROACTIVE DATE: **APIP/PEPIP**
For new members – the retro active date will be the date of addition
July 1, 2018 For existing members included on the July 1, 2018/19 policy
July 1, 2017 For existing members included on the July 1, 2017/18 policy
July 1, 2016 For existing members included on the July 1, 2016/17 policy
July 1, 2015 For existing members included on the July 1, 2015/16 policy
July 1, 2014 For existing members included on the July 1, 2014/15 policy
July 1, 2013 For existing members included on the July 1, 2013/14 policy
July 1, 2012 For existing members included on the July 1, 2012/13 policy
July 1, 2011 For existing members included on the July 1, 2011/12 policy
July 1, 2010 For existing members included on the July 1, 2010/11 policy

CSU
July 1, 2008 California State University and CSU Auxiliary Organizations

INSURER: Lloyd's of London - Beazley Syndicate:
Syndicates 2623 - 623 - 100%

COVERAGES & LIMITS:

Ai	\$	25,000,000	Annual Policy and Program Aggregate Limit of Liability (subject to policy exclusions) for all Insureds/Members combined (Aggregate for all coverage's combined, including Claims Expenses), subject to the following sub-limits as noted.
Ai	\$	2,000,000	Annual Aggregate Limit of Liability for each Insured/Member (Aggregate for all coverages combined, including Claim Expenses) subject to the following sub-limits as noted:

BREACH RESPONSE

Breach Response Costs:	\$	500,000	Aggregate Limit of Liability for each Insured/Member (Limit is increased to \$1,000,000 if Beazley Nominated Services Providers are used)
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FIRST PARTY LOSS

Business Interruption Loss Resulting from Security Breach:	\$	2,000,000	Aggregate Limit of Liability for each Insured/Member
Business Interruption Loss Resulting from System Failure:	\$	500,000	Aggregate Limit of Liability for each Insured/Member
Dependent Business Loss Resulting from Security Breach:	\$	750,000	Aggregate Limit of Liability for each Insured/Member
Dependent Business Loss Resulting from System Failure:	\$	100,000	Aggregate Limit of Liability for each Insured/Member
Cyber Extortion Loss:	\$	2,000,000	Aggregate Limit of Liability for each Insured/Member
Data Recovery Costs:	\$	2,000,000	Aggregate Limit of Liability for each Insured/Member

LIABILITY

Data & Network Liability:	\$	2,000,000	Aggregate Limit of Liability for each Insured/Member for all Damages and Claims Expenses
Regulatory Defense & Penalties:	\$	2,000,000	Aggregate Limit of Liability for each Insured/Member for all Damages and Claims Expenses

Payment Card Liabilities & Costs:	\$	2,000,000	Aggregate Limit of Liability for each Insured/Member for all Damages and Claims Expenses
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Media Liability:	\$	2,000,000	Aggregate Limit of Liability for each Insured/Member for all Damages and Claims Expenses
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eCRIME

Fraudulent Instruction:	\$	75,000	Aggregate Limit of Liability for each Insured/Member
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Funds Transfer Fraud:	\$	75,000	Aggregate Limit of Liability for each Insured/Member
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Telephone Fraud:	\$	75,000	Aggregate Limit of Liability for each Insured/Member
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CRIMINAL REWARD

Criminal Reward:	\$	25,000	Aggregate Limit of Liability for each Insured/Member
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**COVERAGE
ENDORSEMENT(S)**

Consequential Reputational Loss:	\$	50,000	Aggregate Limit of Liability for each Insured/Member
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Computer Hardware Replacement Costs:	\$	75,000	Aggregate Limit of Liability for each Insured/Member
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RETENTION:	\$	25,000	CSU Auxiliary Organizations only
	\$	50,000	Per Occurrence for each Insured/Member with TIV up to \$500,000,000 at the time of loss
		8	Hour waiting period for first party claims
	\$	100,000	Per Occurrence for each Insured/Member with TIV greater than \$500,000,000 at time of loss
		8	Hour waiting period for first party claims

**Per Insured/Member with TIV below \$250,000,000 have the option to buy-down the retention from \$50,000 to \$5,000 with an additional premium of \$2,500 per entity.*

NOTICE: Policy coverage of this policy provides coverage on a claims made and reported basis; except as otherwise provided, coverage under noted coverage schedule applies only to claims first made against the Insured/Member and reported to underwriters during the policy period. Claims expenses shall reduce the applicable limit of liability and are subject to the applicable retention.

EXTENDED REPORTING PERIOD: For Named Insured - To be determined at the time of election (additional premium will apply)

SPECIFIC COVERAGE PROVISIONS:

A. Breach Response indemnifies the Insured/Member for Breach Response Costs incurred by the Insured/Member because of an actual or reasonably suspected Data Breach or Security Breach that the Insured first discovers during the Policy Period.

B. First Party Loss

Business Interruption Loss indemnifies the Insured/Member sustains as a result of a Security Breach or System Failure that the Insured first discovers during the Policy Period.

Dependent Business Interruption Loss indemnifies the Insured/Member sustains as a result of a Security Breach or a System Failure that the Insured first discover during the Policy Period.

Cyber Extortion Loss indemnifies the Insured/Member incurs as a result of an Extortion Threat first made against the Insured/Member during the Policy Period.

Data Recovery Costs indemnifies the Insured/Member incurs as a direct result of a Security Breach that the Insured first discovers during the Policy Period.

C. Liability

Data & Network Liability pays Damages and Claims Expenses, which the Insured is legally obligated to pay because of any Claim first made against any Insured during the Policy Period

Regulatory Defense & Penalties pays Penalties and Claims Expenses, which the Insured is legally obligated to pay because of a Regulatory Proceeding first made against any Insured during the Policy Period for a Data Breach or a Security Breach.

Payment Card Liabilities & Costs indemnifies the Insured/Member for PCI Fines, Expenses and Costs which it is legally obligated to pay because of a Claim first made against any Insured during the Policy Period.

Media Liability pays Damages and Claims Expenses, which the Insured is legally obligated to pay because of any Claim first made against any Insured during the Policy Period for Media Liability.

D. eCrime indemnifies the Insured/Member for any direct financial loss sustained resulting from:

- *Fraudulent Instruction*
- *Funds Transfer Fraud*
- *Telephone Fraud*

That the Insured first discovers during the Policy Period.

E. Criminal Reward indemnifies the Insured/Member for Criminal Reward Funds.

**Coverage
Endorsement(s)**

Consequential Reputational indemnifies the Insured/Member for Consequential Reputational Loss, that the Insured incurs during the Notification Period as a result of (i) an actual or reasonably suspected Data Breach or Security Breach that the Insured first discovers during the Policy Period and (ii) for which individuals have been notified pursuant to the Breach Response Services definition.

EXCLUSIONS:
*(Including but not
limited to)*

Coverage does not apply to any claim or loss from;

- Bodily Injury or Property Damage
- Trade Practices and Antitrust
- Gathering or Distribution of Information
- Prior Known Acts & Prior Noticed Claims
- Racketeering, Benefit Plans, Employment Liability & Discrimination
- Sale or Ownership of Securities & Violation of Securities Laws
- Criminal, Intentional or Fraudulent Acts
- Patent, Software Copyright, Misappropriation of Information
- Governmental Actions
- Other Insureds & Related Enterprises
- Trading Losses, Loss of Money & Discounts
- Media-Related Exposures – Contractual liability or obligation
- Nuclear Incident
- Radioactive Contamination
- First Party Loss – with respects: 1. seizure, nationalization, confiscation, or destruction of property or data by order of any governmental or public authority; 2. costs or expenses incurred by the Insured to identify or remediate software program errors or vulnerabilities or update, replace, restore, assemble, reproduce, recollect or enhance data or Computer Systems to a level beyond that which existed prior to a Security Breach, System Failure, Dependent Security Breach, Dependent System Failure or Extortion Threat; 3. failure or malfunction of satellites or of power, utility, mechanical or telecommunications (including internet) infrastructure or services that are not under the Insured Organization's direct operational control; or 4. fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical event.

NOTICE OF CLAIM:

- **IMMEDIATE NOTICE** must be made to Beazley NY of all potential claims and circumstances (assistance, and cooperation clause applies)
- Claim notification under this policy is to:
Beazley Group
Attn: TMB Claims Group
1270 Avenue of the Americas
New York, NY 10020
tmbclaims@beazley.com

NOTICE OF CANCELLATION:	10 days for non-payment of premium
REINSTATEMENT PROVISIONS:	Optional reinstatement at 125% of the Annual Policy Premium
CYBER COST:	Cost is included in Total Property Premium Earned premium is calculated on a pro-rata basis, unless there is a claim in which case the premium is deemed fully earned.
OTHER SERVICES	Unlimited Access to Beazley Breach Solutions
BROKER:	ALLIANT INSURANCE SERVICES HOUSTON, LLC License No. 0C36861

NOTES: Coverage outlined in this Proposal are subject to the terms and conditions set forth in the policy. Please refer to Policy for specific terms, conditions and exclusions.

ALLIANT PROPERTY INSURANCE PROGRAM
SUMMARY OF CYBER PROPOSED CHANGES

THE FOLLOWING ITEMS ARE BOUND CHANGES AS FOR THE 2019-2020 POLICY TERM

Coverage	2018-2019	2019-2020 Proposed Changes	Status
Business Interruption Loss resulting from System Failure:	\$250,000	\$500,000	Enhancement
Dependent Business Interruption Loss resulting from Dependent System Failure:	N/a	\$100,000	New Coverage
Fraudulent Instruction	\$50,000	\$75,000	Enhancement
Funds Transfer Fraud	\$50,000	\$75,000	Enhancement
Telephone Fraud	\$50,000	\$75,000	Enhancement
Computer Hardware Replacement Costs	N/a	\$75,000	New Coverage

Endorsement Enhancements:			
Voluntary Shutdown Coverage	-	Included	Enhancement
Amend Data Recovery Costs	-	Included	Enhancement
Amend Settlement of Claims	-	Included	Enhancement
Amend Definition of Data	-	Included	Enhancement

APIP

Breach Response Endorsement Option



Dear valued APIP client:

Beazley Group - Lloyd's of London Syndicate 2623 and 623 (Beazley) has been a trusted partner to the APIP program over 10 years, providing cyber coverage to Insureds at a nominal cost.

In the last few years there has been a noted increase in the number of cyber attacks. Due to the current cyber climate, Alliant believes it is important to review the limits and coverages available to our insureds and to provide additional options and services.

Alliant and Beazley working together have created an option to augment your current cyber coverage Beazley's Breach Response endorsement. Even if you believe the current cyber limits available through APIP are sufficient, it may be worth investing time to have your Alliant broker discuss the benefits of enhanced coverage. Organizations with the most robust cyber security protection are still susceptible to human error, a third party mishandling your information, or a rogue employee.

Currently, APIP insureds have \$2 million in cyber limits which includes services related to a data breach with a sub-limit up to \$1 million for Privacy Notification Costs. More information on the option to enhance your coverage via the Breach Response endorsement is described below:

APIP – Beazley Breach Response Endorsement Option

- Separating privacy notifications from the dollar limit and specifying the number of covered notifications so that notifications do not erode the APIP cyber limit
 - Privacy Notification Costs include notifying individuals affected, credit monitoring and call center services
- Standalone limit for legal, forensics, crisis management or public relations firms which do not erode the APIP cyber limit
- Increase of Breach Response Costs limit to \$2 million (coverage under APIP cyber is \$1 million)
- Lower deductibles for privacy notification services and legal, forensics, crisis management and public relations coverage
- Hands-on pre and post loss consultation from an expert team of cyber risk professionals
- Extensive risk management resources available for your organizations' stakeholders (Legal, IT, Risk, Compliance, etc.)
- Post Breach Remedial Services – 100 hours provided by Lodestone Security
- Short form application required for new Members. Statement of fact required for Members with an existing Breach Response endorsement

APIP policy excess limits note: Quotes for policy excess limits are not included in the above, and can be obtained upon request. Further information may not be required depending on insurance carrier. If needed, it will be the same information as requested for the Breach Response endorsement.

- Provides dedicated, excess limits above the APIP cyber program
- Provides dedicated, excess limits above the increased Breach Response Costs limit of \$2 million
 - Coverage is within the policy limit
- Provides dedicated, excess sublimits above privacy notification costs
 - Options available for coverage within the policy limit or outside the policy limit

A Breach Response endorsement indication can be provided in 5-7 business days. Contact your Alliant broker or Account Representative for more information by returning the attached document. Thank you.

APIP Breach Response Endorsement Option

APIP – Beazley Breach Response Endorsement Option:

☐ Request:

Our Entity requests a proposal for the APIP – Beazley Breach Response Endorsement Option.

☐ Declination:

Our Entity is not interested in the APIP – Beazley Breach Response Endorsement Option that has been offered to us. We understand that Alliant has access to cyber insurance markets and can provide a quote for us in the future if we become interested. We decline to purchase the APIP – Beazley Breach Response Endorsement Option at this time.

City of Merced

Signature

Date

Print Name and Title

Please return this page to your Alliant representative.

Premium for APIP – Beazley Breach Response Endorsement Option is excluded from the APIP Property Proposal.

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

POLLUTION LIABILITY COVERAGE PROPOSAL

TYPE OF INSURANCE: ☒ Insurance ☐ Reinsurance

TYPE OF COVERAGE: Claims Made and Reported Pollution Liability

PROGRAM: **Alliant Property Insurance Program (APIP)**

NAMED INSURED: Any member(s), entity(ies), agency(ies), organization(s), enterprise(s), pool(s), Joint Powers Authority(ies) and/or individual(s) attached to each Declaration insured as per Named Insured Schedule on file with Insurer, listed below.

POLICY PERIOD: July 1, 2019 to July 1, 2020

RETROACTIVE DATE: July 1, 2011 for existing insureds included on the 2011-2012 policy at inception; For all other insureds the retroactive date is the date of addition to the Program.

COMPANY: Interstate Fire & Casualty Insurance Company

A.M. BEST INSURANCE RATING:: A+, Superior, Financial Category XV
(\$2 Billion or greater)
Effective August 30, 2018

STANDARD & POORS RATING: AA (Very Strong) as of March 27, 2019

ADMITTED STATUS: Non-Admitted in all states

INSURED'S OWN SITES: Per the following SOVs submitted and on file with carrier:

1. PEPIC DEC 1 – SOVs
2. PEPIC DEC 2 – SOVs
3. PEPIC DEC 3 – SOVs
4. PEPIC DEC 4 – SOVs
5. PEPIC DEC 5 – SOVs
6. PEPIC DEC 11 – SOVs
7. PEPIC DEC 12 – SOVs
8. PEPIC DEC 14 – SOVs
9. PEPIC DEC 19 – SOVs
10. PEPIC DEC 23 – SOVs
11. PEPIC DEC 24 – SOVs
12. PEPIC DEC 25 – SOVs
13. PEPIC DEC 26 – SOVs
14. PEPIC DEC 27 – SOVs
15. PEPIC DEC 28 – SOVs
16. PEPIC DEC 29 – SOVs
17. PEPIC DEC 30 – SOVs
18. PEPIC DEC 32 – SOVs (Excludes SPIP, except as endorsed)
19. PEPIC DEC 33 – SOVs
20. PEPIC DEC 34 – SOVs

**INSURED'S OWN
SITES:
CONTINUED**

Covered locations include any real property owned, managed, leased, maintained or operated by the Insured at policy inception. Covered locations also include any subsurface potable water, wastewater or storm water pipes that are located within a one thousand (1,000) foot radius of such covered location as of policy inception.

**COVERAGES
& LIMITS:**

\$25,000,000 Policy Program Aggregate (all insureds combined)
\$ 2,000,000 Per Pollution Incident
\$ 2,000,000 Per Named Insured Aggregate
\$ 2,000,000 Per JPA/Pool Aggregate

SUBLIMITS:

\$ 500,000 Per Named Insured that is a K-12 School District Per Pollution Incident Microbial Matter Sublimit*

\$ 500,000 Per Named Insured Aggregate that is a K-12 School District for Microbial Matter*

\$ 100,000 Per Named Insured Per Pollution Incident Dedicated Legal Defense Sublimit*

\$ 250,000 Per Named Insured Crisis Management Response Costs Sublimit

\$ 50,000 Per Named Insured Crisis Management Loss Sublimit

*Note: the above sub-limits payable under this coverage do not increase and are not in addition to the applicable limit of liability, with the exception of the Crisis Management sub-limits, which are in addition to the limits of liability.

**EXTENDED
REPORTING PERIOD:**

For First Named Insured - To be determined at the time of election (additional premium can apply); Ninety (90) day basic extended reporting period available without additional premium

**SPECIFIC
COVERAGE
PROVISIONS:**

CLAIMS MADE AND REPORTED

Coverage A – Own Site Clean-up Costs:

Coverage for claims for clean-up costs resulting from a pollution condition on or under the insured's own site that first commenced on or after the retro date, provided that the claim is first made and reported during the policy period and is legally obligated to pay for cleanup costs..

Coverage B – Off-Site Clean-Up Costs:

Coverage for third-party claims resulting from a pollution condition migrating from or through and beyond the boundaries of the Insured's own site that first commenced on or after the retro date, provided that the claim is first made and reported during the policy period and is legally obligated to pay for cleanup costs.

Coverage C – Third-Party Claims for Bodily Injury or Property Damage:

Coverage for third-party claims for bodily injury or property damage resulting from a pollution condition on, under or migrating from or through and beyond the boundaries of the Insured's own site that first commenced on or after the retro date, provided that the claim is first made and reported during the policy period and is legally obligated to pay.

**SPECIFIC
COVERAGE
PROVISIONS (cont.):**

Coverage D – Emergency Response Costs: Coverage for emergency response costs incurred by or on behalf of the Insured in response to a pollution condition on, under or migrating from or through and beyond the boundaries of an Insured's own site or arising from transportation or resulting from a covered operation, provided that the emergency response costs be incurred within one hundred sixty-eight (168) hours of the commencement of such pollution condition, and reported to the Insurer within fourteen (14) days of commencement of such a pollution condition.

Coverage E – Transportation: Coverage for third-party claims for bodily injury, property damage, or clean-up costs resulting from a pollution condition caused by transportation that first commenced on or after the retro date, provided that the claim is first made and reported to the Insurer during the policy period and is legally obligated to pay.

Coverage F – Non-Owned Locations: Coverage for third-party claims for bodily injury, property damage, or clean-up costs resulting from a pollution condition on, under or migrating from any non-owned location that first commenced on or after the retro date, provided that the claim is first made and reported to the Insurer during the policy period and is legally obligated to pay.

Coverage G – Covered Operations: Coverage for third-party claims for bodily injury, property damage, or clean-up costs resulting from a pollution condition caused by covered operations on or after the retro date, provided that the claim is first made and reported to the Insurer during the policy period and is legally obligated to pay. Covered operations are defined as any operations within the capacity of a public entity which are performed by or on behalf of a named insured outside the physical boundaries of a covered location. Covered operations do not include Transportation.

Coverage H – Business Interruption: Coverage for the Insured's business interruption expense and extra expense during the interruption period, caused directly by a pollution condition on or under the Insured's own site, on or after the retro date, provided such pollution condition results in clean-up costs covered under this policy, and the first-party claim is made and reported to the Insurer during the policy period.

Coverage I – Cyber Events: Coverage for third-party claims for bodily injury, property damage or clean-up costs resulting from a pollution condition arising from a cyber event, provided that the claim is first made and reported to the Insurer during the policy period.

A Cyber Event is defined as any unauthorized processing of data by an Insured; any breach of laws and infringement of regulations pertaining to the maintenance, or protection of data; and any network security failure in any system or device leased, owned, operated or lost by or which is made available or accessible to the Insured for the purpose of processing data. Insured must take reasonable precautions to prevent or cease any activity which may result in a claim, and take all reasonable steps to observe and comply with all statutory or local authority laws obligations and requirements.

**SPECIFIC
COVERAGE
PROVISIONS (cont.):**

Coverage for crisis management response costs (including medical expenses, funeral expenses, psychological counseling, travel expenses temporary living expenses, expenses to secure the scene of a crisis management event) included, provided that the costs have been pre-approved by the insurer and are associated with damages that would be covered by this policy.

Supplemental coverage for Products Pollution is included for potable, reclaimed and recycled water processed at any covered location that is also a potable water or wastewater treatment plant. This coverage covers third-party claims arising out of product pollution, provided the claim is first made and reported during the policy period. The Insured's product must have been manufactured, sold, handled or distributed on or after the retro date and the clean-up costs, bodily injury or property damage must be unexpected and unintended from the standpoint of the Insured. Coverage of lead contamination of potable water is excluded.

All Named Insureds scheduled on this policy have the same rights as the First Named Insured (except for those rights specifically reserved to the first named insured); this includes any member of a pool or Joint Powers Authority specifically scheduled onto this policy.

Automatic Acquisition – Coverage for mid-term transactions for values that are less than \$25,000,000 shall be added as a covered location, upon the closing date of such acquisition, or the effective date of such lease, management, operation or maintenance right or obligation, respectively, for no additional premium, automatically.

Property valued at more than \$25,000,000 but less than \$100,000,000, purchased, leased or otherwise acquired by the Insured needs to be reported to the Insurer within 180 days, along with two (2) years of currently valued property loss runs and shall be added as a covered location upon the closing date of such acquisition for an additional premium.

Property valued at more than \$100,000,000, purchased, leased or otherwise acquired by the Insured needs to be reported to the Insurer immediately, along with two (2) years of currently valued property loss runs. Additional premium applies. For acquired locations that have underground storage tanks, the Insured must determine that all operational underground storage tanks are in material compliance with all applicable environmental laws and regulations and must obtain the most recent tank tightness testing or leak detection data conducted within sixty (60) days prior to the effective date that the Insured acquires or leases the subject location.

Illicit Abandonment is included in the definition of pollution condition.

Microbial matter and legionella pneumophila is included in the definition of Pollutant. Microbial matter is defined as mold, mildew and fungi, whether or not such microbial matter is living.

Defense Costs and Expenses are within Limits of Liability.

**SPECIFIC
COVERAGE
PROVISIONS (cont.):**

The insurance afforded by this Policy shall apply as primary to any other valid, collectible insurance, with the exception of the following: policies specifically written to be in excess of this policy, losses due to or associated with products pollution, any tank fund, or any loss arising in whole or in part to microbial matter or legionella pneumophila.

Blanket Underground Storage Tank coverage included, with a self-insured retention of \$750,000. **Note: Does not meet financial assurance requirements.**

Loss covered pursuant to any state storage tank fund, state administered insurance program or restoration funding for any underground storage tank(s) whose owners qualify for reimbursement, or any self-insurance fund established for the purpose of funding clean-up costs for pollution conditions from any underground storage tank(s), shall be considered primary insurance, to which the coverage afforded pursuant to this policy shall apply in excess. Under such primary insurance policy shall erode the \$750,000 per pollution condition self-insured retention.

Blanket Coverage included for Non-Owned Locations. Includes any transfer, storage, treatment or disposal facilities which are used by the Insured, but not owned or operated by the Insured, provided that:

- The waste materials are generated from the Insured's own site, transportation, or covered operations;
- The transfer, storage, treatment or disposal facility is properly licensed and permitted to accept and dispose of such waste and has not filed for bankruptcy as of the date of the transfer, storage, treatment or disposal of such waste;
- The transfer, storage, treatment or disposal facility is not listed or proposed to be listed on the Federal National Priorities List, or any equivalent state or local list as of policy inception.

**EXCLUSIONS
(including but not
limited to):**

Coverage does not apply to any claim or loss from:

- Asbestos and Lead Based Paint. *This exclusion does not apply to claims for bodily injury or property damage, or clean-up costs for the remediation of soil, surface water, or groundwater, or clean-up costs that arise out of the inadvertent disturbance of asbestos or asbestos containing materials or lead-based paint.*
- Contractual Liability – *Does not apply liability that the Insured would have had in the absence of the contract or agreement, or the contract or agreement is an insured contract.*
- Employer Liability
- Criminal fines, penalties or assessments
- Internal Expenses - *Does not apply internal expenses incurred in response to emergency response costs, or pursuant to environmental laws that require immediate remediation of a pollution condition.*
- Insured vs. Insured
- Intentional Noncompliance – *does not apply to noncompliance based upon the Insured's good faith reliance upon the written advice of qualified outside counsel received in advance of such noncompliance, or the insured's reasonable response to mitigate a pollution condition or loss, provided that such circumstances are reported in writing to the Insurer within three (3) days of commencement.*

EXCLUSIONS
(including but not
limited to, cont.):

Coverage does not apply to any claim or loss from:

- Prior Knowledge / Non-Disclosure
- Known Claims
- Landfills, Recycling Facilities, or Oil and/or Gas Producing or Refining Facilities
- Ports – *Defined as an Insured's own site on the coast or any other body of water where ships or watercraft can dock and transfer cargo to or from land and engages in the business of importing/exporting of goods.*
- Airports – *Defined as an Insured's own site whereby enplanement occurs and/or cargo is moved for a fee and the following operations are conducted: storage, transportation and dispensing of fuel and/or de-icing solutions.*
- Change in Intended Use or Operation – *Loss arising from a material change in use or operations. For purposes of determining whether a change is material, any change in use that results in more stringent remediation standards than those imposed on the insured's own site at the effective date of the period of insurance shall be considered material. This exclusion does not apply to covered operations that are performed with respect to uses and operations that are within the capacity of a public entity.*
- Professional Liability
- Regulatory Compliance – *Does not apply to any such non-compliance that occurs subsequent to release from a covered underground storage tank.*
- Cyber Event – *Does not apply to losses covered by the Cyber Event coverage in this policy.*
- Work Product – *Does not apply to covered operations.*
- Sewage Backup – *Does not apply to an Insured's own site.*
- Nuclear fuel, assemblies and components
- Offshore operations
- Property Damage to Conveyances – *does not apply to loss or claims arising from the Insured's negligence*
- Workers Compensation
- Lead Contaminated Water
- War

RETENTION:

\$100,000	Per Pollution Incident retention except for specific retentions below
\$300,000	Per Named Insured Aggregate retention applicable to all Pollution Incidents except for specific retentions below
\$ 50,000	Per Named Insured maintenance retention applicable to all Pollution Incidents except for specific retentions below
5 Days	Waiting Period for Business Interruption

**SPECIFIC
RETENTION:**

\$250,000	Per Named Insured retention applicable to microbial matter for K-12 school districts only – <i>does not erode the Aggregate retention</i>
\$750,000	Underground Storage Tanks Specific – <i>does not erode the Aggregate retention</i>

CLAIMS REPORTING NOTICE

PLEASE NOTE THAT POLLUTION LIABILITY POLICIES CONTAIN EXTREMELY STRICT CLAIM REPORTING PROCEDURES. Below please find your policy specific claim reporting requirements - Please make sure you understand these obligations. Contact your Alliant Service Team with any questions.

THIS IS A CLAIMS MADE POLICY

This claims-made policy contains a requirement stating that this policy applies only to any claim first made against the Insured and reported to the insurer during the policy period or applicable extended reporting period. Claims must be submitted to the insurer during the policy period, or applicable extended reporting period, as required pursuant to the Claims/Loss Notification Clause within the policy in order for coverage to apply. Late reporting or failure to report pursuant to the policy's requirements could result in a disclaimer of coverage by the insurer.

LOSS REPORTING REQUIREMENTS:

Written notice of any claim or pollution condition, within seven (7) days of discovery for pollution conditions requiring immediate emergency response. Concurrently, please send to:

- 1) Allianz Global Corporate & Specialty
Attn: FNOL Claims Unit
1 Progress Point Parkway, 2nd Floor
O'Fallon, MO 63368
In emergency, call: (800) 558-1606
Fax: (800) 323-6450
Email: NewLoss@agcs.allianz.com
Online Claims Reporting form available at:
www.agcs.allianz.com/global-offices/united-states
- 2) Akbar Sharif
Alliant Insurance Services, Inc.
1301 Dove Street, Suite 200
Newport Beach, CA 92660
949 260-5088
949 756-2713 – fax
Akbar.Sharif@alliant.com

NOTICE OF CANCELLATION:

90 days except 10 days for non-payment of premium

REINSTATEMENT PROVISIONS:

Not Provided.

POLLUTION LIABILITY COST:

Cost is included in Total Property Premium
25% Earned Premium at Inception, unless there is a claim in which premium is deemed fully earned

QUOTE VALID UNTIL: July 1, 2019

BROKER:

ALLIANT INSURANCE SERVICES, INC.
License No. 0C36861

Policyholder Information Environmental Emergency Response and Claim Investigation Services

**(RETAIN FOR YOUR
RECORDS)**

Please read the information below, the Coverage Form and all attached endorsements in their entirety. If you have any questions, please contact your broker.

FOR EMERGENCY RESPONSE TO ENVIRONMENTAL INCIDENTS

As part of our commitment to customer service Allianz Global Corporate & Specialty (Allianz) has named HETI as an approved provider of environmental emergency response and claim investigation services to our insureds.

HETI is a full-service environmental company founded in 1986. Their staff of environmental engineers, industrial hygienists, geologists, hydrogeologists and remedial experts has developed specific expertise in environmental incidents.

As an Allianz insured, you can call on **HETI** twenty-four hours a day, seven days a week for emergency response services for environmental incidents.

HETI's 24/7, toll-free, emergency response hotline number is:

(1-800-347-HETI)

HETI can also respond to your questions about regulatory reporting issues/requirements, spill containment and remediation techniques. HETI will contact you directly with additional information.

ALWAYS REPORT THE INCIDENT TO US AND YOUR AGENT OR BROKER

In the event of any incident that may be covered under this policy, whether or not the HETI has been contacted, the incident should be reported to us by phone or email as soon as practicable by phone or email.

Phone: 1-800-557-1606
Email: NewLoss@agcs.allianz.com

**REFER TO THE CLAIM AND NOTICE REQUIREMENTS WITHIN THE CONDITIONS OF YOUR
POLICY WITH RESPECT TO ANY POLLUTION CONDITION THAT MAY RESULT IN A CLAIM.**

SUMMARY OF PROPOSED CHANGES

THE FOLLOWING ITEMS ARE PROPOSED CHANGES FOR THE 2019-2020 POLICY TERM

Coverage	2018-2019	2019-2020 Proposed Changes	Status
Pollution Liability Policy Term	July 1, 2018 to July 1, 2019	July 1, 2019 to July 1, 2020	Update
Insurer	Illinois Union Insurance Company	Interstate Fire & Casualty Insurance Company	Update
Sub-limits:	<p>\$ 500,000 Per Bacteria/Virus Indoor Environmental Condition Insured Aggregate Sub-limit</p> <p>\$ 250,000 Catastrophe Management Costs Sub-limit</p> <p>*Note: the above sub-limits payable under this coverage do not increase and are not in addition to the applicable limit of liability.</p>	<p>\$ 500,000 Per Named Insured that is a K-12 School District Per Pollution Incident Microbial Matter Sub-limit*</p> <p>\$ 500,000 Per Named Insured Aggregate that is a K-12 School District for Microbial Matter*</p> <p>\$ 100,000 Per Named Insured Per Pollution Incident Dedicated Legal Defense Sub-limit*</p> <p>\$ 250,000 Per Named Insured Crisis Management Response Costs Sub-limit</p> <p>\$ 50,000 Per Named Insured Crisis Management Loss Sub-limit</p> <p>*Note: the above sub-limits payable under this coverage do not increase and are not in addition to the applicable limit of liability, with the exception of the Crisis Management sub-limits, which are in addition to the limits of liability.</p>	Update

SUMMARY OF PROPOSED CHANGES

THE FOLLOWING ITEMS ARE PROPOSED CHANGES FOR THE 2019-2020 POLICY TERM

Coverage	2018-2019	2019-2020 Proposed Changes	Status
Coverage Provisions: - Continued	Not Covered	<p>Coverage I – Cyber Events: Coverage for third-party claims for bodily injury, property damage or clean-up costs resulting from a pollution condition arising from a cyber event, provided that the claim is first made and reported to the Insurer during the policy period.</p> <p>A Cyber Event is defined as any unauthorized processing of data by an Insured; any breach of laws and infringement of regulations pertaining to the maintenance, or protection of data; and any network security failure in any system or device leased, owned, operated or lost by or which is made available or accessible to the Insured for the purpose of processing data. Insured must take reasonable precautions to prevent or cease any activity which may result in a claim, and take all reasonable steps to observe and comply with all statutory or local authority laws obligations and requirements.</p>	Enhancement
	Coverage for catastrophe management costs (including consulting services, public relations materials, travel expenses, expenses to secure the scene of a pollution condition or indoor environmental condition, psychological counseling, medical costs, funeral costs and temporary living expenses) included, provided that the expenses are approved by the Insurer, in writing, or are incurred within seven (7) days of the discovery of a pollution condition or indoor environmental condition.	Coverage for crisis management response costs (including medical expenses, funeral expenses, psychological counseling, travel expenses temporary living expenses, expenses to secure the scene of a crisis management event) included, provided that the costs have been pre-approved by the insurer and are associated with damages that would be covered by this policy.	Update
Other Insurance	The insurance afforded by this Policy shall apply in excess of any other valid, collectible insurance, with the exception of policies specifically written to be in excess of this policy.	The insurance afforded by this Policy shall apply as primary to any other valid, collectible insurance, with the exception of the following: policies specifically written to be in excess of this policy, losses due to or associated with products pollution, any tank fund, or any loss arising in whole or in part to microbial matter or legionella pneumophila.	Update

SUMMARY OF PROPOSED CHANGES

THE FOLLOWING ITEMS ARE PROPOSED CHANGES FOR THE 2019-2020 POLICY TERM

Coverage	2018-2019	2019-2020 Proposed Changes	Status
Non-Owned Locations (Disposal Sites)	Blanket Coverage included for Non-Owned Disposal Sites. Includes Any properly permitted and licensed non-owned disposal sites that has not been identified by the United States EPA National Priorities List, CERCLIS list or any functional equivalent of those listings, and is not undergoing voluntary or regulatory required remediation at the time the waste was received for disposal.	Blanket Coverage included for Non-Owned Locations. Includes any transfer, storage, treatment or disposal facilities which are used by the Insured, but not owned or operated by the Insured, provided that: <ul style="list-style-type: none"> The waste materials are generated from the Insured's own site, transportation, or covered operations; The transfer, storage, treatment or disposal facility is properly licensed and permitted to accept and dispose of such waste and has not filed for bankruptcy as of the date of the transfer, storage, treatment or disposal of such waste; The transfer, storage, treatment or disposal facility is not listed or proposed to be listed on the Federal National Priorities List, or any equivalent state or local list as of policy inception. 	Update
Exclusions:	Criminal Fines and Criminal Penalties	Criminal fines, penalties or assessments	Update
	First Party Property Damage – <i>Does not apply to remediation costs, emergency response costs, business interruption costs or catastrophe management costs.</i>	<i>Not Excluded</i>	Enhancement
	<i>Not Excluded</i>	Known Claims	Update
	<i>Not Covered</i>	Cyber Event – <i>Does not apply to losses covered by the Cyber Event Coverage in this policy.</i>	Enhancement
	<i>Not Excluded</i>	Nuclear fuel, assemblies and components	Update
	<i>Not Excluded</i>	Offshore operations	Update
	Property damage to any automobile, aircraft, watercraft, railcar or other conveyance utilized for transportation.	Property Damage to Conveyances – <i>does not apply to loss or claims arising from the Insured's negligence</i>	Enhancement

SUMMARY OF PROPOSED CHANGES

THE FOLLOWING ITEMS ARE PROPOSED CHANGES FOR THE 2019-2020 POLICY TERM

Coverage	2018-2019	2019-2020 Proposed Changes	Status
Retention:	<p>\$ 100,000 Per Pollution Condition or Indoor Environmental Condition retention except for Mold or Sewage Backup</p> <p>\$ 300,000 Per Named Insured Aggregate retention applicable to all Pollution Conditions or Indoor Environmental Conditions except for Mold or Sewage Backup</p> <p>\$ 50,000 Per Named Insured maintenance retention applicable to all Pollution Conditions except for Mold or Sewage Backup</p> <p>5 days Waiting Period for Business Income and Extra Expense</p>	<p>\$ 100,000 Per Pollution Incident retention except for specific retentions below</p> <p>\$ 300,000 Per Named Insured Aggregate retention applicable to all Pollution Incidents except for specific retentions below</p> <p>\$ 50,000 Per Named Insured maintenance retention applicable to all Pollution Incidents except for specific retentions below</p> <p>5 days Waiting Period for Business Interruption</p>	Update
Specific Retention:	<p>\$ 250,000 Per Named Insured retention applicable to Mold or Sewage Backup – <i>does not erode the Aggregate retention</i></p> <p>\$ 750,000 Underground Storage Tanks Specific</p>	<p>\$ 250,000 Per Named Insured retention applicable to microbial matter for K-12 school districts only – <i>does not erode the Aggregate retention</i></p> <p>\$ 750,000 Underground Storage Tanks Specific – <i>does not erode the Aggregate retention</i></p>	Enhancement
Notice of Cancellation	90 days except 15 days for non-payment of premium	90 days except 10 days for non-payment of premium	Update
Minimum Earned Premium	100% Earned Premium at Inception	25% Earned Premium at Inception	Enhancement
Loss Reporting Requirements	Chubb Environmental Claims & Incident ALERT	Allianz Global Corporate & Specialty Please see page 7 of this proposal for full details	Update

INVOICE

Alliant Insurance Services Inc. 2180 Harvard Street, Ste 460 Sacramento, CA 95815
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NAMED INSURED: City of Merced	INVOICE DATE: June 6, 2019 CUSTOMER NUMBER: MERCED0-02 EFFECTIVE DATE: July 1, 2019
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INSURANCE CO: Various POLICY NUMBER: PPROP1920	INVOICE NUMBER: 1060387
Total Property Premium: ABS Fee: Estimated SLT&F's Broker Fee:	\$ 318,170.00 \$ 5,258.00 \$ 10,275.81 \$ 0.00
ALL RISK PROPERTY SUBTOTAL	\$ 333,703.81

INSURANCE CO: Various POLICY NUMBER: PBOILER1920	INVOICE NUMBER: 2060387
EXCESS BOILER & MACHINERY SUBTOTAL	\$ 2,949.00

TOTAL DUE AT THIS TIME	\$ 336,652.81
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Total Due includes Premiums, Taxes and Fees where applicable. The Cyber Enhancement premium, should you have elected to purchase this coverage, is not included as part of this invoice.

Please return a copy of the invoice with your payment. Premiums are due and payable upon receipt of this invoice but no later than July 20, 2019. If payment is not received by the due date, policies may be subject to cancellation.

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

Important Notice of Remittance Payment Address Change

We have implemented lockbox deposit services with our Bank. Please use this new address to avoid delays in processing your payments.

Effective Immediately, please mail all future checks along with your remittance detail invoice to the following:

Standard Mail Remittance Address:

Alliant Insurance Services, Inc. – NPB Main
P.O. Box 8473
Pasadena, Ca 91109-8473

Overnight/Courier Remittance Address:

Alliant Insurance Services, Inc. – Lockbox # 8473 – NPB Main
Comerica Bank
5th Floor
2321 Rosecrans Avenue
El Segundo, CA 90245

Disclosures / Disclaimers

This proposal of insurance is provided as a matter of convenience and information only. All information included in this proposal, including but not limited to personal and real property values, locations, operations, products, data, automobile schedules, financial data and loss experience, is based on facts and representations supplied to Alliant Insurance Services, Inc. by your organization. This proposal does not reflect any independent study or investigation by Alliant Insurance Services, Inc. or its agents and employees.

Please be advised that this proposal is also expressly conditioned on there being no material change in the risk between the date of this proposal and the inception date of the proposed policy (including the occurrence of any claim or notice of circumstances that may give rise to a claim under any policy which the policy being proposed is a renewal or replacement). In the event of such change of risk, the insurer may, at its sole discretion, modify, or withdraw this proposal, whether or not this offer has already been accepted.

This proposal is not confirmation of insurance and does not add to, extend, amend, change, or alter any coverage in any actual policy of insurance you may have. All existing policy terms, conditions, exclusions, and limitations apply. For specific information regarding your insurance coverage, please refer to the policy itself. Alliant Insurance Services, Inc. will not be liable for any claims arising from or related to information included in or omitted from this proposal of insurance.

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

Analyzing insurers' over-all performance and financial strength is a task that requires specialized skills and in-depth technical understanding of all aspects of insurance company finances and operations. Insurance brokerages such as Alliant Insurance typically rely upon rating agencies for this type of market analysis. Both A.M. Best and Standard and Poor's have been industry leaders in this area for many decades, utilizing a combination of quantitative and qualitative analysis of the information available in formulating their ratings.

A.M. Best has an extensive database of nearly 6,000 Life/Health, Property Casualty and International companies. You can visit them via this [AmBest Consumer Web link](#). For additional information regarding insurer financial strength ratings visit Standard and Poor's website at www.standardandpoors.com.

Our goal is to procure insurance for you with underwriters possessing the financial strength to perform. Alliant does not, however, guarantee the solvency of any underwriters with which insurance or reinsurance is placed and maintains no responsibility for any loss or damage arising from the financial failure or insolvency of any insurer. We encourage you to review the publicly available information collected to enable you to make an informed decision to accept or reject a particular underwriter. To learn more about companies doing business in your state, visit the Department of Insurance website for that state.

NY Regulation 194 and General Broker Compensation Disclosure

Alliant Insurance Services, Inc. is an insurance producer licensed by the State of New York and other States. Insurance producers are authorized by their license to confer with insurance purchasers about the benefits, terms and conditions of insurance contracts; to offer advice concerning the substantive benefits of particular insurance contracts; to sell insurance; and to obtain insurance for purchasers. The role of the producer in any particular transaction typically involves one or more of these activities.

Compensation will be paid to the producer, based on the insurance contract the producer sells. Depending on the insurer(s) and insurance contract(s) the purchaser selects, compensation will be paid by the insurer(s) selling the insurance contract or by another third party. Such compensation may vary depending on a number of factors, including

the insurance contract(s) and the insurer(s) the purchaser selects. In some cases, other factors such as the volume of business a producer provides to an insurer or the profitability of insurance contracts a producer provides to an insurer also may affect compensation.

The insurance purchaser may obtain information about compensation expected to be received by the producer based in whole or in part on the sale of insurance to the purchaser, and (if applicable) compensation expected to be received based in whole or in part on any alternative quotes presented to the purchaser by the producer, by requesting such information from the producer.

Other Disclosures / Disclaimers Cont.

FATCA:

The Foreign Account Tax Compliance Act (FATCA) requires the notification of certain financial accounts to the United States Internal Revenue Service. Alliant does not provide tax advice so please contact your tax consultant for your obligation regarding FATCA.

NRRA:

(Applicable if the insurance company is non-admitted)

The Non-Admitted and Reinsurance Reform Act (NRRA) went into effect on July 21, 2011. Accordingly, surplus lines tax rates and regulations are subject to change which could result in an increase or decrease of the total surplus lines taxes and/or fees owed on this placement. If a change is required, we will promptly notify you. Any additional taxes and/or fees must be promptly remitted to Alliant Insurance Services, Inc.

Changes and Developments

It is important that we be advised of any changes in your operations, which may have a bearing on the validity and/or adequacy of your insurance. The types of changes that concern us include, but are not limited to, those listed below:

- Mergers and/or acquisition and any change in business ownership, including percentages.
- Any newly assumed contractual liability, granting of indemnities or hold harmless agreements.
- Any changes in existing premises including vacancy, whether temporary or permanent, alterations, demolition, etc. Also, any new premises either purchased, constructed or occupied
- Circumstances which may require an increased liability insurance limit.
- Any changes in fire or theft protection such as the installation of or disconnection of sprinkler systems, burglar alarms, etc. This includes any alterations to the system.
- Immediate notification of any changes to a scheduled of equipment, property, vehicles, electronic data processing, etc.
- Property of yours that is in transit, unless previously discussed and/or currently insured.

Loss Notification Requirements:

Your policy will come with specific claim reporting requirements. Please make sure your organization understands these obligations and time limitations which are outlined in the attached Loss Notification documents. Contact your Alliant Service Team with any questions.

Binding Requirements Recap

Required no later than June 28, 2019:

- Signed and dated Request to Bind Coverage form (below)
- Signed and dated Surplus Lines forms as required by your state and attached to this proposal*
- Signed and dated APIP Claims Reporting Acknowledgement(s) Receipt Form
- Signed and dated Terrorism Risk Insurance ACT of 2002 as amended (a.k.a. TRIPRA 2015)

*- only required for coverage in the following states: AR, CA, CT, FL, KS, MA, MT, NE, NY, NC, ND, OH, RI, WV, WY

Request to Bind Coverage

City of Merced

We have reviewed the proposal and agree to the terms and conditions of the coverages presented.

This Authorization to Bind Coverage also acknowledges receipt and review of all disclaimers, disclosures, and loss notification requirements including exposures used to develop insurance terms, contained within this proposal.

Signature of Authorized Insured Representative

Date

Title

Printed / Typed Name

This proposal does not constitute a binder of insurance. Binding is subject to final carrier approval. *The actual terms and conditions of the policy will prevail.*

LOSS NOTIFICATION REQUIREMENT

ALLIANT PROPERTY INSURANCE PROGRAM (APIP)

Claim notifications need to be sent to Robert Frey, Diana Walizada and Sandra Doig. In the event this is a *Cyber* loss please include item III contact, for a *Pollution* loss please include item IV contact in addition to Alliant Insurance Services contacts.

- I. During regular business hours (between 8:30 AM and 5:00 PM PST), First Notice of Claim should be reported to Alliant Insurance Services via telephone, fax, mail or e-mail to our San Francisco Office:

Robert A. Frey, RPA
Senior Vice President, Regional Claims Director
Voice: (415) 403-1445 Cell: (415) 518-8490
Email: rfrey@alliant.com

Diana L. Walizada, AIC, CPIW, RPA, AINS
Vice President, Claims Unit Manager
Voice: (415) 403-1453
Email: dwalizada@alliant.com

Address: Alliant Insurance Services, Inc.
100 Pine St, 11th Floor
San Francisco CA 94111
Toll Free Voice: (877) 725-7695 Fax: (415) 403-1466

- II. Please be sure to include APIP's Claim Administrator as a CC on all Claims correspondence:

Sandra Doig
McLaren's Global Claims Services
1301 Dove St., Suite 200
Newport Beach, CA 92660
Voice: (949) 757-1413 Fax: (949) 757-1692
Email: sandra.doig@mclarens.com

Address:

- III. Cyber Liability Carrier Beazley NY needs to also be provided with Notice of Claim immediately (if purchased):

Beth Diamond
Beazley Group
1270 Avenue of the America's, Suite 1200
New York, NY 10020
Fax: (546) 378-4039
Email: tmbclaims@beazley.com

Address:

Elaine G. Tizon, CISR
Assistant Vice President, Claims Advocate
100 Pine Street, 11th Floor
San Francisco, CA 94111-5101
Voice: (415) 403-1458 Fax: (415) 403-1466
Email: elaine.tizon@alliant.com

Address:

- IV. Pollution Liability Carrier Allianz Global Corporate & Specialty (if purchased):

Allianz Global Corp. & Specialty Att: FNOL Claims Unit
1 Progress Point Parkway, 2nd Floor
O'Fallon, MO 63368
In emergency call: (800) 558-1606
Fax: (800) 323-6450
Email: NewLoss@agcs.allianz.com

Address:

Akbar Sharif
Claims Advocate
1301 Dove St. Ste. 200
Newport Beach, CA 92646
Voice: (949) 260-5088 Fax: (415) 403-1466
Email: Akbar.Sharif@alliant.com

Address:

Please include the Insured /JPA name along with the following information when reporting claims:

- Time, date and specific location of property damaged
- A description of the incident that caused the damage (such as fire, theft or water damage)
- Estimated amount of loss in dollars
- Contact person for claim including name, title, voice & fax numbers
- Complete and return the Property Loss Notice for processing.
- Mortgagee or Loss Payee name, address, and account number

APIP Claims Reporting Acknowledgement(s) Receipt Form

The Claims Reporting Forms are being included with your packet to ensure claims reporting procedures are known and available for future reference. Please review the information. We ask that you share these critical documents with all members of your team (and Pool Members and their staffs where applicable.)

We request that you review the items indicated as attached, then complete the bottom portion, sign and submit to your Alliant Insurance Services representative either by a scanned e-mail or mail to have it be included in your insurance records.

- ☐ APIP Property Claims Reporting
- ☐ Cyber Claims Reporting (*this is a claims made policy*) if coverage is purchased
- ☐ Pollution Liability Claims Reporting (*this is a claims made policy*) if coverage is purchased

Acknowledgement for Claims reporting procedures under Alliant Property Insurance Programs In effect: July 1, 2019 until further notice

I have read and been informed about these separate reporting requirements under the coverage parts that apply to our entity as indicated above and provided through APIP by Alliant.

Insured Entity Name: City of Merced

Authorized Signature:

Print Name

Date

Title:

IN THE EVENT OF A

PROPERTY LOSS:

- 1) *Follow your organization procedures for reporting and responding to an incident*
- 2) *Alert local emergency authorities, as appropriate*
- 3) *Report the incident to Alliant Insurance Services immediately at:*

877-725-7695

All property losses must be reported as soon as practicable upon knowledge within the risk management or finance division of the insured that a loss has occurred.

Be prepared to give basic information about the location and nature of the incident, as well as steps which have been taken in response to the incident.

- 4) *Report the incident to McLarens Global Claims Services AND your Alliant representative*

PROPERTY FIRST NOTICE OF LOSS FORM

SEND TO: Alliant Insurance Services, Inc.

BY MAIL: 100 Pine Street, 11th Floor, San Francisco, CA 94111

BY FAX: (415) 403-1466

BY EMAIL: rfrey@alliant.com AND dwalizada@alliant.com

Carbon Copy APIP Claims Administrator: sandra.doig@mclarens.com and your Alliant representative

Today's Date: _____

Type of Claim: (check all that apply)

- | | |
|--|-----------------------------------|
| <input type="checkbox"/> Real Property | <input type="checkbox"/> Vehicles |
| <input type="checkbox"/> Personal Property | <input type="checkbox"/> Other |

Insured's Name & Contact Information

Insured's Name: _____ Point of Contact: _____

Address: _____

Phone #: _____

Broker/Agent's Name & Contact Information

Company Name: Alliant Insurance Services - Claims Point of Contact: Robert A. Frey & Diana L. Walizada

Address: 100 Pine Street, 11th Floor, San Francisco, CA 94111

Phone #: 1-877-725-7695

Fax #: 415-403-1466

Policy Information

Policy Number: _____ Policy Period: _____

Limits of Liability: _____ per _____ agg Self-Insured Retention/Deductible: _____

Loss Information

Date of Incident/Claim: _____ Location: _____

Description of Loss: _____

Please list all attached or enclosed documentation: ☐ (check if none provided) _____

Name of Person Completing This Form: _____

Signature: _____

Per the PEPIP USA Form Master Policy Wording, Section IV General Conditions;

J. NOTICE OF LOSS

In the event of loss or damage insured against under this Policy, the Insured shall give notice thereof to ALLIANT INSURANCE SERVICES, INC., 100 Pine Street, 11th Floor, San Francisco, CA 94111-1073. TEL NO. (877) 725-7695, FAX NO. (415) 403-1466 of such loss. Such notice is to be made as soon as practicable upon knowledge within the risk management or finance division of the insured that a loss has occurred.

IN THE EVENT OF A

CYBER LOSS:

- 1) *Follow your organizations procedures for reporting and responding to an incident*
- 2) *Alert authorities, as appropriate*
- 3) *Report the incident to Beazley Group immediately at:*

tmbclaims@beazley.com

All Cyber losses must be reported as soon as practicable upon knowledge by the insured that a loss has occurred.

Be prepared to give basic information about the location and nature of the incident, as well as steps which have been taken in response to the incident.

- 4) *Report the incident to Alliant Claims Department and your Alliant representative*

SPECIAL NOTE REGARDING PRIVACY NOTIFICATION COSTS:

The policy provides a \$500,000 Aggregate Limit for Privacy Notification Costs. If you utilize a Beazley vendor, the limit is increased to \$1,000,000.

Please contact Beazley for a list of approved vendors.

CYBER FIRST NOTICE OF LOSS FORM**SEND TO:** Beazley Group**BY MAIL:** 1270 Avenue of the America's, Suite 1200, New York, NY 10020**BY FAX:** (546) 378-4039**BY EMAIL:** tmbclaims@beazley.com**CC Alliant Claims Department:**
elaine.tizon@alliant.com , and your Alliant representative

Today's Date: _____

Insured's Name & Contact Information

Insured's Name: _____ Point of Contact: _____

Address: _____

Phone #: _____

Broker/Agent's Name & Contact InformationCompany Name: Alliant Insurance Services – Claims Point of Contact: Elaine TizonAddress: 100 Pine Street, 11th Floor, San Francisco, CA 94111Phone #: 877-725-7695 Fax #:415-403-1466**Policy Information**

Policy Number: _____ Policy Period: _____

Limits of Liability: _____ per _____ agg Self-Insured Retention/Deductible _____

Loss Information

Date of Incident/Claim: _____ Location: _____

Description of Loss: _____

Please list all attached or enclosed documentation: ☐ (check if none provided) _____

Name of Person Completing This Form: _____

Signature: _____

A. NOTICE OF CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

1. If any **Claim** is made against the **Insured**, the **Insured** shall, as soon as practicable upon knowledge by the **Insured**, forward to the Underwriters through persons named in Item 9.A. of the Declarations written notice of such **Claim** in the form of a telecopy, or express or certified mail together with every demand, notice, summons or other process received by the **Insured** or the **Insured's** representative; provided that with regard to coverage provided under Insuring Agreements I.A. and I.C., all **Claims** made against any **Insured** must be reported no later than the end of the **Policy Period**, in accordance with the requirements of the **Optional Extension Period** (if applicable), or within thirty (30) days after the expiration date of the **Policy Period** in the case of **Claims** first made against the Insured during the last thirty (30) days of the **Policy Period**.
2. With respect to Insuring Agreement I.B. for a legal obligation to comply with a **Breach Notice Law** because of an incident (or reasonably suspected incident) described in Insuring Clause I.A.1 or I.A.2, such incident or reasonably suspected incident must be reported as soon as practicable during the **Policy Period** after discovery by the Insured. For such incidents or suspected incidents discovered by the **Insured** within 60 days prior to expiration of the Policy, such incident shall be reported as soon as practicable, but in no event later than 60 days after the end the **Policy Period**, provided; if this Policy is renewed by Underwriters and covered **Privacy Notification Costs** are incurred because of such incident or suspected incident reported during the 60 day post **Policy Period** reporting period, then any subsequent **Claim** arising out of such incident or suspected incident is deemed to have been made during the **Policy Period**.
3. With respect to Insuring Agreements I.A. and I.C., if during the **Policy Period**, the **Insured** first becomes aware of any circumstance that could reasonably be the basis for a **Claim** it may give written notice to Underwriters in the form of a telecopy, or express or certified mail through persons named in Item 9.A. of the Declarations as soon as practicable during the **Policy Period** of:
 - a. the specific details of the act, error, omission, or **Security Breach** that could reasonably be the basis for a **Claim**;
 - b. the injury or damage which may result or has resulted from the circumstance; and
 - c. the facts by which the **Insured** first became aware of the act, error, omission or **Security Breach**

Any subsequent **Claim** made against the **Insured** arising out of such circumstance which is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to the Underwriters.

4. A **Claim** or legal obligation under section X.A.1 or X.A.2 above shall be considered to be reported to the Underwriters when written notice is first received by Underwriters in the form of a telecopy, or express or certified mail or email through persons named in Item 9.A. of the Declarations of the **Claim** or legal obligation, or of an act, error, or omission, which could reasonably be expected to give rise to a **Claim** if provided in compliance with sub-paragraph X.A.3. above.

ALLIANZ GLOBAL CORPORATE & SPECIALTY

IN THE EVENT OF AN

ENVIRONMENTAL EMERGENCY:

- 1) *Follow your organization procedures for reporting and responding to an incident*
- 2) *Alert local emergency authorities, as appropriate*
- 3) *Report the incident immediately at:*

800-558-1606

- 4] *Report the incident to Alliant*

Akbar Sharif
Claims Advocate
949-260-5088
415-403-1466 – fax
Akbar.Sharif@alliant.com

Be prepared to give basic information about the location and nature of the incident, as well as steps which have been taken in response to the incident.

DO follow your organization's detailed response plan
DO contact your management as well as appropriate authorities
DO ensure anyone who could come in contact with a spill or release is kept away

DO NOT ignore a potential spill or leak
DO NOT attempt to respond beyond your level of training or certification

SEND TO: ALLIANZ GLOBAL CORPORATE & SPECIALTY

BY MAIL: 1 Progress Point Parkway, 2nd Floor

BY FAX: (800) 323-6450

BY EMAIL: NewLoss@agcs.allianz.com

CC Alliant Insurance: Akbar.Sharif@alliant.com and your Alliant Representative

Today's Date: _____

Notice of: (check all that apply)

- ☐ Pollution Incident ☐ Potential Claim ☐ Other _____
- ☐ Third-Party Claim ☐ Litigation Initiated

Insured's Name & Contact Information

Company Name: _____ **Point of Contact:** _____

Address: _____

Phone #: _____

Broker/Agent's Name & Contact Information

Company Name: Alliant Insurance Services - Claims **Point of Contact:** Akbar Sharif

Address: 1301 Dove St. Ste. 200 Newport Beach, CA 92660

Phone #: 1-949-260-5088

Policy Information

Policy Number: _____ **Policy Period:** _____

Limits of Liability: _____ per _____ agg **Self-Insured Retention/Deductible** _____

Loss Information

Date of Incident/Claim: _____ **Location:** _____

Claimant Name/Address: _____

Description of Loss: _____

Please list all attached or enclosed documentation: ☐ (check if none provided) _____

Name of Person Completing This Form: _____ **Signature:** _____

ALLIANT INSURANCE SERVICES

POLICYHOLDER DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

June 6, 2019

Named Insured: **City of Merced**

We are required to send you this notice pursuant to federal legislation concerning terrorism insurance. The below is for TRIA coverage as issued by the United States of America and is not tied to or representative of the Terrorism coverage offered in our program.

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, that you have a right to purchase insurance coverage for losses resulting from acts of terrorism, *As defined in Section 102(1) of the Act, as amended*: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carrier or vessel or the premises of a United States mission; and to have been committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Any coverage you purchase for "acts of terrorism" shall expire at 12:00 midnight December 31, 2020, the date on which the TRIA Program is scheduled to terminate, or the expiry date of the policy whichever occurs first, and shall not cover any losses or events which arise after the earlier of these dates.

YOU SHOULD KNOW THAT COVERAGE PROVIDED BY THIS POLICY FOR LOSSES CAUSED BY CERTIFIED ACTS OF TERRORISM IS PARTIALLY REIMBURSED BY THE UNITED STATES UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THIS FORMULA, THE UNITED STATES PAYS 85% THROUGH 2015; 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017; 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 AND 80% BEGINNING ON JANUARY 1, 2020; OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURER(S) PROVIDING THE COVERAGE. YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A USD100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS USD100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED USD100 BILLION, YOUR COVERAGE MAY BE REDUCED.

THE PREMIUM CHARGED FOR THIS COVERAGE CAN BE REQUESTED BELOW AND WILL NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

**SELECTION OR REJECTION OF THE TERRORISM RISK INSURANCE ACT as AMENDED
(A.K.A.: TRIPRA 2015)**

THIS COVERAGE IS OUTSIDE OF THE PROGRAM'S TERRORISM COVERAGES AND LIMITS. IT IS PROVIDED AND OVERSEEN BY THE U.S. GOVERNMENT.

THIS COVERAGE IS CONSIDERED RESTRICTIVE COMPARED TO THE APIP TERRORISM LIMITS AND COVERAGES AVAILABLE. THIS ACT DOES NOT FOLLOW OUR PROGRAM'S TERRORISM POLICIES.

HOWEVER IF YOU'D LIKE A QUOTE FOR TRIA COVERAGE, PLEASE CHECK THE "I AM INTERESTED" BOX. OTHERWISE, PLEASE CHECK THE "DECLINE" BOX. YOUR SIGNATURE FOR CONFIRMATION OF RECEIPT IS REQUIRED. ANY QUESTIONS? PLEASE CALL YOUR SERVICE TEAM MEMBER.

<input type="checkbox"/>	I am interested in receiving a quote for Terrorism Risk Insurance Act coverage as required by law to be offered under the last amended Act. Please provide me with a quote.
<input type="checkbox"/>	I decline to purchase the Terrorism Risk Insurance Act coverage as required by law to be offered under the last amended Act.

Policyholder/applicant signature

Print Name

Date

City of Merced

Surplus Lines Requirement

State of California

THIS INSTRUCTIONAL PAGE IS FOR INTERNAL USE ONLY:

Please be advised per the state of California's Surplus Lines Compliance Laws we are required to provide and obtain the insured's signature on the following page.

Please have the insured review and sign the affidavit D-1

A signed copy of the affidavit should be sent to my attention and attached in Oasys no more than 5 business days from binding to be in compliance with the Alliant Corporate deadline.

Please note a scanned copy is acceptable.

Should you have any questions or concerns please do not hesitate to contact me.

Kind Regards,

Kendra Hart

Surplus Lines Coordinator
Alliant Underwriting Solutions

1301 Dove Street
Suite 200
Newport Beach, CA 92660

D 949 660 5971
O 949 756 0271
F 949 756 2713
www.alliant.com

CA License No. 0558510



NOTICE:

1. THE INSURANCE POLICY THAT YOU ARE APPLYING TO PURCHASE IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED “NONADMITTED” OR “SURPLUS LINE” INSURERS.

2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT THAT APPLY TO CALIFORNIA LICENSED INSURERS.

3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.

4. THE INSURER SHOULD BE LICENSED EITHER AS A FOREIGN INSURER IN ANOTHER STATE IN THE UNITED STATES OR AS A NON-UNITED STATES (ALIEN) INSURER. YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR “SURPLUS LINE” BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: 1-800-927-4357 OR INTERNET WEB SITE WWW.INSURANCE.CA.GOV. ASK WHETHER OR NOT THE INSURER IS LICENSED AS A FOREIGN OR NON-UNITED STATES (ALIEN) INSURER AND FOR ADDITIONAL INFORMATION ABOUT THE INSURER. YOU MAY ALSO CONTACT THE NAIC’S INTERNET WEB SITE AT WWW.NAIC.ORG.

5. FOREIGN INSURERS SHOULD BE LICENSED BY A STATE IN THE UNITED STATES AND YOU MAY CONTACT THAT STATE’S DEPARTMENT OF INSURANCE TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.

6. FOR NON-UNITED STATES (ALIEN) INSURERS, THE INSURER SHOULD BE LICENSED BY A COUNTRY OUTSIDE OF THE UNITED STATES AND SHOULD BE ON THE NAIC'S INTERNATIONAL INSURERS DEPARTMENT (IID) LISTING OF APPROVED NONADMITTED NON-UNITED STATES INSURERS. ASK YOUR AGENT, BROKER, OR "SURPLUS LINE" BROKER TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.

7. CALIFORNIA MAINTAINS A LIST OF APPROVED SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE INTERNET WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE: WWW.INSURANCE.CA.GOV.

8. IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM WILL BE PRORATED AND ANY BROKER'S FEE CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU.

Date: _____

Insured: _____

(Authorized Signature)

D-1 (Effective January 1, 2017)

**Alliant Property Insurance Program
2019-2020 Policy Year
Schedule of Insurers (Prospective)**

Company	A.M. Best's I.D. #	A.M. Best's Guide Rating	Standard and Poor's	State of California
Arch Specialty Insurance Company	012523	A+, Superior; Financial Size Category 15; \$2,000,000,000 to greater (As of 10/11/18)	A+ (As of 06/25/18)	Non-Admitted
Aspen Insurance UK Limited	084806	A, Excellent; Financial Size Category 15; \$2,000,000,000 or greater (As of 03/01/19)	A (As of 06/26/18)	Non-Admitted
Chubb European Group Limited	086485	A++ , Superior; Financial Size Category 15; \$2,000,000,000 or greater (As of 12/13/18)	AA (As of 06/24/16)	Non-Admitted
Endurance Worldwide Insurance Limited	083234	A+, Superior; Financial Size Category 15; \$2,000,000,000 or greater (As of 07/20/18)	A+ (As of 04/26/18)	Non-Admitted
Evanston Insurance Co.	003759	A, Excellent; Financial Size Category 15; \$2,000,000,000 or Greater (As of 12/19/18)	A (As of 07/27/17)	Non-Admitted
Hallmark Specialty Insurance Co.	010838	A-, Excellent; Financial Size Category 8; \$100,000,000 to \$250,000,000 (As of 08/23/18)	Not Rated (As of 04/22/19)	Non-Admitted
Homeland Insurance Company of New York	010604	A+, Superior; Financial Size Category 15; \$2,000,000,000 or greater (As of 03/08/19)	Not Rated (As of 04/22/19)	Non-Admitted
Interstate Fire and Casualty Ins. Co.	02267	A+, Superior; Financial Size Category 15; \$2,000,000,000 or greater (As of 08/30/18)	AA (As of 03/17/16)	Non-Admitted
Ironshore Specialty Insurance Company	013866	A, Excellent; Financial Size Category 15; \$2,000,000,000 or greater (As of 05/16/18)	A (As of 05/02/17)	Non-Admitted
Lancashire Insurance Company (UK) Ltd.	078390	A, Excellent; Financial Size Category 12; \$1,000,000,000 to \$1,250,000,000 (As of 10/24/18)	A- (As of 02/28/18)	Non-Admitted
Landmark American Insurance Co.	012619	A+, Superior; Financial Size Category 14; \$1,500,000,000 to \$2,000,000,000 (As of 11/02/18)	A+ (As of 04/18/18)	Non-Admitted

**Alliant Property Insurance Program
2019-2020 Policy Year
Schedule of Insurers (Prospective)**

Company	A.M. Best's I.D. #	A.M. Best's Guide Rating	Standard and Poor's	State of California
Lexington Insurance Company	002350	A, Excellent; Financial Size Category 15; \$2,000,000,000 or Greater (As of 06/20/18)	A+ (As of 06/06/17)	Non-Admitted
Liberty Mutual Fire Insurance Company	002282	A, Excellent; Financial Size Category 15; \$2,000,000,000 or Greater (As of 05/16/18)	A (As of 06/17/14)	Admitted
Lloyd's of London	085202	A, Excellent; Financial Size Category 15; \$2,000,000,000 or Greater (As of 07/12/18)	A+ (As of 10/12/17)	Non-Admitted
Maxum Indemnity Company	012563	A+, Superior; Financial Size Category 15; \$2,000,000,000 or Greater (As of 08/02/18)	Not Rated (As of 04/22/19)	Non-Admitted
PartnerRe Ireland Insurance Ltd.	088621	A, Excellent Financial Size Category 15; \$2,000,000,000 or Greater (As of 06/15/18)	A+ (As of 09/07/16)	Non-Admitted
QBE Specialty Insurance Company	012562	A, Excellent; Financial Size Category 15; \$2,000,000,000 or Greater (As of 06/13/18)	A+ (As of 06/30/18)	Non-Admitted
Westchester Surplus Lines Insurance Company	004433	A++, Superior; Financial Size Category 15; \$2,000,000,000 or Greater (As of 12/13/18)	AA (As of 06/24/16)	Non-Admitted
Westport Insurance Corporation	000347	A+, Superior; Financial Size Category 15; \$2,000,000,000 or Greater (As of 12/13/18)	AA- (As of 10/28/11)	Admitted
XL Insurance America Inc.	002423	A+, Superior; Financial Size Category 15; \$2,000,000,000 or Greater (As of 12/06/18)	AA- (As of 11/19/18)	Admitted
United Specialty Insurance Company	013105	A, Excellent; Financial Size Category 9; \$250,000,000 to 500,000,000 (As of 12/19/18)	Not Rated (As of 04/30/19)	Non-Admitted



ADMINISTRATIVE REPORT

Agenda Item I.10.

Meeting Date: 7/1/2019

Report Prepared by: Janet German, Secretary III, Fire Dept.

SUBJECT: Adoption of Resolution Authorizing the City Manager or His Designee to Sign a Letter of Commitment for a Multi-Jurisdictional Local Hazard Mitigation Planning (LHMP) Grant

REPORT IN BRIEF

Considers adopting a Resolution authorizing the City Manager or his Designee to sign a LHMP Letter of Commitment for a Multi-Jurisdictional LHMP Grant through the Merced County Operational Area (OA).

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-37**, A Resolution of the City Council of the City of Merced, California authorizing the City Manager or his Designee to sign a letter of commitment for the Merced County Multi-Jurisdictional Local Hazard Mitigation Planning grant.

ALTERNATIVES

1. Approve, as recommended by Staff; or,
2. Approve, subject to other than recommended by Staff; or,
3. Deny; or,
4. Refer to Staff for consideration of specific items; or,
5. Continue to a future meeting.

AUTHORITY

Charter of the City of Merced, Article II - Powers of City, Section 200 - Powers

Charter of the City of Merced, Article IV - City Council, Section 405 - Powers Vested in the City Council

CITY COUNCIL PRIORITIES

Public Safety as provided for in the 2019-20 Adopted Budget.

DISCUSSION

Background

As a result of 2018 California Wildfires in Butte, Los Angeles, and Ventura Counties, the President declared a major disaster (DR-4407) for the State of California pursuant to his authority under the T. Stafford Disaster Relief and Emergency Assistance Act. Through this declaration, grant program funds were made available under the Hazard Mitigation Grant Program, whereby the Federal

Emergency Management Agency (FEMA) became eligible to provide financial assistance for the State of California to implement mitigation measures to reduce the risk of life and property from future disasters during the recovery from the major disaster.

FEMA and the California Office of Emergency Services (CalOES) both encourage multi-jurisdictional planning for hazard mitigation. Such planning efforts require all participating jurisdictions to fully participate in the process and formally adopt the resulting planning document. For the Merced County Operational Area, a planning partnership (Multi-Hazard Mitigation Plan (HMP) was formed to leverage resources to meet requirements of the federal Disaster Mitigation Act (DMA) of 2000. The DMA also requires all local governments to create such a disaster plan in order to qualify for funding in the future and the County's HMP expires in September 2020.

The HMP identifies risks and ways to minimize damage by natural and manmade disasters. The plan is a comprehensive resource document that serves many purposes such as:

- Enhancing public awareness
- Creating a decision tool for management
- Promoting compliance with State and Federal program requirements
- Enhancing local policies for hazard mitigation capability, and
- Providing inter-jurisdictional coordination.

The federal DMA requires all local governments to create such a disaster plan in order to qualify for future funding and the HMP grant application process requires the OA to submit a formal request during the grant application request period along with a letter of commitment from each participating jurisdiction. Therefore, the City of Merced must submit the Letter of Commitment by July 5, 2019.

IMPACT ON CITY RESOURCES

There is no fiscal impact associated with this item. Should the City be successful in receiving a HMPG grant from the State through the County, and item will be brought to the Council for a budget adjustment. The local operational area requires a 25% local match, which may be met with staff time costs.

ATTACHMENTS

1. Merced County Hazard Mitigation Plan Grant Process
2. Resolution Authorizing Designated Signature Authority
3. Letter of Commitment

Merced County

Hazard Mitigation Plan Grant Process

The Multi-Hazard Mitigation Plan (HMP) is a countywide plan that identifies risks and ways to minimize damage by natural and manmade disasters. The plan is a comprehensive resource document that serves many purposes such as enhancing public awareness, creating a decision tool for management, promoting compliance with State and Federal program requirements, enhancing local policies for hazard mitigation capability, and providing inter-jurisdictional coordination.

The federal Disaster Mitigation Act of 2000 requires all local governments to create such a disaster plan in order to qualify for funding in the future.

Merced County currently has a Hazard Mitigation Plan in place which expires in September of 2020. There is grant funding available through FEMA and a soft contribution is required by the operational area. A soft match allows the use of salary's to individuals involved with the development of the plan. The FEMA HMP grant application process requires the OA to submit a formal request during the grant application request period along with a letter of commitment from each jurisdiction participating in the process. The grant application period is usually in the Spring, and if approved, notification will be in the Fall. The deadline for submission is July 5th, 2019.

Examples cover under the HMP

- Critical Facilities
- Dam Failure
- Earthquake
- Fire Threat
- Flammable Hazard
- Flood
- Liquefaction
- Population Growth
- Rain Induced
Landslide
- Communication
Infrastructure
- Transportation
Infrastructure

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AUTHORIZING THE CITY MANAGER OR
DESIGNEE TO SIGN A SUPPORT LETTER FOR
THE MERCED COUNTY MULTI-
JURISDICTIONAL LOCAL HAZARD
MITIGATION PLANNING PROCESS**

WHEREAS, the City of Merced (“City”) currently participates in hazard mitigation with the Federal Emergency Management Agency (“FEMA”), Merced County, as well as several other jurisdictions; and,

WHEREAS, Merced County is making an application to FEMA for a grant for Multi-Jurisdictional Multi-Hazard Mitigation Planning;

WHEREAS, City desires to sign a letter of support (Exhibit A) and commits to engage in the FEMA planning process for Multi-Jurisdictional Multi-Hazard Mitigation Planning.

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

SECTION 1. PARTICIPATION. The City will participate along with FEMA and Merced County in the planning process for Multi-Jurisdictional Multi-Hazard Mitigation Planning.

SECTION 2. AUTHORIZATION TO SUPPORT LETTER AGREEMENT. The City Manager or designee is hereby authorized to sign the letter, as shown in Exhibit A, declaring the City’s support of the Multi-Jurisdictional Multi-Hazard Mitigation Planning process.

SECTION 3. SEVERABILITY CLAUSE. If any part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution and all provisions, clauses, and words of this Resolution shall be severable.

SECTION 4. EFFECTIVE DATE. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2019, 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:

Shuecha A. Nith 6-25-19
City Attorney Date

CITY OF MERCED

"Gateway to Yosemite"



LETTER OF COMMITMENT (FOR MULTI-JURISDICTIONAL LOCAL HAZARD MITIGATION PLANS)

July 1, 2019

**California Governor's Office of Emergency
Services**
Hazard Mitigation Grant Program
3650 Schriever Avenue

RE: Letter of Commitment as Participating Jurisdiction in Merced County Multi-jurisdictional Hazard Mitigation Planning

Dear State Hazard Mitigation Officer:

As the Federal Emergency Management Agency's (FEMA) Local Mitigation Plan requirements under 44 CFR §201.6 specifically identify criteria that allow for multi-jurisdictional mitigation plans and that many issues are better resolved by evaluating hazards more comprehensively by coordinating at the county, regional, or watershed level, the City of Merced is submitting this letter of commitment to confirm that City of Merced has agreed to participate in the Merced County Multi-jurisdictional Hazard Mitigation Planning.

Furthermore, as a condition of participation in the mitigation planning, City of Merced, agrees to meet the requirements for mitigation plans identified in 44 CFR §201.6 and to provide such cooperation as is necessary and in a timely manner to the Merced County to complete the plan in conformance with FEMA requirements.

City of Merced understands that it must engage in the following planning process, as more fully described in FEMA's Local Mitigation Planning Handbook, including, but not limited to:

- Identification of hazards unique to the jurisdiction and not addressed in the master planning document;
- The conduct of a vulnerability analysis and an identification of risks, where they differ from the general planning area;
- The formulation of mitigation goals responsive to public input and development of mitigation actions complementary to those goals. A range of actions must be identified specific for each jurisdiction. ;
- Demonstration that there has been proactively offered an opportunity for participation in the planning process by all community stakeholders (examples of participation include relevant involvement in any

planning process, attending meetings, contributing research, data, or other information, commenting on drafts of the plan, etc.); and

- Documentation of an effective process to maintain and implement the plan; and,
- Formal adoption of the Multi-jurisdictional Hazard Mitigation Plan by the jurisdiction's governing body (each jurisdiction must officially adopt the plan).

Therefore, with a full understanding of the obligations incurred by participating in the FEMA hazard mitigation planning process as a participant in a multi-jurisdictional plan; I Steve Carrigan, commit City of Merced to the Merced County Multi-jurisdictional Hazard Mitigation Planning effort.

This document is executed this 1st day of July, 2019.

Please contact Fire Chief Billy Alcorn at (209) 388-8541 and/or alcornb@cityofmerced.org with questions.

Sincerely,

Steve Carrigan
City Manager
(209) 385-6834 Office
(209) 723-1780 fax
carrigans@cityofmerced.org



ADMINISTRATIVE REPORT

Agenda Item I.11.

Meeting Date: 7/1/2019

Report Prepared by: Jamie Wright, IT Manager, Information Technology

SUBJECT: Approval of Agreement for Professional Services for a One Year Term with THOR, Inc. for AS/400 Programming Consulting Services in the Amount of \$178,000

REPORT IN BRIEF

Authorizes the execution of a one-year professional services agreement with THOR, Inc. for \$178,000 for AS/400 programming consulting services to support Central Square (formally Sungard) application suite.

RECOMMENDATION

City Council - Adopt a motion approving professional services agreement with THOR, Inc.; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget

DISCUSSION

The Information Technology Department had two staff members retire several years ago. These two employees supported the City's Central Square (formally SunGard) software suite. This software suite was developed in RPG, a technology created in the late 1960's which requires a very specific and unique skillset. The IT Department does not currently employ anyone who possesses these skills. All recruitment efforts have failed to produce applicants with these unique skills. As the professional community of people who support this antiquated technology is currently experiencing mass gentrification, it has become prudent to move away from this aging technology.

The Central Square software suite is a vital technology to the City for the past 30 years. The suite runs critical business operations, including GMBA, building permits, business licenses, utility billing, payroll, and more. Since the suite was first implemented in the City, the retired staff members

modified existing programs provided by Central Square to fit the business needs and workflows of the departments.

The City is currently in the procurement process via RFP for a replacement ERP system. Until the new system is implemented for all departments support for the AS/400 system will need to continue. The support will decrease in future years as we continue to replace Central Square modules and move to the new system.

Currently the City uses THOR, Inc. to support these custom modifications to the Central Square software suite. THOR, Inc. is a professional staffing agency, which specializes in this type of older technology. We have utilized a THOR employee that was formally a programmer for Central Square (formally SunGard) through the 1990's. This contract will allow the City to continue to utilize this person on a time-and-material basis of \$110/hour to support our modified Central Square software suite. We have used this contractor for three (3) years to support our systems and this contractor has proven to be professional, courteous, and responsive to our business needs.

IMPACT ON CITY RESOURCES

Funding is available within Fund 672 of the Proposed FY2019-20 budget.

ATTACHMENTS

1. THOR Master Services Agreement
2. THOR Services Agreement Consultant Attachment



CLIENT SERVICES MASTER AGREEMENT

(Time and Materials)

Client # 437414
Client Purchase Order#:
Master Agreement #:
Date: 4/9/2019

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

Client: City of Merced
Address: 678 W. 18th St
Merced, CA 95340

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

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

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

Standard Terms and Conditions

1. Client Fees and Conditions:

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

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

4/9/19 2:07 PM

Initials:
Date:

THOR's Initials: *DAL*
Date: 4/9/2019

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

3. Confidentiality:

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

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

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

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

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

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

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

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

7. Hiring of Consultant:

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

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

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

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

9. Miscellaneous:

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

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

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

d) Waiver: Any waiver of a provision of this Agreement must be in writing signed by the party waiving its rights and shall apply only in the specific instance and for the specific purpose given. The giving of a waiver in one instance or for one purpose shall not create any implied obligation to give a waiver in another instance or for another purpose.

e) Headings: The headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision of this Agreement.

f) Severability; Enforceability: If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision shall not be affected thereby.

g) Applicable Law: This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California (other than principles of conflict of laws). No provision of this Agreement shall be construed against any party by reason of that party having drafted the same.

h) Attorney's Fees: In the event of any dispute among the parties hereto relating to the subject matter of this Agreement, the out-of-pocket costs and reasonable attorney's fees of the prevailing party shall be paid by the other party in addition to any other relief.

i) Arbitration: Any equitable relief sought by either party hereto (including injunctive relief) for breach of this Agreement by the other party hereto may be sought by judicial action in a court of competent jurisdiction. Except as set forth in the preceding sentence, any dispute, controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration held in Merced, CA before one (1) arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association then existing, and judgment on the arbitration may be entered in any court having jurisdiction over the subject matter of the controversy. The arbitrator shall not have the power to amend or modify this Agreement. If Client has any dispute, claim, or controversy relating to this Agreement, then Client must notify TGI in writing of such dispute, claim, or controversy within fourteen (14) days after the completion of the Scope of Work or the termination of this Agreement (whichever is earlier), and any such dispute, claim or controversy which is not so presented is barred and waived.

j) Not an Agent: The parties hereto understand and agree that this Agreement does not make either party hereto an agent or legal representative of the other party hereto for any purpose whatsoever. Consultant does not have, by this Agreement or otherwise, any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of TGI or Client or to bind TGI or Client in any manner whatsoever. Both parties expressly acknowledge that Consultant is retained by TGI and not by Client, and that the parties hereto are not partners or joint ventures.

k) Notices: All notices and other communications required under this Agreement shall be in writing and shall be sufficient in all respects if personally delivered or sent by registered or certified mail, postage prepaid, or by telecopy (with confirmed receipt), and addressed to the parties at the addresses first listed above. Any notice shall be deemed to have been delivered on the earlier of actual receipt or seventy-two (72) hours after the date it was mailed in the manner described above. Any party may change its address by a notice given to the other party in the manner set forth above.

l) Expenses: Each party hereto will bear its own expenses incurred in connection with entering into this Agreement, unless otherwise agreed to.

m) When requested by the Government, Consultants must show proof of a physical exam, Immunization Record or TITER lab results. Cost incurred for these requirements is the responsibility of TGI.

Date: April 9, 2019

Date:

THOR, INC.
California Corporation
TGI

Client: City of Merced

By: 
(Signature)

By:
(Signature)


Omar A. Lupercio
(Printed Name)

(Printed Name)

Thor Contract Administrator
(Title)

(Title)

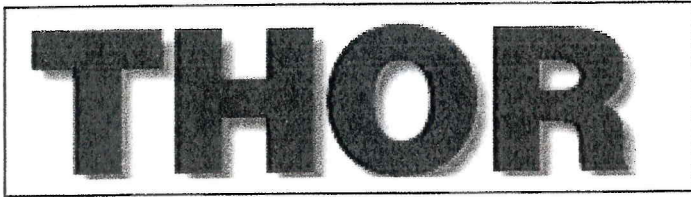
APPROVED AS TO FORM:


KELLY C. FINCHER
Chief Deputy City Attorney

4/9/19 2:07 PM

Initials:
Date:

THOR's Initials: OAL
Date: 4/9/2019



Client #: 437414
Client Purchase Order #:
Master Agreement #
Job Order # 31515
Date: April 9, 2019

Client Services Agreement Consultant Attachment

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

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

Client: City of Merced
678 W 18th St
Merced, CA 95340

- a. Contractors Name: Ms. Elizabeth Berg
- b. Scope of Work: Assistance with Sungard Naviline System
- c. Under the Direction of: Mr. Jeff Bennyhoff, Director of IT
- d. Approximate Start Date: 7-1-19
- e. Approximate Length of Assignment: 1 year
- f. Standard Service Bill Rate: \$110/hour
- g. Overtime Service Bill Rate: \$110/hour
- h. Double-time Service Bill Rate: \$110/hour
- i. Travel Expense: Client agrees to pay airfare, hotel, rental car and per diem when consultant is required to be onsite.
- j. Special Instructions: Upon execution of this THOR Client Services Master Agreement and Client Services Agreement Consultant Attachment, Thor suggests the execution of Task Vetting and Support Guidelines with City of Merced as well as cover how City of Merced will use the Consultant Verification Record management tool. The twelve (12) month total billing from July 1, 2019 to June 30, 2020 for this assignment is not to exceed \$178,000 without prior approval from both THOR and Client.

Signatures:

Authorized Client Representative

Signature

Name

Title

Date

THOR, INC. Representative

Signature

Omar A. Lupercio

Name

Thor Contract Administrator

Title

April 9, 2019

Date



ADMINISTRATIVE REPORT

Agenda Item I.12.

Meeting Date: 7/1/2019

Report Prepared by: John Cardoza, Software Analyst, Information Technology

SUBJECT: Approval of a Five Year Software Maintenance Contract with Superion for Support and Hosting of the Current Enterprise Resource Planning System in the Amount of \$858,910.40 with Provisions to Reduce Costs by Completing an Annual Review of Modules Migrated to the New Enterprise Resource Planning System

REPORT IN BRIEF

Authorize the execution of a five year software maintenance contract with Superion for support and hosting of the current enterprise resource planning software in the amount of \$858,910.40 with provisions to reduce costs by completing an annual review of modules migrated to the new enterprise resource planning system.

RECOMMENDATION

City Council - Adopt a motion approving the agreement with Superion and authorizing the City Manager or the Assistant City Manager to execute the necessary documents including future contract amendments for cancelling select modules to reduce future maintenance and hosting costs; as well as future professional services contract amendments with Superion below the bid threshold as required.

ALTERNATIVES

1. Authorize agreement as recommended by IT Department: or,
2. Refer to staff for further evaluation: or,
3. Deny.

AUTHORITY

Charter of the City of Merced, Section 200

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget

DISCUSSION

The City currently used an entire suite of integrated software applications provided by Superion to carry out business functions for the City. These software suites are commonly referred to as an (ERP) Enterprise Resource Planning systems. The Superion enterprise resource planning (ERP) system was built on main frame style technology that was developed in the 1960s and for the past 30 years it has run many of the City's critical business operations, including payroll, utility billing, GMBA,

business licenses, building permits, Work Orders, and more. In 2014 the City transitioned from running our own mainframe style hardware and in-house staff to contracted services with Superior for them to own the hardware and provide part of the staffing to support the ERP system. This is commonly referred to as cloud commuting. The contract signed in 2014 is ending and needs to be renewed to maintain our service through Superior. Without the renewal of the contract all City services that utilized the Superior owned mainframe and software will cease to function.

In addition we are seeking authority for the City Manager and Assistant City Manager to have signing authority for any amendments to the contract for professional services not to exceed the current bid threshold. During the length of the previous contract several law changes required modifications to the ERP system to follow the new regulatory compliance requirements. Additional professional services may be required during the duration of the new contract for any future regulatory compliance changes or any updates necessary for completing the new ERP system migration. An example of a previous modification due to regulatory compliance was for the Affordable Care Act of 2010 required changes to the payroll module to accommodate the new (ACA) requirements for processing and printing of checks for a total cost of \$800.00.

In Fiscal year 2017/2018 the City published an RFP to replace the Superior ERP system. The City is working through a proof of capability demonstration with the top three proposals. Once a final vendor has been selected and negotiations have been complete the contract for the ERP system will be brought to the City Council for approval. It is anticipated based upon best practices and the RFP responses to take between three and five years to transition from the current Superior ERP to the new ERP vendor selected. During this transition period the City will need to maintain the current Superior ERP system while implementing the new ERP system. The City negotiated terms in the contract to allow the City to cancel module (software programs) at each anniversary of the 5 year contract. This will allow the City to reduce the cost of the Superior contract while the City transitions to the new ERP system over the coming years. The pricing for each module is shown in the chart below.

Application	Qty	Year 1	Year 2	Year 3	Year 4	Year 5
ASP-Navi-Payroll/Personnel	1	\$11,934.00	\$12,292.02	\$12,660.78	\$13,040.60	\$13,431.82
ASP - Navi - Purchasing/Inventory	1	\$8,910.00	\$9,177.30	\$9,452.62	\$9,736.20	\$10,028.28
ASP - Navi - Work Orders/Facility Management	1	\$9,774.00	\$10,067.22	\$10,369.24	\$10,680.31	\$11,000.72
ASP - Navi Asset Management	1	\$4,482.00	\$4,616.46	\$4,754.95	\$4,897.60	\$5,044.53
ASP - Navi-Building Permits	1	\$8,991.00	\$9,260.73	\$9,538.55	\$9,824.71	\$10,119.45
ASP - Navi-Code Enforcement	1	\$2,763.00	\$2,845.89	\$2,931.27	\$3,019.20	\$3,109.78
ASP - Navi-DMS	1	\$1,827.00	\$1,881.81	\$1,938.26	\$1,996.41	\$2,056.30
ASP - Navi-Land Management	1	\$8,109.00	\$8,352.27	\$8,602.84	\$8,860.92	\$9,126.75
ASP - Procurement Card Tracking	1	\$2,853.00	\$2,938.59	\$3,026.75	\$3,117.55	\$3,211.08
ASP - Rec Trac I/F to GMBA	1	\$324.00	\$333.72	\$343.73	\$354.04	\$364.66

ASP CIS/Voice Response Interface - Selectron	1	\$2,781.00	\$2,864.43	\$2,950.36	\$3,038.87	\$3,130.04
ASP Credit Card Interface - Selectron	1	\$1,098.00	\$1,130.94	\$1,164.87	\$1,199.81	\$1,235.81
ASP Delinquency Callout Listing Interface Selectron	1	\$1,098.00	\$1,130.94	\$1,164.87	\$1,199.81	\$1,235.81
NaviLine Click2Gov3 - Employee Self Service	1	\$4,914.00	\$5,061.42	\$5,213.26	\$5,369.66	\$5,530.75
ASP - Cognos BI: Base Bundle Multi Data Source	1	\$8,726.40	\$8,988.19	\$9,257.84	\$9,535.57	\$9,821.64
ASP - Cognos BI: User Bundle	1	\$1,980.00	\$2,039.40	\$2,100.58	\$2,163.60	\$2,228.51
ASP - Navi - Cash Receipts	1	\$3,456.00	\$3,559.68	\$3,666.47	\$3,776.46	\$3,889.76
ASP - BP/Voice Response Interface - Selectron	1	\$2,781.00	\$2,864.43	\$2,950.36	\$3,038.87	\$3,130.04
ASP - Click2Gov Building Permits	1	\$3,780.00	\$3,893.40	\$4,010.20	\$4,130.51	\$4,254.42
ASP - Click2Gov CIS	1	\$5,220.00	\$5,376.60	\$5,537.90	\$5,704.03	\$5,875.16
ASP - Click2Gov Core Module	1	\$2,664.00	\$2,743.92	\$2,826.24	\$2,911.02	\$2,998.36
ASP - Navi - Accounts Receivable	1	\$5,382.00	\$5,543.46	\$5,709.76	\$5,881.06	\$6,057.49
ASP - Navi - Customer Information System	1	\$15,125.30	\$15,579.06	\$16,046.43	\$16,527.82	\$17,023.66
ASP - Navi - Fleet Management	1	\$10,422.00	\$10,734.66	\$11,056.70	\$11,388.40	\$11,730.05
ASP - Navi - GMBA	1	\$14,895.00	\$15,341.85	\$15,802.11	\$16,276.17	\$16,764.45
ASP - Navi - Occupational Licenses	1	\$5,490.00	\$5,654.70	\$5,824.34	\$5,999.07	\$6,179.04
Test Environment (Request to put it as "Known as 3rd Environment")	1	\$12,000.00	\$12,360.00	\$12,730.80	\$13,112.72	\$13,506.11
Additional Refreshes Per Year (4) per test environment (2-test environments)	1	Incl above	Incl above	Incl above	Incl above	Incl above
Annual Access Fee		\$161,779.70	\$166,633.09	\$171,632.08	\$176,781.05	\$182,084.48
ASP - SunGard Transaction Managers - Billed Monthly per transaction						
					5 Year Total	\$858,910.40

IMPACT ON CITY RESOURCES

There is funding in the adopted fiscal year 19/20 budget.

672-0403-512-2400 \$161,779.70

ATTACHMENTS

1. Superior Annual Service Maintenance Agreement



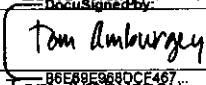
Solutions Agreement

This Solutions Agreement (the "**Agreement**"), effective as of the latest date shown on the signature block below (the "**Effective Date**"), is entered into between Superior LLC, a Delaware Limited Liability Company ("**Superion**") and City of Merced, CA ("**Customer**"), together with Superior, the "**Parties**", and each, a "**Party**".

WHEREAS, Superior licenses and provides access to software applications ("**Solutions**") for its customers and also provides maintenance, support, migration, installation and other professional services; and

WHEREAS, Customer desires to license and/or gain access to certain Solutions and/or receive professional services described herein, and Superior desires to grant and provide Customer license and access to such offerings as well as to support them with professional services, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by the signatures of their duly authorized representative below, the Parties intending to be legally bound, agree to all of the following provisions and exhibits of this Agreement:

1000 Business Center Dr. Lake Mary, FL 32746		678 West 18 th Street Merced, CA 95344	
By:		By:	
Print Name:	Tom Amburgey	Print Name:	
Print Title:	General Manager	Print Title:	
Date Signed:	April 10, 2019	Date Signed:	

1. Solution: Public Administration ASP

2. Term.

- 2.1. **Initial Term.** The Initial Term of this Agreement commences July 1, 2019 and will continue in effect for per the Project Cost Summary (Exhibit 1) unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").
- 2.2. **Renewal Term.** This Agreement will automatically renew for additional successive one (1) year terms unless earlier terminated pursuant to any of the Agreement's provisions (a "**Renewal Term**" and, collectively, with the Initial Term, the "**Term**").
- 2.3. **Non-Renewal.** Either party may elect to end renewal of the contract by issuing a notice of non-renewal, in writing, to the other party ninety (90) days prior to the expiration of the current contract term.
- 2.4. **Product Removal.** Customer may elect to terminate specific solutions by delivering written notice to Superior or completing a change order, sixty (60) days prior to the expiration of the current contract term."

3. Fees.

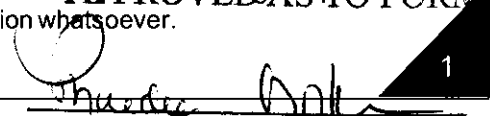
In consideration of the rights and services granted by Superior to Customer under this Agreement, Customer shall make payments to Superior pursuant to the amounts and payment terms outlined in Exhibit 1 (the "**Project Cost Summary**").

4. Definitions.

Capitalized terms not otherwise defined in this Agreement have the meanings set forth below:

- 4.1. "**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity, or otherwise.
- 4.2. "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.
- 4.3. "**Authorized User**" means Customer's employees, consultants, contractors, and agents who are authorized by Customer to access and use the Solutions under the rights granted to Customer pursuant to this Agreement, and for whom access to the Solutions has been purchased.
- 4.4. "**Baseline**" means the version of a Solution updated to the particular time in question through Superior's warranty services and maintenance, but without any other modification whatsoever.

APPROVED AS TO FORM



- 4.5. **"Component System"** means any one of the Solutions identified in Exhibit 1, including all copies of Source Code, Object Code and all related specifications, Documentation, technical information, and all corrections, modifications, additions, development work, improvements and enhancements to and all Intellectual Property Rights for such Component System.
- 4.6. **"Customer Data"** means information, data, and content, in any form or medium, collected, downloaded, or otherwise received, directly or indirectly from Customer, an Authorized User or end-users by or through the Solutions, provided the data is not personally identifiable and not identifiable to Customer.
- 4.7. **"Custom Modification"** means a change that Superior has made at Customer's request to any Component System in accordance with a Superior-generated specification, but without any other changes whatsoever by any Person.
- 4.8. **"Customer Systems"** means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated by Customer or through the use of third-party services.
- 4.9. **"Defect"** means a material deviation between the Baseline Solution and its Documentation, for which Defect Customer has given Superior enough information to enable Superior to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under Superior's control. Further, with regard to each Custom Modification, Defect means a material deviation between the Custom Modification and the Superior-generated specification and documentation for such Custom Modification, and for which Defect Customer has given Superior enough information to enable Superior to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under Superior's control.
- 4.10. **"Documentation"** means any manuals, instructions, or other documents or materials that Superior provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Solutions, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
- 4.11. **"Enhancements"** means general release (as opposed to custom) changes to a Baseline Component System or Custom Modification which increase the functionality of the Baseline Component System or Custom Modification in question.
- 4.12. **"Harmful Code"** means any software, hardware, device or other technology, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Solutions as intended by this Agreement.
- 4.13. **"Intellectual Property Rights"** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- 4.14. **"Maintenance"** means optimization, error correction, modifications, and updates to Vendor Systems to correct any known Defects and improve performance. Maintenance will be provided for each Component System, the hours and details of which are described in Exhibit 2 ("**Support Standards**").
- 4.15. **"New Releases"** means new editions of a Baseline Component System or Custom Modification.
- 4.16. **"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.
- 4.17. **"Personal Information"** means any information that does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996, "Personal Data" as defined in the EU General Data Protection Regulation (GDPR 2018), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.
- 4.18. **"Professional Services"** means installation, implementation, development work, training or consulting services including custom modification programming, support relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by Superior.



- 4.19. **"Representatives"** means, with respect to a party, that party's employees, officers, directors, agents, subcontractors, and legal advisors.
- 4.20. **"Superior Personnel"** means all individuals involved in the performance of Support Services and Professional Services as employees, agents, Subcontractors or independent contractors of Superior.
- 4.21. **"Solution(s)"** means the Component Systems, Documentation, Custom Modifications, development work, Vendor Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, provided or used by Superior or any Subcontractor in connection with Professional Services or Support Services rendered under this Agreement.
- 4.22. **"Vendor Systems"** means the information technology infrastructure used by or on behalf of Superior to deliver Solutions, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Superior or through the use of third-party services.
- 4.23. **"Support Services"** means Maintenance, Enhancements, implementation of New Releases, and general support efforts to respond to incidents reported by Customer in accordance with the detailed Support Standards outlined in Exhibit 2.
- 4.24. **"Third-Party Materials"** means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, related services, equipment, or components of or relating to the Solutions that are not proprietary to Superior.

5. License, Access & Services.

- 5.1. License Grant. Subject to and conditioned on the payment of Fees and compliance with all other terms and conditions of this Agreement, Superior hereby grants to Customer a non-exclusive, non-sublicenseable, and non-transferable license to the Solutions outlined in Exhibit 1 at the time of this Agreement's execution.
- 5.2. Access and Scope of Use. Subject to and conditioned on Customer and their Authorized Users' compliance with the terms and conditions of this Agreement, Superior hereby grants Customer a non-exclusive, non-transferable right to access and use the Solutions, solely by Authorized Users. Such use is limited to Customer's internal use.
- 5.3. Delivery. Superior shall deliver by (a) electronic delivery, by posting it on Superior's network for downloading, or similar suitable electronic file transfer method, or (b) physical shipment, such as on a disc or other suitable media transfer method. Physical shipment is on FOB-Superior's shipping point (except with respect to Third-Party Materials, which are FOB-applicable third party shipping point), and electronic delivery is deemed effective at the time Superior provides Customer with access to download the Solutions. The date of such delivery shall be referred to as the **"Delivery Date."**
- 5.4. Documentation License. Superior hereby grants to Customer a non-exclusive, non-sublicenseable, non-transferable license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Solutions.
- 5.5. Service and System Control. Except as otherwise expressly provided in this Agreement:
 - 5.5.1. Superior has and will retain sole control over the operation, provision, maintenance, and management of the Solutions; and
 - 5.5.2. Customer has and will retain sole control over the operation, maintenance, and management of, and all access to and use of, the Customer Systems, and sole responsibility for access to and use of the Solutions by any Person by or through the Customer Systems or other means controlled by Customer or any Authorized User, including any reports or results obtained from any use of the Solutions, and conclusions, decisions, or actions based on such use.
- 5.6. Limitations. Customer must provide Superior with such facilities, equipment and support as are reasonably necessary for Superior to perform its obligations herein, including if required, remote access to Customer Systems. Superior is not responsible or liable for delay or failure of performance caused in whole or in part by Customer delay or Customer's failure to perform any obligations under this Agreement.
- 5.7. Exceptions. Superior has no obligation to provide Support Services relating to any Defect with the Solutions that, in whole or in part, arise out of or result from any of the following:
 - 5.7.1. software, or media on which provided, that is modified or damaged by Customer or third party;



- 5.7.2. any operation or use of, or other activity relating to, the Solutions other than as specified in the Documentation, including any incorporation, or combination, operation or use of the Solutions in or with, any technology (software, hardware, firmware, system, or network) or service not specified for Customer's use in the Documentation;
- 5.7.3. any negligence, abuse, misapplication, or misuse of the Solutions other than by Superior personnel, including any Customer use of the Solutions other than as specified in the Documentation or expressly authorized in writing by Superior;
- 5.7.4. the operation of, or access to, Customer's or a third party's system, materials or network;
- 5.7.5. any relocation of the Solutions other than by Superior personnel;
- 5.7.6. any beta software, software that Superior makes available for testing or demonstration purposes, temporary software modules, or software for which Superior does not receive a fee;
- 5.7.7. any breach of or noncompliance with any provision of this Agreement by Customer or any of its Representatives or any Force Majeure Event (including abnormal physical or electrical stress).
- 5.8. **Reservation of Rights.** Except for the specified rights outlined in this Section, nothing in this Agreement grants any right, title, or interest in or to any Intellectual Property Rights in or relating to the Support Services, Professional Services, Solutions, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in the Solutions, and the Third-Party Materials are and will remain with Superior and the respective rights holders.
- 5.9. **Changes.** Superior reserves the right, in its sole discretion, to make any changes to the Support Services and Solutions that it deems necessary or useful to: (a) maintain or enhance the quality or delivery of Superior's services to its customers, the competitive strength of or market for Superior's services, or the Support Services' cost efficiency or performance; or (b) to comply with applicable law. Without limiting the foregoing, either party may, at any time during the Term, request in writing changes to particular Support Services, Professional Services or their product suite of Solutions. The parties shall evaluate and, if agreed, implement all such requested changes. No requested changes will be effective unless and until memorialized in either a Superior issued Add-On Quote signed by the Customer, or a written change order or amendment to this agreement signed by both parties.
- 5.10. **Subcontractors.** Superior may from time to time in its discretion engage third parties to perform Professional Services or Support Services (each, a "**Subcontractor**").
- 5.11. **Security Measures.** The Solutions may contain technological measures designed to prevent unauthorized or illegal use of the Solutions. Customer acknowledges and agrees that: (a) Superior may use these and other lawful measures to verify compliance with the terms of this Agreement and enforce Superior's rights, including all Intellectual Property Rights, in and to the Solutions; (b) Superior may deny any individual access to and/or use of the Solutions if Superior, in its reasonable discretion, believes that person's use of the Solutions would violate any provision of this Agreement, regardless of whether Customer designated that person as an Authorized User; and (c) Superior may collect, maintain, process, use and disclose technical, diagnostic and related non-identifiable data gathered periodically which may lead to improvements in the performance and security of the Solutions.
- 6. **Use Restrictions.** Customer shall not, and shall not permit any other Person to, access or use the Solutions except as expressly permitted by this Agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:
 - 6.1. copy, modify, or create derivative works or improvements of the Solutions, or rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Solutions to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
 - 6.2. reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Solutions, in whole or in part;
 - 6.3. bypass or breach any security device or protection used by Solutions or access or use the Solutions other than by an Authorized User through the use of his or her own then valid access;



- 6.4. input, upload, transmit, or otherwise provide to or through the Vendor Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- 6.5. damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Vendor Systems, or Superior's provision of services to any third party, in whole or in part;
- 6.6. remove, delete, alter, or obscure any trademarks, Specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Documentation or Solutions, including any copy thereof;
- 6.7. access or use the Solutions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party, or that violates any applicable law;
- 6.8. access or use the Solutions for purposes of competitive analysis of the Solutions, the development, provision, or use of a competing software service or product or any other purpose that is to Superior's detriment or commercial disadvantage or otherwise access or use the Solutions beyond the scope of the authorization granted under this Section.

7. Customer Obligations.

- 7.1. Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair all Customer Systems on or through which the Solutions are accessed or used; (b) provide Superior Personnel with such access to Customer's premises and Customer Systems as is necessary for Superior to perform the Support Services in accordance with the Support Standards and Specifications; and (c) provide all cooperation as Superior may reasonably request to enable Superior to exercise its rights and perform its obligations under and in connection with this Agreement.
- 7.2. Effect of Customer Failure or Delay. Superior is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement.
- 7.3. Corrective Action and Notice. If Customer becomes aware of actual or threatened activity prohibited by Section 6, Customer shall, and cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Solutions and permanently erasing from their systems and destroying any data to which any of them gained unauthorized access); and (b) notify Superior of any such actual or threatened activity.

8. Professional Services.

- 8.1. Compliance with Customer Policies. While Superior Personnel are performing services at Customer's site, Superior will ensure that such personnel comply with Customer's reasonable security procedures and site policies that are generally applicable to Customer's other suppliers providing similar services and that have been provided to Superior in writing or in advance. Customer shall promptly reimburse Superior for any out-of-pocket costs incurred in complying with such procedures and policies.
- 8.2. Contributed Material. In the process of Superior's performing Professional Services, Customer may, from time to time, provide Superior with designs, plans, or specifications, improvements, works or other material for inclusion in, or making modifications to, the Solutions, the Documentation or any other deliverables ("**Contributed Material**"). Customer grants to Superior a nonexclusive, irrevocable, perpetual, transferable right, without the payment of any royalties or other compensation of any kind and without the right of attribution, for Superior, Superior's Affiliates and Superior's licensees to make, use, sell and create derivative works of the Contributed Material.

9. Confidentiality.

- 9.1. Confidential Information. "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations. Without limiting the foregoing, Confidential Information of Superior includes the Solutions, all software provided with the Solutions, algorithms, methods, techniques, and processes revealed by the Source Code of the Solutions and any software provided with the Solutions. In connection with this Agreement each party (as the "**Disclosing Party**") may disclose or make available Confidential Information to the other party (as the "**Receiving Party**").
- 9.2. Exclusions. Confidential Information does not include information that: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to being disclosed or made available to the



Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was or is independently developed by the Receiving Party without reference or use of any Confidential Information.

9.3. **Protection of Confidential Information.** As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

- 9.3.1. not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;
- 9.3.2. not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section; and (iii) are bound by written confidentiality or restricted use obligations at least as protective of the Confidential Information as the terms in this Section;
- 9.3.3. safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care;
- 9.3.4. ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section.

9.4. **Compelled Disclosures.** If the either Party or any of its Representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by law, that Party shall: (a) promptly, and prior to such disclosure, notify the other Party in writing of such requirement so that they can seek a protective order or other remedy or waive its rights under Section .3; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.

9.5. **Trade Secrets.** Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Section with respect to any Confidential Information that constitutes a trade secret under any applicable law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

10. Security.

- 10.1. Superion will implement commercially reasonable administrative, technical and physical safeguards designed to ensure the security and confidentiality of Customer Data, protect against any anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access or use of Customer Data. Superion will review and test such safeguards on no less than an annual basis.
- 10.2. Customer shall maintain, in connection with the operation or use of the Solutions, adequate technical and procedural access controls and system security requirements and devices necessary for data privacy, confidentiality, integrity, authorization, authentication, non-repudiation, virus detection and eradication.
- 10.3. To the extent that Authorized Users are permitted to have access to the Solutions, Customer shall maintain reasonable procedures with such Authorized Users that adequately protect the confidentiality and Intellectual Property Rights of Superion in the Solutions and Documentation, and disclaim any liability or responsibility of Superion with respect to such Authorized Users.

11. Personal Data.

If Superion processes or otherwise has access to any personal data or personal information on Customer's behalf when performing Superion's obligations under this Agreement, then:

- 11.1. Customer shall be the data controller (where "data controller" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and Superion shall be a data processor (where "data processor" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own);



- 11.2. Customer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to Superion so that Superion may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on Customer's behalf, which may include Superion processing and transferring the relevant personal data or personal information outside the country where Customer and the Authorized Users are located in order for Superion to provide the Solutions and perform its other obligations under this Agreement; and
- 11.3. Superion shall process personal data and information only in accordance with lawful and reasonable instructions given by Customer and as set out in and in accordance with the terms of this Agreement; and
- 11.4. each party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the parties will cooperate to document these measures taken.

12. Representations and Warranties.

- 12.1. Software Warranty. Superion warrants to Customer that for a period of twelve (12) months from the Execution Date, the Solutions (as delivered to Customer by Superion and when properly used for the purpose and in the manner specifically authorized by this Agreement), will perform as described in the Documentation in all material respects, including being free from any viruses or Harmful Code.
- 12.2. Professional Services Representation and Warranty. Superion represents, warrants, and covenants to Customer that during the Term, Superion will perform Professional Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement. If Customer reasonably believes that any Professional Services were performed in violation of this warranty, it will notify Superion within ninety (90) days of service performance describing the issue, together with adequate supporting documentation and data. Upon receipt of such notice, Superion's obligation will be to re-perform the particular Professional Services affected as soon as commercially reasonable at no additional charge.
- 12.3. Support Services Representation and Warranty. Superion represents, warrants, and covenants to Customer that during the Term, Superion will perform the Support Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with both generally recognized industry standards for similar services, and the specific guidance for support found in Exhibit 2, and will devote adequate resources to meet its obligations under this Agreement. If Customer reasonably believes that any Support Services failed to meet this warranty, they will follow their preferred escalation path outlined in the Support Standards below, including receipt of service credit.
- 12.4. **DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH ABOVE, SUPERION MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO THE SOLUTIONS, PROFESSIONAL SERVICES, SUPPORT SERVICES, AND/OR ANY OTHER MATTER RELATING TO THIS AGREEMENT, AND THAT SUPERION DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER, INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND SPECIFICALLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. FURTHER, SUPERION EXPRESSLY DOES NOT WARRANT THAT ANY SOLUTIONS, ANY CUSTOM MODIFICATION OR ANY IMPROVEMENTS WILL BE USABLE BY CUSTOMER IF THE SOLUTIONS OR CUSTOM MODIFICATION HAS BEEN MODIFIED BY ANYONE OTHER THAN SUPERION PERSONNEL, OR WILL BE ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE TO THE EXTENT EXPRESSLY SET FORTH IN THE DOCUMENTATION. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS-IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER. THIS AGREEMENT DOES NOT AMEND, OR MODIFY SUPERION'S WARRANTIES UNDER ANY AGREEMENT OR ANY CONDITIONS, LIMITATIONS, OR RESTRICTIONS THEREOF.**



- 13. Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when delivered personally, sent by United States registered or certified mail, return receipt requested; transmitted by facsimile or email confirmed by United States first class mail, or sent by overnight courier. Notices must be sent to a Party at its address shown below, or to such other place as the Party may subsequently designate for its receipt of notices in writing by the other Party.

If to Superior:

Superior
1000 Business Center Dr.
Lake Mary, FL.
Phone: 407-304-3235 email: info@Superion.com
Attention: Contracts Department / General Counsel

If to Customer:

City of Merced
678 West 18th Street
Merced, CA 95344
Phone: 209-385-6227 Attention: John email: cardoza@cityofmerced.org
Cardoza

14. Force Majeure.

- 14.1. No Breach or Default. Neither Party will be liable to the other for any failure or delay in fulfilling or performing any term of this Agreement (except for any payment obligation) when and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control (a "**Force Majeure Event**"), including Acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, national or regional emergency, riot or other civil-unrest, labor disruption, acts and omissions of third parties, governmental and judicial action (including embargoes, export or import restrictions) not the fault of the Party failing or delaying in performance.
- 14.2. Affected Party Obligations. In the event of any failure or delay caused by a Force Majeure Event, the affected Party shall give prompt written notice to the other Party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

15. Mutual Indemnification.

- 15.1. Superior Indemnification. Superior shall indemnify, defend, and hold harmless Customer and Customer's officers, elected officials, directors, employees, agents, successors, and assigns from and against any and all losses incurred by or resulting from any Action by a third party (other than an Affiliate of Customer) that Customer's use of the Solutions in accordance with this Agreement infringes or misappropriates such third party's US Intellectual Property Rights, US patents, copyrights, or trade secrets. The foregoing obligation does not apply to the extent that the alleged infringement arises from:
- 15.1.1. Third-Party Materials or Customer Data;
 - 15.1.2. access to or use of the Solutions in combination with any hardware, system, software, network, or other materials or service not provided or specified for Customer's use in the Documentation;
 - 15.1.3. modification of the Solutions other than: by or on behalf of Superior or with Superior's written approval in accordance with Superior's written specification;
 - 15.1.4. failure to timely implement any modifications, upgrades, replacements, or enhancements made available to Customer by or on behalf of Superior; or
 - 15.1.5. act, omission, or other matter described in Section 15.2 below, whether or not the same results in any Action against or losses by any Superior Indemnitee.
- 15.2. Customer Indemnification. Customer shall indemnify, defend, and hold harmless Superior and its officers, directors, employees, agents, successors, and assigns from and against any and all losses incurred by Superior resulting from any Action by a third party (other than an Affiliate of Superior) that arise out of or result from, or are alleged to arise out of or result from:
- 15.2.1. Breach of the Parties Section 10 safeguards and security obligations attributable to Customer's Act or omissions;
 - 15.2.2. Gross negligence or more culpable act or omission (including recklessness or willful misconduct) by Customer, any Authorized User, or any third party on behalf of Customer or any Authorized User, in connection with this Agreement.



- 15.3. Procedure. Each party shall promptly notify the other party in writing of any Action for which such party believes it is entitled to be indemnified. The party seeking indemnification shall cooperate with the other party at that party's sole cost and expense. The indemnitor shall promptly assume control of the defense and shall employ counsel of its choice that is reasonably acceptable to the indemnitee to handle and defend the same.

16. Termination. This Agreement may be terminated:

- 16.1. For cause by either Party. By written notice to the other Party, if the other Party materially breaches this Agreement and: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach.
- 16.2. For lack of payment. By written notice to Customer, if Customer's failure to pay amounts due under this Agreement has continued more than ninety (90) days after delivery of written notice of non-payment.
- 16.3. Budgetary Appropriations. Superion acknowledges that continued performance and funding is dependent upon amounts being budgeted, appropriated, or otherwise legally available to the Customer in the future. Customer represents and warrants to Superion that it has appropriated sufficient funds due to Superion under this Agreement and hereby certifies that it will make appropriate requests for budget appropriations to meet continued obligations herein in subsequent fiscal years. If a funding or budgetary issue arises, Customer agrees to notify Superion as soon as commercially reasonable. If Superion and Customer cannot resolve the funding issue within ninety (90) days, the Agreement will terminate, with Customer to pay Superion any amounts owed for goods and services provided prior to termination of the Agreement.

17. Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

- 17.1. all rights, licenses, and authorizations granted to Customer hereunder will immediately terminate and Customer shall immediately cease all use of and other activities with respect to Superion's Confidential Information relating to the Solutions, and within thirty (30) days deliver to Superion, or at Superion's request destroy and erase Superion's Confidential Information from all systems Customer directly or indirectly controls; and
- 17.2. all licenses, access or subscription fees, services rendered but unpaid, and any amounts due by Customer to Superion of any kind are immediately payable and due no later than thirty (30) days after the effective date of the termination or expiration, including anything that accrues within those thirty days.
- 17.3. The provisions set forth in the following sections, and any other right or obligation of the parties in this Agreement that, by its nature (including but not limited to: Use Restrictions, Confidential Information, Warranty Disclaimers, Mutual Indemnifications & Limitations of Liability), should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement.
- 17.4. Return of Customer Data. If Customer requests in writing at least 10 days prior to the effective date of expiration or earlier termination of this Agreement, Superion shall within 60 days following such expiration or termination, deliver to Customer in Superion's standard format the then most recent version of Customer Data maintained by Superion, provided that Customer has at that time paid all Fees then outstanding and any amounts payable after or as a result of such expiration or termination.
- 17.5. Deconversion. In the event of (i) expiration or earlier termination of this Agreement, or (ii) Customer no longer purchasing certain Solutions (including those indicated to be Third-Party Materials), if Customer requests assistance in the transfer of Customer Data to a different vendor's applications ("**Deconversion**"), Superion will provide reasonable assistance. Superion and Customer will negotiate in good faith to establish the relative roles and responsibilities of Superion and Customer in effecting Deconversion, as well as the appropriate date for completion. Superion shall be entitled to receive compensation for any additional consultation, software and documentation required for Deconversion on a time and materials basis at Superion's then standard rates.

18. Assignment. Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without Superion's prior written consent, which consent Superion may give or withhold in its sole discretion. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganization involving Customer (regardless of whether Customer is a surviving or



disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Agreement for which Superior's prior written consent is required. No delegation or other transfer will relieve Customer of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this Section is void. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

19. **No Waiver.** A Party's failure to enforce its rights with respect to any single or continuing breach of this Agreement will not act as a waiver of the right of that Party to later enforce any such rights or to enforce any other or any subsequent breach.
20. **Arbitration of Disputes.** Any dispute, controversy or claim arising out of or relating to this Agreement, including the breach, termination, or validity thereof, shall be resolved by final and binding arbitration.
 - 20.1. **Arbitration Procedure.** The claimant shall commence the arbitration by delivering a notice of arbitration to the respondent setting out the nature of the claim(s), the relief requested, and the proposed location. Within thirty (30) days of the receipt of the notice, the respondent shall deliver its answer any counterclaim(s), relief requested, and any proposed change to location. The tribunal shall consist of three (3) arbitrators, appointed as follows: The claimant shall appoint an arbitrator in the request for arbitration and the respondent shall appoint an arbitrator in the answer. The two arbitrators so appointed shall, within thirty (30) days of delivery of the answer, appoint a third arbitrator who shall act as the chair of the tribunal. The tribunal shall decide the procedures in the arbitration after consultation with the parties. The tribunal may make its decisions by a majority. The tribunal shall have the power to grant any provisional or final remedy or relief it deems appropriate, including conservatory measures and an award of attorneys' fees. The parties agree that judgment may be entered upon the award by any court having jurisdiction.
21. **Jurisdiction and Governing Law.** This Agreement and any dispute or claim arising, directly or indirectly, out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and shall be construed and enforced in accordance with, the laws of the State of California excluding choice of law. Each party irrevocably (i) agrees that a Merced County, California, shall have exclusive jurisdiction to settle any dispute, controversy or claim arising, directly or indirectly, out of or in connection with this Agreement, or the breach, termination or validity thereof (including non-contractual disputes or claims) and that such court shall be the proper venue therefor; (ii) waives the right to trial by jury, (iii) consents to service of process by first class certified mail, return receipt requested, postage prepaid, to the address at which the party is to receive notice and (iv) agrees that the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and other legal expenses from the other party.
22. **Severability.** If any provision of this Agreement is illegal or unenforceable, it will be deemed stricken from the Agreement and the remaining provisions of the Agreement will remain in full force and effect.
23. **LIMITATIONS OF LIABILITY.**
 - 23.1. **LIMITED LIABILITY OF SUPERIOR.** SUPERIOR'S LIABILITY IN CONNECTION WITH THE SERVICES, IMPROVEMENTS OR ANY OTHER MATTER RELATING TO THIS AGREEMENT WILL NOT EXCEED THE FEES THAT CUSTOMER ACTUALLY PAID TO SUPERIOR IN CONNECTION WITH THIS AGREEMENT FOR THE INITIAL TERM OR RENEWAL TERM WHEN THE RELEVANT ACTIONS LEADING TO SUCH LIABILITY AROSE. IN ANY EVENT, SUPERIOR SHALL NOT BE LIABLE FOR ANY LOSSES RESULTING FROM THE CRIMINAL ACTS OF THIRD PARTIES.
 - 23.2. **EXCLUSION OF DAMAGES.** REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL SUPERIOR, SUPERIOR PERSONNEL, SUBCONTRACTORS OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY (I) LOSS OF DATA, BUSINESS, REVENUE, PROFIT, GOODWILL, OR REPUTATION, (II) BUSINESS INTERRUPTION, INCREASED COSTS, DIMINUTION IN VALUE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE; AND WHETHER OR NOT SUPERIOR, SUPERIOR PERSONNEL, SUBCONTRACTORS OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.
 - 23.3. **BASIS OF THE BARGAIN.** CUSTOMER ACKNOWLEDGES THAT SUPERIOR HAS SET ITS FEES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH IN THIS AGREEMENT, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.



- 24. Third-Party Materials.** Customer is hereby advised that Superior provides front-line support services for third parties, but these third parties assumes all responsibility for and liability in connection with the Third-Party Materials. Superior is not authorized to make any representations or warranties that are binding upon the third party or to engage in any other acts that are binding upon the third party, excepting specifically that Superior is authorized to represent the fees for the Third-Party Materials as the same is provided for in the Agreement and to accept payment of such amounts from Customer on behalf of the third party for as long as such third party authorizes Superior to do so. As a condition precedent to installing or accessing any Third-Party Materials, Customer may be required to execute a click-through, shrink-wrap EULA or similar agreement provided by the Third-Party Materials provider.
- 25. Entire Agreement; Amendment and Modification.** This Agreement contains the entire understanding of the parties with respect to its subject matter, and supersedes and extinguishes all prior oral and written communications between the parties about its subject matter. Any purchase order, agreement, or other ordering document issued by Customer at any time for any reason, will not modify or affect this Agreement nor have any other legal effect notwithstanding the inclusion of any additional or different terms or conditions in any such ordering document and shall serve only the purpose of identifying the products or services ordered. No modification of this Agreement will be effective unless it is in writing, is signed by each Party, and expressly provides that it amends this Agreement. Notwithstanding any language to the contrary herein, numbered Add-On Quotes on Superior letterhead issued by authorized Superior representatives and signed by Customer shall constitute an amendment to this Agreement.
- 26. No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.
- 27. Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.
- 28. Cooperative Purchases.** This Contract may be used by other government agencies. Superior has agreed to offer similar services to other agencies under the same terms and conditions as stated herein except that the compensation may be negotiated between Superior and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The Customer will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such agencies.
- 29. Incorporated Exhibits to this Agreement:**
- 29.1. Exhibit 1 – Project Cost Summary
 - 29.2. Exhibit 2 - Maintenance & Support Standards
 - 29.3. Exhibit 3 – Travel Expense Guidelines

**EXHIBIT 1****Project Cost Summary**

Annual Term	Annual Access Fees
July 1, 2019 - June 30, 2020	\$ 161,779.70
July 1, 2020 - June 30 2021	\$ 166,633.09
July 1, 2021 - June 30 2022	\$ 171,632.08
July 1, 2022 - June 30 2023	\$ 176,781.05
July 1, 2023 - June 30 2024	\$ 182,084.48

	Applications and/or Services	Annual Access Fee
Renewal Services		\$ 161,779.70
Existing NaviLine Products (Currently Licensed)	Customer Information System, Cash Receipts, CIS IVR Credit Card Interface-Selectron, Delinquency Call Out Listing Interface-Selectron, CIS Voice Response Interface-Selectron, Click2Gov Building Permits, Fixed Assets, P-Card, BP Voice Response Interface-Selectron, RecTrac Interface to GM, Document Management Services, Click2Gov Core, Click2Gov Customer Information System, Click2Gov Employee Self Service, Work Orders/Facility Management, Fleet Management, Code Enforcement, Business Licenses, Building Permits, Land/Parcel Mgmt, Payroll/Personnel, Accounts Receivable, Purchasing/Inventory, GMBA w/Extended Reporting, Transaction Manager, RecTrac for Cash Receipts	Included in Annual Access Fee
Terminating NaviLine Products Effective 6/30/19	Web Enablement, Work Order Interface, Imaging Interface Community	
Existing Third Party Products (Currently Licensed)	Cognos BI:Base Bundle Multi-Data Source, Cognos BI: User Bundle	Included in Annual Access Fee
Terminating Third Party Products Effective 6/30/19	GTG Looking Glass Viewer Work Orders Module ArcGIS Server Environment GTG Looking Glass - Centralized Address Manager ArcGIS Server Environment, GTG Looking Glass Viewer (10) ArcGIS Server Environment	
Horizon Cloud Services	Hardware and software will be hosted and managed by Superior. Site to Site VPN, Setup, Implementation, Disaster Recovery Plan for Superior applications	Included in Annual Access Fee
NaviLine Test Environment (Known as 3rd Environment)	4 refreshes per year; \$600 per additional refresh. 12 refreshes total with environments listed below: 1. PRODUCTION libraries: a. HTEDTA b. HTSDTA 2. TEST libraries: a. HTEDTAT b. HTSDTAT 3. 3rd Environment Test library a. HTEDTATST b. HTSDTATST	Included in Annual Access Fee
Total Proposed System:		\$ 161,779.70

Note: Pricing for Professional Services is a good faith estimate based on the information available to Superior at the time of execution of this Agreement. The total amount that Customer may pay for these services can vary based on the actual number of hours required to complete the services. If required, additional services will be provided on a time and materials basis at hourly rates equal to Superior's then-current list price rates for the services at issue.

*** Terminated Products:** The Customer is terminating Web Enablement, Work Order Interface, Imaging Interface Community and Third Party Products GTG Looking Glass Viewer Module ArcGIS Server Environment, GTG Looking Glass Centralized Address Manager ArcGIS Server Environment, GTG Looking Glass Viewer (10) ArcGIS Server Environment effective June 30, 2019.

Itemized list of items for renewal including cost per item for the 5 year term shown below:

Code	Customer	Contract #	Application	Qty	Annual	Annual	Annual	Annual	Annual
					Year 1	Year 2	Year 3	Year 4	Year 5
1871LG	Merced, CA	141569-1	ASP-Navi-Payroll/Personnel	1	\$ 11,934.00	\$ 12,292.02	\$ 12,660.78	\$13,040.60	\$ 13,431.82
1871LG	Merced, CA	141569-1	ASP - Navi - Purchasing/Inventory	1	\$ 8,910.00	\$ 9,177.30	\$ 9,452.62	\$ 9,736.20	\$ 10,028.28
1871LG	Merced, CA	141569-1	ASP - Navi - Work Orders/Facility Management	1	\$ 9,774.00	\$ 10,067.22	\$ 10,369.24	\$10,680.31	\$ 11,000.72
1871LG	Merced, CA	141569-1	ASP - Navi Asset Management	1	\$ 4,482.00	\$ 4,616.46	\$ 4,754.95	\$ 4,897.60	\$ 5,044.53
1871LG	Merced, CA	141569-1	ASP - Navi-Building Permits	1	\$ 8,991.00	\$ 9,260.73	\$ 9,538.55	\$ 9,824.71	\$ 10,119.45
1871LG	Merced, CA	141569-1	ASP - Navi-Code Enforcement	1	\$ 2,763.00	\$ 2,845.89	\$ 2,931.27	\$ 3,019.20	\$ 3,109.78
1871LG	Merced, CA	141569-1	ASP - Navi-DMS	1	\$ 1,827.00	\$ 1,881.81	\$ 1,938.26	\$ 1,996.41	\$ 2,056.30
1871LG	Merced, CA	141569-1	ASP - Navi-Land Management	1	\$ 8,109.00	\$ 8,352.27	\$ 8,602.84	\$ 8,860.92	\$ 9,126.75
1871LG	Merced, CA	141569-1	ASP - Procurement Card Tracking	1	\$ 2,853.00	\$ 2,938.59	\$ 3,026.75	\$ 3,117.55	\$ 3,211.08
1871LG	Merced, CA	141569-1	ASP - Rec Trac I/F to GMBA	1	\$ 324.00	\$ 333.72	\$ 343.73	\$ 354.04	\$ 364.66
1871LG	Merced, CA	141569-1	ASP CIS/Voice Response Interface - Selectron	1	\$ 2,781.00	\$ 2,864.43	\$ 2,950.36	\$ 3,038.87	\$ 3,130.04
1871LG	Merced, CA	141569-1	ASP Credit Card Interface - Selectron	1	\$ 1,098.00	\$ 1,130.94	\$ 1,164.87	\$ 1,199.81	\$ 1,235.81
1871LG	Merced, CA	141569-1	ASP Delinquency Callout Listing Interface Selectron	1	\$ 1,098.00	\$ 1,130.94	\$ 1,164.87	\$ 1,199.81	\$ 1,235.81
1871LG	Merced, CA	141569-2	NaviLine Click2Gov3 - Employee Self Service	1	\$ 4,914.00	\$ 5,061.42	\$ 5,213.26	\$ 5,369.66	\$ 5,530.75
1871LG	Merced, CA	141569-1	ASP - Cognos BI: Base Bundle Multi Data Source	1	\$ 8,726.40	\$ 8,988.19	\$ 9,257.84	\$ 9,535.57	\$ 9,821.64
1871LG	Merced, CA	141569-1	ASP - Cognos BI: User Bundle	1	\$ 1,980.00	\$ 2,039.40	\$ 2,100.58	\$ 2,163.60	\$ 2,228.51
1871LG	Merced, CA	141569-1	ASP - Navi - Cash Receipts	1	\$ 3,456.00	\$ 3,559.68	\$ 3,666.47	\$ 3,776.46	\$ 3,889.76
1871LG	Merced, CA	141569-1	ASP - BP/Voice Response Interface - Selectron	1	\$ 2,781.00	\$ 2,864.43	\$ 2,950.36	\$ 3,038.87	\$ 3,130.04
1871LG	Merced, CA	141569-1	ASP - Click2Gov Building Permits	1	\$ 3,780.00	\$ 3,893.40	\$ 4,010.20	\$ 4,130.51	\$ 4,254.42
1871LG	Merced, CA	141569-1	ASP - Click2Gov CIS	1	\$ 5,220.00	\$ 5,376.60	\$ 5,537.90	\$ 5,704.03	\$ 5,875.16
1871LG	Merced, CA	141569-1	ASP - Click2Gov Core Module	1	\$ 2,664.00	\$ 2,743.92	\$ 2,826.24	\$ 2,911.02	\$ 2,998.36
1871LG	Merced, CA	141569-1	ASP - Navi - Accounts Receivable	1	\$ 5,382.00	\$ 5,543.46	\$ 5,709.78	\$ 5,881.06	\$ 6,057.49
1871LG	Merced, CA	141569-1	ASP - Navi - Customer Information System	1	\$ 15,125.30	\$ 15,579.06	\$ 16,046.43	\$ 16,527.82	\$ 17,023.66
1871LG	Merced, CA	141569-1	ASP - Navi - Fleet Management	1	\$ 10,422.00	\$ 10,734.66	\$ 11,056.70	\$ 11,388.40	\$ 11,730.05
1871LG	Merced, CA	141569-1	ASP - Navi - GMBA	1	\$ 14,895.00	\$ 15,341.85	\$ 15,802.11	\$ 16,276.17	\$ 16,764.45
1871LG	Merced, CA	141569-1	ASP - Navi - Occupational Licenses	1	\$ 5,490.00	\$ 5,654.70	\$ 5,824.34	\$ 5,999.07	\$ 6,179.04
1871LG	Merced, CA	141569-7	Test Environment (Request to put it as "Known as 3rd Environment")	1	\$ 12,000.00	\$ 12,360.00	\$ 12,730.80	\$ 13,112.72	\$ 13,506.11
1871LG	Merced, CA	141569-7	Additional Refreshes Per Year (4) per test environment (2-test environments)	1	Incl above	Incl above	Incl above	Incl above	Incl above
Annual Access Fee					\$ 181,778.70	\$ 188,633.09	\$ 195,432.08	\$ 202,791.05	\$ 210,244.48
1871LG	Merced, CA	141569-4	ASP - SunGard Transaction Managers - Billed Monthly per transaction						
								5 Year Total	\$858,910.40

Each party hereby releases, acquits and discharges the other party of and from any and all claims, debts, demands, rights of indemnification, and causes of action of whatsoever nature, whether in contract or otherwise, whether arising under or by virtue of any statute or regulation, whether known or unknown, suspect or unsuspected, or whether having arisen or hereafter to arise for any losses or damages of which have accrued or may ever hereafter accrue to the other party, arising out of or on account of the Terminated Products.

Neither the fact of compromise, settlement and release, nor the payment, acceptance, or relinquishment of any consideration hereunder or under the Agreement, nor the execution of this Agreement shall be construed or taken in any way as an admission of fault, liability or responsibility on the part of Superion and Customer, including its employees and agents, agree to so state in any communications, characterizations, and/or dissemination concerning this matter with any third party other than its attorney.

PAYMENT TERMS:

RECURRING FEES

- a. The Annual Access Fee is due: July 1, 2019 and July 1st annually thereafter.

ANCILLARY FEES

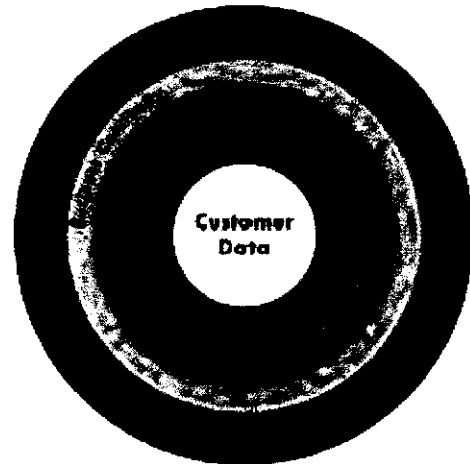
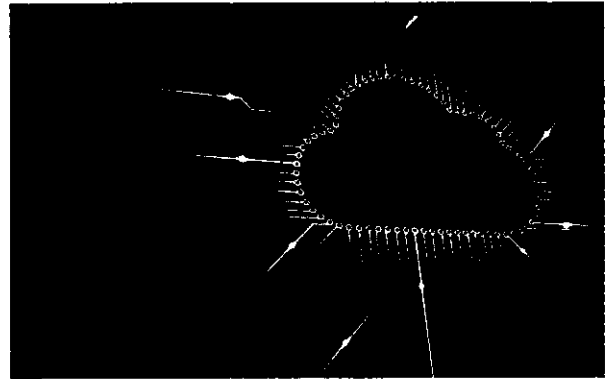
- b. Reimbursement of travel and living expenses will be governed by Exhibit 3 ("**Travel Expense Guidelines**") attached hereto and will be invoiced monthly in arrears and due within thirty (30) days from date of invoice.
- c. Customer is responsible for paying all taxes relating to this Agreement. Applicable tax amounts (if any) are not included in the fees set forth in this Agreement. If Customer is exempt from the payment of any such taxes, Customer must provide Superior valid proof of exemption; otherwise, Superior will invoice Customer and Customer will pay to Superior all such tax amounts.
- d. If Customer fails to make any payment when due, then Superior may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly, or, if lower, the highest rate permitted under applicable law; and If such failure continues for 90 days following written notice thereof, Superior may suspend performance or access until past due amounts have been paid.
- e. Central Square hereby agrees that they will allow the City of Merced, CA to request removal of products from maintenance within their account with a written 60 day notice prior to annual renewal period



EXHIBIT 2 Support Standards

1. Superion Cloud Security Program

- 1.1. Access & Continuity. Logical access restrictions include VLAN data segregation, extensive deny-by-default access control lists, and Multi-Factor authentication required for System Administration. Business continuity is prioritized via daily encrypted backup stored offsite, virtual tape backup technology to counter loss of physical media, and full replication to disaster recovery site, with redundancy an availability through multiple carriers.
- 1.2. Security & Monitoring. SSL and IPSEC VPN with 256 bit encryption, web application firewalls, multi-layered infrastructure model with recorded internal and external CCTV, card access control, best of breed HVAC/fire suppression/physical security, and backed by 24-7 x 365 monitoring by a staffed operations facility for: Intrusion detection & prevention, DDOS mitigation, and automated network incident creation and escalation.
- 1.3. Testing, Audits & Compliance. 3rd party internal, external, perimeter vulnerability and penetration testing. Centrally managed patching, OS hardening program, and endpoint protection on all servers. Industry standard compliance includes annual completion of: SSAE18/ISAE Data Center Audit, SSAE18 Operations Audit, PCI-DSS Compliance Audit, Vulnerability Testing & CVSS Audit, and Control Self-Assessment Audit.



2. Service Level Commitments

- 2.1. Target. In each Service Period, the target for availability of the Solutions is 99.9% ("Availability Target"). ("Service Period") means 24 hours per day Monday through Sunday each calendar month that Customer receives the Solutions, excluding Sundays between 12:00 AM and 12:00 PM Eastern Time for scheduled maintenance. During this time, Customers may experience intermittent interruptions. Superion will make commercially reasonable efforts to minimize the frequency and duration of these interruptions and will notify the Customer if the entire maintenance window will be required.
- 2.2. Support Terms. Beginning on the Execution Date and continuing in twelve (12) month increments, each a ("Support Term"), Superion shall provide ongoing Support Services described herein, subject to and conditioned on sustained payment of Fees and compliance with all terms and conditions of this Agreement.
- 2.3. Measurement. Service availability is measured as the total time that the Solutions are available during each Service Period for access by Customer ("Service Availability"). Service Availability measurement shall be applied to the production environment, and the points of measurement for all monitoring shall be the servers and the Internet connections at Superion's hosted environment. Superion has technology monitoring,



measuring, and recording Service Availability. The Customer, at their discretion, may also employ monitoring tools, not to override Superion's measurements for the purposes of calculating Service Availability. Additionally, the use must be:

- 2.3.1.1. mutually agreed upon by Superion and the Customer.
- 2.3.1.2. paid, installed and maintained by the Customer.
- 2.3.1.3. non-invasive and may not reside on Superion's systems.

2.4. **Calculation.** Service Availability for a given month shall be calculated using the following calculation:

2.4.1. The total number of minutes which the service was NOT available in a given month shall be subtracted from the total number of minutes available in the given month. The resulting figure is divided by the total number of minutes available in the given month.

2.4.2. Service Availability Targets are subject to change due to the variance of the number of days in a month.

2.4.3. The total number of minutes which the service was NOT available in a given month shall exclude minutes associated with scheduled or emergency maintenance.

2.5. **Remedy.** If the Service Period target measurement is not met then the Customer shall be entitled to a credit calculated as follows:

Less than 99.9% but greater than or equal to 99.0%	5%
Less than 99.0% but greater than or equal to 95.0%	10%
Less than 95%	20%

2.6. If not directly reported by Superion, Credit entitlement must be requested by the Customer within sixty (60) days of the failed Target. Superion's failure to meet the relevant service level commitment. Customer shall not be entitled to offset any monthly Solutions fee payments, nor withhold fee payments, on account of a pending credit. Customer shall not be eligible for credits for any period where Customer is more than thirty (30) days past due on their account. Superion will provide reporting, showing performance and service levels.

3. Server Performance & Capacity.

3.1. Superion shall provide sufficient server capacity for the duration of this hosting Agreement to meet the reasonable performance requirements for the number of concurrent system users provided for in this Agreement. If the Customer requests, at some later date, to add additional Solutions, increase user licenses, increase storage or processing requirements, and/or request additional environments, these requests will be evaluated and if additional resources are required to support modifications, additional fees may apply.

3.2. "In-network" is defined as any point between which the data packet enters the Superion environment and subsequently departs the Superion environment. Any point of communications outside of the Superion protected network environment shall be deemed as "out-of-network." Superion is not responsible for Internet connectivity and/or performance out-of-network.

4. System Maintenance.

4.1. **Solutions maintenance and upgrades.** Superion will provide all hosted systems and network maintenance as deemed appropriate and necessary by Superion. Maintenance and upgrades will be scheduled in advance with the Customer's primary contact if they fall outside of the designated hours set aside for this function of Sundays from 12:00AM to 12:00 PM.

4.2. **Hardware maintenance and upgrades.** Hardware maintenance and upgrades will be performed outside of the Customer's standard business hours of operation and the Customer will be notified prior to the upgrade.

4.3. **Emergency maintenance.** Emergency situations will be handled on a case-by-case basis in such a manner as to cause the least possible disruption to overall system operations and availability without negatively affecting system stability and integrity. Superion will attempt to notify the Customer promptly, however if no contact can be made, Superion management may deem it necessary to move forward with the emergency maintenance.



- 5. Incident Response.** Incidents are defined as interruptions to existing service and can range in priority from urgent to low depending on the impact to the Customer. Superion will make commercially reasonable efforts to respond to Solutions incidents for live production systems using the following guidelines:

1	Urgent	An Incident that results in loss of Customer connectivity to all of the Solutions or results in loss, corruption or damage to Customer's Data.	Superion will respond within 1 hour of the issue being reported.	95%
2	Critical	An Incident that has an adverse material impact on the performance of the Solutions or materially restricts Customer's day-to-day operations.	Superion will respond within 2 hours of the issue being reported.	95%
3	Non-Critical	An Incident that does not result in a failure of the Solutions but a fault exists that restricts the Customer's use of the Solutions.	Superion will respond within 4 hours of the issue being reported.	95%
4	Minor	An Incident that does not affect or which has minimal adverse impact on the use of the Solutions.	Superion will respond within 24 hours of the issue being reported.	95%

5.1. Measurement. Superion shall track and report on response and resolution time for application and hosting support issues identified by the Customer.

- 6. Disaster Recovery.** Superion provides disaster recovery services for Solutions. The costs for these disaster recovery services are included in the monthly fees. In the event that a disaster renders the Customer's data center inaccessible or rendered non-functional, Superion will provide the ability to connect to the appropriate data center using software provided by Superion. This will allow the Customer to connect to their systems from a remote site to the previously identified critical functions, however functionality may be diminished due to lack of access to hardware and/or software located in the Customer's facilities.
- 7. Exceptions.** Superion shall not be responsible for failure to carry out its service and maintenance obligations under this Agreement if the failure is caused by adverse impact due to:
- 7.1. defectiveness of the Customer's environment, Customer's systems, or due to Customer corrupt, incomplete, or inaccurate data reported to the Solutions, or documented Defect.
 - 7.2. denial of reasonable access to Customer's system or premises preventing Superion from addressing the issue.
 - 7.3. material changes made to the usage of the Solutions by Customer where Superion has not agreed to such changes in advance and in writing or the modification or alteration, in any way, by Customer or its subcontractors, of communications links necessary to the proper performance of the Solutions.
 - 7.4. a force majeure event, or the negligence, intentional acts, or omissions of Customer or its agents.
- 8. Incident Resolution.** Actual response times and resolutions may vary due to issue complexity and priority. For critical impact level and above, Superion provides a continuous resolution effort until the issue is resolved.
- 9. Service Requests.** Service requests are new requests that will take less than 8 hours to accomplish. For new requests that require additional time, Superion will prioritize these requests, and determine if extra time is needed to order equipment or software.
- 10. Non-Production Environments.** Superion will make commercially reasonable efforts to provide non-production environment(s) during Customer business hours. Non-production environments are not included under the metrics or service credit schedules discussed in this Exhibit.
- 10.1. Maintenance. All forms of maintenance to be performed on non-production environments will follow the exact structure and schedules outlined above in Section 3 for regular System Maintenance.
 - 10.2. Incidents and service requests. Non-production environment incidents are considered priority 3 or 4, dictated by circumstances and will be prioritized and scheduled similar to production service requests.



11. Responsibility Summary Matrix.

Description	Superion Responsibility	Customer Responsibility
ASP Server Hardware management	X	
ASP Server File system management	X	
ASP Server OS upgrades and maintenance	X	
ASP Database product upgrades and maintenance	X	
ASP 3 rd Party product upgrades and maintenance	X	
Application Update Installation		
Request to install application updates		X
Installation of application updates	X	
ASP Backup Management	X	
Data and or File restoration		
Request to restore data and or files		X
Restoration of data and or files	X	
Network		
ASP Network up to and including the router at Superion's location	X	
ASP Router at Customer's location	X	
Customer's network up to the router at Customer's location		X
Customer Workstations		X
System Performance	X	X
Add/Change users		
User add/change requests		X
User add/change implementation for System Access	X	
User add/change implementation for Solutions		X
Add/Change Printers		
Printer add/change requests		X
Printer add/change implementation on ASP network	X	
Printer add/change implementation for Solutions		X
Disaster Recovery	X	
Password Management	X	X
Application Management		
Application Configuration		X
Application Security Management		X
Accuracy and Control of Data		X
Security		
Intrusion and Penetration Testing	X	

- 12. Virtual Private Network (VPN) Concentrator.** If Customer's desired system configuration requires the use of a VPN concentrator, including router, this will be provided by Superion. It will reside at Customer's location but is, and shall remain the property of Superion.
- 13. Customer Cooperation.** Customer may be asked to perform problem determination activities as suggested by Superion. Problem determination activities may include capturing error messages, documenting steps taken and collecting configuration information. Customer may also be requested to perform resolution activities including, for example, modification of processes. Customer agrees to cooperate with such requests, if reasonable.
- 14. Training.** Outside the scope of training services purchased, if any, Customer is responsible for the training and organization of its staff in the operation of the Solutions.
- 15. Development Work.** The Support Standards do not include development work either (i) on software not licensed from Superion or (ii) development work for enhancements or features that are outside the documented functionality of the Solutions, except such work as may be specifically purchased and outlined in Exhibit 1. Superion retains all Intellectual Property Rights in development work performed and Customer may request consulting and development work from Superion as a separate billable service.



16. Telephone Support & Support Portal

- 16.1. Hours. Superior shall provide to Customer, Monday through Friday, 8:00 A.M. to 5:00 P.M. Customer's Local Time within the continental United States, excluding holidays ("5x9"). Superior shall provide to Customer, during the Support Hours, commercially reasonable efforts in solving errors reported by the Customer as well as making available an online support portal. Customer shall provide to Superior reasonably detailed documentation and explanation, together with underlying data, to substantiate errors and to assist Superior in its efforts to diagnose, reproduce and correct the error. This support shall be provided by Superior at Customer location(s) if and when Superior and Customer agree that on-site services are necessary to diagnose or resolve the problem. If a reported error did not, in fact, exist or was not attributable to a defect in the Solutions or an act or omission of Superior, then Customer shall pay for Superior's investigation and related services at Superior's standard professional services rates. Customer must provide Superior with such facilities, equipment and support as are reasonably necessary for Superior to perform its obligations under this Agreement, including remote access to the Specified Configuration
- 16.2. Releases. Customer shall promptly install and/or use any Release provided by Superior to avoid or mitigate a performance problem or infringement claim. All modifications, revisions and updates to the Solutions shall be furnished by means of new Releases of the Solutions and shall be accompanied by updates to the Documentation whenever Superior determines, in its sole discretion, that such updates are necessary.
- 16.3. Case Number. Measured from the moment a Case number is created. As used herein a "Case number" is created when a) a Superior support representative has been directly contacted by Customer either by phone, in person, or through Superior's online support portal, and b) when Superior's support representative assigns a case number and conveys that case number to the Customer.





EXHIBIT 3

Travel Expense Guidelines

Superion will adhere to the following guidelines when incurring travel expenses:

All arrangements for travel are to be made through the Superion Corporate Travel Agent unless other arrangements have been made with the Customer and are documented in writing.

AIR TRAVEL – Superion will use the least expensive class of service available with a minimum of seven (7) day, maximum of thirty (30) day, advance purchase. Upon request, Superion shall provide the travel itinerary as the receipt for reimbursement of the airfare and any fees. Fees not listed on the itinerary will require a receipt for reimbursement.

Trips fewer than 250 miles round are considered local. Unless a flight has been otherwise approved by the Customer, Customer will reimburse the current IRS approved mileage rate for all local trips.

LODGING –Superion will use the most reasonable accommodations possible, dependent on the city. All food items, movies, and phone/internet charges are not reimbursable.

RENTAL CAR – Compact or Intermediate cars will be required unless there are three or more Superion employees sharing the car in which case the use of a full size car is authorized. Gas is reimbursable however, pre-paid gas purchases will not be authorized and all rental cars are to be returned with a full tank of gas. Upon request, receipts for car rental and gas purchases will be submitted to Customer. Superion shall decline all rental car insurance offered by the car rental agency as staff members will be covered under the Superion auto insurance policy. Fines for traffic violations are not reimbursable expenses.

OTHER TRANSPORTATION – Superion staff members are expected to use the most economical means for traveling to and from the airport (Airport bus, hotel shuttle service). Airport taxi or mileage for the employee's personal vehicle (per IRS mileage guidelines) are reimbursable if necessary. Upon request, receipt(s) for the taxi will be submitted to Customer. Proof of mileage may be required and may be documented by a readily available electronic mapping service. The mileage rate will be the then-current IRS mileage guideline rate (subject to change with any change in IRS guidelines).

OTHER BUSINESS EXPENSES – Parking at the airport is reimbursable. Tolls to and from the airport and while traveling at the Customer site are reimbursable. Tipping on cab fare exceeding 15% is not reimbursable. Porter tips are reimbursable, not exceeding \$1.00 per bag. Laundry is reimbursable when travel includes a weekend day or Company Holiday and the hotel stay is four nights or more. Laundry charges must be incurred during the trip and the limit is one shirt and one pair of pants/skirt per day. With the exception of tips, receipts shall be provided to Customer upon request for all of the aforementioned items.

MEALS – Standard per Diem. Subject to change due to cost of living.





ADMINISTRATIVE REPORT

Agenda Item I.13.

Meeting Date: 7/1/2019

Report Prepared by: Joe Weiss, Police Lieutenant, City of Merced Police Department

SUBJECT: Approval of Memorandum of Understanding (MOU) Between the City of Merced and Merced Union High School District (MUHSD) for Police Services in the District's Four (4) High Schools for a Term of Three Years, Fiscal Year 2019 - 2022, with an Option to Extend the Term for One Additional Year

REPORT IN BRIEF

Requests council approval of a MOU between Merced Union High School District and the City of Merced to provide Police Services at the District four (4) high schools.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving a Memorandum of Understanding between the City of Merced and Merced Union High School District to provide police services in the District's four high schools; and,
- B. Authorizing the City Manager or the Assistant City Manager to execute the agreement; and,
- C. Authorizing the Finance Officer to make the appropriate budget adjustments.

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 City Council meeting.

AUTHORITY:

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

Council Requested Projects - High School District - School Resource Officers.

DISCUSSION

Historically, the Merced Police Department has assigned officers to the four high schools as School Resource Officers (SRO) on a full-time basis. The Merced Union High School District (MUHSD) and

the Merced Police Department has decided to continue to staff the high schools with full-time School Resource Officers.

In the 2018-2019 school year the Merced Union High School District and the City of Merced negotiated an MOU to continue the School Resource Program. The school district would like to continue the SRO program and have signed a new MOU with the City of Merced.

Under the proposed three-year agreement, the Merced Police Department agrees to provide at least three (3) and up to four (4) full-time School Resource Officers to implement the program with an option to extend up to one year (June 30, 2023).

Under the agreement, the City agrees to provide and pay the SRO's salary and employment benefits in accordance with the applicable salary schedules and employment practices of the Merced Police Department which are in effect during the time of this Agreement. During the term of the Agreement, MUHSD agrees to reimburse the City for 70% of the actual cost of each full-time SRO at step 5 of the City's pay scale and any employment benefits in accordance with the applicable salary schedules and employment practices in place at the time of the agreement.

Pursuant to the agreement, the SRO's will be assigned to Merced High School, Golden Valley High School, El Capitan High School and the East Campus Educational Center. When school is in session, the SRO will work an equivalent of 40 hours per week. MUHSD may request an SRO to work during the evening or weekends beyond the scheduled 40 hour work week (overtime). MUHSD shall pay the City all costs that the City incurs in providing additional services.

The SRO's will be assigned to work with school administrators, staff and students at the District's high schools. The objective is to promote and facilitate a safe learning environment for staff and students.

In addition to providing basic police services in the high schools, implementing the School Resource Officer Program is one intervention strategy that has been effective in identifying at-risk youth and providing services that help the schools and the families of at-risk youth to establish and maintain acceptable standards of behavior in schools and in their neighborhoods.

IMPACT ON CITY RESOURCES

Not Applicable.

ATTACHMENTS

1. Memorandum of Understanding between the City of Merced and the Merced Union High School District

**MEMORANDUM OF UNDERSTANDING
CITY OF MERCED
AND THE
MERCED UNION HIGH SCHOOL DISTRICT**
School Resource Officers Program – Partnership Agreement
2019-2022

THIS AGREEMENT is made and entered into on July 1, 2019, by and between the Merced Union High School District (hereinafter referred to as "MUHSD") and the City of Merced (hereinafter referred to as "CITY").

WHEREAS the Merced Union High School District and the City desire to set forth in this Memorandum of Understanding (hereinafter "MOU" or "Agreement") the specific terms and conditions of the services to be performed and provided by the School Resource Officers in the Merced Union High School District.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1.0 Goals and Objectives - It is understood and agreed that the School District and the City's officials share the following goals and objectives with regard to the School Resource Officer ("SRO") Program in the school:

- 1.1** To foster educational programs and activities that will increase students' knowledge of and respect for the law and the function of law enforcement agencies;
- 1.2** To encourage the SRO to attend extra-curricular activities held at school, such as parent meetings, athletic events and concerts;
- 1.3** To act swiftly and cooperatively when responding to major disruptions and flagrant criminal offenses at school, such as: disorderly conduct by trespassers, the possession and use of weapons on campus, the illegal sales and/or distribution of controlled substances, and riots;
- 1.4** To report serious crimes that occur on campus and to cooperate with the law enforcement officials in their investigation of crimes that occur at school;
- 1.5** To cooperate with law enforcement officials in their investigations of criminal offenses which occur off campus.

2.0 Employment and Assignment of School Resource Officer

- 2.1** The Merced Police Department agrees to employ at least three (3) and up to four (4) SROs (depending on department staffing) during the term of this Agreement. The SROs shall be employees of the Merced Police Department and be subject to the administration, supervision and control of the Merced Police Department except as such administration, supervision and control are subject to the terms and conditions of this Agreement.

- 2.2** The Merced Police Department agrees to provide and to pay the SRO's salary and employment benefits in accordance with the applicable salary schedules and employment practices of the Merced Police Department, including but not necessarily limited to: sick leave, vacation, retirement compensation, disability salary continuation, workers compensation, unemployment compensation, life insurance, dental insurance, and medical/hospitalization insurance. The SROs shall be subject to all other personnel policies and practices of the Merced Police Department.
- 2.3** The term of this Agreement shall be from the date of its execution through June 30, 2022, with an option to extend up to 1 year until June 30, 2023, unless terminated earlier pursuant to Section 13 of this Agreement.
- 2.4** The Merced Union High School District agrees to pay the City of Merced an amount not to exceed \$524,332 for the operational costs of the services of four SROs provided under this Agreement for fiscal year 2019-2020 (July 1 through June 30). These costs for fiscal year 2019-2020 are based on the actual expenses for the salary and benefits of \$128,583 per officer for the SROs at Merced High School, Golden Valley High School, El Capitan High School and East Campus Educational Center plus their overtime up to \$3000.00 per site at Merced High School, Golden Valley High School and El Capitan High School and up to \$1,000.00 at East Campus Educational Center as approved by the site principal or designee. This will cover the total costs of the SROs for Merced High School, Golden Valley High School, El Capitan High School and East Campus Educational Center.

The operation costs for fiscal year 2019-2020 are set forth in more detail in Exhibit A, which is incorporated by reference herein. MUHSD is aware that the City's costs to provide the services under this multi-year Agreement will increase each fiscal year. By May 31st of each year during the term of this Agreement, City shall provide to MUHSD in writing an updated Exhibit A reflecting the operational costs for the services under this Agreement for the upcoming fiscal year (July 1 through June 30). The updated Exhibit A shall become part of this Agreement and shall govern the respective fiscal year's payment obligations. MUHSD shall pay the City the amount set forth in each updated Exhibit A for the corresponding fiscal year.

In the event that additional SROs are requested by MUHSD to perform services during the term of this Agreement, MUHSD will pay the cost of the actual expenses for the salary and benefits per officer plus any overtime, which may be capped at the rate in effect under the Agreement at the time the SRO position is added and continued for subsequent years at the rate thereafter in effect and established for each fiscal year under this Agreement.

- 2.5** The SRO's employer is the Merced Police Department. The Merced Police Department shall have sole discretion, to assign, temporarily reassign, discharge, discipline and evaluate the SROs. Each school principal shall provide input to the Merced Chief of Police, on school related issues related to the assignment, discharge, discipline and evaluation of their assigned SRO.
- 2.6** In the event of a resignation, dismissal or reassignment of an SRO, or in the case of long-term absences by an SRO, the Chief of Police shall provide a temporary

replacement as soon as personnel are available. As soon as reasonably possible, the Selection Panel shall convene and recommend a permanent replacement for the SRO position.

- 2.7 The Merced Police Department shall assign one SRO to Merced High School, one SRO to Golden Valley High School, one SRO to East Campus Educational Center and one SRO to El Capitan High School.
- 2.8 In the event an SRO is absent from work, the SRO shall notify both his or her supervisor and duty Sergeant in the Merced Police Department as well as the Principal (or designee) of the school to which the SRO is assigned.
- 2.9 Although it is agreed that nothing in this Agreement shall place MUHSD in command of, or authority over the SRO, it is agreed that the SRO is under the direct supervision of the Principal for response to the needs of the campus. The school Principal will develop with the SRO plans and strategies to prevent and/or minimize dangerous situations which might result in student unrest, or endangerment.

3.0 Duty Hours / place of performance

The officer in charge of the SRO Program shall set specific SRO duty hours at the assigned schools by mutual agreement between the two agencies. When school is in session, the SRO will work an equivalent of 40 hours per week (full-time) in and around the school and perform community-policing activities. The SRO will obtain written approval by the site Principal or Program Administrator prior to working any overtime hours. Community policing activities may include:

- 3.1 Follow-up home visits when needed as a result of school related student problems.
- 3.2 School related off campus activities when officer participation is requested by the principal and approved by City;
- 3.3 Responses to off campus school related criminal activities;
- 3.4 Responses to emergency law enforcement or court appearances;
- 3.5 Scheduled officer training.

4.0 Basic Qualifications of School Resource Officers (SRO)

To be an SRO, an officer must first meet all of the following minimum qualifications:

- 4.1 Shall be a city employed Police Officer with two years of law enforcement experience;
- 4.2 Shall possess sufficient knowledge of the applicable Federal and State laws, City and County ordinances, and Board of Education policies and regulations;
- 4.3 Shall be capable of conducting criminal investigations;

- 4.4 Shall possess communication skills, which would enable the officer to function effectively within the school environment.

5.0 Duties of School Resource Officer

- 5.1 The SRO shall coordinate all of his/her activities with the Principal (or designee) and will seek permission, advice and guidance prior to enacting any program within the school.
- 5.2 The SRO shall develop expertise in presenting various subjects to the students, staff, parents and community. Such subjects shall include, but not be limited to: a basic understanding of the law, the role of the police officer and law related areas, tobacco, alcohol and drug issues, evidence diffusion, violence prevention, group and safe issues to the community.
- 5.3 The SRO shall encourage individual and small group discussions with students, based upon material presented in class to further establish rapport with students.
- 5.4 When requested by the principal, the SRO shall attend parent/staff/administrative meetings to solicit support and understanding of the program.
- 5.5 The SRO shall make himself/herself available for conference with students, parents and faculty members in order to assist them with problems of a law enforcement or crime prevention nature.
- 5.6 The SRO shall become familiar with all community agencies which offer assistance to youths and their families such as mental health clinics, drug treatment centers, etc.
- 5.7 Should it become necessary to conduct formal police interviews with students, the SRO shall adhere to any applicable school board policies to the extent that such policies do not conflict with police departmental general orders, regulations, policies and legal requirements to conduct such interviews.
- 5.8 The SRO shall take all law enforcement action as required. As soon as practical, the SRO shall make the Principal (or designee) aware of such action. The SRO shall take appropriate law enforcement actions against intruders and unwanted guests who may appear at the school and related school functions, to the extent that the SRO may do so under the authority of law.
- 5.9 The SRO shall give assistance to other law enforcement personnel in matters regarding his/her school assignment as well as responding to an officer needing assistance.
- 5.10 When previously requested, the SRO maintains detailed and accurate records of the operation of the School Resource Officer Program. These records requested by the MUHSD supervisor of the SRO Program shall include, but not be limited to, general information related to the program. Examples include information on the day of classroom visits, home visits, number of parent contacts, number of formal student meetings, number of school related investigations, list of most common duties of SRO.

- 5.11** The SRO shall **not** act as a school disciplinarian, as disciplining students **is a school responsibility**. However if the principal believes an incident is a violation of the law, the principal may contact the SRO, and the SRO shall then determine whether law enforcement action is appropriate.

6.0 Chain of Command

- 6.1** As employees of the Merced City Police Department, the SRO shall follow the chain of command as set forth in the Merced Police Department Policies and Procedure Manual.
- 6.2** In the performance of their duties, the SRO shall make every reasonable effort to coordinate and communicate with the principals or the principals' designee(s) of the assigned schools.

7.0 Training

- 7.1** The SRO shall be required by the Merced Police Department to attend police training sessions. Training sessions will be conducted to provide SROs with appropriate in-service training, such as updates in the law, in-service firearm training and law enforcement-school related training;
- 7.2** The School District also may provide training in Board of Trustee policies, regulations and procedures. Training related to school type incidents and student safety may also be provided by the school district.

8.0 Supplies and Equipment

- 8.1** The Merced Police Department agrees to provide SROs with standard issue equipment, firearm and rounds of ammunition as needed to perform their duties;
- 8.2** The School District agrees to provide an office, desk, desk chair, computer and the usual and customary office supplies to the SROs.

9.0 Access to Education Records

- 9.1** School officials shall allow the SRO to inspect and copy any public records maintained by the school including student directory information, classroom assignments and discipline files. However, law enforcement officials may not inspect and/or copy confidential student education records except as allowed by law.
- 9.2** If some information in a student's cumulative record is needed in an emergency to protect the health or safety of the student or other individuals, school officials may disclose to the SRO that information which is needed to respond to the emergency situation based on the seriousness of the threat to someone's health or safety; the need of the information to meet the emergency situation and the extent to which time is of the essence;
- 9.3** If confidential student records information is needed, but no emergency situation exists, the information may be released only as allowed by law.

10.0 Discrimination

Both the MUHSD and CITY and/or its employees shall not discriminate because of race, religion, color, national origin, disability, marital status, age, or sex against any person by refusing any person or privilege offered to or engaged by the general public.

11.0 Indemnify / Hold Harmless

- 11.1** MUHSD shall indemnify, defend, and hold harmless the City, its officers, officials, employees, and volunteers from and against any and all liability, claims, damage, cost, expenses, awards, fines, judgments, and expenses of litigation (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and costs) of every nature arising out of or in connection with the assigned officer's performance of work or his or her failure to comply with any of its obligations contained in the Agreement, except such loss or damage which was caused by the active negligence by the City, or the gross or willful misconduct of the assigned officer.
- 11.2** The City shall indemnify, defend, and hold harmless MUHSD, its officers, officials, employees, and volunteers from and against any and all liability, claims, damage, cost, expenses, awards, fines, judgments, and expenses of litigation (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and costs) of every nature arising out of the active negligence by the City, or the gross or willful misconduct of the assigned officer during the performance of work hereunder.
- 11.3** If MUHSD rejects a tender of defense by the City and/or the assigned officer under this Agreement, and it is later determined that the City and/or the officer breached no duty of care and/or was immune from liability, MUHSD shall reimburse the City and/or officer for any and all litigation expenses (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and cost). A duty of care or immunity determination may be made by a jury or a court, including a declaratory relief determination by a court after the City and/or officer settles a liability claim, with or without participation by MUHSD.
- 11.4** The Parties acknowledge that it is not the intent of the Agreement to create a duty of care by the City or its assigned officer that they would not owe in the absence of the Agreement. The Agreement does not create an affirmative duty of care (including, without limitation, a duty to protect, a duty to deter and/or a duty to intervene) by the City or the assigned officer and the absence of the assigned officer and/or the patrol vehicle is not a material breach of this Agreement. The Parties further acknowledge that by entering into this Agreement neither the City nor its assigned officer intends to waive any immunities to which they would be entitled in the absence of the Agreement.

12.0 Notices

Any notices herein provided to be given by either party to the other shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage prepaid and addressed as follows:

To: Alan Peterson, Assistant Superintendent/CBO
Merced Union High School District
P.O. Box 2147
Merced, CA 95344

To: Lori Mollart, Program Administrator
Merced Union High School District
P.O. Box 2147
Merced, CA 95344

To: Chris Goodwin, Chief of Police
City of Merced Police Department
611 W. 22nd Street
Merced, CA 95340

The address to which the notices to be sent may be changed by either party advising the other in writing of such change. Nothing herein shall preclude the giving of nay notice by personal service.

13.0 Termination

Either party may terminate the services under this Agreement with or without cause by giving thirty (30) days prior written notice thereof to the other party.

14.0 Modification of Agreement

This Agreement may not be changed or modified except in writing and signed by both parties.

15.0 Agency Relationship

This contract is not intended to, and shall not be, to create the relationship of principal-agent, master-servant, or employer-employee between MUHSD and CITY.

16.0 Copies of Agreement

This Agreement is executed in counterparts, each of which shall be deemed a duplicate original.

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IN WITNESS WHEREOF, the parties the day and year first above written have affixed their signatures hereto.


ATTEST:

CITY OF MERCED

A California Charter Municipal Corporation

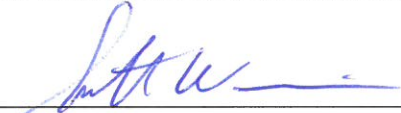
BY: _____
City Manager or designee

Date

Approved by: 
Christ Goodwin, Chief of Police

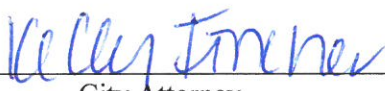
6/3/19
Date

MERCED UNION HIGH SCHOOL DISTRICT

BY: 
~~Alan Peterson, Asst. Superintendent - Business Services~~
Scott Weimer

5/21/19
Date

Approved as to Form:

BY: 
City Attorney

4/23/19
Date

Account Data:

BY: _____
Verified by Finance Officer

Date

City of Merced
Cost Sheet FY 19-20
SCHOOL RESOURCE OFFICER

Full-Time Senior Police Officer - Top Step 5

Salary	85,468.03
Uniform Allowance	1,050.00
Holiday Pay	3,615.96
Education Pay	2,400.00
Post Pay	2,400.00
Total Wages	94,933.99
Medicare	1,376.54
Social Security	5,885.91
PERS Employer	35,463.54
PERS Employee	8,544.06
Health, Dental, Vision	22,070.10
Total Benefits	73,340.15
Total Expense	168,274.13
Less Employee Share PERS	(\$8,544.06)
Net Cost	159,730.07
Admin/Overhead Expenses - Police	23,959.51
TOTAL \$	183,689.59
<i>70% of the cost is</i>	<i>\$ 128,582.71</i>

Overtime Rate

Earnings to calculate OT rate	\$ 93,883.99
Calculated rate of pay	45.1365
OT Rate	67.7048
Medicare	0.9817
Social Security	4.1977
<i>OT Rate w/Benefits</i>	<i>\$ 72.8842</i>



ADMINISTRATIVE REPORT

Agenda Item I.14.

Meeting Date: 7/1/2019

Report Prepared by: Joe Weiss, Police Lieutenant, City of Merced Police Department

SUBJECT: Approval of Memorandum of Understanding (MOU) Between the City of Merced and Merced City School District (MCSD) for Police Services in the District's Four (4) Middle Schools for a Term of Three Years at a Reimbursement Amount per Attached Agreement and Exhibit A

REPORT IN BRIEF

Requests council approval of a MOU between Merced City School District and the City of Merced to provide Police Services at the District's four (4) middle schools for a term of three years for an amount stated on the MOU and Exhibit A attached.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving a Memorandum of Understanding between the City of Merced and Merced City School District to provide police services in the District's four middle schools; and,
- B. Authorizing the City Manager or the Assistant City Manager to execute the agreement; and,
- C. Authorizing the Finance Officer to make the appropriate budget adjustments.

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 City Council meeting.

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

Council Requested Projects - Middle School District - School Resource Officers.

DISCUSSION

Historically, the Merced Police Department has assigned officers to the four middle schools as School Resource Officers (SRO) on a full-time basis. The Merced City School District (MCSD) and the

Merced Police Department have decided to continue to staff the middle schools with full-time School Resource Officers.

In the 2018-2019 school year the Merced City School District and the City of Merced negotiated an MOU to continue the School Resource Program. The school district would like to continue the SRO program and have signed a new MOU with the City of Merced.

Under the proposed three-year agreement, the Merced Police Department agrees to provide two (2) or more full-time School Resource Officers to implement the program.

Under the agreement, the City agrees to provide and pay the SRO's salary and employment benefits in accordance with the applicable salary schedules and employment practices of the Merced Police Department which are in effect during the time of this Agreement. During the term of the Agreement, MCSD agrees to reimburse the City for 70% of the actual cost of each full-time SRO at step 5 of the City's pay scale and any employment benefits in accordance with the applicable salary schedules and employment practices in place at the time of the agreement.

Pursuant to the agreement, the SRO's will be assigned to Tenaya, Rivera, Hoover and Cruickshank Middle Schools. When school is in session, the SRO will work an equivalent of 40 hours per week. MCSD may request an SRO to work during the evening or weekends beyond the scheduled 40 hour work week (overtime). MCSD shall pay the City all costs that the City incurs in providing additional services.

The SRO's will be assigned to work with school administrators, staff and students at the District's middle schools. The objective is to promote and facilitate a safe learning environment for staff and students.

In addition to providing basic police services in the middle schools, implementing the School Resource Officer Program is one intervention strategy that has been effective in identifying at-risk youth and providing services that help the schools and the families of at-risk youth to establish and maintain acceptable standards of behavior in schools and in their neighborhoods.

IMPACT ON CITY RESOURCES

Should two SRO positions be filled at the Sr. Police Officer level, the maximum amount to be reimbursed to the City would not exceed \$257,165.44 and any overtime for the first year of the agreement. The reimbursement rate will be at 70% of City actual costs per a SRO plus any overtime.

ATTACHMENTS

1. Memorandum of Understanding between the City of Merced and the Merced City School District
2. Exhibit A

MEMORANDUM OF UNDERSTANDING
CITY OF MERCED
AND THE
MERCED CITY SCHOOL DISTRICT
School Resource Officers Program – Partnership Agreement
2019-2022

THIS AGREEMENT is made and entered into on July 1, 2019, by and between the City of Merced (hereinafter referred to as “the City”) and the Merced City School District (hereinafter referred to as “MCSD”).

WHEREAS, The MCSD and the City’s desire to set forth in this Memorandum of Understanding (hereinafter “MOU” or “Agreement”) the specific terms and conditions of the services to be performed and provided by the School Resource Officers (hereinafter referred to as “SRO”) at Merced City School District (hereinafter referred to as “District”).

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereby agree as follows:

1.0 Goals and Objectives - It is understood and agreed that the MCSD and the City officials share the following goals and objectives with regard to the School Resource Officer Program in the school:

- 1.1 To foster educational programs and activities that will increase students’ knowledge of and respect for the law and the function of law enforcement agencies;
- 1.2 For the SRO to attend extra-curricular activities held at school, such as parent meetings, athletic events and concerts; when appropriate for the site and planned collaboratively between the SRO and the principals;
- 1.3 To act swiftly and cooperatively when responding to major disruptions and flagrant criminal offenses at school sites, such as: disorderly conduct by trespassers (parents, community members, et al), the possession and use of weapons on campus, the illegal sales and/or distribution of controlled substances, and riots;
- 1.4 To report serious crimes that occur on campus and to cooperate with the law enforcement officials in their investigation of crimes that occur at school;
- 1.5 To cooperate with law enforcement officials in their investigations of criminal offenses which occur off campus.

2.0 Employment, Compensation and Assignment of School Resource Officer

- 2.1 The City agrees to make two or more SROs available during the term of this Agreement. The number of SROs employed under this Agreement is dependent on the City’s ability to employ qualified police officers who have both the ability and required skill set to perform the required duties of a SRO for the purposes intended by

this Agreement. The SROs shall be employees of the City of Merced and be subject to the administration, supervision and control of the Merced Police Department except as such administration, supervision and control are subject to the terms and conditions of this Agreement. The SRO shall also be subject to all personnel rules, policies and practices of the Merced Police Department and the City except as such policies or practices may have to be modified to comply with the terms and conditions of this Agreement. The SRO, while at school or school functions, will be considered by MCSD to be School Officials as per California Education Code 49076.

- 2.2 The City agrees to provide and to pay the SRO's salary and employment benefits in accordance with the applicable salary schedules and employment practices of the City which are in effect during the time of this Agreement, including, but not necessarily limited to: sick leave, vacation leave, compensatory time off, holiday in lieu, retirement contribution, workers compensation, unemployment compensation, life insurance, dental insurance, vision insurance and medical insurance.
- 2.3 During the term of this Agreement (and subject to availability of funds), MCSD agrees to reimburse the City for 70% of the actual cost of each full-time SRO selected to serve the District. The Police Officer at step 5 of the City's pay scale is \$159,730.07, with 70% amount, which includes administrative costs, at \$128,582.71. This amount is highest rate option for SRO service and is inclusive of salary and benefits. Pending the selection of SROs by the City and MCSD, the amount billed for SRO services will not exceed the Police Officer, step 5 rate. A cost detail for the SRO's position is set forth in greater detail in Exhibit A, which is attached to this Agreement and incorporated by reference herein.

MCSD may request City to provide additional services (i.e., services in addition to those performed during the SRO's normal working hours of a 40- hour work week) by a SRO during evening or weekend events such as: meetings, Back-to-School Nights, Open House(s), sporting event(s), dance(s), or other school sponsored events. MCSD shall pay City all costs that City incurs in providing additional services as requested by the District representative, with the understanding that City is generally required to pay officers at least one and one-half (1 ½) times their regular rate of pay for overtime. The maximum hourly overtime rate for a SRO under this agreement is \$72.8842 per hour. The actual hourly rate to be charged will be based on the selection of SROs to serve MCSD. A cost detail of the overtime hourly rate of pay is set forth in further detail in Exhibit A.

- 2.4 The City, in its sole discretion, shall have the power to hire, discharge and discipline the SRO; however, a MCSD school representative will participate in the selection of the SRO to be placed on each campus.
- 2.5 In the event an SRO is absent from work, the SRO shall notify his/her supervisor and duty Sergeant in the Merced Police Department and the Principal (or designee) of the school to which the SRO is assigned.

3.0 Duty Hours

The officer in charge of the SRO Program shall set specific SRO duty hours at the assigned schools by mutual agreement between the two agencies. Both Parties agree that SROs will be primarily assigned to Tenya, Rivera, Hoover, and Cruickshank Middle Schools. In the event of an emergency at a different school site within the District, the use of SROs will be requested by the District Office and notify the Supervising Sergeant. In addition, the MCSD and City agree to meet monthly to evaluate the need for SRO use on other school sites outside of the primary assignment.

When school is in session, the SRO will work an equivalent of 40 hours per week (full-time) in and around the school and perform community-policing activities. The SRO will obtain written approval by the site Principal or Program Administrator prior to working any overtime hours. Community policing activities may include:

- 3.1 Follow-up home visits when needed as a result of school related student problems.
- 3.2 District related off campus activities when officer participation is requested by the principal and approved by City;
- 3.3 Responses to off campus district related criminal activities;
- 3.4 Responses to emergency law enforcement or court appearances;
- 3.5 Scheduled officer training.
- 3.6 Responses to other MCSD campuses as the need arises.

4.0 Basic Qualifications of School Resource Officers (SRO)

To be a SRO, an officer must first meet all of the following minimum qualifications:

- 4.1 Shall be a city employed Police Officer with two years of law enforcement experience;
- 4.2 Shall possess sufficient knowledge of the applicable Federal and State laws and regulations;
- 4.3 Shall be capable of conducting criminal investigations;
- 4.4 Shall possess an even temperament and set a good example for students; and
- 4.5 Shall possess communication skills, which would enable the officer to function effectively within the school environment.

5.0 Duties of School Resource Officer

- 5.1 The SRO shall coordinate all of his/her activities with the Principal (or designee) and will seek permission, advice and guidance prior to enacting any program within the schools.

- 5.2 The SRO shall develop expertise in presenting various subjects to the students, staff, parents and community. Such subjects shall include, but not be limited to: a basic understanding of the law, the role of the police officer and law related areas.
- 5.3 The SRO shall encourage individual and small group discussions with students, based upon material presented in class to further establish rapport with students.
- 5.4 When requested by the principal, the SRO shall attend parent/staff/administrative meetings to solicit support and understanding of the program, including the SRO Collaborative Meeting.
- 5.5 The SRO shall make himself/herself available for conference with students, parents and faculty members in order to assist them with problems of a law enforcement or crime prevention nature at primary locations. Any need for these supportive services at other schools within the district will be requested by the District Office and approved by the Supervising Sargent. The SRO will work collaboratively with the district staff to develop plans and strategies, presentations and programs for staff, students, parents and the community.
- 5.6 The SRO shall become familiar with all community agencies which offer assistance to youths and their families such as mental health clinics, drug treatment centers, etc.
- 5.7 The SRO shall assist the Associate Superintendent of Personnel Services, the Director of Pupil Services, the principal, or their designees in developing plans and strategies to prevent and/or minimize dangerous situations that may result in student arrest.
- 5.8 Should it become necessary to conduct formal police interviews with students, the SRO shall adhere to school board policy, police policy and legal requirements for conducting such interviews.
- 5.9 The SRO shall take all law enforcement action as required. As soon as practical, the SRO shall make the principal or his/her designee aware of such action. The SRO shall take appropriate law enforcement actions against intruders and unwanted guests who may appear at the school and related school functions, to the extent that the SRO may do so under the authority of law.
- 5.10 The SRO shall, whenever possible, participate in and/or attend school functions.
- 5.11 The SRO shall give assistance to other law enforcement personnel in matters regarding his/her school assignment as well as responding to an officer needing assistance.
- 5.12 The SRO shall maintain detailed and accurate records of the operation of the School Resource Officer Program. These records requested by the MCSD supervisor of the SRO Program shall include, but not be limited to, statistical findings from his/her school. These records will be submitted to the supervisor of the School Resource Officer Program.

- 5.13 The SRO shall not act as a school disciplinarian, as disciplining students is a school responsibility. However if the principal believes an incident is a violation of the law, the principal may contact the SRO, and the SRO shall then determine whether law enforcement action is appropriate.

6.0 Chain of Command

- 6.1 As employees of the Merced City Police Department, the SRO shall follow the chain of command as set forth in the Merced Police Department Policies and Procedures Manual.
- 6.2 In the performance of their duties, the SRO shall make every reasonable effort to coordinate and communicate with the Associate Superintendent of Personnel Services, the Director of Pupil Services, the principals or the principals' designee(s) of the assigned schools as set forth in this agreement.

7.0 Training

- 7.1 The SRO shall be required by the Merced Police Department to attend police training sessions. Training sessions will be conducted to provide SROs with appropriate in-service training, such as updates in the law, in-service firearm training and law enforcement-school related training. The MCSD will not be responsible for reimbursement of salary during required training sessions. Efforts will be made to schedule training on days when school is not in session.
- 7.2 The School District also may provide training in Board of Education policies, regulations and procedures.

8.0 Supplies and Equipment

- 8.1 The Merced Police Department agrees to provide SRO's with standard issue equipment, firearm and rounds of ammunition as needed to perform their duties.
- 8.2 The Merced Police Department agrees to provide the SROs with the required duty uniform.
- 8.3 The School District agrees to provide an office, desk, desk chair, computer and the usual and customary office supplies to the SROs.

9.0 Access to Education Records

- 9.1 School officials shall be responsible for determining what access the SRO is permitted to education records. School officials shall allow the SRO to inspect and copy any public records maintained by the school as well as personally identifiable information that are under the direct control of the school district and where the SRO has a legitimate educational interest. These records may include, but are not limited to student directory information, classroom schedule, assignments or discipline files. However, the SRO may not inspect and/or copy confidential student education records except as allowed by law.

- 9.2 If some information in a student's cumulative record is needed in an emergency to protect the health or safety of the student or other individuals, school officials may disclose to the SRO that information which is needed to respond to the emergency situation based on the seriousness of the threat to someone's health or safety; the need of the information to meet the emergency situation and the extent to which time is of the essence.
- 9.3 If confidential student records information is needed, but no emergency situation exists, the information may be released only upon the issuance of a search warrant or subpoena to produce the records.
- 9.4 The SRO may not re-disclose information from educational records to others, including other employees of the police department unless: (1) the re-disclosure is on behalf of the school district; (2) for a specific threat to the health and safety of students or others, and (3) except as allowed by law.

10.0 Evaluation

It is mutually agreed that the MCSD and the Schools shall evaluate annually the SRO program and the performance of any assigned SROs. It is further understood that the MCSD and the School's evaluation of each officer is advisory only and that the Merced Police Department retains the final authority to evaluate the performance of the SRO.

11.0 Term of Agreement

The term of agreement is three years, commencing on July 1, 2019, ending June 30, 2022, unless sooner terminated in accordance with this Agreement.

12.0 Notices

All notices, requests, demands or other communications under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes as follows:

- A. Personal Delivery. When personally delivered to the recipient, notice is effective upon delivery.
- B. First Class Mail. When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office of mailbox.
- C. Certified Mail. When mailed certified mail, return receipt requested, notice is effective upon receipt if delivery is confirmed by a return receipt.
- D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.
- E. Facsimile Transmission. When sent by fax to the last fax number of the recipient known to the party giving notice, notice is effective upon receipt,

provided that: a) a duplicate copy of the notice is promptly given by first class mail or certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation of receipt. Any notice given by fax shall be deemed received on the next business day if received after 5:00 p.m. or on a non-business day.

Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messengers or overnight delivery service.

Mailing and contact information for notice to the parties to this Agreement at the time of endorsement of this Agreement is as follows:

Merced City School District
444 W. 23rd Street
Merced, CA 95340

RoseMary Parga-Duran
Superintendent

(209) 385-6640

City of Merced
678 W. 18th Street
Merced, CA 95340

Steve Carrigan, City Manager
(209) 385-6834

Doug Collins
Associate Superintendent- Personnel
Services
(209) 385-6759

Merced Police Department
611 W. 22nd Street
Merced, CA 95340

Christopher Goodwin, Chief of Police
(209) 385-6915

Any party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

13.0 Termination

This Agreement, notwithstanding anything to the contrary herein, may be terminated by either party at any time without cause or legal excuse by providing the other party with thirty (30) calendar days written notice of such termination.

14.0 Disposition of Work Upon Termination

In the event of termination, all finished or unfinished documents and other materials, if any, at the option of the MCSD and to the extent permitted by law, shall become the property of the MCSD.

15.0 Modification of Agreement

Notwithstanding any of the provisions of this Agreement, the parties may agree to amend the Agreement. No alteration of the terms of this Agreement shall be valid

unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

16.0 Indemnification

- 16.1** The District shall indemnify, defend, and hold harmless the City, its officers, officials, employees, and volunteers (hereafter City Personnel) from and against any and all liability, claims, damage, cost, expenses, awards, fines, judgments, and expenses of litigation (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and cost) of every nature arising out of or in connection with any services provided by the City or any City Personnel or their performance of work or any failure to comply with any of City's duties contained in the Agreement, except such loss or damage which was caused by the active negligence by City Personnel, or the gross or willful misconduct of the City Personnel.
- 16.2** If the District rejects a tender of defense by the City and/or City Personnel under this Agreement, and it is later determined that the City and /or City Personnel breached no duty of care and/or were immune from liability, the District shall reimburse the City and/or City Personnel for any and all litigation expenses (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and cost). A duty of care or immunity determination may be made by a jury or a court, including a declaratory relief determination by a court after the City and/or City Personnel settles a liability claim, with or without participation by the District.
- 16.3** The Parties acknowledge that it is not the intent of the Agreement to create a duty of care by the City or its assigned officer that they would not owe in the absence of the Agreement. The Agreement does not create an affirmative duty of care (including, without limitation, a duty to protect, a duty to deter and/or a duty to intervene) by the City or the assigned officer and the absence of the assigned officer and/or the patrol vehicle is not a material breach of this Agreement. The Parties further acknowledge that by entering into this Agreement neither the City nor its assigned officer intends to waive any immunities to which they would be entitled in the absence of the Agreement.

17.0 Completeness of Contract

This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

18.0 Applicable Law; Venue

Any dispute concerning any question of fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall be tried in

Merced County, unless the parties agree otherwise or are otherwise required by law.

19.0 Confidentiality

This Agreement shall comply with all applicable Federal, State and County laws relating to the confidentiality of information. The MCSD and the City shall not publish, use or permit or cause to be published, disclose, or use confidential information pertaining to any minor, without express written permission from the minor's parent or legal guardian, except as permitted by law.

20.0 Nondiscrimination in Employment, Services, Benefits and Facilities

20.1 The MCSD and the City shall comply with all applicable Federal, State and local antidiscrimination laws, regulations, and ordinances. Neither party shall unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of the other, or recipient of services contemplated to be provided or actually provided under this Agreement because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. Both parties shall ensure that evaluation and treatment of their employees and applicants for employment, and recipients of services, are free from such discrimination and harassment.

20.2 Both parties represent that they are in compliance with and agree to continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.), the Fair Employment and Housing Act (Government Code §12900 et seq.), and regulations and guidelines issued pursuant thereto.

21.0 Agency Relationship

This Agreement is not intended to and shall not create the relationship of principal-agent, master-servant, or employer-employee between the City and the MCSD. There is no employee relationship between the SRO's and MCSD.

22.0 Severability

If a court of competent jurisdiction holds any provisions of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them will not be affected.

23.0 Integration of Prior Terms and Conditions

This Agreement, including all recitals, constitutes the entire agreement of the Parties. This Agreement may be amended or modified only by the mutual written agreement of the Parties. This Agreement is invalid unless approved by the legislative body of each Party, although it may be executed by an authorized agent

of each Party. An authorized agent of the City shall be a person specifically authorized by the legislative body of the City to execute this Agreement, at the level of City Manager or City Attorney or equivalent.

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

CITY OF MERCED

A Municipal Corporation

By: _____
Steve Carrigan, City Manager

Date

By: Christopher Goodwin
Christopher Goodwin, Chief of Police

6/10/19
Date

MERCED CITY SCHOOL DISTRICT

By: Rosemary Parga-Duran
Rosemary Parga-Duran, Superintendent

6/10/19
Date

By: Douglas J. Collins
Douglas J. Collins, Associate Superintendent

6/10/19
Date

Approved as to Form:

By: Maechae A. Nott
City Attorney

6-14-19
Date

Account Data:

By: _____
Verified by Finance Officer

Date

ATTEST:

STEVE CARRIGAN, CITY CLERK

By: _____
Assistant/Deputy City Clerk

City of Merced
Cost Sheet FY 19-20
SCHOOL RESOURCE OFFICER

EXHIBIT A

Full-Time Senior Police Officer - Top Step 5

Salary	85,468.03
Uniform Allowance	1,050.00
Holiday Pay	3,615.96
Education Pay	2,400.00
Post Pay	2,400.00
Total Wages	94,933.99
Medicare	1,376.54
Social Security	5,885.91
PERS Employer	35,463.54
PERS Employee	8,544.06
Health, Dental, Vision	22,070.10
Total Benefits	73,340.15
Total Expense	168,274.13
Less Employee Share PERS	(\$8,544.06)
Net Cost	159,730.07
Admin/Overhead Expenses - Police	23,959.51
TOTAL	\$ 183,689.59
<i>70% of the cost is</i>	<i>\$ 128,582.71</i>

Overtime Rate

Earnings to calculate OT rate	\$ 93,883.99
Calculated rate of pay	45.1365
OT Rate	67.7048
Medicare	0.9817
Social Security	4.1977
<i>OT Rate w/Benefits</i>	<i>\$ 72.8842</i>



ADMINISTRATIVE REPORT

Agenda Item I.15.

Meeting Date: 7/1/2019

Report Prepared by: Joe Weiss, Police Lieutenant, City of Merced Police Department

SUBJECT: Authorization to Accept and Appropriate a Donation of Five Hundred Dollars (\$500.00) from Benny Dfanda to be Used to Purchase Equipment and Supplies for the Merced Police K9 Unit

REPORT IN BRIEF

Considers accepting and appropriating a donation of five hundred dollars (\$500.00) from Benny Dfanda to offset the costs of the Merced Police K9 Program.

RECOMMENDATION

City Council - Adopt a motion:

- A. Accepting the donation of five hundred dollars (\$500.00) from Benny Dfanda for use in the Police K9 Program; and,
- B. Depositing the five hundred dollar (\$500.00) donation to revenue account #001-1001-360-02-01 and appropriate the same amount to account #001-1027-522-29-00 to purchase equipment and supplies for the K9 Unit.

ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Deny; or,
- 3. Refer to staff for reconsideration of specific items; or,
- 4. 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 Police Department has received a donation from Benny Dfanda, the owner of the 7-11 store located at 1107 W. Olive Ave in the city of Merced. Mr. Dfanda presented the money order to the Merced Police Department at the grand opening of the store on 4/26/19 with no direction of how the funds were to be spent. The Merced Police Department is requesting to use the funds to purchase equipment and supplies for the K9 unit.

IMPACT ON CITY RESOURCES

None.



ADMINISTRATIVE REPORT

Agenda Item I.16.

Meeting Date: 7/1/2019

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

SUBJECT: Approval of Agreement for Professional Services with Friedman and Bruya, Incorporated, for Specialized Laboratory Services in Support of the City's Groundwater Investigation, for a Three-Year Term in the Amount of \$10,291.05 Annually

REPORT IN BRIEF

Considers an agreement for professional services with Friedman and Bruya, Incorporated, for laboratory services to support the City's groundwater investigation

RECOMMENDATION

City Council - Adopt a motion approving the agreement for professional services with Friedman and Bruya, Inc., for a three-year term in the amount of \$10,291.05 annually for each of the fiscal years FY 2019/20, FY 2020/21, and FY 2021/22, to provide laboratory analytical services; and authorizing the City Manager or the Assistant City Manager to execute necessary documents.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200 et seq.

Procurements for specialized consultant services are made in accordance with Merced Municipal Code, Title 3 - Revenue and Finance, Chapter 3.04.

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget.

DISCUSSION

The State Water Resources Control Board (SWRCB) requires the City to monitor its drinking water for various contaminants including methyl tert butyl ether (MTBE), tert amyl methyl ether (TAME) and tert-butyl alcohol (TBA). MTBE and TAME are gasoline fuel additives while TBA is a breakdown product of MTBE as it degrades in the environment. These chemicals have been detected in

groundwater that the City utilizes as its sole drinking water source.

Sampling of City groundwater monitoring wells and municipal wells is conducted to ensure that water quality meets State standards for public drinking water supplies. Sampling is also conducted to support the City cost recovery litigation effort that was initiated in 2005 against the oil companies. Although the City prevailed in its lawsuit, the City still has a need to monitor the groundwater for these chemicals.

Friedman and Bruya Inc. of Seattle, Washington, has been analyzing City water samples for litigation support. They utilize methods capable of detecting “trace” contaminants in groundwater that other in-state laboratories cannot perform. Most laboratories can detect chemicals in water at microgram per liter (ug/L) or “part-per-billion” levels. Friedman and Bruya Inc. can detect chemicals at nanogram per liter (ng/L) or “part-per-trillion” levels.

The City previously retained Friedman and Bruya Inc.’s services for an initial December 21, 2010 contract and continued with subsequent amendments. They have provided a written quote for their services for this new contracted period that will be from July 2019 - June 2022.

IMPACT ON CITY RESOURCES

The current Fiscal Year 2019/20 budget includes an adequate balance in the Fund 557-Water System Enterprise Fund, Professional Services Account No. 557-1106-532.17-00, for the first year of the three-year contract. Future appropriations will be incorporated into the annual budget and no General Funds will be used for this project.

ATTACHMENTS

1. Contract

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as "City") and Friedman & Bruya, Inc., a Washington Corporation, whose address of record is 3012 16th Avenue West, Seattle, Washington 98119-2029 (hereinafter referred to as "Consultant").

WHEREAS, City is undertaking a project to investigate MTBE in groundwater; and,

WHEREAS, Consultant represents that it possesses the professional skills to provide analysis services in connection with said project.

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

1. **SCOPE OF SERVICES.** The Consultant shall furnish the following services: Consultant shall provide the analysis services described in Exhibit "A" attached hereto.

No additional services shall be performed by Consultant unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the Environmental Project Manager or designee. However, the means by which the work is accomplished shall be the sole responsibility of the Consultant.

2. **TIME OF PERFORMANCE.** All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Exhibit "B" attached hereto and incorporated herein by reference. By mutual agreement and written addendum to this Agreement, the City and the Consultant may change the requirements in said Schedule.

3. **RESERVED.**

4. **COMPENSATION.** Payment by the City to the Consultant for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance

with the fee schedule set forth in Exhibit "B" attached hereto and incorporated herein by reference. The Consultant agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "B". For Consultant's services rendered under this Agreement, City shall pay Consultant the not to exceed sum of Ten Thousand Two Hundred Ninety-One Dollars and Five Cents (\$10,291.05) per year for each of the fiscal years FY 2019-2020, FY 2020-2021, and FY 2021-2022.

5. **METHOD OF PAYMENT.** Compensation to Consultant shall be paid by the City after submission by Consultant of an invoice delineating the services performed.

6. **RECORDS.** It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Consultant relating to the matters covered by this Agreement shall be the property of the City, and Consultant hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. **CONSULTANT'S BOOKS AND RECORDS.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. **INDEPENDENT CONTRACTOR.** It is expressly understood that Consultant is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, the Consultant is to acquire same at its expense.

In the event Consultant or any employee, agent, or subcontractor of Consultant 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, Consultant shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant 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.

9. INDEMNITY. Consultant shall indemnify, protect, defend (with legal counsel selected by the City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Consultant or Consultant's officers, employees, volunteers, and agents during performance of this Agreement, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Consultant or its employees, subcontractors, or agents, or by the quality or character of Consultant's work, or resulting from the negligence of the City, its officers, employees, volunteers and agents, except for loss caused by the sole negligence or willful misconduct of the City or its officers, employees, volunteers or agents. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and 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, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

10. INSURANCE. During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

- b. General Liability.
- (i) Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
 - (ii) Consultant shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
 - (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.
 - (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
 - (v) Consultant shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.
- c. Automobile Insurance.
- (i) Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
 - (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Consultant.

- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium.

g. Notwithstanding any language in this Agreement to the contrary, Consultant shall be entitled to be paid pursuant to the terms of this Agreement until Consultant has obtained the insurance required by this Section 10 and provided documentation of said insurance to the City. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

11. ASSIGNABILITY OF AGREEMENT. It is understood and agreed that this Agreement contemplates personal performance by the Consultant and is

based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City.

12. **TERMINATION FOR CONVENIENCE OF CITY.** The City may terminate this Agreement any time by mailing a notice in writing to Consultant that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

13. **CONFORMANCE TO APPLICABLE LAWS.** Consultant shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Consultant in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

14. **WAIVER.** In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

15. **INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS.** In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

16. **AMBIGUITIES.** This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

17. **VENUE.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

18. **AMENDMENT.** This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

19. **INTEGRATION.** This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

20. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

21. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: *Paedra A. Miller* 4-30-19
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

CONSULTANT
FRIEDMAN & BRUYA, INC.,
A Washington Corporation

BY: 
(Signature)

James Bruya
(Typed Name)

Its: President
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. 91-1987838

ADDRESS: 3012 16th Ave. West
Seattle, WA 98119-2029

TELEPHONE: (206) 285-8282

FAX: (206) 283-5044

E-MAIL: fbi@isomedia.com

RECEIVED

APR 24 2019

ENGINEERING DEPT

James E. Bruya, Ph.D.

Yelena Aravkina, M.S.

Michael Erdahl, B.S.

Arina Podnozova, B.S.

Eric Young, B.S.

FRIEDMAN & BRUYA, INC.

ENVIRONMENTAL CHEMISTS

3012 16th Avenue West

Seattle, WA 98119-2029

(206) 285-8282

fbi@isomedia.com

e-mail: fbi@isomedia.com

April 23, 2019

Joseph Angulo, P.G.
Environmental Project Manager
City of Merced
678 West 18th Street
Merced, CA 95340

Dear Mr. Angulo:

Thank you for allowing us the opportunity to provide this formal quote in support of analyzing your water samples for dissolved gasoline constituents. We propose to analyze these samples following EPA Method 524.2. The reporting limit is expected to be 20 ng/L (ppt) for methyl *t*-butyl ether (MTBE) and *t*-amyl methyl ether (TAME) and 3,000 ng/L (ppt) for *t*-butyl alcohol (TBA). The cost for the analysis of MTBE and TBA will be \$225.50 per sample and the cost for the analysis of MTBE, TAME and TBA will be \$236.50 per sample. These rates will be applicable through the May sampling of 2022.

Our fee includes the following items:

- Analysis by EPA Method 524.2,
- Extended data deliverable documents (sample results, shipping documents, lab worksheets, calibrations, continuing calibrations, tunes, QA samples, sequence tables and sample data)
- Bottles/labels for collecting samples,
- Chain-of-Custody form,
- Custody seals,
- Packing materials,
- Gel packs for cooling samples,
- Extra gel packs for shipping samples,
- Shipment of supplies to City of Merced.

If you should have any questions, please feel free to call us at (800) 487-8231.

Sincerely,

FRIEDMAN & BRUYA, INC.



Michael Erdahl

QUOTES\CITY OF MERCED 2019.DOC

		Friedman & Bruya 3 year contract					
		FY 2019/20		FY 2020/21		FY 2021/22	
		Nov'19	May'20	Nov'20	May'21	Nov'21	May'22
municipal wells	MTBE, TBA, TAME* @ \$236.50	4	4	4	4	4	4
monitoring wells	MTBE, TBA, TAME @ \$236.50	11	11	11	11	11	11
trip blanks**	MTBE, TBA @ \$225.50	4	4	4	4	4	4
equip blanks***	MTBE, TBA @ \$225.50	2	2	2	2	2	2
		tests total					
		5% contingency					
		grand total					
		\$29,403.00					
		\$1,470.15					
		\$30,873.15					

255 standard 10 business day reporting turn-around-time (TAT)

*MTBE/TBA/TAME (chemical additives in gasoline)-

MTBE= methyl tert butyl ether

TBA= tert-butyl alcohol

TAME= tert amyl methyl ether

**trip blanks = sample containers filled with purified water and analyzed as a quality check to detect cross-contamination during transport

***equip blanks = sample containers filled with purified water poured through sampling pumps and analyzed as a quality check

\$30,873.15/3 = \$10,291.05 per year



ADMINISTRATIVE REPORT

Agenda Item I.17.

Meeting Date: 7/1/2019

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

SUBJECT: Approval of Third Amendments to Two Separate Agreements with Provost and Pritchard Engineering Group, Incorporated for Environmental Remediation Services Including Groundwater Cleanup and Reporting for a Combined Total of \$284,700

REPORT IN BRIEF

Considers approving third amendment to two amendments to agreements for professional services with Provost and Pritchard Engineering Group, Incorporated for a combined amount not to exceed \$284,700.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the third amendment to agreement for professional services (cleanup contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$224,400 for groundwater cleanup; and,
- B. Approving the third amendment to agreement for professional services (reporting contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of \$60,300 for report drafting; and,
- C. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200 et seq.

Services with an estimated value greater than \$31,000.00 are made by written contract in accordance with Merced Municipal Code, Title 3 - Revenue and Finance, Chapter 3.04.

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget.

DISCUSSION

PCE Groundwater Cleanup - History and Past Actions

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

The Council approved an Agreement for Professional Services with Provost and Pritchard Engineering Group, Inc., at its July 5, 2016, meeting, and a first contract amendment on July 5, 2017 meeting, and second contract amendment on July 2, 2018.

Current Site Status

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

Status of the remaining PCE Sites (6):

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

- Merced Laundry, 160 W. Main Street- Groundwater monitoring only is occurring, further action is deferred in accordance with the Settlement Agreement.

The new Provost and Pritchard Engineering Group, Inc., \$224,400 contract amendment under consideration includes the following major tasks for fiscal year 2019 - 2020:

Former Parkway Cleaners

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

Former Sunshine Cleaners

- Operation and maintenance costs of the treatment system;
- Carbon filter media replacement;
- Modifying the system to include additional vapor extraction wells;
- System evaluation reporting.

The groundwater cleanup at the two above sites is progressing slowly due to the persistent nature of the chemical PCE. A dual phase extraction pilot test was performed at the Parkway and Sunshine sites in December 2018. Dual phase extraction involves applying a vacuum on a groundwater well to simultaneously extract PCE impacted soil vapor and groundwater. As the water is removed more of the soil column is exposed to vacuum to remove the PCE. The soil vapors are captured utilizing carbon absorption and the extracted water is containerized for off-site disposal.

The results of the 2018 dual phase extraction pilot test indicated that it was not a viable option for the two sites. The technology was deemed not effective primarily due to the high cost associated with the extracted water disposal. Soil vapor extraction remains the primary technology in use at the two sites.

The balance of the annual \$250,000 PCE cleanup funding commitment will be used to pay Board oversight fees for fiscal year 2019-2020.

PCE Reporting - History and Past Actions

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

The Council approved an Agreement for Professional Services for report drafting with Provost and Pritchard Engineering Group, Inc., at its July 5, 2016, meeting, a first contract amendment on July 5, 2017, and a second contract amendment on July 2, 2018. This third contract amendment is for

Quarterly Monitoring Reports for the last two quarters of 2019 and the first two quarters of 2020 (fiscal year 2019/2020) at a cost of \$60,300. Provost and Pritchard Engineering Group, Inc., has provided satisfactory service for the PCE project.

IMPACT ON CITY RESOURCES

PCE Cleanup Contract

On December 18, 2006, the City Council approved water service rates that include an amount of \$250,000 annually to provide for source water protection and remediation costs at the seven PCE sites. Funds are available in the fiscal year 2019/2020 budget in PCE CIP Enterprise Fund 463 to cover the cost of the clean-up contract.

PCE Reporting Contract

There are sufficient funds in the Fiscal Year 2019-20 budget in Fund 557-Water Operations to cover the amount of the contract.

ATTACHMENTS

1. PCE Cleanup Contract
2. PCE Reporting Contract

THIRD AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

THIS THIRD AMENDMENT TO AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, ("City"), and Provost & Pritchard Engineering Group, Inc., a California Corporation, whose address of record is 2505 Alluvial Avenue, Clovis, California 93611, ("Consultant").

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

WHEREAS, City and Consultant have previously entered into an Agreement for Professional Services ("Agreement") dated July 5, 2016, a First Amendment dated July 5, 2017, and a Second Amendment dated July 2, 2018; and

WHEREAS, City and Consultant desire to amend the Agreement to modify the scope of services in connection with said project.

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

1. Section 26, "ADDITIONAL WORK," is hereby added to the Agreement to read as follows:

"SECTION 26. ADDITIONAL WORK. Consultant shall perform the additional work outlined in the proposal from Consultant to City dated April 30, 2019, attached hereto as Exhibit "1".

2. Section 27, "ADDITIONAL COMPENSATION," is hereby added to the Agreement to read as follows:

"SECTION 27. ADDITIONAL COMPENSATION. City shall pay to Consultant the not to exceed additional sum of Two Hundred Twenty-Four Thousand Four Hundred Dollars (\$224,400.00) for the additional work

described in the proposal attached hereto as Exhibit "1"
and in accordance with the rates set forth on Exhibit "1."

3. Except as herein amended, the Agreement dated July 5, 2016, First Amendment dated July 5, 2017, and Second Amendment dated July 2, 2018, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Third Amendment to Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Deputy City Clerk


APPROVED AS TO FORM:

BY: Shirley A. Miller 5-3-19
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

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

BY: 
(Signature)

RANDY HOPKINS
(Typed Name)

Its: JICG - PRESIDENT
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. 94-2187078

ADDRESS: 2505 Alluvial Ave.
Clovis, CA 93611

TELEPHONE: (559) 326-1100

FAX: (559) 326-1090

E-MAIL: www.ppeng.com

April 30, 2019

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

SUBJECT: Fee Estimates For the Annual Work Plan
Third and Fourth Quarter 2019 and the
First and Second Quarter 2020
For PCE Project including 1-Hour R Street Site, Parkway, Sunshine, Bel
Air, Simpson's, and Merced Laundry Dry Cleaners, City of Merced

Dear Mr. Angulo,

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

Based on the results of the DPE pilot test, we are not recommending full scale use. Therefore, at the Parkway site we have included typical bi-weekly O&M expenses similar to the previous year. At the Sunshine site, we have included typical bi-weekly O&M and the addition to the SVE system by connecting S46-I-1, I-3, and I-8. A short Remediation Modification Workplan will be submitted for approval.

This project cost is based on our 2019 Fee Schedule (also attached).

LIMITATIONS

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

Regulations and professional standards applicable to P&P services are continually evolving. Techniques are, by necessity, often new and relatively untried. Different professionals may reasonably adopt different approaches to similar problems.

Therefore, no warranty or guarantee, express or implied, will be included in P&P's scope of services.

AUTHORIZATION

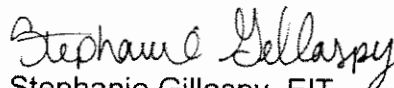
If there is a need for any change in the scope of services described in this fee estimate please call us immediately. Changes may require revision of the proposed fee that will be communicated to you.

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

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

Sincerely,

Provost and Pritchard Consulting Group


Stephanie Gillaspy, EIT
Senior Environmental Specialist


David W. Norman
Principal Environmental Specialist

DWN:SEG

PROVOST & PRITCHARD - CITY OF MERCED PCE REMEDIATION		
July 1, 2019 - June 30, 2020	Contract task items	
Parkway Cleaners		
	Twelve (12) months of Remedial System O&M (BiWeekly)	\$ 17,400.00
	Annual system evaluation report (January 2020)	\$ 5,500.00
	PG&E (SVE and Ozone trailer, \$1,000/month)	\$ 12,000.00
	H2O Engineering 12 month Maintenance on Ozone Trailer	\$ 7,500.00
	Monthly Air Samples (\$600 per month)	\$ 7,200.00
	Carbon Change out (two, if needed)	\$ 16,000.00
	SVE & Ozone Trailer Service	\$ 5,000.00
	Project management	\$ 7,500.00
		\$ 78,100.00
Sunshine		
	Twelve (12) months of Remedial System O&M (BiWeekly)	\$ 17,400.00
	Annual system evaluation report (May 2020)	\$ 5,500.00
	PG&E (SVE trailer, \$600/month)	\$ 7,200.00
	Monthly Air Samples (\$600 per month)	\$ 7,200.00
	Carbon Change out (two If needed)	\$ 16,000.00
	SVE & Ozone Trailer Service	\$ 5,000.00
	Remediation Modification Workplan	\$ 3,000.00
	Connect S46-I-1, I-3, I-8 to SVE System	\$ 75,000.00
	Project management	\$ 7,500.00
		\$ 143,800.00
contingency		
		\$ 2,500.00
	TOTAL	\$ 224,400.00

PROVOST & PRITCHARD CONSULTING GROUP
STANDARD FEE SCHEDULE
Effective 1/1/2019
(hourly rates)

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

		<u>Fee</u>
ENGINEERING STAFF:		
Assistant Engineer		\$ 95.00 - \$115.00
Associate Engineer		\$120.00 - \$140.00
Senior Engineer		\$145.00 - \$175.00
Principal Engineer		\$180.00 - \$220.00
SPECIALISTS:		
Assistant Environmental Specialist		\$ 85.00 - \$110.00
Associate Environmental Specialist		\$117.00 - \$147.00
Senior Environmental Specialist		\$150.00 - \$175.00
Principal Environmental Specialist		\$185.00 - \$215.00
Associate GIS Specialist		\$ 95.00 - \$115.00
Senior GIS Specialist		\$120.00 - \$150.00
Assistant Geologist/Hydrogeologist		\$ 90.00 - \$105.00
Associate Geologist/Hydrogeologist		\$110.00 - \$135.00
Senior Geologist/Hydrogeologist		\$150.00 - \$180.00
Associate Water Resources Specialist		\$ 95.00 - \$115.00
Senior Water Resources Specialist		\$120.00 - \$150.00
PLANNING STAFF:		
Assistant Planner/CEQA-NEPA Specialist		\$ 75.00 - \$ 95.00
Associate Planner/CEQA-NEPA Specialist		\$100.00 - \$125.00
Senior Planner/CEQA-NEPA Specialist		\$140.00 - \$165.00
Principal Planner/CEQA-NEPA Specialist		\$170.00 - \$195.00
TECHNICAL STAFF:		
Assistant Technician		\$ 75.00 - \$ 95.00
Associate Technician		\$100.00 - \$120.00
Senior Technician		\$130.00 - \$145.00
CONSTRUCTION SERVICES:		
Associate Construction Manager		\$115.00 - \$135.00
Senior Construction Manager		\$140.00 - \$162.00
Principal Construction Manager		\$170.00 - \$200.00
Construction Manager Prevailing Wage ⁽¹⁾ (2)		\$142.00 - \$167.00
SUPPORT STAFF:		
Administrative Assistant		\$ 65.00 - \$ 85.00
Project Administrator		\$ 73.00 - \$ 93.00
Project Manager		\$125.00
Intern		\$ 65.00
SURVEYING SERVICES:		
LSIT Surveyor		\$ 95.00 - \$115.00
Licensed Surveyor		\$125.00 - \$160.00
		<u>Prev. Wage (1)</u>
1 Man Survey Crew	\$165.00	\$190.00
2 Man Survey Crew	\$230.00	\$270.00
2 Man Survey Crew including LS	\$265.00	\$275.00
1 Man CORS Survey Crew	\$180.00	
2 Man CORS Survey Crew	\$230.00	
UAV (Drone) Services	\$205.00	
(Field Work not including survey equipment billed at individual standard rate plus vehicle as appropriate)		
EXPERT WITNESS: As quoted.		
TRAVEL TIME (for greater than 1 hour from employee's base office): \$80/hr (unless the individual's rate is less)		
PROJECT COSTS:		
Mileage	IRS value + 15%	
Outside Consultants	Cost + 15%	
Direct Costs	Cost + 15%	

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

THIRD AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

THIS THIRD AMENDMENT TO AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, ("City"), and Provost & Pritchard Engineering Group, Inc., a California Corporation, whose address of record is 2505 Alluvial Avenue, Clovis, California 93611, ("Consultant").

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

WHEREAS, City and Consultant have previously entered into an Agreement for Professional Services ("Agreement") dated July 5, 2016, a First Amendment dated July 5, 2017, and a Second Amendment dated July 2, 2018; and

WHEREAS, City and Consultant desire to amend the Agreement to modify the scope of services in connection with said project.

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

1. Section 26, "ADDITIONAL WORK," is hereby added to the Agreement to read as follows:

"SECTION 26. ADDITIONAL WORK. Consultant shall perform the additional work outlined in the proposal from Consultant to City dated April 30, 2019, attached hereto as Exhibit "1".

2. Section 27, "ADDITIONAL COMPENSATION," is hereby added to the Agreement to read as follows:

"SECTION 27. ADDITIONAL COMPENSATION. City shall pay to Consultant the not to exceed additional sum of Sixty Thousand Three Hundred Dollars (\$60,300.00) for the additional work described in the

proposal attached hereto as Exhibit "1" and in accordance with the rates set forth on Exhibit "1."

3. Except as herein amended, the Agreement dated July 5, 2016, First Amendment dated July 5, 2017, and Second Amendment dated July 2, 2018, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Third Amendment to Agreement to be executed on the date first above written.


CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Deputy City Clerk

APPROVED AS TO FORM:

BY:  5-3-19
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

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

BY: 
(Signature)

RANDY HOPKINS
(Typed Name)

Its: VICE-PRESIDENT
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. 94-2187078

ADDRESS: 2505 Alluvial Ave.
Clovis, CA 93611

TELEPHONE: (559) 326-1100

FAX: (559) 326-1090

E-MAIL: www.ppeng.com

April 30, 2019

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

SUBJECT: Quarterly Ground Water Monitoring Reports for the
Third and Fourth Quarter 2019 and the
First and Second Quarter 2020
For PCE Project including 1-Hour R Street Site, Parkway, Sunshine, Bel
Air, Simpson's, and Merced Laundry Dry Cleaners, City of Merced

Dear Mr. Angulo,

At your request, Provost & Prichard Consulting Group (P&P) is providing you with our cost estimate to provide continuing quarterly groundwater reporting for the PCE project. As you indicated this contract would be for a time period covering the Third and Fourth (annual report) Quarter 2019 and the First and Second Quarter 2020. The quarterly reporting will include the data from the six dry cleaners sites currently being monitored by the City for the "PCE project." The City has designated specific wells for each of these sites. The City has indicated sampling up to 75 groundwater monitoring wells for this program as amended a number of times to reduce the total number of wells sampled since 2007. All wells are monitored for depth to groundwater each quarter.

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

SCOPE OF WORK

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

The 2019/2020 quarterly reports will build on the data and format of previous reporting and provide updated graphs, tables and maps for review and consideration by the RWQCB, the court and the City. The Fourth Quarter report will double as the annual

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

ASSUMPTIONS AND ESTIMATED COSTS

P&P will continue to upload the lab data in EDF format provided by the contract laboratory to Geotracker, as well as the quarterly report. P&P will invoice for our service on a time and material basis not to exceed the estimated fee, without prior written approval. We have increased this year's budget up approximately 3 percent to account for some increase in cost. The invoicing will occur monthly for the level of effort expended during the billing cycle. Fee will be based on P&Ps 2019 Fee schedule (attached). P&P will perform the scope of work discussed herein for an estimated fee of \$60,300.

FEE ESTIMATE

Four Quarterly Reports	\$60,300
TOTAL CONTRACT	\$60,300

LIMITATIONS

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

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

AUTHORIZATION

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

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

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

Sincerely,

Provost and Pritchard Consulting Group


Stephanie Gillaspy, EIT
Senior Environmental Specialist


David W. Norman
Principal Environmental Specialist



PROVOST & PRITCHARD CONSULTING GROUP
STANDARD FEE SCHEDULE
Effective 1/1/2019
 (hourly rates)

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

	<u>Fee</u>
<u>ENGINEERING STAFF:</u>	
Assistant Engineer	\$ 95.00 - \$115.00
Associate Engineer	\$120.00 - \$140.00
Senior Engineer	\$145.00 - \$175.00
Principal Engineer	\$180.00 - \$220.00
<u>SPECIALISTS:</u>	
Assistant Environmental Specialist	\$ 85.00 - \$110.00
Associate Environmental Specialist	\$117.00 - \$147.00
Senior Environmental Specialist	\$150.00 - \$175.00
Principal Environmental Specialist	\$185.00 - \$215.00
Associate GIS Specialist	\$ 95.00 - \$115.00
Senior GIS Specialist	\$120.00 - \$150.00
Assistant Geologist/Hydrogeologist	\$ 90.00 - \$105.00
Associate Geologist/Hydrogeologist	\$110.00 - \$135.00
Senior Geologist/Hydrogeologist	\$150.00 - \$180.00
Associate Water Resources Specialist	\$ 95.00 - \$115.00
Senior Water Resources Specialist	\$120.00 - \$150.00
<u>PLANNING STAFF:</u>	
Assistant Planner/CEQA-NEPA Specialist	\$ 75.00 - \$ 95.00
Associate Planner/CEQA-NEPA Specialist	\$100.00 - \$125.00
Senior Planner/CEQA-NEPA Specialist	\$140.00 - \$165.00
Principal Planner/CEQA-NEPA Specialist	\$170.00 - \$195.00
<u>TECHNICAL STAFF:</u>	
Assistant Technician	\$ 75.00 - \$ 95.00
Associate Technician	\$100.00 - \$120.00
Senior Technician	\$130.00 - \$145.00
<u>CONSTRUCTION SERVICES:</u>	
Associate Construction Manager	\$115.00 - \$135.00
Senior Construction Manager	\$140.00 - \$162.00
Principal Construction Manager	\$170.00 - \$200.00
Construction Manager Prevailing Wage ^{(1) (2)}	\$142.00 - \$167.00
<u>SUPPORT STAFF:</u>	
Administrative Assistant	\$ 65.00 - \$ 85.00
Project Administrator	\$ 73.00 - \$ 93.00
Project Manager	\$125.00
Intern	\$ 65.00
<u>SURVEYING SERVICES:</u>	
LSIT Surveyor	\$ 95.00 - \$115.00
Licensed Surveyor	\$125.00 - \$160.00
	<u>Prev. Wage (1)</u>
1 Man Survey Crew	\$165.00 \$190.00
2 Man Survey Crew	\$230.00 \$270.00
2 Man Survey Crew including LS	\$265.00 \$275.00
1 Man CORS Survey Crew	\$180.00
2 Man CORS Survey Crew	\$230.00
UAV (Drone) Services	\$205.00
(Field Work not including survey equipment billed at individual standard rate plus vehicle as appropriate)	

EXPERT WITNESS: As quoted.

TRAVEL TIME (for greater than 1 hour from employee's base office): \$80/hr (unless the individual's rate is less)

PROJECT COSTS:

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

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



ADMINISTRATIVE REPORT

Agenda Item I.18.

Meeting Date: 7/1/2019

Report Prepared by: Joe Cardoso, P.L.S., City Surveyor

SUBJECT: Adoption of Resolution Approving Program Supplement No. F031 to Administering Agency - State Agreement for Federal Aid Projects No. 10-5085F15 and Acceptance of Congestion Mitigation and Air Quality Improvement (CMAQ) Grant Funds, CML-5085(050) 119069 CMAQ-SDWK, in the Amount of \$61,336 for Preliminary Engineering for the Sidewalks Near South R, T Street Between Childs Ave and Stuart Drive and Stuart Drive and Childs Avenue and South R Street

REPORT IN BRIEF

Considers a resolution approving a California Department of Transportation Program Supplement for the use of \$61,336 in CMAQ Grant funding for Preliminary Engineering for the sidewalks near South R Street, T Street between Childs Ave and Stuart Drive and Stuart Drive between Childs Avenue and South R Street.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2019-29**, a Resolution of the City Council of the City of Merced, California, approving Federal-Aid Projects Program Supplement Agreement No. F031; and,
- B. Accepting CMAQ grant funds and increasing revenue in account 450-1104-321-32-00 by \$61,336 and appropriating the same to account 450-1104-637-65 (Project No. 119069) for preliminary engineering costs associated with design of sidewalk near South R Street, T Street between Childs Ave and Stuart Drive and Stuart Drive between Childs Avenue and South R Street; and,
- C. Approving the use of pooled cash until reimbursement is received from the grant; and,
- D. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200.

Caltrans Procedures for Administering Local Grant Projects in the State Transportation Improvement Program (STP) are used to comply with the changes to the programming and funding statutes brought about by Charter 622 of the Statutes of 1997 (SB 45, KOPP). The procedures have been modified to remain consistent with and complimentary to the various guidelines and policies adopted by the California Transportation Commission (CTC), including the current 2010 STP Guidelines (adopted on October 14, 2009).

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget.

DISCUSSION

In January 2019, City Council approved the ratification of three (3) grant applications for Congestion Mitigation and Air Quality Improvement (CMAQ) funds to install sidewalks that will either connect gaps in existing sidewalk networks or construct new sidewalks in the locations outlined below:

1. Construction of a 5' wide sidewalk along 7th Street and 8th Street from Linda Lane to West; Linda Lane from Lopes Avenue to 7th Street.,
2. Construction of a 5' wide sidewalk along South R Street, South S and South T Street from Childs Avenue to Stuart Drive.
3. Construction of a 5' side sidewalk in the areas of East Olive Avenue from West Queens Circle to North Parsons Avenue; Parsons Avenue from East Olive Avenue to Hansen Avenue; and East Alexander Avenue from Nottingham Lane to Parsons Avenue.

The attached Program Supplement is for the South R Street, South S and South T Street from Childs Avenue to Stuart Drive portion and would include approximately 7,571 linear feet of new sidewalk and approximate 30 access ramps.

This portion of the project is for Preliminary Engineering, which will allow for design, prepare engineering plans and specifications, environmental review, and public outreach. The Federal-Aid Projects Program Supplement Agreement No. F031 allows \$61,336 in grant funds and a local match of \$7,947 toward the Preliminary Engineering of this project.

IMPACT ON CITY RESOURCES

Staff recommends accepting grant funds from the State of California adopted Congestion Mitigation and Air Quality Improvement (CMAQ) Program, increasing revenue in account 450-1104-321.32-00 in the amount of \$61,336 and appropriating the same to account 450-1104-637.65-00-119069 for the Preliminary Engineering costs. Additionally, Fund 075-Measure V Alternative Modes will be used for the matching funds in the amount of \$7,947.

ATTACHMENTS

1. Location Map

2. Resolution
3. Program Supplement
4. E-76 CML-5085(048)

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SCALE: N.T.S.



City of Merced
"Gateway to Yosemite"
 DEVELOPMENT SERVICES
 ENGINEERING PROJECTS AND STANDARDS
 678 W. 18th Street (209) 385-6846

**5' WIDE SIDEWALK ON
 SOUTH T ST AND STUART DR**

DR. BY: ---
DATE: 12/28/18
CH. BY: ###
DATE: 5/9/08
File No. XX
SCALE: AS SHOWN

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SCALE: N.T.S.



City of Merced
"Gateway to Yosemite"

DEVELOPMENT SERVICES
ENGINEERING PROJECTS AND STANDARDS
678 W. 18th Street (209) 385-6846

5' WIDE SIDEWALK ON
SOUTH R ST AND SOUTH S ST
FROM CHILDS AVE TO STUART DR

DR. BY: ----
DATE: 12/28/18
CH. BY: ###
DATE: 5/9/08
File No. XX
SCALE: AS SHOWN

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING FEDERAL-AID PROJECTS
PROGRAM SUPPLEMENT AGREEMENT
NO. F031**

WHEREAS, the City of Merced is eligible to receive Federal and/or State funding for certain transportation projects through the California Department of Transportation; and

WHEREAS, Program Supplemental Agreements need to be executed with the California Department of Transportation before such funds may be claimed.

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

SECTION 1. Program Supplement Agreement No. F031, attached hereto and made a part hereof, is hereby approved.

SECTION 2. The City Manager and the City Clerk, respectively, are hereby authorized to execute and attest said Agreement on behalf of the City of Merced.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2019, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Phaedra A. Mh 5-16-19
City Attorney Date

PROGRAM SUPPLEMENT NO. F031
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 10-5085F15

Adv Project ID 1019000140 **Date:** May 6, 2019
Location: 10-MER-0-MER
Project Number: CML-5085(050)
E.A. Number:
Locode: 5085

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 07/18/18 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. _____ approved by the Administering Agency on _____
 (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION:

South R, S, and T Streets between Childs Ave and Stuart Drive; and Stuart Drive between Childs Ave and South R Street.

TYPE OF WORK: Construct sidewalks

LENGTH: 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
	Z400	\$61,336.00	LOCAL	OTHER
\$69,283.00			\$7,947.00	\$0.00

CITY OF MERCED

STATE OF CALIFORNIA
Department of Transportation

By _____
Title _____
Date _____
Attest _____

By _____
Chief, Office of Project Implementation
Division of Local Assistance
Date _____

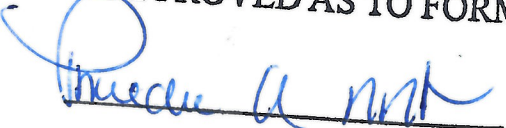
I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer 

Date 5/14/19 \$61,336.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

APPROVED AS TO FORM:



SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

D. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

E. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

F. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-

SPECIAL COVENANTS OR REMARKS

assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

G. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

H. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of

SPECIAL COVENANTS OR REMARKS

Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.

C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.

E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures,

SPECIAL COVENANTS OR REMARKS

48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in

SPECIAL COVENANTS OR REMARKS

ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

3. In the event that right of way acquisition for or construction of this project of the initial federal authorization for preliminary engineering is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the ADMINISTERING AGENCY shall repay the Federal Highway Administration through Caltrans the sum of Federal funds paid under the terms of this agreement.

AUTHORIZATION / AGREEMENT SUMMARY - (E-76)

FEDERAL AID PROGRAM

DLA LOCATOR: 10-MER-0-MER
PREFIX: CML
PROJECT NO: 5085(050)
SEQ NO: 1
STATE PROJ NO: 1019000140L-N
AGENCY: MERCED
ROUTE:
DISASTER NO:
TIP DATA
MPO: MCAG
FSTIP YR: 18/19
STIP REF: 205-0000-0286
FSTIP ID NO: CMAQ19-07

BRIDGE NO:

PROG CODE
Z400

LINE NO
10

IMPV TYPE
15

FUNC SYS
URB/RURAL

URBAN AREA
DEMO ID

FUNDING SUMMARY

PHASE	PREV. OBLIGATION	THIS REQUEST	SUBTOTAL	PREV. OBLIGATION	THIS REQUEST	SUBTOTAL	PREV. OBLIGATION	THIS REQUEST	SUBTOTAL
PE	\$0.00	\$69,283.00	\$69,283.00	\$0.00	\$61,336.00	\$61,336.00	\$0.00	\$0.00	\$0.00
R/W	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CON	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
OTH	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL:	\$69,283.00	\$61,336.00	\$61,336.00						

STATE REMARKS

04/25/2019 * SEQ 1: Authorizing federal funds for PE as Pro Rata appropriation.
* Final design is not to start until the environmental document (NEPA) is approved.
* CMAQ Emission Reduction (lb/yr): ROG - 10.31; NOx - 5.33; PM2.5 - 1.89; PM10 - 6.05.

FEDERAL REMARKS

AUTHORIZATION

AUTHORIZATION TO PROCEED WITH REQUEST: PRE
FOR: PRELIM ENGINEERING
DOCUMENT TYPE: AAGR

PREPARED IN FADS BY: NORIEGA, JASMINE
REVIEWED IN FADS BY: YANG, ALBERT
SUBMITTED IN FADS BY: KROEPFL, ROBERT
PROCESSED IN FADS BY: SIGNATURE, NOT_REQUIRED
E-76 AUTHORIZED DATE IN FMIS BY: JESSICA GORDON

ON 2019-04-16 948-3755
ON 2019-04-25 651-0015
ON 2019-04-26 FOR CALTRANS
ON 2019-04-26 FOR FHWA
ON 2019-05-02 20:25:37.0

CALIFORNIA DEPARTMENT OF TRANSPORTATION

PROJECT LOCATION:
SOUTH R, S, AND T STREETS BETWEEN CHILDS AVE AND STUART DRIVE; AND STUART DRIVE BETWEEN CHILDS AVE AND SOUTH R STREET.
TYPE OF WORK:
CONSTRUCT SIDEWALKS
FED RR NO'S:
PUC CODES:
PROJ OVERSIGHT: ASSUMED/LOCAL ADMIN
ENV STATUS / DT:
RW STATUS / DT:
INV RTE:
BEG MP:
END MP:

PREV AUTH / AGREE DATES:

PE:
R/W:
CON:
SPR:
MCS:
OTH:

SIGNATURE HISTORY FOR PROJECT NUMBER 5085(050) AS OF 05/07/2019

FHWA FMIS SIGNATURE HISTORY		
MOD #	SIGNED BY	SIGNED ON
0	JERILYNN FOGLE	05/01/2019
	JERILYNN FOGLE	05/01/2019
	JESSICA GORDON	05/02/2019

FHWA FMIS 3.0 SIGNATURE HISTORY

CALTRANS SIGNATURE HISTORY		
DOCUMENT TYPE	SIGNED BY	SIGNED ON
AUTH/AGREE	KROEPFL, ROBERT	04/26/2019



ADMINISTRATIVE REPORT

Agenda Item I.19.

Meeting Date: 7/1/2019

Report Prepared by: Joe Cardoso, P.L.S., City Surveyor

SUBJECT: Adoption of Resolution Approving the Administering Agency State Program Supplement No. F032 and Agreement Summary (E-76) for a Congestion Mitigation and Air Quality Improvement (CMAQ) Grant CML-5085(052), (Project No. 119070), CMAQ-SDWK for the Use of \$36,679 in CMAQ Grant Funding for Preliminary Engineering for the Sidewalks on 7th Street and 8th Street Between West Avenue and Linda Lane Between 7th Street and Lopes Avenue

REPORT IN BRIEF

Considers a resolution approving a California Department of Transportation Program Supplement for the use of \$36,679 in CMAQ Grant funding for Preliminary Engineering for the sidewalks on 7th Street and 8th Street between West Ave, and Linda Lane between 7th Street and Lopes Avenue.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2019-36**, a Resolution of the City Council of the City of Merced, California, approving Federal-Aid Projects Program Supplement Agreement No. F032; and,
- B. Accepting CMAQ grant funds and increasing revenue in account 450-1104-321-32-00 by \$36,679 and appropriating the same to account 450-1104-637-65 (Project No. 119070) for preliminary engineering costs associated with design of sidewalk on 7th Street and 8th Street between West Ave, and Linda Lane between 7th Street and Lopes Avenue; and,
- C. Approving the use of pooled cash until reimbursement is received from the grant; and,
- D. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200.

Caltrans Procedures for Administering Local Grant Projects in the State Transportation Improvement Program (STP) are used to comply with the changes to the programming and funding statutes brought about by Charter 622 of the Statutes of 1997 (SB 45, KOPP). The procedures have been modified to remain consistent with and complimentary to the various guidelines and policies adopted by the California Transportation Commission (CTC), including the current 2010 STP Guidelines (adopted on October 14, 2009).

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget.

DISCUSSION

In January 2019, City Council approved the ratification of three (3) grant applications for Congestion Mitigation and Air Quality Improvement (CMAQ) funds to install sidewalks that will either connect gaps in existing sidewalk networks or construct new sidewalks in the locations outlined below:

1. Construction of a 5' wide sidewalk along 7th Street and 8th Street from Linda Lane to West; Linda Lane from Lopes Avenue to 7th Street.
2. Construction of a 5' wide sidewalk along South R Street, South S and South T Street from Childs Avenue to Stuart Drive.
3. Construction of a 5' side sidewalk in the areas of East Olive Avenue from West Queens Circle to North Parsons Avenue; Parsons Avenue from East Olive Avenue to Hansen Avenue; and East Alexander Avenue from Nottingham Lane to Parsons Avenue.

The attached Program Supplement is for the 7th Street and 8th Street from Linda Lane to West; Linda Lane from Lopes Avenue to 7th Street portion and would include approximately 4,500 linear feet of new sidewalk and approximate 5 access ramps.

This portion of the project is for Preliminary Engineering, which will allow for design, prepare engineering plans and specifications, environmental review, and public outreach. The Federal-Aid Projects Program Supplement Agreement No. F032 allows \$36,679 in grant funds and a local match of \$4,753 toward the Preliminary Engineering of this project.

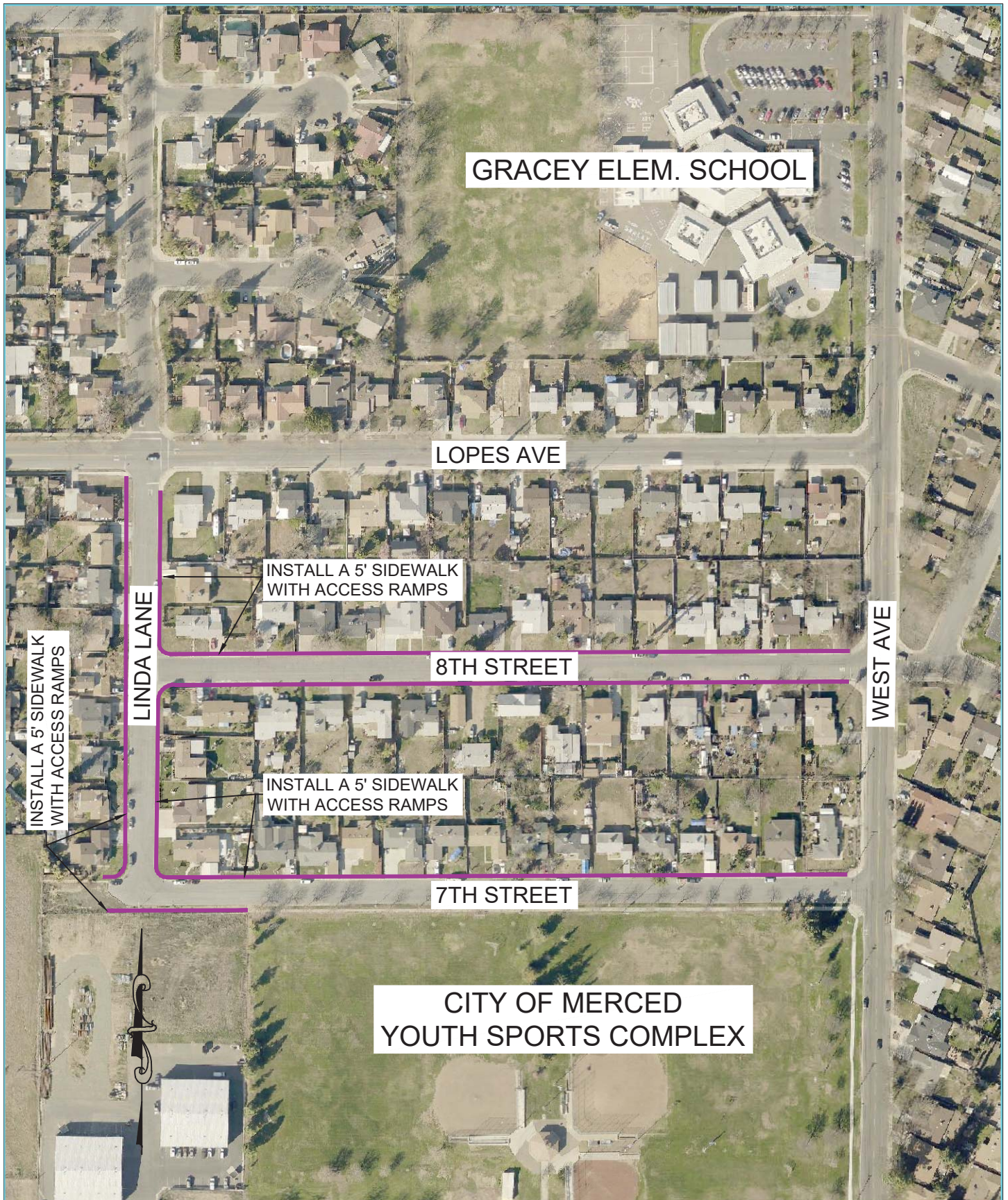
IMPACT ON CITY RESOURCES

Staff recommends accepting grant funds from the State of California adopted Congestion Mitigation and Air Quality Improvement (CMAQ) Program, increasing revenue in account 450-1104-321.32-00 in the amount of \$36,679 and appropriating the same to account 450-1104-637.65-00-119070 for the Preliminary Engineering costs. Additionally, Fund 075-Measure V Alternative Modes will be used for the matching funds in the amount of \$4,753.

ATTACHMENTS

1. Location Map

2. Resolution
3. Program Supplement
4. E-76 CML-5085(052)



City of Merced
 "Gateway to Yosemite"
 DEVELOPMENT SERVICES
 ENGINEERING PROJECTS AND STANDARDS
 678 W. 18th Street (209) 385-6846

CMAQ 2019
 SIDEWALKS ALONG
 7TH STREET, 8TH STREET AND LINDA LANE

DR. BY: CARDOSO
DATE: 12/31/18
CH. BY:
DATE:
File No.
SCALE: 1"=200'

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING FEDERAL-AID PROJECTS
PROGRAM SUPPLEMENT AGREEMENT
NO. F032**

WHEREAS, the City of Merced is eligible to receive Federal and/or State funding for certain transportation projects through the California Department of Transportation; and

WHEREAS, Program Supplemental Agreements need to be executed with the California Department of Transportation before such funds may be claimed.

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

SECTION 1. Program Supplement Agreement No. F032, attached hereto and made a part hereof, is hereby approved.

SECTION 2. The City Manager and the City Clerk, respectively, are hereby authorized to execute and attest said Agreement on behalf of the City of Merced.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2019, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Shirley A. Noh 5-28-19
City Attorney Date

PROGRAM SUPPLEMENT NO. F032
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 10-5085F15

Adv Project ID 1019000142 **Date:** May 17, 2019
Location: 10-MER-0-MER
Project Number: CML-5085(052)
E.A. Number:
Locode: 5085

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 07/18/18 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. _____ approved by the Administering Agency on _____ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION:

7th Street, 8th Street and Linda Lane (7th Street between Linda Lane and West Ave; 8th Street btwn Linda Lane & West Ave; and Linda Lane between 7th Street and Lopes Ave.

TYPE OF WORK: Construct sidewalks

LENGTH: 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds		
	Z400	\$36,679.00	LOCAL		OTHER
\$41,432.00			\$4,753.00		\$0.00

CITY OF MERCED

STATE OF CALIFORNIA
Department of Transportation

By _____
Title _____
Date _____
Attest _____

By _____
Chief, Office of Project Implementation
Division of Local Assistance

Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer *Trishia Chang* **Date** 5/23/19 \$36,679.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

APPROVED AS TO FORM:

Prudence A. nmm

SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

D. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

E. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

F. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-

SPECIAL COVENANTS OR REMARKS

assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

G. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

H. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of

SPECIAL COVENANTS OR REMARKS

Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.

C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.

E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures,

SPECIAL COVENANTS OR REMARKS

48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in

SPECIAL COVENANTS OR REMARKS

ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

3. In the event that right of way acquisition for or construction of this project of the initial federal authorization for preliminary engineering is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the ADMINISTERING AGENCY shall repay the Federal Highway Administration through Caltrans the sum of Federal funds paid under the terms of this agreement.

AUTHORIZATION / AGREEMENT SUMMARY - (E-76)

FEDERAL AID PROGRAM

DLA LOCATOR: 10-MER-0-MER
PREFIX: CML
PROJECT NO: 5085(052)
SEQ NO: 1
STATE PROJ NO: 1019000142L-N
AGENCY: MERCED
ROUTE:
DISASTER NO:
TIP DATA
MPO: MCAG
FSTIP YR: 18/19
STIP REF: 205-0000-0288
FSTIP ID NO: CMAQ19-09

BRIDGE NO:

PROG CODE LINE NO IMPV TYPE FUNC SYS URBAN AREA URB/RURAL DEMO ID
Z400 10 15

FUNDING SUMMARY

PHASE	PROJECT COST	FEDERAL COST	AC COST
PREV. OBLIGATION	\$0.00	\$0.00	\$0.00
THIS REQUEST	\$41,432.00	\$36,679.00	\$0.00
SUBTOTAL	\$41,432.00	\$36,679.00	\$0.00
PREV. OBLIGATION	\$0.00	\$0.00	\$0.00
THIS REQUEST	\$0.00	\$0.00	\$0.00
SUBTOTAL	\$0.00	\$0.00	\$0.00
PREV. OBLIGATION	\$0.00	\$0.00	\$0.00
THIS REQUEST	\$0.00	\$0.00	\$0.00
SUBTOTAL	\$0.00	\$0.00	\$0.00
PREV. OBLIGATION	\$0.00	\$0.00	\$0.00
THIS REQUEST	\$0.00	\$0.00	\$0.00
SUBTOTAL	\$0.00	\$0.00	\$0.00
TOTAL:	\$41,432.00	\$36,679.00	\$0.00

STATE REMARKS

04/29/2019 * SEQ 1: Authorizing federal funds for PE as pro rata appropriation.
* Final design is not to start until the environmental document (NEPA) is approved.
* CMAQ Emission Reduction (lb/yr): ROG - 6.87; NOx - 3.55; PM2.5 - 1.26; PM10 - 4.03.

FEDERAL REMARKS

AUTHORIZATION

AUTHORIZATION TO PROCEED WITH REQUEST: PRE
FOR: PRELIM ENGINEERING
DOCUMENT TYPE: AAGR

PREPARED IN FADS BY: NORIEGA, JASMINE
REVIEWED IN FADS BY: YANG, ALBERT
SUBMITTED IN FADS BY: KROEPFL, ROBERT
PROCESSED IN FADS BY: SIGNATURE, NOT_REQUIRED
E-76 AUTHORIZED DATE IN FMIS BY: JESSICA GORDON

ON 2019-04-16 948-3755
ON 2019-04-30 651-0015
ON 2019-05-02 FOR CALTRANS
ON 2019-05-02 FOR FHWA
ON 2019-05-06 18:50:59.0

SIGNATURE HISTORY FOR PROJECT NUMBER 5085(052) AS OF 05/13/2019

FHWA FMIS SIGNATURE HISTORY			
MOD #	SIGNED BY	SIGNED ON	
0	SHUN HUEY	05/06/2019	
	SHUN HUEY	05/06/2019	
	JESSICA GORDON	05/06/2019	

FHWA FMIS 3.0 SIGNATURE HISTORY

CALTRANS SIGNATURE HISTORY			
DOCUMENT TYPE	SIGNED BY	SIGNED ON	
AUTH/AGREE	KROEPFL, ROBERT	05/02/2019	



ADMINISTRATIVE REPORT

Agenda Item I.20.

Meeting Date: 7/1/2019

Report Prepared by: Michelle Reid, Recreation Supervisor

SUBJECT: Approval of Recreation and Parks Commission's Recommendation to Grant a Request by the Merced Rescue Mission for the Co-Sponsored Rental Rate for the Merced Senior Community Center on October 19, 2019 for its Annual Bingo Bash

REPORT IN BRIEF

Considers approving the Recreation and Parks Commission's recommendation to approve a request for the co-sponsored rate for the rental of the Merced Senior Community Center by the Merced Rescue Mission to hold its annual Bingo Bash on October 19, 2019.

RECOMMENDATION

City Council - Adopt a motion approving the Recreation and Park Commission's recommendation to rent the Merced Senior Community Center to the Merced Rescue Mission on October 19, 2019, at the co-sponsored rental rate.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget.

DISCUSSION

The Parks and Recreation Department received a request from the Merced Rescue Mission to use the Merced Senior Community Center at the co-sponsored rate. They will be holding a fundraiser to support their senior nutrition program on Saturday, October 19, 2019, from 10:00 AM to 3:00 PM. They have also requested two hours on Friday, October 18, 2019 to set up and decorate. Seven total hours have been requested for co-sponsorship. The request was made at the Recreation and

Parks Commission meeting on April 22, 2019. The Commission unanimously approved co-sponsorship of the event.

The Merced Senior Community Center is available during the requested time and there will be no interference with regularly scheduled senior programs. There is an established co-sponsorship rate for use of the Senior Center, which requires City Council approval. By charging the co-sponsored rate, the City will recoup all expenses for hosting the event at our facility. The Rescue Mission will be required to provide liability insurance regardless of which fees are approved.

The regular and co-sponsored rates for this type of event are as follows:

Regular Rate:

\$300 refundable deposit
\$875 hourly rate (\$125 per hour)
\$100 set up fee
\$366 cleaning fee
Total = \$1,641

Co-Sponsored Rate:

\$50 refundable deposit
\$280 staff charge (\$40 per hour)
\$0 (set up fee waived)
\$45 maintenance fee
Total = \$375

Staff and the Recreation and Parks Commission have reviewed the application and see the event as a worthy cause and recommend approving the request.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed

ATTACHMENTS

1. Letter of Request
2. Co-sponsorship Application



MERCED COUNTY RESCUE MISSION
WWW.MERCEDCOUNTYRESCUEMISSION.ORG

3/11/2019

City of Merced
Recreation and Parks Commission
678 W. 18th Street
Merced, California 95340

RE: Co-sponsorship of the Merced Senior Community Center

Dear Chairman:

The Merced County Rescue Mission would like to hold its annual Bingo Bash at the Merced Senior Community Center, 755 W. 15th Street, on October 19, 2019 from 10:00 AM to 4:00 PM. We are also requesting an hour to set up for the event on Friday, October 18, 2019.

We are a non-profit organization and this fundraiser helps raise money for the Living Well Café Senior Nutrition Program. We serve up to 2500 meals per month at 7 locations throughout Merced County to seniors age 60 and older. Our program works with a registered dietician to provide nutritious meals. We play bingo Dominos, have Movie Day and arts and crafts in a social setting.

Thank you for your consideration and continued support.

Sincerely,

Gina Thomas
Director of Senior Meals
Merced County Rescue Mission
209-626-7595
Seniormeals12@gmail.com

MAILING ADDRESS: P.O. Box 3319, Merced, CA 95344
DONATION DROP OFF: 644 W. 20th St., Merced, CA 95340
PHONE: 209.722.9269

City of Merced Parks and Community Services

632 W 18th Street
Merced, CA 95340
(209) 385-6855 fax (209) 726-5327

***On Call (209) 564-9103**
For Rental Problems

APPLICATION AND AGREEMENT FOR USE OF FACILITIES

Applicant's Name: GINA THOMAS		Address: 644 W. 20th STREET		City: MERCED		Zip Code: 95340		
Name of Organization: MERCED COUNTY RESCUE MISSION			Day Phone (Area Code): (209) 722-9269			Evening Phone (Area Code): (209) 626-7595		
Room to be reserved - Please Circle:								
Sam Pipes Conference Room				Merced Community Senior Center				
Nature of Event: FUNDRAISER		Event Date: 10/19/19		Time: 10 AM TO 3 PM		Estimated Attendance Adults Minors Total 200		
Public Event? Yes No		Equipment Requirements:						
Event used to raise money? Yes No		<input type="checkbox"/> Chairs - Theatre Style <input type="checkbox"/> Chairs and Tables – Classroom Style <input type="checkbox"/> Chairs and Tables – Banquet Style with Dance Floor <input type="checkbox"/> Stage <input type="checkbox"/> Kitchen Facilities <input type="checkbox"/> Portable Coffee Maker(s) <input type="checkbox"/> P.A. System <input type="checkbox"/> U.S. Flag <input type="checkbox"/> California Flag						
Admission Charged? Yes No		<div style="border: 1px solid black; padding: 5px; text-align: center;">CO-SPONSORSHIP RENTAL FEES</div>						
Other: <u>Event time is 10 AM to 3 PM. Requested 2 hours for set up on Friday, October 18th. Renter to receive one hour before (set up) and one hour after (cleanup) at no charge. Total use time, including Friday set up is 7 hours.</u>								
ADDITIONAL DATES: _____								

APPLICANT'S AGREEMENT

I have read this agreement and accept the facility for which this application is made in an "AS IS" condition. In consideration of the minimal fees paid for use of the facility, the applicant is to indemnify, defend and hold harmless the City of Merced, its officers, officials, employees, agents, and volunteers ("City and City Personnel") from all actions, liabilities, claims, damages to persons or property, losses, costs, penalties, obligations, errors, or omissions that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the activities conducted by the applicant, whether or not there is concurrent passive or negligence on the part of City or City Personnel.

NOTICE TO APPLICANT:

All rentals must be cancelled no later than 2 weeks before the event date, except the **Senior Center, which must be cancelled at least 30 days before the event.** A "Refund Appeal" must be filled out when requesting a refund and may be subject to a 25% assessment fee for administrative costs. Failure to do so will result in forfeiture of deposit and all rental fees.

Signed *Gina Thomas*

Date *5-15-19*

-OFFICE USE ONLY-

FEES

Contracted Hours \$ 7 @ \$ 40 = \$ 280.00

Deposit (refundable) \$ 50.00

Set-up Fee \$ _____

Kitchen Fee \$ _____

Cleaning Fee \$ 45.00

TOTAL \$ 375.00 306

Department Authorized Signature:

Michelle Reid

Date: *5/15/19*

- ☒ Approved ☐ Denied
- ☒ Set up Diagram (at least 2 weeks prior to event if applicable)
- ☒ Certificate of Insurance in compliance with City of Merced.
- ☐ Contracted Security/Dance Permit
- ☐ ABC License (if liquor is to be sold)
- ☒ Added to Computer By: *CM*

Please make check payable to City of Merced.
Returned checks will result in cancellation of event and/or additional charges.



ADMINISTRATIVE REPORT

Agenda Item I.21.

Meeting Date: 7/1/2019

Report Prepared by: Michelle Reid, Recreation Supervisor

SUBJECT: Approval of Recreation and Parks Commission's Recommendation to Grant a Request by the California Highway Patrol for a Rental Rate Waiver (no Charge) for the Merced Senior Community Center on July 25, 2019 for its Memorial Sign Dedication Ceremony

REPORT IN BRIEF

Considers approving the Recreation and Parks Commission's recommendation to approve a request for a rental rate waiver for the Merced Senior Community Center on July 25, 2019 for the California Highway Patrol Memorial Sign Dedication Ceremony.

RECOMMENDATION

City Council - Adopt a motion approving the Recreation and Park Commission's recommendation to waive the rental rate for use of the Merced Senior Community on July 25, 2019 for the California Highway Patrol's Memorial Sign Dedication Ceremony.

ALTERNATIVES

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

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget.

DISCUSSION

The Parks and Recreation Department received a request from the California Highway Patrol to use the Merced Senior Community Center at no cost. They will be holding a ceremony dedicating a memorial in honor of two fallen officers on Thursday, July 25, 2019, from 10:30 AM to 1:00 PM. A rental rate waiver for two and half total hours was requested. The request was made at the Recreation and Parks Commission meeting on May 28, 2019. The Commission unanimously

approved a total rental waiver for the event.

Approximately a week after the Commission meeting, a representative from the California Highway Patrol office contacted the Parks and Community Services Department to request the date be changed from July 23, 2019 to July 25, 2019 due to a scheduling conflict with dignitaries and staff. The Director of Parks and Community Services Joey Chavez approved the requested date change in lieu of returning the item to the Recreation and Parks Commission as the primary request was for use of the facility at no charge, which was approved by the Commission on May 28, 2019.

The Merced Senior Community Center seniors have cancelled regularly scheduled activities to accommodate the ceremony. The established co-sponsorship rate for use of the Senior Center and rental rate waiver requests require City Council approval. There is no impact on the staff budget if the rental rates are waived as there is part-time staff scheduled at the Senior Center every Thursday and full-time staff will be present to cover the event as well. There will be a nominal loss of revenue if the rental rate waiver is approved. The California Highway Patrol will be required to provide liability insurance for the ceremony.

The regular and co-sponsored rates for this type of event are as follows:
(Note: Neither rate below applies as the rates would be waived completely.)

Regular Rate:

Co-Sponsored Rate:

\$300 refundable deposit	\$50 refundable deposit
\$312.50 hourly rate (\$125 per hour)	\$100 staff charge (\$40 per hour)
\$100 set up fee	\$0 (set up fee waived)
<u>\$366 cleaning fee</u>	<u>\$45 maintenance fee</u>
Total = \$1,078.50	Total = \$195

Staff and the Recreation and Parks Commission have reviewed the application and recommend approving the request from the California Highway Patrol to use the Merced Senior Community Center at no charge.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed as staff and services appropriated as part of the FY 2019-20 Budget.

ATTACHMENTS

1. Email Request
2. Rental Application

From: Lara, Luis@CHP <LLara@chp.ca.gov>
Sent: Friday, May 17, 2019 4:32 PM
To: Chavez, Joseph <ChavezJ@cityofmerced.org>
Subject: Gore/Frago Freeway Memorial Ceromony

Good afternoon Mr. Chavez,

We had two CHP Officers killed years ago, Officer Gore & Frago. We finally have coordinated the Freeway Sign Dedication and are setting the ceremony on July 23rd, at the Merced Senior Center. We expect a crowd of 100-150, including several dignitaries. The facility has been reserved and I was hoping to see if we could get all or some of the fee waived for this event. The State cannot fund the event and everything is paid for by private donations. The use of the facility would be to set up, and it would begin at 10:30 and would end at approximately 1pm.

Thank you for anything you can do. If you need further information, feel free to call me.

Sergeant Luis Lara
California Highway Patrol
Merced Area Office

City of Merced Parks and Community Services

632 W 18th Street
Merced, CA 95340
(209) 385-6855 fax (209) 726-5327

*On Call (209) 564-9103
For Rental Problems

APPLICATION AND AGREEMENT FOR USE OF FACILITIES

Applicant's Name: LUCS LARA	Address: 1500 Bell DRIVE DR	City: ATWATER	Zip Code: 95301
Name of Organization: CALIFORNIA HIGHWAY PATROL	Day Phone (Area Code):	Evening Phone (Area Code):	
Room to be reserved - Please Circle: <div style="display: flex; justify-content: space-around;"> Sam Pipes Conference Room Merced Community Senior Center </div>			
Nature of Event: Memorial Sign DEDICATION	Event Date: 7/26/2019	Time: 10:30 AM- 1:00 AM (PM)	Estimated Attendance Adults Minors Total 100-150
Public Event? Yes No	Equipment Requirements:		
Event used to raise money? Yes No	<input checked="" type="checkbox"/> Chairs - Theatre Style <input type="checkbox"/> Chairs and Tables - Classroom Style <input type="checkbox"/> Chairs and Tables - Banquet Style with Dance Floor <input checked="" type="checkbox"/> Stage <input checked="" type="checkbox"/> Kitchen Facilities <input checked="" type="checkbox"/> Portable Coffee Maker(s) <input checked="" type="checkbox"/> P.A. System <input checked="" type="checkbox"/> U.S. Flag <input checked="" type="checkbox"/> California Flag Other ABOUT 10 TABLE FOR FINGER FOODS, ETC		
Admission Charged? Yes No	ADDITIONAL DATES:		

APPLICANT'S AGREEMENT

I have read this agreement and accept the facility for which this application is made in an "AS IS" condition. In consideration of the minimal fees paid for use of the facility, the applicant is to indemnify, defend and hold harmless the City of Merced, its officers, officials, employees, agents, and volunteers ("City and City Personnel") from all actions, liabilities, claims, damages to persons or property, losses, costs, penalties, obligations, errors, or omissions that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the activities conducted by the applicant, whether or not there is concurrent passive or negligence on the part of City or City Personnel.

NOTICE TO APPLICANT:

All rentals must be cancelled no later than 2 weeks before the event date, except the Senior Center, which must be cancelled at least 30 days before the event. A "Refund Appeal" must be filled out when requesting a refund and may be subject to a 25% assessment fee for administrative costs. Failure to do so will result in forfeiture of deposit and all rental fees.

Signed _____

Date: **6/11/2019**

-OFFICE USE ONLY-

FEES

Contracted Hours _____ @ \$ _____ = \$ _____

Deposit \$ _____

Set-up Fee \$ _____

Kitchen Fee \$ _____

Cleaning Fee \$ _____

TOTAL \$ _____

Department Authorized Signature:

Michelle Reid

Date: **6/11/19**

- ☒ Approved ☐ Denied
- ☐ Set up Diagram (at least 2 weeks prior to event if applicable)
- ☐ Certificate of Insurance in compliance with City of Merced.
- ☐ Contracted Security/Dance Permit
- ☐ ABC Licensure (if liquor is to be sold)
- ☐ Added to Computer By: **(Signature)**

Please make check payable to **City of Merced**.
Returned checks will result in cancellation of event and/or additional charges.



ADMINISTRATIVE REPORT

Agenda Item I.22.

Meeting Date: 7/1/2019

Report Prepared by: Jennifer Arellano, Recreation Supervisor, Parks and Recreation

SUBJECT: Authorization to Accept Volunteer Labor and Donated Materials Valued at Approximately \$4,400 from Correct Craft to Repair Applegate Park Zoo Exhibit Barrier Fencing, Touch-Up Painting of the Facility, Removing and Replacing the Existing Bulletin Board, and Constructing a New Bulletin Board

REPORT IN BRIEF

Considers approving acceptance of labor and materials valued at approximately \$4,400 for Applegate Park Zoo improvements from Correct Craft.

RECOMMENDATION

City Council - Adopt a motion accepting a donation from Correct Craft for volunteer labor and materials valued at approximately \$4,400 for improvements to Applegate Park Zoo.

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 future meeting (date and time to be specified in motion).

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget.

DISCUSSION

Correct Craft, located in Florida, recently acquired Centurion Boats in Merced, and contacted the City inquiring about possible service projects the company could do at existing park locations. Correct Craft operates on three pillars- people, performance, and philanthropy. Their mission includes “building boats to the glory of God”, and their culture of philanthropy helps to accomplish their mission of “making life better”. Every year the Florida production plant closes for a week, and the employees volunteer for various service projects around the world. They have served in India, Cambodia, Ethiopia, Kenya, Uganda, Haiti, Dominican Republic, Mexico, (plus more) and this year will be travelling to the Central Valley.

They chose several projects in Merced, Atwater and Winton for various non-profit groups. The City of Merced project is located at Applegate Park Zoo to repair failing exhibit fencing, removing and replacing the current bulletin board, touch-up painting of the facilities, and constructing an additional bulletin board near the front entrance.

The company is flying out two teams on two separate dates to accomplish the work, totaling 92 volunteers in all, with 25-30 volunteers working directly at the Zoo. The Zoo will be closed to the public from noon to close on Sunday, June 30th, and all day on Monday, July 1st, Friday, July 5th, and Saturday, July 6th to allow for the work to be completed.

The Zoological Society will be offering free activities for kids in the Rossotti Ed-Zoo-Cation Center from 10am to Noon on Saturday, July 6th in lieu of the public being able to visit the Zoo.

IMPACT ON CITY RESOURCES

There is no direct impact on City Resources. Capital improvements to the Applegate Park Zoo will enhance the Zoo for the public, and save the City resources.



ADMINISTRATIVE REPORT

Agenda Item J.1.

Meeting Date: 7/1/2019

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

SUBJECT: Public Hearing - Adoption of a Categorical Exemption (Environmental Review #19-04) and Introduction of Ordinance Amending Section 20.42 and Various Other Sections of the Merced Municipal Code Regarding Accessory Dwelling Units (Zoning Ordinance Amendment #19-02)

REPORT IN BRIEF

The City Council will consider the adoption of a Categorical Exemption and the introduction of an Ordinance which would modify the City's zoning regulations regarding accessory dwelling units.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting a Categorical Exemption (Environmental Review #19-04); and,
- B. Introducing **Ordinance 2502**, An Ordinance of the City Council of the City of Merced, California, Amending Sections 20.42 ("Second Units") as well as Tables 20.08-1 ("Permitted Land Uses in the Residential Zoning Districts"), 20.16-1 ("Permitted Land Uses in the Urban Village Zoning Districts"), and 20.38-1 ("Off-Street Parking Requirements"); and Sections 20.08.030.F.1 ("Development Standards for Residential Zoning Districts, Parking"), 20.20.010.C.3 ("Urban Transition Zoning District, Development Standards"); 20.46.010 ("Residential Design Standards, Purpose"), and 20.90.020 ("Glossary, Definitions") of the Merced Municipal Code."

ALTERNATIVES

- 1. Introduce the Ordinance, as recommended by the Planning Commission and staff; or,
- 2. Introduce the Ordinance, subject to modifications by City Council (identify specific items to be amended in the motion; or,
- 3. Deny; or,
- 4. Refer to staff for reconsideration of specific items (to be addressed in the motion); or,
- 5. Continue to a future City Council meeting (date and time to be specified in motion).

AUTHORITY

Merced Municipal Code Section 20.80, "Zoning Ordinance Amendments," spells out procedures for amending the Zoning Ordinance.

CITY COUNCIL PRIORITIES

Infill Development and Housing are both listed as City Council Priorities for FY 2019/20.

DISCUSSION

Background

The City's existing "Second Unit" zoning standards in Chapter 20.42 of the Merced Municipal Code (and other sections of the Zoning Code) are inconsistent with the amended California Government Code provisions regarding accessory dwelling units. Therefore, in order to retain some degree of local control over ADU construction, the City must amend the Zoning Ordinance to conform to state law. (See Attachment B of the Planning Commission Staff Report at Attachment 3 for a summary of recent State law changes.)

On September 17, 2018, the City Council directed staff to review the City's Zoning Ordinance to determine what changes were needed in order to comply with the new State laws regarding Accessory Dwelling Units (ADU's), and to consider alternative approaches to facilitate the development of ADU's in the City of Merced.

On November 19, 2018, the City Council reviewed the proposed changes as outlined in Finding D of the Planning Commission Staff Report (Attachment 3) and possible new Housing Division programs that might be implemented to encourage the development of ADU's. The City Council, by unanimous vote, directed staff to prepare the changes to the Ordinance, but prior to presenting the draft Ordinance, return to the City Council in late January 2019 for further policy direction regarding parking and the owner occupancy requirements. The City Council also directed Housing staff to move forward with a program similar to the Clovis model of providing pre-approved plans for ADU's. (This Housing Division program is not part of the Ordinance revision so it is not discussed in this report.)

On January 22, 2019, City staff presented the City Council with the information provided in Findings E and G of the Planning Commission Staff Report (Attachment 3) regarding the parking and owner occupancy requirements. After discussion, the City Council, in general, indicated support for allowing required parking spaces to be in the front yard setback for both the primary unit and the accessory unit. However, the City Council was split on whether the owner occupancy requirement should remain. City staff indicated that staff would provide further information about this requirement at the time the revisions were proposed, so the Planning Commission could weigh in on the issue as part of its recommendation. Since that time, staff has done further research on the owner occupancy and parking requirements summarized in Findings F and H of the Planning Commission Staff Report and below.

General Overview of Proposed Changes to the Zoning Ordinance

The City of Merced is proposing to adopt an Ordinance to amend the Zoning Code to provide amended regulations for accessory dwelling units in conformance with changes in State law. A red-lined version of the Draft Ordinance that shows all the changes from the current ordinance is at Attachment A of the Planning Commission Resolution at Attachment 1 while a clean copy of the Draft Ordinance is at Attachment 5. Major modifications include:

- 1) The terms "Second Units" or "Secondary Dwelling Units" will need to be changed to

“Accessory Dwelling Units” throughout the Zoning Ordinance, including the following chapters: Residential Zoning Districts, Urban Village Zoning District, Urban Transition Zoning District, Off-Street Parking, Second Units, and the Glossary. (See Sections 1, 2, 3, 4, 5, 6, 7, and 8.)

- 2) The maximum size of an attached ADU shall be changed from 1,000 to 1,200 square feet. [See Section 6, new MMC 20.42.030(C)(1) and (2).]
- 3) Remove the “maximum number permitted” section as State law does not allow the number of ADU’s to be capped per parcel although local ordinances should specify that “ADU’s cannot exceed the allowable density for the lot.” [See Section 6, previous MMC 20.42.030(C).]
- 4) Clarify that the standard that the ADU “be clearly subordinate to the primary dwelling” would not preclude an ADU from being located in the front of the property. [See Section 6, new MMC 20.42.030(D)(3).]
- 5) Clarify the setback requirements for ADU’s. [See Section 6, new MMC 20.42.030(E)(1).]
- 6) Change the parking requirements for ADU’s with more than 3 bedrooms from 2 to 1 space as State law only allows the requirement for 1 parking space for all ADU’s regardless of size. [See Section 5, Table 20.38-1, and Section 6, new MMC 20.42.030(G)(2).]
- 7) Add a provision that “parking may be allowed in setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety concerns.” [See Section 6, new MMC 20.42.030(G)(1).]
- 8) Add a provision that states that the parking requirements do not apply in the five instances stated in State law, which include in official historic districts, within ½ mile of public transit, the ADU is part of an existing structure, on-street parking permits are required, or car share vehicles are located within one block. [See Section 6, new MMC 20.42.030(G)(3).]
- 9) Add provisions regarding fees, including:
 - (a) ADU’s are not considered “a new residential use for the purpose of calculating connection fees or capacity charges for utilities, including water and sewer service.” [See Section 6, new MMC 20.42.040(C)(1).]
 - (b) Any utility fee or charge imposed “must not exceed the cost of providing the service.” [See Section 6, new MMC 20.42.040(C)(1).]
 - (c) The City “cannot require applicants creating ADU’s within the existing space of a single-family dwelling or accessory structure...to install a new or separate utility connection or impose a related connection fee or capacity charge.” [See Section 6, new MMC 20.42.040(C)(2).]

There are some optional changes that could be made to the Zoning Ordinance in order to further encourage the development of ADU’s in the City of Merced. Those changes are not required to conform to current State law, but may provide additional incentives to spur ADU development. Below is a summary of the information presented to the Planning Commission and City Council on those issues. A more extensive discussion can be found in Findings E, F, G and H of the Planning Commission Staff Report (Attachment 3).

Policy Direction regarding Parking

The following is a summary of the information first presented to City Council in January 2019:

Per the current parking requirements for single-family homes in the City Zoning Ordinance, each home is required to have 1 required parking space per unit and that “required” parking space cannot

be within the required exterior setback areas in R-1 (single-family) and R-2 (duplex) zones. The driveway on a single-family home is usually within the front yard/exterior setback, and although there is nothing that prohibits the occupants from parking on the driveway, it cannot be counted as the legal required parking space. The parking space within the garage is the legal required space since it is outside of the setback area.

Because of this requirement, if an owner wants to convert the garage into living space, they must either leave enough space for a legal 10 foot by 20 foot parking space within the garage (if it is a 2- or 3- car garage) or find another location within the lot (not within an exterior setback area) to install another parking space. On smaller lots especially, it can often be difficult to find such a location and this discourages garage conversions.

The Planning Commission/City Council could consider making broader changes to the Zoning Ordinance that would allow legal parking spaces for all uses to be in the exterior setback areas for all R-1 and R-2 zones throughout the City or a special exception could be granted for accessory dwelling units only. The special exception would meet the requirements of State law for ADU's and would likely have less impacts on single-family neighborhoods as City staff receives many more requests for garage conversions than for accessory dwelling units."

The following additional information was provided to the Planning Commission on May 8, 2019, and is a summary of Finding F of the Planning Commission Staff Report (Attachment 3):

In January 2019, the City Council showed a preference for allowing required parking spaces for all uses (not just ADU's) in the exterior setback area, which is generally the driveway in the front yard, but can also be a side yard that is adjacent to the street. A summary of what other California cities have done regarding the parking requirements for ADU's (along with the owner occupancy requirement) is provided in Attachment C of the Planning Commission Staff Report at Attachment 3.

This proposed change could lead to significantly more garage conversions and could potentially lead to more vehicles being parked on the streets in neighborhoods due to the reduced amount of on-site parking. More on-street parking can lead to more issues on trash collection days and more conflicts among neighbors regarding on-street parking. A restriction against covering those parking spaces (car ports, etc.) would reduce possible aesthetic concerns and reduce conflicts with utility lines and street trees.

After the January Council meeting, staff received an email (Attachment D of the Planning Commission Staff Report) from former Council Member Belluomini. He felt that the Council discussion had been too broad and simply should have focused on any possible fire and life safety issues of allowing the driveway to be widened for an ADU. State law requires that parking for ADU's be allowed on the front driveway unless there were fire and life safety concerns.

Two options were presented to the Planning Commission on May 8, 2019 (summarized in Finding F of the Planning Commission Staff Report). After an extensive discussion, the Planning Commission voted 4-1-2 (4 ayes, 1 no, 2 absent) to recommend to the City Council Option 1B, which would allow uncovered parking for all uses within the exterior yard setback area. Most Commissioners expressed support for this Option as it could potentially add to the City's housing stock by encouraging garage

conversions for ADU's or simply for additional living space. The Commissioner that voted "no" was concerned about the increase in on-street parking. The Draft Ordinance at Attachment 5 reflects the Planning Commission's recommendation in Section 2, amendments to MMC 20.08.030(F)(1).

Policy Direction regarding Owner Occupancy

The following is a summary of the information first presented to City Council in January 2019:

Merced Municipal Code Section 20.42.040(A) requires that "the owner of a parcel occupied by a second unit (to be changed to "accessory dwelling unit") shall reside in either the primary dwelling unit or the second unit." MMC 20.42.040(B) further goes on to require that a deed restriction be recorded that specifies that the ADU cannot be sold separately and that the property owner must reside in either the primary or accessory unit. There is nothing in current State law that requires the City to change the above requirements.

While eliminating the requirement might encourage the development of more ADU's, it might have impacts on the character of single-family neighborhoods throughout the City. If the property owner is not required to live in one of the units, that would allow both units to be rentals, thereby creating two "apartment" units on each lot with no landlord onsite. The occupancy requirement is thought to encourage property owners to minimize possible negative impacts (such as excessive noise, or lack of property upkeep) because they are living on the same property as their tenants.

The following additional information was provided to the Planning Commission on May 8, 2019, and is a summary of Finding H of the Planning Commission Staff Report (Attachment 3):

City staff reviewed the Accessory Dwelling Unit Ordinances adopted by 28 California cities and also referred to a survey done in 2018 for 7 cities in San Mateo County. A summary of the provisions in these ordinances regarding owner occupancy, short-term rentals, parking, and other special provisions of note can be seen in Attachment C of the Planning Commission Staff Report at Attachment 3. Regarding owner occupancy, 28 cities retained a requirement for either the primary or accessory unit be owner occupied while 7 cities and 1 county did not have such a requirement. According to www.accessorydwellings.org, although Portland, Oregon eliminated its owner occupancy requirement in 1998, 30 of 46 Oregon cities still retained the requirement in 2013.

Some reasons cited for retaining the requirement were concerns with "absentee landlords" and retaining the character of single-family neighborhoods. There could also be disputes around the fact that the City only allows one sewer and water meter and trash collection service per single-family lot. If there are issues with tenants contaminating the green waste container, violating the rules regarding excessive watering, or even paying their fair share of the bill, this could cause problems for the City in trying to impose fines or cutting off service for non-payment. Many Merced neighborhoods are already experiencing some of these issues with single-family homes being rented to multiple tenants. (More traditional apartments would have on-site managers and consolidated billing to deal with such issues.)

However, there are also reasons cited by various sources in favor of eliminating the owner occupancy requirement, chief among them that the restrictions tend to discourage the construction of

ADU's. One article notes that the owner occupancy requirement makes it difficult to secure home loans to construct ADU's while another notes that it sharply limits the value appraisers can assign to a house and the ADU and makes property less valuable for loan collateral. Another article indicates that owner occupancy requirements can badly hurt the market for ADU's, make them hard to finance, and create obstacles for "mom and pop" landlords that are trying to provide affordable housing options.

Given the above, there seems to be good reasons on both sides. However, all this may be a moot point in the future since there is currently a bill, SB 13, being considered in the California Legislature which, if passed, would prohibit a local agency from requiring owner occupancy of either the primary or accessory unit.

Two options were presented to the Planning Commission on May 8, 2019 (summarized in Finding H of the Planning Commission Staff Report). After an extensive discussion, the Planning Commission voted 4-1-2 (4 ayes, 1 no, 2 absent) to recommend to the City Council Option 2B, which would remove the requirement for owner occupancy for both the primary and accessory unit and the corresponding deed restriction. Most Commissioners expressed support for this Option as they believed that the State would likely adopt legislation that would prohibit the City from requiring owner occupancy and felt that removing the requirement would encourage the construction of ADU's in the City. The Commissioner who voted "no" was concerned about the possible effect on property maintenance and appearance. The Draft Ordinance at Attachment 5 reflects the Planning Commission's recommendation to remove the requirements for owner occupancy and a deed restriction which were formerly in MMC 20.42.040. This section now only contains provisions regarding fees and addressing.

Planning Commission Recommendation

As noted above, on May 8, 2019, the Planning Commission held a public hearing on the proposed Ordinance changes. No one from the public testified, but staff did receive one email from former City Council Member Michael Belluomini regarding the changes (Attachment 4). After an extensive discussion, the Planning Commission voted to recommend approval to the City Council of the Draft Ordinance with revisions by a 4-1-2 vote (4 ayes, 1 no, 2 absent). The revisions were as noted above regarding allowing parking in the front setback area and removing the requirement for owner occupancy along with a few other minor revisions. The Draft Ordinance in Attachment 5 reflects the Planning Commission's recommended changes as does the red-lined version attached to the Planning Commission Resolution at Attachment 1. (Planning Commission minute excerpts can be seen at Attachment 2.)

Timetable/Next Steps

If the Council introduces the Ordinance at tonight's meeting (July 1, 2019), the second reading and adoption of the Ordinance would be at the next City Council meeting on July 15, 2019. The Ordinance would then be effective 30 days later or on approximately August 15, 2019.

Environmental Clearance

The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no further environmental review is required) is being recommended (see Attachment E of the Planning Commission Staff Report at Attachment 3).

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Planning Commission Resolution #4020 with Red-lined Ordinance
2. Planning Commission Minute Excerpts
3. Planning Commission Staff Report #19-13
4. Correspondence Received Prior to Planning Commission Meeting
5. Draft Ordinance
6. Presentation

CITY OF MERCED
Planning Commission

Resolution #4020

WHEREAS, the Merced City Planning Commission at its regular meeting of May 8, 2019, held a public hearing and considered **Zoning Ordinance Amendment #19-02**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.42 (“Second Units”). This amendment would modify the City’s requirements for “accessory dwelling units” (previously known as “second units” or “secondary dwelling units”) to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #19-13; 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 recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #19-04, and approval of Zoning Ordinance Amendment #19-02, as set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners Harris, Padilla, Rashe, and Chairperson Dylina
NOES: Commissioner Camper
ABSENT: Commissioners Drexel, and Martinez
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4020

Page 2

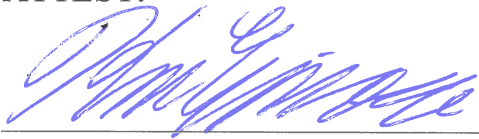
May 8, 2019

Adopted this 8th day of May 2019



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Draft Ordinance

n:\shared\planning\PC Resolutions\ZOA#19-02

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.42 (“SECOND UNITS”) AS WELL AS TABLES 20.08-1 (“PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS”), 20.16-1 (“PERMITTED LAND USES IN THE URBAN VILLAGE ZONING DISTRICTS”), AND 20.38-1 (“OFF-STREET PARKING REQUIREMENTS”); AND SECTIONS 20.08.030.F.1 (“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS, PARKING”), 20.20.010.C.3 (“URBAN TRANSITION ZONING DISTRICT, DEVELOPMENT STANDARDS”); 20.46.010 (“RESIDENTIAL DESIGN STANDARDS, PURPOSE”), AND 20.90.020 (“GLOSSARY, DEFINITIONS”) OF THE MERCED MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT TO CODE. Table 20.08-1, “Permitted Land Uses in the Residential Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

SECTION 2. AMENDMENT TO CODE. Section 20.08.030(F)(1), “Development Standards for Residential Zoning Districts, Parking” of the Merced Municipal Code is hereby amended to read as follows:

“20.08.030-“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS

F. PARKING

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may ~~not~~ be located within any required exterior setback area, but these spaces may not be covered.”

SECTION 3. AMENDMENT TO CODE. Table 20.16-1, “Permitted Land Uses in the Urban Village Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

SECTION 4. AMENDMENT TO CODE. Section 20.20.010(C)(3), “Urban Transition Zoning District, Development Standards, Residential Density,” of the Merced Municipal Code is hereby amended to read as follows:

“20.20.010 - Urban Transition (U-T) Zoning District

C. Development Standards _____

3. **Residential Density.** Except for ~~secondary units~~ accessory dwelling units permitted under Chapter 20.42 (~~Second Units- Accessory Dwelling Units~~), residential density of the lot may not be increased.”

SECTION 5. AMENDMENT TO CODE. Table 20.38-1, “Off-Street Parking Requirements,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’) is replaced by “Accessory Dwelling Units” and the corresponding “Required Number of Parking Spaces” is amended to read as follows:

**“One or ~~two~~ more bedrooms: 1 per unit;
~~Three or more bedrooms: 2 per unit”~~**

SECTION 6. AMENDMENT TO CODE. Chapter 20.42, “Second Units,” of the Merced Municipal Code is hereby repealed and amended to read as follows:

“20.42 Accessory Dwelling Units ~~Second Units~~

Sections:

20.42.010 Purpose

20.42.020 Minor Use Permit Required

20.42.030 Site and Design Standards

20.42.040 ~~Occupancy Standards~~ Fees and Other Requirements

20.42.010 Purpose

This chapter establishes standards for the location and construction of ~~second units (also known as “secondary~~

~~dwelling units~~) accessory dwelling units (“ADU’s”) in conformance with Government Code Section 65852.2. These standards are intended to allow for ~~second~~ accessory dwelling units as an important form of affordable housing while preserving the character and integrity of residential neighborhoods within the City.

20.42.020 Minor Use Permit Required

Approval of a Minor Use Permit is required prior to the establishment of any ~~second~~ accessory dwelling unit or a subdivision with multiple ~~second~~ accessory dwelling units.

20.42.030 Site and Design Standards

A. Location. ~~Second~~ Accessory dwelling units shall be permitted in ~~residential zoning districts~~ districts zoned to allow single-family or multi-family use as provided in Part 2 (Zoning Districts).

B. Site Requirements

1. ~~Second~~ Accessory dwelling units that comply with this chapter shall be permitted on all legally established residential parcels, regardless of parcel size so long as the parcel size permits at least an ‘efficiency unit’ to be constructed in compliance with local design standards. [An ‘efficiency unit’ provides for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities.]

2. An accessory dwelling ~~second~~ unit may only be established if a single-family dwelling unit (“primary dwelling”) exists on the parcel or is being built at the same time.

~~C. Maximum Number Permitted~~

~~1. Only one second unit shall be allowed on a single parcel.~~

~~2. A second unit is not permitted on parcels already containing two or more dwelling units.~~

DC. Size

1. *Attached ~~Second~~ Accessory Dwelling Units.* The floor area of an attached second unit shall not exceed 50 percent of the living area of the primary dwelling or ~~1,000~~1,200 square feet, whichever is ~~greater~~less. Garages and carports are excluded from floor area calculations for both the primary dwelling and ~~second~~ accessory unit.
2. *Detached ~~Second~~ Accessory Dwelling Units.* The floor area of a detached ~~second~~accessory dwelling unit shall not exceed 1,200 square feet, excluding any space devoted to a carport or garage.

ED. Relationship to Primary Dwelling

1. An accessory dwelling ~~second~~-unit may be within, attached to, or detached from the primary dwelling, or within an attached or detached accessory structure. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.
2. An accessory dwelling ~~second~~-unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. The ~~secondary~~accessory dwelling unit shall be clearly subordinate to the primary dwelling by size, appearance, and location on the parcel.

FE. Development Standards

1. An accessory dwelling ~~second~~-unit shall comply with all current development and design standards of the General Plan and Zoning Ordinance that are applicable to the primary dwelling, including, but not limited to, building setbacks, parcel coverage, building height, and architectural design, with certain exceptions, discussed herein. As long as existing setbacks are sufficient for fire safety, no setback shall be required for an accessory dwelling unit contained within the existing space of a single-family residence or accessory structure, including an existing garage, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.
2. The ~~secondary~~accessory dwelling unit in compliance with this section shall not be considered to

exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot.

3. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the ~~second~~-accessory dwelling unit independently of the primary dwelling unit or any portion of the property. This stipulation shall be included in a recorded deed restriction on the property.

4. The ~~secondary~~-accessory dwelling unit must be eligible to receive City sewer and water services. Creation of a detached accessory dwelling unit may require installation of a new or separate utility connection.

GF. Design Requirements

1. An accessory dwelling ~~second~~-unit shall be compatible with the primary dwelling and the surrounding neighborhood with respect to structure height, scale, and massing.

2. The architectural design and detailing, roof color and material, and exterior color and finish materials of an ~~second~~-accessory dwelling unit shall match the primary dwelling to the extent possible.

3. The parcel shall retain a single-family appearance and the ~~second~~-accessory dwelling unit shall be integrated into the design of the existing improvements of the property.

4. The addresses of both the primary dwelling and the ~~second~~-accessory dwelling unit shall be displayed and clearly visible from the street.

HG. Parking

1. Second-Accessory dwelling units with ~~one or two~~ at least one bedrooms shall provide one additional off-street parking space in addition to those spaces required for the primary dwelling. Off-street parking may be provided in the setback areas or as tandem parking on a driveway, unless the City determines that such options

are not feasible on the existing property, based on fire and life safety conditions.

~~2. If the second unit has three or more bedrooms, two off-street parking spaces shall be provided in addition to those spaces required for the primary dwelling.~~

~~32. The creation of an accessory dwelling ~~second~~ unit through the conversion of all or a portion of a garage is prohibited unless replacement parking is provided elsewhere on the property in conformance with required parking standards as defined in Chapter 20.38 (Parking and Loading).~~

~~3. The parking standards provided in this section and otherwise in this code does not apply to an accessory dwelling unit in any of the following instances: (a) it is located within one-half mile of public transit; (b) it is located within an official architecturally and historically significant historic district; (c) it is part of the proposed or existing primary residence or an accessory structure; (d) on-street parking permits are required but not offered to occupants of an accessory dwelling unit; and, (e) a car share vehicle is located within one block of the accessory dwelling unit. To qualify for any of the above exemptions, the applicant shall provide supporting evidence as part of a Minor Use Permit or building permit application.~~

20.42.040 Occupancy Standards Fees and Other Requirements

~~A. *Owner Occupancy.* The owner of a parcel occupied by a second unit shall reside in either the primary dwelling or the second unit.~~

~~B. *Deed Restrictions.* Prior to the issuance of a building permit for a second unit, a covenant of restriction to run with the land shall be recorded which specifies that the second unit cannot be sold separately, transferred, or otherwise disposed of independently from the primary dwelling unit that the property owner shall reside in either the primary or second unit, and that these restrictions shall be binding on successors in ownership.~~

~~C. *Other Requirements.*~~

A. Accessory dwelling units are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service; the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system; and any utility fee or charge imposed on the creation of a detached accessory dwelling unit must not exceed the reasonable cost of providing the service.

B. Accessory dwelling units contained within the existing space of a single family residence or accessory structure that have an independent exterior access and setbacks that meet fire safety requirements are not required to install a new or separate utility connection and cannot be charged for a related connection fee or capacity charge.

1. Prior to occupancy of the second unit, a new address shall be assigned by Department of Development Services.

2C. A new ~~second~~ accessory dwelling unit shall be required to pay all applicable fees, including impact fees.

D. Prior to occupancy of the accessory dwelling unit, a new address shall be assigned by Department of Development Services.

SECTION 7. AMENDMENT TO CODE. Section 20.46.010, “Residential Design Standards, Purpose,” of the Merced Municipal Code is hereby amended to read as follows:

“20.46.010 -Purpose

This chapter establishes design standards for residential uses, in addition to regulations set forth in Chapter 20.08 (Residential Zones), except that parking, location, and address requirements in Section 20.46.020 do not apply to accessory dwelling units.”

SECTION 8. AMENDMENT TO CODE. Section 20.90.020, “Definitions,” of the Merced Municipal Code is hereby amended to read as follows:

“20.90.020 - Definitions

~~1861a.~~ ~~Second Units or Secondary Accessory Dwelling Units.~~ Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. ~~Secondary Accessory~~ dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no separate ~~address, lease, or utility service,~~ and still functioning as one “household” per 20.90.020(99) may not be considered to be ~~an accessory unit, second unit.~~ See Chapter 20.42 (~~Second Units- Accessory Dwelling Units~~).

186. *Second Units or Secondary Dwelling Units.* See Accessory Dwelling Units (#1a).”

SECTION 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 10. 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 11. 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 _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, 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:

City Attorney

Date

PUBLIC NOTICE OF ADOPTION OF ORDINANCE

CITY OF MERCED

ORDINANCE NO. _____

NOTICE IS HEREBY GIVEN that on _____, 2019, the City Council of the City of Merced adopted Ordinance No. _____, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.42 (“SECOND UNITS”) AS WELL AS TABLES 20.08-1 (“PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS”), 20.16-1 (“PERMITTED LAND USES IN THE URBAN VILLAGE ZONING DISTRICTS”), AND 20.38-1 (“OFF-STREET PARKING REQUIREMENTS”); AND SECTIONS 20.08.030.F.1 (“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS, PARKING”), 20.20.010.C.3 (“URBAN TRANSITION ZONING DISTRICT, DEVELOPMENT STANDARDS”); 20.46.010 (“RESIDENTIAL DESIGN STANDARDS, PURPOSE”), AND 20.90.020 (“GLOSSARY, DEFINITIONS”) OF THE MERCED MUNICIPAL CODE

Ordinance No. _____ amends Merced Municipal Code Section 20.42 (“Second Units”), which regulates Accessory Dwelling Units (previously known as “second units”), as well as other sections of the Municipal Code which make reference to Accessory Dwelling Units.

Ordinance No. _____ was adopted by the following roll call vote of the City Council:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

A copy of the full text of Ordinance No. _____ is available for review in the Office of the City Clerk, City of Merced, 678 West 18th Street, Merced, California, and on the City's website at www.cityofmerced.org.

ASSISTANT CITY CLERK

PUBLISH:

Planning Commission Draft Minutes Excerpts

MAY 8, 2019

(Subject to Approval by the Planning Commission)

- 4.1 Zoning Ordinance Amendment #19-02, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.42 (“Second Units”). This amendment would modify the City’s requirements for “accessory dwelling units” (previously known as “second units” or “secondary dwelling units”) to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees.

Planning Manager ESPINOSA reviewed the report on this item. She noted a memo from staff amending Section 20.080.0303(F)(1), Section 20.20.010(F)(1), Section 20.42.040(C)(1), and Section 20.090.020, which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #19-13 and memo dated May 8, 2019.

There was no one present wishing to speak regarding this project; therefore, public testimony was opened and closed at 7:37 p.m.

Commissioner PADILLA wondered if there was a way to isolate the Accessory Dwelling Unit from the Primary Unit to avoid utility-related disputes.

Planning Manager ESPINOSA clarified that city standards only allow one connection per single family home, and that they would be treated as a single unit when discussing fees.

Commissioner CAMPER asked for clarifications about whether or not an Accessory Dwelling Unit could be located in the front of a property.

Ms. ESPINOSA shared some examples of Accessory Dwelling Units in the City that are located in front of the Primary Dwelling Unit, and emphasized that setbacks would still apply.

Chairperson DYLINE asked for clarification regarding the language “subordinate appearance” and suggested that language be removed from the ordinance.

Commissioners HARRIS and PADILLA expressed concern that requiring owner occupancy as a condition of Accessory Dwelling Units would hinder their development in the City.

Commissioner RASHE observed that removing the owner occupancy requirement from the ordinance would be a great opportunity to improve the housing situation in Merced.

Commissioner CAMPER expressed her desire for owner occupancy to remain in the ordinance, and expressed concern over property maintenance and the amount of on-street parking in neighborhoods without owner occupancy.

Commissioner PADILLA felt that parking and maintenance was an issue with landlords and that it was discriminatory to require owner occupancy.

Commissioner RASHE explained that part of the issue with parking was related to the lack of affordable housing and the rising population.

Chairperson DYLINEA stated that the spirit of Accessory Dwelling Units was to create housing as quickly as possible. He also expressed concern over the parking requirements and its effect on garage conversions.

Ms. ESPINOSA explained that many more people ask to convert garages than to build traditional Accessory Dwelling Units, and what limits garage conversions is the requirements to provide an additional parking space. Ms. ESPINOSA explained that the owner occupancy requirement has likely slowed the growth of Accessory Dwelling Units in the City.

Commissioner PADILLA expressed concerns over garage conversions, but noted that in order to increase the housing stock, it would be necessary.

Chairperson DYLINEA asked for clarification regarding the Option 1B in Finding F regarding parking.

Planning Manager ESPINOSA clarified that both primary and secondary residents would be able to park in the setback.

M/S HARRIS-PADILLA, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #19-04, and to recommend approval of Zoning Ordinance Amendment #19-02 as outlined in Planning Commission Staff Report #19-13, with revisions as shown in Option 1B of Finding F, and revisions shown in Option 2B of Finding H of Planning Commission Staff Report #19-13, and with the amendments to Section 20.080.030(F)(1), Section 20.20.010(C)(3), Section 20.42.040(C)(1), Section 20.42.030(D)(3), and Section 20.90.020 as follows (RESOLUTION #4020):

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

**“20.08.030-“DEVELOPMENT STANDARDS FOR
RESIDENTIAL ZONING DISTRICTS**

F. Parking

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may ~~not~~ be located within any required exterior setback area, but these spaces may not be covered.”

**“20.20.010 URBAN TRANSITION (U-T) ZONING
DISTRICT**

C. Development Standards

3. **Residential Density.** Except for ~~secondary units~~ accessory dwelling units permitted under Chapter 20. 42 (~~Second Units~~ Accessory Dwelling Units), residential density of the lot may not be increased. ~~However the accessory dwelling unit may not exceed the allowable density for the lot.~~”

“20.42 ACCESSORY DWELLING UNITS

20.42.030-Site and Design Standards

ED. Relationship to Primary Dwelling

1. An accessory dwelling ~~second~~ unit may be within, attached to, or detached from the primary dwelling, or within an attached or detached accessory structure. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.
2. An accessory dwelling ~~second~~ unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.

3. ~~The secondary accessory dwelling unit shall be clearly subordinate to the primary dwelling by size, appearance, and location on the parcel.”~~

“20.42.040 Occupancy Standards

C. Fees and Other Requirements.

1. Accessory dwelling units are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service; **the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system;** and any utility fee or charge imposed on the creation of a detached accessory dwelling unit must not exceed the reasonable cost of providing the service.”

“20.90.020 - DEFINITIONS

~~1861a. Second Units or Secondary Accessory Dwelling Units.~~

Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. ~~Secondary Accessory~~ dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no separate lease, or utility service, and still functioning as one “household” per 20.90.020(99) may not be considered to be a ~~second unit~~ **an accessory unit**. See Chapter 20.42 (~~Second Units~~ Accessory Dwelling Units).

AYES: Commissioners Harris, Padilla, Rashe, and Chairperson Dylina
NOES: Commissioner Camper
ABSENT: Commissioners Drexel and Martinez
ABSTAIN: None

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #19-13

AGENDA ITEM: 4.1

FROM & Kim Espinosa,
PREPARED BY: Planning Manager

PLANNING COMMISSION
MEETING DATE: May 8, 2019

CITY COUNCIL
MEETING DATE: June 17, 2019
(Tentative)

SUBJECT: **Zoning Ordinance Amendment #19-02**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.42 (“Second Units”). This amendment would modify the City’s requirements for “accessory dwelling units” (previously known as “second units” or “secondary dwelling units”) to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees.
PUBLIC HEARING

ACTION: **PLANNING COMMISSION:**

Recommendation to City Council

- 1) Environmental Review #19-04 (Categorical Exemption)
- 2) Zoning Ordinance Amendment #19-02

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #19-04 (Categorical Exemption)
- 2) Zoning Ordinance Amendment #19-02

SUMMARY

Based on changes in State law and recent City Council policy direction to try to encourage the construction of accessory dwelling units (ADU’s) in the City of Merced, the City’s Zoning Ordinance needs to be amended. This amendment would modify the City’s requirements for “accessory dwelling units” (previously known as “second units” or “secondary dwelling units”) to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees. Some optional changes regarding the location of parking in the exterior setback areas on the lot and the requirement that either the primary unit or accessory unit be owner occupied are also discussed. Staff is recommending approval of the revised Ordinance as outlined in Attachment A and is asking the Planning Commission to make a recommendation on the parking location and owner occupancy options.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of a Categorical Exemption (Environmental Review #19-04—Attachment E) and Zoning Ordinance Amendment #19-02 (including the adoption of the Resolution at Attachment F) as

described in Attachment A, and recommending either Option 1A or Option 1B as described in Finding F regarding parking and either Option 2A or Option 2B as described in Finding H regarding owner occupancy.

PROJECT DESCRIPTION

This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.42 (“Second Units”). This amendment would modify the City’s requirements for “accessory dwelling units” (previously known as “second units” or “secondary dwelling units”) to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees. Amendments are also proposed to Tables 20.08-1 (“Permitted Land Uses in the Residential Zoning Districts”), 20.16-1 (“Permitted Land Uses in the Urban Village Zoning Districts”), and 20.38-1 (“Off-Street Parking Requirements”); and Sections 20.08.030.F.1 (“Development Standards for Residential Zoning Districts, Parking”), 20.20.010.C.3 (“Urban Transition Zoning District, Development Standards”); 20.46.010 (“Residential Design Standards, Purpose”), and 20.90.020 (“Glossary, Definitions”).

BACKGROUND

State of California

The California Legislature has declared that allowing accessory dwelling units (ADU’s) in single-family and multi-family zones is an essential component in addressing housing needs in California. In 1982, the State enacted Government Code Section 65852.2 establishing a mandate that every local agency adopt provisions for permitting accessory dwelling units (then known as “secondary dwelling units” or “second units”). The intent of the legislation was to encourage housing for extended family members and to increase the availability of rental housing. In 2003, AB 1866 was adopted, requiring all local governments to allow ADU’s within single-family residential zones.

In 2016, Senate Bill 1069 and Assembly Bill 2299 were adopted which made specific amendments to State law to promote the production of ADU’s. Also in 2016, AB 2406 added provisions for the creation of “junior accessory dwelling units.” These bills amended various sections of the State Government Code (§ 65852.2.) related to ADU regulations and were intended to reduce barriers and streamline approval. Among other things, the new laws permit ADUs in all residential zoning districts, create two classes of ADUs for which different regulations apply (interior vs. new structure), eliminate off-street parking requirements in certain circumstances, regulate the unit size, and establish the review process and approval timelines. A brief summary of these three bills can be seen at Attachment B.

The amended Government Code section 65852.2 also contains a provision rendering null and void any local ordinance regulating ADU construction that does not comply with its provisions. The State laws also provide that until the time at which the agency adopts an ordinance that complies with the State laws, the agency must apply the State standards for the approval of ADUs. Local jurisdictions are required to submit their revised ordinances to the State Department of Housing and Community Development (HCD) within 60 days of adoption.

City of Merced

The City's existing "Second Unit" zoning standards in Chapter 20.42 of the Merced Municipal Code (and other sections of the Zoning Code) are inconsistent with the amended Government Code provisions regarding accessory dwelling units. Therefore, in order to retain some degree of local control over ADU construction, the City must amend the Zoning Ordinance to conform to state law.

On September 17, 2018, the City Council directed staff to review the City's Zoning Ordinance to determine what changes were needed in order to comply with the new State laws regarding Accessory Dwelling Units (ADU's), and to consider alternative approaches to facilitate the development of ADU's in the City of Merced. On November 19, 2018, the City Council reviewed the proposed changes as outlined in Finding D and possible new Housing Division programs that might be implemented to encourage the development of ADU's. The City Council, by unanimous vote, directed staff to prepare the changes to the Ordinance for consideration by the Planning Commission and City Council at public hearings in the early months of 2019, but prior to presenting the draft Ordinance, return to the City Council in late January 2019 for further policy direction regarding parking and the owner occupancy requirements for accessory dwelling units. The City Council also directed Housing staff to move forward with a program similar to the Clovis model presented at the meeting. (This Housing Division program is not part of the Ordinance revision so it is not discussed in this staff report.)

On January 22, 2019, City staff presented the City Council with the information provided in Findings E and G below regarding the parking and owner occupancy requirements. After discussion, the City Council, in general, indicated support for allowing required parking spaces to be in the front yard setback for both the primary unit and the accessory unit. However, the City Council was split on whether the owner occupancy requirement should remain. City staff indicated that staff would provide further information about this requirement at the time the revisions were proposed, so the Planning Commission could weigh in on the issue as part of its recommendation. Since that time, staff has done further research on the owner occupancy and parking requirements summarized in Findings F and H below.

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes in response to City Council direction. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

Accessory Dwelling Units

- B) Although accessory dwelling units have been around for a long time (the City's Zoning Ordinance has allowed for them with certain restrictions since at least the early 1980's), there has recently been a lot of attention paid to them, especially in California. Accessory dwelling units (ADU's) have been called "in-law units," "granny flats," "casitas," "second units," and "secondary dwelling units," but whatever you call them, they are basically separate dwelling units on single-family lots. Some are converted garages or other living space completely within the primary dwelling unit, and some are separate structures in the

back or side yard. Most have cooking facilities and bathrooms, separate entrances, and their own address. Most have separate electrical utilities/meters, but not separate water or sewer utility connections or meters. (The City only allows one such water or sewer connection per lot.) For many years, the City of Merced allowed these units for family members, but they were not allowed to be rented out separately. In the late 1990's, the City began to let the units be rented, but either the primary unit or the accessory unit had to be owner occupied. The City's current ordinance still has the owner occupancy requirement (see Findings G and H below for a discussion of this issue).

- C) As noted above, accessory dwelling units have attracted a lot of attention lately. California lawmakers have addressed ADU's through legislation as noted in the Background section. According to a recent article in the L.A. Times, ADU's have exploded in popularity with Los Angeles receiving 25 times as many applications in 2017 as it did the previous 2 years, and Oakland, San Francisco, and San Jose also seeing major jumps. Backyard units are especially popular with older California families looking to downsize and rent out their main property. Such units are seen to be more affordable and also provide an income source for homeowners to help cover mortgage costs. They are also a popular option among college students. Portland, Oregon has been promoting ADU's for many years and in 2014, almost 8 percent of new housing units built are ADU's (only 0.5 percent of their total housing stock are ADU's.) The website, www.accessorydwellings.org, contains a lot of research and information about ADU's nationwide. In California, San Mateo County also has a lot of information about ADU's on their website, www.secondunitcentersmc.org.

General Overview of Proposed Changes to the Zoning Ordinance

- D) The City of Merced is proposing to adopt an Ordinance (Attachment A) to amend the Zoning Code to provide amended regulations for accessory dwelling units in conformance with changes in State law. Major modifications include:
- 1) The terms "Second Units" or "Secondary Dwelling Units" will need to be changed to "Accessory Dwelling Units" throughout the Zoning Ordinance, including the following chapters: Residential Zoning Districts, Urban Village Zoning District, Urban Transition Zoning District, Off-Street Parking, Second Units, and the Glossary. (See Sections 1, 2, 3, 4, 5, 6, 7, and 8 of Attachment A.)
 - 2) The maximum size of an attached ADU shall be changed from 1,000 square feet to 1,200 square feet. [See Section 6, new MMC 20.42.030(C)(1) and (2), of Attachment A.]
 - 3) Remove the "maximum number permitted" section as State law does not allow the number of ADU's to be capped per parcel although local ordinances should specify that "ADU's cannot exceed the allowable density for the lot." [See Section 6, previous MMC 20.42.030(C), of Attachment A.]
 - 4) Clarify that the standard that the ADU "be clearly subordinate to the primary dwelling" would not preclude an ADU from being located in the front of the property. [See Section 6, new MMC 20.42.030(D)(3), of Attachment A.]
 - 5) Clarify the setback requirements for ADU's. [See Section 6, new MMC 20.42.030(E)(1), of Attachment A.]

- 6) Change the parking requirements for ADU's with more than 3 bedrooms from 2 to 1 space as State law only allows the requirement for 1 parking space for all ADU's regardless of size. [See Section 5, Table 20.38-1, and Section 6, new MMC 20.42.030(G)(2), of Attachment A.]
- 7) Add a provision that "parking may be allowed in setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety concerns." [See Section 6, new MMC 20.42.030(G)(1), of Attachment A.]
- 8) Add a provision that states that the parking requirements do not apply in the five instances stated in State law, which include in official historic districts, within ½ mile of public transit, the ADU is part of an existing structure, on-street parking permits are required, or car share vehicles are located within one block. [See Section 6, new MMC 20.42.030(G)(3), of Attachment A.]
- 9) Add provisions regarding fees, including :
 - (a) ADU's are not considered "a new residential use for the purpose of calculating connection fees or capacity charges for utilities, including water and sewer service." [See Section 6, new MMC 20.42.040(C)(1), of Attachment A.]
 - (b) Any utility fee or charge imposed "must not exceed the cost of providing the service." [See Section 6, new MMC 20.42.040(C)(1), of Attachment A.]
 - (c) The City "cannot require applicants creating ADU's within the existing space of a single-family dwelling or accessory structure...to install a new or separate utility connection or impose a related connection fee or capacity charge." [See Section 6, new MMC 20.42.040(C)(2), of Attachment A.]

(Note: These provisions may also require changes to the Merced Municipal Code sections relating to the water and sewer connection fees as well. These provisions are not part of the Zoning Ordinance so they are not addressed in this amendment.)

Findings E, F, G and H below discuss some optional changes that could be made to the Zoning Ordinance in order to further encourage the development of ADU's in the City of Merced. Those changes are not required to conform to current State law, but may provide additional incentives to spur ADU development.

Policy Direction regarding Parking

E) *The following information was provided to the City Council on January 22, 2019:*

"One of the changes noted above is to add a provision that "parking may be allowed in setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety concerns." Per the current parking requirements for single-family homes in the Zoning Ordinance, each home is required to have 1 required parking space per unit and per Merced Municipal Code Section 20.08.030(F)(1), that "required" parking space cannot be within the required exterior setback areas in R-1 (single-family) and R-2 (duplex) zones. (However, those spaces are allowed to be in the setback area within R-3 and R-4 zones, which allow apartment units and have more traditional parking lot areas for tenants to park in.)

The driveway on a single-family home is usually within the front yard/exterior setback, and although there is nothing that prohibits the occupants from parking on the driveway, it cannot be counted as the legal required parking space. That legal required space is the one within the garage. Because of this requirement, if an owner wants to convert the garage into living space, they must either leave enough space for a legal 10 foot by 20 foot parking space within the garage (if it is a 2- or 3- car garage) or find another location within the lot (not within an exterior setback area) to install another parking space. The Ordinance also requires that any such uncovered space must be designed and located so that it can later be converted to a covered space. (This requirement means that the parking space cannot be within a required side yard setback area either.) On smaller lots especially, it can often be difficult to find such a location and this discourages garage conversions. It should be noted that this concern was brought up as part of the comprehensive Zoning Ordinance Update in 2015, but ultimately the Zoning Ordinance Focus Group (made up of 25 citizens), the Planning Commission, and City Council opted to remain with the existing requirements.

The Planning Commission/City Council could consider making broader changes to the Zoning Ordinance that would allow legal parking spaces for all uses to be in the exterior setback areas for all R-1 and R-2 zones throughout the City or a special exception could be granted for accessory dwelling units only. The special exception would meet the requirements of State law for ADU's and would likely have less impacts on single-family neighborhoods as City staff receives many more requests for garage conversions than for accessory dwelling units."

- F) Since the January 22, 2019, City Council meeting, City staff has done additional research on the parking issue which is summarized below for the Planning Commission's consideration.

As indicated previously, the City Council showed a preference for allowing required parking spaces for all uses (not just ADU's) in the exterior setback area, which is generally the driveway in the front yard, but can also be a side yard that is adjacent to the street. As noted above, the City's current Ordinance does not allow required parking spaces to be located in the front yard setback area in R-1 and R-2 zones. In order to amend the ordinance to meet State law, an exception to that provision would need to be made for ADU's at the very least. A summary of what other California cities have done regarding the parking requirements (along with the owner occupancy requirement) is provided in Attachment C.

City staff still has some concerns about making the broader change which could lead to significantly more garage conversions and could potentially lead to more vehicles being parked on the streets in neighborhoods due to the reduced amount of on-site parking. More on-street parking can lead to more issues on trash collection days and more conflicts among neighbors. Although no one owns the on-street parking spot directly in front of their house, most people feel it should be left for their use instead of being used by one of their neighbors. At the very least, if parking for all uses is allowed in the front yard, City staff believes there should still be a restriction against covering those parking spaces so as not to have a proliferation of car ports and other such structures in the front yard which can be unsightly and can cause conflicts with utility lines, street trees, and required setbacks in the Building and Fire Codes.

After the Council meeting, staff received an email (Attachment D) from former Council Member Belluomini. He felt that the Council discussion had been too broad and simply should have focused on any possible fire and life safety issues of allowing the driveway to be widened for an ADU. As mentioned above, State law requires that parking for ADU's be allowed on the front driveway unless there were fire and life safety concerns.

The Draft Ordinance (see Section 2, MMC 20.08.030, of Attachment A) has been prepared with the following language, which would allow for the parking for ADU's only in the exterior setback areas (**Option 1A**):

**“20.08.030-“DEVELOPMENT STANDARDS FOR
RESIDENTIAL ZONING DISTRICTS**

F. PARKING

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may not be located within any required exterior setback area, except for required parking spaces for accessory dwelling units on the property.”

However, if the Planning Commission wishes to recommend parking allowed for all uses in the exterior setback areas, the following alternative language should be adopted (**Option 1B**):

**“20.08.030-“DEVELOPMENT STANDARDS FOR
RESIDENTIAL ZONING DISTRICTS**

F. PARKING

2. Within the R-1 and R-2 zoning districts, required off-street parking spaces may ~~not~~ be located within any required exterior setback area, but these spaces may not be covered.”

Policy Direction regarding Owner Occupancy

- G) *The following information was provided to the City Council on January 22, 2019:*

“Merced Municipal Code Section 20.42.040(A) requires that “the owner of a parcel occupied by a second unit (to be changed to “accessory dwelling unit”) shall reside in either the primary dwelling unit or the second unit.” MMC 20.42.040(B) further goes on to require that a deed restriction be recorded that specifies that the ADU cannot be sold separately and that the property owner must reside in either the primary or accessory unit.

There is nothing in State law that requires the City to change the above requirements. However, at the November 19, 2018, meeting, the City Council asked for a discussion of options regarding this requirement. At the Council meeting, at least one citizen testified that they would be concerned about eliminating this requirement.

Some cities have eliminated this occupancy requirement in recent years in order to encourage the development of ADU's and others are considering that now. The City of

Chico is one of those, but specifically in response to the Camp Fire that destroyed much of the nearby City of Paradise. However, from a limited survey by City staff, it appears that most communities, including Modesto, Turlock, Burlingame, Redwood City, San Bruno, San Carlos, etc., still retain this requirement.

While eliminating the requirement might encourage the development of more ADU's, it might have impacts on the character of single-family neighborhoods throughout the City. If the property owner is not required to live in one of the units, that would allow both units to be rentals, thereby creating two "apartment" units on each lot with no landlord onsite.

The occupancy requirement is thought to encourage property owners to minimize possible negative impacts (such as excessive noise, or lack of property upkeep) because they are living on the same property as their tenants. For many years, the City required ADU occupants to be "related by blood or marriage" (generally elderly relatives or teenagers). That requirement was eliminated a number of years ago to allow homeowners to rent ADU's to anyone to generate extra income and to give more housing choices to college students or others."

- H) Since the January 2, 2019, City Council meeting, City staff has done additional research on the owner occupancy issue which is summarized below for the Planning Commission's consideration.

City staff reviewed the Accessory Dwelling Unit Ordinances adopted by 28 California cities and also referred to a survey done in 2018 for 7 cities in San Mateo County. A summary of the provisions in these ordinances regarding owner occupancy, short-term rentals, parking, and other special provisions of note can be seen in Attachment C. Regarding owner occupancy, 28 cities retained a requirement for either the primary or accessory unit be owner occupied while 7 cities and 1 county did not have such a requirement. According to www.accessorydwellings.org, although Portland, Oregon eliminated its owner occupancy requirement in 1998, 30 of 46 Oregon cities still retained the requirement in 2013.

Some reasons cited for retaining the requirement were as noted in Finding G above regarding "absentee landlords" and concerns for retaining the character of single-family neighborhoods. There could also be disputes around the fact that the City only allows one sewer and water meter and trash collection service per single-family lot. If there are issues with tenants contaminating the green waste container, violating the rules regarding excessive watering, or even paying their fair share of the bill, this could cause problems for the City in trying to impose fines or cutting off service for non-payment. Many Merced neighborhoods are already experiencing some of these issues with single-family homes being rented to multiple tenants. (More traditional apartments would have on-site managers and consolidated billing to deal with such issues.)

However, there are also reasons cited by various sources in favor of eliminating the owner occupancy requirement, chief among them that the restrictions tend to discourage the construction of ADU's. An article from www.sightline.org, notes that the owner occupancy requirement "gives bankers the jitters, which prevents many homeowners from securing home loans to finance ADU construction. Owner occupancy sharply limits the

value appraisers can assign to a house and the ADU and makes property less valuable for loan collateral. If a bank forecloses on a house and ADU covered by an owner occupancy rule, it cannot rent out both units.” Another article from www.accessorydwellings.org indicates “Owner occupancy requirements make properties with ADU’s unsuitable for income-based valuation by appraisers, constraining their value, and making them difficult to finance.” It goes on to indicate that owner occupancy requirements can badly hurt the market for ADU’s and create obstacles for “mom and pop” landlords that are trying to provide affordable housing options.

Given the above, there seems to be good reasons on both sides. However, since the City currently has the owner occupancy restriction in place, City staff has included it in the proposed Ordinance. It should be noted that this all may be a moot point in the future since there is currently a bill, SB 13, being considered in the California Legislature which, if passed, would prohibit a local agency from requiring owner occupancy of either the primary or accessory unit. (This same bill would also limit the impact fees that could be charged to ADU’s and prohibit local agencies from requiring the replacement of parking spaces eliminated by converting a garage into an ADU.)

The Draft Ordinance (see Section 6, MMC 20.42.040, of Attachment A) has been prepared with the following language, which would still require owner occupancy and is almost the same language as the current ordinance with a few modifications (**Option 2A**):

20.42.040 Occupancy Standards

A. *Owner Occupancy.* The owner of a parcel occupied by ~~a~~ an accessory dwelling second unit shall reside in either the primary dwelling or the accessory dwelling second unit.

B. *Deed Restrictions.* Prior to the issuance of a building permit for an accessory dwelling second unit, a covenant of restriction to run with the land shall be recorded by the property owner which specifies that the ~~second~~ accessory dwelling unit cannot be sold separately, transferred, or otherwise disposed of independently from the primary dwelling unit that the property owner shall reside in either the primary or accessory dwelling unit, and that these restrictions shall be binding on successors in ownership.

However, if the Planning Commission would like to recommend that the owner occupancy requirement be removed, the following alternative language should be adopted (**Option 2B**):

20.42.040 ~~Occupancy Standards~~ Fees and Other Requirements

A. ~~*Owner Occupancy.* The owner of a parcel occupied by a~~ an accessory dwelling second unit shall reside in either the primary dwelling or the accessory dwelling second unit.

B. ~~*Deed Restrictions.* Prior to the issuance of a building permit for an accessory dwelling second unit, a covenant of restriction to run with the land shall be recorded by the property owner which~~

~~specifies that the second accessory dwelling unit cannot be sold separately, transferred, or otherwise disposed of independently from the primary dwelling unit that the property owner shall reside in either the primary or accessory dwelling unit, and that these restrictions shall be binding on successors in ownership.~~

(Note: Section C as described in Attachment A would now become Section A of MMC 20.42.040)

Timetable/Next Steps

- I) After the Planning Commission makes a recommendation on the Draft Ordinance, a public hearing will be scheduled before the City Council, tentatively scheduled for June 17, 2019. If the Council introduces the Ordinance at that meeting, the 2nd reading and adoption of the Ordinance would be at the next City Council meeting on July 1, 2019, and then the Ordinance would be effective 30 days later or on approximately August 1, 2019.

Environmental Clearance

- J) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no further environmental review is required) is being recommended (see Attachment E).

Attachments:

- A) Draft Ordinance
- B) Summary of California Legislation RE: ADU's
- C) Survey of Other Cities' Accessory Dwelling Unit Ordinances
- D) Email from Former Council Member Belluomini
- E) Environmental Review #19-04 (Categorical Exemption)
- F) Draft Planning Commission Resolution

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING SECTIONS 20.42 (“SECOND UNITS”)
AS WELL AS TABLES 20.08-1 (“PERMITTED
LAND USES IN THE RESIDENTIAL ZONING
DISTRICTS”), 20.16-1 (“PERMITTED LAND USES
IN THE URBAN VILLAGE ZONING
DISTRICTS”), AND 20.38-1 (“OFF-STREET
PARKING REQUIREMENTS”); AND SECTIONS
20.08.030.F.1 (“DEVELOPMENT STANDARDS
FOR RESIDENTIAL ZONING DISTRICTS,
PARKING”), 20.20.010.C.3 (“URBAN TRANSITION
ZONING DISTRICT, DEVELOPMENT
STANDARDS”); 20.46.010 (“RESIDENTIAL
DESIGN STANDARDS, PURPOSE”), AND 20.90.020
 (“GLOSSARY, DEFINITIONS”) OF THE MERCED
MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. AMENDMENT TO CODE. Table 20.08-1, “Permitted Land Uses in the Residential Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

SECTION 2. AMENDMENT TO CODE. Section 20.08.030(F)(1), “Development Standards for Residential Zoning Districts, Parking” of the Merced Municipal Code is hereby amended to read as follows:

**“20.08.030-“DEVELOPMENT STANDARDS FOR
RESIDENTIAL ZONING DISTRICTS**

F. PARKING

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may not be located within any required exterior setback area, except for required

parking spaces for accessory dwelling units on the property.”

SECTION 3. AMENDMENT TO CODE. Table 20.16-1, “Permitted Land Uses in the Urban Village Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

SECTION 4. AMENDMENT TO CODE. Section 20.20.010(C)(3), “Urban Transition Zoning District, Development Standards, Residential Density,” of the Merced Municipal Code is hereby amended to read as follows:

“20.20.010 - Urban Transition (U-T) Zoning District

C. Development Standards _____

3. **Residential Density.** Except for ~~secondary units~~ accessory dwelling units permitted under Chapter 20.42 (~~Second Units~~-Accessory Dwelling Units), residential density of the lot may not be increased. However, the accessory dwelling unit may not exceed the allowable density for the lot.”

SECTION 5. AMENDMENT TO CODE. Table 20.38-1, “Off-Street Parking Requirements,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’) is replaced by “Accessory Dwelling Units” and the corresponding “Required Number of Parking Spaces” is amended to read as follows:

**“One or ~~two~~ more bedrooms: 1 per unit;
~~Three or more bedrooms: 2 per unit”~~**

SECTION 6. AMENDMENT TO CODE. Chapter 20.42, “Second Units,” of the Merced Municipal Code is hereby repealed and amended to read as follows:

“20.42 Accessory Dwelling Units ~~Second Units~~

Sections:

20.42.010 Purpose

20.42.020 Minor Use Permit Required

20.42.030 Site and Design Standards

20.42.040 Occupancy Standards

ATTACHMENT A—Page 2

20.42.010 Purpose

This chapter establishes standards for the location and construction of ~~second units (also known as “secondary dwelling units”)~~ accessory dwelling units (“ADU’s”) in conformance with Government Code Section 65852.2. These standards are intended to allow for ~~second~~ accessory dwelling units as an important form of affordable housing while preserving the character and integrity of residential neighborhoods within the City.

20.42.020 Minor Use Permit Required

Approval of a Minor Use Permit is required prior to the establishment of any ~~second~~ accessory dwelling unit or a subdivision with multiple ~~second~~ accessory dwelling units.

20.42.030 Site and Design Standards

A. Location. ~~Second~~ Accessory dwelling units shall be permitted in ~~residential zoning districts~~ districts zoned to allow single-family or multi-family use as provided in Part 2 (Zoning Districts).

B. Site Requirements

1. ~~Second~~ Accessory dwelling units that comply with this chapter shall be permitted on all legally established residential parcels, regardless of parcel size so long as the parcel size permits at least an ‘efficiency unit’ to be constructed in compliance with local design standards. [An ‘efficiency unit’ provides for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities.]
2. An accessory dwelling ~~second~~ unit may only be established if a single-family dwelling unit (“primary dwelling”) exists on the parcel or is being built at the same time.

~~C. Maximum Number Permitted~~

- ~~1. Only one second unit shall be allowed on a single parcel.~~

~~2. A second unit is not permitted on parcels already containing two or more dwelling units.~~

DC. Size

1. Attached ~~Second~~ Accessory Dwelling Units. The floor area of an attached second unit shall not exceed 50 percent of the living area of the primary dwelling or ~~1,000~~ 1,200 square feet, whichever is ~~greater~~ less. Garages and carports are excluded from floor area calculations for both the primary dwelling and ~~second~~ accessory unit.
2. Detached ~~Second~~ Accessory Dwelling Units. The floor area of a detached ~~second~~ accessory dwelling unit shall not exceed 1,200 square feet, excluding any space devoted to a carport or garage.

ED. Relationship to Primary Dwelling

1. An accessory dwelling ~~second~~ unit may be within, attached to, or detached from the primary dwelling, or within an attached or detached accessory structure. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.
2. An accessory dwelling ~~second~~ unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. The ~~secondary~~ accessory dwelling unit shall be clearly subordinate to the primary dwelling by size and, ~~appearance, and location on the parcel.~~

FE. Development Standards

1. An accessory dwelling ~~second~~ unit shall comply with all current development and design standards of the General Plan and Zoning Ordinance that are applicable to the primary dwelling, including, but not limited to, building setbacks, parcel coverage, building height, and architectural design, with certain exceptions, discussed herein. As long as existing setbacks are sufficient for fire safety, no setback shall be required for an accessory dwelling unit contained within the existing space of a single-family residence or accessory structure, including an existing garage, and a setback of no more than five

feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.-

2. The ~~secondary~~-accessory dwelling unit in compliance with this section shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot.

3. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the ~~second~~-accessory dwelling unit independently of the primary dwelling unit or any portion of the property. This stipulation shall be included in a recorded deed restriction on the property.

4. The ~~secondary~~-accessory dwelling unit must be eligible to receive City sewer and water services. Creation of a detached accessory dwelling unit may require installation of a new or separate utility connection.

GF. Design Requirements

1. An accessory dwelling ~~second~~-unit shall be compatible with the primary dwelling and the surrounding neighborhood with respect to structure height, scale, and massing.

2. The architectural design and detailing, roof color and material, and exterior color and finish materials of an ~~second~~-accessory dwelling unit shall match the primary dwelling to the extent possible.

3. The parcel shall retain a single-family appearance and the ~~second~~-accessory dwelling unit shall be integrated into the design of the existing improvements of the property.

4. The addresses of both the primary dwelling and the ~~second~~-accessory dwelling unit shall be displayed and clearly visible from the street.

HG. Parking

1. ~~Second~~-Accessory dwelling units with ~~one or two~~ at least one bedrooms shall provide one additional off-street parking space in addition to those spaces required

for the primary dwelling. Off-street parking may be provided in the setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety conditions.

2. ~~If the second unit has three or more bedrooms, two off-street parking spaces shall be provided in addition to those spaces required for the primary dwelling.~~

32. The creation of an accessory dwelling ~~second~~ unit through the conversion of all or a portion of a garage is prohibited unless replacement parking is provided elsewhere on the property in conformance with required parking standards as defined in Chapter 20.38 (Parking and Loading).

3. The parking standards provided in this section and otherwise in this code does not apply to an accessory dwelling unit in any of the following instances: (a) it is located within one-half mile of public transit; (b) it is located within an official architecturally and historically significant historic district; (c) it is part of the proposed or existing primary residence or an accessory structure; (d) on-street parking permits are required but not offered to occupants of an accessory dwelling unit; and, (e) a car share vehicle is located within one block of the accessory dwelling unit. To qualify for any of the above exemptions, the applicant shall provide supporting evidence as part of a Minor Use Permit or building permit application.

20.42.040 Occupancy Standards

A. *Owner Occupancy.* The owner of a parcel occupied by an accessory dwelling ~~second~~ unit shall reside in either the primary dwelling or the ~~second~~ accessory dwelling unit.

B. *Deed Restrictions.* Prior to the issuance of a building permit for an accessory dwelling ~~second~~ unit, a covenant of restriction to run with the land shall be recorded by the property owner which specifies that the ~~second~~ accessory dwelling unit cannot be sold separately, transferred, or otherwise disposed of independently from the primary dwelling unit that the property owner shall

reside in either the primary or ~~second~~ accessory dwelling unit, and that these restrictions shall be binding on successors in ownership.

C. Fees and Other Requirements.

1. Accessory dwelling units are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, and any utility fee or charge imposed on the creation of a detached accessory dwelling unit must not exceed the reasonable cost of providing the service.

2. Accessory dwelling units contained within the existing space of a single family residence or accessory structure that have an independent exterior access and setbacks that meet fire safety requirements are not required to install a new or separate utility connection and cannot be charged for a related connection fee or capacity charge.

1. — Prior to occupancy of the second unit, a new address shall be assigned by Department of Development Services.

23. A new ~~second~~ accessory dwelling unit shall be required to pay all applicable fees, including impact fees.

4. Prior to occupancy of the accessory dwelling unit, a new address shall be assigned by Department of Development Services.

SECTION 7. AMENDMENT TO CODE. Section 20.46.010, “Residential Design Standards, Purpose,” of the Merced Municipal Code is hereby amended to read as follows:

“20.46.010 -Purpose

This chapter establishes design standards for residential uses, in addition to regulations set forth in Chapter 20.08 (Residential Zones), except that parking, location, and address requirements in Section 20.46.020 do not apply to accessory dwelling units.”

SECTION 8. AMENDMENT TO CODE. Section 20.90.020, “Definitions,” of the Merced Municipal Code is hereby amended to read as follows:

“20.90.020 - Definitions

~~1861a.~~ ~~Second Units or Secondary Accessory Dwelling Units.~~ Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. Secondary dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no separate ~~address,~~ lease, or utility service, and still functioning as one “household” per 20.90.020(99) may not be considered to be a ~~second unit.~~ See Chapter 20.42 (~~Second Units~~ Accessory Dwelling Units).

186. *Second Units or Secondary Dwelling Units.* See Accessory Dwelling Units (#1a).”

SECTION 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 10. 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 11. 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 _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, 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:

City Attorney

Date

PUBLIC NOTICE OF ADOPTION OF ORDINANCE

CITY OF MERCED

ORDINANCE NO. _____

NOTICE IS HEREBY GIVEN that on _____, 2019, the City Council of the City of Merced adopted Ordinance No. _____, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.42 (“SECOND UNITS”) AS WELL AS TABLES 20.08-1 (“PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS”), 20.16-1 (“PERMITTED LAND USES IN THE URBAN VILLAGE ZONING DISTRICTS”), AND 20.38-1 (“OFF-STREET PARKING REQUIREMENTS”); AND SECTIONS 20.08.030.F.1 (“DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS, PARKING”), 20.20.010.C.3 (“URBAN TRANSITION ZONING DISTRICT, DEVELOPMENT STANDARDS”); 20.46.010 (“RESIDENTIAL DESIGN STANDARDS, PURPOSE”), AND 20.90.020 (“GLOSSARY, DEFINITIONS”) OF THE MERCED MUNICIPAL CODE

Ordinance No. _____ amends Merced Municipal Code Section 20.42 (“Second Units”), which regulates Accessory Dwelling Units (previously known as “second units”), as well as other sections of the Municipal Code which make reference to Accessory Dwelling Units.

Ordinance No. _____ was adopted by the following roll call vote of the City Council:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

A copy of the full text of Ordinance No. _____ is available for review in the Office of the City Clerk, City of Merced, 678 West 18th Street, Merced, California, and on the City's website at www.cityofmerced.org.

ASSISTANT CITY CLERK

PUBLISH:

SUMMARY OF RECENT CALIFORNIA LEGISLATION RE: ACCESSORY DWELLING UNITS

The following is a brief summary of each of the three accessory dwelling unit bills that took effect on January 1, 2017.

Summary of SB 1069 (Wieckowski): This law makes several changes to address barriers to the development of accessory dwelling units (ADUs), including parking requirements, utility fees, and existing single-family space repurposed as an ADU.

Parking: SB 1069 reduces maximum parking requirements to one space per bedroom or unit, and authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Fees: SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

Fire Requirements: SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space: Local governments must ministerially approve an application to create an ADU on a single-family lot if the unit is:

- Contained within an existing residence or accessory structure.
- Has independent exterior access from the existing residence.
- Has side and rear setbacks that are sufficient for fire safety.

No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition: SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

Summary of AB 2299 (Bloom): This law requires a local government to ministerially approve ADUs if the unit complies with certain parking requirements, and establishes maximum size and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of an attached ADU does not exceed 50% of the existing living area, with a maximum floor area of 1,200 square feet.
- The total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted into an ADU.
- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used .

Summary of AB 2406 (Thurmond): This law creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance.

Required Components: The ordinance authorized by AB 2406 must include the following parameters:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU must have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

Prohibited Components: This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees.

Survey of Other Cities' Accessory Dwelling Unit Ordinances

(April 2019--Merced City Staff)

City	Require Owner Occupancy of ADU or Primary Unit	Deed Restriction Required	Special Exemption for Parking in Setback for ADU's Only	Prohibits Short-Term Rentals (Less than 30 days) of ADU's	Any Special Provisions of Note	Amended Recently to Meet State Law Reqs
Barstow	Yes	Yes	Yes	No	None	Adopted 2015
Carmel	Yes	Yes	Allows Tandem Parking on Driveway for ADU per State Law	Yes	Retains Limitation of 1 ADU per lot (despite state law reqts which seem to limit this);	Adopted April 2017
Chico	Yes (but currently considering removing due to Camp Fire impacts on local housing)	Yes (but currently considering removing reqt)	Allows Tandem Parking for Primary Dwelling & ADU on an existing driveway	Yes (no mention of removing this reqt)	Currently considering ADU fee reductions and other incentives that would require affordability covenants	Amended March 2018 but considering further amendments (Jan 2019)
Clovis	Yes	Yes	Requires 3 parking spaces for ADU & primary unit (does not appear to meet current State reqts)	No	Cottage Home Program of providing pre-approved building plans for ADU's in Central Clovis	Adopted October 2014
Citrus Heights	No	No	Allows driveway parking within setback areas to count for all single-family residences, not just ADU's, and does not require any additional parking for ADU's since 80% of City would likely qualify for an exemption	No	None	Adopted May 2017

Survey of Other Cities' Accessory Dwelling Unit Ordinances

(April 2019--Merced City Staff)

City	Require Owner Occupancy of ADU or Primary Unit	Deed Restriction Required	Special Exemption for Parking in Setback for ADU's Only	Prohibits Short-Term Rentals (Less than 30 days) of ADU's	Any Special Provisions of Note	Amended Recently to Meet State Law Reqs
Colma	Yes	Yes	Allows parking within the setback for the primary dwelling & ADU but only if the garage is being converted to an ADU	Yes	None	Adopted March 2017
Davis	No	No	Unclear	No	None	Amended Feb 2019
Diamond Bar	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	None	Amended May 2017
Dublin	Yes	No	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	None	Adopted January 2017
Emeryville	Yes	No	Parking for ADU only may be provided in the setback area or in tandem arrangements	No	ADU cannot have more bedrooms than the primary unit; Requires at least 200 SF of open space	Amended November 2017
Fremont	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	Allow "Junior ADU's" of 500 SF or less (one bedroom) entirely within the primary structure with an efficiency kitchen and access to a bathroom; No outside stairs to the ADU on the front of the house.	Amended Feb 2017

Survey of Other Cities' Accessory Dwelling Unit Ordinances

(April 2019--Merced City Staff)

City	Require Owner Occupancy of ADU or Primary Unit	Deed Restriction Required	Special Exemption for Parking in Setback for ADU's Only	Prohibits Short-Term Rentals (Less than 30 days) of ADU's	Any Special Provisions of Note	Amended Recently to Meet State Law Reqs
Fresno	Yes	Yes	Parking for ADU cannot impede access to required parking for primary unit	No	None	Has not been amended since 2015
Gilroy	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	None	Amended January 2018
Los Altos	No (Removed in June 2018)	No	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	None	Amended June 2018
Los Angeles	No	No	Parking for ADU only may be provided in the setback area or in tandem arrangements	No	None	2017
Modesto	Yes	Yes	Does not allow parking for the ADU in the front setback (State law requires this be allowed for at least the ADU)	No, but affordability restrictions would make it difficult to do such short-term rentals	Requires that ADU's and the primary unit meet affordability restrictions for at least 30 years	Doesn't appear to have been amended per new State reqts
Napa	No (But required for Junior ADU's)	No (But required for Junior ADU's)	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	Provides for "Junior ADU's" similar to Fremont above	Adopted April 2017
Orinda	No	No	Parking for ADU only may be provided in the setback area or in tandem arrangements	No	None	Amended in 2017 & 2018

Survey of Other Cities' Accessory Dwelling Unit Ordinances

(April 2019--Merced City Staff)

City	Require Owner Occupancy of ADU or Primary Unit	Deed Restriction Required	Special Exemption for Parking in Setback for ADU's Only	Prohibits Short-Term Rentals (Less than 30 days) of ADU's	Any Special Provisions of Note	Amended Recently to Meet State Law Reqs
Redondo Beach	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	No (Recommended by Planning Commission but not included)	Appeared to be controversial as several public hearings were held by both the Planning Commission and City Council	Adopted February 2019
San Dimas	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	Requires that ADU's that are rented be "affordable" for 50 years	Amended December 2016
Santa Barbara	Yes (Actually requires that it be the owner's "primary place of residence")	Yes (have very specific reqts for these covenants)	Parking for ADU's allowed in setback areas but only in non "high fire hazard" areas	Yes (Does not allow rental terminations prior to at least 31 days expiring)	Allows "Hardship Waivers" of no more than 3 years for the owner occupancy reqt; Requires minimum open space be provided based on lot size; special design standards for 2-story units	Amended May 2018
Santa Fe Springs	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	Includes provisions for "Junior ADU's"	Amended February 2017
Santa Rosa	Yes (unless owned by a governmental agency or non-profit housing agency)	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	Includes provisions for "Junior ADU's"; and requires affordability covenants	Circa 2018

Survey of Other Cities' Accessory Dwelling Unit Ordinances

(April 2019--Merced City Staff)

City	Require Owner Occupancy of ADU or Primary Unit	Deed Restriction Required	Special Exemption for Parking in Setback for ADU's Only	Prohibits Short-Term Rentals (Less than 30 days) of ADU's	Any Special Provisions of Note	Amended Recently to Meet State Law Reqs
Simi Valley	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	Yes	Includes provisions for "Junior ADU's"; and specifically prohibits the rental of "guest houses"	Adopted November 2017
Turlock	Indicates that ADU may be rented but doesn't mention otherwise	No	Parking for ADU only may be provided in the setback area or in tandem arrangements	No	Requires architectural review of ADU's	Adopted May 2015
Visalia	Yes	Yes	Doesn't allow tandem parking for ADU's	No	None	Adopted 2017
Walnut Creek	Yes	Yes	Parking for ADU only may be provided in the setback area or in tandem arrangements	No	Includes restrictions on 2nd story windows	Amended January 2019
Whittier	Yes	Yes	Requires 2 covered, non-tandem spaces for ADU's if on a lot of 20,000 SF or greater, except as where exempt from parking under State Law	No	None	Adopted June 2017
SUMMARY	21-Yes; 7-No	19-Yes; 9-No	N/A	14-Yes; 14-No	N/A	N/A

Survey of Other Cities' Accessory Dwelling Unit Ordinances

(April 2019--Merced City Staff)

City	Require Owner Occupancy of ADU or Primary Unit	Deed Restriction Required	Special Exemption for Parking in Setback for ADU's Only	Prohibits Short- Term Rentals (Less than 30 days) of ADU's	Any Special Provisions of Note	Amended Recently to Meet State Law Reqs
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San Mateo County :						<i>From 2018 Survey Performed by Others</i>
Burlingame	Yes	Yes	Information Not Included in Survey ("Not Included")	"Not Included"	Junior ADU's Not Allowed	"Not Included"
Daly City	Yes	Yes	"Not Included"	"Not Included"	Junior ADU's Not Allowed	"Not Included"
Redwood City	Yes	No	"Not Included"	"Not Included"	Junior ADU's Not Allowed	"Not Included"
San Bruno	Yes	Yes	"Not Included"	"Not Included"	Junior ADU's Not Allowed	"Not Included"
San Carlos	Yes	Yes	"Not Included"	"Not Included"	Junior ADU's Not Allowed	"Not Included"
San Mateo (City)	Yes	Yes	"Not Included"	"Not Included"	Allows "Junior ADU's"	"Not Included"
San Mateo County	No	No	"Not Included"	"Not Included"	Allows "Junior ADU's"	"Not Included"
South San Francisco	Yes	Yes	"Not Included"	"Not Included"	Junior ADU's Not Allowed	"Not Included"
SUMMARY	7-Yes; 1-No	6-Yes; 2-No	N/A	N/A	N/A	N/A

From: [Michael Belluomini](#)
To: [Murphy, Mike](#); [Serratto, Matthew](#); [Blake, Kevin](#); [Shelton, Delray](#); [Echevarria, Fernando](#); [McLeod, Jill](#); [Martinez, Anthony](#)
Cc: [Carrigan, Steve](#); [Norton, Phaedra](#); [McBride, Scott](#); [Espinosa, Kim](#); [Dietz, Stephanie](#); [Alcorn, Billy](#)
Subject: PARKING FOR ACCESSORY DWELLING UNITS
Date: Friday, January 25, 2019 9:30:32 AM

There seemed to be confusion regarding regulating parking for accessory dwelling units at the last council meeting. Perhaps rephrasing the basic question will clarify the issue.

The state law on ADUs states that parking for ADUs is allowed in the front yard setback (enlarged driveway) unless not feasible based on fire and life safety concerns.

So the question for the council is: Are there fire and life safety concerns with allowing widening of the driveway to create a parking space for an ADU ?

That is the only question that needs to be answered. Garage conversions, or the parking requirements for the main dwelling or other issues are irrelevant, and confuse the issue.

Fire and life safety concerns associated with widening a driveway exist in steep mountain home developments with concerns about snow/ice and forest fires/trees falling, and mudslides. I do not believe there is a life safety or fire issue with widening driveways for one additional parking space for an ADU in Merced.

If the city attorney agrees with this interpretation then one version of the draft ordinance presented to the council could make revisions necessary for ADU parking with a widened driveway and not change any of the other parking requirements of the zoning ordinance which were mentioned at the council meeting.

I hope this helps. Michael Belluomini

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: Zoning Ordinance Amendment #19-02/Environmental Review #19-04

Project Applicant: City of Merced

Project Location (Specific): City of Merced (City wide)

Project Location - City: Merced

Project Location - County: Merced

Description of Nature, Purpose, and Beneficiaries of Project: This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.42 ("Second Units"). This amendment would modify the City's requirements for "accessory dwelling units" (previously known as "second units" or "secondary dwelling units") to meet the modified requirements of State Law in regards to dwelling unit size, parking requirements, location, occupancy standards, and fees. Amendments are also proposed to Tables 20.08-1 ("Permitted Land Uses in the Residential Zoning Districts"), 20.16-1 ("Permitted Land Uses in the Urban Village Zoning Districts"), and 20.38-1 ("Off-Street Parking Requirements"); and Sections 20.08.030.F.1 ("Development Standards for Residential Zoning Districts, Parking"), 20.20.010.C.3 ("Urban Transition Zoning District, Development Standards"); 20.46.010 ("Residential Design Standards, Purpose"), and 20.90.020 ("Glossary, Definitions").

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: City of Merced

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));
☐ Categorical Exemption. State Type and Section Number: _____
☐ Statutory Exemptions. State Code Number: _____
☒ General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: The proposed Ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would create any significant environmental impacts, and City staff has determined that the amendment of regulations for accessory dwelling units do not meet any of the thresholds contained in the Checklist that would trigger a significant environmental impact, and thus according to the "general rule exemption" (Section 15061(b)(3) of the CEQA Guidelines), projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required.

Lead Agency: City of Merced

Contact Person: Kim Espinosa

Area Code/Telephone: (209) 385-6858

Signature:  **Date:** April 18, 2019 **Title:** Planning Manager

X Signed by Lead Agency

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

Espinosa, Kim

From: Michael Belluomini [REDACTED]
Sent: Friday, May 03, 2019 9:59 PM
To: Espinosa, Kim
Cc: Norton, Phaedra; McBride, Scott
Subject: Re: ADU Ordinance Revisions BELLUOMINI COMMENTS
Attachments: Item 4.1 ZOA #19-02 & ERC #19-04.pdf

Thank you for providing me the opportunity to comment on the ADU ordinance changes. I think I can help. Suggested corrections are as follows:

- 1) Sec. 20.90.020 still uses the old term "secondary dwelling unit" instead of "accessory dwelling". Please correct.
- 2) Sec. 20.90.020 ends in an incomplete sentence fragment, please change to a complete sentence.
- 3) Sec. 20..42.040 C.1 states "water and sewer or utility fees or charges imposed on ... detached accessory dwellings may not exceed the reasonable cost of **providing the service**." Interpreted to mean the cost of actually running a utility pipe from the street in front of the house to the accessory dwelling, this is likely within the new law on ADUs. Interpreted to mean the cost of plant capacity costs to handle the new sewer connection to the ADU , I believe this is not legal under the new law on ADUs. There is significance to the renaming of secondary dwellings to accessory dwellings, it is not just different words. An accessory dwelling is allowed by right just as other "accessories" such as a garage or green house or pool house is allowed to an existing house. Would you charge sewer or water plant capacity charges if someone wanted to add a wash sink and or toilet to there existing garage ? Be clear.
- 4) When providing alternatives in the staff report, there is an Option 2A with new language followed by an Option 2B which states "The following alternative language is Option 2B" then there is NO language that follows, only strikeouts of the existing wording, and a reference to a section in attachment A which has nothing to do with this option. Please add Option 2B wording.
- 5) In the ordinance section about ADUs generally there is the correct language from the state law that ADUs shall not be considered to exceed the allowable density for the lot and shall be considered consistent with the general plan. However in the ordinance section where the Urban Transition Zone language is amended Section 20.20.010 subsection 4 it still says "the accessory dwelling unit may not exceed allowable density for the lot." This is contrary to the state law and the concept of accessory
- 6) Finally I understand the staff position on ownership, one of the dwellings on the lot must be occupied by the owner of the lot. How will this effect the new homes being built in Merced by Lennar, and Hovanesian that include an attached ADU as part of the house design. Will the city require these subdivision developers to tell people that these houses **cannot be purchased by investors** who do not intend to live in the houses, and that they need to notify potential buyers of that local law ?

Michael Belluomini

On Friday, May 3, 2019, 05:57:02 PM EDT, Espinosa, Kim <ESPINOSAK@cityofmerced.org> wrote:

Michael,

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING SECTIONS 20.42 (“SECOND UNITS”)
AS WELL AS TABLES 20.08-1 (“PERMITTED
LAND USES IN THE RESIDENTIAL ZONING
DISTRICTS”), 20.16-1 (“PERMITTED LAND USES
IN THE URBAN VILLAGE ZONING
DISTRICTS”), AND 20.38-1 (“OFF-STREET
PARKING REQUIREMENTS”); AND SECTIONS
20.08.030.F.1 (“DEVELOPMENT STANDARDS
FOR RESIDENTIAL ZONING DISTRICTS,
PARKING”), 20.20.010.C.3 (“URBAN TRANSITION
ZONING DISTRICT, DEVELOPMENT
STANDARDS”); 20.46.010 (“RESIDENTIAL
DESIGN STANDARDS, PURPOSE”), AND 20.90.020
 (“GLOSSARY, DEFINITIONS”) OF THE MERCED
MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. AMENDMENT TO CODE. Table 20.08-1, “Permitted Land Uses in the Residential Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (“Second Units”)” is replaced with “Accessory Dwelling Units.”

SECTION 2. AMENDMENT TO CODE. Section 20.08.030(F)(1), “Development Standards for Residential Zoning Districts, Parking” of the Merced Municipal Code is hereby amended to read as follows:

**“20.08.030-“DEVELOPMENT STANDARDS FOR
RESIDENTIAL ZONING DISTRICTS**

F. PARKING

1. Within the R-1 and R-2 zoning districts, required off-street parking spaces may be located within any required exterior setback area, but these spaces may not be covered.”

SECTION 3. AMENDMENT TO CODE. Table 20.16-1, “Permitted Land Uses in the Urban Village Zoning Districts,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’)” is replaced with “Accessory Dwelling Units.”

SECTION 4. AMENDMENT TO CODE. Section 20.20.010(C)(3), “Urban Transition Zoning District, Development Standards, Residential Density,” of the Merced Municipal Code is hereby amended to read as follows:

“20.20.010 - Urban Transition (U-T) Zoning District

C. Development Standards _____

- 3. Residential Density.** Except for accessory dwelling units permitted under Chapter 20. 42 (Accessory Dwelling Units), residential density of the lot may not be increased.”

SECTION 5. AMENDMENT TO CODE. Table 20.38-1, “Off-Street Parking Requirements,” of the Merced Municipal Code is hereby amended so that “Secondary Dwelling Units (‘Second Units’) is replaced by “Accessory Dwelling Units” and the corresponding “Required Number of Parking Spaces” is amended to read as follows:

“One or more bedrooms: 1 per unit”

SECTION 6. AMENDMENT TO CODE. Chapter 20.42, “Second Units,” of the Merced Municipal Code is hereby repealed and amended to read as follows:

“20.42 Accessory Dwelling Units

Sections:

- 20.42.010 Purpose**
20.42.020 Minor Use Permit Required
20.42.030 Site and Design Standards
20.42.040 Fees and Other Requirements

20.42.010 Purpose

This chapter establishes standards for the location and construction of accessory dwelling units (“ADUs”) in

conformance with Government Code Section 65852.2. These standards are intended to allow for accessory dwelling units as an important form of affordable housing while preserving the character and integrity of residential neighborhoods within the City.

20.42.020 Minor Use Permit Required

Approval of a Minor Use Permit is required prior to the establishment of any accessory dwelling unit or a subdivision with multiple accessory dwelling units.

20.42.030 Site and Design Standards

A. Location. Accessory dwelling units shall be permitted in districts zoned to allow single-family or multi-family use as provided in Part 2 (Zoning Districts).

B. Site Requirements

1. Accessory dwelling units that comply with this chapter shall be permitted on all legally established residential parcels, regardless of parcel size so long as the parcel size permits at least an 'efficiency unit' to be constructed in compliance with local design standards. [An 'efficiency unit' provides for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities.]

2. An accessory dwelling unit may only be established if a single-family dwelling unit ("primary dwelling") exists on the parcel or is being built at the same time.

C. Size

1. *Attached Accessory Dwelling Units.* The floor area of an attached second unit shall not exceed 50 percent of the living area of the primary dwelling or 1,200 square feet, whichever is less. Garages and

carports are excluded from floor area calculations for both the primary dwelling and accessory unit.

2. *Detached Accessory Dwelling Units.* The floor area of a detached accessory dwelling unit shall not exceed 1,200 square feet, excluding any space devoted to a carport or garage.

D. Relationship to Primary Dwelling

1. An accessory dwelling unit may be within, attached to, or detached from the primary dwelling, or within an attached or detached accessory structure. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof.
2. An accessory dwelling unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. The accessory dwelling unit shall be clearly subordinate to the primary dwelling by size.

E. Development Standards

1. An accessory dwelling unit shall comply with all current development and design standards of the General Plan and Zoning Ordinance that are applicable to the primary dwelling, including, but not limited to, building setbacks, parcel coverage, building height, and architectural design, with certain exceptions, discussed herein. As long as existing setbacks are sufficient for fire safety, no setback shall be required for an accessory dwelling unit contained within the existing space of a single-family residence or accessory structure, including an existing garage, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.
2. The accessory dwelling unit in compliance with this section shall not be considered to exceed the

allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot.

3. No lot line adjustment, subdivision of land, air rights or condominium shall be allowed to enable the sale, transfer, or disposal of the accessory dwelling unit independently of the primary dwelling unit or any portion of the property. This stipulation shall be included in a recorded deed restriction on the property.

4. The accessory dwelling unit must be eligible to receive City sewer and water services. Creation of a detached accessory dwelling unit may require installation of a new or separate utility connection.

F. Design Requirements

1. An accessory dwelling unit shall be compatible with the primary dwelling and the surrounding neighborhood with respect to structure height, scale, and massing.

2. The architectural design and detailing, roof color and material, and exterior color and finish materials of an accessory dwelling unit shall match the primary dwelling to the extent possible.

3. The parcel shall retain a single-family appearance and the accessory dwelling unit shall be integrated into the design of the existing improvements of the property.

4. The addresses of both the primary dwelling and the accessory dwelling unit shall be displayed and clearly visible from the street.

G. Parking

1. Accessory dwelling units with at least one bedroom shall provide one additional off-street parking

space in addition to those spaces required for the primary dwelling. Off-street parking may be provided in the setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety conditions.

2. The creation of an accessory dwelling unit through the conversion of all or a portion of a garage is prohibited unless replacement parking is provided elsewhere on the property in conformance with required parking standards as defined in Chapter 20.38 (Parking and Loading).

3. The parking standards provided in this section and otherwise in this code do not apply to an accessory dwelling unit in any of the following instances: (a) it is located within one-half mile of public transit; (b) it is located within an official architecturally and historically significant historic district; (c) it is part of the proposed or existing primary residence or an accessory structure; (d) on-street parking permits are required but not offered to occupants of an accessory dwelling unit; and, (e) a car share vehicle is located within one block of the accessory dwelling unit. To qualify for any of the above exemptions, the applicant shall provide supporting evidence as part of a Minor Use Permit or building permit application.

20.42.040 Fees and Other Requirements

A. Accessory dwelling units are not a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service; the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system; and any utility fee or charge imposed on the creation of a detached accessory dwelling unit must not exceed the reasonable cost of providing the service.

B. Accessory dwelling units contained within the existing space of a single family residence or accessory structure that have an independent exterior access and setbacks that meet fire safety requirements are not required to install a new or separate utility connection and cannot be charged for a related connection fee or capacity charge.

C. A new accessory dwelling unit shall be required to pay all applicable fees, including impact fees.

D. Prior to occupancy of the accessory dwelling unit, a new address shall be assigned by Department of Development Services.”

SECTION 7. AMENDMENT TO CODE. Section 20.46.010, “Residential Design Standards, Purpose,” of the Merced Municipal Code is hereby amended to read as follows:

“20.46.010 -Purpose

This chapter establishes design standards for residential uses, in addition to regulations set forth in Chapter 20.08 (Residential Zones), except that parking, location, and address requirements in Section 20.46.020 do not apply to accessory dwelling units.”

SECTION 8. AMENDMENT TO CODE. Section 20.90.020, “Definitions,” of the Merced Municipal Code is hereby amended to read as follows:

“20.90.020 - Definitions

1a. *Accessory Dwelling Units.* Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. Accessory dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no

separate lease or utility service, and still functioning as one "household" per 20.90.020(99) may not be considered to be an accessory unit. See Chapter 20.42 (Accessory Dwelling Units).

186. *Second Units or Secondary Dwelling Units. See Accessory Dwelling Units (#1a).*"

SECTION 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 10. 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 11. 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 _____, 2019, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2019, 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 5-17-19
City Attorney **Date**

ZONING ORDINANCE AMENDMENT #19-02 RE: ACCESSORY DWELLING UNITS



CITY COUNCIL MEETING—JULY 1, 2019

KIM ESPINOSA, PLANNING MANAGER

BACKGROUND—STATE OF CA

- The California Legislature has declared that allowing accessory dwelling units (ADU's) in single-family and multi-family zones is an essential component in addressing housing needs in California.
- In 1982, the State enacted a mandate that every local agency adopt provisions for permitting accessory dwelling units (then known as “secondary dwelling units” or “second units”). The intent was to encourage housing for extended family members and to increase the availability of rental housing.
- In 2003, AB 1866 was adopted, requiring all local governments to allow ADU's within single-family residential zones.
- In 2016, Senate Bill 1069, Assembly Bill 2299, and Assembly Bill 2406 were adopted which made specific amendments to State law to promote the production of ADU's. These bills were intended to reduce barriers and streamline approval.

BACKGROUND—CITY OF MERCED

- September 2018—City Council asked for review of Accessory Dwelling Unit Ordinance.
- November 19, 2018—City Council Directed Staff to:
 - Prepare Ordinance Changes for Public Hearings before Planning Commission & City Council.
 - Develop a Housing program similar to the Clovis Cottage model of having pre-approved plans for ADU's to make it easier for Property Owners to Develop ADU's.
 - Return to City Council in January 2019 to discuss Policy Issues regarding Parking and Owner Occupancy Requirements.
- January 22, 2019—City Council reviewed Policy Issues and Generally Supported changes to the Location of Required Parking for all uses, but asked for further information on the Owner Occupancy issue.

PROPOSED CHANGES TO MERCED ZONING ORDINANCE FOR ACCESSORY DWELLING UNITS



ZONING ORDINANCE CHANGES

- Change “Second Units” or “Secondary Dwelling Units” to “Accessory Dwelling Units” throughout the Zoning Ordinance.
- The maximum size of an attached ADU shall be changed from 1,000 square feet to 1,200 square feet.
- Remove the “maximum number permitted” section, but include that “ADU’s cannot exceed the allowable density for the lot.”
- Clarify that the standard that the ADU “be clearly subordinate to the primary dwelling” would not preclude an ADU from being located in the front of the property.
- Clarify the setback requirements for ADU’s.

ZONING ORDINANCE CHANGES (CONT.)

- Change the parking requirements for ADU's with more than 3 bedrooms from 2 to 1 space as State law only requires 1 parking space for all ADU's regardless of size.
- Add a provision that "parking may be allowed in setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety concerns."
- Add a provision that states that the parking requirements do not apply in these cases:
 - Official Historic districts
 - Within ½ mile of public transit
 - Part of an existing structure
 - On-street parking permits are required
 - Car share vehicles are located within one block



ZONING ORDINANCE CHANGES (CONT.)

- Add provisions regarding fees, including:
 - ADU's are not considered "a new residential use for the purpose of calculating connection fees or capacity charges for utilities, including water and sewer service."
 - Any utility fee or charge imposed "must not exceed the cost of providing the service."
 - The City "cannot require applicants creating ADU's within the existing space of a single-family dwelling or accessory structure...to install a new or separate utility connection or impose a related connection fee or capacity charge."
 - *These provisions may also require changes to the Merced Municipal Code sections relating to the water and sewer connection fees as well.*

See Attachment 5 for Draft Ordinance.

PARKING AND OWNER OCCUPANCY REQUIREMENTS FOR ACCESSORY DWELLING UNITS



PARKING

- State Law requires that “parking may be allowed in setback areas or as tandem parking on a driveway, unless the City determines that such options are not feasible on the existing property, based on fire and life safety concerns.”
- Each Single-Family Home requires one parking space (10' x 20'), but that space cannot be within the exterior setback area in R-1 and R-2 zones.
- Parking is **NOT** prohibited in the Driveway, but it does **NOT COUNT** as the Legal Required Parking Space. That Space is usually Located within the Garage.
- This Provision can make it difficult to convert the garage into living space.
- Survey showed that Most Cities Opt for Special Exemptions for ADU Parking Only.



PARKING (CONT.)

- In January 2019, the City Council Expressed Preference for Allowing Legal Required Parking Within the Setback Areas for All Uses, Not Just the ADU.
- Some Concerns about this change which could:
 - Lead to More Garage Conversions
 - Lead to More Vehicles being Parked On the street in neighborhoods
 - Lead to More Conflicts on Trash Collection Days
 - Lead to More Conflicts between Neighbors about the Use of On-Street Parking
 - Covered Parking could conflict with Street Trees and Utility Lines
- The Majority of the Planning Commission felt that Allowing for Parking in the Setback area could help Add to the City's Housing Stock by encouraging their Conversion to ADU's or Just Additional Living Space, and Recommended that Uncovered Parking be allowed in the Setback Area/Driveway.

OWNER OCCUPANCY

- The City's current Ordinance requires "the owner of a parcel occupied by a second unit (now ADU) shall reside in either the primary dwelling unit or the second unit."
- A Deed Restriction is also Required to be Recorded to Implement the Above.
- State Law does NOT require the City to Eliminate this Requirement, but some Cities are considering it in order to encourage the construction of ADU's.
- Survey of 35 California Cities found that 28 still require owner occupancy while 7 Cities and 1 County did not have such a requirement.
- Survey in Oregon showed 30 of 46 cities retained the requirement while Portland eliminated it in 1998.



OWNER OCCUPANCY—REASONS FOR

- Eliminating the Requirement May Have Impacts on Single-Family Neighborhoods in that Both Units could be Rentals with No Landlord Onsite.
- The Occupancy Requirement is thought to Minimize Negative Impacts (i.e. excessive noise, lack of property upkeep, etc.) because the Property Owner is Living on the Same Property as Their Tenants.
- Possible Disputes Regarding Sewer, Water, and Trash Collection Service since City only allows one such service per single-family lot. Issues Could Arise with Tenants Contaminating the Green Waste Container, Violating the Watering Rules, or Paying their Fair Share of the Bill, which Could Cause Problems for the City in Collecting Fines or Cutting off Service for Non-Payment.
- Many Merced Neighborhoods are already Experiencing Some of these Issues with Single-Family Homes Being Rented to Multiple Tenants.

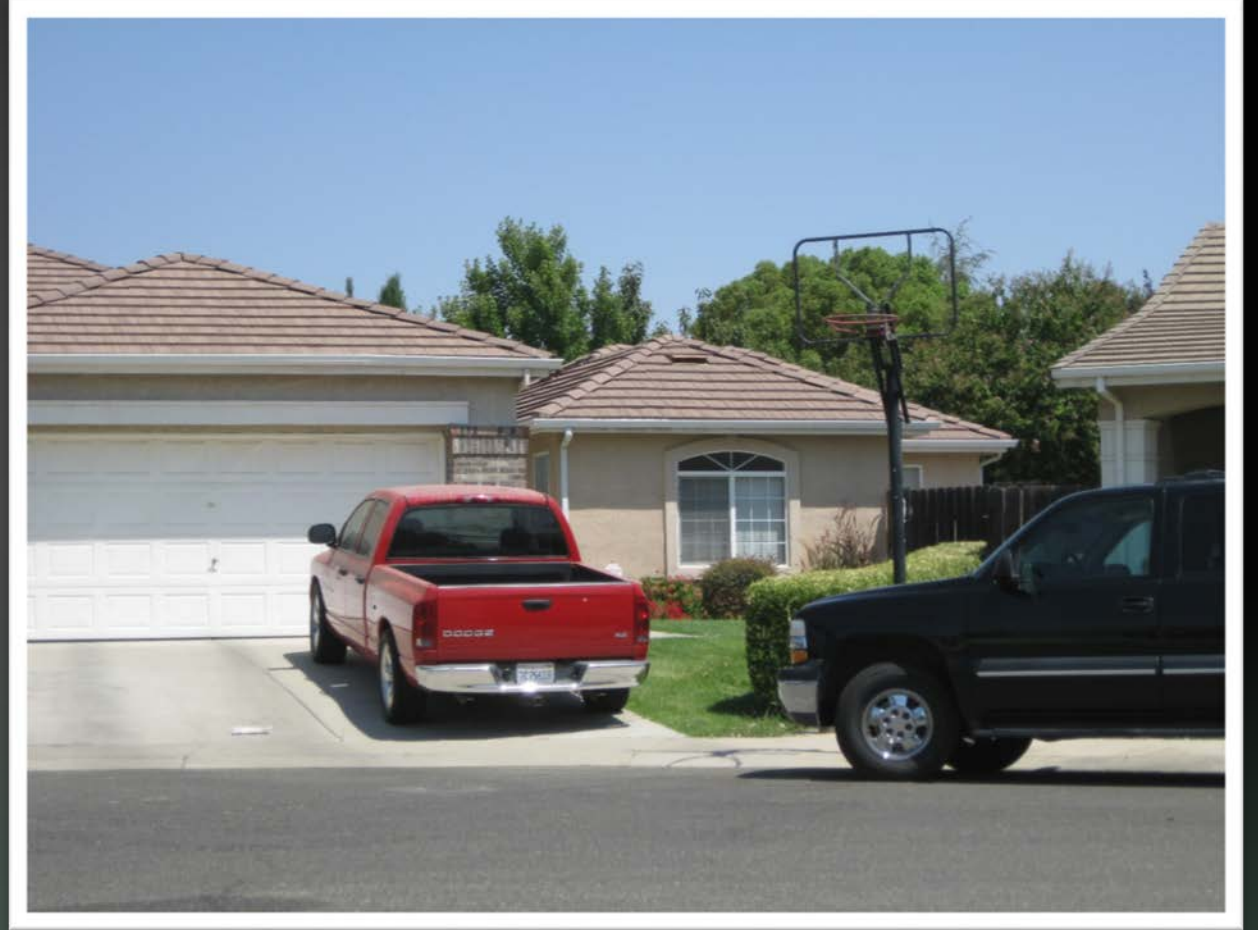
OWNER OCCUPANCY—REASONS AGAINST

- Owner Occupancy Restrictions Tend to Discourage the Construction of ADU's.
- Makes It Harder to Secure Home Loans to Finance ADU Construction.
- Limits the Value Appraisers Can Assign to a House and Makes the Property Less Valuable for Loan Collateral.
- If such a Home and ADU is Foreclosed on, the Bank Can't Rent Out Both Units.
- Make Properties with ADU's Unsuitable for Income Based Valuation by Appraisers, Constraining Their Value, and Making Them Difficult to Finance.
- Hurts the Market for ADU's and Creates Obstacles for "Mom and Pop" Landlords Trying to Provide Affordable Housing Options.
- All of This May Be a Moot Point if Current SB 13 Being Considered at the State is Passed...It would Prohibit Local Agencies from Requiring Owner Occupancy.

OWNER OCCUPANCY—PLANNING COMMISSION RECOMMENDATION

- After an extensive discussion at its May 8, 2019 public hearing, the Planning Commission voted 4-1-2 (4 ayes, 1 no, 2 absent) to recommend that the Owner Occupancy Requirement Be Removed.
- The Majority of the Planning Commissioners felt that the State was very likely to Pass Legislation which would Remove the City's Discretion to Require Owner Occupancy and that the Removal of the Requirement would Encourage the Construction of ADU's in Merced.
- The Planning Commissioner who voted "No" was Concerned about the Effect of "Absentee Landlords" on the Maintenance and Appearance of the Property.

PLANNING COMMISSION & CITY COUNCIL ACTION



PLANNING COMMISSION ACTION

- On May 8, 2019, the Planning Commission held a public hearing on the Draft Ordinance.
- No one from the Public testified at the hearing but One Email was received prior to the meeting.
- After extensive discussion, the Planning Commission voted (4-1-2) to Recommend Adoption of the Draft Ordinance with Revisions, including Allowing for Required Parking Spaces in the Front Yard Setback Area for All Uses (not just ADU's) and Eliminating the Owner Occupancy requirement for both the Primary and Accessory Unit.
- The Commissioner who voted "No" did not agree with Eliminating the Owner Occupancy Requirement or Allowing Required Parking in the Setback due to Increased Numbers of Vehicles Parked On the Street.

CITY COUNCIL ACTION

After the public hearing, the City Council should consider adopting a motion:

- Adopting a Categorical Exemption (Environmental Review #19-04); and,
- Introducing Ordinance No. _____ amending the City's zoning requirements for Accessory Dwelling Units as recommended by the Planning Commission.

Any Questions?



ADMINISTRATIVE REPORT

Agenda Item K.1.

Meeting Date: 7/1/2019

Report Prepared by: Stephanie Dietz, Assistant City Manager

SUBJECT: Update to the City Council on the Public Survey Results for the Proposed Public Facilities Bond Measure and Charter Amendment

REPORT IN BRIEF

City Staff will provide an update to the City Council on the results of a recent public option survey conducted to test the viability of a Public Facilities Bond Measure and a Charter Amendment on the March 2020 ballot.

RECOMMENDATION

Provide staff direction on next steps for pursuing items to be placed on the March Public Facilities financing options and a Charter Amendment.

ALTERNATIVES

None.

AUTHORITY

City of Merced Charter, Section 200

CITY COUNCIL PRIORITIES

FY 2019/20 City Council Priorities

DISCUSSION

On August 21, 2017, staff provided the Council with an update on the current condition of all City-owned facilities and presented options for construction financing. During this meeting, direction was provided to staff to take the initial step of conducting an opinion survey to determine if the community would support a ballot initiative that would directly fund the construction of a new Police Headquarters Station, two new Fire Stations, an expansion of the Corporation Yard, and the remodeling of ten existing bathrooms within City of Merced parks.

At the Council's direction, staff worked quickly to secure professional services to develop and conduct a public opinion survey. The survey was conducted between October 24th and October 29th and the results were posted on the City's website on December 7, 2017. Based on the findings of the survey, it was recommended to continue education and outreach efforts with a goal of performing a second survey in the Spring 2018.

On January 2, 2018, the Council approved an amendment to the Professional Services Agreement with the Lew Edwards Group to develop ballot language and put together an aggressive outreach strategy to educate the community about the need for enhanced public facilities within the City of Merced. As part of the education strategy, priority surveys were conducted, staff attended meetings and shared information with service clubs and neighborhood watch groups, and educational material was mailed to residents. At the conclusion of the education efforts, a second survey was conducted between the dates of June 14th through June 18th.

Staff presented the findings of the public opinion survey on July 2, 2018. During that meeting, Council provided direction to forgo efforts to place a measure on the ballot related to Public Facilities and to pursue conducting a professional Needs Assessment of the Police Department to better determine the space configuration and cost estimates of building a new facility.

During the fall of 2018, staff conducted a Request for Proposal to evaluate consultants to perform a needs assessment. On January 22, 2019, the Council awarded the Needs Assessment contract LPA, Inc. in partnership with MWL, Inc. A draft report of the space needs for a Police Headquarters was provided to the City this June. Staff are currently working through the initial draft to develop a final document. Once the document is completed, LPA, Inc. will present these findings, a draft configuration and proposed site locations to the City Council for direction in the upcoming months.

In addition to the efforts made on the Public Facilities Bond Measure, the City Council also provided staff direction to begin evaluating options for a potential Charter Amendment. At the April 15, 2019 City Council meeting, the Council directed staff to move forward with testing the viability of options for March 2020 Ballot. Staff then retained the services of the Lew Edwards Group and FM3 to perform a baseline public opinion survey. The survey included the viability of both the proposed Public Facilities Bond Measure and potential topics for a Charter Amendment to be considered by the Charter Review Committee. Staff is prepared to share the results of the survey with the City Council during the report of this item and is seeking direction on the potential next steps in working towards the March 2020 Ballot.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

None.



ADMINISTRATIVE REPORT

Agenda Item L.1.

Meeting Date: 7/1/2019

Report Prepared by: John Tresidder, Assistant City Clerk, City Clerk's Office

SUBJECT: Approval of Reappointments to Recreation and Parks Commission (1), Regional Airport Authority (1), and Bicycle Advisory Commission (1)

REPORT IN BRIEF

Considers reappointing currently seated individuals to an additional term.

RECOMMENDATION

City Council - Adopt a motion reappointing qualified individuals who are eligible for, and interested in, an additional term on the Recreation and Parks Commission, Regional Airport Authority, and Bicycle Advisory Commission.

ALTERNATIVES

1. Reappoint as recommended by staff; or,
2. Reappoint select individuals; or,
3. Refer back to staff with direction to resume recruitment of applicants.

AUTHORITY

Article VII, Sections 700, 702, 702.1, 707 and 708 of the Merced City Charter.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

Justin Anderson was appointed to the Recreation and Parks Commission on February 20, 2018 as a replacement and has served a partial term. Mr. Anderson is eligible for reappointment to a full term on the Commission and has expressed his desire for reappointment.

William Rudd was appointed to the Regional Airport Authority on November 21, 2016 and has served one term. Mr. Rudd is eligible for reappointment to a second term on the Authority and has expressed his desire for reappointment.

Ann Thurston was appointed to the Bicycle Advisory Commission on September 19, 2016 and has served one term. Ms. Thurston is eligible for reappointment to a second term and has expressed her desire for reappointment.

History and Past Actions

The Recreation and Parks Commission was created to advise City Council on all matters pertaining to recreation and parks and to assist in the planning of recreation programs for the citizens of Merced. The Commission consists of seven members who serve four-year terms.

The Regional Airport Authority was created for the provision and maintenance of public airports and landing places for the use of the public. The Authority consists of seven members who serve four-year terms.

The Bicycle Advisory Commission serves as an advisory body to the City Council on matters relating to improving safety conditions for bicyclists, while promoting bicycling as a means of transportation to improve air quality. The Commission consists of seven members who serve four-year terms.

Attached are the current rosters for the Recreation and Parks Commission, the Regional Airport Authority, the Bicycle Advisory Commission, and the current applications on file for members seeking reappointment. The matter is now before the Council.

IMPACT ON CITY RESOURCES

No impact on City resources.

ATTACHMENTS

1. Recreation and Parks Commission Roster
2. Application of Justin Anderson
3. Regional Airport Authority Roster
4. Application of William Rudd
5. Bicycle Advisory Commission Roster
6. Application of Ann Thurston



RECREATION AND PARKS COMMISSION

BOARD ROSTER



JUSTIN J ANDERSON

1st Term Jul 01, 2015 - Jul 01, 2019

Appointing Authority City Council

Position Commissioner

Office/Role Commissioner



ANTHONY MARTINEZ

1st Term Jan 07, 2019 - Jul 01, 2020

Appointing Authority City Council

Position Ex-Officio



NORMA C CARDONA

1st Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council

Position Commissioner



RALPH W. MORRIS

1st Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council

Position Commissioner



ERIC MOORE

1st Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council

Position Vice-Chair



YESENIA CURIEL

2nd Term Jul 01, 2018 - Jul 01, 2022

Appointing Authority City Council

Position Commissioner

Office/Role Commissioner



VALENTE HUITRON

1st Term Jul 01, 2018 - Jul 01, 2022

Appointing Authority City Council

Position Commissioner



VACANCY

Appointing Authority City Council

Position Commissioner

Office/Role Commissioner

Profile

Justin

First Name

J

Middle Initial

Anderson

Last Name

Friends of Sober Grad Board

Employer

Board Operations Director

Job Title

Email AddressPrimary PhoneAlternate Phone

Are you 18 years of age or older? (Required)☒ Yes ☐ No

Question applies to multiple boards

Do you live within the City Limits of Merced? (Required)☒ Yes ☐ NoStreet AddressCitySuite or AptStatePostal Code

Question applies to multiple boards

Are you a registered voter in the City of Merced? (Required)☒ Yes ☐ No

Which Council district do you live in?☒ Unknown

Friends of Sober Grad Board

Are you currently serving on a Board or Commission? If so, please list:

Which Boards would you like to apply for?

Recreation and Parks Commission: Submitted

Question applies to multiple boards

Highest Level of Education Completed: *

- ☒ High School Graduate
- ☒ Some College, No Degree

Communication

The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?

☒ Yes ☐ No

If you selected no, please identify how you would like to be contacted:

Interests & Experiences

Tell us about yourself, and why you are applying for this particular Board or Commission:

I have a huge interest with our parks and recreation for children and adults and I would love to represent our community by sitting on the commission along with other interested individuals and see how we can work together to make Merced a better place to live.

Please list your current employer and relevant volunteer experience.

I am currently sitting on the Friends of Sober Grad Board as their Board Operations Director Friends of sober Grad works real close with the High Schools in Merced County to bring a safe and fun atmosphere for the celebration for the Graduating seniors.

What is your understanding of the roles and responsibilities of this Board or Commission?

To attend every monthly meeting And to give input when needed and be the voice of the community

Do you have experience or special knowledge pertaining to this Board or Commission?

I do not have experience or special knowledge but we all got to start somewhere and I believe I would make a great candidate for the Recreation and Parks Commission as a commissioner.

Any other comments you would like to add that may assist the City Council in their decision?

I have been working along with Jeremy Jenkins and giving back to my no OUR community of Merced to put smiles on the less fortunate and to bring positivity to some of the negative happening around here I have done a lot and would like to continue you give me this awesome opportunity to give back to the community in a different but meaningful way.

Upload a Resume

Requirements

☒ I Agree *

☒ I Agree *

Statement of Economic Interests - FPPC Form 700

☒ I Agree *

☒ I Agree *

☒ I Agree *

How did you hear about this vacancy? *

☒ A Friend

If you selected other, please indicate how you learned about the vacancy:

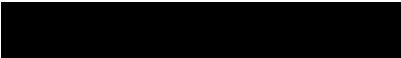
Demographics

Ethnicity

☒ African American

Gender

☒ Male



Date of Birth

Submission

JJA

I declare under penalty of disqualification or termination that all statements in this application are true and complete to the best of my knowledge.



REGIONAL AIRPORT AUTHORITY

BOARD ROSTER



WILLIAM A RUDD

1st Term Jul 01, 2015 - Jul 01, 2019

Appointing Authority City Council
Position Member



ALVIN OSBORN, JR.

2nd Term Jul 01, 2015 - Jul 01, 2019

Appointing Authority City Council
Position Member



TRAVIS M COLBY

1st Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council
Position Member



CUAUHTEMOC B DIAZ

1st Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council
Position Member



MICHAEL O BODINE

2nd Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council
Position Chair



RAFAEL L VELARDE

1st Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council
Position Member



VACANCY

Appointing Authority City Council
Position Member

Profile

William

A

Rudd

First Name

Middle Initial

Last Name

Retired

Employer

Job Title

Email Address

Primary Phone

Alternate Phone

Are you 18 years of age or older? (Required)

☒ Yes ☐ No

Street Address

Suite or Apt

City

State

Postal Code

Which Council district do you live in?

☒ District 3

Airport Authority

Are you currently serving on a Board or Commission? If so, please list:

Which Boards would you like to apply for?

Regional Airport Authority: Submitted

Question applies to multiple boards

Highest Level of Education Completed: *

☒ Associate's Degree

Communication

The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?

☒ Yes ☐ No

If you selected no, please identify how you would like to be contacted:

Interests & Experiences

Tell us about yourself, and why you are applying for this particular Board or Commission:

Own an Airplane, hangered at Merced Airport. Pilot since 1976.

Please list your current employer and relevant volunteer experience.

What is your understanding of the roles and responsibilities of this Board or Commission?

To advise the City Council on the proper operation of the Airport.

Do you have experience or special knowledge pertaining to this Board or Commission?

I have been in the Fire Service for 35 years (Retired) with the city of Pasadena and Rathdrum Fire District.

Any other comments you would like to add that may assist the City Council in their decision?

I would like to see the Airport prosper with the Airline, Restrant, FBO, and general aviation partisapation.


Upload a Resume

Requirements

Question applies to multiple boards

AB 1234 Ethics Training

☒ I Agree *

Question applies to multiple boards

Attendance Policy

☒ I Agree *

Statement of Economic Interests - FPPC Form 700

☒ I Agree *

Question applies to multiple boards

Oath of Office

☒ I Agree *

Question applies to multiple boards

Public Scrutiny

☒ I Agree *

How did you hear about this vacancy? *

☒ A Friend

If you selected other, please indicate how you learned about the vacancy:

Demographics

Ethnicity

☒ Caucasian/Non-Hispanic

Gender

☒ Male

Date of Birth

Submission

WAR

I declare under penalty of disqualification or termination that all statements in this application are true and complete to the best of my knowledge.



BICYCLE ADVISORY COMMISSION

BOARD ROSTER



ANN W THURSTON

1st Term Jul 01, 2015 - Jul 01, 2019

Appointing Authority City Council
Position Commissioner



JUSTIN HICKS

1st Term Jul 01, 2015 - Jul 01, 2019

Appointing Authority City Council
Position Commissioner



GREG FRIEDMAN

1st Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council
Position Commissioner



TOM HOTHEM

2nd Term Jul 01, 2017 - Jul 01, 2021

Appointing Authority City Council
Position Chair



MITCHELL VANAGTEN

1st Term Jul 01, 2018 - Jul 01, 2022

Appointing Authority City Council
Position Ex-Officio



VACANCY

Appointing Authority City Council
Position Commissioner



VACANCY

Appointing Authority City Council
Position Commissioner



VACANCY

Appointing Authority City Council
Position Commissioner



VACANCY

Appointing Authority City Council
Position Ex-Officio

Profile**Ann**

First Name

W

Middle Initial

Thurston

Last Name

Employer

Job Title

Email Address

Primary Phone

Alternate Phone

Are you 18 years of age or older? (Required)☒ Yes ☐ No

Question applies to multiple boards

Do you live within the City Limits of Merced? (Required)☒ Yes ☐ No

Street Address

City

Suite or Apt

State

Postal Code

Question applies to multiple boards

Are you a registered voter in the City of Merced? (Required)☒ Yes ☐ No

Which Council district do you live in?☒ District 6

Bicycle Advisory Commission

Are you currently serving on a Board or Commission? If so, please list:

Which Boards would you like to apply for?

Bicycle Advisory Commission: Submitted

Question applies to multiple boards

Highest Level of Education Completed: *☒ Master's Degree

Communication

The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?

☒ Yes ☐ No

If you selected no, please identify how you would like to be contacted:

Interests & Experiences

Tell us about yourself, and why you are applying for this particular Board or Commission:

I love the outdoors. I've bicycled on every bicycle path and bicycle lane in the City. If I have errands to run in Merced which will fit in my bike basket I frequently use my bicycle. I also bike around the county on the bike lanes. I want to bring a common sense approach to the board, along with my problem solving abilities I've developed in many years of working in private industry. I've been on the Board for 1 term and would like to continue for a second term.

Please list your current employer and relevant volunteer experience.

What is your understanding of the roles and responsibilities of this Board or Commission?

Understand the existing bike system, and the Bicycle Transportation Plan and how it fits in with the overall transportation system. Attend the meetings, participate openly with other board members and citizens. Volunteer as needed on projects. Increase awareness of the healthy benefits and family fun in biking. Look for ways to involve and partner with the private sector to expand the use and opportunities of using bicycles as a practical and fun way to get around

Do you have experience or special knowledge pertaining to this Board or Commission?

Many years of biking from off road to city streets, and observations of what is practical. I've also been involved with Siemens at my Cypress CA headquarters and making sure the company complies with regulations related to bicycle use as part of the overall transportation system.

Any other comments you would like to add that may assist the City Council in their decision?

I look forward to the appointment.

Upload a Resume

Requirements

☒ I Agree *

☒ I Agree *

Statement of Economic Interests - FPPC Form 700

☒ I Agree *

☒ I Agree *

☒ I Agree *

How did you hear about this vacancy? *

- ☒ Newspaper
- ☒ City Website
- ☒ A Friend

If you selected other, please indicate how you learned about the vacancy:

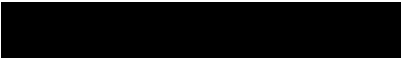
Demographics

Ethnicity

☒ Caucasian/Non-Hispanic

Gender

☒ Female



Date of Birth

Submission

Awt

I declare under penalty of disqualification or termination that all statements in this application are true and complete to the best of my knowledge.



ADMINISTRATIVE REPORT

Agenda Item L.2.

Meeting Date: 7/1/2019

Report Prepared by: John Tresidder, Assistant City Clerk, City Clerk's Office

SUBJECT: Approval of Replacement Appointment to the Citizens Advisory Charter Review Committee for Vacant District 1 Seat

REPORT IN BRIEF

Considers the appointment of an individual to the Citizens Advisory Charter Review Committee to fill a vacancy left by the resignation of Bernadette Soares.

RECOMMENDATION

City Council - Adopt a motion accepting nomination and appointing one individual to the District 1 seat as a replacement on the Citizens Advisory Charter Review Committee.

ALTERNATIVES

1. Approve and appoint individuals as recommended by staff; or,
2. Continue to a future meeting and direct staff to continue recruitment of applicants; or,
3. Deny the item.

AUTHORITY

City of Merced Charter, Section 200.

CITY COUNCIL PRIORITIES

Placing Charter Amendments on the March 2020 Primary Election.

DISCUSSION

At the March 18, 2019 City Council Meeting, Mayor Murphy brought forward an item to discuss possible amendments to the City Charter. Council directed staff to return with a timeline and list of milestones in order to place possible amendments on the March 2020 Primary Election.

The Council agreed at the April 1, 2019 meeting that a Citizens Advisory Charter Review Committee should be used, similar to the last comprehensive Charter review in 2007. This committee would have the sole purpose to carry out the charge of the City Council in reviewing all or part of the City of Merced Charter and making a recommendation to the City Council when the task is complete.

At the City Council Meeting of April 15, 2019 Council discussed the makeup of the committee and directed staff to recruit for applicants with the use of newspaper publications, radio spots, a social media campaign, and connecting with local service groups and organizations.

At the May 20, 2019 Council Meeting, the City Council made appointments to the newly created Citizens Advisory Charter Review Committee with representatives from each Council District and additional at-large members.

The committee held its first meeting on June 18, 2019 and decided on the remaining dates to hold meetings in order to complete the charge of the City Council.

District 1 appointment Bernadette Soares was unavailable for the first meeting and reached out to staff regarding her limited availability for the remaining scheduled meetings. Ms. Soares ultimately decided to resign from the seat to allow for another applicant to take her place.

Staff reached out to Stephanie Buttici to find that she was still interested in the committee and confirmed that the meeting dates selected by the committee would work with her schedule.

The matter of appointment is now before the Council.

IMPACT ON CITY RESOURCES

Staffing will be the primary impact with members from the City Manager, City Attorney, and City Clerk's Office assisting the committee.

ATTACHMENTS

1. Citizens Advisory Charter Review Committee Roster
2. Application of Stephanie Buttici (District 1)



City of Merced, CA

CITIZENS ADVISORY CHARTER REVIEW COMMITTEE

BOARD ROSTER



ANTHONY MARTINEZ

1st Term Apr 16, 2019 - Apr 16, 2019

Appointing Authority City Council
Position Ex-Officio



MIKE MURPHY

1st Term Apr 16, 2019 - Apr 16, 2019

Appointing Authority City Council
Position Ex-Officio



TIM ONEILL

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category At-Large



SHANE G. SMITH

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category District 6



ROBERT T HADEN

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category District 5



RYAN R HELLER

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category District 4



SARA JC HILL

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category District 3



LILIANA PRADO NAVA

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category District 2



LORETTA SPENCE

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category At-Large



SARAH E BOYLE

1st Term N/A - N/A

Appointing Authority City Council
Position Member
Category At-Large



VACANCY

Appointing Authority City Council
Position Member
Category District 1

Profile

Stephanie

First Name

K

Middle Initial

Butticci

Last Name

UC Merced

Employer

Executive Assistant

Job Title

Email AddressPrimary PhoneAlternate Phone

Are you 18 years of age or older? (Required)☒ Yes ☐ No

Question applies to multiple boards

Do you live within the City Limits of Merced? (Required)☒ Yes ☐ NoStreet AddressCitySuite or AptStatePostal Code

Question applies to multiple boards

Are you a registered voter in the City of Merced? (Required)☒ Yes ☐ No

Which Council district do you live in?☒ District 1

No

Are you currently serving on a Board or Commission? If so, please list:

Which Boards would you like to apply for?

Citizens Advisory Charter Review Committee: Submitted

Question applies to multiple boards

Highest Level of Education Completed: *☒ Some College, No Degree

Communication

The City of Merced uses email as a preferred method of communication regarding your application. Is this acceptable to you?

☒ Yes ☐ No

If you selected no, please identify how you would like to be contacted:

Interests & Experiences

Tell us about yourself, and why you are applying for this particular Board or Commission:

I'm interested in the betterment of our community. I returned to Merced after living in San Diego for over 20 years and was a bit disappointing that our city had not progressed more. It's now sees more homelessness, drugs and more violence than what I was use to growing up. I'd like to see that changed.

Please list your current employer and relevant volunteer experience.

UC Merced and work for VC Sam Traina. I am the committee chair for Research Week and for the last two years I chaired - Women and Entrepreneurship conference. I'm a Merced Sunrise Rotarian too.

What is your understanding of the roles and responsibilities of this Board or Commission?

Help define the outline of what will be placed on the 2020 ballots.

Do you have experience or special knowledge pertaining to this Board or Commission?

No

Any other comments you would like to add that may assist the City Council in their decision?

Upload a Resume

Requirements

Statement of Economic Interests - FPPC Form 700

☒ I Agree *

How did you hear about this vacancy? *

☒ A Friend

If you selected other, please indicate how you learned about the vacancy:

Demographics

Ethnicity

☒ Caucasian/Non-Hispanic

Gender

☒ Female



Date of Birth

Submission

Skb

I declare under penalty of disqualification or termination that all statements in this application are true and complete to the best of my knowledge.