



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, February 3, 2020

6:00 PM

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

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

NOTICE TO PUBLIC

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. Spanish and Hmong translation is available at every regular meeting.

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

The legislative body shall provide the public with an opportunity to address the body on any item described in Closed Session [Government Code Section 54954.3(a)].

B.1. [20-067](#) **SUBJECT: PUBLIC EMPLOYEE PERFORMANCE EVALUATION -**
Title: Finance Officer; Authority: Government Code Section 54957

B.2. [20-074](#) **SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency**
Designated Representative: City Manager Steve Carrigan; Employee
Organization: American Federation of State, County, and Municipal

Employees (AFSCME) Council 57; Local 2703; International Association of Fire Fighters, Local 1479; Merced Association of City Employees (MACE). AUTHORITY: Government Code Section 54957.6

B.3. [20-082](#) **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Employee Organizations: Merced Police Officers' Association (MPOA).
AUTHORITY: Government Code Section 54957.6

B.4. [20-075](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; Englert, et. al. v. City of Merced; Case No. 1:18-CV-01239-LJO-EPG; AUTHORITY: Government Code Section 54956.9(d)(1)

B.5. [20-076](#) **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; McKinnon, et. al. v. City of Merced; Case No. 1:18-CV-01124-LJO-SAB; AUTHORITY: Government Code Section 54956.9(d)(1)

C. CALL TO ORDER

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. [20-080](#) **SUBJECT:** Proclamation - Teen Dating Violence Awareness and Prevention Month

REPORT IN BRIEF

Received by a representative from the Valley Crisis Center.

F.2. [20-081](#) **SUBJECT:** Proclamation - Black History Month

REPORT IN BRIEF

Mayor Murphy will present the Black History Month proclamation.

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. [19-748](#) **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. [20-047](#) **SUBJECT: Information-Only Contracts for the Month of January 2020**

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$32,000 and of Public Works contracts under \$70,939.

I.3. [20-024](#) **SUBJECT: Information Only - Planning Commission Meeting Minutes of December 4, 2019**

RECOMMENDATION

For information only.

I.4. [20-044](#) **SUBJECT: Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of January 6, 2020**

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 January 6, 2020.

I.5. [19-597](#)

SUBJECT: Authorization to Accept \$42,513 in Grant Funds from the 2019 Edward Byrne Justice Assistance Grant (JAG) Program for the Police Department to Purchase Safety Equipment and Supplies for Command Staff Vehicles, Consulting Costs for the Transition from the Uniform Crime Reporting Process to the National Incident Based Reporting System, Office Wellness Software Application, and for Cell Phone Service

REPORT IN BRIEF

Considers accepting grant funding from the US Department of Justice offered to the Merced Police Department in the amount of \$42,513 from the 2019 Edward Byrne Justice Assistance Grant (JAG) program for the purchase of additional conducted energy weapons (aka tasers), consulting costs for the transition from the Uniform Crime Reporting process to the National Incident Based Reporting System, and licensing costs for connecting the department body worn cameras to the computer aided dispatch system.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting the grant and increasing the revenue budget in account 050-1025-321.17-00 by \$42,513, and appropriating the same to Fund 050; and,

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

C. Authorizing the Police Department and the City Manager to execute the necessary documents.

I.6. [20-036](#)

SUBJECT: Accept and File Community Facilities District (CFD) Nos. 2003-1 (Bellevue Ranch East), 2003-2 (Services), 2005-1 (Bellevue

Ranch West), 2006-1 (Moraga of Merced) Annual Disclosure Reports
For Fiscal Year 2018-2019

REPORT IN BRIEF

The Continuing Annual Disclosure Reports contain certain CFD information required to be filed annually by the City per Security and Exchange Commission (SEC) rule 15c2-12(b) and Government Code sections 50075-50077 and 53410-53412.

RECOMMENDATION

City Council - Adopt a motion accepting and filing the CFD Annual Disclosure Reports For Fiscal Year 2018-2019 for CFD Nos. 2003-1 (Bellevue Ranch East), 2003-2 (Services), 2005-1 (Bellevue Ranch West), 2006-1 (Moraga of Merced).

I.7. [20-040](#)

SUBJECT: Approval of Street Closure Request #19-23 by Velo Promo, LLC for the 31st Original Merced Criterium Bicycle Race on February 23, 2020, from 6:00 a.m. to 5:00 p.m. for the Area of West 18th Street to West 21st Street Between M and N Streets

REPORT IN BRIEF

Considers approving a request for use of City streets for the purpose of a bicycle race on Sunday, February 23, 2020, from 6:00 a.m. to 5:00 p.m. The road closure area is from West 18th Street between M and N Streets, West 19th Street between M and N Streets, West 20th Street between M and N Streets, and West 21st Street between M and N Streets (including the Courthouse loop).

RECOMMENDATION

City Council - Adopt a motion approving the request by Velo Promo, LLC, to close West 18th Street between M and N Streets, West 19th Street between M and N Streets, West 20th Street between M and N Streets, and West 21st Street between M and N Streets (including Courthouse loop) on Sunday, February 23, 2020, from 6:00 a.m. to 5:00 p.m., subject to the conditions listed in the body of this report.

I.8. [19-776](#)

SUBJECT: Approval of Lease Agreement Between the City of Merced and Transit Joint Powers Authority for Merced County (The Bus) for Use of Office Space and Common Areas at the Merced Transportation Center (710 W. 16th Street) with Rent Starting at \$848.13 per Month and use of the Bus Concourse Area for \$33,286.32 per Year for a Term of Five Years with Annual Extensions by Mutual Agreement of the Parties

REPORT IN BRIEF

Considers a Lease Agreement (5-year Term with annual extensions by mutual agreement of the parties) with the Transit Joint Powers Authority for Merced County (The Bus) for use of the Bus Concourse, Common Areas, 275 Square Feet of Leased Office Space, and facilities located at the Merced Transportation Center, located at 710 W. 16th Street.

RECOMMENDATION

City Council - Adopt a motion approving the lease agreement between Transit Joint Powers Authority of Merced County (The Bus) and the City of Merced and authorizing the City Manager or the Assistant City Manager to execute all necessary documents.

I.9. [20-043](#)

SUBJECT: Adoption of Resolutions Amending the Annual Base Salary and Approving the Publically Adopted Pay Scale for the City Attorney as Set Forth in the City Attorney Employment Agreement as Approved by the City Council and Amending the Annual Base Salary and Publically Adopted Pay Scale for the City Manager as Set Forth in the Second Amendment to the City Manager Employment Agreement as Approved by the City Council

REPORT IN BRIEF

Considers the adoption of Resolution 2020-04 and 2020-05 to adopt the annual base salaries and the publically adopted pay scales for the City Attorney and City Manager as set forth in the City Attorney Employment Agreement and the Second Amendment to the City Manager Employment Agreement.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2020-04**, a Resolution of the City Council of the City of Merced, California amending the salary range for the City Attorney; and,

B. Adopting **Resolution 2020-05**, a Resolution of the City Council of the City of Merced, California amending the salary range for the City Manager; and,

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

I.10. [20-073](#)

SUBJECT: Second Reading and Final Adoption of an Ordinance
Approving Site Utilization Plan Revision #3 to Planned Development #72,
Including a Hotel, Medical Office Buildings, Multi-Family Residential
Housing, Fast Food Uses, and a Mixed-use Development

REPORT IN BRIEF

Second reading and final adoption of an Ordinance approving Site Utilization Plan Revision #3 to Planned Development #72.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2512**, an Ordinance of the City Council of the City of Merced, California, approving Site Utilization Plan Revision #3 to Planned Development #72 changing the land use designation from "Commercial Office" (CO) and "High-Medium Residential" (HMD) to "Neighborhood Commercial" (CN) for 2 parcels of approximately 21.5 acres of land generally located on the northeast corner of Yosemite Avenue and G Street

I.11. [20-066](#)

SUBJECT: Second Reading and Final Adoption of an Ordinance
Adding the "Tax Transparency Commission" to the Merced Municipal
Code to Consolidate all Current and Future Tax Oversight Committees
Into One Oversight Commission

REPORT IN BRIEF

Second Reading and final adoption of an ordinance to consolidate all current and future tax measure oversight commissions into a single commission.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2510**, an ordinance of the City Council of the City of Merced, California, adding chapter 2.56, "Tax Transparency Commission," to the Merced Municipal Code.

J. REPORTS

J.1. [20-070](#)

SUBJECT: Update on City Council Goals and Priorities

REPORT IN BRIEF

Update on the City Council's goals and priorities for FY 2019-2020.

RECOMMENDATION

For information only.

K. BUSINESS

- K.1. [20-072](#) **SUBJECT:** Update on the Loughborough Neighborhood Project

REPORT IN BRIEF

An update will be given on the Loughborough Neighborhood project.

RECOMMENDATION

Provide staff direction for possible next steps.

- K.2. [20-045](#) **SUBJECT:** Request to Add Item to Future Agenda

REPORT IN BRIEF

Provides members of the City Council to request that an item be placed on a future City Council agenda for initial consideration by the City Council.

- K.3. [20-046](#) **SUBJECT:** City Council Comments

REPORT IN BRIEF

Provides an opportunity for the Mayor and/or Council Member(s) to make a brief announcement on any activity(ies) she/he has attended on behalf of the City and to make a brief announcement on future community events and/or activities. The Brown Act does not allow discussion or action by the legislative body under this section.

L. ADJOURNMENT



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.1.

Meeting Date: 2/3/2020

SUBJECT: PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Finance Officer;
Authority: Government Code Section 54957



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.2.

Meeting Date: 2/3/2020

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Employee Organization: American Federation of State, County, and Municipal Employees (AFSCME) Council 57; Local 2703; International Association of Fire Fighters, Local 1479; Merced Association of City Employees (MACE). AUTHORITY: Government Code Section 54957.6



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.3.

Meeting Date: 2/3/2020

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.4.

Meeting Date: 2/3/2020

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item B.5.

Meeting Date: 2/3/2020

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item F.1.

Meeting Date: 2/3/2020

SUBJECT: Proclamation - Teen Dating Violence Awareness and Prevention Month

REPORT IN BRIEF

Received by a representative from the Valley Crisis Center.

ATTACHMENTS

1. Teen Dating Violence Awareness and Prevention Month Proclamation



Proclamation

- WHEREAS,** California is committed to the well-being and protection of our youth, the safety of our communities, and to fostering a society based upon respect for one another where violence has no role; teen dating violence, and its various forms of control and abuse, is a serious crime with the potential to destroy the lives of those impacted; and,
- WHEREAS,** Teen dating violence involves physical, sexual, verbal, emotional, economic, or other abusive behavior, including harassment and cyberbullying via texting, "sexting," emailing, instant messaging, "cyberstalking," or posting on social media and is committed by a person intending to harm, threaten, intimidate, harass, control, isolate, or monitor another person with whom they have or had a dating relationship. During early teenage dating experiences, new and complete emotions can result in a victim misinterpreting certain behaviors displayed by a dating partner such as obsessiveness and impulsive actions as affections; and,
- WHEREAS,** Dating violence can have a negative effect on health throughout life, as teens who are victims are more likely to be depressed, think about or attempt suicide, have eating disorders, do poorly in school, engage in risky sexual behavior, and engage in drug and alcohol use; and,
- WHEREAS,** National reports on this issue indicate that nearly 1.5 million high school students nationwide experience physical abuse from a dating partner in a single year; 1 in 10 high school students report being intentionally hit, slapped, or physically hurt by their dating partner; and dating violence impacts 1 in 3 female adolescents, a rate higher than other forms of violence. California has focused on teen dating violence issues through effective measures and action, including a teen focused dating abuse and healthy relationship website, a social media initiative, and public awareness campaigns such as loveisrespect.org.

NOW, THEREFORE, I, MIKE MURPHY, Mayor of the City of Merced, on behalf of the City Council hereby proclaim month of February 2020, as "Teen Dating Violence Awareness and Prevention Month" and urge(s) all citizens to show support for organizations and individuals who provide critical advocacy to victims and promote public awareness of teen dating violence.

Signed this 3rd day of February 2020.

Mike Murphy, Mayor of Merced



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item F.2.

Meeting Date: 2/3/2020

SUBJECT: Proclamation - Black History Month

REPORT IN BRIEF

Mayor Murphy will present the Black History Month proclamation.

ATTACHMENTS

1. Proclamation



Proclamation

WHEREAS, during Black History Month, we celebrate the many achievements and contributions made by African Americans to our economic, cultural, spiritual, and political development; and

WHEREAS, in 1915, Dr. Carter Godwin Woodson, noted Black scholar and son of former slaves, founded the Association for the Study of African American Life and History; and

WHEREAS, on February 12, 1926, Dr. Woodson initiated Black History Week, and for many years, the second week of February, chosen to coincide with the birthdays of Frederick Douglas and Abraham Lincoln, was celebrated by African Americans in the United States; and

WHEREAS, in 1976, Black History Month was formally adopted to honor and affirm the importance of Black History throughout our American experience; and

WHEREAS, Black History Month is a time for all Americans to remember the stories and teachings of those who helped build our nation, took a stance against prejudice to build lives of dignity and opportunity, advanced the cause of civil rights, and strengthened families, communities, and our nation; and

WHEREAS, all Americans are encouraged to reflect on past successes and challenges of African Americans and look to the future to improve society so that we live up to the ideals of freedom, equality, and justice.

NOW, THEREFORE, I, MIKE MURPHY, Mayor of the City of Merced, on behalf of the City Council hereby proclaim February 2020 as Black History Month in the City of Merced and encourage the community to visit a local library, attend a cultural event, and share stories and experiences to continue to celebrate the history and culture of African Americans during Black History Month as well as throughout the year.

Signed this 3rd day of February 2020.

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: 2/3/2020

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: 2/3/2020

Report Prepared by: Kirkland Greene, Records Clerk II

SUBJECT: Information-Only Contracts for the Month of January 2020

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$32,000 and of Public Works contracts under \$70,939.

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 2019-2020 threshold of \$70,939.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2019-2020 threshold of \$32,000.00, the contracts listed on the attached table were entered into by the City.

ATTACHMENTS

1. "Information-Only" Contracts Table for January 2020

Exhibit 1 – Table of Contracts

2/3/2020 City Council Meeting

Page 1 of 2

| Department/Division | Vendor | Purpose/Location | Amount |
|-------------------------------|--|---|---------------|
| 0901 – Fire | Scott A. Middleton (DBA: Middleton Handyman Services) | Labor to remove sinks & mirror; install new cabinets & countertops; re-install 3 sinks; repair electrical; install wall skins & sheetrock. (Fire Station #1, 800 Loughborough.) (Statement of Services, PO #137249.) | \$ 2,500.00 |
| 1303 – Airport | R & S Erection Tri-County, Inc. | Re-anchor track supports with 3/4" x 6" anchors on both sides of building; fabricate new door guides to mount to floor; furnish and install new seal on bottom of bi-parting hangar door; inspect, lubricate, and service doors; haul off discarded materials. (Statement of Services, PO #137070.) | \$ 4,460.46 |
| 1119 – PW - Facilities | Jantz Electrical, Inc. | Replace ballast and bulbs in all sixteen light fixtures at the McCombs Youth Center (615 West 15th Street), including lift rental. (Statement of Services, PO #137001.) | \$ 4,747.96 |
| 1201 – Recreation and Parks | Real Property Analysts (RPA; Wakefield & Hopper, Inc.) | Agreement for Professional Services for Appraisal of Park Sites to Establish a Price for Dedication Fees (Zone Areas 1 - 5). | \$ 5,000.00 |
| 0804 – Planning | Goodwin Consulting Group, Inc. | First Amendment to Agreement for Professional Services to Provide Special Tax Consulting Services for Annexing Properties to Existing Mello-Roos Community Facilities Districts. (Annexation No. 14, Improvement Area No. 40.) | \$ 6,000.00 |
| 0403 – Information Technology | Nexsol Corporation | Value Incentive Plan for Large Government Agencies Agreement, for the Purchase of an Enterprise Licensing Subscription for Adobe <i>Acrobat Pro DC</i> (133 users). | \$ 8,848.49 |
| 0403 – Information Technology | McKuin Pipeline, Inc. | Installation of vibrating plow fiber optics from Purchasing Department to the Ed-Zoo-Cation Building at Applegate Park. (Statement of Services, PO #136217.) | \$ 9,495.00 |
| 1119 – PW - Facilities | Better Flooring, Inc. | Supply and install PatCraft LVT and carpet tile with rubber base at the Recreation Center. Supply and install coved sheet vinyl at restrooms and kitchen. (Statement of Services, PO #136896.) | \$10,152.50 |
| 0803 – Engineering | Kleinfelder, Inc. | Perform all soils and materials testing for a sidewalk replacement and some asphalt replacement (Project No. 119054). (Statement of Services, No. 137149.) | \$12,000.00 |

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

Exhibit 1 – Table of Contracts (Continued)

2/3/2020 City Council Meeting

Page 2 of 2

| Department/Division | Vendor | Purpose/Location | Amount |
|----------------------------|--|--|---------------|
| 1119 – PW - Facilities | Specialty Roofing of California, Inc. | Tear off and disposal of old roofing materials and installation of new asphalt shingles and 2" x 2" metal flashings, with ridge vents on peaks and a 10" ridge cap (2,967 sq. ft. of roof area at the Recreation Center, 364 West 27th Street). (Statement of Services, PO #137169.) | \$12,000.00 |
| 1301 – Housing | Healthy House Within a Match Coalition, Inc. | Subrecipient Agreement for Administering an Elder Housing/Senior Services Program, Using Community Development Block Grant (CDBG) Funds. | \$15,000.00 |

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



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.3.

Meeting Date: 2/3/2020

Report Prepared by: Taylor Gates, Administrative Assistant I, Planning Division

SUBJECT: Information Only - Planning Commission Meeting Minutes of December 4, 2019

RECOMMENDATION

For information only.

ATTACHMENTS

1. Minutes

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, December 4, 2019

Chairperson HARRIS 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: Stephanie Butticci, Mary Camper, Jose Delgadillo, Robert Dylina, Sam Rashe, Dorothea Lynn White, and Chairperson Michael Harris

Commissioners Absent: None

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Principal Planner Hren, Deputy City Attorney Campbell, and Recording Secretary Gates

1. APPROVAL OF AGENDA

M/S DYLINE-RASHE, and carried by unanimous voice vote, to approve the Agenda as submitted.

2. MINUTES

M/S DELGADILLO-CAMPER, and carried by unanimous voice vote, to approve the Minutes of November 6, 2019, as submitted.

3. COMMUNICATIONS

None

4. **ITEMS**

- 4.1 Conditional Use Permit #1236, initiated by Daniel Cortez on behalf of Seven Eleven, Inc., property owner. This application involves a request to operate a food truck within the Valero parking lot, generally located on the northeast corner of G Street and E. Alexander Avenue (3006 G Street), within an Office Commercial (C-O) Zone.

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #19-30.

Public testimony was opened at 7:07 p.m.

Speaker from the Audience in Favor:

PAULETTE GOMEZ, Applicant, Merced

No one spoke in opposition to the project.

Public testimony was closed at 7:09 p.m.

M/S BUTTICCI-CAMPER, and carried by the following vote, to approve Conditional Use Permit #1236, subject to the Findings and twenty-seven (27) Conditions set forth in Staff Report #19-30, as follows (RESOLUTION #4033):

AYES: Commissioners Butticci, Camper, Delgadillo, Dylina, Rashe, White and Chairperson Harris

NOES: None

ABSENT: None

ABSTAIN: None

- 4.2 General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72, initiated by Yosemite and G, LLC, property owner. The General Plan Amendment and Site Utilization Plan (SUP) application is a request to change the General Plan designation from Commercial Office (CO) and High to Medium Density Residential (HMD) to Neighborhood

Commercial (CN) for approximately 21.5 acres of land generally located at the northeast corner of Yosemite Avenue and G Street within Planned Development #72. The SUP Revision includes a four-story hotel of approximately 80,104 square feet, two medical office buildings totaling approximately 66,465 square feet, 44 Units of Multi-Family Residential Housing totaling approximately 29,887 square feet, fast food uses with drive-thru windows totaling approximately 5,494 square feet, and a mixed-use development with approximately 59,616 square feet of other retail and office uses.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #19-29.

Public testimony was opened at 7:34 p.m.

Speaker from the Audience in Favor:

DIRK POESCHEL, Representative of the applicant, Merced

Speakers from the Audience in Opposition:

MARNEY KRAMER, Resident, Merced

PAUL WILSON, Resident, Merced

Public testimony was closed at 7:54 p.m.

M/S RASHE-BUTTICCI, and carried by the following vote, to adopt a Mitigated Negative Declaration regarding Environmental Review #19-28, and to recommend approval of General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72 (RESOLUTION #4034):

AYES: Commissioners Butticci, Camper, Delgadillo, Dylina, Rashe, White, and Chairperson Harris

NOES: None

ABSENT: None

ABSTAIN: Non

December 4, 2019

4.3 Update on North Merced Annexation Feasibility Study

Planning Manager ESPINOSA presented an update on the North Merced Annexation Feasibility Study to the Commission.

4.4 Training by City Attorney's Office on Conditional Use Permits, Findings, and California Housing Laws

Deputy City Attorney CAMPBELL held a brief presentation for the Commission. Mr. CAMPBELL explained California Housing Laws and other common items that come before the Commission.

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 HARRIS adjourned the meeting at 9:10 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



MICHAEL HARRIS, Chairperson
Merced City Planning Commission

**CITY OF MERCED
Planning Commission**

Resolution #4033

WHEREAS, the Merced City Planning Commission at its regular meeting of December 4, 2019, held a public hearing and considered **Conditional Use Permit #1236**, initiated by Daniel Cortez on behalf of Seven Eleven, Inc., property owners. This application involves a request to operate a food truck within the Valero parking lot, generally located on the northeast corner of G Street and E. Alexander Avenue (3006 G Street), within a Office Commercial (C-O) Zone; said property being more particularly described as the westerly 112.8 feet of Lot 8 as shown on the Map entitled "City of Acres Tract," recorded in Book 8, Page 41, of Merced County Records; also known as Assessor's Parcel Number 007-091-021; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through J of Staff Report #19-30 (Exhibit B); and,

WHEREAS, the Merced City Planning Commission concurs with the Findings for Conditional Use Permits in Merced Municipal Code Section 20.68.020 (E) and other Considerations as outlined in Exhibit B; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #19-31, and approve Conditional Use Permit #1236, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners Butticci, Camper, Delgadillo, Dylina, Rashe, White, and Chairperson Harris
NOES: None
ABSENT: None
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4033

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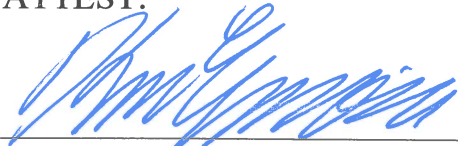
December 4, 2019

Adopted this 4th day of December 2019



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4033
Conditional Use Permit #1236

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos) - Attachments B and C of Staff Report #19-30, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, 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 applicant shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department.
8. No outdoor tables or chairs shall be permitted on the premises, unless otherwise approved by the Planning Department in consideration of all relevant parking and vehicle circulation areas on this site.
9. At least two tamperproof trash receptacles shall be provided while food is being served. The site and the immediate surrounding area shall be maintained free of all debris and trash generated from this use.
10. All signing shall be contained on the food truck. No A-frame signs, banners, inflatable signs, feather signs, pennant signs, flags, or other moving or portable signs shall be permitted for this use anywhere on or off the site.
11. The hours of operation shall be any span of time between 7:00 a.m. and 9:00 p.m. and the business may be open 7 days a week. However, if the business is open after dark, lights shall be provided on the vehicle or on the property that are sufficient to light the vehicle and at least a 50-foot radius around the vehicle. If lights are not provided, the food truck shall close at sundown.
12. If the business owners wish to extend the business hours in the future, they must obtain approval from the Development Services Director and the Police Chief, or if deemed necessary by the Development Services Director, be referred back to the Planning Commission for action.
13. Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.
14. The applicant shall comply with the Water Quality Control Division's (WQCD) Best Management Practices regarding the disposal of cooking grease and proper cleaning of kitchen equipment, as shown on Attachment D, or as otherwise required by the WQCD.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4033

15. If problems arise as a result of this business that may require excessive Police Department service calls to the site or within the immediate area including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct, this approval may be subject to review and revocation by the City of Merced.
16. During hours of operation, food truck employees shall have access to a cell phone (either their own or one provided by the business owner) in case of emergencies.
17. In the future, if there are excessive calls for police assistance, the Police Chief may require the applicant to install exterior video surveillance cameras. Any video related to criminal investigations must be accessible immediately for viewing by the Merced Police Department or any other law enforcement agency. A recorded copy of surveillance video, requested in connection with a criminal investigation, must be reasonably accessible and available within 24 hours when requested by law enforcement. The business owner is responsible for maintaining the video surveillance equipment in an operable manner at all times.
18. The food truck shall be oriented perpendicular to the parking stalls to allow room for customers to gather without being in danger of collisions from vehicles entering/exiting the site. The food truck shall not block the driving aisle or access to the alley.
19. It shall be the operator's responsibility to ensure all customers park in an orderly fashion and don't block the driveway entrances or interfere with other customers visiting the site.
20. The applicant shall comply with all regulations found in Merced Municipal Code Section 20.44.020 - Food Trucks in Fixed Locations, except as modified by these conditions.
21. A minimum of 2 parking spaces on the site shall be dedicated to food truck customers. These spaces shall be located as close as possible to the food truck.
22. Food truck activities shall in no way interfere with the operation of existing businesses on the lot, or nearby businesses, including noise, litter, loitering, and traffic circulation, refuse service, and public safety.
23. The owner shall ensure that restroom facilities are available for the employees. These restrooms shall be provided in a permanent building

that meets the Health Department's requirements for distance from the business operation. Portable toilets shall not be allowed.

24. The mobile food vendor is prohibited from selling alcohol.
25. "No Loitering" signs shall be posted on the food truck and convenience market at specific locations approved by the City Police Department.
26. The food truck shall maintain a minimum distance of 20 feet from all fuel pumps, or as otherwise required by Fire Department.
27. Any illegal signs and advertisements posted on the convenience market onsite shall be removed prior to the food truck obtaining a business license.

Findings and Considerations
Planning Commission Resolution #4033
Conditional Use Permit #1236

General Plan Compliance and Policies Related to This Application

- A) The proposed Project complies with the General Plan designation of Office Commercial (CO) and the zoning designation of Office Commercial (C-O) with approval of this Conditional Use Permit.

Traffic/Circulation

- B) The applicant is proposing to locate the food truck within the northeast portion of the parking lot (Attachment B of Planning Commission Staff Report #19-30). The food truck would be located about 40 feet from the nearest driveway on the northern portion of the parcel. The food truck would be oriented parallel to the adjacent parking stalls (Condition #18), in a manner that does not block any driving aisles, and provides space for customers to gather around the food truck without backing into the adjacent driving aisle. Orienting the food truck in this manner allows vehicles to enter and exit the subject site without impediments. In addition, the applicant shall be required to preserve access for the Refuse Department so that their trucks can access this site and serve this property (Condition #22).

Parking

- C) The subject site must meet the minimum parking requirements for the existing gas station and the proposed food truck. The parking requirement for a gas station is three spaces, plus one space per 250 square feet of retail sales area. Based on this parking formula, the existing convenience market, which has 750 square feet of sales floor area, would be required to have a minimum of 6 parking spaces. A mobile food vendor is required to have a minimum of 2 parking stalls. Together, both uses would require a minimum of 8 parking stalls. The subject site would exceed this requirement with a total of 9 parking stalls throughout the site. Designated food truck parking stalls would be located adjacent to the west of the food truck.

Public Improvements/City Services

- D) The subject site is fully developed and most public improvements are existing. The food truck is self-contained and would not require a separate connection to the City's sewer and/or water systems.

Site Design

- E) The subject site is located at the northeast corner of G Street and E. Alexander Avenue. The subject site is a developed 0.37-acre parcel with a 750-square-foot gas station/convenience market on the northeast portion of the parcel, and a 1,250-square-foot fuel pump canopy on the western portion of the parcel. Vehicle access is available from two driveways along G Street, and one driveway along E. Alexander Avenue. Customer parking is available along the eastern portion of the parcel and

EXHIBIT B

OF PLANNING COMMISSION RESOLUTION #4033

would be added along both the northern and southern portions of the parcel. As shown at Attachment B of Planning Commission Staff Report #19-30, the food truck (and customer parking stalls) would be located near the northern portion of the parcel, away from the fuel pump canopy and convenience market's main entrance, in a manner that does not create congestion between customers going to the site for the convenience market or driving to pump gasoline. The food truck would be located approximately 40 feet from the nearest fuel pump, and 75 feet from the nearest underground fuel storage tank (meeting the Fire Department's minimum distance requirements from fuel pumps, see Condition #26). The property owner is not proposing to make any interior or exterior modifications to the convenience market or to the gas pump canopy. Outdoor seating is prohibited (e.g. tables, umbrellas, chairs, etc.) as shown under Condition #8, unless subsequently approved by the Planning Department. "No Loitering" signs shall be posted on the food truck and convenience market at specific locations approved by the City Police Department (Condition #25).

Neighborhood Impact/Interface

- F) The subject site is surrounded by a variety of commercial and residential uses. Surrounding uses to the north, south, east, and west, include Farmers Insurance, G Street Auto Care, a single-family home, and the London Commercial Plaza respectively. There is a block wall between the subject site and the single-family home to the east that helps reduce concerns regarding noise and lighting. G Street is a major arterial road that exhibits high volumes of traffic and connects with several commercial strip malls and shopping centers. Given the existing traffic volumes and dense variety of commercial uses throughout the neighborhood, staff does not anticipate that this proposal would significantly change the character of the neighborhood.

Signage

- G) The food truck is not allowed any signs other than what is provided on the vehicle itself. Condition #10 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs. Any illegal signs and advertisements posted on the adjacent convenience market shall be removed prior to the food truck obtaining a business license (Condition #27).

Truck Details/Operation

- H) The food truck is standard in appearance and size. It is approximately 8 feet wide by 23 feet long, and approximately 7 ½ feet tall (Attachment C of Planning Commission Staff Report #19-30). The food truck will operate daily between 7:00 a.m. to 9:00 p.m. The food truck will sell traditional Mexican food including, but not limited to, tacos, tortas, and burritos. Trash receptacles will be provided to collect the plates, forks, aluminum foil, and paper bags that are typically used to serve these meals (Condition #9). The sale of alcohol is prohibited (Condition #24). Employee restrooms will be available inside the market as allowed by the Health Department and agreed upon by the property owner (Condition #23). Disposal of waste products

shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #13). The applicant shall comply with the Water Quality Control Division's (WQCD) Best Management Practices regarding the disposal of cooking grease and proper cleaning of kitchen equipment, as shown at Attachment D of Planning Commission Staff Report #19-30, or as otherwise required by the WQCD (Condition #14).

Mandatory Conditional Use Permit Findings

- I) A Conditional Use Permit is required to allow mobile food vendors within an Office Commercial Zone per Merced Municipal Code (MMC) Table 20.10-1 Permitted Land Uses in the Commercial Zoning Districts. In order for the Planning Commission to approve or deny a conditional use permit, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.68.020 (E) "Findings for Approval for Conditional Use Permits" (Attachment F of Planning Commission Staff Report #19-30).

MMC 20.68.020 (E) Findings for Approval.

- 1. The proposed use is consistent with the purpose and standards of the zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.*

The proposed project complies with the General Plan designation of Office Commercial (CO) and the zoning designation of Office Commercial (C-O) with approval of this Conditional Use Permit.

- 2. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.*

The mobile food vendor shall be required to comply with all relevant standards and requirements from MMC Section 20.44.020 – Food Trucks in Fixed Location, to provide compatibility with surrounding sites. Said standards and requirements are in regard to hours of operation, parking, access, maintenance, advertising, and licenses required.

- 3. The proposed use will not be detrimental to the public health, safety, and welfare of the City.*

To ensure the proposal is not detrimental to the public health, safety, and welfare of the City, the applicant shall subsequently apply for permit approval from the Merced County Environmental Health Department, as required for establishments selling hot meals. The Environmental Health Department would inspect food truck cooking facilities before the business could sell food to the general public.

EXHIBIT B OF PLANNING COMMISSION RESOLUTION #4033

4. *The proposed use is properly located within the City and adequately served by existing or planned services and infrastructure.*

The proposed mobile food vendor is located within the City and can be adequately accessed through existing roads. The food truck would be self-contained with its own water and power, and would not need to hook-up to City utilities. The food truck would be serviced at an appropriate commissary facility.

Environmental Clearance

- J) 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 is being recommended (Attachment E of Planning Commission Staff Report #19-30).

CITY OF MERCED
Planning Commission

Resolution #4034

WHEREAS, the Merced City Planning Commission at its regular meeting of December 4, 2019, held a public hearing and considered **General Plan Amendment #19-03, and Site Utilization Plan Revision #3 to Planned Development (P-D) #72**, initiated by Yosemite and G, LLC, property owner. this application is a request to change the General Plan designation from Commercial Office (CO) and High to Medium Density Residential (HMD) to Neighborhood Commercial (CN) for approximately 21.5 acres of land generally located at the northeast corner of Yosemite Avenue and G Street within Planned Development #72. The SUP Revision includes a four-story hotel of approximately 80,104 square feet, two medical office buildings totaling approximately 66,465 square feet, 44 Units of Multi-Family Residential Housing totaling approximately 29,887 square feet, fast food uses with drive-thru windows totaling approximately 5,494 square feet, and a mixed-use development with approximately 59,616 square feet of other retail and office uses; also known as Assessor's Parcel Numbers (APN) 231-040-004 and 231-040-005; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J (Exhibit B) of Staff Report #19-29; and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Mitigated Negative Declaration Mitigation Monitoring Program (Exhibit C) regarding Environmental Review #19-28, and approval of General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development (P-D) #72, subject to the Conditions set forth in Exhibit A, the Findings set forth in Exhibit B, and the Mitigation Monitoring Program set forth in Exhibit C attached hereto and incorporated herein by this reference.

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

AYES: Commissioners Butticci, Camper, Delgadillo, Dylina, Rashe, White,
and Chairperson Harris

NOES: None

PLANNING COMMISSION RESOLUTION #4034

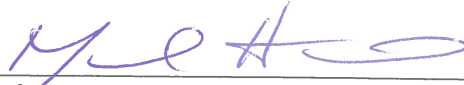
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December 4, 2019

ABSENT: Commissioner(s) None

ABSTAIN: Commissioner(s) None

Adopted this 4th day of December 2019



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:


Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Findings

Exhibit C – Mitigation Monitoring Program

Conditions of Approval
Planning Commission Resolution # 4034
General Plan Amendment #19-03, Site Utilization Plan #3 to Planned
Development (PD) #72

1. The proposed General Plan Amendment and SUP Revision shall be constructed/designed in substantial compliance with the Site Plan, Rendering, and Typical Elevations and Floor Plans (Attachments D, F, and E of Planning Commission Staff Report #19-29), except as modified by the conditions.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. The Project shall comply with the applicable conditions set forth in Resolution #2974 for General Plan Amendment #10-02 and Zone Change #410 previously approved for this site.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. Approval of the General Plan Amendment and Site Utilization Plan Revision is subject to the applicant's entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
6. 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,

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employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

7. 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.
8. De-annexation from the existing Maintenance District and Annexation to Community Facilities District (CFD) #2003-2 is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, streetlights, parks and open space. CFD procedures shall be completed prior to any final map approvals or issuance of any building permits, whichever comes first. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
9. The project shall comply with all mitigation measures outlined in the

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Mitigation Monitoring Program for Initial Study #19-28 (Attachment H of Planning Commission Staff Report #19-29) and all applicable mitigation measures outlined in the Mitigation Monitoring Program for Initial Study #10-06 (Appendix C of Initial Study #19-28, Attachment G of Staff Report #19-29).

10. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
11. All signs shall comply with the North Merced Sign Ordinance and Section 20.62.040 (B)(2) of the City's Zoning Ordinance for signs in a Neighborhood Commercial (C-N) zone.
12. The applicant shall construct all missing improvements along the property frontage on Yosemite Avenue and G Street including, but not limited to, sidewalk, curb, gutter, street lights, and street trees.
13. All necessary right-of-way along the property frontage, including Yosemite Avenue, G Street, and Sandpiper Avenue needed for public improvements shall be dedicated prior to the issuance of the first building permit or recordation of a parcel map, whichever comes first.
14. Appropriate turning radii shall be provided within the parking areas to allow for Fire Department and refuse truck access.
15. Parking lot trees shall be installed per City Parking Lot Landscape Standards and Section 20.38.070 (F). At a minimum, parking lot trees shall be provided at a ratio of one tree for every six parking spaces. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list).
16. All projects on this site shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
17. Prior to issuance of the first grading/building permit for any project on the site, the applicant shall demonstrate compliance with San Joaquin Valley Air Pollution Control District Rule 9510 to the Planning Department. Changes to the site plan resulting from compliance with Rule 9510 are subject to review by City Staff or the Planning Commission, as determined by the Director of Development Services.

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18. Bicycle parking for all projects on the site shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.
19. All landscaping on the site shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping.
20. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.
21. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or park strips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.
22. For buildings over 30 feet tall, a minimum 26-foot-wide drive aisle shall be provided for emergency vehicle access. The developer shall work with the Fire Department to determine the areas that need the 26-foot-wide drive aisle. An emergency access lane made of an all-weather surface shall be constructed to the south of the southernmost multi-family building. This lane shall either be able to meet the turnaround needs of emergency vehicles if it is 150 feet long or more, or it shall be less than 149 feet long but still meet the needs of emergency access for the residential building. In the event that the southernmost residential building is 30 feet tall or less, this path shall be a minimum of 22 feet wide. If the southernmost residential building is more than 30 feet tall, the path shall be a minimum of 26 feet wide. These details shall be confirmed as acceptable by the Fire Chief or designee prior to the issuance of occupancy permits for any of the multi-family residential buildings.
23. A fire control room may be required for the buildings on the site. The applicant shall work with the Fire Department to determine the location of the fire control room. Additional fire control rooms may be required at the discretion of the Fire Chief.

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24. Each building shall be provided with a Fire Department Connection.
25. Buildings that do not provide an elevator (other than a freight elevator) shall be provided with an additional exit. The developer shall work with the Chief Building Official to determine the number of exits required for each building.
26. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.
27. All storm water shall be retained onsite or in the basin immediately to the east of the project site and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer. The applicant shall submit calculations to the City showing, to the satisfaction of the City Engineer or designee, that the basin to the east of the project site has enough capacity for the proposed plans.
28. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
29. All parking lot and other exterior lighting shall be oriented in such a way so that it does not spill over onto adjacent properties.
30. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks as well as the number of containers needed to adequately serve the site. Use of a trash compactor should be considered to reduce the number of pick-ups per week.
31. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
32. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.
33. All mechanical equipment shall be screened from public view.

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34. Instead of the typical requirements for additional Conditional Use Permits and Site Plan Review for interface, this Site Utilization Plan process will address interface regulations, additional review, and permissibility of specific uses in Planned Development #72. These modifications apply in the portions of Planned Development #72 covered by the subject site parcels (Assessor's Parcel Number 231-040-004 and 231-040-005) in the following manner, taking into consideration that the adjacency of parcels may change in the event of parcel modifications in the future:
- a. Multi-family housing will require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publically noticed public hearing at the Site Plan Review meeting per Section 20.32 of the Zoning Ordinance; and,
 - b. The hotel, rather than being "use not allowed", shall require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publically noticed public hearing at Site Plan Review meeting per Section 20.32 of the Zoning Ordinance, but will not require an additional Conditional Use Permit; and,
 - c. Restaurants selling alcohol for consumption on-site will require only a Site Plan Review Permit use without further requirement for a Conditional Use Permit or public hearing for interface considerations; and,
 - d. Gas and service stations will require only a Site Plan Review Permit without further requirement for a Conditional Use Permit unless the gas and service station wishes to sell alcohol, in which case a Conditional Use Permit is required, and a letter of Public Convenience and Necessity may be required, but an additional public hearing for interface consideration is not required; and,
 - e. Day care centers require only a Site Plan Review Permit without further requirement for a Minor Use Permit or public hearing for interface considerations; and,

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- f. Drive-through and drive-up sales require only a Site Plan Review Permit without further requirement for a Conditional Use Permit or public hearing for interface considerations; and,
 - g. General retail uses, professional offices, restaurants, and banks require only a Site Plan Review Permit without further requirement for a public hearing for interface considerations .
- 35. The traffic signal at G Street and Project Driveway 1, north of the proposed hotel, shall be connected into the City's street synchronization system to the satisfaction of the City Engineer or designee.
- 36. Sandpiper Drive, at a minimum, shall be constructed from Yosemite Avenue north to "Children's Avenue". Upon completion of the traffic signal at G Street and Project Driveway 1, north of the proposed hotel, Sandpiper Drive shall be constructed to Project Driveway 1. Prior to the issuance of any occupancy permit for any of the multi-family residential buildings, the two office buildings at the northern portion of the project site, or the hotel, Sandpiper Drive shall be constructed in its entirety to connect to Mercy Avenue.
- 37. Safe pedestrian access from the multi-family residential portion of the project to the commercial portions of the site shall be provided.
- 38. In the event that the parcels of the subject site are ever subdivided or modified, in the manner suggested by the site plan or otherwise, cross-access and use agreements shall be put into place such that parking for all uses meets or exceeds City standards.
- 39. The entire development should be designed with a similar or complimentary aesthetic to the renderings shown at Attachment F of Planning Commission Staff Report #19-29.
- 40. For any illuminated signs placed above the ground floor, all illumination shall be located and directed in such a manner that light does not spill over to the east or north. Prior to installation, illuminated signs shall be approved by the Planning Manager or designee, and may require an analysis of lumens or other measurements of illumination as deemed necessary. Monument signs are not subject to this condition.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4034

Findings and Considerations
Planning Commission Resolution # 4034
General Plan Amendment #19-03, Site Utilization Plan #3 to Planned
Development (PD) #72

General Plan Compliance and Policies Related to This Application

- A) With the proposed General Plan Amendment and Site Utilization Plan (SUP) Revision, the proposed project will conform with the General Plan designation of CN and zoning of P-D #72. The Site Utilization Plan (SUP) Revision includes changes to a number of aspects of Planned Development #72, including a four-story, 128-room hotel of approximately 80,104 square feet, and two medical office buildings totaling approximately 66,465 square feet. It also includes 44 Units of Multi-Family Residential Housing totaling approximately 29,887 square feet, fast food uses with drive-through windows totaling approximately 5,494 square feet, and a mixed-use development with approximately 59,616 square feet of other retail and office uses, shown on the Site Plan at Attachment D of Planning Commission Staff Report #19-29

The Zoning Ordinance describes uses that are allowed within a specific zone “by right” and those allowed with a discretionary review such as a Conditional Use Permit. Under ordinary circumstances, drive-through sales, alcoholic beverage sales in restaurants for on-site consumption, multi-family dwellings, and gas and service stations are allowed within a C-N zone with approval of a Conditional Use Permit. Day care centers require a Minor Use Permit and hotels are listed as “use not allowed” in an ordinary C-N zone.

The SUP Revision proposes to condense a number of the typical public hearings for interface along with Conditional Use Permits into the single SUP Revision. Notable exceptions are that the hotel and multi-family residential components will still require publicly noticed public hearings for their Site Plan Review Permits if they are on a parcel that is abutting or across from a parcel with R-1 or R-2 zoning. Section 20.32 of the Zoning Ordinance sets out the requirements for interface regulations to help integrate potentially incompatible zones. See Condition #34 for details.

The Zoning Ordinance does not specify a density for multi-family housing allowed within a C-N zone. The General Plan has a range of multi-family densities: Low-Medium Density (LMD) – 6 to 12 units/acre; High-Medium

Density (HMD) – 12 to 24 units/acre; and High Density (HD) 24 to 36 units/acre. The Zoning designations that correlate to the multi-family General Plan designations would be R-2; R-3-1.5; R-3, and R-4. The proposed density for this project, based on the number of units is approximately 16.4 units per acre, considering the size of the proposed parcel. This density fits into an HMD General Plan designation comfortably; the site also currently has the HMD designation for the portion of the site where the multi-family residential component is proposed.

The Housing Element of the *Merced Vision 2030 General Plan* includes policies supporting affordable housing, mixed-use development, and higher densities.

Policy H 1.1.c *Encourage Mixed Use Development*

The proposed project would provide a mixture of retail commercial uses to serve the neighborhood and multi-family efficiency dwelling units.

Policy 1.8b *Prioritize City efforts to encourage residential development by focusing on in-fill development and densification within the existing City Limits.*

The proposed project is on an in-fill site and proposes a density that is equal to the City's HMD density classification.

The following are Land Use Policies and Implementing Actions of the General Plan that could be met with the proposed project:

Policy L-1.1 *Promote Balanced Development Which Provides Jobs, Services, and Housing.*

Implementing Action 1.1.a: *Promote mixed use development combining compatible employment, service and residential elements.*

Implementing Action 1.1.c: *Determine the types of housing opportunities needed for the type of employment opportunities being created in the City.*

Additionally, Policy L 2.7.a notes that there are very unique circumstances under which retail commercial destinations can be located at the intersections of two arterial streets. Among the criteria are a project of minimum size of 20 acres, strong connectivity to the adjacent neighborhood,

provision of a mix of uses, and provision of good transit and pedestrian access. This project is approximately 21.5 acres, will connect to the adjacent neighborhood via Sandpiper Avenue and the future “Children’s Avenue”, provides for multi-family residential use in addition to commercial retail and office uses, and is on a site that is already near to existing transit routes. Planning staff believes that this project meets the criteria to proceed forward at the proposed location while being compatible with the guidelines laid out in Policy L 2.7.a.

Traffic/Circulation

- B) The project site is located at the northeast corner of Yosemite Avenue and G Street. The Project proposes to develop 66,465 square feet of medical-dental office space, a 128-room hotel, 11,458 square feet of fast-food restaurant with drive-through window(s), a gasoline/service station with convenience market (12 fueling positions), 18,222 square feet of shopping center, 5,000 square feet high turnover (sit-down) restaurant, 12,000 square feet of general office space, 4,804 square feet of day care center, and 44 multifamily units. At present, all intersections studied in the Traffic Impact Analysis operate at an acceptable Level of Service (LOS) during both peak periods. The City of Merced has determined that roads must operate at LOS of “D” or greater in order to be acceptable. The Traffic Impact Analysis, prepared by JLB Traffic Engineering, Inc. appears at Appendix B of Attachment G of Planning Commission Staff Report #19-29.

Project Access

Based on the Project Site Plan, access to and from the Project site will be from five (5) access driveways located along Sandpiper Avenue, G Street, and Yosemite Avenue. Two (2) access points are proposed to be located along the east side of G Street. One is located approximately 1,250 south of Mercy Avenue and is proposed as a full access (with a future signal), with left turns in and out. The other is located approximately 625 feet north of Yosemite Avenue and is proposed as left-in, right-in and right-out access only. The access point off of Yosemite Avenue is located approximately 300 feet east of G Street and is limited to right-in and right-out access only. The remaining two access points are proposed to be located along the extension of Sandpiper Avenue. While Sandpiper Avenue will eventually go through to Mercy Avenue, at the beginning of the project, access to Sandpiper

Avenue will be limited to Yosemite Avenue, which will be limited to right-in and right-out access only onto Sandpiper. Sandpiper will connect to The future “Children’s Avenue,” which will go through to Mansionette Drive.

Walkways

Currently, walkways exist in the vicinity of the proposed Project site along G Street, Yosemite Avenue, and Mercy Avenue. The *Merced Vision 2030 General Plan* recommends that walkways be implemented during all phases of a Project to guarantee adequate and safe pedestrian facilities at all times. Therefore, it is recommended that the Project implement a walkway along its frontage to Sandpiper Avenue and complete the walkway along its frontage to G Street.

Bikeways

Currently, bikeways exist in the vicinity of the proposed Project site along G Street, Yosemite Avenue, Mercy Avenue, and Mansionette Drive. The *Merced Vision 2030 General Plan* recommends that a Class II Bike Lane be implemented on G Street north of Yosemite Avenue and a Class I Bike Lane beginning on G Street and extending approximately 950 feet north of Mercy Avenue. Therefore, it is recommended that the Project implement a Class II Bike Lane along its frontage to G Street.

Transit

The Bus, Merced’s Regional Transit System, is the single public transportation service provider for all of Merced County. At present, there are three routes - M3, M4 and UC - that have stops adjacent to the proposed Project and two more - M1 and M2 - that stop approximately 0.5 miles from the Project. Retention of the existing and expansion of future transit routes is dependent on transit ridership demand and available funding.

Trip Generation

Trip generation rates for the proposed Project were obtained from the 10th Edition of the Trip Generation Manual published by the Institute of Transportation Engineers (ITE). The Project buildout is estimated to generate a maximum of 13,160 daily trips, 1,009 AM peak hour trips and 1,059 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). JLB also analyzed the estimated maximum trip generation of a prior version of the Project Site Plan. Due to a lack of secured users for the site, the exact square footages of the pads

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shown on the latest Project Site Plan may differ. At buildout, the prior Project Site Plan is anticipated to generate a maximum of 13,741 daily trips, 1,092 AM peak hour trips and 1,074 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). Compared to the prior Project Site Plan, the latest Project Site Plan is estimated to yield less traffic by 581 daily trips, 83 AM peak hour trips and 15 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). The TIA assumed the trip generation of the prior Project Site Plan, as it is the more impactful.

The following Mitigation Measure is recommended in Initial Study #19-28 for this project to ensure intersections operate at an acceptable level of service (see the Mitigation Monitoring Program at Attachment H of Planning Commission Staff Report #19-29).

Mitigation Measures

- TRA-01** Project Driveway 1 shall have a minimum throat depth of 150 feet before any vehicular openings to the north.
- TRA-02** The Project shall implement a walkway along its frontage to Sandpiper Avenue and complete the walkway along its frontage to G Street. Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.
- TRA-03** The Project shall implement a Class II Bike Lane along its frontage to G Street. Based on the implementation progress of the project, the timing of this improvement shall be at the discretion of the City Engineer.
- TRA-04** The intersection of G Street and Project Driveway 1 shall be signalized with protective left-turn phasing in all directions prior to the issuance of any occupancy permits.
- TRA-05** The intersection of Sandpiper Avenue and Mercy Avenue shall be modified as an All-Way Stop with the following details:
- Stripe a westbound left-turn lane;
 - Modify the westbound left-through-right lane to a through-right lane;
 - Stripe a northbound left-turn;

- Modify the northbound left-through-right lane to a through-right lane;
- Implement an all-way stop control; and,
- Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.

TRA-06 The intersection of G Street and Yosemite Avenue shall have a second southbound left-turn lane added, the traffic signal shall be modified to implement overlap phasing of the northbound right-turn with the westbound left-turn phase, and westbound to eastbound U-turns shall be prohibited. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.

TRA-07 The intersection of Paulson Road and Yosemite Avenue shall have an eastbound through-right lane with a receiving lane east of Paulson Road added. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.

In addition, all applicable previously approved mitigation measures from Initial Study #10-06 would still apply. A copy of the mitigation monitoring program for Initial Study #10-06 can be found at Appendix C of Initial Study #19-28, which is Attachment G of Planning Commission Staff Report #19-29.

Parking

- C) Parking for the non-residential portions of the project are based on projected uses, and their requirements per Table 20.38-1 of the Zoning Ordinance. The Zoning Ordinance allows a 15% reduction in floor area for non-usable commercial space such as restrooms, storage areas, etc. Using this formula, the parking requirements for the commercial portion of the project would be 606 spaces.

The Zoning Ordinance requires 1.75 spaces of parking for each multi-family unit up to 30 units, plus an additional 1.5 spaces for each unit over 30. Based on this calculation, the residential portion of this project would require 74 parking spaces.

The total project requires 680 parking spaces. The proposed site plan

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envisioned 964 parking spaces in total, meeting and exceeding the City's parking requirements. The Zoning Ordinance (MMC Section 20.38.050) also allows for reductions in parking requirements for mixed used projects, projects near transit, and other reductions which could be applied to this project. Although this project has not formally applied for a modification to the final map of the parcels, the site plan is drawn in such a way that future subdivision is possible, if not likely. Reviewing the individual uses in such a way that the parking on each potential parcel is tracked separately yields some uses (the Medical Offices, the Hotel, and the Multi-Family residences) that are slightly deficient on parking. The Parking Analysis table below provides more detail. Since the overall parking provided is significantly higher than the overall parking required for the project, staff believes that with proper cross-access and use agreements in place (Condition #38), parking needs for the proposed uses are met and exceeded.

Parking Analysis

| | SF | Units | Reduction | Spaces per SF | | Req. Spaces | Prov. Spaces | Difference |
|----------------|--------|-------|-----------|---------------|---------------|-------------|--------------|------------|
| Gen. Retail | 18,222 | N/A | 15% | 1/300 | | 52 | 113 | 61 |
| Restaurants | 7,404 | N/A | 30%* | 1/100 | | 52 | 93 | 41 |
| Bank | 3,560 | N/A | 15% | 1/250 | | 13 | 35 | 22 |
| Gas/Service | 3,150 | N/A | 15% | 1/250 | + 3 | 14 | 19 | 5 |
| Office | 12,000 | N/A | 15% | 1/250 | | 41 | 87 | 46 |
| Fast Food | 5,494 | N/A | 15% | 1/350 | | 14 | 111 | 97 |
| Day Care | 4,804 | N/A | 15% | 1/400 | +1/employee** | 23 | 63 | 40 |
| Hotel | 80,104 | 128 | N/A | Per Unit*** | | 114 | 111 | -3 |
| Multi-Family | 29,887 | 44 | N/A | Per Unit**** | | 74 | 62 | -12 |
| Medical Office | 66,465 | N/A | 15% | 1/200 | | 283 | 270 | -13 |

*70% of total square footage assumed for seating

**10 employees assumed

***Hotel requires 1 space/unit for the first 100 units, and 0.5 spaces/unit thereafter

****Multi-family requires 1.75 spaces/unit for the first 30 units and 1.5 spaces/unit thereafter

Public Improvements/City Services

D) Water

There is a 16-inch water line in Yosemite Avenue and another 16-inch line in G Street to serve the project site. The City's water supply would be

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sufficient to serve the proposed project.

Sewer

An 18-inch sewer line exists in Yosemite Avenue which flows to G Street, then continues out to the Waste Water Treatment Plant (WWTP). The G Street sewer line is 27 inches wide at the project location. There is sufficient capacity at the WWTP, and the existing lines in Yosemite Avenue and G Street have enough capacity during peak hours to accommodate the additional wastewater and transmit it to the WWTP for processing.

Stormwater

A 24-inch storm drain exists in G Street. The project would be required to retain storm water onsite or in the collection basin to the east of the site that is part of P-D #72, and meter it into the City's system (Condition #27).

Building Design

- E) As shown on the Rendering and Typical Elevations and Floor Plans, Attachments F and E, the retail buildings on the site would stand one story tall and have a modern design with wood or faux wood fascia, stone, glass, and metal as primary features and elements. The buildings would have clean lines and use a variety of building materials to provide interest and differentiate between businesses. The retail portion of the project is proposed as the first phase of development, and future phases, including the hotel, the residential buildings, and the office buildings, would all use the retail phase's stylistic elements as a template for a cohesive, but not identical, thematic design for the entire site. Final design details will be approved by staff at the Site Plan Review stage.

Site Design

- F) The project site is bounded by Yosemite Avenue to the south, G Street to the west, the future extension of Sandpiper Avenue to the east, and approximately a hypothetical extension of University Avenue or Bobolink Court to the north. For clarity, Sandpiper Avenue is projected to extend between Yosemite Avenue and Mercy Drive during the lifespan of this project, while neither Yosemite Avenue nor Bobolink Court have such projections and are mentioned for the purpose of illustration only.

The site plan is still conceptual, especially as potential tenants are concerned, which may lead to modifications as development proceeds. Changes to the site plan could be approved by the Site Plan Review Committee. As proposed, the project site includes:

- 3,150 SF for a Gas/Service Station
- 3,560 SF for a Bank
- 4,804 SF for a Day Care
- 5,494 SF of Fast Food with Drive-Through
- 7,404 SF of Restaurants
- 12,000 SF of General Offices
- 18,222 SF of General Retail
- 29,887 SF for Multi-Family Residential; 3 Two-Story Buildings of 44 Rooms Total
- 66,465 SF of Medical Offices
- 80,104 SF for a 4-Story Hotel with 128 Rooms

The first phase of the project would include the development of the retail spaces, including the restaurants, the fast food, the gas/service station, and potentially the bank. Later phases will largely be determined by tenant interest and opportunity, but it is projected that the hotel, office uses, and day care are the most likely to proceed in a second phase, with the multi-family residential development as the third phase. There are not timing projections on these phases at this point.

The developers held a Neighborhood Outreach meeting at Cruickshank Middle School, 601 Mercy Avenue, near the project site on May 30, 2019, beginning at 6 PM. At this meeting, the applicants presented the project concepts as they stood at the time to interested residents, and solicited feedback. In response to comments received at this outreach meeting, the applicants modified their site plan to the current version, eliminating the plans for a car wash that residents suggested could have noise impacts on surrounding properties, and modifying the site layout such that the multi-family residential portion of the site is further north than was originally proposed. These changes have made the site design more congruent with its surroundings, with the multi-family housing acting as a buffer for other uses that would generate more noise and potential impacts to the existing

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neighborhood. Also in response to comments that City staff heard at the meeting regarding the concerns over hotel signage, Condition #40 regarding the illumination of signs has been added.

Landscaping

- G) As shown in the rendering (Attachment F), the area between the retail buildings would be landscaped to create a welcoming outdoor area. Parking lot trees would be provided throughout the site in compliance with the City's Parking Lot Landscape Standards (Condition #15).

According to Table 20.36-1 of the Zoning Ordinance, the site is required to provide a minimum landscape area equal to 15% of the project site. Landscaping and irrigation shall be required to meet the City's Water Efficient Landscape Ordinance (Condition #19).

Neighborhood Impact/Interface

- H) As previously described, the project site is bordered on the east by residential uses as well as Merced College to the west across G Street. The developer held a neighborhood meeting on May 30, 2019, at Cruickshank Middle School, the impacts of which on the proposal are detailed further in Finding F, above.

The Zoning Ordinance describes uses that are allowed within a specific zone "by right" and those allowed with a discretionary review, such as a Conditional Use Permit. Under ordinary circumstances, drive-through sales, alcoholic beverage sales in restaurants for on-site consumption, multi-family dwellings, and gas and service stations are allowed within a C-N zone with approval of a Conditional Use Permit. Day care centers require a Minor Use Permit and hotels are listed as "use not allowed" in an ordinary C-N zone.

Additionally, Section 20.32 of the Zoning Ordinance sets out the requirements for interface regulations to help integrate potentially incompatible zones. This section requires Site Plan Review be obtained prior to construction on a parcel with a Neighborhood Commercial (C-N) zone when it is adjacent to or across the street from an R-1-6 zone. In this case, several properties to the east are zoned R-1-6. The uses in this area include single-family dwellings located on approximately 0.2-acre lots. This project is designed in such a way that may at a future time be desirable to separate

the parcels, as noted by the “proposed parcel line” notations on the Site Plan, shown at Attachment D; however, no parcel modifications have been submitted at this time.

Instead of the typical requirements for additional Conditional Use Permits and Site Plan Review for interface, this Site Utilization Plan process will address interface regulations, additional review, and permissibility of specific uses in Planned Development #72 (Condition #34). These modifications apply in the portions of Planned Development #72 covered by the subject site parcels (Assessor’s Parcel Number 231-040-004 and 231-040-005) in the following manner, taking into consideration that the adjacency of parcels may change in the event of parcel modifications in the future:

- Multi-family housing will require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publicly noticed public hearing at the Site Plan Review meeting per Section 20.32 of the Zoning Ordinance.
- The hotel, rather than being a “use not allowed,” shall require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publicly noticed public hearing at a Site Plan Review meeting per Section 20.32 of the Zoning Ordinance, but will not require an additional Conditional Use Permit.
- Restaurants selling alcohol for consumption on-site will require only a Site Plan Review Permit use without further requirement for a Conditional Use Permit or public hearing for interface considerations.
- Gas and service stations will require only a Site Plan Review Permit without further requirement for a Conditional Use Permit unless the gas and service station wishes to sell alcohol, in which case a Conditional Use Permit is required, and a letter of Public Convenience and Necessity may be required, but an additional public hearing for interface consideration is not

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required.

- Day care centers require only a Site Plan Review Permit without further requirement for a Minor Use Permit or public hearing for interface considerations.
- Drive-through and drive-up sales require only a Site Plan Review Permit without further requirement for a Conditional Use Permit or public hearing for interface considerations.
- General retail uses, professional offices, restaurants, and banks require only a Site Plan Review Permit without further requirement for a public hearing for interface considerations.

Public hearing notices were sent to all property owners within 300 feet of the site. To date, staff has not had any comments other than those heard at the community meeting held by the applicants.

Signage

- I) All signs on the site would be required to comply with the North Merced Sign Ordinance and the Neighborhood Commercial sign regulations (Condition #11) as well as Condition #40 dealing with illumination. Final sign/design details will be addressed by staff at the Site Plan Review phase.

Environmental Clearance

- J) The Planning staff has conducted an environmental review (Initial Study #19-28) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Mitigated Negative Declaration (i.e., no significant effects in this case because of the mitigation measures and/or modifications described in Initial Study #19-28) is being recommended (Attachment G of Planning Commission Staff Report #19-29).

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| <p>ENVIRONMENTAL REVIEW #19-28</p> <p>Mitigation Monitoring Program</p> |
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MITIGATION MONITORING CONTENTS

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

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

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

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

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

- 1) The requirements of the adopted mitigation monitoring program for the General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72 shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

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

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

GENERAL PLAN MITIGATION MEASURES

As a second tier environmental document, Initial Study #19-28 incorporates some mitigation measures adopted as part of the *Merced Vision 2030 General Plan Program Environmental Impact Report* (SCH# 2008071069), as mitigation for potential impacts of the Project.

NONCOMPLIANCE COMPLAINTS

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

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed specifically for General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72. The columns within the tables are defined as follows:

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

General Plan Amendment #19-02/Site Utilization Plan Revision #3 to Planned Development #72
Mitigation Monitoring Checklist

Project Name: _____ File Number: _____
Approval Date: _____ Project Location: _____
Brief Project Description: _____

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

| 3) Air Quality | | | | |
|-----------------------|--|---------------|-----------------------------|--|
| Impact | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
| c | <p>AIR-1) Consistent with SJVAPCD Regulation VIII (Fugitive PM10 Prohibitions), the following controls are required to be included as specifications for the proposed project and implemented at the construction site:</p> <ul style="list-style-type: none"> -All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. -All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant -All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. -When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. -All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. | | | |
| | (continued on next page) | | | |

| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
|-------------------|---|------------------|-----------------------------|--|
| <i>c</i> | <p>-The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.</p> <p>- Following the addition of materials to, or the removal of materials from, the surface of out-door storage piles, said piles shall be effectively stabilized of fugitive dust emission utilizing sufficient water or chemical stabilizer/suppressant.</p> | Building Permits | Planning Department | |
| <i>c</i> | <p>AIR-2) The project contractor shall ensure all off-road diesel-powered construction equipment of 50 horsepower or more used for the project meet the California Air Resources Board (CARB) Tier 2 with a Level 3 Diesel Particulate Filter emissions standards or equivalent.</p> | Building Permits | Planning Department | |

| 4) Biological Resources | | | | |
|--------------------------------|---|------------------|-----------------------------|--|
| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
| a | <p>BIO-1) Impacts of the proposed project upon vegetation and wildlife habitat can be mitigated by preserving as many of the existing trees as possible (if any still exist) and incorporating them into the proposed project. The Cottonwood trees have the greatest wildlife habitat value, although they are generally less visually attractive and in poorer condition than either the Olive trees or the Eucalyptus trees. However, in spite of appearances, a Cottonwood, even in poor condition, provides good wildlife habitat.</p> <p>Impacts to wildlife habitat can also be reduced by using native plant materials in landscaping to the greatest extent possible. Native plant species provide the best wildlife habitat since native vegetation has co-evolved with the wildlife and affords food sources for which wildlife is best adapted. Native species cannot always be used to produce the desired form and floral characteristics, but some native species can usually be incorporated.</p> | Building Permits | Planning Department | |

| 5) Cultural Resources | | | | |
|------------------------------|--|---------------|-----------------------------|--|
| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
| a | <p>CUL-1) If unknown pre-contact or historic-period archaeological materials are encountered during project activities, all work in the immediate vicinity of the find shall halt until a qualified archaeologist can evaluate the find and make recommendations.</p> <p>Cultural resources materials may include pre-contact resources such as flaked and ground stone tools and debris, shell, bone, ceramics, and fire-affected rock, as well as historic resources such as glass, metal, wood, brick, or structural remnants. If the qualified archaeologist determines that the discovery represents a potentially significant cultural resource, additional investigations shall be required to mitigate adverse impacts from project implementation. These additional studies may include, but are not limited to, recordation, archaeological excavation, or other forms of significance evaluations.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological deposits, and include the following directive in the appropriate contract documents:</p> <p style="text-align: right;"><i>(continued on next page)</i></p> | | | |

| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
|-------------------|--|------------------|-----------------------------|--|
| | <p>“The subsurface of the construction site is sensitive for archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist shall assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery.</p> <p>Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include, but are not limited to, shellfish remains; bones, including human remains; and tools made from, obsidian, chert, and basalt; mortars and pestles; historical trash deposits containing glass, ceramics, and metal artifacts; and structural remains, including foundations and wells.”</p> <p>The City shall verify that the language has been included in the grading plans prior to issuance of a grading permit or other permitted project action that includes ground-disturbing activities on the project site.</p> | Building Permits | Planning Department | |

| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
|-------------------|---|------------------|-----------------------------|--|
| c | <p>CUL-3) If human remains are identified during construction and cannot be preserved in place, the applicant shall fund: 1) the removal and documentation of the human remains from the project corridor by a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archaeology; 2) the scientific analysis of the remains by a qualified archaeologist, should such analysis be permitted by the Native American Most Likely Descendant; and, 3) the reburial of the remains, as appropriate. All excavation, analysis, and reburial of Native American human remains shall be done in consultation with the Native American Most Likely Descendant, as identified by the California Native American Heritage Commission.</p> | Building Permits | Planning Department | |

| | | | | | |
|-----------------------------|----------------------------|--|-------------------------------|-----------------------------|--|
| 6) Energy | | | | | |
| a | ENE-1) | The applicant shall comply with all applicable California Energy Code, AB 341, and San Joaquin Valley Air Pollution Control District rules and regulations regulating energy efficiency and waste. | Building Permits | Building Department | |
| b | ENE-2) | Implementation of Mitigation Measure ENE-1. | Building Permits | Building Department | |
| 7) Geology and Soils | | | | | |
| Impact No. | Mitigation Measures | | Timing | Agency or Department | City Verification (date and initials) |
| b | GEO-1) | The project shall comply with all requirements of the State Water Resources Board (SWRCB) and obtain a General Construction Activity Stormwater Permit. | Building/Encroachment Permits | Engineering Department | |
| b | GEO-2) | The project shall comply with all applicable mitigation measures for Expanded Initial Study #02-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02. | Building/Encroachment Permits | Engineering Department | |

| 8) Hydrology and Water Quality | | | |
|---------------------------------------|---|---|-----------------------------------|
| <i>a</i> | <p>HYDRO-1) To minimize any potential short-term water quality effects from project-related construction activities, the project contractor shall implement Best Management Practices (BMPs) in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity. In addition, the proposed project shall be in compliance with existing regulatory requirements, including the Water Pollution Control Preparation (WPCP) Manual. In addition, implementation of a Storm Water Pollution Prevention Plan (SWPPP) would be required under the National Pollutant Discharge Elimination System (NPDES) to regulate water quality associated with construction activities.</p> | <p>Building/ Encroachment Permits</p> | <p>Engineering Department</p> |

| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
|-------------------|--|--------------------------------|-----------------------------|--|
| a | HYDRO-2 If any storm drainage from the site is to drain into MID facilities, the developer shall first enter into a "Storm Drainage Agreement" with MID and pay all applicable fees. | Building/ Encroachment Permits | Engineering Department | |
| a | HYDRO-3) To reduce the potential for degradation of surface water quality during project operation, a SWPPP shall be prepared for the proposed project. The SWPPP shall describe specific programs to minimize stormwater pollution resulting from the proposed project. Specifically, the SWPPP shall identify and describe source control measures, treatment controls, and BMP maintenance requirements to ensure that the project complies with post-construction stormwater management requirements of the RWQCB. | Building/ Encroachment Permits | Engineering Department | |
| c | HYDRO-4 Prior to issuance of a building permit or as required by the City Engineer, the developer shall demonstrate to the City that storm drainage facilities are adequate to meet the Project demands and that improvements are consistent with the City Standards and the City's Storm Drain Master Plan. | Building/ Encroachment Permits | Engineering Department | |

| 13) Noise | | | | |
|-------------------|---|-----------------|-----------------------------|--|
| <i>Impact No.</i> | <i>Mitigation Measures</i> | <i>Timing</i> | <i>Agency or Department</i> | <i>City Verification (date and initials)</i> |
| <i>a</i> | NOI-1) To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the project: <ul style="list-style-type: none"> • The construction contractor shall ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good condition and appropriate for the equipment. • The construction contractor shall locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction disturbance area. In addition, the project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site. • The construction contractor shall prohibit unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes is prohibited). • The construction contractor shall locate, to the maximum extent practical, on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. | Building Permit | Building Department | |
| | (continued on next page) | | | |

| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
|---------------------------------------|--|-----------------|----------------------------------|--|
| | <ul style="list-style-type: none"> The construction contractor shall limit all noise producing construction activities, including deliveries and warming up of equipment, to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No such work shall be permitted on Sundays or federal holidays without prior approval from the City. | Building Permit | Planning Department | |
| 17) Transportation and Traffic | | | | |
| a, c | TRA-01 Project Driveway 1 shall have a minimum throat depth of 150 feet before any vehicular openings to the north. | Building Permit | Planning/ Engineering Department | |

| 17) Transportation and Traffic | | | | |
|---------------------------------------|--|-----------------|----------------------------------|--|
| Impact No. | Mitigation Measures | Timing | Agency or Department | City Verification (date and initials) |
| a, c | TRA-01 Project Driveway 1 shall have a minimum throat depth of 150 feet before any vehicular openings to the north. | Building Permit | Planning/ Engineering Department | |
| | TRA-02 The Project shall implement a walkway along its frontage to Sandpiper Avenue and complete the walkway along its frontage to G Street. Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer. | Building Permit | Planning/ Engineering Department | |
| a, c | TRA-03 The Project shall implement a Class II Bike Lane along its frontage to G Street. Based on the implementation progress of the project, the timing of this improvement shall be at the discretion of the City Engineer. | Building Permit | Planning/ Engineering Department | |
| a, c | TRA-04 The intersection of G Street and Project Driveway 1 shall be signalized with protective left-turn phasing in all directions. | Building Permit | Planning/ Engineering Department | |

| | | | | |
|-------------|---|-----------------|--|--|
| <i>a, c</i> | <p>TRA-05 The intersection of Sandpiper Avenue and Mercy Avenue shall be modified as an All-Way Stop with the following details:</p> <ul style="list-style-type: none"> ○ Stripe a westbound left-turn lane; ○ Modify the westbound left-through-right lane to a through-right lane; ○ Stripe a northbound left-turn; ○ Modify the northbound left-through-right lane to a through-right lane; and ○ Implement an all-way stop control. ○ Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer. | Building Permit | Planning/ Engineering Department | |
| <i>a, c</i> | <p>TRA-06 The intersection of G Street and Yosemite Avenue shall have a second southbound left-turn lane added, the traffic signal shall be modified to implement overlap phasing of the northbound right-turn with the westbound left-turn phase, and westbound to eastbound U-turns shall be prohibited. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.</p> | Building Permit | Planning/ Engineering Department | |

| | | | | |
|------|---|-----------------|--|--|
| a, c | TRA-07 The intersection of Paulson Road and Yosemite Avenue shall have an eastbound through-right lane with a receiving lane east of Paulson Road added. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer. | Building Permit | Planning/ Engineering Department | |
|------|---|-----------------|--|--|

Certificate of Completion:

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

Environmental Coordinator

Date



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.4.

Meeting Date: 2/3/2020

SUBJECT: Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of January 6, 2020

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 January 6, 2020.

ALTERNATIVES

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

ATTACHMENTS

1. Minutes of January 6, 2020



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, January 6, 2020

6:00 PM

A. CLOSED SESSION ROLL CALL

Present: 7 - Council Member Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Jill McLeod, Mayor Pro Tempore Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria

Absent: 0

B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:03 PM.

- B.1.** SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Steve Carrigan; Employee Organization: American Federation of State, County, and Municipal Employees (AFSCME) Council 57; Local 2703; International Association of Fire Fighters, Local 1479; Merced Association of City Employees (MACE). AUTHORITY: Government Code Section 54957.6
- B.2.** SUBJECT: PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: City Manager; Authority: Government Code Section 54957
- B.3.** SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: Mayor Mike Murphy; Unrepresented Employee: City Manager; AUTHORITY: Government Code Section 54957.6
- B.4.** SUBJECT: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; Englert, et. al. v. City of Merced; Case No. 1:18-CV-01239-LJO-EPG; AUTHORITY: Government Code Section 54956.9(d)(1)
- B.5.** SUBJECT: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; McKinnon, et. al. v. City of Merced; Case No. 1:18-CV-01124-LJO-SAB; AUTHORITY: Government Code Section 54956.9(d)(1)

Clerk's Note: Council adjourned from Closed Session at 6:01 PM.

C. CALL TO ORDER

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

C.1. Invocation - Lamar Henderson, All Dads Matter

The invocation was delivered by Lamar HENDERSON from All Dads Matter.

C.2. Pledge of Allegiance to the Flag

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

D. ROLL CALL

Present: 7 - Council Member Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Jill McLeod, Mayor Pro Tempore Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria

Absent: 0

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

E. REPORT OUT OF CLOSED SESSION

There was no report.

F. CEREMONIAL MATTERS

F.1. **SUBJECT:** Proclamation - Dr. Martin Luther King, Jr. - Day of Service

REPORT IN BRIEF

Mayor Murphy will present the proclamation.

Mayor MURPHY presented the Dr. Martin Luther King Jr. Day of Service Proclamation to Tamara COBB Chair Person of the Martin Luther King Committee.

F.2. **SUBJECT:** Proclamation - National Slavery and Human Trafficking Prevention Month

REPORT IN BRIEF

Received by a representative of the Valley Crisis Center.

Mayor MURPHY presented the National Slavery and Human Trafficking Prevention Month Proclamation to Liz TYLER from Valley Crisis Center.

G. WRITTEN PETITIONS AND COMMUNICATIONS

There were none.

H. ORAL COMMUNICATIONS

Diego MARTINEZ, Merced - invited the Council to the Grand Opening of the Golden Valley Health Center facility.

Monica VILLA, Merced - spoke on registering to vote and the homeless count.

I. CONSENT CALENDAR

Clerk's Note: No items were pulled.

Approval of the Consent Agenda

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

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

No: 0

Absent: 0

I.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.

- I.2. **SUBJECT:** Information-Only Contracts for the Month of December 2019

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$32,000 and of Public Works contracts under \$70,939.

This Consent Item was approved.

- I.3. **SUBJECT:** Information Only - Planning Commission Meeting Minutes of November 6, 2019

RECOMMENDATION

For information only.

This Consent Item was approved.

- I.4. **SUBJECT:** Information Only - Site Plan Review Committee Meeting Minutes of November 14, 2019

RECOMMENDATION

For information only.

This Consent Item was approved.

- I.5. **SUBJECT:** Information Only - Bicycle Advisory Commission Meeting Minutes of April 23 and October 22, 2019

RECOMMENDATION

For information only.

This Consent Item was approved.

- I.6. **SUBJECT:** Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of December 2, 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 December 2, 2019.

This Consent Item was approved.

I.7.

SUBJECT: Acceptance of a Petition to Annex into Community Facilities District (CFD) No. 2003-2 (Services) and Approval of a Deposit and Reimbursement Agreement with Stonefield Home, Inc. for the Stoneridge South Subdivision

REPORT IN BRIEF

Consider accepting the petition to annex into CFD No. 2003-2 (Services) from Stonefield Home, Inc. and approve a deposit and reimbursement agreement for the costs of annexing into the CFD for the Stoneridge South Subdivision generally located on the north side of Mission Avenue, east of G Street.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting the petition to annex from Stonefield Home, Inc. for annexation into Community Facilities District (CFD) No. 2003-2 (Services); and,

B. Approving the deposit and reimbursement agreement, increasing revenue account in the amount of \$15,000 and appropriating the same in Fund 150 to reimburse the City for the cost of Community Facilities District formation and related expenditures; and,

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

This Consent Item was approved.

I.8.

SUBJECT: Approval of a 5 Year Agreement for the City to Provide Video Production Services to the Merced County Association of Governments (MCAG) and Acceptance and Appropriation of \$450 Payment per Event

REPORT IN BRIEF

Considers entering into a 5 year agreement for the City to provide video production services to the Merced County Association of Governments and the acceptance of a \$450 payment per event.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the agreement with Merced County Association of Governments; and,

B. Authorizing any receipts of video production services from MCAG to be approved on a continuous basis for the term of this agreement, increasing revenue to account 672-0403-360-01-01 and appropriating the same to account 672-0403-512-29-00; and,

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

This Consent Item was approved.

I.9.

SUBJECT: Award of Bid and Approval of Construction Contract with Arthur & Orum Well Drilling, Inc. for Well No. 1B Pump Abandonment, Project No. 118044, in the Amount of \$39,950

REPORT IN BRIEF

Considers awarding a contract in the amount of \$39,950 to Arthur & Orum Well Drilling, Inc. to perform the Well 1B destruction at the Well No. 1 Pump Station Site on St. Lawrence Drive.

RECOMMENDATION

City Council - Adopt a motion awarding the bid for the Well No. 1B Abandonment, Project 118044, to Arthur & Orum Well Drilling, Inc., in the amount of \$39,950; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents and to approve change orders not to exceed 10% of the total contract.

This Consent Item was approved.

I.10.

SUBJECT: Approval of an Option to Purchase and Extension of the Enforceable Funding Commitment Agreement by and Between the City of Merced and Central Valley Coalition for Affordable Housing, Richman Group of California Development Company, and Merced CA Apartment, L.P. for Property Located at the Corner of Childs Avenue and B Street, 1137 B St., APN 035-010-071 in Support of 119 Units of Affordable and Permanent Supportive Multi-Family Housing

REPORT IN BRIEF

Considers approving an Option to Purchase Agreement with Merced

CA Apartments L.P., a Delaware limited Partnership, for the property located at the corner of Childs Avenue and B Street, 1137 B St., APN 035-010-071 in support of the development of 119 units of affordable and permanent-supportive multi-family housing.

RECOMMENDATION

City Council - Adopt a motion:

A. Approval of an option to purchase and extension of the enforceable funding commitment agreement by and between the City of Merced and Central Valley Coalition for Affordable Housing, Richman Group of California Development Company, and Merced CA Apartment, L.P. for Property Located at the Corner of Childs Avenue and B Street, 1137 B St., APN 035-010-071 in Support of 119 Units of Affordable and Permanent Supportive Multi-Family Housing; and

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

This Consent Item was approved.

I.11.

SUBJECT: Authorization to Waive the Competitive Bidding Requirements and Approval of an Amendment to the Agreement with Tyler Technologies for the Purchase of the Socrata Public Safety Analytics Software Subscription for Three Years in an Amount not to Exceed \$38,320

REPORT IN BRIEF

Approves an amendment to the City's existing agreement with Tyler Technologies for the purchase of the Socrata Public Safety Analytics Software Subscription for three years including initial installation, training, and ongoing maintenance.

RECOMMENDATION

City Council - Adopt a motion:

A. Waiving the competitive bidding requirements - purchases necessary for standardization on particular types of equipment;

B. Approving an 8th amendment to the original contract with Tyler Technologies for the purchase of a new software subscription (Socrata

Public Safety Analytics) to the existing public safety software package from Tyler Technologies; and,

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

This Consent Item was approved.

I.12.

SUBJECT: Approval of Street Closure of 8th Street Between K Street and Martin Luther King Jr. Way From West 8th Street to West Main Street as Requested by Tamara Cobb for the Annual Martin Luther King Jr. Community March and Celebration on January 20, 2020 From 10:00 A.M. until 12:00 P.M.

REPORT IN BRIEF

Considers allowing the use of City Streets and parking lot on January 20, 2020 for annual Martin Luther King Jr. parade.

RECOMMENDATION

City Council - Adopt a motion approving the street closure of 8th Street between "K" Street and Martin Luther King Jr. Way, Martin Luther King Jr. Way from West 8th Street to West Main Street and to cone off a portion of the City parking lot in the 300 block of W. 18th Street as requested by Tamera Cobb and the Martin Luther King Jr. Committee on Monday, January 20, 2020. The street closure will be between 10:00 a.m. until 12:00 p.m. subject to the conditions of the administrative staff report.

This Consent Item was approved.

I.13.

SUBJECT: Approval of an Agricultural Ground Lease Between the City of Merced and James Wolf for Use of Approximately Seventy-Eight (78.84) Acres in and Around the Merced Regional Airport with Rent Starting at \$17,640.00 per Year for a Term of Three (3) Years, with Annual Extensions by Mutual Agreement of Both Parties

REPORT IN BRIEF

Considers a lease agreement (3-year term with annual extensions by mutual agreement of the parties) with James Wolf for use of approximately seventy-eight (78.84) acres located in and around the Merced Regional Airport.

RECOMMENDATION

City Council - Adopt a motion approving a lease agreement between James Wolf and the City of Merced, and authorizing the City Manager or the Assistant City Manager to execute all necessary documents.

This Consent Item was approved.

I.14.

SUBJECT: Approval of a Parking Lease Agreement Between the Tioga Investors, LLC, and the City of Merced to Lease Up to 70 Parking Spaces in Parking Lot #4 and Parking Lot #5 for a Charge of \$35.00 Per Parking Space with an Initial Term of Five (5) Years with Three (3) - Five (5) Year Options to Extend

REPORT IN BRIEF

Considers a lease agreement for up to 70 parking spaces in parking lot #4 and parking lot #5, for The Tioga apartment tenants at \$35 for each parking space per month.

RECOMMENDATION:

City Council - Adopt a motion approving the parking lease agreement with the Tioga Investors, LLC and authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

I.15.

SUBJECT: Approval of a Second Amendment to the Lease Agreement Between the City of Merced and NCWPCS MPS 29-Year Tower Holding, LLC. Allowing up to Three Additional Renewal Options for Use of the Transmission Tower Located on Top of the Ralph Shannon Parade (1729 M Street) for a Minimum Base Rent of \$2,000.00 Per Month

REPORT IN BRIEF

Considers a second lease agreement amendment allows two additional five-year terms and up to one additional two-year term for the use of the transmission tower located on the top floor of the Ralph Shannon Parade.

RECOMMENDATION

City Council - Adopt a motion approving the second amendment to the lease agreement between the City of Merced and NCWPCS MPS 29-Year Tower Holding, LLC and authorizing the City Manager or the Assistant City Manager to execute all the necessary documents.

This Consent Item was approved.

J. PUBLIC HEARINGS

J.1. **SUBJECT:** Public Hearing and Potential Introduction of Ordinance Amending Section 8.22, "Fireworks" of the Merced Municipal Code to Limit the Time Period for the Sale/Discharge of Safe and Sane Fireworks

REPORT IN BRIEF

Considers amending section 8.22, "Fireworks" of the Merced Municipal Code to limit the time period for the Sales/Discharge of Safe and Sane Fireworks.

RECOMMENDATION

City Council - Adopt a motion introducing **Ordinance No. 2509**, an Ordinance of the City Council of the City of Merced, California amending section 8.22.090, "operating hour of fireworks stands," and section 8.22.100, "prohibitions," of the Merced Municipal Code.

Deputy Fire Chief Casey WILSON gave a slide show presentation on the potential introduction of Ordinance amending section 8.22, "Fireworks" of the Merced Municipal Code to limit the time period for the sale/discharge of safe and sane fireworks.

Mayor MURPHY opened the Public Hearing at 6:33 PM.

Mike SMITH, Merced - spoke on the time change and the use of illegal fireworks.

Mayor MURPHY and Mr. SMITH discussed sales after the 4th of July.

Corbett BROWNING, Merced - spoke on the proposed hours change.

Megan NEELY, Merced - spoke on the Ordinance requirements and the uniformity of the ordinance.

Mayor MURPHY closed the Public Hearing at 6:43 PM.

Council and Fire Chief Billy ALCORN discussed the hours change, the uniformity of hours of sales and discharge, and the use of illegal fireworks.

A motion was made by Council Member BLAKE and a second by Council Member MCLEOD to introduce Ordinance 2509.

Clerk's Note: Council continued their discussion after the motion was made.

Council Member MCLEOD, Beverly BOMERSBACH, and Mike SMITH discussed the effects of the hours change on sales.

Clerk's Note: Council Member BLAKE withdrew his motion.

Clerk's Note: There was no formal vote on this item.

J.2.

SUBJECT: Public Hearing to Consider Work and Expense Report for the Abatement Work Done for 636, 638 and 640 West Main Street (Abatement of Public Nuisance and Demolition of Building) and Assess a Charge Therefor Against the Property and Approving a Lien Against the Property on Assessed Roll as a Special Assessment

REPORT IN BRIEF

Requests the City Council to conduct a Public Hearing and consider adopting a resolution approving the work and expense report for the abatement work done for 636, 638 and 640 West Main Street, assessing a charge therefor against the property and approving a lien against the property.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2020-01**, a Resolution of the City Council of the City of Merced, California, confirming the cost assessment report relating to the nuisance abatement at 636, 638 and 640 (APN 031-134-003) West Main Street, Merced, California, assessing a charge therefor against the property, approving a lien against the property, directing the Tax Collector of the Merced County to collect the delinquent account, and directing the City Clerk to file a certified copy of this Resolution with the County Recorder to provide notice of the lien; and,

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

City Attorney Phaedra NORTON recused herself from this item due to her office's work on the project.

Clerk's Note: Lozano Smith Law Firm Attorney Mike LINDEN provided

legal counsel for this item.

Building Inspector Denise FRAZIER gave a slide show presentation on the work and expense report for the abatement work done for 636,638, and 640 West Main Street.

Mayor MURPHY opened the Public Hearing at 7:07 PM.

Corbett BROWNING, Legal Counsel for Phil Reiner, Merced - spoke on the cause of the damage to the building and disputed the cost assessment.

Legal Counsel Mike LINDEN clarified what is being considered by Council.

Council, Mr. BROWNING, and Ms. FRAZIER discussed the cost assessment and Council action.

Mayor MURPHY closed the Public Hearing at 7:28 PM.

Council discussed the cost assessment details.

A motion was made by Council Member Echevarria, seconded by Council Member McLeod, to approve Resolution 2020-01. The motion carried by the following vote:

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

No: 0

Absent: 0

K. REPORTS

K.1. SUBJECT: Presentation and Discussion Regarding the Railroad Quiet Zone Feasibility Study and Updated Costs for Implementation

REPORT IN BRIEF

Presentation for Quiet Zone Feasibility and updated costs for implementation.

RECOMMENDATION

City Council - Provide direction on next steps

City Engineer Michael BELTRAN gave a slide show presentation on the Railroad Quiet Zone Feasibility Study.

Council and Mr. BELTRAN discussed policies and procedures for High Speed Rail and ACE Train on quiet zones, and fencing.

Michael BELLUOMINI, Merced - spoke on improving quality of life, adding more crossing arms, and encouraged Council to continue working on the project.

Wayne EISENHART, Downtown Neighborhood Association Merced - stated this project as a high priority for the Downtown Neighborhood Association and encouraged Council to continue the working on the project.

Gary RUCKER, Merced - spoke on the excessive noise from the train horns.

Council, Mr. BELTRAN, and Assistant City Manager Stephanie DIETZ discussed adding safety features, liability, phasing intersections, funding sources, and potential crossing closures.

City Manager Steve CARRIGAN and Ms. DIETZ discussed bringing this item back with more information.

A motion was made by Council Member McLeod, seconded by Council Member Shelton, to direct staff to come back with more information to a future meeting. The motion carried by the following vote:

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

No: 1 - Council Member Echevarria

Absent: 0

L. BUSINESS

L.1. SUBJECT: Request to Add Item to Future Agenda

REPORT IN BRIEF

Provides members of the City Council to request that an item be placed on a future City Council agenda for initial consideration by the City Council.

Council Member MARTINEZ requested to add an item on a Homeless Action Plan.

L.2. SUBJECT: City Council Comments

REPORT IN BRIEF

Provides an opportunity for the Mayor and/or Council Member(s) to make a brief announcement on any activity(ies) she/he has attended on behalf of the City and to make a brief announcement on future community events and/or activities. The Brown Act does not allow discussion or action by the legislative body under this section.

Council Member MARTINEZ reported on attending a celebration at Adam GRAY'S office.

Council Member ECHEVARRIA reported on attending a toy giveaway event.

Council Member SHELTON reported on attending the Greater Merced Chamber of Commerce end of the year event, the Merced County Association of Governments end of the year gathering, a celebration at Adam GRAY'S office, and a meeting with Restore Merced.

Mayor MURPHY reported on attending the Bitwise announcement, the Regional Homeless group meeting, and the City Select Committee meeting. He also spoke on the upcoming State of the City event.

Clerk's Note: Council adjourned to Closed Session at 8:43 PM.

Clerk's Note: Council adjourned from Closed Session at 9:32 PM.

M. ADJOURNMENT

Clerk's Note: Council adjourned from the Regular Meeting at 9:32 PM.

A motion was made by Council Member Echevarria, seconded by Council Member McLeod, to adjourn from the Regular Meeting. The motion carried by the following vote:

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

No: 0

Absent: 0



ADMINISTRATIVE REPORT

Agenda Item I.5.

Meeting Date: 2/3/2020

Report Prepared by: Lance Eber, Crime Analyst, Police

SUBJECT: Authorization to Accept \$42,513 in Grant Funds from the 2019 Edward Byrne Justice Assistance Grant (JAG) Program for the Police Department to Purchase Safety Equipment and Supplies for Command Staff Vehicles, Consulting Costs for the Transition from the Uniform Crime Reporting Process to the National Incident Based Reporting System, Office Wellness Software Application, and for Cell Phone Service

REPORT IN BRIEF

Considers accepting grant funding from the US Department of Justice offered to the Merced Police Department in the amount of \$42,513 from the 2019 Edward Byrne Justice Assistance Grant (JAG) program for the purchase of additional conducted energy weapons (aka tasers), consulting costs for the transition from the Uniform Crime Reporting process to the National Incident Based Reporting System, and licensing costs for connecting the department body worn cameras to the computer aided dispatch system.

RECOMMENDATION

City Council - Adopt a motion:

- A. Accepting the grant and increasing the revenue budget in account 050-1025-321.17-00 by \$42,513, and appropriating the same to Fund 050; and,
- B. Approving the use of pooled cash until reimbursement is received from the grant; and,
- C. Authorizing the Police Department and the City Manager to execute the necessary documents.

ALTERNATIVES

- 1. Approve, as recommended by Staff; or,
- 2. Deny; or,
- 3. Refer to Staff for reconsideration of specific items.

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

As provided for in the 2019-20 Adopted Budget

DISCUSSION

The U.S. Department of Justice (DOJ) Edward Byrne Memorial Justice Assistance Grant (JAG) is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, form multijurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives. JAG funded projects may address crime through the provision of services directly to individual and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

The JAG program solicits applications from eligible tribes, and units of local government for local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, as well as research and evaluation activities that will improve or enhance the following areas:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)

JAG funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

The Merced Police Department submitted a timely application to receive grant funding for the 2019 JAG grant program. The City of Merced was eligible to request funding up to the amount of \$42,513. This amount is established by the DOJ. There is no match requirement on this grant award.

The MPD applied to spend \$11,204 on safety equipment supplies for the command staff vehicles. Items include: ammunition boxes, ammunition, ammunition magazines, jumper cables, and mobile ballistic shields.

JAG funds were requested to spend \$1,276 (3% of the award amount) for consulting on the mandatory change to the National Incident Based Reporting System (NIBRS) as mandated by the FBI. All applications were required to request 3% of their award for this purpose.

We requested \$10,033 to help pay for cell phone service for new cell phones added to our department.

Lastly, we requested \$20,000 to cover the cost of implementing a department wide wellness software application.

The grant requires that the application and subsequent award be made available in a public meeting and that the public has an opportunity to comment on the acceptance of the funding before it is accepted by the City. Notification was given to City Council over 30 days ago on the award notification.

History and Past Actions

In 2005, MPD set aside \$10,000 for graffiti abatement; \$10,000 for neighborhood watch; \$13,859 for additional hand held radios; and, \$14,000 for additional tasers.

In 2006, MPD set aside \$10,000 for graffiti abatement; \$10,000 for neighborhood watch; and \$13,354 for additional hand held radios.

In 2007, MPD set aside \$10,000 for graffiti abatement; \$10,000 for neighborhood watch; and, \$44,207 for equipment such as tasers, cameras, and SWAT equipment).

In 2008, MPD set aside \$10,000 for graffiti abatement; \$10,000 for neighborhood watch; and, \$876 for tasers.

In 2009, MPD set aside \$48,860 for part time employees; \$10,000 for neighborhood watch; and, \$10,000 for graffiti abatement.

In 2010, MPD set aside \$12,000 for SWAT equipment; \$40,000 for digital voice recorders; \$6,400 for high quality digital camera equipment; and, \$7,797 for Gang Resistance Education and Training (G.R.E.A.T.) program.

In 2011, MPD set aside \$59,163 to fund a part time Animal Control Officer.

In 2012, MPD set aside \$43,226 for part time personnel; and, \$5,200 for travel/registration costs associated with trainings.

In 2013, MPD set aside \$17,295 for part time personnel; and, \$28,000 for equipment/technology.

In 2014, MPD set aside \$30,086 for part time personnel; and, \$20,789 for equipment/technology.

In 2015, MPD set aside \$15,208 for part time personnel; and, \$30,840 for equipment/technology.

In 2016, MPD set aside \$26,557 for hiring personnel; and, \$25,092 to purchase new canines and the related training and equipment.

In 2017, MPD set aside \$19,650 for additional cell phones with service and covers; and, \$26,890 for crowd control supplies; and, \$1,740 for software licenses.

In 2018, MPD set aside \$13,000 for new tasers; and, mandatory 3% at \$1,626 for the mandatory transition from UCR to IBR as mandated by the FBI; and, \$30,000 for licensing costs to integrate body worn cameras with our computer aided dispatch system and our records management system.

Each year, the grant award was presented to City Council for acceptance and subsequently accepted by the City Council.

ATTACHMENTS

1. Copy of the Grant Agreement



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

September 24, 2019

Mr. Steven S. Carrigan
City of Merced
678 W 18th St.
Merced, CA 95340-3703

Dear Mr. Carrigan:

On behalf of Attorney General William P. Barr, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 19 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation in the amount of \$42,513 for City of Merced.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Linda Hill-Franklin, Program Manager at (202) 514-0712; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Sullivan", is positioned above the typed name.

Katharine T. Sullivan
Principal Deputy Assistant Attorney General

Enclosures



U.S. Department of Justice
Office of Justice Programs
Office of Civil Rights

Washington, DC 20531

September 24, 2019

Mr. Steven S. Carrigan
City of Merced
678 W 18th St.
Merced, CA 95340-3703

Dear Mr. Carrigan:

Congratulations on your recent award! The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, require recipients of federal financial assistance to give assurances that they will comply with those laws. In addition to those civil rights laws, many grant program statutes contain nondiscrimination provisions that require compliance with them as a condition of receiving federal financial assistance. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with OJP and other DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a non-discriminatory manner to their service population or have employment practices that meet equal-opportunity standards.



If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEO requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5). Please submit information about any adverse finding to the OCR at the above address.

We at the OCR are available to help you and your organization meet the civil rights requirements that are associated with OJP and other DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to let us know.

Sincerely,

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

| | | | | |
|--|--|---|--------------------------|--------------|
|  <p>U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance</p> | | Grant | | PAGE 1 OF 29 |
| 1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Merced 678 W 18th St. Merced, CA 95340-3703 | | 4. AWARD NUMBER: 2019-DJ-BX-0625 | | |
| | | 5. PROJECT PERIOD: FROM 10/01/2018 TO 09/30/2022 BUDGET PERIOD: FROM 10/01/2018 TO 09/30/2022 | | |
| | | 6. AWARD DATE 09/24/2019 | 7. ACTION Initial | |
| 2a. GRANTEE IRS/VENDOR NO. 946003711 | | 8. SUPPLEMENT NUMBER 00 | | |
| 2b. GRANTEE DUNS NO. 169211554 | | 9. PREVIOUS AWARD AMOUNT \$ 0 | | |
| 3. PROJECT TITLE FY 19 Local JAG Program | | 10. AMOUNT OF THIS AWARD \$ 42,513 | | |
| | | 11. TOTAL AWARD \$ 42,513 | | |
| 12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S). | | | | |
| 13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY19(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a). | | | | |
| 14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.738 - Edward Byrne Memorial Justice Assistance Grant Program | | | | |
| 15. METHOD OF PAYMENT GPRS | | | | |
| AGENCY APPROVAL | | GRANTEE ACCEPTANCE | | |
| 16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Katharine T. Sullivan Principal Deputy Assistant Attorney General | | 18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Steven S. Carrigan City Manager | | |
| 17. SIGNATURE OF APPROVING OFFICIAL  | | 19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL | | 19A. DATE |
| AGENCY USE ONLY | | | | |
| 20. ACCOUNTING CLASSIFICATION CODES FISCAL FUND BUD. DIV. YEAR CODE ACT. OFC. REG. SUB. POMS AMOUNT X B DJ 80 00 00 42513 | | 21. UDJUGT0855 | | |

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)



U.S. Department of Justice
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SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award. By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts all such assurances or certifications as if personally executed by the authorized recipient official.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The U.S. Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2019 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2019 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2019 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.



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SPECIAL CONDITIONS

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.



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7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



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SPECIAL CONDITIONS

9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or



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any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.



U.S. Department of Justice
Office of Justice Programs
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SPECIAL CONDITIONS

13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.



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14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



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19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



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24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2019)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2019, are set out at <https://ojp.gov/funding/Explore/FY19AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Fraud Detection Office (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



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27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.



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31. Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any subrecipient at any tier), throughout the period of performance, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 and 1644 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.



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32. No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. Throughout the period of performance, no State or local government entity, -agency, or -official may use funds under this award (including under any subaward, at any tier) to prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance" condition are incorporated by reference as though set forth here in full.



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1. If the recipient is a "State," a local government, or a "public" institution of higher education:
- A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."
- B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.
- C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance."
- D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward should the subrecipient have such credible evidence regarding an information-communication restriction.
2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.
3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" award condition.
4. Rules of Construction
- A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" condition.
- B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" condition are incorporated by reference as though set forth here in full.



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34. Authority to obligate award funds contingent on no use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; unallowable costs; notification

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "No use of funds to interfere ... 8 U.S.C. 1373 and 1644; ongoing compliance" award condition.

4. Rules of Construction. The "Rules of Construction" set out in the "Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; unallowable costs; notification" condition are incorporated by reference as though set forth herein in full.



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35. Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no public disclosure may be made of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3));

(2) the term "federal law enforcement information" means law enforcement sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation-- (1) through any database, (2) in connection with any law enforcement partnership or -task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

(3) the term "law enforcement sensitive information" means records or information compiled for any law enforcement purpose; and

(4) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any subrecipient (at any tier) that is a government entity.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



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36. No use of funds to interfere with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no funds under this award may be used to make any public disclosure of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction.

The "Rules of Construction" set out in the "Noninterference (with in the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information" award condition are incorporated by reference as though set forth here in full.



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37. Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- within the funded program or activity, no State or local government entity, -agency, or -official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

- (1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. 1101(a)(3)).
- (2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).
- (3) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that—
 - (a) is designed to prevent or to significantly delay or complicate, or
 - (b) has the effect of preventing or of significantly delaying or complicating.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



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38. No use of funds to interfere with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- no State or local government entity, agency, or official may use funds under this award to interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction.

The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.



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39. Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. Noninterference with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, -agency, or official (including a government-contracted correctional facility) may interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

- C. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.



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40. No use of funds to interfere with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. No use of funds to interfere with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- no State or local government entity, -agency, or -official (including a government-contacted correctional facility) may use funds under this award to interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contacted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction.

The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release" award condition are incorporated by reference as though set forth here in full.

41. Requirement to collect certain information from subrecipients

Except as provided in this condition, the recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed subrecipient responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All subrecipient responses must be collected and maintained by the recipient, consistent with document retention requirements, and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.



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42. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

43. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

44. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

45. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

46. Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.



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47. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

48. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

49. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

50. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

51. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.



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52. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

53. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

54. Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.



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55. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

a. New construction;

b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

56. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



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57. Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

58. Certification of body armor "mandatory wear" policies

If recipient uses funds under this award to purchase body armor, the recipient must submit a signed certification that law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

59. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

60. Body armor - impact on eligibility for other program funds

The recipient understands that the use of funds under this award for purchase of body armor may impact eligibility for funding under the Bulletproof Vest Partnership (BVP) program, a separate program operated by BJA, pursuant to the BVP statute at 34 USC 10531(c)(5).

61. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

62. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.



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63. Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

64. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2018

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2018), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

65. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

66. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at [https:// www.bja.gov/ Login.aspx](https://www.bja.gov/Login.aspx) to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at [https:// www.bja.gov/ profile.aspx](https://www.bja.gov/profile.aspx). Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at [https:// www.bja.gov/ SuccessStoryList.aspx](https://www.bja.gov/SuccessStoryList.aspx).



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67. Initial period of performance; requests for extension

The recipient understands that the initial period of performance for this award is two years. The recipient further understands that any requests for an extension of the period of performance for this award will be approved automatically for up to a total of two additional years, pursuant to 34 U.S.C. 10152(f) and in accordance with the program solicitation associated with this award.

Any request for an extension of the period of performance beyond a four-year award period will require approval, and the approval (if any) will be at the discretion of the Director of BJA.

68. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

69. Withholding of funds: DHS questions

The recipient may not obligate, expend or drawdown funds until the Office of Justice Programs has received and approved the required application attachment(s) described in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)," and has issued a Grant Adjustment Notice (GAN) releasing this special condition.



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Merced

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

Grant

PROJECT NUMBER

2019-DJ-BX-0625

PAGE 1 OF 1

This project is supported under FY19(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a).

1. STAFF CONTACT (Name & telephone number)

Linda Hill-Franklin
(202) 514-0712

2. PROJECT DIRECTOR (Name, address & telephone number)

Lance Eber
Crime Analyst
611 W. 22nd Street
Merced, CA 95340-3703
(209) 385-4701

3a. TITLE OF THE PROGRAM

BJA FY 19 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)

4. TITLE OF PROJECT

FY 19 Local JAG Program

5. NAME & ADDRESS OF GRANTEE

City of Merced
678 W 18th St.
Merced, CA 95340-3703

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2018 TO: 09/30/2022

8. BUDGET PERIOD

FROM: 10/01/2018 TO: 09/30/2022

9. AMOUNT OF AWARD

\$ 42,513

10. DATE OF AWARD

09/24/2019

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following program areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation) and 8) mental health programs and related law enforcement and corrections programs.

This JAG award will be used to support criminal justice initiatives that fall under one or more of the allowable program areas above. Funded programs or initiatives may include multijurisdictional drug and gang task forces, crime prevention and domestic violence programs, courts, corrections, treatment, justice information

sharing initiatives, or other programs aimed at reducing crime and/or enhancing public/officer safety.

NCA/NCF

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Edward Byrne Justice Assistance Grant Program FY 2019 Local Solicitation

Certifications and Assurances by the Chief Executive of the Applicant Government

On behalf of the applicant unit of local government named below, in support of that locality's application for an award under the FY 2019 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 34 U.S.C. § 10153(a), I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant unit of local government named below, and I have the authority to make the following representations on my own behalf as chief executive and on behalf of the applicant unit of local government. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant unit of local government.
2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.
3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the unit of local government (e.g., city council or county commission), or to an organization designated by that governing body, not less than 30 days before the date of this certification.
4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.
5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant unit of local government will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.
6. I have carefully reviewed 34 U.S.C. § 10153(a)(5), and, with respect to the programs to be funded by the award (if any), I hereby make the certification required by section 10153(a)(5), as to each of the items specified therein.

Signature of Chief Executive of the Applicant Unit of
Local Government

MIKE MURPHY

Printed Name of Chief Executive

CITY OF MERCED

Name of Applicant Unit of Local Government

Date of Certification

MAYOR

Title of Chief Executive

APPROVED AS TO FORM

Shirley A. nm



ADMINISTRATIVE REPORT

Agenda Item I.6.

Meeting Date: 2/3/2020

Report Prepared by: Melanie Karle, Accountant I, Finance

SUBJECT: Accept and File Community Facilities District (CFD) Nos. 2003-1 (Bellevue Ranch East), 2003-2 (Services), 2005-1 (Bellevue Ranch West), 2006-1 (Moraga of Merced) Annual Disclosure Reports For Fiscal Year 2018-2019

REPORT IN BRIEF

The Continuing Annual Disclosure Reports contain certain CFD information required to be filed annually by the City per Security and Exchange Commission (SEC) rule 15c2-12(b) and Government Code sections 50075-50077 and 53410-53412.

RECOMMENDATION

City Council - Adopt a motion accepting and filing the CFD Annual Disclosure Reports For Fiscal Year 2018-2019 for CFD Nos. 2003-1 (Bellevue Ranch East), 2003-2 (Services), 2005-1 (Bellevue Ranch West), 2006-1 (Moraga of Merced).

AUTHORITY

Governmental Code Sections 50075.1, 50075.3 and 50075.5 relating to special tax measures and Sections 53410, 53411 and 53412 relating to local bond issues. SEC Rule 15c2-12(b)(5).

CITY COUNCIL PRIORITIES

As provided for in the 2019-2020 Adopted Budget.

DISCUSSION

On January 5, 2004, Community Facilities District No. 2003-2 (Services) was formed to collect special taxes in certain improvement areas related to growth. The special taxes pay for costs including, but not limited to, public safety, landscape, storm drain, sidewalk, park and parkway maintenance.

On July 19, 2004, the City Council formed Community Facilities District No. 2003-1 (Bellevue Ranch East) to provide public infrastructure financing. The District issued \$12,745,000 in 2005 Special Tax Bonds on August 4, 2005. Due to favorable interest rates on bonds, the 2005 Special Tax Bonds were refunded and the District issued the 2016 Special Tax Refunding Bonds of \$8,985,000 on August 30, 2016.

On November 21, 2005, the City Council formed Community Facilities District No. 2005-1 (Bellevue Ranch West Improvement Area 1) to provide public infrastructure financing. The District issued

\$7,410,000 in 2006 Special Tax Bonds on July 27, 2006. Because of favorable interest rates on bonds, the 2006 Special Tax Bonds were refunded and the District issued the 2017 Special Tax Refunding Bonds of \$6,330,000 on December 19, 2017.

On July 3, 2006, City Council formed Community Facilities District No. 2006-1 (Moraga of Merced) to provide public infrastructure financing. The district Issued \$5,840,000 in 2006 Special Tax Bonds on December 14, 2006. Due to favorable interest rates on bonds, the 2006 Special Tax Bonds were refunded and the District issued the 2019 Special Tax Refunding Bonds of \$4,080,000 on December 10, 2019.

The Government Code Sections listed above require annual reports to be prepared and filed with an agency's governing board. Attached are reports that meet the requirement.

IMPACT ON CITY RESOURCES

No budget appropriation is required.

ATTACHMENTS

1. CFD No. 2003-2 (Services)
2. CFD No. 2003-1
3. CFD No. 2005-1
4. CFD No. 2006-1



GOODWIN CONSULTING GROUP

**City of Merced
Community Facilities District No. 2003-2
(Services)
Senate Bill 165 Reporting Requirements for
Fiscal Year 2018-19**

January 15, 2020

***Community Facilities District No. 2003-2
Senate Bill 165 Reporting Requirements
Fiscal Year 2018-19***

TABLE OF CONTENTS

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| I. Introduction | 1 |
| II. Senate Bill 165 Reporting Requirements | 2 |

Appendix A: CFD No. 2003-2 Balance Sheet as of June 30, 2019

I. INTRODUCTION

City of Merced Community Facilities District No. 2003-2 (Services)

The City of Merced Community Facilities District No. 2003-2 (the “CFD” or “CFD No. 2003-2”) is located in the City of Merced (the “City”), in Merced County, in the State of California, approximately 132 miles south of Sacramento. On January 5, 2004, the City passed Resolution No. 2004-3, forming CFD No. 2003-2. A successful landowner election was then held, authorizing the levy of the special tax. The special tax funds general services authorized under the Mello-Roos Act which include, but are not limited to:

- 1) Public safety services, including police and fire protection.
- 2) Landscaping, sidewalk, park, and parkway maintenance (including lighting).
- 3) Flood control services.
- 4) Miscellaneous administrative fees and expenses.

CFD No. 2003-2 currently is made up of 36 distinct improvement areas throughout the City. As additional new areas within the City apply for development approval, those development areas will annex to CFD No. 2003-2.

The Mello-Roos Community Facilities Act of 1982

The California State Legislature approved the Mello-Roos Community Facilities Act of 1982 that provides for the levy of a special tax within a defined geographic area, namely a community facilities district, if such a levy is approved by two-thirds of the qualified electors in the area. Community facilities districts can generate funding for a broad range of facilities and eligible services. These services include police protection services, fire protection and suppression services, library services, recreation program services, maintenance of roads, parks, parkways and open space, and flood and storm protection services. Special taxes can be allocated to property in any reasonable manner other than on an ad valorem basis.

II. SENATE BILL 165 REPORTING REQUIREMENTS

On September 18, 2000, former Governor Gray Davis approved Senate Bill 165 which enacted the “Local Agency Special Tax and Bond Accountability Act”. In approving the bill, the Legislature declared that local agencies need to demonstrate to the voters that special taxes and bond proceeds are being spent on the facilities and services for which they were intended. To further this objective, the Legislature added Section 50075.3 to the California Government Code setting forth annual reporting requirements relative to special taxes collected by a local public agency. The amount of special taxes collected and expended for the fiscal year 2018-19 special tax levy is set forth in the table on the following page:

Fiscal Year 2018-19 Revenues*

| | |
|---------------------------------|--------------------|
| Charges for Services | \$2,504,842 |
| Investment Earnings | \$130,031 |
| Total Revenues Collected | \$2,634,873 |

Fiscal Year 2018-19 Expenditures*

| | |
|---------------------------|--------------------|
| General Government | \$5,962 |
| Public Safety | \$1,305,309 |
| Public Works | \$708,828 |
| Parks | \$2,981 |
| Total Expenditures | \$2,023,080 |

| | |
|--|------------------|
| Revenue Over (Under) Expenditures | \$611,793 |
|--|------------------|

Other Financing Sources (Uses)*

| | |
|---|--------------------|
| Transfer In | \$217,554 |
| Transfer Out | (\$467,730) |
| Total Other Financing Sources (Uses) | (\$250,176) |

| | |
|-------------------------------|--------------------|
| Beginning Fund Balance | \$1,296,164 |
| Ending Fund Balance | \$1,657,781 |

| | |
|-----------------------------------|------------------|
| Net Change in Fund Balance | \$361,617 |
|-----------------------------------|------------------|

* Note: This is unaudited

APPENDIX A

***CFD No. 2003-2 Balance Sheet
as of June 30, 2019***

City of Merced
Balance Sheet
June 30, 2019

CFD Services

ASSETS

| | |
|--|---------------------|
| Cash, cash equivalents and investments | \$ 3,288,753 |
| Receivables: | |
| Interest Recievable | 11,108 |
| Due from other governments | 140,319 |
| Total assets | <u>\$ 3,440,180</u> |

LIABILITIES AND FUND BALANCE

| | |
|------------------------------------|---------------------|
| Liabilities: | |
| Accounts payable | \$ 28,921 |
| Other payables | 42,486 |
| Advances from other funds | 1,710,992 |
| Total liabilities | <u>\$ 1,782,399</u> |
| Fund Balance | 1,657,781 |
| Total liabilities and fund balance | <u>\$ 3,440,180</u> |



GOODWIN CONSULTING GROUP

**City of Merced
Community Facilities District No. 2003-1
(Bellevue Ranch East)
\$8,985,000 2016 Special Tax Refunding Bonds
Continuing Disclosure Annual Report for
Fiscal Year 2018-19
(per SEC Rule 15c2-12(b)(5))**

CUSIP Numbers

| | | | |
|-------------|------------|-----------|-----------|
| \$390,000 | 587626CM2* | \$485,000 | 587626CY6 |
| \$395,000 | 587626CN0* | \$495,000 | 587626CZ3 |
| \$405,000 | 587626CP5* | \$510,000 | 587626DA7 |
| \$415,000 | 587626CQ3 | \$525,000 | 587626DB5 |
| \$1,290,000 | 587626CT7 | \$535,000 | 587626DC3 |
| \$445,000 | 587626CU4 | \$550,000 | 587626DD1 |
| \$455,000 | 587626CV2 | \$565,000 | 587626DE9 |
| \$465,000 | 587626CW0 | \$585,000 | 587626DF6 |
| \$475,000 | 587626CX8 | | |

** Retired as of the date of this report*

January 25, 2020

***Continuing Disclosure Annual Report
for
City of Merced
Community Facilities District No. 2003-1
(Bellevue Ranch East)
\$8,985,000 2016 Special Tax Refunding Bonds
Fiscal Year 2018-19***

This Continuing Disclosure Annual Report (“Annual Report”) contains certain information required to be filed annually per SEC rule 15c2-12(b)(5) (the “Rule”) by the City of Merced (the “City”) Community Facilities District No. 2003-1 (Bellevue Ranch East) (the “CFD”). The Rule is applicable to the 2016 Special Tax Refunding Bonds (the “Series 2016 Bonds”) issued in the aggregate principal amount of \$8,985,000 by the CFD on August 30, 2016. The Rule requires that an issuer undertake in a written agreement or contract, for the benefit of holders of the securities issued, to file with national and state repositories the following:

- i. Certain financial information as presented in the Continuing Disclosure Agreement
- ii. Audited financial statements of the City
- iii. Notice of certain enumerated significant events
- iv. Notice of any failure to provide such annual financial information as agreed

In compliance with the Rule, the City signed the Continuing Disclosure Agreement on August 30, 2016, requiring the City to provide annually, or as they occur, the aforementioned enumerated documents or events. Per the Continuing Disclosure Agreement, the City is required to file an annual report with all national and State of California repositories which includes:

- a) The balance in the Reserve Fund held under the Fiscal Agent Agreement.
 - **As of November 30, 2019, the balance in the Reserve Fund was \$608,103. The Reserve Fund Requirement is \$604,463; therefore, pursuant to the Series 2016 Bonds covenants, the Reserve Fund is fully funded.**
- b) The principal amount of the Series 2016 Bonds outstanding and a current debt service schedule.
 - **As of the date of this report, \$7,795,000 of the Series 2016 Bonds remains outstanding.**
 - **See Appendix A for a current debt service schedule.**
- c) The amount of prepayments of the special tax, if any.
 - **As of the date of this report, there have been no prepayments of the special tax obligation.**

- d) The total assessed value of all parcels currently subject to the special tax within the CFD, showing the total assessed valuation for all land and the total assessed valuation for all improvements within the CFD and distinguishing between the assessed value of developed property and undeveloped property.

| | |
|---|----------------------|
| Total Assessed Value of all Land | \$50,717,725 |
| Total Assessed Value of all Improvements | \$196,286,902 |
| Total Assessed Value of Other Property | \$4,960 |
| Total Assessed Value of all Parcels | \$247,009,587 |
| | |
| Assessed Value of Developed Property | \$244,061,347 |
| Assessed Value of Undeveloped Property | \$2,948,240 |
| Total Assessed Value of all Parcels | \$247,009,587 |

- e) Identification of each parcel within the CFD for which any special tax payment is delinquent, together with the following information respecting each such parcel: (A) the amount delinquent; (B) the date of each delinquency; (C) in the event a foreclosure complaint has been filed respecting such delinquent parcel and such complaint has not yet been dismissed, the date on which the complaint was filed; and (D) in the event a foreclosure sale has occurred respecting such delinquent parcel, a summary of the results of such foreclosure sale.

→ **See Appendix B.**

- f) A land ownership summary listing property owners responsible for more than ten percent (10%) of the annual special tax levy, as shown on the Merced County Assessor's last equalized tax roll prior to the September next preceding the Annual Report date.

→ **No property owner is responsible for more than 10% of the fiscal year 2019-20 special tax levy.**

- g) Changes, if any to the rate and method of apportionment.

→ **No changes.**

- h) The amount of special taxes generated by the developed parcels and undeveloped parcels within the CFD.

| Property Classification | Number of Parcels | FY 2019-20 Special Tax Levy | Percentage of Total Special Tax Levy |
|--------------------------------|--------------------------|------------------------------------|---|
| Developed | 944 | \$619,445 | 100.00% |
| Undeveloped | 74 | \$0 | 0.00% |

- i) The audited financial statements of the City for the preceding fiscal year (or if not available at the time of filing, the unaudited financial statements). The audited financial statements shall be prepared in accordance with generally accepted accounting principles as prescribed for governmental units by the Governmental Accounting Standards Board; provided, however, that the City may from time to time, if required by federal or state legal requirements, modify the basis upon which its financial statements are prepared and provided.

→ **See Appendix C.**

- j) **Senate Bill 165 Reporting Requirements.** On September 18, 2000, former Governor Gray Davis signed Senate Bill 165 which enacted the Local Agency Special Tax and Bond Accountability Act. In approving the bill, the Legislature declared that local agencies need to demonstrate to voters that special taxes and bond proceeds are being spent on the facilities and services for which they were intended. To further this objective, the Legislature added Sections 50075.3 and 53411 to the California Government Code setting forth annual reporting requirements relative to special taxes collected and bonds issued by a public agency. The amount of special taxes collected and expended for the fiscal year 2018-19 special tax levy is set forth in the table on the following page.

Fiscal Year 2018-19 Revenues

| | |
|---------------------------------|------------------|
| Interest | \$19,062 |
| Assessments | \$618,015 |
| Total Revenues Collected | \$637,077 |

Fiscal Year 2018-19 Expenditures

| | |
|---------------------------|------------------|
| Bond Interest | \$201,463 |
| Bond Principal | \$395,000 |
| Fiscal Agent Fees | \$2,855 |
| Professional Services | \$7,507 |
| Support Services | \$44 |
| Administrative Services | \$1,401 |
| Direct Service Charges | \$1,549 |
| Total Expenditures | \$609,819 |

| | |
|--------------------------------|--------------------|
| Beginning Fund Balance* | \$1,149,902 |
| Ending Fund Balance* | \$1,177,160 |

| | |
|-----------------------------------|-----------------|
| Net Change in Fund Balance | \$27,258 |
|-----------------------------------|-----------------|

* Includes Reserve Requirement.

Note: This is unaudited financial information.

- k) **Reporting of Significant Events.** Pursuant to the provisions of the Continuing Disclosure Agreement, the CFD shall give, or cause to be given, notice of the occurrence of any of the following events:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Modifications to rights of Bond Owners, if material.
4. Bond calls, if material, and tender offers.
5. Defeasances
6. Rating changes.
7. Adverse tax opinions or events adversely affecting the tax-exempt status of the bonds.
8. Unscheduled draws on debt service reserves reflecting financial difficulties.
9. Unscheduled draws on credit enhancements reflecting financial difficulties.
10. Substitution of credit or liquidity providers, or their failure to perform.
11. Release, substitution, or sale of property securing repayment of the Bonds, if material.
12. Bankruptcy, insolvency, receivership, or similar proceedings of the City.

13. Appointment of a successor or additional fiscal agent or the change of name of a fiscal agent, if material.
14. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business.

As of November 1, 2019, no significant events have been reported by the CFD.

APPENDIX A

Debt Service Schedule

**City of Merced CFD No. 2003-1
(Bellevue Ranch East)
2016 Special Tax Refunding Bonds**

| Interest Payment Date | | Principal | Interest | Total Debt Service |
|--------------------------|------|-----------------------|-----------------------|------------------------|
| March | | | \$107,198.51 | |
| September | 2017 | \$390,000.00 | \$106,606.25 | \$603,804.76 |
| March | | | \$102,706.25 | |
| September | 2018 | \$395,000.00 | \$102,706.25 | \$600,412.50 |
| March | | | \$98,756.25 | |
| September | 2019 | \$405,000.00 | \$98,756.25 | \$602,512.50 |
| March | | | \$94,706.25 | |
| September | 2020 | \$415,000.00 | \$94,706.25 | \$604,412.50 |
| March | | | \$90,556.25 | |
| September | 2021 | \$420,000.00 | \$90,556.25 | \$601,112.50 |
| March | | | \$86,356.25 | |
| September | 2022 | \$430,000.00 | \$86,356.25 | \$602,712.50 |
| March | | | \$82,056.25 | |
| September | 2023 | \$440,000.00 | \$82,056.25 | \$604,112.50 |
| March | | | \$77,656.25 | |
| September | 2024 | \$445,000.00 | \$77,656.25 | \$600,312.50 |
| March | | | \$73,206.25 | |
| September | 2025 | \$455,000.00 | \$73,206.25 | \$601,412.50 |
| March | | | \$68,656.25 | |
| September | 2026 | \$465,000.00 | \$68,656.25 | \$602,312.50 |
| March | | | \$63,715.63 | |
| September | 2027 | \$475,000.00 | \$63,715.63 | \$602,431.26 |
| March | | | \$58,371.88 | |
| September | 2028 | \$485,000.00 | \$58,371.88 | \$601,743.76 |
| March | | | \$52,612.50 | |
| September | 2029 | \$495,000.00 | \$52,612.50 | \$600,225.00 |
| March | | | \$46,425.00 | |
| September | 2030 | \$510,000.00 | \$46,425.00 | \$602,850.00 |
| March | | | \$39,731.25 | |
| September | 2031 | \$525,000.00 | \$39,731.25 | \$604,462.50 |
| March | | | \$32,512.50 | |
| September | 2032 | \$535,000.00 | \$32,512.50 | \$600,025.00 |
| March | | | \$25,156.25 | |
| September | 2033 | \$550,000.00 | \$25,156.25 | \$600,312.50 |
| March | | | \$17,250.00 | |
| September | 2034 | \$565,000.00 | \$17,250.00 | \$599,500.00 |
| March | | | \$8,775.00 | |
| September | 2035 | \$585,000.00 | \$8,775.00 | \$602,550.00 |
| | | \$8,985,000.00 | \$2,452,217.28 | \$11,437,217.28 |

Goodwin Consulting Group, Inc.

APPENDIX B

*Special Tax Delinquencies
as of May 30, 2019*

City of Merced
Community Facilities District No. 2003-1 (Bellevue Ranch East)
Delinquencies as of May 30, 2019 /1

| Assessor's Parcel Number | Amount Delinquent | Date of Earliest Delinquency | Status of Foreclosure Proceedings | Action Taken | Date Complaint Filed |
|-----------------------------|----------------------|------------------------------------|---|----------------------------------|-------------------------|
| 224-140-031-000 | \$610.00 | 12/10/2016 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-140-031-000 | \$610.00 | 12/10/2017 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-102-002-000 | \$385.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-130-033-000 | \$385.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-140-007-000 | \$305.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-140-031-000 | \$610.00 | 12/10/2018 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-151-005-000 | \$305.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-151-009-000 | \$305.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-187-009-000 | \$345.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 224-203-001-000 | \$345.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |

Number of Parcels Delinquent:

8

Total Amount Delinquent:

\$4,205.00

/1 The fiscal year 2018-19 delinquency rate for CFD No. 2003-1 (Bellevue Ranch East) is at 0.48%. However, CFD No. 2003-1 is under the County of Merced Teeter Plan; therefore, the City of Merced received 100% of the CFD Special Tax levied at fiscal year end.

Source: Merced County Tax Collector's Office; Goodwin Consulting Group, Inc.

APPENDIX C

*Audited Financial Statements
for the Fiscal Year Ending June 30, 2019
(To Come Under Separate Cover)*

THE FOLLOWING FINANCIAL STATEMENT IS PROVIDED SOLELY TO COMPLY WITH THE SECURITIES AND EXCHANGE COMMISSION STAFF'S INTERPRETATION OF RULE 15c2-12. NO FUNDS OR ASSETS OF THE CITY OF MERCED (OTHER THAN THE SPECIAL TAXES LEVIED IN THE COMMUNITY FACILITIES DISTRICT) ARE REQUIRED TO BE USED TO PAY DEBT SERVICE ON THE BONDS AND THE CITY IS NOT OBLIGATED TO ADVANCE AVAILABLE FUNDS FROM THE CITY TREASURY TO COVER ANY DELINQUENCIES. INVESTORS SHOULD NOT RELY ON THE FINANCIAL CONDITION OF THE CITY IN EVALUATING WHETHER TO BUY, HOLD OR SELL THE BONDS.



GOODWIN CONSULTING GROUP

**Improvement Area No. 1 of the
City of Merced
Community Facilities District No. 2005-1
(Bellevue Ranch West)
\$6,330,000 2017 Special Tax Refunding Bonds
Continuing Disclosure Annual Report for
Fiscal Year 2018-19
(per SEC Rule 15c2-12(b)(5))**

CUSIP Numbers

| | | | |
|-----------|------------|-----------|-----------|
| \$355,000 | 587606AT1* | \$325,000 | 587606BD5 |
| \$260,000 | 587606AU8* | \$340,000 | 587606BE3 |
| \$270,000 | 587606AV6 | \$350,000 | 587606BF0 |
| \$275,000 | 587606AW4 | \$360,000 | 587606BG8 |
| \$285,000 | 587606AX2 | \$375,000 | 587606BH6 |
| \$285,000 | 587606AY0 | \$390,000 | 587606BJ2 |
| \$295,000 | 587606AZ7 | \$400,000 | 587606BK9 |
| \$300,000 | 587606BA1 | \$410,000 | 587606BL7 |
| \$310,000 | 587606BB9 | \$430,000 | 587606BM5 |
| \$315,000 | 587606BC7 | | |

** Retired as of the date of this report*

January 25, 2020

***Continuing Disclosure Annual Report
for
Improvement Area No. 1 of the
City of Merced
Community Facilities District No. 2005-1
(Bellevue Ranch West)
\$6,330,000 2017 Special Tax Refunding Bonds
Fiscal Year 2018-19***

This Continuing Disclosure Annual Report (“Annual Report”) contains certain information required to be filed annually per SEC rule 15c2-12(b)(5) (the “Rule”) by Improvement Area No. 1 (“Improvement Area No. 1”) of the City of Merced (the “City”) Community Facilities District No. 2005-1 (Bellevue Ranch West) (the “CFD”). The Rule is applicable to the 2017 Special Tax Refunding Bonds (the “Series 2017 Bonds”) issued in the aggregate principal amount of \$6,330,000 by the CFD on December 19, 2017. The Rule requires that an issuer undertake in a written agreement or contract, for the benefit of holders of the securities issued, to file with national and state repositories the following:

- i. Certain financial information as presented in the Continuing Disclosure Agreement
- ii. Audited financial statements of the City
- iii. Notice of certain enumerated significant events
- iv. Notice of any failure to provide such annual financial information as agreed

In compliance with the Rule, the City signed the Continuing Disclosure Agreement on December 19, 2017, requiring the City to provide annually, or as they occur, the aforementioned enumerated documents or events. Per the Continuing Disclosure Agreement, the City is required to file an annual report with all national and State of California repositories which includes:

- a) The balance in the Reserve Fund held under the Fiscal Agent Agreement.

→ **As of November 30, 2019, the balance in the Reserve Fund was \$453,662. The Reserve Fund Requirement is \$450,944; therefore, pursuant to the Series 2017 Bonds covenants, the Reserve Fund is fully funded.**

- b) The principal amount of the Series 2017 Bonds outstanding and a current debt service schedule.

→ **As of the date of this report, \$5,715,000 of the Series 2017 Bonds remains outstanding.**

→ **See Appendix A for a current debt service schedule.**

- c) The amount of prepayments of the special tax, if any.

→ **As of the date of this report, there have been no prepayments of the special tax obligation.**

- d) The total assessed value of all parcels currently subject to the special tax within Improvement Area No. 1, showing the total assessed valuation for all land and the total assessed valuation for all improvements within Improvement Area No. 1 and distinguishing between the assessed value of developed property and undeveloped property.

| | |
|---|---------------------|
| Total Assessed Value of all Land | \$24,152,632 |
| Total Assessed Value of all Improvements | \$54,858,823 |
| Total Assessed Value of Other Property | \$0 |
| Total Assessed Value of all Parcels | \$79,011,455 |
| | |
| Assessed Value of Developed Property | \$67,326,783 |
| Assessed Value of Undeveloped Property | \$11,684,672 |
| Total Assessed Value of all Parcels | \$79,011,455 |

- e) Identification of each parcel within Improvement Area No. 1 for which any special tax payment is delinquent, together with the following information respecting each such parcel: (A) the amount delinquent; (B) the date of each delinquency; (C) in the event a foreclosure complaint has been filed respecting such delinquent parcel and such complaint has not yet been dismissed, the date on which the complaint was filed; and (D) in the event a foreclosure sale has occurred respecting such delinquent parcel, a summary of the results of such foreclosure sale.

→ **As of May 31, 2019, there were no delinquent parcels in the CFD.**

- f) A land ownership summary listing property owners responsible for more than ten percent (10%) of the annual special tax levy, as shown on the Merced County Assessor's last equalized tax roll prior to the September next preceding the Annual Report date.

| Property Owner | FY 2019-20 Special Tax Levy | Percentage | Number of Parcels |
|-----------------------|--|-------------------|------------------------------|
| Forebay Farms, LLC | \$126,398 | 27.12% | 295 |
| K Hovnanian | \$91,742 | 19.68% | 167 |

- g) Changes, if any to the Rate and Method of Apportionment for Improvement Area No. 1.

→ **None.**

- h) The amount of special taxes generated by the developed parcels and undeveloped parcels within Improvement Area No. 1, their percentage of maximum special tax levy and their aggregate assessed value to lien ratios.

→ **See Appendix B.**

- i) The audited financial statements for the City for the preceding fiscal year (or if not available at the time of filing, the unaudited financial statements). The audited financial statements shall be prepared in accordance with generally accepted accounting principles as prescribed for governmental units by the Governmental Accounting Standards Board; provided, however, that the City may from time to time, if required by federal or state legal requirements, modify the basis upon which its financial statements are prepared and provided.

→ **See Appendix C.**

- j) **Senate Bill 165 Reporting Requirements.** On September 18, 2000, former Governor Gray Davis signed Senate Bill 165 which enacted the Local Agency Special Tax and Bond Accountability Act. In approving the bill, the Legislature declared that local agencies need to demonstrate to voters that special taxes and bond proceeds are being spent on the facilities and services for which they were intended. To further this objective, the Legislature added Sections 50075.3 and 53411 to the California Government Code setting forth annual reporting requirements relative to special taxes collected and bonds issued by a public agency. The amount of special taxes collected and expended for the fiscal year 2018-19 special tax levy is set forth in the table on the following page.

Fiscal Year 2018-19 Revenues

| | |
|---------------------------------|------------------|
| Interest | \$15,768 |
| Assessments | \$464,394 |
| Total Revenues Collected | \$480,162 |

Fiscal Year 2018-19 Expenditures

| | |
|---------------------------|------------------|
| Bond Interest | \$192,294 |
| Bond Principal | \$355,000 |
| Fiscal Agent Fees | \$3,240 |
| Professional Services | \$7,401 |
| Support Services | \$45 |
| Administrative Services | \$1,170 |
| Direct Service Charges | \$2,030 |
| Total Expenditures | \$561,180 |

| | |
|--------------------------------|--------------------|
| Beginning Fund Balance* | \$1,004,247 |
| Ending Fund Balance* | \$923,229 |

| | |
|-----------------------------------|-------------------|
| Net Change in Fund Balance | (\$81,018) |
|-----------------------------------|-------------------|

* Includes Reserve Requirement.

Note: This is unaudited financial information.

- k) **Reporting of Significant Events.** Pursuant to the provisions of the Continuing Disclosure Agreement, the CFD shall give, or cause to be given, notice of the occurrence of any of the following events, if material:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Modifications to rights of Bond Owners, if material.
4. Bond calls, if material, and tender offers.
5. Defeasances
6. Rating changes.
7. Adverse tax opinions or events adversely affecting the tax-exempt status of the bonds.
8. Unscheduled draws on debt service reserves reflecting financial difficulties.
9. Unscheduled draws on credit enhancements reflecting financial difficulties.
10. Substitution of credit or liquidity providers, or their failure to perform.
11. Release, substitution, or sale of property securing repayment of the Bonds, if material.
12. Bankruptcy, insolvency, receivership, or similar proceedings of the City.

13. Appointment of a successor or additional fiscal agent or the change of name of a fiscal agent, if material.
14. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business.

As of November 1, 2019, no significant events have been reported by the CFD.

APPENDIX A

Debt Service Schedule

IA #1 of Merced CFD No. 2005-1 (Bellevue Ranch West)
2017 Special Tax Refunding Bonds
Debt Service Schedule

| Interest Payment Date | Principal | Interest | Total Debt Service | Annual Debt Service |
|--------------------------------------|-----------------------|-----------------------|-----------------------------------|------------------------------------|
| 12/19/2017 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| 3/1/2018 | \$0.00 | \$39,168.75 | \$39,168.75 | \$0.00 |
| 9/1/2018 | \$355,000.00 | \$97,921.88 | \$452,921.88 | \$492,090.63 |
| 3/1/2019 | \$0.00 | \$94,371.88 | \$94,371.88 | \$0.00 |
| 9/1/2019 | \$260,000.00 | \$94,371.88 | \$354,371.88 | \$448,743.75 |
| 3/1/2020 | \$0.00 | \$90,471.88 | \$90,471.88 | \$0.00 |
| 9/1/2020 | \$270,000.00 | \$90,471.88 | \$360,471.88 | \$450,943.75 |
| 3/1/2021 | \$0.00 | \$86,421.88 | \$86,421.88 | \$0.00 |
| 9/1/2021 | \$275,000.00 | \$86,421.88 | \$361,421.88 | \$447,843.75 |
| 3/1/2022 | \$0.00 | \$82,296.88 | \$82,296.88 | \$0.00 |
| 9/1/2022 | \$285,000.00 | \$82,296.88 | \$367,296.88 | \$449,593.75 |
| 3/1/2023 | \$0.00 | \$79,446.88 | \$79,446.88 | \$0.00 |
| 9/1/2023 | \$285,000.00 | \$79,446.88 | \$364,446.88 | \$443,893.75 |
| 3/1/2024 | \$0.00 | \$76,240.63 | \$76,240.63 | \$0.00 |
| 9/1/2024 | \$295,000.00 | \$76,240.63 | \$371,240.63 | \$447,481.25 |
| 3/1/2025 | \$0.00 | \$72,553.13 | \$72,553.13 | \$0.00 |
| 9/1/2025 | \$300,000.00 | \$72,553.13 | \$372,553.13 | \$445,106.25 |
| 3/1/2026 | \$0.00 | \$68,428.13 | \$68,428.13 | \$0.00 |
| 9/1/2026 | \$310,000.00 | \$68,428.13 | \$378,428.13 | \$446,856.25 |
| 3/1/2027 | \$0.00 | \$64,165.63 | \$64,165.63 | \$0.00 |
| 9/1/2027 | \$315,000.00 | \$64,165.63 | \$379,165.63 | \$443,331.25 |
| 3/1/2028 | \$0.00 | \$59,440.63 | \$59,440.63 | \$0.00 |
| 9/1/2028 | \$325,000.00 | \$59,440.63 | \$384,440.63 | \$443,881.25 |
| 3/1/2029 | \$0.00 | \$54,362.50 | \$54,362.50 | \$0.00 |
| 9/1/2029 | \$340,000.00 | \$54,362.50 | \$394,362.50 | \$448,725.00 |
| 3/1/2030 | \$0.00 | \$48,837.50 | \$48,837.50 | \$0.00 |
| 9/1/2030 | \$350,000.00 | \$48,837.50 | \$398,837.50 | \$447,675.00 |
| 3/1/2031 | \$0.00 | \$42,931.25 | \$42,931.25 | \$0.00 |
| 9/1/2031 | \$360,000.00 | \$42,931.25 | \$402,931.25 | \$445,862.50 |
| 3/1/2032 | \$0.00 | \$36,631.25 | \$36,631.25 | \$0.00 |
| 9/1/2032 | \$375,000.00 | \$36,631.25 | \$411,631.25 | \$448,262.50 |
| 3/1/2033 | \$0.00 | \$30,068.75 | \$30,068.75 | \$0.00 |
| 9/1/2033 | \$390,000.00 | \$30,068.75 | \$420,068.75 | \$450,137.50 |
| 3/1/2034 | \$0.00 | \$23,000.00 | \$23,000.00 | \$0.00 |
| 9/1/2034 | \$400,000.00 | \$23,000.00 | \$423,000.00 | \$446,000.00 |
| 3/1/2035 | \$0.00 | \$15,750.00 | \$15,750.00 | \$0.00 |
| 9/1/2035 | \$410,000.00 | \$15,750.00 | \$425,750.00 | \$441,500.00 |
| 3/1/2036 | \$0.00 | \$8,062.50 | \$8,062.50 | \$0.00 |
| 9/1/2036 | \$430,000.00 | \$8,062.50 | \$438,062.50 | \$446,125.00 |
| Total | \$6,330,000.00 | \$2,204,053.13 | \$8,534,053.13 | \$8,534,053.13 |

Goodwin Consulting Group, Inc.

APPENDIX B

Value-to-Lien Ratios of Developed and Undeveloped Property

**Improvement Area No. 1 of the
City of Merced
Community Facilities District No. 2005-1
(Bellevue Ranch West)**

Value-to-Lien Ratios of Developed and Undeveloped Property

| Classification | Number of Parcels | FY 2019-20 Assessed Value | FY 2019-20 Total Assigned Special Tax | FY 2019-20 Actual Special Tax | Percent of FY 2019-20 Actual Special Tax | Bonds(1) | Average Value-to- Lien |
|-----------------------|------------------------------|--------------------------------------|--|--|---|-----------------|---------------------------------------|
| Developed | 271 | \$67,326,783 | \$221,061 | \$221,061 | 47.4% | \$2,710,182 | 24.8 |
| Undeveloped | 441 | \$11,684,672 | \$435,239 | \$245,093 | 52.6% | \$3,004,818 | 3.9 |
| Total | 712 | \$79,011,455 | \$656,300 | \$466,154 | 100.0% | \$5,715,000 | 13.8 |

(1) Allocated based on the actual tax levy for fiscal year 2019-20.

Sources: Merced County Assessor; Goodwin Consulting Group, Inc.

APPENDIX C

*Audited Financial Statements
for the Fiscal Year Ending June 30, 2019
(To Come Under Separate Cover)*

THE FOLLOWING FINANCIAL STATEMENT IS PROVIDED SOLELY TO COMPLY WITH THE SECURITIES AND EXCHANGE COMMISSION STAFF'S INTERPRETATION OF RULE 15c2-12. NO FUNDS OR ASSETS OF THE CITY OF MERCED (OTHER THAN THE SPECIAL TAXES LEVIED IN IMPROVEMENT AREA NO. 1 THE COMMUNITY FACILITIES DISTRICT) ARE REQUIRED TO BE USED TO PAY DEBT SERVICE ON THE BONDS AND THE CITY IS NOT OBLIGATED TO ADVANCE AVAILABLE FUNDS FROM THE CITY TREASURY TO COVER ANY DELINQUENCIES. INVESTORS SHOULD NOT RELY ON THE FINANCIAL CONDITION OF THE CITY IN EVALUATING WHETHER TO BUY, HOLD OR SELL THE BONDS.



GOODWIN CONSULTING GROUP

**City of Merced
Community Facilities District No. 2006-1
(Moraga of Merced)
\$4,080,000 2019 Special Tax Refunding Bonds
Continuing Disclosure Annual Report for
Fiscal Year 2018-19
(per SEC Rule 15c2-12(b)(5))**

CUSIP Numbers

| | | | |
|-----------|-----------|-----------|-----------|
| \$275,000 | 587626DG4 | \$215,000 | 587626DR0 |
| \$215,000 | 587626DH2 | \$230,000 | 587626DS8 |
| \$220,000 | 587626DJ8 | \$245,000 | 587626DT6 |
| \$225,000 | 587626DK5 | \$245,000 | 587626DU3 |
| \$230,000 | 587626DL3 | \$255,000 | 587626DV1 |
| \$230,000 | 587626DM1 | \$275,000 | 587626DW9 |
| \$235,000 | 587626DN9 | \$275,000 | 587626DX7 |
| \$215,000 | 587626DP4 | \$275,000 | 587626DY5 |
| \$220,000 | 587626DQ2 | | |

** Retired as of the date of this report*

January 25, 2020

***Continuing Disclosure Annual Report
for
City of Merced
Community Facilities District No. 2006-1
(Moraga of Merced)
\$4,080,000 2019 Special Tax Refunding Bonds
Fiscal Year 2018-19***

This Continuing Disclosure Annual Report (“Annual Report”) contains certain information required to be filed annually per SEC rule 15c2-12(b)(5) (the “Rule”) by the City of Merced (the “City”) Community Facilities District No. 2006-1 (Moraga of Merced) (the “CFD”). The Rule is applicable to the 2019 Special Tax Refunding Bonds (the “Series 2019 Bonds”) issued in the aggregate principal amount of \$4,080,000 by the CFD on December 10, 2019. The Rule requires that an issuer undertake in a written agreement or contract, for the benefit of holders of the securities issued, to file with national and state repositories the following:

- i. Certain financial information as presented in the Continuing Disclosure Agreement
- ii. Audited financial statements of the City
- iii. Notice of certain enumerated significant events
- iv. Notice of any failure to provide such annual financial information as agreed

In compliance with the Rule, the City signed the Continuing Disclosure Agreement on December 1, 2019, requiring the City to provide annually, or as they occur, the aforementioned enumerated documents or events. Per the Continuing Disclosure Agreement, the City is required to file an annual report with the MSRB which includes:

- a) The balance in the Reserve Fund held under the Fiscal Agent Agreement.
 - **As of December 10, 2019, the balance in the Reserve Fund was \$358,207. The Reserve Fund Requirement is \$358,207; therefore, pursuant to the Series 2019 Bonds covenants, the Reserve Fund is fully funded.**
- b) The principal amount of the Series 2019 Bonds outstanding and a current debt service schedule.
 - **As of the date of this report, \$4,080,000 of the Series 2019 Bonds remains outstanding.**
 - **See Appendix A for a current debt service schedule.**

- c) The amount of prepayments of the special tax, if any.

→ **As of the date of this report, there have been no prepayments of the special tax obligation.**

- d) The total assessed value of all parcels currently subject to the special tax within the CFD, showing the total assessed valuation for all land and the total assessed valuation for all improvements within the CFD and distinguishing between the assessed value of developed property and undeveloped property.

| | |
|---|---------------------|
| Total Assessed Value of all Land | \$11,943,995 |
| Total Assessed Value of all Improvements | \$24,856,163 |
| Total Assessed Value of Other Property | \$356,830 |
| Total Assessed Value of all Parcels | \$37,156,988 |
| | |
| Assessed Value of Developed Property | \$32,350,828 |
| Assessed Value of Undeveloped Property | \$4,806,160 |
| Total Assessed Value of all Parcels | \$37,156,988 |

- e) Identification of each parcel within the CFD for which any special tax payment is delinquent, together with the following information respecting each such parcel: (A) the amount delinquent; (B) the date of each delinquency; (C) in the event a foreclosure complaint has been filed respecting such delinquent parcel and such complaint has not yet been dismissed, the date on which the complaint was filed; and (D) in the event a foreclosure sale has occurred respecting such delinquent parcel, a summary of the results of such foreclosure sale.

→ **See Appendix B.**

- f) A land ownership summary listing property owners responsible for more than ten percent (10%) of the annual special tax levy, as shown on the Merced County Assessor's last equalized tax roll prior to the September next preceding the Annual Report date.

| Property Owner | FY 2019-20 Special Tax Levy | Percentage | Number of Parcels |
|---------------------------------|--|-------------------|------------------------------|
| Lennar Homes of California Inc. | \$277,094 | 73.84% | 181 |

- g) Changes, if any to the Rate and Method of Apportionment for the CFD.

→ **None.**

- h) The amount of special taxes generated by the developed parcels and undeveloped parcels within the CFD, their percentage of maximum special tax levy and their aggregate assessed value to lien ratios.

→ **See Appendix C.**

- i) The audited financial statements for the City for the preceding fiscal year (or if not available at the time of filing, the unaudited financial statements). The audited financial statements shall be prepared in accordance with generally accepted accounting principles as prescribed for governmental units by the Governmental Accounting Standards Board; provided, however, that the City may from time to time, if required by federal or state legal requirements, modify the basis upon which its financial statements are prepared and provided.

→ **See Appendix D.**

- j) **Senate Bill 165 Reporting Requirements.** On September 18, 2000, former Governor Gray Davis signed Senate Bill 165 which enacted the Local Agency Special Tax and Bond Accountability Act. In approving the bill, the Legislature declared that local agencies need to demonstrate to voters that special taxes and bond proceeds are being spent on the facilities and services for which they were intended. To further this objective, the Legislature added Sections 50075.3 and 53411 to the California Government Code setting forth annual reporting requirements relative to special taxes collected and bonds issued by a public agency. The amount of special taxes collected and expended for the fiscal year 2018-19 special tax levy is set forth in the table on the following page.

Fiscal Year 2018-19 Revenues

| | |
|---------------------------------|------------------|
| Interest | \$3,117 |
| Assessments | \$352,936 |
| Total Revenues Collected | \$356,053 |

Fiscal Year 2018-19 Expenditures

| | |
|---------------------------|------------------|
| Bond Interest | \$202,702 |
| Bond Principal | \$155,000 |
| Fiscal Agent Fees | \$2,100 |
| Professional Services | \$7,253 |
| Support Services | \$36 |
| Administrative Services | \$799 |
| Direct Service Charges | \$630 |
| Total Expenditures | \$368,520 |

| | |
|--------------------------------|------------------|
| Beginning Fund Balance* | \$680,705 |
| Ending Fund Balance* | \$668,238 |

| | |
|-----------------------------------|-------------------|
| Net Change in Fund Balance | (\$12,467) |
|-----------------------------------|-------------------|

* Includes Reserve Requirement.

Note: This is unaudited financial information.

- k) **Reporting of Significant Events.** Pursuant to the provisions of the Continuing Disclosure Agreement, the CFD shall give, or cause to be given, notice of the occurrence of any of the following events, if material:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Modifications to rights of Bond Owners, if material.
4. Bond calls, if material, and tender offers.
5. Defeasances
6. Rating changes.
7. Adverse tax opinions or events adversely affecting the tax-exempt status of the bonds.
8. Unscheduled draws on debt service reserves reflecting financial difficulties.
9. Unscheduled draws on credit enhancements reflecting financial difficulties.
10. Substitution of credit or liquidity providers, or their failure to perform.
11. Release, substitution, or sale of property securing repayment of the Bonds, if material.
12. Bankruptcy, insolvency, receivership, or similar proceedings of the City.

13. Appointment of a successor or additional fiscal agent or the change of name of a fiscal agent, if material.
14. The consummation of a merger, consolidation, or acquisition involving the CFD or the sale of all or substantially all of the assets of the CFD other than in the ordinary course of business.
15. Incurrence of a Financial Obligation of an Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of an Obligated Person, any of which affect security holders, if material.
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of an Obligated Person, any of which reflect financial difficulties.

As of November 1, 2019, no significant events have been reported by the CFD.

APPENDIX A

Debt Service Schedule

CFD No. 2006-1 (Moraga)
Special Tax Refunding Bonds, Series 2019
Debt Service Schedule
(Original DS Schedule)

| Payment No. | Interest Payment Date | Principal | Interest | Total Debt Service | Annual Debt Service |
|------------------------|--------------------------------------|-----------------------|-----------------------|-----------------------------------|------------------------------------|
| 0 | 12/10/2019 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| 1 | 3/1/2020 | \$0.00 | \$25,822.97 | \$25,822.97 | \$0.00 |
| 2 | 9/1/2020 | \$275,000.00 | \$57,384.38 | \$332,384.38 | \$358,207.35 |
| 3 | 3/1/2021 | \$0.00 | \$54,634.38 | \$54,634.38 | \$0.00 |
| 4 | 9/1/2021 | \$215,000.00 | \$54,634.38 | \$269,634.38 | \$324,268.76 |
| 5 | 3/1/2022 | \$0.00 | \$51,409.38 | \$51,409.38 | \$0.00 |
| 6 | 9/1/2022 | \$220,000.00 | \$51,409.38 | \$271,409.38 | \$322,818.76 |
| 7 | 3/1/2023 | \$0.00 | \$49,209.38 | \$49,209.38 | \$0.00 |
| 8 | 9/1/2023 | \$225,000.00 | \$49,209.38 | \$274,209.38 | \$323,418.76 |
| 9 | 3/1/2024 | \$0.00 | \$46,959.38 | \$46,959.38 | \$0.00 |
| 10 | 9/1/2024 | \$230,000.00 | \$46,959.38 | \$276,959.38 | \$323,918.76 |
| 11 | 3/1/2025 | \$0.00 | \$44,659.38 | \$44,659.38 | \$0.00 |
| 12 | 9/1/2025 | \$230,000.00 | \$44,659.38 | \$274,659.38 | \$319,318.76 |
| 13 | 3/1/2026 | \$0.00 | \$42,359.38 | \$42,359.38 | \$0.00 |
| 14 | 9/1/2026 | \$235,000.00 | \$42,359.38 | \$277,359.38 | \$319,718.76 |
| 15 | 3/1/2027 | \$0.00 | \$40,009.38 | \$40,009.38 | \$0.00 |
| 16 | 9/1/2027 | \$215,000.00 | \$40,009.38 | \$255,009.38 | \$295,018.76 |
| 17 | 3/1/2028 | \$0.00 | \$37,859.38 | \$37,859.38 | \$0.00 |
| 18 | 9/1/2028 | \$220,000.00 | \$37,859.38 | \$257,859.38 | \$295,718.76 |
| 19 | 3/1/2029 | \$0.00 | \$35,659.38 | \$35,659.38 | \$0.00 |
| 20 | 9/1/2029 | \$215,000.00 | \$35,659.38 | \$250,659.38 | \$286,318.76 |
| 21 | 3/1/2030 | \$0.00 | \$31,359.38 | \$31,359.38 | \$0.00 |
| 22 | 9/1/2030 | \$230,000.00 | \$31,359.38 | \$261,359.38 | \$292,718.76 |
| 23 | 3/1/2031 | \$0.00 | \$26,759.38 | \$26,759.38 | \$0.00 |
| 24 | 9/1/2031 | \$245,000.00 | \$26,759.38 | \$271,759.38 | \$298,518.76 |
| 25 | 3/1/2032 | \$0.00 | \$21,859.38 | \$21,859.38 | \$0.00 |
| 26 | 9/1/2032 | \$245,000.00 | \$21,859.38 | \$266,859.38 | \$288,718.76 |
| 27 | 3/1/2033 | \$0.00 | \$16,959.38 | \$16,959.38 | \$0.00 |
| 28 | 9/1/2033 | \$255,000.00 | \$16,959.38 | \$271,959.38 | \$288,918.76 |
| 29 | 3/1/2034 | \$0.00 | \$11,859.38 | \$11,859.38 | \$0.00 |
| 30 | 9/1/2034 | \$275,000.00 | \$11,859.38 | \$286,859.38 | \$298,718.76 |
| 31 | 3/1/2035 | \$0.00 | \$8,078.13 | \$8,078.13 | \$0.00 |
| 32 | 9/1/2035 | \$275,000.00 | \$8,078.13 | \$283,078.13 | \$291,156.26 |
| 33 | 3/1/2036 | \$0.00 | \$3,953.13 | \$3,953.13 | \$0.00 |
| 34 | 9/1/2036 | \$275,000.00 | \$3,953.13 | \$278,953.13 | \$282,906.26 |
| Total | | \$4,080,000.00 | \$1,130,382.51 | \$5,210,382.51 | \$5,210,382.51 |

APPENDIX B

*Special Tax Delinquencies
as of May 30, 2019*

City of Merced
Community Facilities District No. 2006-1 (Moraga of Merced)
Delinquencies as of May 30, 2019 /1

| Assessor's Parcel Number | Amount Delinquent | Date of Earliest Delinquency | Status of Foreclosure Proceedings | Action Taken | Date Complaint Filed |
|-----------------------------|----------------------|------------------------------------|---|----------------------------------|-------------------------|
| 008-432-025-000 | \$574.00 | 4/10/2018 | None | Reminder Letter Mailed 6/20/2019 | N/A |
| 008-421-011-000 | \$440.00 | 4/10/2019 | None | Reminder Letter Mailed 6/20/2019 | N/A |

| | |
|--------------------------------------|-------------------|
| Number of Parcels Delinquent: | 2 |
| Total Amount Delinquent: | \$1,014.00 |

/1 The fiscal year 2018-19 delinquency rate for CFD No. 2006-1 (Moraga of Merced) is at 0.12%. However, CFD No. 2006-1 is under the County of Merced Teeter Plan; therefore, the City of Merced received 100% of the CFD Special Tax levied at fiscal year end.

Source: Merced County Tax Collector's Office; Goodwin Consulting Group, Inc.

APPENDIX C

Value-to-Lien Ratios of Developed and Undeveloped Property

City of Merced
Community Facilities District No. 2006-1
(Moraga of Merced)

Value-to-Lien Ratios of Developed and Undeveloped Property

| Classification | Number of Parcels | FY 2019-20 Assessed Value | FY 2019-20 Total Assigned Special Tax | FY 2019-20 Actual Special Tax | Percent of FY 2019-20 Actual Special Tax | Bonds(1) | Average Value-to- Lien |
|-----------------------|------------------------------|--------------------------------------|--|--|---|-----------------|---------------------------------------|
| Developed | 201 | \$32,350,828 | \$185,490 | \$185,490 | 49.4% | \$2,016,635 | 16.0 |
| Undeveloped | 87 | \$4,806,160 | \$369,801 | \$189,788 | 50.6% | \$2,063,365 | 2.3 |
| Total | 288 | \$37,156,988 | \$555,291 | \$375,278 | 100.0% | \$4,080,000 | 9.1 |

(1) Allocated based on the actual tax levy for fiscal year 2019-20.

Sources: Merced County Assessor; Goodwin Consulting Group, Inc.

APPENDIX D

*Audited Financial Statements
for the Fiscal Year Ending June 30, 2019
(To Come Under Separate Cover)*

THE FOLLOWING FINANCIAL STATEMENT IS PROVIDED SOLELY TO COMPLY WITH THE SECURITIES AND EXCHANGE COMMISSION STAFF'S INTERPRETATION OF RULE 15c2-12. NO FUNDS OR ASSETS OF THE CITY OF MERCED (OTHER THAN THE SPECIAL TAXES LEVIED IN THE COMMUNITY FACILITIES DISTRICT) ARE REQUIRED TO BE USED TO PAY DEBT SERVICE ON THE BONDS AND THE CITY IS NOT OBLIGATED TO ADVANCE AVAILABLE FUNDS FROM THE CITY TREASURY TO COVER ANY DELINQUENCIES. INVESTORS SHOULD NOT RELY ON THE FINANCIAL CONDITION OF THE CITY IN EVALUATING WHETHER TO BUY, HOLD OR SELL THE BONDS.



ADMINISTRATIVE REPORT

Agenda Item I.7.

Meeting Date: 2/3/2020

Report Prepared by: Stephani Davis, Development Services Tech II; Planning Department

SUBJECT: Approval of Street Closure Request #19-23 by Velo Promo, LLC for the 31st Original Merced Criterium Bicycle Race on February 23, 2020, from 6:00 a.m. to 5:00 p.m. for the Area of West 18th Street to West 21st Street Between M and N Streets

REPORT IN BRIEF

Considers approving a request for use of City streets for the purpose of a bicycle race on Sunday, February 23, 2020, from 6:00 a.m. to 5:00 p.m. The road closure area is from West 18th Street between M and N Streets, West 19th Street between M and N Streets, West 20th Street between M and N Streets, and West 21st Street between M and N Streets (including the Courthouse loop).

RECOMMENDATION

City Council - Adopt a motion approving the request by Velo Promo, LLC, to close West 18th Street between M and N Streets, West 19th Street between M and N Streets, West 20th Street between M and N Streets, and West 21st Street between M and N Streets (including Courthouse loop) on Sunday, February 23, 2020, from 6:00 a.m. to 5:00 p.m., subject to the conditions listed in the body of this report.

ALTERNATIVES

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

AUTHORITY

City of Merced Charter Section 200; California Vehicle Code (CVC) Sections 21100(a) and 21101(e), the latter as follows:

“21101. Local authorities, for those highways under their jurisdiction, may adopt rules and regulations by ordinance or resolution on the following matters:

(e) Temporarily closing a portion of any street for celebrations, parades, local special events, and other purposes when, in the opinion of local authorities having jurisdiction or a public officer or employee that the local authority designates by resolution, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.”

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

Event Background

This race was first held in 1987 as part of a race series for the U.S. National Team, then based in the Fresno region, and has remained under the direction of the same race promoter, Velo Promo (Attachment 3). It was held in Merced, every year, from 1987 to 2016. No race was held in 2017 or 2018; the event was reinstated in 2019 and is continuing this year.

Sunday's racing will be criterium-style, a popular type of road racing that consists of a series of multi-lap races around downtown streets, usually in loops of less than a mile in length. Separate races for different age and ability categories will be held throughout the day, rain or shine.

The Merced Criterium follows the day after Velo Promo's annual Snelling Road Race, a circuit road race event that uses Snelling's Henderson Park and rural Merced County roads near it (under separate permit with the County). These two races have established an important place in our area's economy, bringing vital tax dollars to the Merced area, as participants often patronize Merced's hotels and restaurants. They are popular and well-attended by professional and amateur racing cyclists in the Northern California/Nevada Racing Association and, being an early-spring race weekend, are used to kick off the ensuing race season.

Street Closure Details

The course for the day's racing activities is a clockwise loop of streets as follows: the intersection of M Street and W. 19th Street (start/finish), following down West 18th Street, to N Street, following behind the Merced County Courthouse Museum ("Courthouse Loop"), down West 21st Street, and back to M Street.

Street sections within the race loop will be unavailable to through traffic on race day, except for emergency vehicles. The race sponsor will obtain separate approval from Merced County to use the areas through and in Courthouse Park that are County-owned property.

Initial set-up for the event will begin at approximately 6:00 a.m. on Sunday, February 23, 2020, with full street closure by 7:00 a.m. Racing will begin at 8:00 a.m. and end by approximately 3:30 p.m., with all streets reopening thereafter (by 5:00 p.m.).

The announcer/referee stand will be located on the west side of the intersection of W. 19th and N Streets; the rider registration and first aid station will be located at the northwest corner of M and W. 19th Streets. Portable restrooms will be provided by the promotor for the racers, and will likely be placed along the curb line on the southeast corner of N and W. 19th Streets; the area along the east side of N Street will be occupied for the race, southbound traffic will have access along N Street. Additionally, there will be a designated access point at the intersection of W. 18th and M Streets for emergency vehicle access, although the course can be accessed from other streets (Condition #8).

The applicant has indicated that there are no additional activities planned with this event, such as food, vendor, or game booths. If these are added, each vendor shall be properly licensed and permitted with the appropriate agencies, and special events insurance will be required of the applicant. The race itself is insured by USA Cycling, Inc., the governing body for sanctioned cycling events in the United States.

At least seventy-two hours (three days) prior to the street closures, the event organizers are required to notify nearby businesses and residences within one half-mile of the affected streets (Condition #5). To ensure this is done, event organizers are required to provide staff with confirmation that this notification was given, and staff has prepared a standard form that the event sponsor shall complete, photocopy, and distribute to businesses and residences within the stated area (Attachment 4). A signed copy of this form shall also be given to Planning Department staff as soon as those businesses and residences are notified for confirmation.

Conditions of Approval

The event and street closure will be subject to the following conditions, if approved:

1. By applying for the street closure request, the Permittee shall agree to indemnify, protect, defend (with counsel selected by the City), save, and hold the City, its officers, employees, agents, and volunteers harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Event Sponsor or Event Sponsor's officers, employees, agents, volunteers, and participants during performance of the Event, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Event Sponsor or its officers, employees, agents, volunteers, or participants, or resulting from the negligence of the City, its officers, employees, agents, and volunteers, except for loss caused solely by the gross negligence of the City. Acceptance by the City of insurance certificates and endorsements required for this Event does not relieve Event Sponsor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.
2. Prior to engaging in the event, Event Sponsor shall provide the City with a Certificate of Liability Insurance evidencing coverage in an amount of no less than \$500,000 for property damage and \$500,000 for personal injury or a minimum combined single limit coverage of \$500,000. Said policy shall stipulate that this insurance will operate as primary insurance and that no other insurance will be called on to cover a loss covered thereunder. Additional insured endorsements evidencing this coverage, naming the City of Merced, its Officers, Employees, and Agents as additional insureds, must be submitted to the City prior to the event. This certificate shall provide that thirty (30) days written notice of cancellation shall be given to the City. Certificates of Insurance shall also be provided for Automobile insurances of all automobiles used for the event. If the Event Sponsor has any employee(s), full workers' compensation insurance shall be provided with a limit of at least \$100,000 for any one person as required by law.

3. Failure to comply with any law, rule, or regulation applicable to the use of said streets shall be grounds to revoke any such permit and, in such circumstances, the Chief of Police shall immediately revoke said permit. The Event Sponsor or permit holder, in such case, shall have the right to appeal said revocation to the City Council.
4. Event sponsor shall be responsible for placing and removing all traffic barricades and posting of parking restrictions where street is closed. "No Parking" signs shall be posted at least twenty-four (24) hours prior to towing of vehicle(s) per California Vehicle Code Section 22651 (m) (Attachment 5).
5. Event sponsor shall contact all businesses and residences affected by the street closures, advising them of the hours, conditions, and reason thereof within one half-mile of the closure area at least seventy-two (72) hours prior to the event. Event Sponsor shall provide the City with confirmation that the proper notification was given (Attachment 4).
6. Event sponsor shall be responsible for removing all equipment and disposing of any trash and debris within and around the closure area that is generated from the event prior to the expiration of the closure permit.
7. The Applicant shall arrange and pay for special event City Refuse service by contacting Public Works at (209) 385-6800.
8. Event sponsor shall provide emergency vehicle access into and through the interior of the course loop at all times via moveable or drive-over barricades at the specific intersection of W. 18th and M Streets. All interior streets shall remain free of any structures or barricades that would prevent free passage of emergency vehicles around the course. Fire hydrant access shall not be blocked at any time whatsoever.
9. Event sponsor shall provide adequate supervision throughout the course and surrounding intersections to ensure the safety of the participants and the public gathered, as required by the Police Department.
10. The Permittee shall be responsible for ensuring any and all food booth and other vendors shall obtain business licenses with the City of Merced (if not currently licensed) and/or Merced County Department of Health permits (for food service) prior to the event. Addition of these activities shall require Special Events Insurance be obtained (see City of Merced Insurance Department).
11. No alcoholic beverages may be served or sold at this event.

All other provisions addressed in Ordinance #1941 Chapter 12.42 (Temporary Street Closures) shall apply.

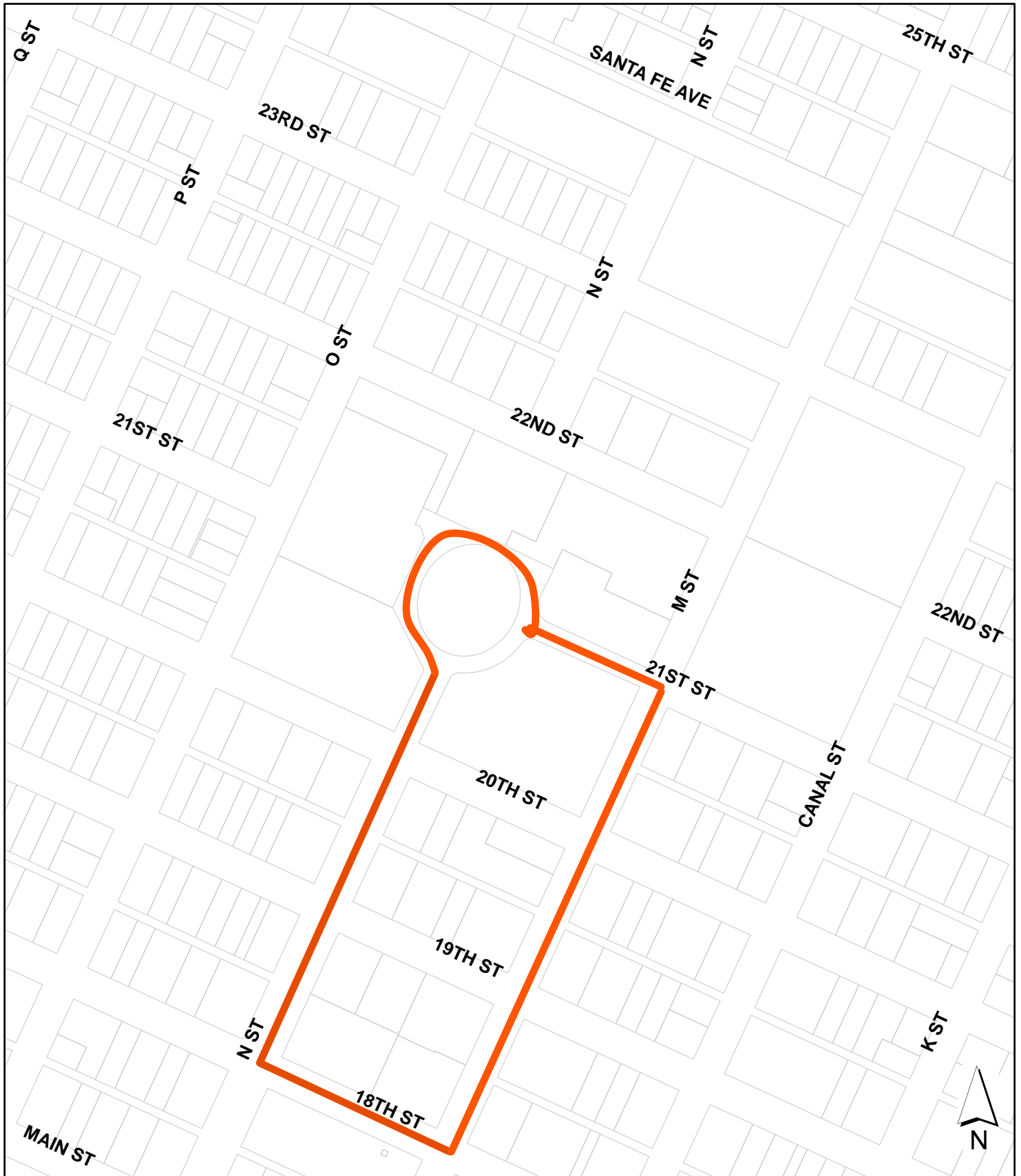
IMPACT ON CITY RESOURCES

For many years, this race ran safely and successfully without Police support, due to experienced volunteers and well-placed barricades and warning signs, and the event sponsor expects to be able

to run the event similarly this year. No City staffing is necessary. Therefore, there is no expected impact to the City's budget with this event.

ATTACHMENTS

1. Location Map
2. Closure/Course Map
3. Basic Information
4. "Notification of Pending Street Closure" form
5. No Parking sign template



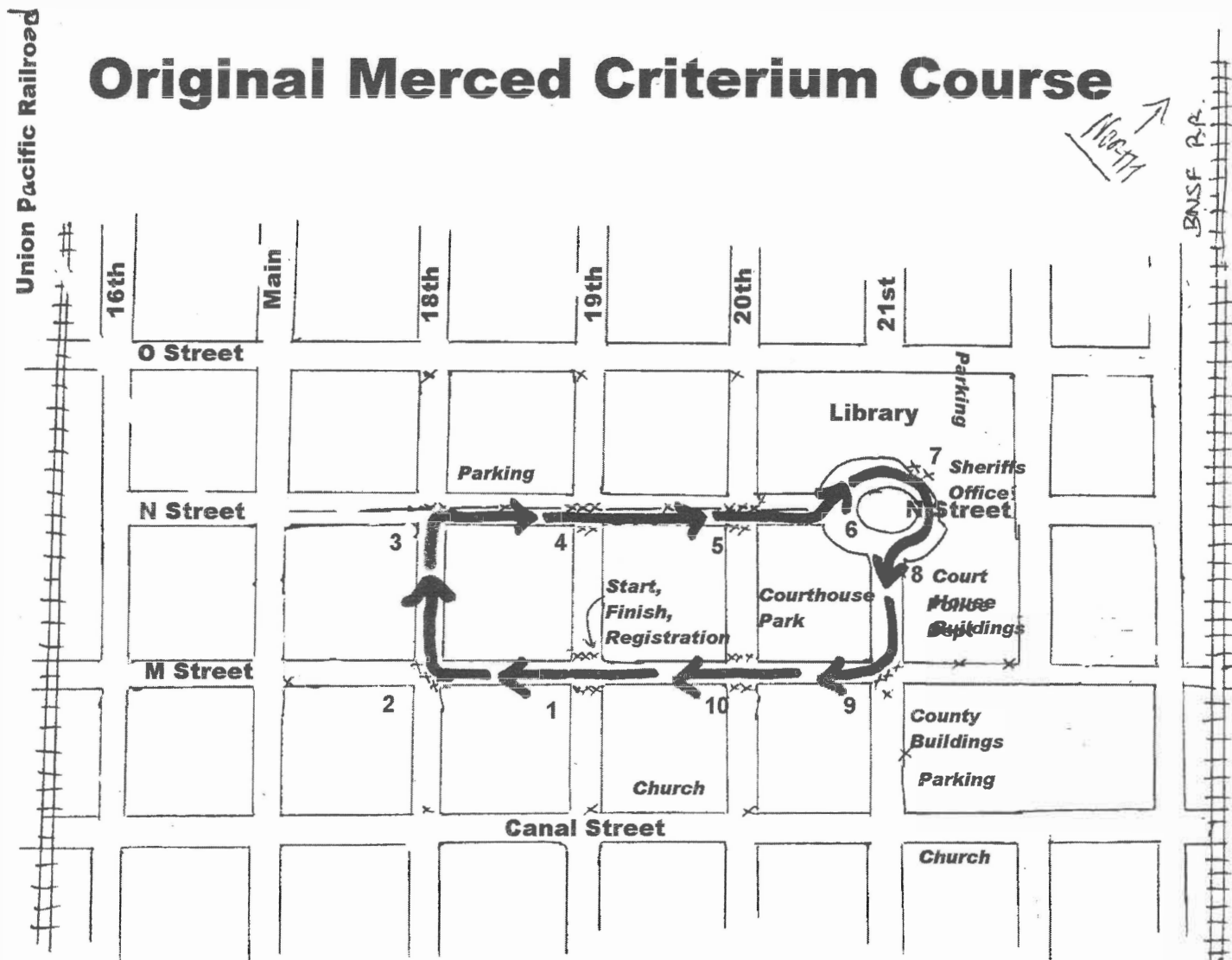
Disclaimer: This document was prepared for general inquiries only. The City of Merced makes no warranty, representation, or guarantee regarding the accuracy of this map. The City of Merced is not responsible for errors or omissions that might occur. Official information regarding specific parcels should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

Street Closures # 19-23
31st Original Merced Criterium Bike Race
ATTACHMENT 1



SAME DETAILS
AS 2019

Merced Map2.bmp



Basic Information:

The 3sth Original Merced Criterium, in Merced

Date: Sunday February 23, 2020

Times: Set Up: 6 a.m. to 8 a.m.
Street Closure: 7 a.m. to 3:30 p.m.
Events: 8 a.m. to 3:30 p.m.
Clean-Up: 3:30 pm to 5: 00 p.m.

Location: A 0.7 mile loop of Merced City streets including the loop behind the old Courthouse, with a start finish line on M at 19th.

Course: The course has been a fast paced circuit in the City, starting and finishing on M Street, and utilizing M, 18th, N, behind the Old Courthouse, and 21st Streets. There are several 90 degree turns and a chicane behind the old Courthouse. The Criterium has used the same course since 1987. (Though the event was not held in 2017 and 2018). Velo Promo provides all needed barricades (including Type 3) and signage (including detour signs) for the event

Type of Event: The race is a "criterium", that is, a series of multi-lap races of varying lengths for various categories on a short closed loop. Riders sprint for prizes (Primes) on designated laps during the event, and for prizes at the finish. The total program will be seven hours in length.

Entrants: Riders will be licensed amateurs from USA Cycling and Professionals from the U.S. Professional Racing Organization. In the past, competitors have included members of the U.S. National Team and Olympic Team, foreign riders and U.S. National Champions. Seven separate categories of riders will have their own events, and some 200 riders can be expected to compete in 2020.

History: The Criterium began in 1987, as a part of the San Joaquin Series, a set of races designed for the U.S. National Team (then at training camp near Fresno) as tune-up events before heading east to the big Spring races each year, and has developed into one of the most popular race weekends in the State, along with the previous day's Snelling Road Race. Many riders have come through the Merced Criterium over the years.

Insurance and Medical: Liability Insurance naming the City and County will be provided via the USA Cycling Organization (\$1,000,000 per occurrence and \$3,000,000 aggregate). The event has a first aid station staffed with EMTs. Riders are covered under medical insurance from the USAC.

Promoters: The race is being planned by Velo Promo, LLC, operating bicycle races as a company since 1979, and as individuals since 1972. Velo Promo has 30 race days on the 2020 Northern California/Nevada race schedule, and has conducted over 930 events in the past 30 years. Race Director for 2020 is again Robert Leibold, who has directed the Criterium since 1987.

Contact:
Velo Promo, 19780 Soulsbyville Road, Soulsbyville, CA 95372
(209) 604-1354
velopro1@gmail.com www.velopromo.com

NOTIFICATION OF PENDING STREET CLOSURE

This is to notify you of an event that will require the closure of street(s) in your area. Please note the details below, including the date and time of the closure(s), and plan to park your vehicle(s) off the affected street(s) on the day of the event. Your cooperation is greatly appreciated. If you have any concerns, please notify the contact person listed.

Name of Event: _____ Type of event (parade, etc.): _____

Contact Person: _____ Phone Number: _____

Date(s) of closure: _____ Time: between _____ am/pm and _____ am/pm

Streets to be closed: _____

Other streets with restricted access: _____

Please Note: Event Sponsor is responsible for posting of parking restrictions where street is closed. "No Parking" signs shall be posted at least twenty-four (24) hours prior to any necessary towing of vehicle(s), per California Vehicle Code Section 22651(m).

To avoid having your vehicle towed, please keep this notice as a reminder and comply with the posted parking restrictions. If you are a business with employees, please notify your employees as soon as possible and post this notice in a conspicuous location. Thank you.

NOTIFICATION OF PENDING STREET CLOSURE

This is to notify you of an event that will require the closure of street(s) in your area. Please note the details below, including the date and time of the closure(s), and plan to park your vehicle(s) off the affected street(s) on the day of the event. Your cooperation is greatly appreciated. If you have any concerns, please notify the contact person listed.

Name of Event: _____ Type of event (parade, etc.): _____

Contact Person: _____ Phone Number: _____

Date(s) of closure: _____ Time: between _____ am/pm and _____ am/pm

Streets to be closed: _____

Other streets with restricted access: _____

Please Note: Event Sponsor is responsible for posting of parking restrictions where street is closed. "No Parking" signs shall be posted at least twenty-four (24) hours prior to any necessary towing of vehicle(s), per California Vehicle Code Section 22651(m).

To avoid having your vehicle towed, please keep this notice as a reminder and comply with the posted parking restrictions. If you are a business with employees, please notify your employees as soon as possible and post this notice in a conspicuous location. Thank you.

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To be signed by Event Sponsor Representative after completion of required 72-hour notification and submitted to the City of Merced Planning Dept, City Hall (2nd Floor), 678 W. 18th Street, Merced.

I have notified the required parties of the dates, times, and affected streets, as required.

Signed _____ Title¹⁸¹ _____ Date: _____

ATTACHMENT 4

NOTIFICATION REQUIREMENTS FOR POSTING “NO PARKING”

NO PARKING

DATE and TIMES

(Example: Wednesday, September 9, 2011,
6:00 am to 5:00 pm)

**VIOLATORS VEHICLE MAY BE TOWED
AT OWNERS EXPENSE**

MERCED POLICE DEPARTMENT

(209) 385-6912

21351 CVC / 22651(n) CVC

SIZE REQUIREMENTS

SIGN MUST BE 17” x 22” LETTERS ARE TO BE AT LEAST 1” IN HEIGHT.
SIGNS MUST BE POSTED ALONG ENTIRE PARADE, STREET CLOSURE,
AND/OR STAGING ROUTE OR ALONG ANY CONSTRUCTION AREA.

SIGNS MUST BE PLACED NO LESS THAN 3 PER BLOCK, EVENLY
SPACED ON BOTH SIDES OF THE STREET, ALONG THE ENTIRE STREET
CLOSURE.



ADMINISTRATIVE REPORT

Agenda Item I.8.

Meeting Date: 2/3/2020

Report Prepared by: Karen Baker, Economic Development Associate, Merced Visitor Services

SUBJECT: Approval of Lease Agreement Between the City of Merced and Transit Joint Powers Authority for Merced County (The Bus) for Use of Office Space and Common Areas at the Merced Transportation Center (710 W. 16th Street) with Rent Starting at \$848.13 per Month and use of the Bus Concourse Area for \$33,286.32 per Year for a Term of Five Years with Annual Extensions by Mutual Agreement of the Parties

REPORT IN BRIEF

Considers a Lease Agreement (5-year Term with annual extensions by mutual agreement of the parties) with the Transit Joint Powers Authority for Merced County (The Bus) for use of the Bus Concourse, Common Areas, 275 Square Feet of Leased Office Space, and facilities located at the Merced Transportation Center, located at 710 W. 16th Street.

RECOMMENDATION

City Council - Adopt a motion approving the lease agreement between Transit Joint Powers Authority of Merced County (The Bus) and the City of Merced and authorizing the City Manager or the Assistant City Manager to execute all necessary documents.

ALTERNATIVES

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

AUTHORITY

Section 200 of the City of Merced Charter.

CITY COUNCIL PRIORITIES

City of Merced Adopted Budget Fiscal Year 2019-2020, Section 7 - Merced Visitor Services: Goal - Position Merced as a tourism destination.

DISCUSSION

Since July 1, 2000, "The Bus" operated by the Transit Joint Power Authority, has been under a Lease Agreement for the use of the Merced Transportation Center (Transpo Center). "The Bus" provides daily bus service from various stops in Merced County and other communities in the Central Valley.

Staff has negotiated a Lease Agreement with “The Bus” that includes a five (5)-year term, and may be extended annually by mutual agreement of both parties (Attachment 1). Terms include renting the concourse to “The Bus” for \$33,286.32 per year; this includes provisions that allow access to designated bus stop pullouts along 16th Street, use of common driveways, and the rear parking lot. The proposed lease includes 275 square-feet of office space for \$ 848.13 per month within the Transpo. “The Bus” will continue to have access to the common area lobby, bathrooms and other general public facilities. “The Bus” will be responsible for a seven percent (7%) pro-rata share for maintenance, garbage and utilities. Revenues are deposited into the Facilities Maintenance account 671-1119-352.03-00.

Key Lease Terms: Notable terms of the Lease Agreement include:

Premises: The subject site is a portion of the City-owned Merced Transportation Center, located at 710 W. 16th Street, consisting of use of the concourse area. Use of the common area facilities include the lobby area, bathrooms for patrons (See Exhibits A, B & C of Attachment 1).

Term: Five (5) year lease with annual extension by agreement with both parties.

Improvements: No tenant improvement (TI) allowance is included.

Utilities and Maintenance: “The Bus” will be responsible for 7 percent (7%) pro-rata share of maintenance, garbage, and utilities for the Merced Transportation Center.

The rent revenues generated are deposited into the Facilities Maintenance account 671-1119-352.03-00.

1. "The Bus" Lease Agreement

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into this ____ day of _____ 2020, by and between the City of Merced, a California Charter Municipal Corporation ("Lessor"), and Transit Joint Powers Authority for Merced County ("Lessee").

WHEREAS, The Lessor is the owner of the Merced Transportation Center building located on a tract of land in Merced, California, at 710 West 16th Street; and,

WHEREAS, Lessee operates a public transit system and desires to lease approximately 275 square feet of office area and certain bus shelters and common area at the Merced Transportation Center.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, the Lessor and Lessee do hereby agree as follows:

1. DEFINITIONS

A. Building. "Building" is defined as that certain building known as the Merced Transportation Center located at 710 West 16th Street, Merced, California, and labeled Transpo Center on Exhibit A.

B. Facility. "Facility" shall be defined as the office area within the Building, consisting of approximately 275 square feet, reserved for the exclusive use of Lessee, and labeled Facility on the attached Exhibit B.

C. Bus Concourse. "Bus Concourse" shall be defined as the area on 16th Street taken up by the curbside bus shelters and surrounding area reserved for the exclusive use of Lessee, and labeled Bus Concourse on the attached Exhibit C.

D. Common Area. "Common Area" shall be defined as the waiting area, restroom facilities and entryways of the building located at the Building and land labeled Common Area on the attached Exhibit D.

2. FACILITY AND BUS CONCOURSE

The Lessor hereby leases to Lessee and Lessee leases from Lessor for the term, at the rental rate, and upon all the conditions set forth herein the Facility and Bus Concourse as shown in Exhibits B and C, which is attached hereto and made a part hereof, situated in the City of Merced, County of Merced, State of California, and subject to the conditions set forth herein, the continuous and uninterrupted right of Lessee and its officers, employees, business invitees, customers and patrons, of access to and from Facility, for any purpose contemplated herein, including the Common Area.

3. TERM

The term of this Lease shall be five (5) years. The Lease shall commence on January 1, 2020 and end on December 31, 2024.

4. RENT

A. Facility.

Lessee shall pay to Lessor as rent for use of the Facility equal monthly installments as indicated below, payable in advance on or before the first day of each calendar month of the term, together with Lessee's pro rata share of costs and expenses as specified under this Lease. Rent shall be payable to Lessor at the address first stated above or to such other person or at such other place as Lessor shall designate as provided in this Lease.

Rent for Facility shall be payable as follows:

Year 1 – \$848.13 per month
Year 2 – \$873.57 per month
Year 3 – \$899.79 per month
Year 4 – \$926.77 per month
Year 5 – \$954.57 per month

B. Bus Concourse.

Lessee shall pay to Lessor as rent for the use of the Bus Concourse annually as indicated below, payable in advance on or before the

commencement of next year's term, together with Lessee's pro rata share of costs and expenses as specified under this Lease. Rent shall be payable to Lessor at the address first stated above or to such other person or at such other place as Lessor shall designate as provided in this Lease.

Rent for Bus Concourse shall be payable as follows:

Year 1 - \$33,286.32 per year
Year 2 - \$34,284.91 per year
Year 3 - \$35,313.46 per year
Year 4 - \$36,372.86 per year
Year 5 - \$37,464.05 per year

Rents shall be used by Lessor to accomplish the duties and responsibilities borne upon Lessor as described in Section 8 of this Lease.

5. USE

The Lessee and its patrons shall have the right of reasonable access to the Common Area, including restrooms, for the term of this Lease. Restrooms are cleaned at 6:30 a.m. and 1:30 p.m., Monday through Friday, Saturdays and Sundays they are cleaned at 6:00 a.m. Should additional cleaning be requested the cost will be sole responsibility of Lessee.

Lessee shall have one or more employees present within the facility during extended hours. Lessee shall have a counter person or a security guard (at their discretion) inside the premises every day from 6:00 a.m. to 8:00 a.m. and from 5:00 p.m. to 8:00 p.m. to secure the safety of the business or businesses being operated on the premises.

Lessee shall not commit or permit any act or acts in or on the Facility, Building, Bus Concourse, or the Common Area, or use the same or suffer the same to be used in any manner which will cause a cancellation of any fire, liability, or other insurance policy covering the Building, Facility, Bus Concourse, or the Common Area, or any part thereof.

6. LESSOR'S WARRANTY OF TITLE

Lessor represents and warrants that:

A. Lessor is the sole owner in fee simple of the Building and has full right and power to grant the estate demised and to execute and perform this Lease;

B. The Building will remain free and clear of all encumbrances that could adversely affect Lessee's leasehold estate;

C. The intended use of the Facility for purposes stated herein is permitted by all applicable zoning laws and regulations; and,

D. The Building will comply with all applicable ordinances, regulations, and zoning and other laws.

7. QUIET ENJOYMENT

Lessor covenants and agrees that so long as Lessee observes and performs all the agreements and covenants required of it hereunder, Lessee shall peaceably and quietly have, hold and enjoy the Facility for the Term without any encumbrance or hindrance by Lessor. If Lessee's use of the Facility is significantly limited, or denied, through rezoning, environmental impact edict, or other action of any public or quasi-public agency, this Lease, at the sole option of Lessee, shall terminate as of the effective date of such action and the rent applying to the unexpired portion of the Term will abate.

8. REPAIRS, MAINTENANCE AND UTILITIES

A. Exterior of Building. Lessor shall provide and pay for a pro rata share of the day-to-day maintenance and repair of the exterior area of the Building, including but not limited to the exterior landscaping, driveways, exterior roof, and exterior side walls.

The Lessor shall pay the total cost of the water and electricity services for the exterior area of the Building.

B. Facility. The Lessee shall provide, perform, and pay for the total costs of its day-to-day maintenance, repair, and janitorial services for the Facility. The Lessee shall also pay the total cost of its telephone and communication services used at the Facility.

C. Bus Concourse. Consistent with the provisions of Section 8.E, Lessor shall provide general maintenance and repair of the Bus Concourse, including, but not limited to, the bus shelters, concourse seating, and public improvements. Lessee shall be solely responsible for its personal property, including, but not limited to, signage, electronic devices, reader boards, and other of Lessee's improvements.

D. Interior of Building. Except as provided in Subsections A, B and C above, the Lessor shall provide, perform, and pay all costs for maintenance, repairs, janitorial services, garbage services, water, gas, electricity, telephone services, maintenance and janitorial supplies, security alarm costs, and other public utility services for the Building, including the Facility and Bus Concourse, during the term of this Lease, or any renewals thereof as provided herein; and, Lessee shall, upon receipt of a proper accounting from Lessor, reimburse Lessor for Lessee's pro rata share of said costs, on a monthly basis, pro rata as determined by reference to Subsection E below.

E. Pro Rata Share Computation. Wherever in this Lease the Lessee agrees to provide, perform, or pay its pro rata share of services or costs, the Lessee shall provide, perform, or pay a percentage of the total of said services or costs, as determined by this subsection.

For the purposes of this Lease:

The "Interior Area" shall mean the total square footage of the leasable floor space in the interior of the Building. Such square footage will be 5300.

The "Facility Area" shall mean the square footage of the Facility, equaling 275 square feet.

Lessee's "pro rata share" as referred to throughout this Lease, shall be the ratio of the Facility Area to the Interior Area, equaling seven percent (7%). Lessee's "pro-rata share" of the Bus Concourse is assessed in Rent, Section 4.B, such payments shall be applied by Lessor where it deems fit for janitorial, maintenance, utilities and security services for the Building, Bus Concourse and Common Area.

9. ALTERATION AND IMPROVEMENTS

Lessee shall have the right to make alterations and improvements to the Facility subject to the following terms and conditions:

A. No alteration or improvements made by Lessee shall in any way impair the structural integrity and stability of the Facility or diminish the value of the property;

B. All alterations or improvements shall be first approved in writing by the Lessor, but said approval shall not be unreasonably withheld by Lessor;

C. Lessee shall keep the Facility free and clear of any mechanics' liens or materialmen's liens arising out of the construction of any such alterations or improvements;

D. All alterations and improvements made to the Facility shall become the property of the Lessor and shall remain on and be surrendered with the Facility at the expiration of this Lease or sooner if terminated pursuant to Section 20 below, or any extension thereof;

E. Lessee's personal property and its trade fixtures, including machinery, equipment, and furnishings, shall remain the property of Lessee and may be removed by Lessee. However, any personal property, trade fixtures, or equipment not removed by Lessee within thirty (30) calendar days from the termination of this Lease, or any extension thereof, shall automatically become the property of the Lessor. Lessee shall repair any damage to the Facility, Building, and Common Area caused by Lessee's removal of its personal property, trade fixtures or equipment.

10. RESERVED

11. DAMAGE/DESTRUCTION

If the Facility, Building, Bus Concourse, or Common Area is damaged or destroyed in whole or in part by fire or other casualty, Lessor shall repair and restore the same to a good tenantable condition. Lessor shall commence and complete all work required to be done under this paragraph

with reasonable promptness and diligence, but Lessor shall not be in default in any required performance if delay in performance results from fire, flood, storm, labor disputes, shortage of materials or transportation facilities, governmental regulations, war, act of God or other causes beyond Lessor's reasonable control. If Lessor shall not commence such repair or restoration within thirty (30) days after such damage or destruction, or if repair or restoration will require more than one hundred twenty (120) days to complete, Lessee may thereafter, at its option, terminate this Lease by giving the Lessor written notice of its election to do so at any time prior to the commencement of such repair or restoration. In that event, this Lease shall terminate as of the date such notice is received by Lessor. Notwithstanding any other provisions of this section, Lessee shall be responsible for repair and restoration of Lessee's trade fixtures and personal property located in or on the Facility, Building, or Common Area in the event of damage or destruction of said property.

Notwithstanding any provision to the contrary, Lessee shall be responsible for any damage to the Facility, Building, Bus Concourse, or the Common Area, or other property belonging to Lessor, resulting from Lessee's activities conducted pursuant to this Lease.

12. FIRE INSURANCE

Lessee represents that it is a government entity and that its insurance provides coverage against fire damage on Lessee's lease of the Facility. In the event of any fire damage at the Building or the Common Area, Lessee shall be responsible for its own equipment and property but shall be entitled to recover from any third party responsible for the damage.

13. INSURANCE

Lessee represents that it is an insured government entity and that its insurance provides and maintains coverage against public liability and property damage during the entire term of this Lease, in amounts not less than:

A. \$1,000,000.00 for injury to or death, including accidental death, of one or more persons as result of any one accident or incident; and,

B. \$500,000.00 for damage to or destruction of any property of others.

The insurance shall:

- (1) Insure against all liability of Lessee and its authorized representatives arising out of or in connection with Lessee's use or occupancy or the Building or Facility, including the Common Area.
- (2) Insure performance by Lessee of the indemnity provisions of Section 28.
- (3) Provide that Lessor be named as an additional insured and contain cross-liability endorsements.
- (4) Be considered by the parties hereto as primary insurance as to matters covered under this Agreement.

Prior to the commencement of this Lease, Lessee shall furnish Lessor with a letter evidencing the aforesaid self-insurance coverage.

Notwithstanding the above, it is further agreed to between the parties hereto that the limits of insurance coverage specified above are the minimum amounts required and shall be subject to revision by the Lessor from time to time.

14. WAIVER OF SUBROGATION

Lessee agrees to waive all rights of subrogation against Lessor, its officers, agents, and employees for losses arising from the performance of this Lease.

15. SIGNS

Any and all signs or advertisements of any nature extending into, on, or located over the Facility, Building, Bus Concourse, or Common Area shall conform to all City of Merced zoning, building, and safety codes, now existing or as amended in the future, shall be consistent with already existing

signage at the Facility, Building, or Common Area, and shall be approved by Lessor in writing prior to construction, use, or erection thereof. Approval by Lessor shall not be unreasonably withheld, as to location graphics types, content, dimensions, and architectural or engineering standards. Any signs posted not in conformance with this provision shall be subject to immediate removal by Lessor at the cost of Lessee.

16. RESERVED

17. TAXES

The terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this Lease, the private party may be subjected to payment of personal property taxes levied on such interest. Lessee shall be responsible for the payment of, and shall pay before they become delinquent, all taxes, assessments and fees assessed or levied upon Lessee or the Facility, the Building, Bus Concourse, or the Common Area or any interest therein, including, but not limited to, buildings, structures, fixtures, equipment or other property installed, or constructed thereon. Lessee further agrees not to allow such taxes, assessments or fees to become delinquent and as such to become a lien against said Facility, Building, Bus Concourse, or Common Area or any improvement thereto. Nothing herein contained shall be deemed to prevent or prohibit Lessee from contesting the validity or amount of any such tax, assessment or fee in the manner authorized by law.

The obligation to make any payments pursuant to this Section shall survive the expiration of the term of this Lease, provided Lessee's obligation arose out of or is equitably allocable to the period covered by this Lease.

18. ASSIGNMENT AND SUBLETTING

Lessee shall not encumber, assign, or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in the Facility, Building, or Common Area without the prior written consent of Lessor. Neither shall Lessee sublet the Facility, Building, or Common Area, or any part thereof, or allow any persons, other than Lessee's employees, agents, or servants, to occupy or use the Facility, Building, or Common Area or any part thereof without the prior written consent of Lessor. A consent of Lessor

to one assignment, subletting, or occupation and use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, or occupation and use by another person. Any encumbrance, assignment, transfer, or subletting without the prior written consent of Lessor, whether it be voluntary or involuntary, by operation of law, or otherwise, is void and of no effect and shall, at the option of the Lessor, terminate this Lease.

The consent of Lessor to any assignment of Lessee's interest in this Lease or the subletting by Lessee of the Facility, shall not be unreasonably withheld or delayed.

Notwithstanding anything to the contrary, Lessee may, without Lessor's consent, assign or sublease all or a portion of the Facility to a related subsidiary, affiliate, or parent company of Lessee or any subsequent purchaser of Lessee provided that the assigned entity assumes all of the terms, conditions, and obligations under this Lease. Any assignment or sublease shall not relieve the Lessee from any obligations set forth herein.

19. PUBLIC ACCESS

The public shall have open and unobstructed access from 8:00 a.m. to 5:00 p.m. daily, and during all operating hours as determined by Lessor, to the Facility by way of the Common Area identified in Exhibit B.

20. TERMINATION OF LEASE

A. In the event the Lessee determines in good faith that it no longer practicably, economically, or operationally can do business from the Facility, upon making a reasonable showing of same to Lessor, lessee shall have the right to terminate this Lease on ninety (90) day's prior written notice to Lessor.

B. It is understood and agreed by the parties hereto that Lessor and its successors in interest shall and hereby do reserve the right to cancel or terminate this Lease prior to expiration of the term or renewed or extended term hereof as follows:

- (1) If the Lessee is in default or breach of this Lease, as specified in this Lease or as otherwise provided by law; or

- (2) If the Lessee assigns or sublets the Facility without the prior written consent or Lessor, as specified in Section 19 of this Lease.

21. COMPLIANCE WITH LAWS

During the term of this Lease and any renewals or extensions hereof, Lessee shall promptly execute and comply with all federal, State, County, and City statutes, ordinances, regulations, laws, or other requirements applicable to the Facility, Building, or Common Area, and the operation of the Building as a Multipurpose Transportation Facility.

22. LESSEE'S DEFAULT AND REMEDIES

The occurrence of any one or more of the following events constitutes a material default and breach of this Lease by Lessee:

A. The failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as and when due, where the failure continues for a period of twenty (20) days after written notice thereof from Lessor to Lessee.

B. The failure by Lessee to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Lessee, other than those described in Subsection A above, where the failure continues for a period of thirty (30) days after notice thereof from Lessor to Lessee; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed in default if Lessee commences such cure within the thirty (30) day period and thereafter diligently completes the cure.

C. The making by Lessee of any general assignment, or general arrangement for the benefit of creditors.

D. The filing by Lessee of a petition to have Lessee adjudged a bankrupt.

E. The judicial declaration of Lessee as a bankrupt.

F. The appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Facility or of Lessee's interest in this Lease, if possession is not restored within thirty (30) days.

In the event of any such default or breach by Lessee, with the exception of bankruptcy or receivership, Lessor may, after giving written notice, pursue those remedies available to Lessor under the law or judicial decisions of the State of California. In the event of bankruptcy or receivership, this Lease shall immediately terminate. Even though Lessee breaches this Lease or is in default, as provided above, this Lease continues in effect for so long as the Lessor does not terminate Lessee's right of possession; and the Lessor may enforce all its rights and remedies under this Lease, including the right to recover all payments that become due under this Lease.

The right of the Lessor under this Lease shall be cumulative to all other rights or remedies now or hereafter given to Lessor by law. Nothing in this Lease affects the right of the Lessor or Lessee to equitable relief where such relief is appropriate.

Nothing in this section affects the right of the Lessor to indemnification for liability arising prior to the termination of this Lease for personal injuries or property damage as provided in Section 23 of this Lease.

23. LESSOR'S DEFAULT AND REMEDIES

Lessor shall not be in default unless Lessor fails to perform obligations required of it within a reasonable time, but in no event later than thirty (30) days after written notice by Lessee to Lessor; provided that if the nature of Lessor's obligation is such that more than thirty (30) days are reasonably required for performance, then Lessor shall not be in default if Lessor commences performance within the thirty (30) day period and thereafter diligently completes performance.

24. CONDEMNATION

If all the Building or a substantial portion thereof is taken under the power of eminent domain, sold under the threat of the exercise of said power, or disposed of for public use (all of which are herein called

“condemnation”), this Lease shall automatically terminate as of the date the condemning authority takes title or possession, whichever occurs first. If any other taking adversely substantially affects Lessee’s use of the Facility, then Lessee may elect to terminate this Lease as of the date the condemning authority takes possession. Lessee’s election to terminate shall be made in writing thirty (30) days after Lessor has given Lessee written notice of the taking (or in the absence of such notice, within thirty (30) days after the condemning authority has taken possession). If Lessee does not terminate this Lease in accordance with this paragraph, this Lease shall remain in full force and effect as to the portion of the Facility remaining, except that rent shall be reduced in the proportion that the area taken diminishes the value and use of the Facility to Lessee.

Any award or payment made upon condemnation of all or any part of the Facility shall be the property of Lessor, whether such award or payment is made as compensation for the taking of the fee or as severance damages; provided Lessee shall be entitled to the portion of any such award or payment for loss of or damage to Lessee’s trade fixtures, removable personal property, and additions, alterations, and improvements made to the Facility by Lessee, or for its loss of the leasehold interest herein created.

Lessor shall give notice to Lessee within five (5) days after receipt of notification from any condemning authority of its intention to take all or a portion of the Facility; however, failure of Lessor to provide notice shall not impair the parties’ rights and entitlements under said eminent domain proceeding.

Notwithstanding anything to the contrary contained in this Lease, Lessee at its own expense, may in good faith contest any such award for loss of or damage to Lessee’s trade fixtures, removable personal property, and additions, alterations, and improvements made to the Facility by Lessee, and for its loss of the leasehold interest herein created.

25. BINDING EFFECT

This Agreement and the Lease hereunder shall be binding upon the parties hereto, their heirs, personal representatives, administrators, successor and assigns.

26. ASSUMPTION BY NEW OWNER

If the City of Merced transfers any interest in the Facility, Building, or Common Area to any other party or entity, this Lease shall remain in full force and effect, with the new owner assuming the role of Lessor with all rights and duties specified in this Lease.

27. SURRENDER

Lessee agrees to take good care of the Facility, Building, and the Common Area and to commit no waste, and suffer no injury to be done to the same, and to return the possession of the same to Lessor at the expiration of the term, in as good condition as at the commencement of this Lease, normal wear and tear excepted.

If Lessee fails to surrender the Facility upon the expiration or termination of this Lease, Lessee shall indemnify and hold the Lessor harmless from all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from Lessee's failure to surrender.

28.EMPLOYEE CONDUCT

Lessee's employees, agents, contractors, and subcontractors shall be subject to all street and highway safety rules, including, but not limited to, the provisions in the California Vehicle Code, while traveling through or stopping upon the Building, Common Area, or Bus Concourse.

29.INDEMNITY

Lessee and Lessor shall indemnify, protect, defend, save and hold each other and their respective 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 Lessee or Lessor, or their respective officers, employees, volunteers, and agents during performance of this Lease, 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 Lessee or Lessor, or their respective employees,

subcontractors, or agents. This indemnification and hold harmless clause shall survive the termination of this Lease and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

30. COVENANTS AGAINST DISCRIMINATION

Lessee and Lessor covenants for themselves and their respective heirs, executors, administrators and assigns, and all persons claiming under or through them, that no person or groups of persons on the grounds of race, creed, religion, disability, sex, sexual orientation, age, marital status, color, national origin, ancestry, political belief, ethnic group identification, medical condition (including HIV and AIDS), or physical or mental disability may be excluded from the use of the Lessee's public transit system or the services provided at the Merced Transportation Center. Furthermore, any deed or deeds shall contain the following covenants:

“There shall be no discrimination against or segregation of any person or groups of persons on account of race, creed, religion, disability, sex, sexual orientation, age, marital status, color, national origin, ancestry, political belief, ethnic group identification, medical condition (including HIV and AIDS), or physical or mental disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Facility, Building, or Common Area herein leased, nor shall Lessee or Lessor themselves, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, occupancy of tenants, lessees, sublessees, subtenants or vendees in the Facility, Building, and Common Area herein leased.”

31. NOTICES

All notices and other communications contemplated shall be in writing and shall be deemed given when personally delivered or on the fifth (5th) day if sent by mail, and shall be personally delivered or mailed by

certified mail, return receipt requested, with postage and fees paid, as follows:

LESSOR: City of Merced
c/o City Clerk
678 West 18th Street
Merced, California 95340

COPY TO: Director of Economic Development
City of Merced
678 West 18th Street
Merced, California 95340

City Attorney
City of Merced
678 West 18th Street
Merced, California 95340

LESSEE: Transit Joint Powers Authority of
Merced County
c/o Transit Manager
369 West 18th Street
Merced, California 95340

COPY TO: Executive Director
369 West 18th Street
Merced, California 95340

Robert T. Haden
Professional Corporation
2241 N Street
Merced, California 95340

32. ENTIRE AGREEMENT

This Lease 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. All preliminary and contemporaneous agreements and

understandings are merged and incorporated into this Lease which contains the entire agreement between the parties. This Lease may not be modified or amended in any manner except by an instrument in writing executed by the parties hereto.

33. TAXES, UTILITIES AND MECHANICS' LIENS

Notwithstanding anything expressed or implied to the contrary contained in this Lease, Lessee, at its own expense, may in good faith contest charges for taxes or utilities or mechanics' lien claims and, in the event of such contest, may permit the items contested to remain unpaid during the period of the contest and any appeal therefrom; provided that such nonpayment shall not be permitted to cause a loss or forfeiture of any part of the Facility, Building, or the Common Area. Lessor shall render to Lessee all assistance reasonably possible in contesting such charges; however, Lessor shall not be obligated to join Lessee as a party in any claim, lawsuit, administrative hearings or other similar legal proceedings. Should any refund be made of any charges paid by Lessee, the amount of such refund shall belong to and be paid to Lessee.

34. ATTACHMENTS, HEADINGS, TERMS

All Attachments referred to herein are hereby incorporated by reference into this Lease. The headings and underscorings contained herein are for convenience purposes only and shall not be used to interpret nor be deemed to extend or limit the specific sections. The word or words enclosed in quotation marks shall be construed as defined terms for purposes of this Lease. The terms "Lessor" and Lessee" shall be construed to mean, when required by the context, the directors, officers, employees, invitees, contractors, materialmen, servants, and agents of Lessor and Lessee.

35. EXECUTION AND DELIVERY

This Lease shall not be binding nor confer any rights upon either party unless and until executed and mutually delivered by and between both parties.

36. RELATIONSHIP OF PARTIES

This Lease does not create the relationship of principal and agent or a partnership or joint venture, or of any association other than that of Lessor and Lessee.

37. TIME OF THE ESSENCE

Time and specific performance are each of the essence of this Lease.

38. BOOKS AND RECORDS

Lessee shall have the right at all reasonable times to review the Lessor's records with respect to the operation, maintenance, repair, and utility costs of the Building for the sole purpose of determining and verifying such costs and Lessee's pro rata share thereof, including insurance and taxes for a period of six (6) months following the calendar month in which said costs were incurred.

39. SUBORDINATION

Lessor shall have the right, at any time or times during the term of this Lease, to mortgage Lessor's interest in the Facility, Building, or the Common Area for any purposes, and Lessee shall, if requested by Lessor's lender, subordinate its interest in said Facility, Building, or the Common Area to the lien of lender's mortgage or trust deed, provided the lender agrees in writing, in recordable form, not to disturb Lessee's possession of the Facility, Building, or the Common Area under this Lease, so long as Lessee is not in default of any of the terms, conditions, and covenants of this Lease, and to accept the performance by Lessee of its covenants and obligations hereunder if such mortgage shall be foreclosed (hereinafter referred to as "non-disturbance agreement").

Any mortgage or lien created against the Facility, Building, or the Common Area, or any portion thereof shall contain, and the mortgagee or lienholders shall execute, a non-disturbance agreement in favor of Lessee and its successor and assigns.

40. EMPLOYEE CONDUCT

Lessee's employees, agents, contractors, and subcontractors shall be subject to all street and highway safety rules, including but not limited to the provisions in the California Vehicle Code, while traveling through or stopping upon the Facility, Building, and/or the Common Area.

41. SEVERABILITY

If any provision of this Lease 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 Lease.

42. ATTORNEY FEES

The prevailing party in any action pertaining to this Lease shall be entitled to all other remedies provided herein and all its costs and expenses, including reasonable attorneys' fees.

43. CHOICE OF LAW

This Lease shall be governed and construed in accordance with the laws of the State of California. Venue shall be in Merced County.

44. WAIVER

In the event that either Lessor or Lessee shall at any time or times waive any breach of this Lease by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Lease, 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.

45. AUTHORITY TO EXECUTE

The person or persons executing this Lease on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Lease on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

46. COUNTERPARTS

This Lease 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 Lease to be executed on the date and year first above written.


LESSOR
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: 
City Attorney

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

LESSEE:
TRANSIT JOINT POWERS
AUTHORITY FOR MERCED
COUNTY

BY: Stacie Guzman
Stacie Guzman

Title: Executive Director

Taxpayer I.D. No. 37-1544347

ADDRESS: 369 W. 18th Street
Merced, CA 95340

TELEPHONE: (209) 723-3153

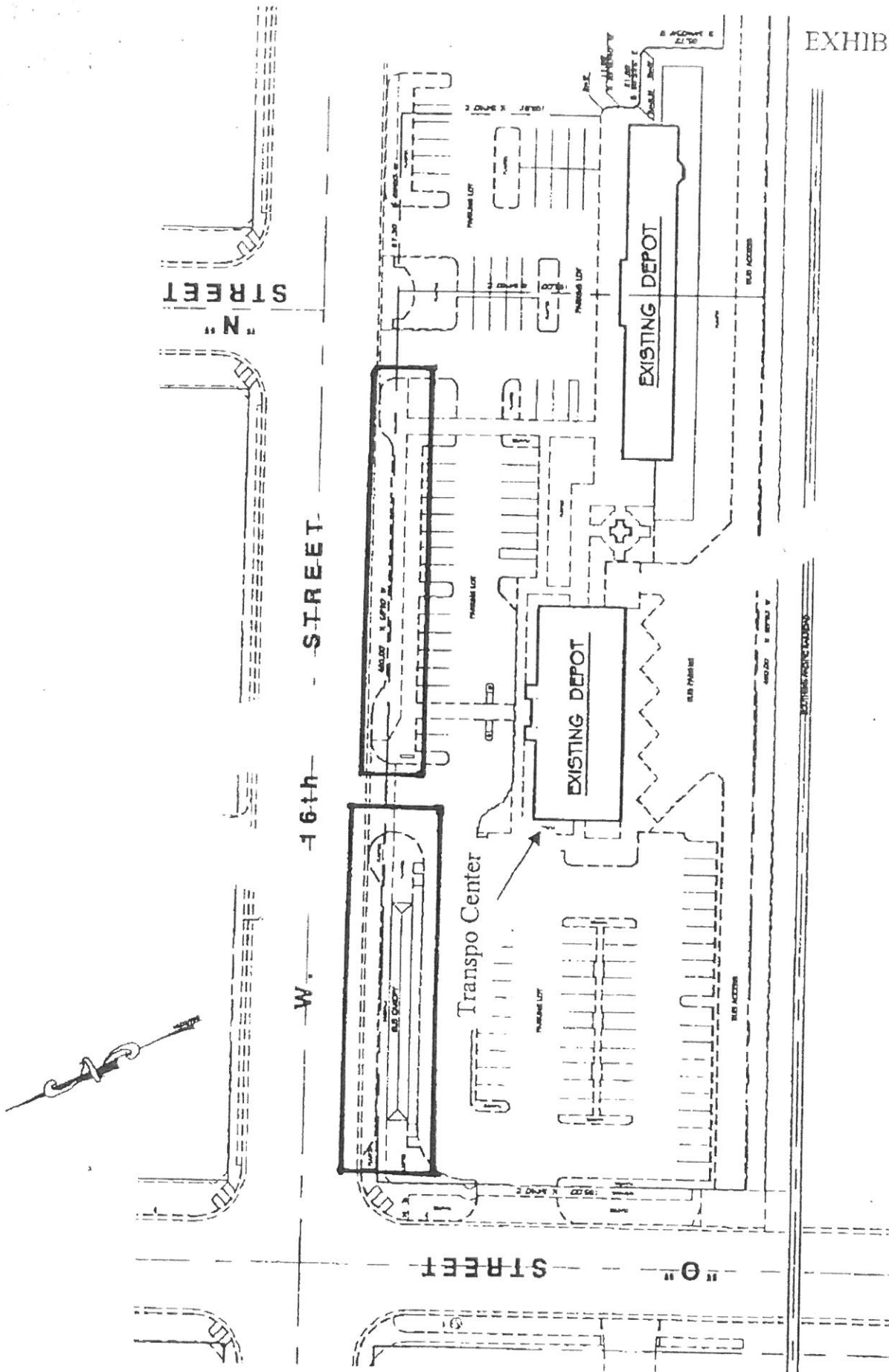
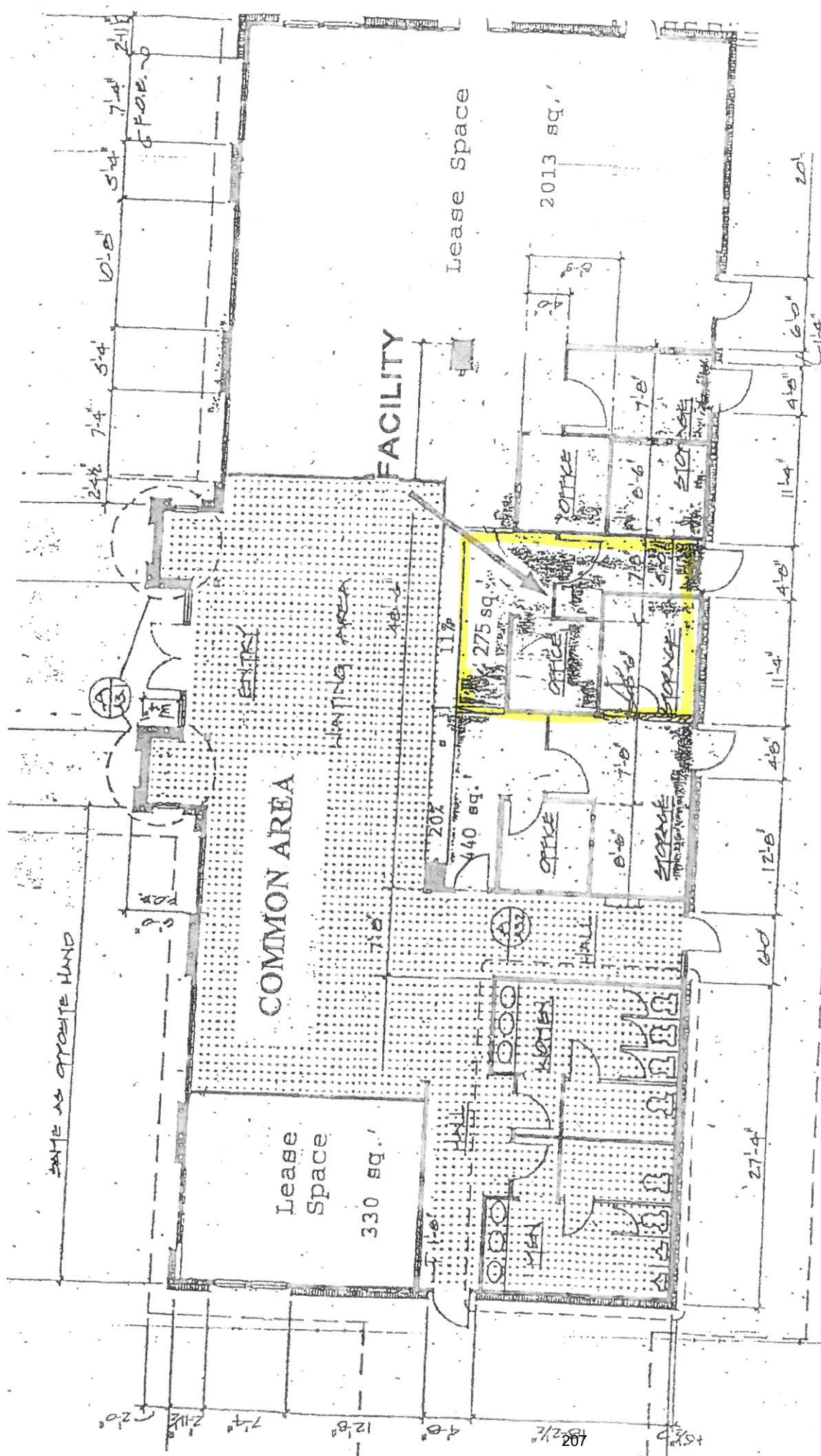


EXHIBIT A

MERCED TRANSPO CENTER
SITE PLAN

SCALE 1"=70'

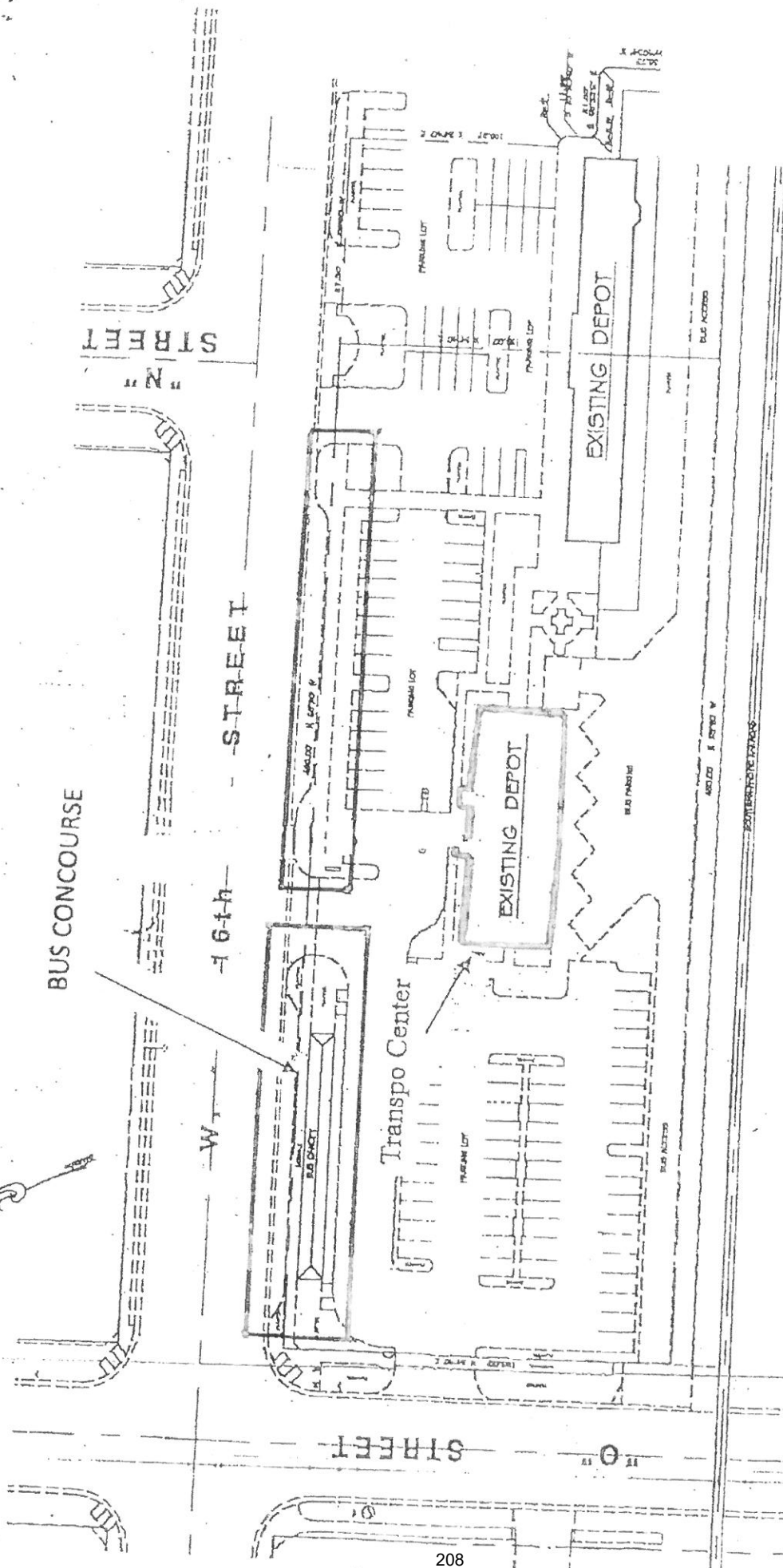
EXHIBIT A



TRANSCO CENTER

| | |
|---------------|----------|
| Transpo Bldg. | 5300 sq. |
| Leasable | 3033 sq. |
| Common | 2267 sq. |

EXHIBIT C



MERCED TRANSPO CENTER
SITE PLAN
SCALE 1"=70'

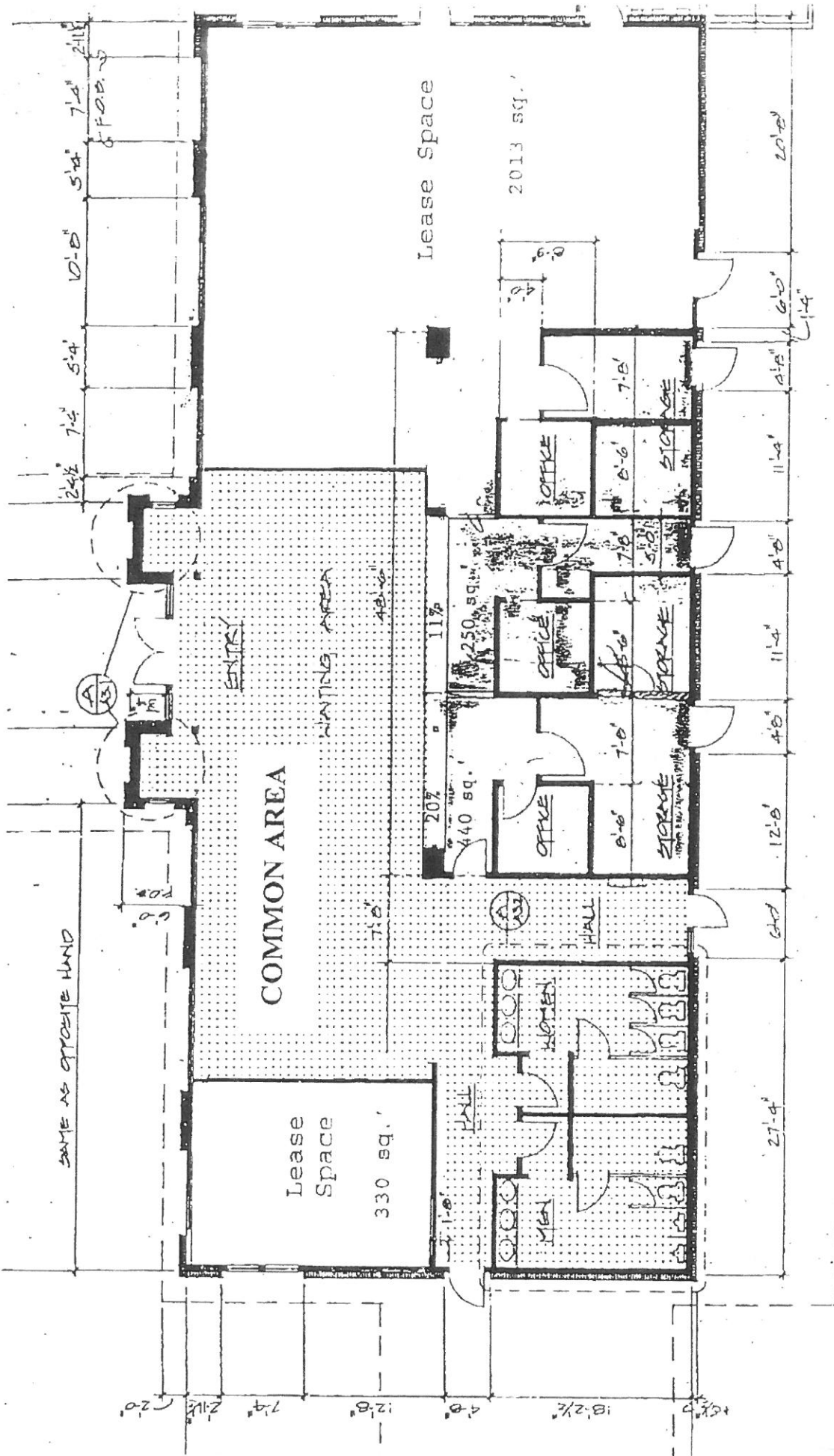


EXHIBIT D

TRANSPO CENTER

Transpo Bldg. 5300 sq.
 Leasable 3033 sq.
 Common 2267 sq.

EXHIBIT D



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/30/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Leap/Carpenter/Kemps Insurance Agency
3187 Collins Dr.
Merced CA 95348

CONTACT NAME: Sherry Yorks, CRIS

PHONE
(A/C, No, Ext): 209-386-5070

FAX
(A/C, No): 209-385-6114

E-MAIL ADDRESS: syorks@lckinsurance.com

INSURER(S) AFFORDING COVERAGE**NAIC #**

INSURER A: Ohio Security Insurance Co.

24082

INSURER B: Golden Bear Ins. Company

39861

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED
Transit Joint Powers Authority
For Merced County
369 W. 18th Street
Merced CA 95340

TRANS-1

COVERAGES**CERTIFICATE NUMBER:** 2119435736**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|-----------|----------|---------------|-------------------------|-------------------------|--|
| B | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: | Y | | GBL-11412 | 8/1/2019 | 8/1/2020 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$ |
| A | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS | | | BAS58006502 | 7/1/2019 | 7/1/2020 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ |
| | <input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0 | | | | | | EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N <input type="checkbox"/> N / A If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: 710 W 16th St, Merced, CA 95340

City of Merced, its officers, employees, volunteers and agents are named as additional insured where required by written contract with respect to General Liability per attached CG2026.

CERTIFICATE HOLDER**CANCELLATION**

City of Merced, its officers, employees, volunteers and agents
Attn: Karen Baker
678 W 18th St
Merced CA 95340

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Janet Gomes

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

CITY OF MERCED
678 W 18TH STREET
MERCED, CA 95340

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item I.9.

Meeting Date: 2/3/2020

Report Prepared by: Venus Rodriguez, Finance Officer

SUBJECT: Adoption of Resolutions Amending the Annual Base Salary and Approving the Publically Adopted Pay Scale for the City Attorney as Set Forth in the City Attorney Employment Agreement as Approved by the City Council and Amending the Annual Base Salary and Publically Adopted Pay Scale for the City Manager as Set Forth in the Second Amendment to the City Manager Employment Agreement as Approved by the City Council

REPORT IN BRIEF

Considers the adoption of Resolution 2020-04 and 2020-05 to adopt the annual base salaries and the publically adopted pay scales for the City Attorney and City Manager as set forth in the City Attorney Employment Agreement and the Second Amendment to the City Manager Employment Agreement.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2020-04**, a Resolution of the City Council of the City of Merced, California amending the salary range for the City Attorney; and,
- B. Adopting **Resolution 2020-05**, a Resolution of the City Council of the City of Merced, California amending the salary range for the City Manager; and,
- C. Authorizing staff to submit the adopted Resolutions to the California Public Employees' Retirement System (CalPERS) for confirmation of annual salary amounts and pay scales.

ALTERNATIVES

- 1. Refer the Resolutions back to the City Council for further review; or,
- 2. Take no action.

AUTHORITY

Charter of the City of Merced, Sections 200, 300, 500 and 600.

CITY COUNCIL PRIORITIES

N/A

DISCUSSION

On October 1, 2018, the City Council approved an employment agreement with Phaedra A. Norton as the City Attorney, establishing the annual base salary of \$204,600 as well as certain benefits and terms and conditions of her employment. This included an annual cost-of-living adjustment (COLA) to her salary on the first pay period of each calendar year, of the actual COLA, but no greater than two and a half percent (2.5%). The COLA per the agreement is based on the California CPI for Urban Wage Earners and Clerical Workers for the 12 months between December and December. The calculated CPI percentage of increase is 2.73%. The annual base salary set at the maximum increase of 2.5% is \$209,715.03.

On October 15, 2018, the City Council approved the second amendment to the employment agreement for Steven S. Carrigan as the City Manager, establishing the annual base salary of \$209,723 as well as certain benefits and terms and conditions of his employment. This included an annual cost-of-living adjustment (COLA) to his salary on the first pay period of each calendar year, of the actual COLA, but no greater than two and a half percent (2.5%) based on employee's performance, as determined by the City Council. The COLA per the agreement is based on the California CPI for Urban Wage Earners and Clerical Workers for the 12 months between December and December. The calculated CPI percentage of increase is 2.73%. The annual base salary set at the maximum increase of 2.5% is \$214,966.15.

The adoption of Resolution 2020-04 and 2020-05 is requested for the purpose of adopting the annual base salary and the publically adopting pay scale for the City Attorney and City Manager, which have already been approved by the City Council in the respective employment agreements. The adoption of these Resolutions will satisfy the requirements established by the California Public Employees' Retirement System (CalPERS) to qualify for future retirement benefits.

ATTACHMENTS

1. Resolution 2020-04
2. Resolution 2020-05

RESOLUTION NO. 2020-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING THE SALARY RANGE FOR THE
CITY ATTORNEY**

WHEREAS, on October 1, 2018, the Merced City Council approved the Employment Agreement with City Attorney Phaedra Norton effective October 16, 2018 (the “Employment Agreement”); and,

WHEREAS, pursuant the Employment Agreement the City Attorney may receive an annual cost-of-living adjustment (COLA) to her salary on the first pay period of the calendar year commencing in 2020, of the actual COLA, but no greater than two and a half percent (2.5%).

**THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY
RESOLVE AS FOLLOWS:**

SECTION 1. Pursuant to the Employment Agreement dated October 1, 2018, the salary of the City Attorney is hereby increased by 2.5% over current compensation levels effective January 1, 2020.

SECTION 2. The publicly adopted Pay Scale is set forth on Exhibit “A” to this Resolution. Said publicly adopted pay scale will be updated and approved by the City Council as necessary to comply with the Public Employee Retirement System (PERS) requirements and the terms and conditions of the City Attorney Employment Agreement as set forth in the Agreement.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2020, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

K. Flores 1/23/20
Contract City Attorney Date

Proposed Annual Cost-of-Living Adjustment January 1, 2020

| | | | |
|---------------|-----------|----|------------|
| City Attorney | Hourly | \$ | 100.8245 |
| | Bi-weekly | \$ | 8,065.96 |
| | Monthly | \$ | 17,476.25 |
| | Annual | \$ | 209,715.03 |

EXHIBIT A

RESOLUTION NO. 2020-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING THE SALARY RANGE FOR THE
CITY MANAGER**

WHEREAS, on October 15, 2018, the Merced City Council approved an Amendment to the Employment Agreement with City Manager Steve Carrigan effective January 25, 2019 (the "Employment Agreement"); and,

WHEREAS, pursuant the Employment Agreement the City Manager may receive an annual cost-of-living adjustment (COLA) to his salary on the first pay period of the calendar year commencing on January 1, 2020, of the actual COLA, but no greater than two and a half percent (2.5%).

**THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY
RESOLVE AS FOLLOWS:**

SECTION 1. Pursuant to the Second Amendment to City Manager Employment Agreement dated October 15, 2018, the salary of the City Manager is hereby increased by 2.5% over current compensation levels effective January 1, 2020.

SECTION 2. The publicly adopted Pay Scale is set forth on Exhibit "A" to this Resolution. Said publicly adopted pay scale will be updated and approved by the City Council as necessary to comply with the Public Employee Retirement System (PERS) requirements and the terms and conditions of the City Manager Employment Agreement as set forth in the Agreement and the Second Amended Agreement.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2020, 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:

 1-16-2020
City Attorney Date

Proposed Annual Cost-of-Living Adjustment January 1, 2020

| | | | |
|--------------|-----------|----|------------|
| City Manager | Hourly | \$ | 103.3491 |
| | Bi-weekly | \$ | 8,267.93 |
| | Monthly | \$ | 17,913.85 |
| | Annual | \$ | 214,966.15 |

EXHIBIT A



ADMINISTRATIVE REPORT

Agenda Item I.10.

Meeting Date: 2/3/2020

Report Prepared by: Michael Hren, Principal Planner, Development Services Department, Planning Division

SUBJECT: Second Reading and Final Adoption of an Ordinance Approving Site Utilization Plan Revision #3 to Planned Development #72, Including a Hotel, Medical Office Buildings, Multi-Family Residential Housing, Fast Food Uses, and a Mixed-use Development

REPORT IN BRIEF

Second reading and final adoption of an Ordinance approving Site Utilization Plan Revision #3 to Planned Development #72.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2512**, an Ordinance of the City Council of the City of Merced, California, approving Site Utilization Plan Revision #3 to Planned Development #72 changing the land use designation from “Commercial Office” (CO) and “High-Medium Residential” (HMD) to “Neighborhood Commercial” (CN) for 2 parcels of approximately 21.5 acres of land generally located on the northeast corner of Yosemite Avenue and G Street

ALTERNATIVES

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

AUTHORITY

Title 19 of the Merced Municipal Code outlines environmental review procedures and California Government Code Section 65358(a) grants authority to amend all or part of an adopted General Plan. Merced Municipal Code Section 20.42.080 grants the City Council authority to approve revisions to a Planned Development.

CITY COUNCIL PRIORITIES

Economic Development is listed as a part of FY 2019-20 Council Goals and Priorities as an element of Priority 5- Future Planning.

DISCUSSION

All attachments referenced in the following administrative report can be found on the original report

submitted to the City Council at their meeting of January 21, 2020.

Project Description

The proposed project includes a General Plan Amendment and Site Utilization Plan Revision for 21.5 acres of land on the subject site. As shown on Attachment B of Planning Commission Staff Report #19-29 (Attachment 9), the site has two General Plan designations of CO and HMD and a Zoning designation of P-D #72. The proposed General Plan Amendment would change the General Plan designation to CN.

The SUP Revision includes changes to a number of aspects of P-D #72, including a four-story hotel of approximately 80,104 square feet, and two medical office buildings totaling approximately 66,465 square feet. It also includes 44 Units of Multi-Family Residential Housing totaling approximately 29,887 square feet, fast food uses with drive-through windows totaling approximately 5,494 square feet, and a mixed-use development with approximately 59,616 square feet of other retail and office uses, shown on the Site Plan at Attachment D of Planning Commission Staff Report #19-29.

General Plan Compliance

With the proposed General Plan Amendment and Site Utilization Plan (SUP) Revision, the proposed project will conform with the General Plan designation of CN and zoning of P-D #72.

The Zoning Ordinance describes uses that are allowed within a specific zone “by right” and those allowed with a discretionary review such as a Conditional Use Permit. Under ordinary circumstances, drive-through sales, alcoholic beverage sales in restaurants for on-site consumption, multi-family dwellings, and gas and service stations are allowed within a C-N zone with approval of a Conditional Use Permit. Day care centers require a Minor Use Permit and hotels are listed as “use not allowed” in an ordinary C-N zone.

The SUP Revision proposes to condense a number of the typical public hearings for interface along with Conditional Use Permits into the single SUP Revision. Notable exceptions are that the hotel and multi-family residential components will still require publicly noticed public hearings for their Site Plan Review Permits if they are on a parcel that is abutting or across from a parcel with R-1 or R-2 zoning. Section 20.32 of the Zoning Ordinance sets out the requirements for interface regulations to help integrate potentially incompatible zones. See Condition #34 of the Planning Commission Resolution at Attachment 9 for details.

The Zoning Ordinance does not specify a density for multi-family housing allowed within a C-N zone. The General Plan has a range of multi-family densities: Low-Medium Density (LMD) - 6 to 12 units/acre; High-Medium Density (HMD) - 12 to 24 units/acre; and High Density (HD) 24 to 36 units/acre. The Zoning designations that correlate to the multi-family General Plan designations would be R-2; R-3-1.5; R-3, and R-4. The proposed density for this project, based on the number of units is approximately 16.4 units per acre, considering the size of the proposed parcel. This density fits into an HMD General Plan designation comfortably; the site also currently has the HMD designation for the portion of the site where the multi-family residential component is proposed.

General Plan Policy L 2.7.a notes that there are very unique circumstances under which retail commercial destinations can be located at the intersections of two arterial streets. Among the criteria are a project of minimum size of 20 acres, strong connectivity to the adjacent neighborhood, provision of a mix of uses, and provision of good transit and pedestrian access. This project is approximately 21.5 acres, will connect to the adjacent neighborhood via Sandpiper Avenue and the future "Children's Avenue", provides for multi-family residential use in addition to commercial retail and office uses, and is on a site that is already near to existing transit routes. Planning staff believes that this project meets the criteria to proceed forward at the proposed location while being compatible with the guidelines laid out in Policy L 2.7.a.

Traffic/Circulation

The project site is located at the northeast corner of Yosemite Avenue and G Street. The Project proposes to develop 66,465 square feet of medical-dental office space, a 128-room hotel, 11,458 square feet of fast-food restaurant with drive-through window(s), a gasoline/service station with convenience market (12 fueling positions), 18,222 square feet of shopping center, 5,000 square feet high turnover (sit-down) restaurant, 12,000 square feet of general office space, 4,804 square feet of day care center, and 44 multifamily units. At present, all intersections studied in the Traffic Impact Analysis operate at an acceptable Level of Service (LOS) during both peak periods. The City of Merced has determined that roads must operate at LOS of "D" or greater in order to be acceptable. The Traffic Impact Analysis, prepared by JLB Traffic Engineering, Inc. appears at Appendix B of Attachment G of Planning Commission Staff Report #19-29 (Attachment 9).

Project Access

Based on the Project Site Plan, access to and from the Project site will be from five (5) access driveways located along Sandpiper Avenue, G Street, and Yosemite Avenue. Two (2) access points are proposed to be located along the east side of G Street. One is located approximately 1,250 south of Mercy Avenue and is proposed as a full access (with a future signal), with left turns in and out. The other is located approximately 625 feet north of Yosemite Avenue and is proposed as left-in, right-in and right-out access only. The access point off of Yosemite Avenue is located approximately 300 feet east of G Street and is limited to right-in and right-out access only. The remaining two access points are proposed to be located along the extension of Sandpiper Avenue. While Sandpiper Avenue will eventually go through to Mercy Avenue, at the beginning of the project, access to Sandpiper Avenue will be limited to Yosemite Avenue, which will be limited to right-in and right-out access only onto Sandpiper Avenue. Sandpiper will connect to the future "Children's Avenue," which will go through to Mansionette Drive.

Trip Generation

Trip generation rates for the proposed Project were obtained from the 10th Edition of the Trip Generation Manual published by the Institute of Transportation Engineers (ITE). The Project buildout is estimated to generate a maximum of 13,160 daily trips, 1,009 AM peak hour trips and 1,059 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). JLB also

analyzed the estimated maximum trip generation of a prior version of the Project Site Plan. Due to a lack of secured users for the site, the exact square footages of the pads shown on the latest Project Site Plan may differ. At buildout, the prior Project Site Plan is anticipated to generate a maximum of 13,741 daily trips, 1,092 AM peak hour trips and 1,074 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). Compared to the prior Project Site Plan, the latest Project Site Plan is estimated to yield less traffic by 581 daily trips, 83 AM peak hour trips and 15 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). The TIA assumed the trip generation of the prior Project Site Plan, as it is the more impactful.

The following Mitigation Measure is recommended in Initial Study #19-28 for this project to ensure intersections operate at an acceptable level of service (see the Mitigation Monitoring Program at Attachment H of Planning Commission Staff Report #19-29, Attachment 9).

Traffic Mitigation Measures

- TRA-01** Project Driveway 1 shall have a minimum throat depth of 150 feet before any vehicular openings to the north.
- TRA-02** The Project shall implement a walkway along its frontage to Sandpiper Avenue and complete the walkway along its frontage to G Street. Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.
- TRA-03** The Project shall implement a Class II Bike Lane along its frontage to G Street. Based on the implementation progress of the project, the timing of this improvement shall be at the discretion of the City Engineer.
- TRA-04** The intersection of G Street and Project Driveway 1 shall be signalized with protective left-turn phasing in all directions prior to the issuance of any occupancy permits.
- TRA-05** The intersection of Sandpiper Avenue and Mercy Avenue shall be modified as an All-Way Stop with the following details:
- Stripe a westbound left-turn lane;
 - Modify the westbound left-through-right lane to a through-right lane;
 - Stripe a northbound left-turn;
 - Modify the northbound left-through-right lane to a through-right lane;
 - Implement an all-way stop control; and,
 - Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.
- TRA-06 Option 1** The intersection of G Street and Yosemite Avenue shall have a second southbound left-turn lane added, the traffic signal shall be modified to implement overlap phasing of the northbound right-turn with the westbound left-turn phase, and westbound to eastbound U-turns shall be prohibited. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.

TRA-06 Option 2 The intersection of G Street and Yosemite Avenue shall either (a) have a second southbound left-turn lane added, the traffic signal shall be modified to implement overlap phasing of the northbound right-turn with the westbound left-turn phase, and westbound to eastbound U-turns shall be prohibited, or (b) be improved with an alternate plan that meets or exceeds the mitigation provided by option "a" above and that meets the approval of the City Engineer. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.

TRA-07 The intersection of Paulson Road and Yosemite Avenue shall have an eastbound through-right lane with a receiving lane east of Paulson Road added. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.

In addition, all applicable previously approved mitigation measures from Initial Study #10-06 would still apply. A copy of the mitigation monitoring program for Initial Study #10-06 can be found at Appendix C of Initial Study #19-28, which is Attachment G of Planning Commission Staff Report #19-29.

Parking

Parking for the non-residential portions of the project are based on projected uses, and their requirements per Table 20.38-1 of the Zoning Ordinance. The Zoning Ordinance allows a 15% reduction in floor area for non-usable commercial space such as restrooms, storage areas, etc. Using this formula, the parking requirements for the commercial portion of the project would be 606 spaces.

The Zoning Ordinance requires 1.75 spaces of parking for each multi-family unit up to 30 units, plus an additional 1.5 spaces for each unit over 30. Based on this calculation, the residential portion of this project would require 74 parking spaces.

The total project requires 680 parking spaces. The proposed site plan envisions 964 parking spaces in total, meeting and exceeding the City's parking requirements. The Zoning Ordinance (MMC Section 20.38.050) also allows for reductions in parking requirements for mixed used projects, projects near transit, and other reductions which could be applied to this project. Although this project has not formally applied for a modification to the final map of the parcels, the site plan is drawn in such a way that future subdivision is possible, if not likely. Reviewing the individual uses in such a way that the parking on each potential parcel is tracked separately yields some uses (the Medical Offices, the Hotel, and the Multi-Family residences) that are slightly deficient on parking. The Parking Analysis table below provides more detail. Since the overall parking provided is significantly higher than the overall parking required for the project, staff believes that with proper cross-access and use agreements in place (Condition #38 of Planning Commission Resolution #4034, Attachment 9), parking needs for the proposed uses are met and exceeded.

| | SF | Units | Reduction | Spaces per SF | Req. Spaces | Prov. Spaces | Difference |
|----------------|--------|-------|-----------|----------------------|-------------|--------------|------------|
| Gen. Retail | 18,222 | N/A | 15% | 1/300 | 52 | 113 | 61 |
| Restaurants | 7,404 | N/A | 30%* | 1/100 | 52 | 93 | 41 |
| Bank | 3,560 | N/A | 15% | 1/250 | 13 | 35 | 22 |
| Gas/Service | 3,150 | N/A | 15% | 1/250 + 3 | 14 | 19 | 5 |
| Office | 12,000 | N/A | 15% | 1/250 | 41 | 87 | 46 |
| Fast Food | 5,494 | N/A | 15% | 1/350 | 14 | 111 | 97 |
| Day Care | 4,804 | N/A | 15% | 1/400 + 1/employee** | 23 | 63 | 40 |
| Hotel | 80,104 | 128 | N/A | Per Unit*** | 114 | 111 | -3 |
| Multi-Family | 29,887 | 44 | N/A | Per Unit**** | 74 | 62 | -12 |
| Medical Office | 66,465 | N/A | 15% | 1/200 | 283 | 270 | -13 |

*70% of total square footage assumed for seating

**10 employees assumed

***Hotel requires 1 space/unit for the first 100 units, and 0.5 spaces/unit thereafter

****Multi-family requires 1.75 spaces/unit for the first 30 units and 1.5 spaces/unit thereafter

Building Design

As shown on the Rendering and Typical Elevations and Floor Plans, Attachments 6 and 5, the retail buildings on the site would stand one story tall and have a modern design with wood or faux wood fascia, stone, glass, and metal as primary features and elements. The buildings would have clean lines and use a variety of building materials to provide interest and differentiate between businesses. The retail portion of the project is proposed as the first phase of development, and future phases, including the hotel, the residential buildings, and the office buildings, would all use the retail phase's stylistic elements as a template for a cohesive, but not identical, thematic design for the entire site. Final design details will be approved by staff at the Site Plan Review stage.

Site Design

The project site is bounded by Yosemite Avenue to the south, G Street to the west, the future extension of Sandpiper Avenue to the east, and approximately a hypothetical extension of University Avenue or Bobolink Court to the north. For clarity, Sandpiper Avenue is projected to extend between Yosemite Avenue and Mercy Drive during the lifespan of this project, while neither Yosemite Avenue nor Bobolink Court have such projections and are mentioned for the purpose of illustration only.

The site plan is still conceptual, especially as potential tenants are concerned, which may lead to modifications as development proceeds. Changes to the site plan could be approved by the Site Plan Review Committee. As proposed, the project site includes:

- 3,150 SF for a Gas/Service Station
- 3,560 SF for a Bank
- 4,804 SF for a Day Care
- 5,494 SF of Fast Food with Drive-Through
- 7,404 SF of Restaurants

- 12,000 SF of General Offices
- 18,222 SF of General Retail
- 29,887 SF for Multi-Family Residential; 3 Two-Story Buildings of 44 Rooms Total
- 66,465 SF of Medical Offices
- 80,104 SF for a 4-Story Hotel with 128 Rooms

The first phase of the project would include the development of the retail spaces, including the restaurants, the fast food, the gas/service station, and potentially the bank. Later phases will largely be determined by tenant interest and opportunity, but it is projected that the hotel, office uses, and day care are the most likely to proceed in a second phase, with the multi-family residential development as the third phase. There are not timing projections on these phases at this point.

The developers held a Neighborhood Outreach meeting at Cruickshank Middle School, 601 Mercy Avenue, near the project site on May 30, 2019, beginning at 6 PM. At this meeting, the applicants presented the project concepts as they stood at the time to interested residents, and solicited feedback. In response to comments received at this outreach meeting, the applicants modified their site plan to the current version, eliminating the plans for a car wash that residents suggested could have noise impacts on surrounding properties, and modifying the site layout such that the multi-family residential portion of the site is further north than was originally proposed. These changes have made the site design more congruent with its surroundings, with the multi-family housing acting as a buffer for other uses that would generate more noise and potential impacts to the existing neighborhood. Also in response to comments that City staff heard at the meeting regarding the concerns over hotel signage, Condition #40 of the Planning Commission Resolution at Attachment 9 regarding the illumination of signs has been added.

Neighborhood Impact/Interface

As previously described, the project site is bordered on the east by residential uses as well as Merced College to the west across G Street. The developer held a neighborhood meeting on May 30, 2019, at Cruickshank Middle School, the impacts of which on the proposal are detailed above.

The Zoning Ordinance describes uses that are allowed within a specific zone “by right” and those allowed with a discretionary review, such as a Conditional Use Permit. Under ordinary circumstances, drive-through sales, alcoholic beverage sales in restaurants for on-site consumption, multi-family dwellings, and gas and service stations are allowed within a C-N zone with approval of a Conditional Use Permit. Day care centers require a Minor Use Permit and hotels are listed as “use not allowed” in an ordinary C-N zone.

Additionally, Section 20.32 of the Zoning Ordinance sets out the requirements for interface regulations to help integrate potentially incompatible zones. This section requires Site Plan Review be obtained prior to construction on a parcel with a Neighborhood Commercial (C-N) zone when it is adjacent to or across the street from an R-1-6 zone. In this case, several properties to the east are zoned R-1-6. The uses in this area include single-family dwellings located on approximately 0.2-acre lots. This project is designed in such a way that may at a future time be desirable to separate the parcels, as noted by the “proposed parcel line” notations on the Site Plan, shown at Attachment 4; however, no parcel modifications have been submitted at this time.

Instead of the typical requirements for additional Conditional Use Permits and Site Plan Review for interface, this Site Utilization Plan process will address interface regulations, additional review, and permissibility of specific uses in Planned Development #72 (Condition #34 of Planning Commission Resolution #4034, Attachment 9). These modifications apply in the portions of Planned Development #72 covered by the subject site parcels in the following manner, taking into consideration that the adjacency of parcels may change in the event of parcel modifications in the future:

- Multi-family housing will require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publicly noticed public hearing at the Site Plan Review meeting per Section 20.32 of the Zoning Ordinance.
- The hotel, rather than being a “use not allowed,” shall require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publicly noticed public hearing at a Site Plan Review meeting per Section 20.32 of the Zoning Ordinance, but will not require an additional Conditional Use Permit.
- Restaurants selling alcohol for consumption on-site will require only a Site Plan Review Permit use without further requirement for a Conditional Use Permit or public hearing for interface considerations.
- Gas and service stations will require only a Site Plan Review Permit without further requirement for a Conditional Use Permit unless the gas and service station wishes to sell alcohol, in which case a Conditional Use Permit is required, and a letter of Public Convenience and Necessity may be required, but an additional public hearing for interface consideration is not required.
- Day care centers require only a Site Plan Review Permit without further requirement for a Minor Use Permit or public hearing for interface considerations.
- Drive-through and drive-up sales require only a Site Plan Review Permit without further requirement for a Conditional Use Permit or public hearing for interface considerations.
- General retail uses, professional offices, restaurants, and banks require only a Site Plan Review Permit without further requirement for a public hearing for interface considerations.

Public hearing notices were sent to all property owners within 300 feet of the site. Prior to the Planning Commission meeting, staff received one letter requesting that the cul-de-sacs across the extension of Sandpiper Avenue be walled off. Speakers advocating for conditions to that effect to be added to the Planning Commission’s recommendation were present at the Planning Commission Public Hearing, held on December 4, 2019. The Planning Commission discussed this issue, but did

not add recommended conditions based on these concerns. Staff also received a letter of support for the project from a representative of Valley Children's Healthcare, which plans to construct a facility on a currently vacant parcel to the east of the project. These letters have been provided at Attachment 9.

To date, staff has not had any comments other than those described above or those heard at the community meeting held by the applicants.

Environmental Clearance

The Planning staff has conducted an environmental review (Initial Study #19-28) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Mitigated Negative Declaration (i.e., no significant effects in this case because of the mitigation measures and/or modifications described in Initial Study #19-28) is being recommended (Attachment G of Planning Commission Staff Report #19-29, Attachment 9).

Planning Commission Action

On December 4, 2019, the Planning Commission held a public hearing to consider this application. At that meeting, other than representatives of the applicant, two people spoke regarding their desire for walling off the cul-de-sacs across the extension of Sandpiper Avenue. The Planning Commission voted 7-0 to approve Resolution #4034 (Attachment 10).

Since the Planning Commission meeting, staff is recommending an update to the language of Condition 36 of the Resolution to read as follows:

36. Sandpiper Drive, at a minimum, shall be constructed from Yosemite Avenue north to "Children's Avenue". Upon completion of the traffic signal at G Street and Project Driveway 1, north of the proposed hotel, Sandpiper Drive shall be constructed to Project Driveway 1. Prior to the issuance of any occupancy permit for any of the multi-family residential buildings, the two office buildings at the northern portion of the project site, or the hotel, Sandpiper Drive shall be constructed in its entirety to connect to Mercy Avenue. Reimbursements for street frontage improvements shall be given and calculated according to Merced Municipal Code Section 17.58. The value to be used in determining all collector-width reimbursement amounts shall be the current cost based on the work being done at the time the application involving reimbursement is submitted. The cost at the time of original installation does not apply.

Additionally, at the request of the developer, staff has provided a second option for the City Council to consider regarding Mitigation Measure TRA-06 that allows for an alternate plan that meets or exceeds the mitigation provided by option one and that meets the approval of the City Engineer.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Ordinance 2512

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING SITE UTILIZATION PLAN REVISION
#3 TO PLANNED DEVELOPMENT (P-D) #72
CHANGING THE LAND USE DESIGNATION
FROM "COMMERCIAL OFFICE" (CO) AND
"HIGH-MEDIUM DENSITY RESIDENTIAL"
(HMD) TO "NEIGHBORHOOD COMMERCIAL"
(CN) FOR 2 PARCELS OF APPROXIMATELY
21.5 ACRES OF LAND GENERALLY LOCATED
ON THE NORTHEAST CORNER OF YOSEMITE
AVENUE AND G STREET**

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

SECTION 1. AMENDMENT TO CODE. The property described in Exhibit A and shown on the map at Exhibit B, attached hereto, and by reference made a part of this Ordinance, is hereby re-designated as shown on said Official Site Utilization Plan from "Commercial Office" (CO) and "High-Medium Density Residential" (HMD) to "Neighborhood Commercial" (CN).

SECTION 2. CHANGE OF MAP. The Director of Development Services is hereby directed to make the appropriate markings on the Official Site Utilization Plan for Planned Development #72 in conformance with this Ordinance and the provisions of Title 20 of the Merced Municipal Code.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 4. 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 5. 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 _____, 2020, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2020, 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:



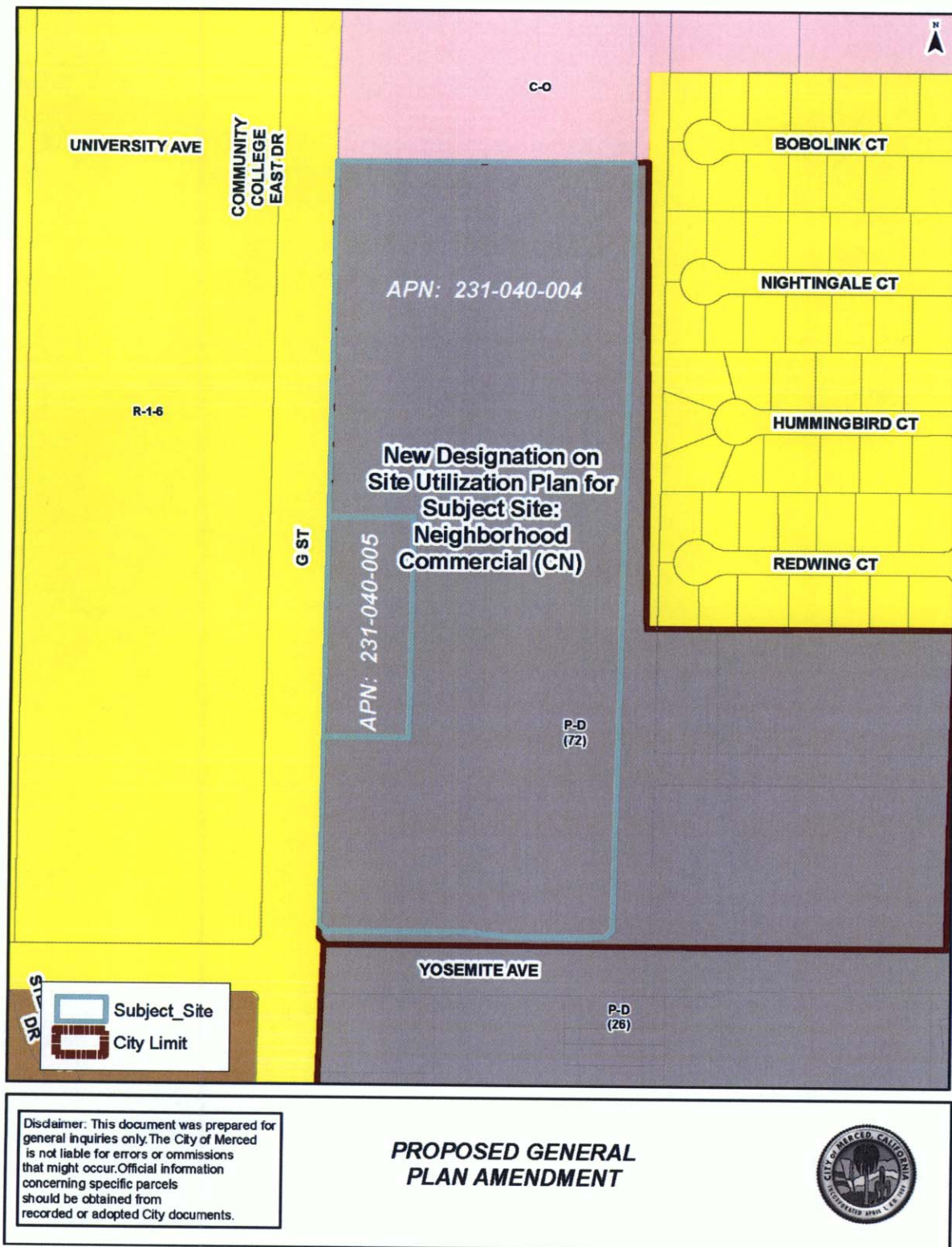
City Attorney 1-15-2020
Date

**EXHIBIT A LEGAL
DESCRIPTION**

“Remainder C” of Final Map No. 5233, amended map for Mansionette Estates Unit 1, according to the map filed July 13, 2000 in Book 52, Pages, 31, 32, and 33 of Official Plats, Merced County Records.

APN: 231-040-004 and 231-040-005

EXHIBIT A





ADMINISTRATIVE REPORT

Agenda Item I.11.

Meeting Date: 2/3/2020

Report Prepared by: John Tresidder, Assistant City Clerk, City Clerk's Office

SUBJECT: Second Reading and Final Adoption of an Ordinance Adding the "Tax Transparency Commission" to the Merced Municipal Code to Consolidate all Current and Future Tax Oversight Committees Into One Oversight Commission

REPORT IN BRIEF

Second Reading and final adoption of an ordinance to consolidate all current and future tax measure oversight commissions into a single commission.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2510**, an ordinance of the City Council of the City of Merced, California, adding chapter 2.56, "Tax Transparency Commission," to the Merced Municipal Code.

ALTERNATIVES

1. Adopt as recommended by staff; or,
2. Adopt with amendments (specify in motion); or,
3. Continue to a future meeting; or,
4. Deny

AUTHORITY

City of Merced Charter, Section 200, Section 405, Section 413, and Section 700.

CITY COUNCIL PRIORITIES

Aligns with City Council priority for governmental transparency.

DISCUSSION

In November of 2005, a tax measure to fund Police and Fire personnel, as well as road projects and repairs (Measure C), was adopted by the electorate of the City of Merced. A stipulation of the ordinance is that an independent oversight committee be formed to review tax revenue and to ensure the money is being used as the ordinance intended.

In June of 2018, a special tax measure was adopted by the electorate in order to tax legalized cannabis businesses that operate in the City of Merced (Measure Y). The tax is meant to supplement funding for the Recreation and Parks Department, the Police Department and the Fire Department. The adopted ordinance, like Measure C, requires a committee be formed to review

revenue and expenditures and make recommendations to the City Council.

Over the past several years, the Citizens Oversight Measure C Committee has experienced a high turnover rate in membership, with many departing members stating that, while they still review the tax revenue, the expenditures are mostly used for personnel in both Fire and Police, which does not leave any room for new recommendations to the Council. With that statement in mind, staff approached the Measure C Committee with the idea of combining their current oversight with the oversight of the Measure Y revenues in order to inject new life and purpose into the committee and garner new interest in applying to serve on the oversight committee. The idea was well received and the Measure C Committee directed staff to recommend this direction to the City Council.

At the City Council meeting of August 20, 2018, staff presented the recommendation of the Measure C Committee for discussion. The City Council agreed that the combining of these two committees would be beneficial to the recruitment and retention of individuals to serve on the oversight committee.

Attached is the draft ordinance creating the Tax Transparency Commission, which is the first step in the combining of the current committees. Over the coming meetings, staff will bring an additional ordinance to amend sections of both the Measure C Committee and the Measure Y Committee, in order to link them to the Tax Transparency Commission.

IMPACT ON CITY RESOURCES

N/A

ATTACHMENTS

1. Draft Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, ADDING
CHAPTER 2.56, "TAX TRANSPARENCY
COMMISSION," TO THE MERCED MUNICIPAL
CODE**

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

SECTION 1. AMENDMENT TO CODE. Chapter 2.56 "Tax
Transparency Commission," is hereby added to the Merced Municipal Code to
read as follows:

**"Chapter 2.56
TAX TRANSPARENCY COMMISSION**

Sections:

- 2.56.010 Authority**
- 2.56.020 Appointment and Meetings.**
- 2.56.030 Powers and Duties.**

2.56.010 Authority.

Pursuant to Section 700 of the Charter of the City there is
hereby established a Tax Transparency Commission
consisting of seven members.

2.56.020 Appointment and Meetings.

A. Member are to be appointed by the City Council
from the qualified electors of the City and no member of
said commission shall hold any paid office or
employment in the city government.

B. Six (6) members will be appointed from each of
the six (6) districts and one (1) member will be appointed
at large. Should a district appointment remain vacant for

more than ninety (90) days, the City Council has the authority and may elect to appoint an otherwise-qualified at large member to fill the vacancy.

C. The number of members to comprise the commission may be changed by ordinance of the City Council to not less than seven nor more than nine members.

D. The Tax Transparency Commission shall meet quarterly.

2.56.030 Powers and Duties.

The Tax Transparency Commission shall have authority to:

A. Review the projected revenue and expenditures for the funds generated by each general or special tax measure.

B. Make budget recommendations to the City Council in accordance with and to maintain compliance with each general or special tax measure.

C. Review annual audits of each general or special tax measure and report any findings to the City Council.”

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

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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** 10-14-19



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item J.1.

Meeting Date: 2/3/2020

Report Prepared by: Stephanie Dietz, Assistant City Manager

SUBJECT: Update on City Council Goals and Priorities

REPORT IN BRIEF

Update on the City Council's goals and priorities for FY 2019-2020.

RECOMMENDATION

For information only.

ATTACHMENTS

1. Goals and Priorities Presentation

Council Goals & Priorities - Update

FY 2019/20

FY 2019/20 Council Goals & Priorities

1 Staffing (General Fund)

- * Measure C Transition - Sunsets in 2026
- * Code Enforcement/Dispatchers/Police Officers
- * Parks Maintenance Workers
- * Employee Compensation

2 Youth Programs (General Fund)

- * Youth/Recreation Programs
- * Community Outreach - Mobilize Volunteers
- * Additional Programs with Partnerships/Voucher Program (new)
- * 27th & K
- Support for the Zoo
- Fahren's Park Bike Project

3 City Beautification (One-time/General Fund)

- * Parks Maintenance & Equipment
- * Public Art
- * Blighted Property/Refuse Collection
- * Welcome Signs/Entry Points
- Public Spaces

4 Local Streets (Measure V/STP/Local Transportation)

- * Overall Streets, Sidewalks, and Street Lights
- * Safe Routes to School - Childs Ave.
- * Parsons Ave.
- Regional Projects - Hwy 59
- Regular Updates to community on projects
- Traffic/Pedestrian Safety

5 Future Planning

- * Police Station/Fire Stations/Public Works Yard/Park Restrooms
- * Future Annexations/Growth of City/Sewer Master Plan
- * Economic Development/Industrial Park/Yosemite Travel
- * Quiet Zones/Rail Safety
- Growing General Fund Reserves
- * Infill Development
- City Outskirts Services/County Islands

6 Downtown

- * Code Enforcement/Store Fronts
- Housing
- Bob Hart Square Extension
- Consistent foot patrols
- Enhanced Infrastructure Financing District (EIFD)

7 Regional Transportation

- * High Speed Rail
- * ACE Train
- * Amtrak
- Campus Parkway/Merced Loop

8 Water

- SGMA/IRWM Implementation
- Flood Prevention
- Groundwater Recharge
- Sub-Committee
- Surface Water Projects

9 Homelessness

- Childs & B Street Project (119 units)
- Gateway Terrace II Apartments (50)
- Single-family/Tri-plex opportunities
- First-time Home Buyer Education Program

10 Charter Review Committee

- Remove Charter Cash-basis Fund (\$4 mil)
- Mayor Term

11 Community Wellness

- 16th Street/Motel Drive Issues
- Neighborhood Watch
- Expanded Citizen's Police Academy

12 Agency Partnerships

- Homeless Court
- County Navigation Center
- UC Merced Internships
- Regional Plan for Services - Continuum of Care
- Drug Prevention (County)
- Public Health (County)
- Youth Programs (County & Schools)
- Job Training (Merced College & County)

Staffing

- Measure C – transition and education efforts
- Job Classification Study – Final report adopted July 2019
- Compensation Study – Final report estimated in April 2020
- Labor Negotiations continued with all Bargaining Groups

Youth Programs

- Implementation of Youth Voucher Program
- Rehabilitation of 27th & K Facility
- Introduction of RFP process for service selection
- Continued support of Zoo and Dog Park
- Develop Measure Y Plan for future allocation
- Farhen's Bike Park – go back out to RFP for design services
- Prop 68 grant applications

City Beautification

- Increased Park Maintenance – hired new contractors for services, addressing issues within 48 hours, partnering with community to enhance efforts
- MOAT Rehabilitation Project
- Sub-Standard Properties/Blighted Properties – several properties address, looking to add housing vouchers to gain further compliance with out of town owners
- Public Art – maintenance projects, new projects
- Tree Management Plan – final report to Council in March 2020, replanting coming in Spring 2020
- Regional Encampment Abatements
- Opening of Transfer Site on Yosemite Ave.
- Welcome Signs

Local Streets

- On-going local projects – look to get community input for 2020-21 allocation at Town Halls
- Active Transportation Plan – adoption of plan
 - Childs Ave. Safe Routes to School
- Parsons Ave. Proposed project – currently not programmed
- Regular Updates – more regular press releases, updates in the Utility Billing Newsletters
- Future update to Council on upcoming projects

Future Planning

- Police Station – Council direction on Sep. 30th, staff working to refine design and develop financing plan, update in Spring 2020
- Future Growth – North Merced Annexation, Sewer Master Plan
- Economic Development – Continued industrial clients and business development
- Quiet Zones/Rail Safety – Council direction to phase improvements, budget process
- Increasing General Fund Reserves – mid-year budget will demonstrate efforts
- Infill/Outskirts – investigating beautification options
- ERP Implementation – contract for new ERP system coming to Council Spring 2020
- PFFP/City standards – updates this Spring for implementation in July 2020

Downtown

- Sub-standard Property Enforcement – Reniero's
- Housing – Tioga market rate apartments, demonstrate need
- Bob Hart Square – extended plaza
- Increased Police Patrols
- EIFD and PBID work – RFPs are out and looking to study areas in Spring 2020

Regional Transportation

- High Speed Rail – Business Plan will be released February 10th, adopted April 2020
- ACE Train – Continued partnership to bring ACE Station to Merced
- Amtrak – Advocating increased routes to and from Sacramento
- Campus Parkway – Phase 2 opened, Phase 3 completed 2022, no plans for Phase 4
- HWY 59 Widening – CalTrans approved Project Study Report, going out to bid on Environmental and Design

Water

- SGMA/IRWM Implementation – Groundwater Sustainability Plan adopted, IRWM Plan adopted
- Groundwater Recharge – continues at the WWTP, looking to find additional locations
- Surface Water Projects – MID MOU for surface water, designing plant and negotiating purchase agreement with MID
- WWTP Expansion – working on design of next phase of the plant, to include enhanced recharge capabilities
- Bear Creek – partnership with the County to address evasive plants along the banks within the City

Homelessness

- Childs & B Project (119 units) – moving forward, proposed groundbreaking Summer of 2020
- Gateway Terrace II (50 units) – moving forward, proposed groundbreaking Summer of 2020
- First-time education program – Spring 2020
- Single Family/Tri-plex opportunities (SB 2 Implementation)

Charter Review Committee

- Council appointed committee and set the charge
- Findings reported in Summer 2019
- Council placed three questions on the March 2020 ballot

Agency Partnerships

- Homelessness Regional Plan
 - Homeless Court
 - Navigation Center
- Job Training
 - Merced College – expanding training to meet industrial needs
 - Workforce development – internship opportunities
- Social Services
 - Drug Prevention
 - Public Health Outreach
- Youth Programs
 - Schools/YSO Coordination

Other Projects

- Loughborough Pilot Project
- CP 42 Sub-Committee
- Laura Fountains Sub-Committee
- Vaping Policy
- Increased hours of operation at City Hall



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item K.1.

Meeting Date: 2/3/2020

SUBJECT: Update on the Loughborough Neighborhood Project

REPORT IN BRIEF

An update will be given on the Loughborough Neighborhood project.

RECOMMENDATION

Provide staff direction for possible next steps.



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item K.2.

Meeting Date: 2/3/2020

SUBJECT: Request to Add Item to Future Agenda

REPORT IN BRIEF

Provides members of the City Council to request that an item be placed on a future City Council agenda for initial consideration by the City Council.



CITY OF MERCED

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

ADMINISTRATIVE REPORT

Agenda Item K.3.

Meeting Date: 2/3/2020

SUBJECT: City Council Comments

REPORT IN BRIEF

Provides an opportunity for the Mayor and/or Council Member(s) to make a brief announcement on any activity(ies) she/he has attended on behalf of the City and to make a brief announcement on future community events and/or activities. The Brown Act does not allow discussion or action by the legislative body under this section.