



# 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 1, 2021

6:00 PM

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

**Closed Session at 5:30 PM/Regular Meeting at 6:00 PM**

#### **NOTICE TO PUBLIC/AVISO AL PÚBLICO/CEEB TOOM RAU PEJ XEEM**

Pursuant to Governor Newsom's Executive Order N-29-20, this meeting will be conducted by teleconference and there will be no in-person public access to the meeting location, except, Essential Critical Infrastructure Workers specifically those covered by the Communications Sector including, but not limited to, workers who support media services. All votes for this meeting will be taken via rollcall.

Sobre el lugar de la reunión, excepto los Trabajadores de infraestructura Esencial Crítica, específicamente aquellos cubiertos por el Sector de Comunicaciones, incluidos, entre otros, los trabajadores que De conformidad con la Orden Ejecutiva N-29-20 del Gobernador Newsom, esta reunión se llevará a cabo por teleconferencia y No habrá acceso público en persona excepto los servicios de medios de apoyo. Todos los votos para esta reunión se realizarán mediante votación normal.

Ua raws li Governor Newsom's tsab cais hais kom yoog N-29-20, lub rooj sab laj yuav ua hauv xov tooj thiab yuav tsis muaj qhov sib ntsib los sib tham, tsuas, cov neeg ua hauj lwm tseem ceeb kws muaj kev pab ntawm lub koom haum sib txuas lus thiab cov tib neeg ua hauj lwm pab xa xov xwm. Txhua daim ntawv xaiv rau lub rooj sab laj mam txais thaum tawm suab.

#### **WELCOME TO THE MEETING OF THE MERCED CITY COUNCIL/BIENVENIDO A LA REUNIÓN DEL CONCILIO DE LA CIUDAD DE MERCED/ZOO SIAB TXAIS TOS KOJ TUAJ RAU HAU CITY COUNCIL LUB ROOJ SAB LAJ**

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

Spanish and Hmong translation is available at every regular meeting. For those needing translation services for virtual meetings please call 209-888-0720. For Spanish Translation use Meeting ID 311 905 92#. For Hmong Translation use Meeting ID 278 398 018#.

Al menos 72 horas antes de cada reunión regular del Concejo Municipal, una agenda completo esta disponible para su revisión en el sitio web de la Ciudad en [www.cityofmerced.org](http://www.cityofmerced.org) o en la Oficina del Secretario de la Ciudad, 678 W. 18th Street, Merced, CA 95340. Todos los registros publicos con un tema de sesión abierta que se distribuyen a la mayoría del Concejo estarán disponibles para inspección pública en la Oficina del Secretario de la Ciudad durante el horario comercial habitual.

Traducciones en español y en Hmong estan disponibles en todas las reuniones regulares. Para aquellos que necesiten servicios de traducción para reuniones virtuales, llame al 209-888-0720. Para la traducción al español, utilice ID de reunión 311 905 92#. Para Hmong ID 278 398 018#.

Yam tsawg kawg los yuav tsum yog li ntawm 72 teev ua ntej txhua lub rooj sab laj, yuav tsum muaj ib daim ntawv qhia txog tej txheej txheem kev sib tham zwm hauv lub nroog Merced lub website hauv [www.cityofmerced.org](http://www.cityofmerced.org) los sis ntawm City Clerk's Office, 678 W. 18th Street, Merced, CA 95340. Tag nrho cov teev ntawv rau lub rooj sab laj yuav muaj rau pej xeeb los saib tawm City Clerk's Office raws lub sij hawm ua hauj lwm.

Muaj txhais lus Mev thiab lus Hmoob rau txhua lub rooj sab laj. Cov tib neeg kws xav tau neeg txhais lus hauv xov tooj/computer thov hu rau 209-888-0710. Yog xav tau lus Mev ID 311 905 92#. Yog xav tau lus Hmoob siv ID 278 398 018#.

**MODIFIED PUBLIC COMMENT/COMENTARIO DEL PÚBLICO MODIFICADO/ KEV  
HLOOV RAU TEJ PEJ XEEM TXOG KEV TAWM SUAB, NCAUS LUS:**

Please submit your public comment to the City Council electronically no later than 1 PM on the day of the meeting. Comments received before the deadline will be sent to the City Council and will be part of the record and mentioned as part of the Written Petitions and Communications portion of the agenda. Material may be emailed to [cityclerk@cityofmerced.org](mailto:cityclerk@cityofmerced.org) and should be limited to 300 words or less. Please specify which portion of the agenda you are commenting on, for example, Closed Session, item # or Oral Communications. Your comments will be presented to the City Council at the appropriate time. Any correspondence received after 1 PM will be distributed to the City Council and retained for the official record.

You may provide telephonic comments via voicemail by calling (209) 388-8688 by no later than 1 PM on the day of the meeting to be added to the public comment. Voicemails will be limited to a time limit of three (3) minutes. Please specify which portion of the agenda you are commenting on, for example, Public Hearing item #, Consent item #, or Oral Communications. Your comments will be played during the City Council meeting at the appropriate time. For Public Hearing items, if you wish to speak live during the meeting, please leave callback information and you will be contacted with further details.

To view video (if available) or listen to the City Council meeting live, go to the City's website [www.cityofmerced.org](http://www.cityofmerced.org), Facebook Live, or Comcast Public Access Channel 96.

Puede enviar su comentario público al Concejo Municipal de forma electrónica a más tardar a la 1 PM del día de la reunión. Los comentarios recibidos antes de la fecha límite se enviarán al Concejo Municipal y serán parte del registro y se mencionarán como parte de la sección de Peticiones y Comunicaciones Escritas de la agenda. El material se puede enviar por correo electrónico a [cityclerk@cityofmerced.org](mailto:cityclerk@cityofmerced.org) y debe limitarse a 300 palabras o menos. Por favor especifique qué parte de la agenda está comentando, por ejemplo, Sesión cerrada, número de artículo o Comunicaciones orales. Cualquier correspondencia recibida después de la 1 PM se distribuirá al Ayuntamiento y se conservará para el registro oficial.

Puede proporcionar comentarios telefónicos a través del correo de voz llamando al (209) 388-8688 a más tardar a la 1 PM del día de la reunión para que se agreguen al comentario público. Los mensajes de voz estarán limitados tres (3) minutos. Por favor, especifique qué parte de la agenda está comentando, por ejemplo, número de artículo de consentimiento o comunicaciones orales. Sus comentarios serán transmitidos durante la reunión del Ayuntamiento en el momento oportuno.

Para ver el video (si está disponible) o escuchar la reunión del Concejo Municipal en vivo, visite el sitio web de la ciudad [www.cityofmerced.org](http://www.cityofmerced.org) , Facebook en vivo o canal de acceso público de Comcast canal 96.

Koj muaj feem muab koj daim ntawv tawm suab xa rau lub rooj sab laj hauv computer ua ntej 1 PM (tav su) hnuv sab laj. Cov lus tau txais ua netj lub sij hawm, hnuv teem tseg, yuav xa mus rau City Council thiab yuav yog ib feem ntawm cov ntau ntawv sau khaws tseg thiab yuav muab los hais raws li ib feem ntawm Kev Sau Ntawv Thov, seb puas pom zoo, thiab keb Sib Cev ncauj Lus ntawm cov txheej txheem sib tham. Tej ntaub ntawv koj/nej yuaj muaj feem xa raws email rau ntawm [cityclerk@cityofmerced.org](mailto:cityclerk@cityofmerced.org) thiab yuav tsis pub sau ntau txhaj 300 los lus. Thov qhia kom meej sib koj xav hais rau qhov twg txog ntawm tus txheej txheem sib tham, piv txwv li, thaum sib tham tsis pub tej pej xeeb tuaj koom, #twg, los sis tham ncauj dawb ncauj lus. Txhua yam ntawm tej lus sau tuaj kws tau txais tom qab 1 PM (tav su) yuav muab xa rau City Council thiab yuav muab khaws cia ua ib cov ntaub ntawv raug cai tseg.

Koj muaj feem hu kaw koj cov lus tseg rau ntawm hauv xov tooj (209) 388-8688 ua ntej 1 PM thaum hnuv sab laj, luag thiaj yuav muab koj cov lus ntxiv rau tej lus kws sib zej tsoom hais tuaj. Cov lus kaws tseg tsis pub ntev tshaj peb (3) feeb. Thov qhia kom meej seb koj xav hais txog qhov twg ntawm tus txheej txheem sib tham, piv txwv li, # twg ntawm lub rooj sab laj qhiv rooj lus rau ib zej tsoom tuaj koom, yam so cai (Consent item#), los sis sib tham ncauj lus. Yuav muab koj cov lus sau rau sawv daws mloog ntawm lub rooj sab laj thaum muaj caij nyoog zoo, tsim nyog.

#### **INDIVIDUALS WITH DISABILITIES/INDIVIDUOS CON DISCAPACIDADES/COV NEEG PAB TSIS TAU TUS KHEEJ**

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.

Para acomodar a las personas con discapacidades llame a la Ciudad al (209) 388-8650. Los aparatos auditivos asistidos están disponibles para las reuniones en la Cámara del Consejo.

Kev pab rau cov tib neeg kws puas cev puas taws los muaj thaum hu rau tus City Clerk (209) 388-8650. Kev pab rau cov tib neeg lag ntseg, tsis hnov lus, los muaj nyob hauv chav sab laj.

#### **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)]. Please see the MODIFIED PUBLIC COMMENT INSTRUCTIONS for details.

- B.1.**     [21-109](#)                      **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to Paragraph (1) of Subdivision (d) of Government Code section 54956.9, Name of Case: In the Matter of the Inspection of 1050 Rambler Road Merced County Superior Court Case No. 20CV-00847

#### **C. CALL TO ORDER**

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

C.2. Pledge of Allegiance to the Flag

#### **D. ROLL CALL**

D.1. In accordance with Government Code 54952.3, it is hereby announced that the City Council sits either simultaneously or serially as the Parking Authority and the Public Financing and Economic Development Authority. City Council members receive a monthly stipend of \$400.00 by Charter for sitting as the City Council; and the Mayor receives an additional \$100.00 each month as a part of the adopted budget and Resolution 2020-86. 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.**     [21-081](#)                      **SUBJECT:** Proclamation - Teen Dating Violence Awareness and Prevention Month

##### **REPORT IN BRIEF**

Received by a representative from the Valley Crisis Center.

- F.2.**     [21-082](#)                      **SUBJECT:** Proclamation - Black History Month

**REPORT IN BRIEF**

Received by the NAACP President, Allen Brooks.

**F.3.**     [21-087](#)

**SUBJECT:** Recognition of Youth Council Members

**REPORT IN BRIEF**

Recognition of Youth Council Members Shiwani Lata and Mayra Lua Reyes for their service.

**F.4.**     [21-118](#)

**SUBJECT:** Recognition of Local Boxing Champion Jesus Chiquito Haro III

**REPORT IN BRIEF**

Recognizes local boxing champion Jesus Chiquito Haro III for his boxing achievements and his work with the youth of the community.

**G. SPECIAL PRESENTATIONS**

**G.1.**     [21-083](#)

**SUBJECT:** Presentation From the Merced County Association of Governments

**REPORT IN BRIEF**

Merced County Association of Governments Executive Director Stacie Guzman will give a brief update to Council.

**H. WRITTEN PETITIONS AND COMMUNICATIONS**

**I. ORAL COMMUNICATIONS**

Members of the public who wish to speak on any matter not listed on the agenda may provide email or voicemail comments during this portion of the meeting and should follow the guidelines posted above in the MODIFIED PUBLIC COMMENT INSTRUCTIONS to do so.

**J. 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. Please see MODIFIED COMMENT INSTRUCTIONS for details.

**J.1.**     [21-006](#)

**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.

J.2. [21-093](#)

**SUBJECT:** Information-Only Contracts for the Month of January 2021

**REPORT IN BRIEF**

Notification of awarded Non-Public Works contracts under \$33,000 and of Public Works contracts under \$71,862.

J.3. [21-076](#)

**SUBJECT:** Information Only - Traffic Committee Minutes of November 10, 2020

**RECOMMENDATION**

For information only.

J.4. [21-097](#)

**SUBJECT:** Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of August 17, September 8, September 21, and October 5, 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 August 17, September 8, September 21, and October 5, 2020.

J.5. [21-101](#)

**SUBJECT:** Authorization to Submit Three Separate Federal Emergency Management Agency (FEMA) Fiscal Year (FY) 2020 Grant Applications: (1) Assistance to Firefighters Grant (AFG) with an Estimated Total Project Cost of \$1,060,000; (2) Fire Prevention & Safety Grant (FP&S) with an Estimated Total Project Cost of \$9,374; and (3) Staffing for Adequate Fire and Emergency Response (SAFER) with an Estimated Project Cost of \$4,258,668

**REPORT IN BRIEF**

Considers authorizing the submittal of three separate Federal Emergency Management Agency (FEMA) Fiscal Year (FY) 2020 grant applications: (1) Assistance to Firefighters Grant (AFG) with an estimated total project cost of \$1,060,000 for the purchase of portable radios and accessories; (2) Fire Prevention & Safety Grant (FP&S) with an estimated total project cost of \$9,374 for the purpose of acquiring fire investigation/arson equipment; and (3) Staffing for Adequate Fire and Emergency Response (SAFER) with an estimated project cost of \$4,258,668 for creating a relief pool of personnel to fill shift vacancies, while reducing overtime costs.

#### RECOMMENDATION

**City Council** - Adopt a motion authorizing the submittal of three separate Federal Emergency Management Agency (FEMA) FY 2020 Grant Applications: (1) Assistance to Firefighters Grant (AFG) with an estimated total project cost of \$1,060,000 for the purchase of portable radios and accessories; (2) Fire Prevention & Safety Grant (FP&S) with an estimated total project cost of \$9,374 for the purpose of acquiring fire investigation/arson equipment; and (3) Staffing for Adequate Fire and Emergency Response (SAFER) with an estimated project cost of \$4,258,668 for creating a relief pool of personnel to fill shift vacancies, while reducing overtime costs.

**J.6.**     [20-735](#)

**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 2019-2020

#### 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 2019-2020 for CFD Nos. 2003-1 (Bellevue Ranch East), 2003-2 (Services), 2005-1 (Bellevue Ranch West), 2006-1 (Moraga of Merced).

**J.7.**     [21-096](#)

**SUBJECT:** Adoption of a Resolution to Allow Qualified Participants to Pay the Transient Occupancy Tax Payments for the Quarters Due on January 31, 2021, April 30, 2021, and July 31, 2021 with a Credit

Card Without Assessing the Payor the Credit Card Convenience Fee  
as Requested by the Merced Hotel Motel Association

**REPORT IN BRIEF**

Considers allowing qualified participants to pay the Transient Occupancy Tax (TOT) payments with a credit card without assessing the payor the credit card convenience fee from January 19, 2021 through July 31, 2021.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Adopting **Resolution 2021-07**, a Resolution of the City Council of Merced, California, authorizing the City Manager to provide economic assistance related to the economic impacts of COVID-19 and to allow qualified participants to pay the transient occupancy tax with a credit card without assessing the payor the credit card convenience fee; and,

B. Authorizing the Finance Officer to administer the waivers; and,

C. Approving a supplemental appropriation of \$15,000 from the unencumbered, unreserved fund balance of the General Fund in order to pay the additional credit card fees.

J.8. [21-065](#)

**SUBJECT:** Approval of San Joaquin Valley Air Pollution Control District Grant Contract for the Agricultural Tractor Replacement Incentive Program and Accepting Grant Revenue in the Amount of \$155,881.91 to Fund 674 - Fleet Replacement Fund

**REPORT IN BRIEF**

Considers approving a San Joaquin Valley Air Pollution Control District (SJVAPCD) Grant Contract for the Agricultural Tractor Replacement Program for the replacement of one tractor at the Wastewater Treatment Plant (WWTP) and accepting revenue in the amount of \$155,881.91 to be deposited in Fund 674 - Fleet Replacement.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving Heavy-Duty Engine Program Funding Agreement for the San Joaquin Valley Air Pollution Control District (SJVAPCD) Agricultural Tractor Replacement Program for the replacement of one tractor at the Wastewater Treatment Plant (WWTP); and,

B. Accepting grant funds from the SJVAPCD Incentive Program in the amount of \$155,881.91 to account 674-1103-324-02-00, project 242115; and,

C. Authorizing the City Manager or designee to sign the necessary documents; and,

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

**J.9.**     [21-047](#)

**SUBJECT:** Adoption of a Resolution Setting a Public Hearing for Monday, March 1, 2021, to Vacate a 32-Foot-Wide Strip of Right-of-Way, Containing Approximately 19,627.87 Square Feet, Generally Located Approximately 330 Feet North of Yosemite Avenue Between Mansionette Drive and Sandpiper Avenue (Extended) (Vacation #21-01)

**REPORT IN BRIEF**

Set a public hearing for March 1, 2021, to vacate a 32-foot-wide strip of right-of-way, containing approximately 19,627.87 square feet, generally located approximately 330 feet north of Yosemite Avenue between Mansionette Drive and Sandpiper Avenue (extended).

**RECOMMENDATION**

**City Council** - Adopt a motion adopting **Resolution 2021-05**, a Resolution of the City Council of the City of Merced, California, declaring its intention to vacate a 32-foot-wide strip of right-of-way, containing approximately 19,627.87 square feet, generally located approximately 330 feet north of Yosemite Avenue between Mansionette Drive and Sandpiper Avenue (extended) (Vacation #21-01), and setting time and place for Public Hearing.

**J.10.**     [21-038](#)

**SUBJECT:** Approval of a Temporary Encroachment Permit #20-01 to Permit UC Merced to Install Banners on Various Light Poles Within the City for Three (3) Years with Authorization to Extend for an Additional Two (2) Years Upon Written Request by the Applicant and Approval of the City Manager

**REPORT IN BRIEF**

Considers approving a temporary encroachment permit to allow UC Merced to install banners on various light poles within the City.

**RECOMMENDATION**

**City Council** - Adopt a motion approving a temporary encroachment permit with UC Merced, to allow the placement of banners on City light poles in various locations and authorizing the City Manager or designee to execute the necessary documents.

J.11. [21-050](#)

**SUBJECT:** Approval of the California Department of Transportation (CALTRANS) Disadvantaged Business Enterprise (DBE) Implementation Agreement for Federally Funded Construction Projects for Fiscal Year 20/21

**REPORT IN BRIEF**

The City intends to receive federal financial assistance from the U.S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the City will sign the California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the California Department of Transportation (CALTRANS) Disadvantaged Business Enterprise (DBE) Implementation Agreement for Federally Funded Construction Projects.

J.12. [21-063](#)

**SUBJECT:** Approval of Memorandum of Understanding Between the City of Merced and the County of Merced by and Through the Merced County Probation Department for the Establishment of a Collaborative Working Relationship Among the Parties and to Document the Responsibilities of Each Party Relative to the Provision of the Community Service Program (CSP)

**REPORT IN BRIEF**

Considers the authorization to approve the memorandum of understanding between the City of Merced and the County of Merced by and through the Merced County Probation Department for the establishment of a collaborative working relationship among the parties and to document the responsibilities of each party relative to the provision of the Community Service Program.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the memorandum of understanding and authorizing the City Manager or designee to execute all necessary documents.

J.13. [21-090](#)

**SUBJECT:** Second Reading and Final Adoption of an Ordinance

Amending Sections 10.28.230 “No Parking Zones,” and 10.16.010 “Speed Limits” to Include, but not be Limited to, Adding No Parking Along the North and South Sides of Eagle Street, Adopt a 25 mph Speed Limit on El Portal Between McKee Rd. and Parsons Ave., and to Add No Parking Zones on All Four Quadrants of K St. and the BNSF Crossing

**REPORT IN BRIEF**

Second reading and final adoption of an Ordinance to amend sections 10.16.010 and 10.28.230 of the Merced Municipal Code.

**RECOMMENDATION**

**City Council** - Adopt a motion adopting **Ordinance 2520**, an Ordinance of the City Council of the City of Merced, California, amending sections 10.16.010 “Speed Limits;” 10.28.230 “No Parking Zones” of the Merced Municipal Code.

**K. BUSINESS**

**K.1.**     [21-089](#)

**SUBJECT:** Adoption of a Resolution Selecting the City of Merced Nominee for the Merced County Seat to be Presented to the San Joaquin Valley Air Pollution Control District Governing Board

**REPORT IN BRIEF**

Considers nominating one applicant for appointment to the San Joaquin Valley Air Pollution Control District Governing Board.

**RECOMMENDATION**

**City Council** - Adopt a motion adopting **Resolution 2021-06**, a Resolution of the City Council of the City of Merced, California, selecting a nominee for appointment by the Special City Selection Committee to the San Joaquin Valley Air Pollution Control District Governing Board

**K.2.**     [21-009](#)

**SUBJECT:** Discussion on the Format of Future City Council Meetings During COVID-19

**REPORT IN BRIEF**

Discuss the format of City Council Meetings.

**RECOMMENDATION**

Provide staff direction on the format of future City Council Meetings.

**K.3.**     [21-012](#)

**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.4. [21-015](#)**

**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

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**Agenda Item B.1.**

Meeting Date: 2/1/2021

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**SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to Paragraph (1) of Subdivision (d) of Government Code section 54956.9, Name of Case: In the Matter of the Inspection of 1050 Rambler Road Merced County Superior Court Case No. 20CV-00847



# CITY OF MERCED

Merced Civic Center  
678 W. 18th Street  
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## ADMINISTRATIVE REPORT

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**Agenda Item F.1.**

Meeting Date: 2/1/2021

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**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,** Teen dating violence, also known as dating abuse, is a serious by preventable problem throughout California; and,
- WHEREAS,** Teen dating violence intervention and prevention programs can help to ensure a positive school climate and safe learning environment for all youth ages 12 to 24; and,
- WHEREAS,** The Center for Disease Control and Prevention recommends a prevention approach that includes teaching healthy relationship skills, engaging influential adults and peers, disrupting the developmental pathways toward partner violence, creating protective environments, strengthening economic supports for families, and supporting survivors to increase safety and lessen harm; and,
- WHEREAS,** Teen dating violence has been linked to other forms of violence and aggression against peers, including bullying, sexual harassment, sexual violence, and physical violence; and,
- WHEREAS,** Teens of all genders, sexualities, races, and the ethnicities are affected by dating violence, and LGBTQ youth are disproportionately impacted; and,
- WHEREAS,** Youth need to see healthy relationships in their families and communities to build a foundation for their own healthy relationships; and
- WHEREAS,** The establishment of Teen Dating Violence Awareness and Prevention Month will benefit schools, communities, families, and all youth;

**NOW, THEREFORE, I, MATTHEW SERRATTO, Mayor** of the City of Merced, on behalf of the City Council hereby proclaim month of February 2021, 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 1<sup>st</sup> day of February 2021.

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*Matthew Serratto, Mayor of Merced*



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item F.2.**

Meeting Date: 2/1/2021

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**SUBJECT:** Proclamation - Black History Month

### REPORT IN BRIEF

Received by the NAACP President, Allen Brooks.

### 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, MATTHEW SERRATTO, Mayor** of the City of Merced, on behalf of the City Council hereby proclaim February 2021 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 1<sup>st</sup> day of February 2021.

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*Matthew Serratto, Mayor of Merced*



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item F.3.**

Meeting Date: 2/1/2021

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*Report Prepared by: Lam Kindavong, Recreation Coordinator, Parks and Recreation Office*

**SUBJECT:** Recognition of Youth Council Members

### REPORT IN BRIEF

Recognition of Youth Council Members Shiwani Lata and Mayra Lua Reyes for their service.



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item F.4.**

Meeting Date: 2/1/2021

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**SUBJECT:** Recognition of Local Boxing Champion Jesus Chiquito Haro III

### REPORT IN BRIEF

Recognizes local boxing champion Jesus Chiquito Haro III for his boxing achievements and his work with the youth of the community.



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item G.1.**

Meeting Date: 2/1/2021

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**SUBJECT:** Presentation From the Merced County Association of Governments

### REPORT IN BRIEF

Merced County Association of Governments Executive Director Stacie Guzman will give a brief update to Council.



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item J.1.**

Meeting Date: 2/1/2021

---

**SUBJECT:** Reading by Title of All Ordinances and Resolutions

### REPORT IN BRIEF

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

### RECOMMENDATION

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



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item J.2.**

Meeting Date: 2/1/2021

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*Report Prepared by:* Devin Lotez, Records Clerk

**SUBJECT:** Information-Only Contracts for the Month of January 2021

### REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$33,000 and of Public Works contracts under \$71,862.

### 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 2020-2021 threshold of \$71,862.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2020-2021 threshold of \$33,000.00, the contracts listed on the attached table were entered into by the City.

### ATTACHMENTS

1. "Information-Only" Contracts Table for January 2021

## **Exhibit 1 – Table of Contracts**

2/1/2021 City Council Meeting

<b>Department/Division</b>	<b>Vendor</b>	<b>Purpose/Location</b>	<b>Amount</b>
0403- Information Technology	Tyler Technologies, Inc.	Amendment No. 1- includes Bid Management to the Software-as-a-Service Agreement for an Enterprise Resource Planning System originally approved by City Council on 03/02/2020.	(no funds)
1106- PW- Water Systems	San Luis Pump Company	Change Order No. 1- Brush the perforated areas to clear the perforations to allow more water flow. Change Order No.2- Remainder scope of work and material to refurbish well. Municipal Well Site No. 10R2 Statement of Services (PO #139702)	Increase of \$39,000.00  Total of \$56,100.00
1301- Housing	Merced County Food Bank	Assistance for COVID-19 impacts. Approved by City Council on 06/01/2020.	\$100,000.00
1301- Housing	Sierra Saving Grace Homeless Project	Assistance for COVID-19 impacts and rental-utility assistance. Approved by City Council on 06/01/2020.	\$100,000.00
0803- Engineering	Taylor Backhoe Service, Inc.	Potholing to locate utility lines in the roadway of “R” Street near 16 <sup>th</sup> Street. Statement of Services (PO #140518)	\$9,900.00
0803- Engineering	Taylor Backhoe Service, Inc.	Change Order No.1- Additional work to install tracer wire on the new water lines and substitute poly coated copper tubing for the standard copper water services. Remove and replace 128' of 8" of sewer main. Alpine Dr improvements approved by City Council on 10/19/2021 (Project No. 119006).	Increase of \$13,558.02  Total of \$625,038.29
0803- Engineering	Taylor Backhoe Service, Inc.	Potholing to locate utility lines on “B” Street, from Childs Ave to 15 <sup>th</sup> Street. Statement of Services (PO #140588)	\$20,300.00
0803- Engineering	Salem Engineering Group, Inc.	Perform soil compaction testing for trenches and roadway at Gerard Ave Sewer. Statement of Services (PO #140615)	\$14,444.00
0803- Engineering	Phase 1 Construction	Change Order No. 2- Additional work to remove 2" of compacted aggregate base onsite and pave with 2" of compacted asphalt. Cooper Avenue Lift Station project originally approved by City Council on 10/07/2019.	Increase of \$32,650.00  Total of \$799,466.50

*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

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**Agenda Item J.3.**

Meeting Date: 2/1/2021

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*Report Prepared by: Nicole Tabares, Administrative Assistant - Engineering Department*

**SUBJECT:** Information Only - Traffic Committee Minutes of November 10, 2020

### RECOMMENDATION

For information only.

### ATTACHMENTS

1. Minutes of November 10, 2020

## TRAFFIC COMMITTEE

### MINUTES

November 10, 2020

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#### A. CALL TO ORDER

The meeting was called to order at 2:00 p.m.

#### B. ROLL CALL

Present: Chairperson: Beltran, Michael – City Engineer  
Committee Hren, Michael - Planning Manager Designee  
Members: Olmos, Juan - Public Works Designee  
Pintabona, Leon - Police Chief Designee  
Wilson, Casey – Fire Chief Designee

Absent:

#### C. ORAL COMMUNICATIONS

None.

#### D. CONSENT CALENDAR

1. Traffic Committee Minutes of September 8, 2020

RECOMMENDATION:

Approve and file.

Michael Hren Moved, Juan Olmos Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Juan Olmos, Leon Pintabona, Michael Hren, Casey Wilson

Clerk's Note: Staff recommendation approved.

## **E. REPORTS**

### **1. Committee Member Reports**

## **F. BUSINESS**

- 1. Request #20-016 – Request For Speed Control Implementation on El Portal Dr. Between Parsons Avenue and McKee Drive (Jose & Mayra Lopez, Ronald Ringstrom, Jolene Schadler, Ben & Marianne French, Edward Zamora Sr., Robin Donovan, Lupe Dawson, LuAnn Parson, Craig Hall, Joe & Shirley Brucia, Dona Robertson, Vishwanatha Kuppenahalli, Rachel Heater, Jussien & Stefanie Eltareb, Mike Bermingham and Nathan Frye)**

*(Citizens state there is a serious speeding problem along El Portal Drive making it difficult to back out of driveways and cross the street to the community mailboxes. There are no crosswalks for when the children return to school. Certain times of the day it is almost impossible to turn or cross Parsons Avenue.)*

LuAnn Parson states a couple of accidents have happened at her residence, it is hard to see when backing out of driveway for residents due to high speed traffic, hard to cross the road. Request crosswalks, speed limit change, striping, speed bumps to be implemented.

Committee Member Hren states what is considered as speed control, stop signs and speed bumps are not considered speed control.

Committee Member Wilson states the issues for Emergency Response teams when dealing with speed bumps, affecting response time.

Committee Member Pintabona states Police are only allowed to write warnings for the area without a speed control survey.

Chairperson Beltran states there has been no survey study done in this area.

**MOTION:** Amend the Municipal Code to 25mph for the area so Police may enforce the speed limit on El Portal between McKee and Parsons and increase Police presence.

**COUNCIL ACTION REQUIRED:** Yes. Request to approve amending the Municipal Code to 25mph on El Portal between McKee and Parsons.

Michael Hren Moved, Leon Pintabona Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Juan Olmos, Leon Pintabona, Michael Hren, Casey Wilson

2. Request #20-017 – Request Same Signage That Is Posted on E. North Bear Creek Drive at The Same Curve (Joy S. Widmark)

*(Citizens states in less than a year there have been two accidents on her property from lack of signage. Citizen states the other side of Bear Creek has more signage at the same curve.)*

Chairperson Beltran states the direction in which the signs are being requested would be considered to be the County property side of E. S. Bear Creek Dr. It would not be a city issue.

**MOTION:** Deny.

COUNCIL ACTION REQUIRED: No

Leon Pintabona Moved, Casey Wilson Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Casey Wilson, Leon Pintabona, Michael Hren, Juan Olmos

3. Request #20-018 – Request Red Curb to Be Painted on All 4 Quadrants for Distances as Described on Drawing. In Support of Quiet Zones and Median Work Being Performed by BNSF And Amtrak (City Engineer Michael Beltran)

*(City Engineer states red curb needs to be painted on all 4 quadrants as described on drawing.)*

Chairperson Beltran states this item needs to be put into the Municipal Code, work is already going to be taken care of by property owner.

**MOTION:** Amend the Municipal Code to include the red cubs on all 4 quadrants.

COUNCIL ACTION REQUIRED: Yes. Request to approve amending the current Municipal Code to include the red curbs.

Michael Hren Moved, Juan Olmos Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Casey Wilson, Leo Pintabona, Michael Hren, Juan Olmos

**G. ADJOURNMENT**

The meeting was adjourned at 3:25 p.m.

By:



Nicole Tabares  
Administrative Assistant/  
Recording Secretary

Approved:



Michael Beltran  
City Engineer/ Chairperson



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

---

**Agenda Item J.4.**

Meeting Date: 2/1/2021

---

**SUBJECT:** Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of August 17, September 8, September 21, and October 5, 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 August 17, September 8, September 21, and October 5, 2020.

### ALTERNATIVES

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

### ATTACHMENTS

1. Minutes of August 17, 2020
2. Minutes of September 8, 2020
3. Minutes of September 21, 2020
4. Minutes of October 5, 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

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Monday, August 17, 2020

6:00 PM

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#### A. CLOSED SESSION ROLL CALL

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

**Absent:** 0

#### B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:00 PM.

**Clerk's Note:** The Closed Session was held via video conference as provided for by Governor Newsom's Executive Order N-29-20.

**B.1.** **SUBJECT:** CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: 3033 G Street, Merced, CA APN 007-350-009; Agency Negotiator: Frank Quintero, Director, Economic Development; Negotiating Parties: Doug Collins Representing Merced City School Districts and City of Merced and; Under Negotiation: Price and Terms of Payment

**B.2.** **SUBJECT:** CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: Surface Water Purchase, Merced, CA; Agency Negotiator: Stephanie Dietz, Interim City Manager, City of Merced; Negotiating Parties: Merced Irrigation District and City of Merced and; Under Negotiation: Price and Terms of Payment

**B.3.** **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Government Code section 54956.9 (Deciding Whether to Initiate Litigation): (2) potential cases

**Clerk's Note:** Council adjourned from Closed Session at 5:55 PM.

#### C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:01 PM.

**Clerk's Note:** The Regular Meeting was held via video conference as provided for by Governor Newsom's Executive Order N-29-20.

C.1. Invocation - Maggie Fuentes, Chaplain of the Merced Police Department

The Invocation was presented by Maggie FUENTES, Chaplain of the Merced Police Department.

C.2. Pledge of Allegiance to the Flag

The Pledge of Allegiance to the Flag was led by Council Member MARTINEZ.

**D. ROLL CALL**

**Clerk's Note:** Mayor Pro Tempore SERRATTO arrived to the virtual meeting at 6:09 PM.

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

**Absent:** 0

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

**E. REPORT OUT OF CLOSED SESSION**

There was no report.

**F. WRITTEN PETITIONS AND COMMUNICATIONS**

**Clerk's Note:** An email was received from Michael BELLUOMINI for Closed Session Item B.1.

**G. ORAL COMMUNICATIONS**

There were none.

**H. CONSENT CALENDAR**

Agenda Item H.6. Award of Bid and Approval of Construction Contract with MVC Enterprises, Inc., in the Amount of \$470,523.99 for a Measure V and SB1 Funded Project for M Street Resurfacing 8th Street to 13th Street, Project No. 120010; was pulled for separate consideration.

## Approval of the Consent Agenda

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

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

**No:** 0

**Absent:** 0

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

#### REPORT IN BRIEF

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

#### RECOMMENDATION

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

**This Consent Item was approved.**

### H.2. **SUBJECT:** Authorization to Accept \$57,328 in Grant Funds from the California Department of Alcoholic Beverage Control Grant Assistance Program for the Police Department to Conduct Enforcement Operations and to Purchase Enforcement Supplies/Equipment with the Goal of Reducing Underage Drinking and Other Alcohol Crimes Related to Underage Drinking

#### REPORT IN BRIEF

Considers accepting grant funds from the California Department of Alcoholic Beverage Control offered to the Merced Police Department in the amount of \$57,328 from the Grant Assistance Program for the Merced Police Department to conduct enforcement operations and to purchase enforcement supplies/equipment.

#### RECOMMENDATION

**City Council** - Adopt a motion:

A. Adopting **Resolution 2020-55**, accepting a grant award from the

California Department of Alcoholic Beverage Control Grant Assistance Program; and,

B. Accepting and increasing the revenue budget in account 001-1002-324.02-00 by \$57,328, and appropriating the same amount in Police Operations Division 001-1002; and,

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

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

**This Consent Item was approved.**

**H.3.**

**SUBJECT:** Approval of the Request by the Superior Court of California, County of Merced, to Rent the Merced Senior Community Center from August 18 Through October 30, 2020 for Jury Selection and Jury Trials and Approve the Facility Rental Rate in the Amount of \$300 Per Month

**REPORT IN BRIEF**

Considers renting the Merced Senior Community Center to the Superior Court for jury selection and jury trials.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving the request to rent the Merced Senior Community Center to the Superior Court of California, Merced County from August 18 through October 30, 2020; and,

B. Approving the facility rental rate of \$300 per month; and,

C. Authorizing the City Manager to execute the necessary documents once approved as to form by the City Attorney.

**This Consent Item was approved.**

**H.4.**

**SUBJECT:** Approval of the 2021 Cafeteria Plan Renewal Regarding Employees' and Retirees' Health and Welfare Benefits Including Medical, Dental, Vision, Disability, Life and Flexible Spending

**REPORT IN BRIEF**

Considers approving the renewal of the 2021 Cafeteria Plan regarding

employees' and retirees' health and welfare benefits.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the employees' health and welfare benefits cafeteria plan renewal for calendar year 2021 and authorizing the City Manager to execute the necessary documents.

**This Consent Item was approved.**

**H.5.**

**SUBJECT:** Award of Bid and Approval of Construction Contract with Mid Cal Pipeline & Utilities, Inc., in the Amount of \$854,095.00 for a Water System Enterprise Funded Project for Brimmer Water Main, Project No. 113031

**REPORT IN BRIEF**

Considers awarding a construction contract in the amount of \$854,095.00, funded by Water System Enterprise funds, for City Project No. 113031 - Brimmer Water Main.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Awarding the Brimmer Water Main, Project 113031, to Mid Cal Pipeline & Utilities, Inc., in the amount of \$854,095.00; and,

B. 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.**

**H.7.**

**SUBJECT:** Approval of a Professional Service Agreement Between the City of Merced and RSG Inc. for Housing Successor Agency Services Through June 30, 2021 in an Amount not to Exceed \$79,760.00

**REPORT IN BRIEF**

Considers approving the terms and scope of services for a professional services agreement with RSG Inc. to provide consulting services to the City of Merced and the City's Housing Successor Agency.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the professional services agreement between the City of Merced and RSG Inc. for consulting services related to the Housing Successor Agency in the amount not to exceed \$79,760.00 and authorizing the City Manager or the Assistant City Manager to execute all the necessary documents.

**This Consent Item was approved.**

**H.8.**

**SUBJECT:** Housing Successor Agency Annual Compliance Report for Fiscal Year 2018-19 Pursuant to Health and Safety Code Section 34176.1(f)

**REPORT IN BRIEF**

Annual report summarizing Housing Successor activity for the City of Merced ("City") in Fiscal Year ("FY") 2018-19 per Senate Bill ("SB") 341, which requires the City to prepare an annual report on the City's compliance with housing successor requirements imposed by Health and Safety Code ("HSC") Section 34176.1(f).

**RECOMMENDATION**

**City Council** - Receive and file the Housing Successor Agency Annual Report for Fiscal Year 2018-19.

**This Consent Item was approved.**

**H.6.**

**SUBJECT:** Award of Bid and Approval of Construction Contract with MVC Enterprises, Inc., in the Amount of \$470,523.99 for a Measure V and SB1 Funded Project for M Street Resurfacing 8th Street to 13th Street, Project No. 120010

**REPORT IN BRIEF**

Considers awarding a construction contract in the amount of \$470,523.99 funded by Measure V and SB1 for City Project No. 120010 - M Street Resurfacing 8th Street to 13th Street.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Awarding the M Street Resurfacing 8th Street to 13th Street, Project 120010, to MVC Enterprises, Inc., in the amount of \$470,523.99 and,

B. 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.

Mayor MURPHY pulled this item for separate consideration due to public comment received.

**Clerk's Note:** The following comment was received by email.

Ben KURTZ, Merced - asked about bike lanes for this project and how citizens could review upcoming road projects.

City Engineer Michael BELTRAN briefly discussed bike lanes and the ability for the public to get information on upcoming road projects.

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

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

**No:** 0

**Absent:** 0

## I. PUBLIC HEARINGS

### I.1.

**SUBJECT:** Reopened Public Hearing - To Consider Appeal of the Environmental Determination to Adopt a Mitigated Negative Declaration for Conditional Use Permit #1238 and Environmental Review #20-05 (CEQA Section 15162 Findings) for Site Plan #455 and to Consider the Appeal of the Conditional Use Permit (CUP) #1238 and Site Plan Review #455 Which Would Allow the Construction of a Mixed-Use Development, Including 218 Apartments, Approximately 22,000 s.f. of Retail Commercial Space, and Approximately 14,000 s.f. of Office Space on a 5.94-Acre Parcel Generally Located at the Southeast Corner of Yosemite Avenue and McKee Road

#### REPORT IN BRIEF

Considers an appeal of the Planning Commission's approval of Conditional Use Permit (CUP #1238) and Site Plan Review #455.

#### RECOMMENDATION

**City Council** - Adopt a motion:

A. Open the Public Hearing and hear all testimony regarding the appeal; and,

B. Close the Public Hearing; and,

C. Provide direction to staff regarding Environmental Review #19-37 (Mitigated Negative Declaration for CUP #1238 and Environmental Review #20-05 (CEQA Section 15162 Findings) for SP #455; and,

D. Provide direction to staff regarding the findings to grant or deny the appeal, with or without prejudice.

**Clerk's Note:** Council Member BLAKE recused himself from this item due to the proximity of his residence to the project.

Development Services Director Scott MCBRIDE gave a brief introduction of the project.

Associate Planner Julie NELSON gave a slide show presentation on the project highlighting several changes and gave a brief background on the project.

Mr. MCBRIDE provided updated information on the project regarding internal and external traffic concerns in addition to sewer and storm drainage for the project. Mr. MCBRIDE discussed the traffic analysis, a proposed bus stop near the project, the placement of underground sewer tanks and storm water management.

Council disclosed any ex parte communications with the applicant and appellant.

Mayor MURPHY opened the Public Hearing at 6:41 PM.

Richard HARRIMAN, representing the appellant Casey STEED and the Merced Smart Growth Association, addressed several issues the appellant has with the project including issues with the sewer capacity, stormwater drainage, the inability to review new info, and the traffic study numbers.

John ENNIS, representing the appellant, addressed the sewer holding tank and available parking spaces for the project. He suggested more information and studies should be completed.

Elisa PASTER, representing the applicant, discussed the size of the project, potential compromises, the traffic studies, and the onsite sewer holding tank standards.

Mr. HARRIMAN provided rebuttal and closing comments.

Ms. PASTER provided closing comments.

**Clerk's Note:** The following comment was provided by email.

Dan ELMAN and Janet HUGHES, Merced - stated opposition to the project.

**Clerk's Note:** The following comment was provided by voicemail.

Michael BELLUOMINI, Merced - suggested denying the appeal with changes to the proposed project.

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

Council discussed the project, possible changes needed to approve the project and potential denial of the appeal.

**A motion was made by Mayor Pro Tempore Serratto, seconded by Council Member McLeod, to deny the appeal and to approve the project with 200 total units, modifications to the rooftop deck to provide surrounding neighbors privacy and to widen McKee Road to City Standards. The motion carried by the following vote:**

**Aye:** 4 - Mayor Pro Tempore Serratto, Council Member Martinez, Council Member McLeod, and Council Member Shelton

**No:** 2 - Mayor Murphy, and Council Member Echevarria

**Absent:** 0

**Recused:** 1 - Council Member Blake

**I.2.**

**SUBJECT:** Public Hearing to Consider the Annexation of Certain Property into CFD No. 2003-2 (Services), Calling and Holding a Special Election for Annexation No. 13 into Community Facilities District (CFD) No. 2003-2 (Services) for the PG&E Service Center; Canvassing the Results of the Election Held within Annexation No. 13 of Said District and Authorizing the Levy of a Special Tax Within Said Annexation No. 13

**REPORT IN BRIEF**

Open the public hearing and continue it to the City Council meeting of September 21, 2020 for the annexation into Community Facilities District No. 2003-2 (Services) for the PG&E Service Center generally located at the northeast corner of Childs Avenue and Kibby Road.

**RECOMMENDATION**

**City Council** - Open the public hearing and continue the hearing to September 21, 2020.

**Clerk's Note:** Staff requested that this item be continued to the September 21, 2020 City Council Meeting.

**A motion was made by Council Member Blake, seconded by Council Member McLeod, that this agenda item be continued to the September 21, 2020 Council Meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**I.3.**

**SUBJECT:** Public Hearing - Vacation No. 20-01 for the Adoption of a Resolution Ordering the Vacation of a Sewer Lift Station Easement, Temporary Construction Access Easement, and a Public Utilities Easement Generally Located at the West End of the Property Located at 1610 West 16th Street

**REPORT IN BRIEF**

Considers approving a Resolution to order the vacation of a Sewer Lift Station Easement, Temporary Construction Access Easement, and a Public Utilities Easement Generally Located at the west end of the property located at 1610 West 16th Street.

**RECOMMENDATION**

**City Council** - Adopt a motion approving **Resolution 2020-24**, a Resolution of the City of Merced, California ordering the vacation of a 908-square-foot sewer lift station easement, a 908-square-foot temporary construction easement, and a 2,791-square-foot public utilities easement generally located on the west end of the property located at 1610 West 16th Street (Vacation #20-01).

**Clerk's Note:** Mayor MURPHY recused himself from this item due to a business conflict.

Associate Planner Julie NELSON gave a slideshow presentation on the proposed easement vacation.

Mayor Pro Tempore SERRATTO opened and subsequently closed the Public Hearing at 8:18 PM due to lack of public comment.

---

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

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

**No:** 0

**Absent:** 0

**Recused:** 1 - Mayor Murphy

**I.4.**

**SUBJECT: Public Hearing to Allow Interested Persons to be Heard Prior to the Completion and Submittal of an Application to the United States Department of Housing and Urban Development (HUD) in the Amount of \$2,000,000 for Financing Through the Section 108 Loan Guarantee Program for the Childs Court Apartments - Childs and B Street Transit Oriented Development (TOD) Affordable Housing Project**

**REPORT IN BRIEF**

Public Hearing to allow interested persons to be heard prior to the completion and submittal of an application to the United States Department of Housing and Urban Development (HUD) in the amount of \$2,000,000 for financing through the Section 108 Loan Guarantee Program for the Childs Court Apartments - Childs and B Street Affordable Housing Transit Oriented Development (TOD) Project.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Recommend the City Council conduct the Public Hearing, receive any testimony given; and,

B. Provide direction to Staff regarding the Proposed HUD 108 Loan Application; and,

C. Continue the Public Hearing to the September 8, 2020, meeting.

Development Services Director Scott MCBRIDE gave a slideshow presentation on the Section 108 Loan Guarantee Program for the Childs Court Apartments.

Mayor MURPHY opened the Public Hearing at 8:32 PM.

**Clerk's Note:** The following comment was delivered by email.

Ben KURTZ, Merced - questioned the cost per unit of the project.

**A motion was made by Council Member McLeod, seconded by Council Member Shelton, that this agenda item be continued to the September 8, 2020 Council Meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

## J. REPORTS

**Clerk's Note:** Council took a recess at 8:35 PM and reconvened 8:45 PM.

### J.1.

**SUBJECT:** Update on North Merced Annexation Feasibility Study and Provide Direction Regarding Various Policy Decisions Including, but not Limited to, Water Use, Phasing of Development, Sewer Allocation, Annexation Applications, Out Boundary Service Requests, Community Engagement

#### REPORT IN BRIEF

Update the City Council on the work completed on the North Merced Annexation Feasibility Study since the joint Planning Commission/City Council study session in January 2020 and get policy direction on certain items to complete the study.

#### RECOMMENDATION

Provide direction to the consultants and staff on various topics to guide the completion of the North Merced Annexation Feasibility Study.

Development Services Director Scott MCBRIDE gave a slide show presentation on the North Merced Annexation Feasibility Study.

Planning Manager Kim ESPINOSA briefly described the process for polling property owners in the City's sphere of influence regarding annexation and the results of the poll.

Public Works Director Ken ELWIN gave a presentation on the current sewer flow rates, capacity, existing entitlements, and flow comparisons with other cities.

Mr. MCBRIDE discussed methods to allocate wastewater.

Ms. ESPINOSA briefly discussed the study being done for the Wastewater Master Plan.

Mr. MCBRIDE commented on Assembly Bill 3312 which was written to facilitate the annexation of the UC Merced campus.

Ron SISSEM, EMC Planning Group, reviewed different approaches to land annexation in Merced, and possible uses for the land which may include retail, residential and commercial offices.

**Clerk's Note:** The following comment was provided via email.

Stephen PECK - commented on the Sewer Master Plan and the Virginia Smith Trust.

Council agreed that a flow study should be conducted, that both east, west Bellevue and the Virginia Smith Trust should be studied for the annexation, the sewer capacity should be based on when the project was ready to proceed, an annexation application policy, to primarily serve areas within the city limits, and expressed support for AB 3312.

**Clerk's Note:** No official vote or action was taken on this item.

**J.2.**

**SUBJECT:** Consideration of the Recommendation by the Arts and Culture Advisory Commission for a Street Mural with the Phrase "Black Lives Matter" on Canal Street (South of Bob Hart Square) and Provide Staff Direction on a Draft Policy for Public Art Projects on City Facilities and Public Rights-of-Way

**REPORT IN BRIEF**

Request made from the NAACP, the Hispanic Chamber of Commerce, WeCed and the United Way, as the lead applicant, to the Arts and Culture Advisory Commission for a proposed street mural with the phrase "Black Lives Matter" on Canal Street. Also seeks direction on a draft policy for public art projects on public facilities and public rights-of-way.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving the Arts and Culture Advisory Commission's recommendation to support the proposed street mural of the phrase "Black Lives Matter" on Canal Street, south of Bob Hart Square; and

B. Provide staff direction on a draft policy for public art projects on public facilities and public rights-of-way.

Jerome RASBERRY, NAACP, gave a brief presentation outlining the scope of the proposed Black Lives Matter murals.

Council and Mr. RASBERRY discussed the project and the possibility of other phrases being used and locations other than a city street being used before taking public comment on the item.

Manuel ALVARADO, Colton DENNIS, and Rhonda BATSON spoke in support of the application and the use of the phrase "Black Lives Matter".

**Clerk's Note:** The following Public Comment was provided via voicemail.

In Favor

Selena SPANGLER, Angelica CARDENAS, Jazz DIAZ, Bertha PEREZ, Elizabeth, Jen RAMOS-IVAN, Marta ECHEVARRIA, and Sheng XIONG.

Opposed

Anonymous Caller, Jay BONAJET, Janet PETERSON, Anonymous Caller, Atwater Resident, Karen CARLTON, Jason KEKNE, Gini MANN, Chris MCCRORY, Anonymous Caller, Anonymous Caller, Denise CUNHA, Maria GONZALEZ, Anonymous Caller, Nanette MATAS, Virginia, Pat FRAZIER, Brenda SWARTZMAN, Christine, Peggy ALLEN, Kathy TERRY, Anonymous Caller, Patrick MCGOWEN, Alice BREWER, Edwina COLE, Judy SMITH, Eric, Alice MITCHELL, Sally, Bernice AGUIRRE, Victoria OROZCO, Anonymous Caller, Jose PRADO, Mary and Richard LIRA, Elizabeth ROGERS, Anonymous Caller, Janie FAGUNDES, Carol, Al CALMAN, Paul TAYLOR, Anonymous Caller, Linda, Rose OPINSKI, Glenda BUTTREY, Mary Ann, Jeanette CARRIE, Vickie FAGUNDES, David HAMILTON, Heather HILTON, Bethany RODRIGUEZ, Milton, Dorothy, Lori, Anonymous, Richard RODRIGUEZ, Anonymous Caller, Richard TRUDEAU, Jerry, Sheryl, Juan OCHOA, Beverly SCHICK, Anonymous Caller, Anonymous Caller, Christina, Randy, Teresa FAGUNDES, Daisy TAYLOR, Andy FAGUNDES, Jim, Russ, and Christina.

**Clerk's Note:** The following comments were received via email.

In Favor

Chase BERTOTTO, Anem GARDUNO, Paul GIBBONS, Lindsey HADA, Sandra HAY, Belen HERNANDEZ, Kevin HERNANDEZ, Netanya HERNANDEZ, Laura HERRERA, Mason JACKSON, Anna MARIA, Kristie

MARQUEZ, Sarah MILLHOFF, Jen RAMOS, Adriana REED, Matthew ROBINSON, Elizabeth SALMON, Selena SPANGLER, and Leticia VALENCIA.

Opposed

Robert ALLEN, Lorraine ANDERSON, Anonymous, Anonymous, Veronica ARCE, Karen ASHER, Wendy AULDRIDGE, Doris AVILLA, Rachel BARNELL, Sally BARNELL, Brian BARNETT, Shawna BETTANCOURT, Sherry BOOTHE, Donna BRADLEY, Matt BRESNYAN, Laurel BRIERLY, Dawn BROWN, Irene BROWN, Linda BURDICK, Christopher BUTLER, Natalie BUTLER, Kelly CAMPBELL, Lyn CARPENTER, Teresa CARTER, Cathy and Arnie CARVAJAL, Rosemarie CHURCH, Jessica CROMAR, Rocky and Charlene DEJAGER, Steven, DONAHUE, Jonathan DORN, Pam DUARTE, Judy EVANS, Vicki FAGUNDES, Johanna FISCHER, Val and Cheryl FOLGERBERG, Conrad FOURNIER, Veronica FRANEY, Jill GOODIN, Von GOODIN, James HALL, Shari HANNEMAN, Cheryl HENDRICKS, Belen HERNANDEZ, Cely HESS, HILL, Heidi HOOVER, Mason JACKSON, Stephanie JAURIQUE, Beverly JENKINS, Luciana JONKMAN, Denis KENSHALO, Anthony LIMON, Karen LINN, Dana LORENO, Vivian LOTT, Sandy MATA, Kris MCRORY, Diane MENDOZA, Nathan MILLER, Alice MITCHELL, Melba MIYAMOTO, Jay MONROE, Mandy MOSS, Judy NEWTON, Linda PEER, Julie PEREIRA, Alisha PERRET, Erika PHILLIPS, Charlie PRATT, Andrew J. PROPES, Sheila QUALL, Alyssa REYNOLDS-GIARDINA, Dianna RIGGS, Ginger ROCHA, Misty ROJAS, Kelly ROSEMAN, Sheryl ROSENBERGER, Barbara and Larry ROSENOW, Diana RUSSELL, Denee SCOTT, Kari SLATE, Cindy SOUZA, Martha SOUZA, Dave TADLOCK, Jesse TAYLOR, J.A. THOMAS, Victoria TRUJILLO, Rebecca V., Daniel ZACARIAS, Harry W., Rick WENDLING, and Robert and Rebecca WILLIAMSON.

Neutral

Larry JONES

Council discussed the possibility of further division, discussed the political nature of the BLM organization, potential changes to the wording of the mural, and ensuring a policy is put in place to address some of the questions raised about this project.

Council Member ECHEVARRIA made a motion to send the project back to the Arts and Culture Commission for refinement.

**Clerk's Note:** the motion failed for lack of a second.

**A motion was made by Council Member Blake, seconded by Council Member**

Shelton, to deny the street mural project and to refer the policy back to the Arts and Culture Commission for further refinement. The motion carried by the following vote:

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

**No:** 2 - Council Member Martinez, and Council Member McLeod

**Absent:** 0

## K. BUSINESS

**K.1.** **SUBJECT:** Appointments to the Citizens' Stipend Setting Commission with 3 Members to be Appointed by District

### REPORT IN BRIEF

Considers the appointment of individuals to the Citizens' Stipend Setting Commission.

### RECOMMENDATION

**City Council** - Adopt a motion accepting nominations and appointing one individual to City Council Districts 2,3, and 4 to the Citizens' Stipend Setting Commission.

Council briefly discussed the vacancies for District 2, District 3, and District 4 before making nominations.

**A motion was made by Council Member Echevarria, seconded by Council Member McLeod, to appoint Moua Thao (District 2), Gloria Conlin (District 3) and Tony Dossetti (District 4) to the Citizens' Stipend Setting Commission . The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**K.2.** **SUBJECT:** Discussion on the Format of Future City Council Meetings During COVID-19 and Guidance for Other City Boards and Commissions

### REPORT IN BRIEF

Discuss the format of City Council, Board, and Commission Meetings.

### RECOMMENDATION

Provide staff direction on the format of future City Council, Board, and Commission Meetings.

Council agreed to remain virtual for the next Council Meeting.

**K.3.**

**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.

There were none.

**K.4.**

**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 suggested visiting the newly renovated Mainzer Theatre.

Mayor Pro Tempore SERRATTO discussed projects downtown.

Mayor MURPHY asked the public to view the virtual ribbon cutting for the Mainzer Theatre.

**L. ADJOURNMENT**

**Clerk's Note:** The Regular Meeting adjourned at 12:35 AM.

**A motion was made by Council Member Shelton, seconded by Council Member Echevarria, to adjourn the meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0



# CITY OF MERCED

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

## Minutes

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

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Tuesday, September 8, 2020

6:00 PM

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#### A. CLOSED SESSION ROLL CALL

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

**Absent:** 0

#### B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:00 PM.

**Clerk's Note:** The Closed Session was held via video conference as provided for by Governor Newsom's Executive Order N-29-20.

- B.1.** **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to Paragraph (1) of Subdivision (d) of Government Code section 54956.9, Name of Case: Travis Lawrie v. City of Merced; 20CV-02335
- B.2.** **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: Interim City Manager Stephanie Dietz; Employee Organizations: Merced Police Officers' Association (MPOA). AUTHORITY: Government Code Section 54957.6
- B.3.** **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: Interim City Manager Stephanie Dietz; Unrepresented Management AUTHORITY: Government Code Section 54957.6
- B.4.** **SUBJECT:** CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: Surface Water Purchase, Merced, CA; Agency Negotiator: Stephanie Dietz, Interim City Manager, City of Merced; Negotiating Parties: Merced Irrigation District and City of Merced and; Under Negotiation: Price and Terms of Payment

- B.5.** **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation pursuant to Government Code section 54956.9(d)(2): (1) case

**Clerk's Note:** Council adjourned from Closed Session at 5:55 PM.

## **C. CALL TO ORDER**

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

**Clerk's Note:** The Regular Meeting was held via video conference as provided for by Governor Newsom's Executive Order N-29-20.

- C.1. Invocation - Al Schaap, Gateway Church

The Invocation was delivered by Pastor Al SCHAAP from Gateway Church.

- C.2. Pledge of Allegiance to the Flag

The Pledge of Allegiance was led by Council Member MCLEOD.

## **D. ROLL CALL**

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

**Absent:** 0

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

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

Mayor MURPHY stated there was no report but that Council would adjourn back to Closed Session at the end of the Regular Meeting.

## **F. CEREMONIAL MATTERS**

- F.1.** **SUBJECT:** Volunteer of the Year Awards

### **REPORT IN BRIEF**

Council Members nominated a volunteer within their district and the Mayor nominated one at-large volunteer to highlight those who have given back to

their community.

Mayor MURPHY briefly described the Volunteer of the Year Awards.

**Clerk's Note:** A video was shown with each Council Member nominating and each recipient commenting on the award.

District 1 - Zuleika QUIRALTE-REYES

District 2 - Rafael VEGA

District 3 - Wayne and Victoria EISENHART

District 4 - Monika MODEST

District 5 - Monika GRASLEY

District 6 - Rich GIPSON

At-Large - Robert "Zilla" GARCIA

Council thanked all of the volunteers.

**F.2.**

**SUBJECT:** Proclamation - Childhood Cancer Awareness Month

**REPORT IN BRIEF**

The Childhood Cancer Awareness Month Proclamation will be presented.

Council Member BLAKE read the proclamation for Childhood Cancer Awareness Month.

**G. WRITTEN PETITIONS AND COMMUNICATIONS**

There were none.

**H. ORAL COMMUNICATIONS**

There were none.

**I. CONSENT CALENDAR**

Item I.5. Considers a Lease Agreement for the 27th and K (Central) Youth Center with Restorative Justice League for Afterschool Youth Programming for a One Year Term with an Option to Extend the Term for an Additional Term of Two Years; was pulled for separate consideration.

**Approval of the Consent Agenda**

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

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

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 August 2020**

**REPORT IN BRIEF**

Notification of awarded Non-Public Works contracts under \$33,000 and of Public Works contracts under \$71,862.

**This Consent Item was approved.**

**I.3.                   SUBJECT: Information Only - Planning Commission Meeting Minutes of June 17 and 24, 2020**

**RECOMMENDATION**

For information only.

**This Consent Item was approved.**

**I.4.                   SUBJECT: 2020 Local Agency Biennial Notice**

**REPORT IN BRIEF**

Accept and file the 2020 Local Agency Biennial Notice to review the City's Conflict of Interest Code.

**RECOMMENDATION**

**City Council** - Adopt a motion accepting and filing the 2020 Local Biennial Notice; and, directing staff to return the amended Conflict of Interest Code within 90 days of this date for final adoption by City

Council.

This Consent Item was approved.

I.6.

**SUBJECT:** Adoption of Resolution Approving the 2020/2021 Local Transportation Fund (LTF) Claim Form in the Amount of \$86,853 to be Filed with the Merced County Association of Governments (MCAG)

**REPORT IN BRIEF**

Approves and accepts \$86,853 in Local Transportation Funds (LTF) from Merced County Association of Governments (MCAG) for the Highway 59 and 16th Street Right Turn Channelization project.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Adopting **Resolution 2020-57**, a Resolution of the City Council of the City of Merced, California, approving the Local Transportation Fund (LTF) Claim to be filed with the Merced County Association of Governments (MCAG) for Fiscal Year 2020/2021; and,

B. Authorizing the Finance Officer to make any necessary budget adjustments.

This Consent Item was approved.

I.7.

**SUBJECT:** Selection of the Highway 59 and 16th Street Turn Channelization as the Eligible Roadway Project and Submittal of 2019/2020 Regional Surface Transportation Program (RSTP) Exchange Funds Claim Form in the Amount of \$77,731 to be Filed with the Merced County Association of Governments (MCAG) to Fund a Portion of the Project

**REPORT IN BRIEF**

Selects the Highway 59 and 16th Street Right Turn Channelization project and authorizes staff to complete the FY 2019/2020 Regional Surface Transportation (RSTP) Claim Form in the amount of \$77,731 for submittal to the Merced County Association of Governments (MCAG).

**RECOMMENDATION**

**City Council** - Adopt a motion:

- A. Selecting the Highway 59 Right Turn Channelization project; and,
- B. Directing staff to complete the 2019-2020 RSTP claim form by listing the selected project and corresponding project costs; and,
- C. Adopting **Resolution 2020-62**, a Resolution of the City Council of the City of Merced California, authorizing the City Manager to file the Regional Surface Transportation Program (RSTP) Exchange Funds claim for Fiscal Year 2019-2020; and,
- D. Authorizing the Finance Officer to make necessary budget adjustments for Fiscal Year 2020-2021.

**This Consent Item was approved.**

**I.8.**

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

**REPORT IN BRIEF**

Requests council approval of an addendum to the existing MOU between Merced Union High School District and the City of Merced temporarily reducing Police Services at the District's four (4) high schools.

**RECOMMENDATION**

**City Council** - Adopt a motion:

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

**This Consent Item was approved.**

I.9.

**SUBJECT:** Waiving the Competitive Bidding Requirements to Standardize Equipment and Authorize the Purchase of New Police Department Radio Communications Equipment in the Amount Not to Exceed \$180,000

**REPORT IN BRIEF**

Considers authorizing the purchase of new Motorola radio communications equipment up to a not to exceed amount of \$180,000 and waiving the competitive bidding requirement to purchase from a single vendor/brand to allow for the standardization of equipment.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Waiving the competitive bidding requirements as stated in Section 3.04.210 of the Merced Municipal Code due to standardization; and,

B. Approving the purchase of Motorola brand communications equipment and accessories through J's Communications, Inc. in a not to exceed amount of \$180,000.

**This Consent Item was approved.**

I.10.

**SUBJECT:** Approval of an Agreement with Merced Community College District Contract for the Professional Services of a Police Administrator for the 2020/21 Fiscal Year in the Amount of \$234,554.44

**REPORT IN BRIEF**

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

**RECOMMENDATION**

**City Council** - Adopt a motion:

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

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

C. Authorizing the Finance Officer to make the appropriate budget

adjustments.

This Consent Item was approved.

**I.5.**

**SUBJECT:** Considers a Lease Agreement for the 27th and K (Central) Youth Center with Restorative Justice League for Afterschool Youth Programming for a One Year Term with an Option to Extend the Term for an Additional Term of Two Years

**REPORT IN BRIEF**

Considers a lease agreement for the 27th and K (Central) Youth Center to Restorative Justice League for afterschool youth programming.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the contract with Restorative Justice League for afterschool youth programming at the Central Youth Center.

Mayor MURPHY pulled this item for separate consideration due to public comment received.

**Clerk's Note:** The following comment was received by email.

Diana ODOM GUNN - spoke in support of the lease and welcomed new activity at the location.

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

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

**No:** 0

**Absent:** 0

**J. PUBLIC HEARINGS**

**J.1.**

**SUBJECT:** Continued Public Hearing to Allow Interested Persons to be Heard Prior to the Submittal of an Application to the United States Department of Housing and Urban Development (HUD) in the Amount of \$2,000,000 for Financing Through the Section 108 Loan Guarantee Program for the Childs Court Apartments - Childs and B Street Transit Oriented Development (TOD) Affordable Housing Project and Adopting City Council Resolution 2020-49 Approving a Conditional Commitment

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of HUD 108 Loan Guarantee Funds, Authorizing the Loan Guarantee Application Submittal to HUD, and Authorizing the City Manager or the Assistant City Manager to Execute and Make Minor Modifications as Necessary on Behalf of the City of Merced

#### REPORT IN BRIEF

A continued Public Hearing to allow interested persons to be heard prior to the submittal of an application to the United States Department of Housing and Urban Development (HUD) in the amount of \$2,000,000 for financing through the Section 108 Loan Guarantee Program for the Childs Court Apartments - Childs and B Street Affordable Housing Transit Oriented Development (TOD) Project and Adopting City Council Resolution 2020-49 Approving a conditional commitment of HUD 108 Loan Guarantee Funds, Authorizing the Loan Guarantee Application Submittal, and authorizing the City Manager or the Assistant City Manager to execute and make minor modifications as necessary on behalf of the City of Merced.

#### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Recommending that the City Council conduct the Public Hearing, receive any testimony given; and,
- B. Adopting **Resolution 2020-49**, a Resolution of the City Council of the City of Merced, California, approving a conditional commitment of HUD 108 Loan Guarantee Funds for the Childs and B Street Transit-Oriented Development Affordable Housing Project; and,
- C. Authorizing the Loan Guarantee Application; and,
- D. Authorizing the City Manager or the Assistant City Manager to execute and make minor modifications as necessary on behalf of the City of Merced.

Development Services Director Scott MCBRIDE gave a slideshow presentation on the project and the funding application.

Mayor MURPHY opened and subsequently closed the Public Hearing at 6:48 due to lack of public comment.

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

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

**No:** 0

**Absent:** 0

## K. REPORTS

**K.1.** **SUBJECT:** Adoption of a Resolution for an Exemption to CalPERS 180-Day Wait Period to Hire a Temporary Payroll Supervisor to Fill a Critical Need in the Finance Department Pursuant to Government Code Sections 7522.56 and 21224

### REPORT IN BRIEF

Considers the adoption of a resolution approving the hiring of Joni Vierra as an extra-help retired annuitant to perform the duties of a Payroll Supervisor under Government Code sections 7522.56 and 21224, effective September 14, 2020.

### RECOMMENDATION

**City Council** - Adopt a motion adopting **Resolution 2020-58**, a Resolution of the City Council of the City of Merced, approving an exception to the CALPERS 180-day wait period pursuant to Government Code sections 7522.56 and 21224.

Finance Officer Venus RODRIGUEZ gave a presentation regarding the request to hire a temporary payroll supervisor position using the current supervisor who is set to retire.

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

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

**No:** 0

**Absent:** 0

## L. BUSINESS

**L.1.** **SUBJECT:** Appointment to the Citizens' Stipend Setting Commission for District 5

**REPORT IN BRIEF**

Considers the appointment of an individual to the Citizens' Stipend Setting Commission for District 5.

**RECOMMENDATION**

**City Council** - Adopt a motion accepting nominations and appointing one individual to City Council District 5 to the Citizens' Stipend Setting Commission.

Council discussed the District 5 vacancy and nomination.

**A motion was made by Mayor Pro Tempore Serratto, seconded by Council Member Blake, to appoint Baraka Carter (District 5) to the Citizens Stipend Setting Commission. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**L.2.**

**SUBJECT:** Discussion on the Format of Future City Council Meetings During COVID-19 and Guidance for Other City Boards and Commissions

**REPORT IN BRIEF**

Discuss the format of City Council, Board, and Commission Meetings.

**RECOMMENDATION**

Provide staff direction on the format of future City Council, Board, and Commission Meetings.

Council agreed that the next meeting would remain virtual.

**Clerk's Note:** The following comment was received by voicemail.

Maria BREWARD - requested that all Council Members keep their cameras on at all times.

**L.3.**

**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 ECHEVARRIA requested more attention to McNamara Park and asked citizens to contact him.

Council Member SHELTON requested a future discussion on art projects in the City.

Council Member MARTINEZ requested an update on the Gateway retail project.

**L.4.**

**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 commented on the youth going back to school.

Council Member ECHEVARRIA thanked the volunteers.

Mayor MURPHY commented on the groundbreaking at the new navigation center.

Council discussed adjourning the Regular Meeting in memory of Rich GIPSON and Tom SCHEIDT before adjourning back into Closed Session.

**Clerk's Note:** Council adjourned back into Closed Session at 7:16 PM.

**M. ADJOURNMENT**

**Clerk's Note:** Council adjourned from Closed Session and adjourned the Regular Meeting at 10:46 PM.

**A motion was made by Council Member Shelton, seconded by Council Member Blake, to adjourn the Regular Meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0



# CITY OF MERCED

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

## Minutes

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

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Monday, September 21, 2020

6:00 PM

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#### A. CLOSED SESSION ROLL CALL

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

**Absent:** 0

#### B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:01 PM.

**Clerk's Note:** Council Members ECHEVARRIA and SHELTON arrived at 5:05 PM.

**Clerk's Note:** The Closed Session was held via video conference as provided for by Governor Newsom's Executive Order N-29-20.

**B.1.** **SUBJECT:** CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: Surface Water Purchase, Merced, CA; Agency Negotiator: Stephanie Dietz, Interim City Manager, City of Merced; Negotiating Parties: Merced Irrigation District and City of Merced and; Under Negotiation: Price and Terms of Payment

**B.2.** **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: Interim City Manager Stephanie Dietz; Employee Organizations: Merced Police Officers' Association (MPOA). AUTHORITY: Government Code Section 54957.6

**B.3.** **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation pursuant to Government Code section 54956.9(d)(2): (2) cases

**Clerk's Note:** Council adjourned from Closed Session at 5:37 PM.

#### C. CALL TO ORDER

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

**Clerk's Note:** The Regular Meeting was held via video conference as provided for by Governor Newsom's Executive Order N-29-20.

C.1. Invocation - Spencer Boelter, Young Life

The invocation was delivered by Zach ELLISON from Young Life.

C.2. Pledge of Allegiance to the Flag

The Pledge of Allegiance to the Flag was led by Council Member MCLEOD.

**D. ROLL CALL**

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

**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 - Constitution Week**

**REPORT IN BRIEF**

Received by a representative of the Daughters of the American Revolution the Merced River Chapter.

Mayor MURPHY read the proclamation for Constitution Week.

Linda ROLAND, Daughters of the American Revolution, accepted the proclamation.

**F.2. SUBJECT: Proclamation - National Small Business Week**

**REPORT IN BRIEF**

Presented to Executive Director Small Business Development Center  
Kurtis Clark.

Mayor MURPHY read the proclamation for National Small Business Week.

Kurtis CLARK from the Small Business Development Center accepted the  
proclamation.

**G. WRITTEN PETITIONS AND COMMUNICATIONS**

There were none.

**H. ORAL COMMUNICATIONS**

**Clerk's Note:** The following comment was received via voicemail.

Richard, Merced Resident - commented on follow up by the Police  
Department on an incident he reported.

**I. CONSENT CALENDAR**

Items I.4. Authorization to Accept and Appropriate a Donation of Ten  
Thousand Dollars (\$10,000.00) from Harvest Church to be Used to  
Purchase a Police Dog for the Merced Police K9 Unit and I.7. Approval of  
Memorandum of Understanding Between the Merced County Behavioral  
Health and Recovery Services, Merced County Sheriff, and the City of  
Merced Police Department for the Establishment of a Mobile Crisis  
Response Team; were pulled for separate consideration.

**Approval of the Consent Agenda**

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

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

**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 - Recreation & Parks Commission Minutes of October 22, 2018, November 26, 2018, February 25, 2019, April 22, 2019, May 28, 2019, June 24, 2019, August 26, 2019, October 28, 2019, January 28, 2020, and July 27, 2020

**RECOMMENDATION**

For information only.

**This Consent Item was approved.**

**I.3.**

**SUBJECT:** Information Only - Traffic Committee Minutes of July 14, 2020

**RECOMMENDATION**

For information only.

**This Consent Item was approved.**

**I.5.**

**SUBJECT:** Approval of the First Amendment to the Agreement for Professional Services with Koff & Associates to Perform Additional Services Related to the Citywide Compensation Study and Approve Additional Compensation in the Amount of \$4,960 for the Additional Services, the Total Contract Amount Shall Not Exceed \$80,000

**REPORT IN BRIEF**

Considers approving the first amendment to the Koff & Associates agreement for the not to exceed amount of \$80,000.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving the first amendment to an agreement for professional services with Koff and Associates for additional services related to the Citywide employee total compensation study in an amount not to exceed \$4,960 and a total contract amount not to exceed \$80,000; and,

B. Authorizing the Finance Officer to make any necessary budget adjustments; and,

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

**This Consent Item was approved.**

**I.6.**

**SUBJECT:** Award Bid to PACE Supply Corp. and Approval of a Contract for the Supply of Waterworks Parts and Materials for a Term of Two (2) Years with up to Two (2) One Year Extensions

**REPORT IN BRIEF**

Considers awarding the Bid to PACE Supply Corp. and approving a multi-year supply and service contract for water works parts and materials.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Awarding the bid for the supply of water works parts and materials to PACE Supply Corp.; and,

B. Authorizing the City Manager or the Assistant City Manager to execute a contract for a term of two (2) years with up to two (2) one-year optional renewals thereafter based on the bid pricing submitted by PACE Supply.

**This Consent Item was approved.**

**I.8.**

**SUBJECT:** Approval of Agreement for Professional Services with ThyssenKrupp Elevator Corporation, in the Annual Amount of \$16,800 for Elevator Maintenance Services for a Two (2) Year Term Beginning July 1, 2020 Through June 30, 2022, with an Option to Extend the Agreement for Three (3) Additional One (1) Year Term(s)

**REPORT IN BRIEF**

Considers approving an agreement with ThyssenKrupp Elevator Corporation, in the annual amount of \$16,800 for maintenance of seven (7) elevators located at the Merced Civic Center, Ralph Shannon Parade, Merced Center Parking Garage, and Central Police Station.

**RECOMMENDATION**

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**City Council - Adopt a motion:**

A. Approving the agreement for professional services with ThyssenKrupp Elevator Corporation, in the annual amount of \$16,800 for elevator maintenance services for a period of two-years, with an option to renew for a maximum of (3) three additional one-year periods; and,

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

**This Consent Item was approved.**

**I.9.**

**SUBJECT:** Waiving the Competitive Bidding Requirements, Authorization to Participate in a Cooperative Purchase Through Soucewell, and Approval of a Five-Year Agreement, with the Option to Extend for Two Additional One-Year Periods, with Shaefer Systems International, Inc., to Purchase Refuse Containers in an Amount not to Exceed \$150,000 for Fiscal Year 2020/2021

**REPORT IN BRIEF**

Considers authorizing a waiver of competitive bidding requirement pursuant to Merced Municipal Code Section 3.04.210 to purchase refuse containers through the government procurement program Sourcewell via a contract with Shaefer Systems International, Inc., for a period of five years with the option to extend for two additional one-year periods.

**RECOMMENDATION**

**City Council - Adopt a motion:**

A. Waiving the City's competitive bidding requirement as permitted by Merced Municipal Code section 3.04.210 and authorizing purchases to be made with cooperative purchase agreements through Sourcewell, a government procurement program; and,

B. Approving a container purchase agreement with Schaefer Systems International, Inc., for an amount not to exceed \$150,000 for fiscal year 2020/2021, for a period of five-years with the option to extend for two one-year periods; and,

C. Authorizing the purchase of residential refuse containers.

D. Authorizing the City Manager or the Assistant City Manager to

execute the necessary documents.

This Consent Item was approved.

I.10.

**SUBJECT:** Approval of a Memorandum of Understanding with the County of Merced, Department of Public Health, Division of Environmental Health Regarding On-Site Wastewater Treatment Systems Located in the City of Merced

**REPORT IN BRIEF**

Considers approving a memorandum of understanding with the County of Merced, Department of Public Health, Division of Environmental Health regarding on-site wastewater treatment (septic) systems.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the memorandum of understanding with the County of Merced, Department of Public Health, Division of Environmental Health regarding on-site wastewater treatment systems; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

I.11.

**SUBJECT:** Approval of an Agreement for Professional Services with KLA, Inc., for Landscape Design Services for the Bellevue Ranch Area Landscape and Irrigation Improvements Project 120053 for a Total Amount Not to Exceed \$43,200

**REPORT IN BRIEF**

Considers approving an agreement for professional services with KLA, Inc., for design of landscape and irrigation improvements in the Bellevue Ranch area in a total amount not to exceed \$43,200.

**RECOMMENDATION**

**City Council** - Adopt a motion approving an agreement for professional services with KLA, Inc., in the amount not to exceed \$43,200 for design of landscape and irrigation improvements in the Bellevue Ranch area; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

I.4.

**SUBJECT:** Authorization to Accept and Appropriate a Donation of Ten Thousand Dollars (\$10,000.00) from Harvest Church to be

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Used to Purchase a Police Dog for the Merced Police K9 Unit

**REPORT IN BRIEF**

Considers accepting and appropriating a donation of ten thousand dollars (\$10,000.00) from Harvest Church to offset the costs of purchasing a Police Dog.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Accepting the donation of ten thousand dollars (\$10,000.00) from Harvest Church for use in the Merced Police K9 Unit; and,

B. Increasing Contributions and Donations revenue account #001-1001-360-02-01 in the amount of \$10,000 and appropriating the same amount to account #001-1001-523-43-00 to offset the costs of purchasing a police dog for the Merced Police K9 Unit; and,

C. Authorizing the City Manager or the Assistant City Manager to execute the donation acceptance agreement.

Mayor Pro Tempore SERRATTO pulled this item to highlight the donation made by Harvest Church.

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

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

**No:** 0

**Absent:** 0

**I.7.**

**SUBJECT: Approval of Memorandum of Understanding Between the Merced County Behavioral Health and Recovery Services, Merced County Sheriff, and the City of Merced Police Department for the Establishment of a Mobile Crisis Response Team**

**REPORT IN BRIEF**

Considers the authorization to approve the memorandum of understanding between the Merced County Behavioral Health and Recovery Services, Merced County Sheriff, and the City of Merced Police Department for establishment of a mobile crisis response team.

### RECOMMENDATION

**City Council** - Adopt a motion approving the memorandum of understanding and authorizing the City Manager or the Assistant City Manager to execute all necessary documents.

Mayor MURPHY pulled this item due to public comment received.

**Clerk's Note:** The following comment was received by voicemail.

Marilyn MOCHEL, Merced - spoke in support of the Memorandum of Understanding.

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

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

**No:** 0

**Absent:** 0

## J. PUBLIC HEARINGS

J.1.

**SUBJECT:** Continued Public Hearing to Consider the Annexation of Certain Property into CFD No. 2003-2 (Services), Calling and Holding a Special Election for Annexation No. 13 into Community Facilities District (CFD) No. 2003-2 (Services) for the PG&E Service Center; Canvassing the Results of the Election Held within Annexation No. 13 of Said District and Authorizing the Levy of a Special Tax Within Said Annexation No. 13

### REPORT IN BRIEF

Hold a public hearing and election for annexation into Community Facilities District No. 2003-2 (Services) for the PG&E Service Center generally located at the northeast corner of Childs Avenue and Kibby Road.

### RECOMMENDATION

**City Council** - Complete the following items in order:

A. Hold a Public Hearing on the annexation of certain property into the CFD and the levy of special taxes; and,

B. Adopt **Resolution 2020-59**, a Resolution of the City Council of the City

of Merced, acting as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced determining the validity of prior proceedings, calling a special election related to Annexation No. 13; and,

C. Hold an election; and,

D. Adopt **Resolution 2020-60**, a Resolution of the City Council of the City of Merced acting as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced canvassing the results of the election held within Annexation No. 13 of said District; and,

E. Adopt **Resolution 2020-61**, a Resolution of the City Council of the City of Merced acting as the Legislative Body of the Community Facilities District No. 2003-2 (Services) of the City of Merced annexing Annexation No. 13 to said district and authorizing the levy of a special tax within said Annexation No. 13.

Associate Planner Julie NELSON gave a slide show presentation on the proposed annexation of the property in question into the Community Facilities District and explained the order of proceeding.

Mayor MURPHY opened and subsequently closed the Public Hearing at 6:35 PM due to lack of public comment.

**A motion was made by Council Member Blake, seconded by Council Member Shelton, to adopt Resolution 2020-59. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

Assistant City Clerk Jennifer LEVESQUE opened the ballot and stated the qualified voters have voted in favor of annexation into the Community Facilities District.

**A motion was made by Mayor Pro Tempore Serratto, seconded by Council Member Martinez to adopt Resolutions 2020-60 and 2020-61. The motion carried by the following vote:**

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

No: 0

Absent: 0

J.2.

**SUBJECT:** Public Hearing - To Receive Comments on the Adequacy of the Findings for (1) Adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program and Report for Conditional Use Permit #1238; (2) CEQA Section 15162 Findings for Environmental Review #20-05 for Site Plan Review Permit #455; (3) Approval of Conditional Use Permit #1238; (4) Approval of Site Plan Review Permit #455; (5) Denial of the Appeal of the Environmental Determinations to Adopt a Mitigated Negative Declaration and Mitigation Monitoring Report and Program for Conditional Use Permit (CUP) #1238 and Environmental Review #20-05 (CEQA Section 15162) for Site Plan Review #455; (6) Denial of the Appeal for Conditional Use Permit #1238; and, (7) Denial of the Appeal for Site Plan Review Permit #455; All of Which Would Allow the Construction of a Mixed-Use Development, Including 200 Apartments, Approximately 22,000 s.f. of Retail Commercial Space, and Approximately 14,000 s.f. of Office Space on a 5.94-Acre Parcel Generally Located at the Southeast Corner of Yosemite Avenue and McKee Road

#### **REPORT IN BRIEF**

Considers the Adequacy of the Findings for: (1) Adoption of a Mitigated Declaration for Conditional Use Permit (CUP) #1238; (2) CEQA Section 15162 Findings for Environmental Review #20-05 for Site Plan Review Permit #455; (3) Approval of CUP #1238; (4) Approval of Site Plan Review Permit #455; (5) Denial of the Appeal of the Environmental Determinations; (6) Denial of the Appeal for CUP #1238; and, (7) Denial of the Appeal for Site Plan Review Permit #455.

#### **RECOMMENDATION**

**City Council** - Adopt a motion:

A. Adopting **Resolution 2020-63**, a Resolution of the City Council of the City of Merced, California, Denying an Appeal by Casey Steed and Richard Harriman on behalf of Merced Smart Growth Advocates (MSGA) Related to Conditional Use Permit #1238, Site Plan Review Permit #455, Mitigated Negative Declaration for Conditional Use Permit #1238, Environmental Determination #20-05 (CEQA Section 15162) for Site Plan Review Permit #455, and Approving a Mitigated

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Negative Declaration and Mitigation Monitoring Report and Program for Conditional Use Permit #1238, Approving Environmental Determination #20-05 (CEQA Section 15162) for Site Plan Review Permit #455, Approving Conditional Use Permit #1238, Approving Site Plan Review Permit #455, and making Certain Findings and Imposing Certain Conditions in Connection Therewith.

**Clerk's Note:** Council Member BLAKE recused himself from this item due to the proximity of his residence to the project.

Mayor MURPHY clarified the procedures to be used during the Public Hearing.

Development Services Director Scott MCBRIDE gave a summary of previous hearings of this item.

Council Members MARTINEZ, MCLEOD, and Mayor Pro Tempore SERRATTO reported ex parte communications with the developer of the project.

Mayor MURPHY opened the Public Hearing at 6:52 PM.

Richard HARRIMAN, on behalf of the appellants Merced Smart Growth Associates and Casey STEED, asked Council to approve the appeal and deny the project based on several factors including the site plan review process, potential noise, non compliance with the zoning ordinance and issues with various CEQA items.

Elisa PASTER, on behalf of the applicant Merced Holdings LP., discussed the compromises the applicant has made based on Council direction given at a previous meeting, stated it meets all design standards, and requested that Council deny the appeal and approve the project.

**Clerk's Note:** The following comments were provided via email.

Michael BELLUOMINI, Merced resident - suggested approval only if the project was reduced in size, adjusted to meet residential design standards in the Zoning Ordinance, and suggested the ground floor be retail and offices.

Dan ALEMAN and Janet HUGHES, Merced residents - requested denial of the project based on the size of the project, the traffic issues it will cause, and the sewer issues created.

**Clerk's Note:** The following comment was provided via voicemail.

Joe CORVELLO, Merced County resident - spoke in opposition to the project due to its size for the site and traffic issues that may be caused.

Mayor MURPHY closed the Public Hearing at 7:08 PM.

Council discussed contact with the developer and the compromises that have been made by the developer.

City Attorney Phaedra NORTON reviewed requests made by the developer for changes to the resolution exhibits and made recommendations to Council regarding suggested changes that would be acceptable and those that should remain as presented.

Council Member ECHEVARRIA made a motion to grant the appeal and deny the project.

**Clerk's Note:** The motion failed for lack of a second.

**A motion was made by Council Member Martinez, seconded by Mayor Pro Tempore Serratto, to adopt Resolution 2020-63 with changes as recommended by the City Attorney . The motion carried by the following vote:**

**Aye:** 4 - Mayor Pro Tempore Serratto, Council Member Martinez, Council Member McLeod, and Council Member Shelton

**No:** 2 - Mayor Murphy, and Council Member Echevarria

**Absent:** 0

**Recused:** 1 - Council Member Blake

**J.3.**

**SUBJECT:** Public Hearing to Consider Modifications Requested by Exposition Properties, LLC to the Pre-Annexation Development Agreement for the Absolute-Bright Annexation

**REPORT IN BRIEF**

Considers modifications to the Pre-Annexation Development Agreement for the Absolute-Bright Annexation.

**RECOMMENDATION**

**City Council** - Adopt a motion open the Public Hearing and continue the matter to the City Council meeting of October 5, 2020.

**Clerk's Note:** The applicant requested that this item be continued to the

October 5, 2020 City Council meeting.

**A motion was made by Mayor Pro Tempore Serratto, seconded by Council Member Blake, that this agenda item be continued to the October 5, 2020 City Council Meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

## K. REPORTS

### K.1.

**SUBJECT:** Selecting 3 of the 13 Potential Park Sites for the Submission of 3 Proposition 68 Statewide Park Program Round 4 Grant Applications for an Amount not to Exceed \$8.5 Million Dollars (\$8,500,000) Per Application

#### REPORT IN BRIEF

Considers selecting 3 potential park sites for the submittal of 3 grant applications for funding of park renovations, expansions, and/or to create new parks throughout Merced for an amount not to exceed \$8.5 Million (\$8,500,000) per park site.

#### RECOMMENDATION

**City Council** - Adopt a motion selecting 3 project sites for the submission of 3 Proposition 68 Statewide Park Program Round 4 grant applications for an amount not to exceed \$8.5 million dollars (\$8,500,000) per project site.

Recreation Supervisor Jennifer ARELLANO, gave a slide show presentation regarding the Proposition 68 grant programs, spoke about the previous grant application results, explained current parks being considered for the round of grant funding based on a ranking system, and the recommendations made by the Recreation and Parks Commission.

**Clerk's Note:** The following comment was submitted via email.

Diana ODOM GUNN, Downtown Neighborhood Association - spoke in favor of the Bob Hart Square project.

Council and Ms. ARELLANO discussed park needs for the various community locations, how the locations scored, and narrowed the application to three parks after discussion on the various options.

**A motion was made by Council Member Blake, seconded by Council Member McLeod, to submit grant applications for Bob Hart Square, the Alfarata Ranch location, and CP-42. The motion carried by the following vote:**

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

**No:** 1 - Council Member Echevarria

**Absent:** 0

## **L. BUSINESS**

### **L.1.                    SUBJECT: Discussion on the Format of Future City Council Meetings During COVID-19**

#### **REPORT IN BRIEF**

Discuss the format of City Council Meetings.

#### **RECOMMENDATION**

Provide staff direction on the format of future City Council Meetings.

Council discussed and a majority agreed that the meeting of October 5, 2020 would be held in person.

### **L.2.                    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 adding an item to create a resolution supporting Proposition 15.

Mayor Pro Tempore SERRATTO requested an item regarding rental registration.

Mayor MURPHY requested additional conversation about naming a park to honor a Hmong leader.

### **L.3.                    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 ECHEVARRIA discussed presenting the volunteer of the year award for his district.

Council Member MARTINEZ praised the community for improving COVID 19 statistics.

## M. ADJOURNMENT

**Clerk's Note:** The Regular Meeting was adjourned at 8:48 PM.

**A motion was made by Council Member Blake, seconded by Council Member McLeod, to adjourn the meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0



# CITY OF MERCED

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

## Minutes

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

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Monday, October 5, 2020

6:00 PM

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#### A. CLOSED SESSION ROLL CALL

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

#### B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:05 PM.

**B.1.** **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation pursuant to Government Code section 54956.9(d)(2): (1) case

**B.2.** **SUBJECT:** PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: City Attorney; Authority: Government Code Section 54957

**B.3.** **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS - Agency Designated Representatives: Mayor and City Council Members. Unrepresented Employee: City Attorney; Authority: Government Code Section 54957 and 54957.6

**Clerk's Note:** Council adjourned from Closed Session at 5:54 PM.

#### C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:01 PM.

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

The invocation was delivered by Pastor Joel DORMAN from First Baptist Church.

C.2. Pledge of Allegiance to the Flag

The Pledge of Allegiance to the Flag was led by Mayor MURPHY.

#### D. ROLL CALL

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

**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 - Domestic Violence Awareness Month

### **REPORT IN BRIEF**

Received by Liz Tyler Volunteer Specialist at Valley Crisis Center.

Mayor MURPHY presented the proclamation for Domestic Violence Awareness Month to Liz TYLER from Valley Crisis Center.

**F.2.** **SUBJECT:** Proclamation - Hispanic Heritage Month

### **REPORT IN BRIEF**

Received by a member of the Hispanic Chamber of Commerce.

Mayor MURPHY presented a proclamation for Hispanic Heritage Month to Anissa FRAGOSO from the Hispanic Chamber of Commerce.

**F.3.** **SUBJECT:** Proclamation - Code Enforcement Officer Appreciation Week

### **REPORT IN BRIEF**

Received by the City of Merced Code Enforcement Officers.

Mayor MURPHY presented the proclamation for Code Enforcement Officer Appreciation Week to Police Chief Tom CAVALLERO.

## **G. WRITTEN PETITIONS AND COMMUNICATIONS**

**Clerk's Note:** The following letter was received by the Clerk's Office and placed at the dais prior to the meeting.

NAACP, Merced Chapter - requested support from Council for the renaming of the courthouse after Dr. Charles James Ogletree, Jr.

**Clerk's Note:** An email was received for the following agenda item and forwarded to City Council prior to the meeting.

Oral Communications - Emily Ramey from Ygrene Energy Fund.

## H. ORAL COMMUNICATIONS

Allen BROOKS, NAACP Merced - requested Council support for renaming the Superior Courthouse in honor of Dr. Charles James Ogletree, Jr.

## I. CONSENT CALENDAR

Item I.5. Approval of a Card-Lock Fuel Station Service Agreement with Tesei Petroleum, Inc., and a Fuel Delivery Services Agreement with Pazin and Meyers, Inc., for the Term of December 1, 2020 Through June 30, 2022 with the Option to Extend for Three Additional One-Year Period; was pulled for separate consideration.

### Approval of the Consent Agenda

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

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

**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 September 2020

**REPORT IN BRIEF**

Notification of awarded Non-Public Works contracts under \$33,000 and of Public Works contracts under \$71,862.

This Consent Item was approved.

I.3. **SUBJECT:** Introduction of an Ordinance Amending Sections 10.28.335 "Thirty-Minute Parking Zones - All-Day", 10.28.341 "Thirty-Minute Parking Zones -Eight-Thirty a.m. to One-Thirty p.m.", 10.28.350, "Ten-Minute Parking Zones", 10.32.057 "Passenger Loading Zones - Seven a.m. to Four p.m.", 10.32.058, "Passenger Loading Zones - Locations -Seven a.m. to Eight-Thirty a.m. and One-Thirty p.m. to Three-Thirty p.m.", 10.32.100, "Bus Zones - Location", 10.32.105, and "School Bus Loading Zones"

**REPORT IN BRIEF**

Considers recommendations from the Traffic Committee approving the following:

- Removal of thirty-minute parking zone on the south side of W 11th Street east of Canal Street;
- Addition of 2 Police Vehicles Only Parking on the south side of W 11th Street east of Canal Street;
- Addition of thirty-minute parking zone on the south side of W 11th Street east of Canal Street (east of Police Vehicle Only Parking);
- Removal of thirty-minute parking zone on the south side of W 22nd Street west of R Street;
- Removal of ten-minute parking zone on the east side of S Street south of W 22nd Street;
- Addition of ten-minute parking zone on the east side of S Street south of W 22nd Street and north of W. 21st Street;
- Removal of Passenger Loading Zone on the east side of S Street between W. 20th Street and W. 21st Street;
- Removal of Passenger Loading Zone on the south side of W 22nd Street west of R Street;
- Removal of Bus Zone on the east side of S Street south of W. 22nd Street; and,
- Addition of School Bus Loading Zone on the east side of S Street north of W. 21st Street

**RECOMMENDATION**

**City Council** - Adopt a motion introducing Ordinance 2517, an Ordinance of the City Council of the City of Merced, California, Sections 10.28.335 "Thirty-Minute Parking Zones - All-Day", 10.28.341 "Thirty-Minute Parking Zones -Eight-Thirty a.m. to One-Thirty p.m.", 10.28.350, "Ten-Minute Parking Zones", 10.32.057 "Passenger Loading Zones - Seven a.m. to Four p.m.", 10.32.058, "Passenger Loading Zones - Seven a.m. to Eight-Thirty a.m. and One-Thirty p.m. To Three-Thirty p.m.", 10.32.100, "Bus Zones", and 10.32.105, "School Bus Loading Zones" of the Merced Municipal Code.

**This Consent Item was approved.**

**I.4.**

**SUBJECT:** Land Use Determination #20-01 - Finding of Public Convenience or Necessity for Insanity Nightclub Located at 427 and 429 W. Main Street as Required by the Department of Alcoholic Beverage Control to Issue a Type 48 Alcohol License Which Allows the Sale of Beer, Wine, and Distilled Spirits

**REPORT IN BRIEF**

This report provides options for the City Council to consider making a Finding of Public Convenience or Necessity (PCN), as required by the Department of Alcoholic Beverage Control (ABC) to issue a Type 48 alcohol license (on-sale general allowing the sale of beer, wine, and distilled spirits) for Insanity Nightclub located at 427 and 429 W. Main Street.

**RECOMMENDATION**

**City Council** - Adopt a motion approving the Finding of Public Convenience or Necessity to allow Insanity Nightclub, located at 427 and 429 W. Main Street, to obtain a Type 48 license for on-sale general allowing the sale of beer, wine, and distilled spirits (Option #1 as shown in the "Council Action" section of this Administrative Report).

**This Consent Item was approved.**

**I.6.**

**SUBJECT:** Approving a First Amendment to the Professional Services Contract with Davey Resource Group, Inc., Reducing the Tree Inventory and Management Plan Services Contract Cost by \$118,805.59, Approving Three Separate Grant Amendments for the Tree Inventory and Management Plan California Department of Forestry and Fire Protection (CalFIRE) Grant No. 8GG16430,

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Extending the Grant Term to March 30, 2021, and Allowing for the  
Planting of an Additional 300 Trees Throughout Merced by Utilizing  
the Reallocation of Funds within the Grant Budget

**REPORT IN BRIEF**

Considers approving an amendment with Davey Resource Group, Inc., to reduce the contract total by \$118,805.59, and approving three grant amendments including the reallocation of various budget line items of the \$475,000 CalFIRE grant and to utilize the \$118,805.59 savings to plant an additional 300 trees throughout Merced, and extending the grant term through March 30, 2021.

**RECOMMENDATION**

**City Council** - Adopt a motion:

- A. Approving a First Amendment to Professional Services Contract with Davey Resource Group, Inc., Reducing the Agreement Cost by \$118,805.59 for Tree Inventory and Management Plan Services; and,
- B. Approving Grant Amendment No. 1 with CalFIRE for the Tree Inventory and Management Plan to allow for the movement of \$13,335 from budget item G - Outreach/Education to budget item C - Contractual to cover the cost of the Davey Resource contract for tree inventory and management plan services (as executed on October 19, 2018); and,
- C. Approving Grant Amendment No. 2 with CalFIRE for the Tree Inventory and Management Plan to extend the grant term through March 30, 2021; and,
- D. Approving Grant Amendment No. 3 with CalFIRE for the Tree Inventory and Management Plan to allow for the movement of \$64,064 from budget item C - Contractual to budget item E - Supplies for the purchase of trees and planting materials, as well as reallocation \$54,741.59 within budget item C for the purposes of contracting out labor for the additional plantings; and,
- E. Authorizing the Interim City Manager to execute the necessary documents.

**This Consent Item was approved.**

**I.5.**

**SUBJECT:** Approval of a Card-Lock Fuel Station Service  
Agreement with Tesei Petroleum, Inc., and a Fuel Delivery Services

Agreement with Pazin and Meyers, Inc., for the Term of December 1, 2020 Through June 30, 2022 with the Option to Extend for Three Additional One-Year Periods

**REPORT IN BRIEF**

Considers approving two separate multi-year service agreements with Tesei Petroleum, Inc., and Pazin and Myers, Inc., to provide fueling services for City vehicles for the period of December 1, 2020 through June 30, 2022 with the option to extend for three additional one-year periods.

**RECOMMENDATION**

**City Council** - Adopt a motion:

- A. Approving a service agreement with Tesei Petroleum, Inc., to provide card-lock fueling services for City vehicles, and;
- B. Approving a service agreement with Pazin and Myers, Inc., to provide fuel delivery services to all City dispensing stations or various generator sites, and;
- C. Authorizing the Interim City Manager to execute the necessary documents and sign future amendments for term extension(s).

Council Member MARTINEZ pulled this item for a report from staff.

Director of Public Works Ken ELWIN gave a brief explanation of the contract.

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

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

**No:** 0

**Absent:** 0

**J. PUBLIC HEARINGS**

**J.1.**

**SUBJECT:** Continued Public Hearing to Consider Amendments Requested by Rick Telegan on Behalf of Exposition Properties, LLC to the Pre-Annexation Development Agreement for the Absolute-Bright Annexation Which Includes Approximately 100 Acres Located on the

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East Side of G Street, North of Cardella Road

**REPORT IN BRIEF**

Considers modifications to the Pre-Annexation Development Agreement for the Absolute-Bright Annexation.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Open the Public Hearing and hear all testimony regarding the proposed amendments to the Pre-Annexation Development Agreement for the Absolute-Bright Annexation; and,

B. Close the Public Hearing; and,

C. Provide direction to staff regarding findings to deny the proposed amendments to the Pre-Annexation Development Agreement.

Senior Planner Julie NELSON gave a slideshow presentation on the amendments requested by Rick Telegan on behalf of Exposition Properties, LLC to the Pre-Annexation Development Agreement for the Absolute-Bright Annexation. She stated that the parties involved have not come to an agreement and they have requested continuing this hearing to the October 19, 2020 Council Meeting.

Mayor MURPHY opened the Public Hearing at 8:28 PM and requested the hearing be continued to the October 19, 2020 City Council Meeting due to lack of public comment.

**A motion was made by Mayor Pro Tempore Serratto, seconded by Council Member McLeod, that this agenda item be continued to the October 19, 2020 City Council Meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**K. REPORTS**

**K.1.**

**SUBJECT: Quarterly Revenue Update for Fourth Quarter of Fiscal Year 2019-2020 Including Requests for Approval of Additions and Deletions of Personnel Positions and Supplemental Appropriations in the General Fund in the Amount of \$450,000, Fund 017-Development**

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Services in the Amount of \$34,150 and Fund 558-Refuse Operating  
Fund in the amount of \$123,787

**REPORT IN BRIEF**

Provide a Quarterly Revenue update for the fourth quarter of Fiscal Year 2019-2020 and request approval of recommended changes to Personnel Positions and/or budget.

**RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving the addition of a Management Analyst and the deletion of an Administrative Assistant III effective September 7, 2020 in the Fire Department; and,

B. Approving the addition of a Senior Planner and the deletion of an Associate Planner effective September 24, 2018 in the Planning Division; and,

C. Approving a Supplemental Appropriation from the unencumbered, unreserved Fund Balance in Fund 017-Development Services in the amount of \$34,150 due to the costs associated for recommendation B above; and,

D. Approving the addition of a Housing Program Supervisor and the deletion of a Housing Program Manager in the Housing Division; and,

E. Approving the addition of two new Refuse Equipment Operator III positions in the Refuse Division; and,

F. Approving a Supplemental Appropriation from the unencumbered, unreserved Fund Balance in Fund 558-Refuse Operating Fund in the amount of \$123,787 due to the costs associated for recommendation D above; and,

G. Approving a Supplemental Appropriation from the unencumbered, unreserved General Fund Balance in the amount of \$450,000 and transferring \$180,000 to the Revenue Stabilization Fund, \$180,000 to Trust 115-Pension, and \$90,000 to the Economic Development Opportunity Fund; and,

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

Finance Officer Venus RODRIGUEZ gave a financial quarterly update to Council.

Interim City Manager Stephanie DIETZ updated the Council on the current situation with the pandemic.

Council and Ms. RODRIGUEZ discussed a reserve policy, the Giftbar Reimbursement Program, making some personnel adjustments, and the timing of the Five Year Forecast.

**A motion was made by Council Member McLeod, seconded by Council Member Shelton, that this agenda item be approved and to agendize a discussion on a reserve policy at a November meeting. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**K.2.**

**SUBJECT: Update to the City Council on the Merced Regional Airport and Federal C.A.R.E.S. Grant**

**REPORT IN BRIEF**

Presentation to the City Council regarding the status of the Merced Regional Airport and proposed use of the FEDERAL C.A.R.E.S Grant awarded to the City of Merced.

**RECOMMENDATION**

**City Council** - For Information, Discussion, and Direction.

Economic Development Director Frank QUINTERO gave an update on the Merced Regional Airport and a Federal C.A.R.E.S. Act Grant.

Airport Manager Martin PEHL gave an overview of the Merced Regional Airport, discussed the C.A.R.E.S. Act Grant, commented on recommendations made by the Merced Regional Airport Authority for improving the airport, general airport maintenance that needs to be completed, and the need to hire a consultant.

Council, Mr. QUINTERO, and Mr. PEHL discussed the use of C.A.R.E.S. Act funding, airport revenue sources, additional funding based on customers served, the selection process used to obtain a new airline vendor, and improvements that will benefit the airport.

**Clerk's Note:** No formal Council action was taken on this item.

**K.3.**

**SUBJECT:** Approving Disposition and Development Agreement Between the City of Merced Acting on its Own Behalf and as the Housing Successor and Merced CA Apartments L.P., a Delaware Limited Partnership; and, Approving a Subordination Agreement Between the City of Merced and Bank of America, N.A.; and, Adoption of Resolution Approving a Community Housing Development Organization Home Investments Partnerships Loan to Central Valley Coalition for Affordable Housing in the Principal Amount of \$1,145,000, Approving and Authorizing the Execution of Deed Restriction Covenant and Loan Agreement, Promissory Note, Regulatory Agreement and Declaration of Restrictive Covenants, and Deed of Trust and Security Agreement with Merced CA Apartments L.P.; Adoption of a Resolution as the Housing Successor Agency to the City of Merced Redevelopment Agency, Approving a Housing Successor Loan to Merced CA Apartments, L.P. a Delaware Limited Partnership, in the Principal Amount of \$1,200,000, Approving and Authorizing Agreement Containing Covenants Affecting Real Property, Notice of Affordability Restrictions on Transfer of Property, Promissory Note, Deed of Trust and Security Agreement, Deed Restriction Covenants and Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, and Authorizing the Interim City Manager to Execute and Make Necessary Changes to the Agreements as well as Execute any and all Other Future Documents Necessary for the Project, Subject to Said Agreements and/or Documents being Approved as to Form by the City Attorney

#### **REPORT IN BRIEF**

Considers various actions including the approval of a Disposition Development Agreement (DDA), a Community Housing Development Organization (CHDO) Home Investments Partnerships (HOME) Loan, and a Housing Successor Agency (HSA) Loan to Merced CA Apartments L.P., a Delaware Limited Partnership for the Childs and B Street Transit Oriented Development (TOD) Affordable Housing Project.

#### **RECOMMENDATION**

**City Council** - Adopt a motion:

A. Approving a Disposition and Development Agreement between the City of Merced and Merced CA Apartments L.P., a Delaware Limited Partnership; and,

B. Approving a Subordination agreement between the City of Merced and Bank of America, N.A; and,

C. Adopting **Resolution 2020-64**, a Resolution of the City Council of the City of Merced, California, Approving a Community Housing Development Organization Home Investments Partnerships Loan to Central Valley Coalition for Affordable Housing in the principal amount of \$1,145,000, approving and authorizing the execution of a loan agreement, regulatory agreement, related loan documents, and authorizing certain other actions in connection therewith; and,

D. Adopting **Resolution 2020-65**, a Resolution of the City Council of the City of Merced, California, acting as the Housing Successor Agency to the City of Merced Redevelopment Agency, approving a Housing Successor Loan to Merced CA Apartments, L.P., in the principal amount of \$1,200,000, approving and authorizing the execution of a loan agreement, regulatory agreement and related loan documents, and authorizing certain other actions in connection therewith; and,

E. Authorizing the Interim City Manager to execute any and all documents to fulfill the terms and conditions of the DDA and make changes to the Agreements identified herein as well as execute any and all other future documents that may be necessary for the project, subject to the agreements and/or documents being approved as to by form by the City Attorney.

Development Services Director Scott MCBRIDE gave a slide show presentation recapping the project timeline and the next steps needed to complete the process.

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

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

**No:** 0

**Absent:** 0

**K.4.**

**SUBJECT: Police Advisory Committee's Recommendations Related to the Merced Police Department Use of Force Policies and Positions on Proposed Legislation**

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**REPORT IN BRIEF**

Police Advisory Committee's recommendations related to the Merced Police Department use of force policies and positions on proposed legislation.

**RECOMMENDATION**

**City Council** - Adopt a motion accepting the Police Advisory Committee's recommendations related to the Merced Police Department use of force policies and positions on proposed legislation.

Dee TATUM, Committee Chair for the Police Advisory Committee, gave a final report on behalf of the committee that was formed by Mayor MURPHY to review City of Merced Police Department Policy and Procedures. He thanked the Police department for being open and forthcoming in assisting the committee by providing the necessary information to complete their review.

Council thanked all of the members who reviewed the policies and briefly discussed the items that they reviewed.

**A motion was made by Council Member Shelton, seconded by Mayor Murphy, that this agenda item be accepted and filed as amended. The motion carried by the following vote:**

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

**No:** 0

**Absent:** 0

**L. BUSINESS**

**L.1.**

**SUBJECT:** Council Member Shelton's Request to Discuss Proposed Unity Project

**REPORT IN BRIEF**

Council Member Shelton's request to discuss several proposed projects centered around community unity pursuant to City Council Administrative Policies and Procedures C-1.

**RECOMMENDATION**

Provide direction to staff on the exploration of proposed Unity Project as presented.

Council Member SHELTON gave a brief presentation on his Community

Unity Concept outlining several programs and items to help bring city residents together.

Council thanked Council Member SHELTON for his idea and offered support for his project.

**L.2.**                    **SUBJECT: Discussion on the Format of Future City Council Meetings During COVID-19**

**REPORT IN BRIEF**

Discuss the format of City Council Meetings.

**RECOMMENDATION**

Provide staff direction on the format of future City Council Meetings.

Council agreed to have the next meeting in person.

**L.3.**                    **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 SERRATTO requested an update on the City Beautification Program.

Council Member ECHEVARRIA requested an update on a Grand Jury Report.

**L.4.**                    **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 stated his support for the community in regards to the pandemic.

Mayor MURPHY discussed attending a Merced City School District leadership meeting.

## M. ADJOURNMENT

**Clerk's Note:** The Regular meeting adjourned at 8:58 PM.

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

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

**No:** 0

**Absent:** 0



## ADMINISTRATIVE REPORT

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### Agenda Item J.5.

Meeting Date: 2/1/2021

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*Report Prepared by: Janet German, Management Analyst, Fire Department*

**SUBJECT:** Authorization to Submit Three Separate Federal Emergency Management Agency (FEMA) Fiscal Year (FY) 2020 Grant Applications: (1) Assistance to Firefighters Grant (AFG) with an Estimated Total Project Cost of \$1,060,000; (2) Fire Prevention & Safety Grant (FP&S) with an Estimated Total Project Cost of \$9,374; and (3) Staffing for Adequate Fire and Emergency Response (SAFER) with an Estimated Project Cost of \$4,258,668

### REPORT IN BRIEF

Considers authorizing the submittal of three separate Federal Emergency Management Agency (FEMA) Fiscal Year (FY) 2020 grant applications: (1) Assistance to Firefighters Grant (AFG) with an estimated total project cost of \$1,060,000 for the purchase of portable radios and accessories; (2) Fire Prevention & Safety Grant (FP&S) with an estimated total project cost of \$9,374 for the purpose of acquiring fire investigation/arson equipment; and (3) Staffing for Adequate Fire and Emergency Response (SAFER) with an estimated project cost of \$4,258,668 for creating a relief pool of personnel to fill shift vacancies, while reducing overtime costs.

### RECOMMENDATION

**City Council** - Adopt a motion authorizing the submittal of three separate Federal Emergency Management Agency (FEMA) FY 2020 Grant Applications: (1) Assistance to Firefighters Grant (AFG) with an estimated total project cost of \$1,060,000 for the purchase of portable radios and accessories; (2) Fire Prevention & Safety Grant (FP&S) with an estimated total project cost of \$9,374 for the purpose of acquiring fire investigation/arson equipment; and (3) Staffing for Adequate Fire and Emergency Response (SAFER) with an estimated project cost of \$4,258,668 for creating a relief pool of personnel to fill shift vacancies, while reducing overtime costs.

### ALTERNATIVES

1. Approve as recommended by staff; or,
2. Approve with modifications; or,
3. Refer to staff for reconsideration of specific items as requested by Council; or,
4. Continue to a future Council meeting; or,
5. Deny.

### AUTHORITY

Charter of the City of Merced, Section 200  
Charter of the City of Merced, Article IV, Section 405

## CITY COUNCIL PRIORITIES

The AFG grant application aligns with Council's goal of Future Planning by overhauling its antiquated radio system and taking the financial burden off of taxpayers.

The FP&S grant aligns with Council's goal of Future Planning by purchasing equipment with the primary goal of reducing injury and preventing death among high-risk populations.

The SAFER grant application aligns with Council's Staffing goal of Staffing (General Fund) to ensure that there are sufficient Fire Fighters to provide public safety.

## DISCUSSION

Congress created the AFG and SAFER grant programs to help address the significant staffing, equipment, training, and health and safety needs of fire departments. SAFER provides funding to help pay the costs associated with hiring personnel to maintain safe staffing levels, while AFG grants fund equipment, training and other fire department needs. Together these grant programs help ensure that fire departments have the necessary training, equipment, and staffing to respond to emergency calls annually and to continue to reduce community risk.

The Fire Department is seeking authorization to submit three grant applications in the estimated amount of \$5,328,042 with an estimated local match requirement of \$106,469.

Grant Name	Performance Period (Months)	Estimated Total Project Cost (\$)	Local Match Requirement (%)	Estimated Local Share (\$)	Estimated FEMA Grant Reimbursement (\$)
AFG	24	\$1,060,000	10%	\$ 106,000	\$ 954,000
FP&S	12	\$ 9,374	5%	\$ 469	\$ 8,905
SAFER	36	\$4,258,668	0%	\$ 0	\$4,258,668
<b>TOTAL</b>	<b>N/A</b>	<b>\$5,328,042</b>	<b>N/A</b>	<b>\$ 106,469</b>	<b>\$5,221,573</b>

### AFG Purpose

The primary goal is to provide funding for the purchase of firefighting equipment, vehicles, training, or wellness and fitness programs.

In 2014, the Fire Department was awarded a \$66,773 grant to purchase 16 Pulse CO-Oximeters with the goal of reducing the permanent debilitating effects of undetected CO poisoning to citizens, visitors, and firefighters.

The Merced Fire Department proposes to replace its antiquated portable radios, which are used in emergency situations to communicate with one another.

### FP&S Purpose

The FP&S grants are part of the AFG . The primary goal of these grants is to reduce injury and prevent death among high-risk populations

The Fire Department had previously been awarded a \$72,678 grant in 2013 and funds were used towards implementation of a health and wellness program, training of peer fitness counselors, and acquiring weight and cardio equipment.

This year, the department intends to purchase fire investigation/arson cameras and accessories with the goal of reducing injuries and preventing death among visitors and residents of our city.

### **SAFER Purpose**

Research had shown that many fire departments nationwide lacked the minimum number of firefighters to safely fight building, vehicle, and other structure fires. Therefore, SAFER was created to provide funding to fire departments to help them increase or maintain the number of trained, “front line” firefighters available in their communities. The goal of SAFER is to enhance the fire department’s abilities to comply with staffing, response and operational standards established by the National Fire Protection Agency.

In 2006, the Merced Fire Department was awarded a 5-year grant for the purpose of hiring 12 new firefighters. Over the life of the 5-year grant, the total grant funding was as follows:

	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	Total
<b>Salary &amp; Fringe Benefits for 9 Firefighters</b>	\$690,228	\$762,169	\$885,774	\$881,032	\$904,687	\$4,123,890
<b>FEMA Grant Reimbursement</b>	\$324,000	\$288,000	\$180,000	\$108,000	\$ 0	\$ 900,000
<b>Local Share (\$)</b>	\$366,288	\$474,169	\$705,774	\$703,032	\$904,687	\$3,223,890
<b>Local Share (%)</b>						78%

The grant’s terms required that the city absorb 100% of the firefighter’s salaries and fringe benefits at the end of Year-5 (FY10/11), which sadly coincided with the Great Recession and the city was unable to retain the 12 firefighters. Fortunately, through a departmental reorganization and attrition no firefighters were laid off. The department learned that at the end of the grant that a sustainable revenue source would be needed to be in place before pursuing another SAFER grant.

The COVID-19 pandemic has created economic hardships to local jurisdictions and fire departments; therefore, FEMA is providing fire departments with 100% of the funding needed to hire or rehire firefighters facing layoffs over the next three years. In other words, they will reimburse for 100% of the firefighter’s salaries and fringe benefits for the term of the grant, which is three years. The department intends to hire 12 new firefighters to create a relief pool of personnel to fill shift vacancies, while reducing overtime costs.

Firefighter salary and fringe benefits estimates are based upon a Step 5 Firefighter, \$118,296.36/firefighter x 12 firefighters = \$1,419,556.32/annually. Other costs (recruitment, medical/physical exams, turnouts, radios, etc.) will be borne by the Human Resources and the Fire Department. Note: Should the MOU and/or salary and benefits increase, the estimated firefighter's cost would increase accordingly. Because the firefighter's costs are calculated at a step 5, no further step increases were included in the annual estimates.

	FY 21/22	FY 22/23	FY 23/24	Total
<b>Salary &amp; Fringe Benefits for 12 Firefighters</b>	\$1,419,556	\$1,419,556	\$1,419,556	\$4,258,668
<b>FEMA Grant Reimbursement</b>	\$1,419,556	\$1,419,556	\$1,419,556	\$4,258,668
<b>Local Share (\$)</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>Local Share (%)</b>	0%	0%	0%	0%

### IMPACT ON CITY RESOURCES

No appropriation of funds is required at this time. Should the grant(s) be awarded, the fire department will return to Council and request that the grant(s) be accepted.

If grant(s) are awarded, a supplemental appropriation will be needed from the unappropriated General Fund balance to various personnel and fringe benefits accounts, supplies and services accounts, and the acquisitions account for use as the City of Merced's local match as required by the grant's terms and conditions. Additionally, the use of pooled cash to cover the initial outlays of the grant would be required until grant funds are reimbursed.

### ATTACHMENTS

None



## ADMINISTRATIVE REPORT

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**Agenda Item J.6.**

Meeting Date: 2/1/2021

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*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 2019-2020

### 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 2019-2020 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

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\$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 2019-20**

December 31, 2020

***Community Facilities District No. 2003-2  
Senate Bill 165 Reporting Requirements  
Fiscal Year 2019-20***

**TABLE OF CONTENTS**

<b><i>Section</i></b>	<b><i>Page</i></b>
I. Introduction .....	1
II. Senate Bill 165 Reporting Requirements .....	2

Appendix A: CFD No. 2003-2 Balance Sheet as of June 30, 2020

## ***I. INTRODUCTION***

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### **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 37 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***

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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 2019-20 special tax levy is set forth in the table on the following page:

**Fiscal Year 2019-20 Revenues\***

Intergovernmental	\$24,468
Charges for Services	\$3,051,529
Investment Earnings	\$183,070
Miscellaneous	\$90,000
<b>Total Revenues Collected</b>	<b>\$3,349,067</b>

**Fiscal Year 2019-20 Expenditures\***

General Government	\$6,520
Public Safety	\$1,673,164
Public Works	\$798,046
Parks	\$3,260
<b>Total Expenditures</b>	<b>\$2,480,990</b>

**Revenue Over (Under) Expenditures** **\$868,077**

**Other Financing Sources (Uses)\***

Transfer In	\$283,381
Transfer Out	(\$583,791)
<b>Total Other Financing Sources (Uses)</b>	<b>(\$300,410)</b>

<b>Beginning Fund Balance</b>	<b>\$1,657,781</b>
<b>Ending Fund Balance</b>	<b>\$2,225,448</b>

**Net Change in Fund Balance** **\$567,667**

\* Note: This is unaudited

## **APPENDIX A**

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***CFD No. 2003-2 Balance Sheet  
as of June 30, 2020***

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City of Merced  
Balance Sheet  
June 30, 2020

---

**CFD Services**

ASSETS

Cash, cash equivalents and investments	\$ 3,905,135
Receivables:	
Interest Recievable	\$ 9,291
Due from other governments	\$ 112,317
Total assets	<u>\$ 4,026,743</u>

LIABILITIES AND FUND BALANCE

Liabilities:	
Accounts payable	\$ 28,796
Other payables	\$ 61,507
Advances from other funds	\$ 1,710,992
Total liabilities	<u>\$ 1,801,295</u>
Fund Balance	\$ 2,225,448
Total liabilities and fund balance	<u>\$ 4,026,743</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 2019-20  
(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 16, 2021

***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 2019-20***

---

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, 2020, the balance in the Reserve Fund was \$604,523. 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, \$7,380,000 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.

<b>Total Assessed Value of all Land</b>	<b>\$57,251,738</b>
<b>Total Assessed Value of all Improvements</b>	<b>\$228,567,572</b>
<b>Total Assessed Value of Other Property</b>	<b>\$4,990</b>
<b>Total Assessed Value of all Parcels</b>	<b>\$285,824,300</b>
<b>Assessed Value of Developed Property</b>	<b>\$285,107,300</b>
<b>Assessed Value of Undeveloped Property</b>	<b>\$717,000</b>
<b>Total Assessed Value of all Parcels</b>	<b>\$285,824,300</b>

- 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 2020-21 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 2020-21 Special Tax Levy	Percentage of Total Special Tax Levy
Developed	1,006	\$616,610	100.00%
Undeveloped	12	\$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 2019-20 special tax levy is set forth in the table on the following page.

**Fiscal Year 2019-20 Revenues**

Interest	\$13,879
Assessments	\$619,445
<b>Total Revenues Collected</b>	<b>\$633,324</b>

**Fiscal Year 2019-20 Expenditures**

Bond Interest	\$193,463
Bond Principal	\$405,000
Fiscal Agent Fees	\$2,925
Professional Services	\$7,880
Support Services	\$21
Administrative Services	\$1,415
Direct Service Charges	\$1,693
<b>Total Expenditures</b>	<b>\$612,397</b>

<b>Beginning Fund Balance*</b>	<b>\$1,177,160</b>
<b>Ending Fund Balance*</b>	<b>\$1,198,087</b>

<b>Net Change in Fund Balance</b>	<b>\$20,927</b>
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\* 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, 2020, no significant events have been reported by the CFD.

## **APPENDIX A**

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### ***Debt Service Schedule***

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**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
		<b>\$8,985,000.00</b>	<b>\$2,452,217.28</b>	<b>\$11,437,217.28</b>

*Goodwin Consulting Group, Inc.*

## **APPENDIX B**

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*Special Tax Delinquencies  
as of October 20, 2020*

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**City of Merced**  
**Community Facilities District No. 2003-1 (Bellevue Ranch East)**  
**Delinquencies as of October 20, 2020 /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	12/10/2018	None	Reminder Letter Mailed 6/1/2020	N/A
224-140-031-000	\$610.00	12/10/2017	None	Reminder Letter Mailed 6/1/2020	N/A
224-140-031-000	\$610.00	12/10/2016	None	Reminder Letter Mailed 6/1/2020	N/A
224-120-030-000	\$340.63	4/10/2020	None	Reminder Letter Mailed 6/1/2020	N/A
224-140-031-000	\$602.26	12/10/2019	None	Reminder Letter Mailed 6/1/2020	N/A
224-182-014-000	\$241.89	4/10/2020	None	Reminder Letter Mailed 6/1/2020	N/A

**Number of Parcels Delinquent:**

**3**

**Total Amount Delinquent:**

**\$3,014.78**

/1 The fiscal year 2019-20 delinquency rate for CFD No. 2003-1 (Bellevue Ranch East) is at 0.19%. 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

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*Audited Financial Statements  
for the Fiscal Year Ending June 30, 2020  
(To Come Under Separate Cover)*

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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.



**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 2019-20  
(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 16, 2021

***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 2019-20***

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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, 2020, the balance in the Reserve Fund was \$450,182. The Reserve Fund Requirement is \$450,138; 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, \$5,445,000 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.

<b>Total Assessed Value of all Land</b>	<b>\$30,706,870</b>
<b>Total Assessed Value of all Improvements</b>	<b>\$75,994,432</b>
<b>Total Assessed Value of Other Property</b>	<b>\$0</b>
<b>Total Assessed Value of all Parcels</b>	<b>\$106,701,302</b>
<b>Assessed Value of Developed Property</b>	<b>\$97,334,332</b>
<b>Assessed Value of Undeveloped Property</b>	<b>\$9,366,970</b>
<b>Total Assessed Value of all Parcels</b>	<b>\$106,701,302</b>

- 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 October 20, 2020, 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.

<b>Property Owner</b>	<b>FY 2020-21 Special Tax Levy</b>	<b>Percentage</b>	<b>Number of Parcels</b>
DR Horton CA3, Inc.	\$77,569	16.74%	149
K Hovnanian	\$58,293	12.58%	117

- 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 2019-20 special tax levy is set forth in the table on the following page.

### **Fiscal Year 2019-20 Revenues**

Interest	\$11,190
Assessments	\$466,155
<b>Total Revenues Collected</b>	<b>\$477,345</b>

### **Fiscal Year 2019-20 Expenditures**

Bond Interest	\$184,844
Bond Principal	\$260,000
Fiscal Agent Fees	\$2,890
Professional Services	\$7,799
Support Services	\$21
Administrative Services	\$1,170
Direct Service Charges	\$2,218
<b>Total Expenditures</b>	<b>\$458,942</b>

<b>Beginning Fund Balance*</b>	<b>\$923,229</b>
<b>Ending Fund Balance*</b>	<b>\$941,632</b>

<b>Net Change in Fund Balance</b>	<b>\$18,403</b>
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\* 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, 2020, no significant events have been reported by the CFD.

## **APPENDIX A**

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### ***Debt Service Schedule***

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

<b>Interest Payment Date</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Debt Service</b>	<b>Annual Debt Service</b>
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
<b>Total</b>	<b>\$6,330,000.00</b>	<b>\$2,204,053.13</b>	<b>\$8,534,053.13</b>	<b>\$8,534,053.13</b>

*Goodwin Consulting Group, Inc.*

## **APPENDIX B**

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### ***Value-to-Lien Ratios of Developed and Undeveloped Property***

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**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**

<b>Classification</b>	<b>Number of Parcels</b>	<b>FY 2020-21 Assessed Value</b>	<b>FY 2020-21 Total Assigned Special Tax</b>	<b>FY 2020-21 Actual Special Tax</b>	<b>Percent of FY 2020-21 Actual Special Tax</b>	<b>Bonds(1)</b>	<b>Average Value-to- Lien</b>
Developed	414	\$97,334,332	\$329,754	\$329,754	71.2%	\$3,874,672	25.1
Undeveloped	298	\$9,366,970	\$320,941	\$133,643	28.8%	\$1,570,328	6.0
Total	712	\$106,701,302	\$650,695	\$463,397	100.0%	\$5,445,000	19.6

(1) Allocated based on the actual tax levy for fiscal year 2020-21.

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

## APPENDIX C

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*Audited Financial Statements  
for the Fiscal Year Ending June 30, 2020  
(To Come Under Separate Cover)*

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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 2019-20  
(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 16, 2021

***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 2019-20***

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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 November 30, 2020, the balance in the Reserve Fund was \$324,335. The Reserve Fund Requirement is \$324,269; 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, \$3,805,000 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.

<b>Total Assessed Value of all Land</b>	<b>\$21,403,424</b>
<b>Total Assessed Value of all Improvements</b>	<b>\$60,587,151</b>
<b>Total Assessed Value of Other Property</b>	<b>\$398,500</b>
<b>Total Assessed Value of all Parcels</b>	<b>\$82,389,075</b>
<b>Assessed Value of Developed Property</b>	<b>\$77,697,638</b>
<b>Assessed Value of Undeveloped Property</b>	<b>\$4,691,437</b>
<b>Total Assessed Value of all Parcels</b>	<b>\$82,389,075</b>

- 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.

<b>Property Owner</b>	<b>FY 2020-21 Special Tax Levy</b>	<b>Percentage</b>	<b>Number of Parcels</b>
Lennar Homes of California Inc.	\$106,607	31.55%	262

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 2019-20 special tax levy is set forth in the table on the following page.

**Fiscal Year 2019-20 Revenues**

Interest	\$18,708
Assessments	\$375,278
Proceeds From Debt	\$4,080,000
Loan Premium	\$139,466
<b>Total Revenues Collected</b>	<b>\$4,613,452</b>

**Fiscal Year 2019-20 Expenditures**

Bond Interest	\$221,438
Bond Principal	\$4,065,000
Fiscal Agent Fees	\$2,100
Postage	\$32
Professional Services	\$235,498
Support Services	\$19
Administrative Services	\$902
Direct Service Charges	\$689
<b>Total Expenditures</b>	<b>\$4,525,678</b>

<b>Beginning Fund Balance*</b>	<b>\$668,238</b>
<b>Ending Fund Balance*</b>	<b>\$756,012</b>

<b>Net Change in Fund Balance</b>	<b>\$87,774</b>
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\* 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, 2020, no significant events have been reported by the CFD.

## **APPENDIX A**

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### ***Debt Service Schedule***

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

<b>Payment No.</b>	<b>Interest Payment Date</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Debt Service</b>	<b>Annual Debt Service</b>
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
<b>Total</b>		<b>\$4,080,000.00</b>	<b>\$1,130,382.51</b>	<b>\$5,210,382.51</b>	<b>\$5,210,382.51</b>

## **APPENDIX B**

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*Special Tax Delinquencies  
as of October 20, 2020*

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**City of Merced**  
**Community Facilities District No. 2006-1 (Moraga of Merced)**  
**Delinquencies as of October 20, 2020 /1**

<b>Assessor's Parcel Number</b>	<b>Amount Delinquent</b>	<b>Date of Earliest Delinquency</b>	<b>Status of Foreclosure Proceedings</b>	<b>Action Taken</b>	<b>Date Complaint Filed</b>
008-421-011-000	\$440.00	4/10/2019	None	Reminder Letter Mailed 6/1/2020	N/A
008-411-002-000	\$367.00	4/10/2020	None	Reminder Letter Mailed 6/1/2020	N/A
008-412-040-000	\$367.00	4/10/2020	None	Reminder Letter Mailed 6/1/2020	N/A
008-421-011-000	\$440.00	4/10/2020	None	Reminder Letter Mailed 6/1/2020	N/A

**Number of Parcels Delinquent:**

**3**

**Total Amount Delinquent:**

**\$1,614.00**

/1 The fiscal year 2019-20 delinquency rate for CFD No. 2006-1 (Moraga of Merced) is at 0.31%. 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.

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

## APPENDIX C

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### *Value-to-Lien Ratios of Developed and Undeveloped Property*

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

**Value-to-Lien Ratios of Developed and Undeveloped Property**

<b>Classification</b>	<b>Number of Parcels</b>	<b>FY 2020-21 Assessed Value</b>	<b>FY 2020-21 Total Assigned Special Tax</b>	<b>FY 2020-21 Actual Special Tax</b>	<b>Percent of FY 2020-21 Actual Special Tax</b>	<b>Bonds(1)</b>	<b>Average Value-to- Lien</b>
Developed	335	\$77,697,638	\$309,654	\$309,654	91.6%	\$3,486,732	22.3
Undeveloped	185	\$4,691,437	\$191,458	\$28,265	8.4%	\$318,268	14.7
Total	520	\$82,389,075	\$501,112	\$337,919	100.0%	\$3,805,000	21.7

(1) Allocated based on the actual tax levy for fiscal year 2020-21.

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

## APPENDIX D

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*Audited Financial Statements  
for the Fiscal Year Ending June 30, 2020  
(To Come Under Separate Cover)*

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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

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### Agenda Item J.7.

Meeting Date: 2/1/2021

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*Report Prepared by: Venus Rodriguez, Finance Officer*

**SUBJECT:** Adoption of a Resolution to Allow Qualified Participants to Pay the Transient Occupancy Tax Payments for the Quarters Due on January 31, 2021, April 30, 2021, and July 31, 2021 with a Credit Card Without Assessing the Payor the Credit Card Convenience Fee as Requested by the Merced Hotel Motel Association

### REPORT IN BRIEF

Considers allowing qualified participants to pay the Transient Occupancy Tax (TOT) payments with a credit card without assessing the payor the credit card convenience fee from January 19, 2021 through July 31, 2021.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Adopting **Resolution 2021-07**, a Resolution of the City Council of Merced, California, authorizing the City Manager to provide economic assistance related to the economic impacts of COVID-19 and to allow qualified participants to pay the transient occupancy tax with a credit card without assessing the payor the credit card convenience fee; and,
- B. Authorizing the Finance Officer to administer the waivers; and,
- C. Approving a supplemental appropriation of \$15,000 from the unencumbered, unreserved fund balance of the General Fund in order to pay the additional credit card fees.

### ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Approve subject to other than recommended by staff (identify specific findings and or conditions amended to be addressed by City Council motion); 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 City Council meeting (date and time to be specified in the motion).

### AUTHORITY

City of Merced Charter Article IV. City Council Section 405 - Powers vested in the city council.

## **CITY COUNCIL PRIORITIES**

Provide Economic Development assistance due to the COVID-19 pandemic.

## **DISCUSSION**

The novel coronavirus outbreak began in Wuhan China in 2019 and spread across the globe and into the United States. As of Wednesday, January 20, 2021, there are 24,570 positive cases of COVID-19 and 316 deaths in Merced County.

Friday, March 13, 2020, the President of the United States declared a national emergency due to the outbreak. Also, on Friday, Merced County declared a state of emergency. This followed the March 4, 2020 state of emergency that was declared by Governor Newsom. The City of Merced City Manager also declared a local emergency as the Director of Emergency Services. On May 18, 2020, the City of Merced City Council ended the local emergency declaration for the City of Merced although financial impacts have continued due to the increase in COVID-19 spread in Merced County and continuous modified business operations put in place by Governor Newsom. Local businesses are also continuing to experience economic losses.

On January 7, 2021, the City received a request (attached) from the Merced Hotel Motel Association requesting that the credit card fees not be assessed through December 31, 2021. When a credit card is used as the form of payment, a credit card fee (currently 3.15%) is added to the TOT total to cover the issuing bank's processing fee. If the credit card fee is not assessed, the City would be responsible for paying the processing fee.

Local hotels pay the City TOT payments, equivalent to 10% of the cost of a room night. Hotels collect the TOT when the room night is paid for and then remit the TOT to the City quarterly.

Mr. Kainth states in the letter, "The hotel and lodging industry have been devastated with layoffs, furloughs, and closures." According to the American Hospitality & Lodging Association, the hotel industry was the first impacted by the pandemic and will be one of the last to recover. Hotels are still struggling to keep their doors open and unable to rehire all their staff due to the historic drop in travel demand. The Association also states that 72% of Americans said they were unlikely to travel for Thanksgiving and 69% were unlikely to travel for Christmas. Meanwhile, business and group travel are not expected to return to peak levels until 2023, compounding the challenges for the hotel industry during this public health crisis.

On January 19, 2021, the City Council directed staff to make the necessary modifications to the process to discontinue charging the credit card fees on convenience fee payments of their TOT from January 19, 2021 through July 31, 2021. In order for the customer to be able to qualify for the TOT discontinued convenience fee charge program, they have to be in good standing and not have any outstanding TOT. The attached resolution reflects this direction by the City Council.

## **IMPACT ON CITY RESOURCES**

The City of Merced Finance Department averaged the annual collected TOT from 2017 to 2020 which totaled \$1,436,716.26. If the entire averaged TOT was paid by credit card, the convenience

fee would equal \$45,256.56.

Since the amount of TOT is expected to be less due to the pandemic and funding is needed for only 2 quarters through June 30, 2021, a supplemental appropriation of \$15,000 from the General Fund is needed and should be sufficient to cover the fees.

## **ATTACHMENTS**

1. Resolution 2021-07
2. Letter from the Motel Hotel Association

**RESOLUTION NO. 2021-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
AUTHORIZING THE CITY MANAGER TO  
PROVIDE ECONOMIC ASSISTANCE RELATED  
TO THE ECONOMIC IMPACTS OF COVID-19  
AND TO ALLOW QUALIFIED PARTICIPANTS  
TO PAY THE TRANSIENT OCCUPANCY TAX  
WITH A CREDIT CARD WITHOUT ASSESSING  
THE PAYOR THE CREDIT CARD  
CONVENIENCE FEE**

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, the City Manager proclaimed the existence of a local emergency on March 13, 2020, which was ratified and affirmed by the City Council at its March 16, 2020 meeting; and

WHEREAS, on May 4, 2020, the City Council, at the request of the Director of Emergency Services, adopted resolution 2020-23, continuing the declaration of a local emergency; and

WHEREAS, on June 1, 2020, the City Council, at the request of the Director of Emergency Services, terminated our local emergency. However, the state and federal declaration of emergency remains in place; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Merced County Health Officer have all issued various orders including shelter in place orders, orders to enforce social distancing, orders prohibited group events, and taken other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, businesses in Merced have and will continue to experience sudden and unexpected income loss; and

WHEREAS, on January 19, 2021, the City Council considered and approved a request from the Merced Hotel Motel Association for economic assistance related to the impacts of the COVID-19 emergency.

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

SECTION 1. The City Council hereby authorizes the City Manager to provide the following economic assistance related to the economic impacts of the COVID-19 emergency:

- A. Qualified local hotels will be allowed to pay the quarterly transient occupancy tax ("TOT") with a credit card for the quarters due on January 31, 2021, April 30, 2021, and July 31, 2021, without assessing the payor with a credit card convenience fee.
- B. To qualify for this economic assistance program the owner/operator/hotelier:
  - (1) Must be current on all of its fiscal obligations to the City and be in good standing; and
  - (2) TOT must be reported and paid by the due date following the end of each quarter as set forth in paragraph A; and
  - (2) Must be in compliance with all local, state, and federal statutes, rules, regulations including, but not limited to, the California fire code and the California building code during the term of the program; and

- (3) Must not be the subject of any regulatory or enforcement action of the City.

SECTION 2. The City Council will review this economic assistance program at the second City Council meeting in August.

SECTION 3. The General Fund will be utilized to backfill the cost incurred related to this economic assistance program.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2021, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

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

(SEAL)

APPROVED AS TO FORM:

Phreda A. /nh 1/26/21  
City Attorney Date

**City of Merced**

678 W 18<sup>th</sup> St.  
Merced, CA 95340

Date: January 7<sup>th</sup>, 2021

**Attention: Mayor Matt Serratto and the Honorable City Council.**

**SUBJECT: Request to waive the credit card fees to pay the TOT till end of this year Dec 31<sup>st</sup> 2021.**

The impact of the COVID-19 pandemic continues and grows exponentially throughout the entire State of California and globally. This is especially true for the hospitality industry. The hotel and lodging industry have been devastated with layoffs, furloughs, and closures, while graciously volunteering to help the industry through multiple volunteer opportunities.

**Due to all these factors, Merced hotel owners are asking their elected officials and Merced City government officials to waive the credit card fees to pay TOT till end of Dec 31<sup>st</sup> 2021.**

To- date, Los Angeles, Anaheim, West Hollywood, Vacaville, Yuba City have taken various actions including Merced County Board of Supervisors voted unanimously to waive or reduce various fees this year to assist struggling business owners. We hope City of Merced can help hotel owners during this time of crisis to wave such credit card fees so hotel owners can get some relief to pay their TOT on the credit card to get additional one-month extension of time each quarter. The Merced hotelier also like to mention that they do not charge any credit card fees to their customers to stay more competitive in the market. we hope this will help the hotel owners so they can survive with staffing and miscellaneous expenses to serve the industry as required.

Sincerely,



Edwin A Kainth

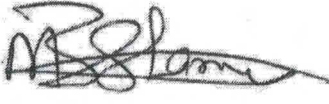


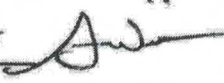
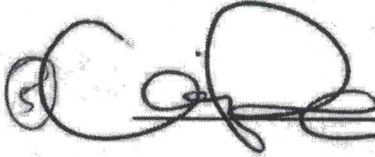



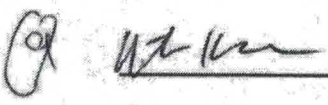

Representative for Merced Hotel Motel Association

Ph: 209-756-5218



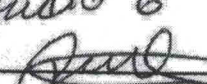

Edwinkainth@hotmail.com

Merced Hotel Motel Association  
750 Motel Drive  
Merced, CA 95341

Attached Hotel Owner Signatures for this Motion

- ① Rodeway Inn  (209)-723-1034
- ② Best Western Inn.  (209)-723-2163
- ③ Merced Inn and Suites  (209)-723-3121
- ④ HOLIDAY INN EXPRESS  (209)-384-3700
- ⑤  Hampton Inn & Suites (209)-386-1210  
Merced.
- ⑥  TPS Merced (209)-384-1024  
Suites by Marriott
- ⑦  MOTEL 6 CHILDS (209)-384-1303
- ⑧ Travelodge Merced  (209)-722-6224
- ⑨  Courtyard Marriott (209)-725-1221
- ⑩ Pacific Express Inn.  (209)-722-3926
- ⑪ Angela Rose Motel #4712 (209)-384-2181
- ⑫ Slumber Motel V.L. Adel (209)-722-5783

Attached Hotel Owner Signatures for this Motion

- San Joaquin Motel
- ⑬  1/6/2021
- Fourbridge Inn & Suite
- ⑭ 
- studio 6
- ⑮ 
- Days Inn
- ⑯ 
- ⑰ Edwin's Quality Inn
- \_\_\_\_\_
- \_\_\_\_\_
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- \_\_\_\_\_
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(209)-722-2761

San Joaquin Motel

(209)-722-2726

(209)-723-3711

(209)-259-4013

(209)-725-1221

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**ADMINISTRATIVE REPORT**

**Agenda Item J.8.**

Meeting Date: 2/1/2021

*Report Prepared by: Charles Slagter, WWTP Operations Supervisor*

**SUBJECT:** Approval of San Joaquin Valley Air Pollution Control District Grant Contract for the Agricultural Tractor Replacement Incentive Program and Accepting Grant Revenue in the Amount of \$155,881.91 to Fund 674 - Fleet Replacement Fund

**REPORT IN BRIEF**

Considers approving a San Joaquin Valley Air Pollution Control District (SJVAPCD) Grant Contract for the Agricultural Tractor Replacement Program for the replacement of one tractor at the Wastewater Treatment Plant (WWTP) and accepting revenue in the amount of \$155,881.91 to be deposited in Fund 674 - Fleet Replacement.

**RECOMMENDATION**

**City Council** - Adopt a motion:

- A. Approving Heavy-Duty Engine Program Funding Agreement for the San Joaquin Valley Air Pollution Control District (SJVAPCD) Agricultural Tractor Replacement Program for the replacement of one tractor at the Wastewater Treatment Plant (WWTP); and,
- B. Accepting grant funds from the SJVAPCD Incentive Program in the amount of \$155,881.91 to account 674-1103-324-02-00, project 242115; and,
- C. Authorizing the City Manager or designee to sign the necessary documents; and,
- D. Authorizing the Finance Officer to make the necessary budget adjustments.

**ALTERNATIVES**

- 1. Approve, as recommend by Staff; or,
- 2. Approve, subject to other than recommended by Staff; or,
- 3. Deny; or,
- 4. Continue to a future meeting.

**AUTHORITY**

Charter of the City of Merced, Section 200.

**CITY COUNCIL PRIORITIES**

As provided for in the 2020/2021 Adopted Budget.

## **DISCUSSION**

### Background

The San Joaquin Valley Air Pollution Control District (SJVAPCD) Agricultural Tractor Replacement Program ("incentive program") provides funds for the replacement of in-use, off-road mobile equipment that are engaged in agricultural operations. The replacement of one (1) or more old, like equipment with one (1) new replacement equipment is eligible for funding. Funds are provided on a first come, first serve basis. An executed agreement with the SJVAPCD is required prior to purchase of any replacement equipment. Old equipment submitted as part of the program must be destroyed and rendered permanently in-operable after the new replacement equipment is placed into operation.

At the July 15, 2019 Council Meeting, Council approved the grant application to the San Joaquin Valley Air Pollution Control District (SJVAPCD) Agricultural Tractor Replacement Incentive Program to replace one tractor at the Wastewater Treatment Plant (WWTP). The SJVAPCD accepted our application as complete on August 1, 2019.

At the January 4, 2021 meeting, Council approved the purchase of the replacement tractor and the supplemental appropriation of \$260,000 to Fund 674 - Fleet Capital Replacement.

### Grant Contract

Per the terms of the grant, the attached Heavy-Duty Engine Program Funding Agreement will need to be executed prior to purchasing the replacement tractor. Once the agreement has been signed by both parties, the replacement tractor can be purchased and staff will submit the reimbursement request to the SJVAPCD for the \$155,881.91 in grant monies.

Staff is requesting approval of the attached SJVAPCD grant contract.

## **IMPACT ON CITY RESOURCES**

Fund 674 - Fleet Capital Replacement will be reimbursed \$155,881.91 of the \$260,000 cost of the replacement tractor.

## **ATTACHMENTS**

1. SJVAPCD Grant Contract



## **PLEASE READ THESE INSTRUCTIONS BEFORE YOU SIGN YOUR CONTRACT**

1. Your agreement is not yet executed. **DO NOT** purchase, install, or in any way take possession of the reduced-emission technology until you are notified that your agreement has been executed. Agreements are executed after signatures from all parties involved (Applicants and SJVAPCD) have been obtained.
2. Please print and have the signing authority sign the signature page of the contract offer attached.
3. Do not date or place any stamps, stray marks or written comments on the contract. The contract will be dated when the final signature is received.
4. Return the signature page of the contract and any additional forms included in this packet.
5. Please email, fax, or mail the signature page and any additional forms via one of the following:  
Email: [grants@valleyair.org](mailto:grants@valleyair.org)  
Fax: (559) 230-6112  
Mail: 1990 E. Gettysburg Ave., Fresno, CA 93726
6. Staff will route the signed contract offer for District's signatures and approval once signature pages are received.
7. The contract is fully executed and dated after it is signed by all parties (applicant and District).
8. Applicant will receive a copy of the executed contract.
9. A payment procedures packet will be included along with your executed contract.

**Office hours are Monday – Thursday from 7:30 am – 5:30 pm and every other  
Friday from 8:00 am – 5:00 pm**

December 22, 2020

Stephanie Dietz  
City of Merced  
678 W. 18th Street  
Merced, CA 95340

RE: Project Status: Agreement  
Heavy-Duty Program Off-Road Component - Project Number: **G-81904-A1**

Dear Stephanie Dietz:

Thank you for your interest in the San Joaquin Valley Air Pollution Control District (District) Incentive Programs. Your project has been approved for funding.

Please find the grant amount on the enclosed contract under the section: Obligations of the District.

**Note: If the actual project costs are less than the estimated costs stated in your application, the funding amount may be reduced.**

Please carefully review and verify that the information in the agreement is accurate and complete. Please sign and return the agreement to the District's Central Region Office in Fresno, California. To ensure your agreement is executed in a timely manner please return the agreement within **ten (10) business days from the date on this letter**.

Agreements are executed after signatures from all parties involved (Applicants and District) have been obtained. **Do not** purchase, install, or in any way take possession of the new equipment until you are notified that your agreement has been executed. **Your agreement is not yet executed.**

**Please do not date the first page of the agreement or place any stamps on the pages of this agreement.** The agreement will be dated when the contract is executed.

If you have any questions, please call (559) 230-5800 or email [contracts@valleyair.org](mailto:contracts@valleyair.org) and the Incentive Programs staff will be happy to assist you. Please be sure to reference your Project Number **G-81904-A1**.

Sincerely,

Heavy-Duty Program Staff  
Incentive Program

Enclosure

**Samir Sheikh**  
Executive Director/Air Pollution Control Officer

**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95356-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

**Southern Region**  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
Tel: (661) 392-5500 FAX: (661) 392-5585

## Agreement G-81904-A1

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### SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT HEAVY-DUTY ENGINE PROGRAM FUNDING AGREEMENT (OFF-ROAD AGRICULTURAL EQUIPMENT REPLACEMENT)

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This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between San Joaquin Valley Unified Air Pollution Control District ("District") and **City of Merced** ("Participant").

This Agreement is not effective until all signatures and dates are placed on the signature page.

In consideration of their mutual promises, covenants, conditions, and the funds awarded under this Agreement and in compliance with the FARMER Program Guidelines, this project shall meet all program requirements for the full term of the Agreement, therefore the parties agree as follows:

#### 1. **PROGRAM**

The purpose of this Agreement is to provide incentives to Participants in the District's Heavy-Duty Engine Program, which will assist the District in attaining federal and state air quality standards. Under this program, the District provides cash incentives to be used towards the purchase of new mobile off-road equipment to replace existing in-use mobile off-road equipment for use within the District, a map of which is attached hereto and incorporated herein as **Exhibit A**. Participant has agreed to undertake such participation.

#### 2. **DESCRIPTION OF CURRENT EQUIPMENT**

Funding under this Agreement shall be utilized by Participant toward the replacement of the following equipment (hereinafter the "current equipment.") See **Exhibit B** attached hereto and incorporated herein.

#### 3. **DESCRIPTION OF NEW EQUIPMENT**

A. Funding under this Agreement shall be utilized by Participant toward the purchase of the new equipment listed in **Exhibit B**; hereinafter the "new equipment", equipped with the new engine listed in **Exhibit B**; hereinafter the "new engine". The "new equipment" and "new engine" must not have been sold or associated with any rental or lease agreement and have less than 250 operating hours recorded on a permanently mounted non-resettable hour meter at the time of sale/purchase. The hour

meter must be functional for the duration of the Project Implementation Phase specified in Paragraph 5(B). If, after the execution of this Agreement, Participant purchases a piece of replacement equipment and/or engine other than as listed in **Exhibit B**, the alternative replacement equipment and/or engine must meet the following requirements. The alternative replacement equipment and/or engine must:

1. Be verified or certified to achieve at least equivalent or greater reductions than the new equipment and/or new engine listed in **Exhibit B**.
2. Meet all program eligibility requirements as the replacement equipment and/or engine.

Participant must receive prior approval by the District before purchasing the alternative replacement equipment and/or engine. If Participant does not receive prior approval from the District for the purchase of the alternative replacement equipment and/or engine, the District may deny the disbursement of project incentive funds.

#### **4. OBLIGATIONS OF DISTRICT**

A. District shall provide **up to \$155,881.91** dollars to Participant to be used toward the purchase of a new piece of off-road mobile equipment, equipped with an engine meeting the most recent Model Year emission standard available, for the purpose of replacing one or more pieces of current, like equipment owned by the Participant.

B. District shall make payment to Participant upon receipt and verification of a properly supported claim for payment request. Payment will be issued to Participant within **sixty (60) working days** of a completed project post-inspection which includes verification that the new equipment is operational and the current equipment has been properly destroyed in accordance with program requirements specified in **Exhibit C**; attached hereto and incorporated herein.

C. Funding shall only be allowed toward purchase of the new equipment equipped with the new engine described in Paragraph 3(A).

D. Payment(s) shall be made directly to Participant.

#### **5. AGREEMENT TERMS**

A. Project Completion Terms (Milestones):

1. New Equipment Purchased (Delivered): The new equipment shall be purchased and delivered to Participant **within one (1) year from the execution date of this agreement**.
2. Claim for Payment Request for Reimbursement: Participant shall submit a complete claim for payment request to be reimbursed for the purchase of

the new equipment within **sixty (60) days** from the purchase date of the new equipment, based on the invoice date of the new equipment.

3. **Current Equipment Destruction:** The current equipment shall be permanently destroyed by a program approved dismantler in accordance with the equipment destruction requirements specified in **Exhibit C** within **sixty (60) days** of being replaced with new equipment, based on the invoice date of the new equipment.

If the Participant cannot meet the Project Completion Terms, the Participant must notify the District in writing with justification explaining why the Project Completion Terms cannot be met. Participant agrees to amend the Agreement as necessary, if requested by the District, to ensure the project is completed in a timely manner. Participant understands that even with written justification; the District does not guarantee an amendment will be made to the Agreement to adjust Project Completion Terms. Participant may be subject to conditions in Paragraph 9 for noncompliance with Project Completion Terms.

B. **Project Implementation Phase** – Participant shall own, operate, and maintain the new equipment according to the terms of this Agreement for a period of not less than the number of years as shown in **Exhibit B** from the date in which the new equipment is first placed into service.

## 6. **ANNUAL REPORTING**

A. Participant is required to submit annual reports to the District. Participant shall submit annual reports on new equipment's operation, hours of operation, maintenance, and any other pertinent information requested by District on a form to be provided to Participant by District for the duration of the Project Implementation Phase specified in Paragraph 5(B).

B. The first year annual report is due no later than eighteen (18) months after the project post-inspection and annually thereafter for the full term of the Agreement.

C. Noncompliance with the annual reporting requirements shall require on-site monitoring by the District and/or the California Air Resources Board (ARB) and will impact the Participant's ability to receive funding from the District and/or ARB for future projects. Participants with reports that are more than six (6) months late will not be granted any additional grant funds from the District until all reports are satisfactorily submitted.

D. In the event Participant does not meet the minimum annual hours of operation as specified in **Exhibit B**, as determined by a minimum three-year average, the Participant shall refund to District a pro-rated amount or agree to amend the Agreement if requested by the District.

E. If the Participant's reported annual usage is below the minimum annual hours specified in **Exhibit B**, Participant must describe on the annual report any conditions (such as weather, permits, major maintenance, etc.) that significantly impacted project usage. In instances where annual usage is significantly lower than the contracted level due to unforeseen circumstances beyond the control of the Participant, the Participant may request in writing a waiver from the District. A request for a waiver does not guarantee the waiver will be granted. Participant may be subject to conditions in Paragraph 9 for noncompliance with the annual reporting and/or annual usage requirements in this Agreement.

## **7. OBLIGATIONS OF PARTICIPANT**

A. Participant shall purchase the new equipment specified in Paragraph 3(A) to replace the current equipment specified in Paragraph 2. It is the responsibility of the Participant to ensure the new equipment purchased through this Agreement, including its engine, meet all program eligibility requirements. Participant must ensure the new equipment purchased through this Agreement adheres to all the requirements set forth in Paragraph 3(A). If the Participant purchases a piece of new equipment (including the engine) that is not eligible or does not meet program requirements, the District may deny the disbursement of project incentive funds.

B. The Participant must ensure a working hour meter is in place and functional at all times to record the operational hours of the new equipment. If the hour meter should fail, the Participant shall immediately notify the District, and remains responsible for validating any hours not recorded. The Participant must either repair or replace the non-operating hour meter, at the Participant's expense, or provide other documentation of equipment operating hours acceptable to the District.

C. In the event the Participant does not operate the new equipment for the duration of the Project Implementation Phase as specified in Paragraph 5(B), Participant shall refund to District a pro-rated amount or agree to amend the Agreement if requested by the District.

D. Participant must operate the new equipment for the minimum annual hours of operation as specified in **Exhibit B**. Annual hours of operation will be documented by Participant on an annual report form as described in Paragraph 6.

E. The Participant takes sole responsibility for ensuring that the new equipment is in operational condition throughout the Project Implementation Phase. The Participant shall maintain the new equipment according to the manufacturer's specifications for the full term of the Agreement. Tampering or any attempt to modify the new equipment is not allowed. Maintenance or repair costs related to the operation of the new equipment are not eligible for funding.

F. If necessary, Participant shall obtain through other sources sufficient additional funds to purchase and install the new equipment specified herein.

G. In the event Participant cannot obtain sufficient funds to complete the purchase, District reserves the right to terminate this Agreement. In that event, if requested by District, Participant shall return any District funds received.

H. Prior to reimbursement and within **60 calendar days** of the purchase of the new equipment, Participant agrees to permanently disable and dispose of the current equipment listed in **Exhibit B** of this Agreement in accordance to the requirements specified in **Exhibit C** of this Agreement.

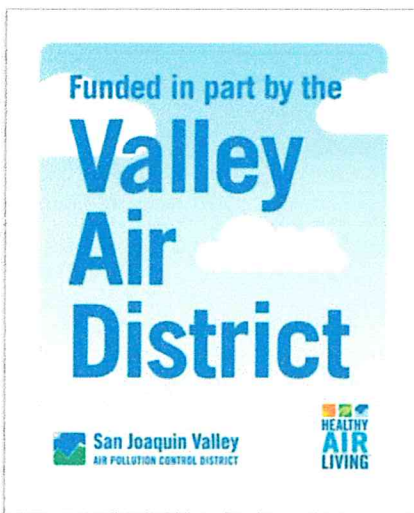
I. Participant must purchase a warranty agreement for the new equipment. Warranty documentation must be submitted to the District prior to the reimbursement of any incentive funds. Warranty costs are not eligible for funding.

1. Participant must purchase a minimum one-year or 1,600 hour power and drive train warranty for the new equipment. The warranty must cover parts and labor.

2. If the purchase of the new equipment already includes a minimum one-year or 1,600 hour warranty, a separate supplemental warranty is not required.

J. Participant agrees that the new equipment purchased through this program will serve the same function and perform the same work equivalent as the current equipment. Participant agrees to utilize the new equipment in such manners.

K. Participant agrees to have the "Funded in part by the Valley Air District" sticker attached to the side of the hood of the new replacement equipment (sticker will be provided and attached by a District inspector during the post-inspection prior to receiving incentive reimbursement). Funding will not be dispersed if the aforementioned sticker is not attached and visible for the post-inspection pictures. See below for a picture of the 4"x5" sticker:



## 8. GENERAL CONDITIONS

A. Participant agrees that at the date of execution of this Agreement, Participant has not yet purchased, made payment(s) toward, taken possession of, or ordered the new equipment.

B. Participant agrees that, for the full term of this Agreement, District, ARB, or their designee(s) shall be allowed to inspect the new equipment and all records relating to the new equipment.

C. District and ARB reserve the right to monitor and enforce the terms of this Agreement at any time during the Project Implementation Phase specified in Paragraph 5(B).

D. Participant agrees that the equipment purchased shall be new, verified and certified by ARB for sale in California, and complies with all applicable durability and warranty requirements. The new equipment will replace the higher emission equipment currently owned by the Participant.

E. Participant agrees that the horsepower rating for the new equipment shall be no greater than 125 percent of the current equipment's original manufacturer rated horsepower (baseline horsepower), unless otherwise approved by the District in limited situations and with documented justification.

1. For projects where two or more pieces of old, like equipment are replaced with one new replacement equipment, the horsepower rating for the replacement equipment must not be greater than 125 percent of the original manufacturer rated horsepower (baseline horsepower) for the lowest horsepower of the current equipment engines.

F. Participant agrees that only the minimum attachments sold with the original equipment, as determined by the District, are eligible for reimbursement on the new equipment. Implements or attachments on the new equipment may be eligible for funding if the current equipment was also similarly equipped, and the new equipment requires such implements or attachments to perform the same functions and activities as the current equipment. District reserves the right to review such situations on a case-by-case basis.

G. Participant agrees and represents that the new equipment is home based within the geographic boundaries of the District and shall remain so for the duration of the Project Implementation Phase as specified in Paragraph 5(B). (See **Exhibit A** for District map.)

H. Participant certifies by signature on this Agreement that the current equipment was registered in ARB's Diesel Off-road On-line Reporting System (DOORS) at time of

application submittal if it is subject to the Regulation for In-Use Off-Road Diesel Vehicles (Off-Road Regulation). Participant is responsible for updating fleet information in DOORS as necessary after the destruction of the current equipment.

I. If subject to the Off-Road Regulation, the Participant must submit to the District the DOORS Equipment Identification Number (EIN) of the new equipment no later than at post-inspection of the new equipment.

J. Participant agrees to meet the percentage usage within the geographic boundaries of the District and California for the new equipment as specified in **Exhibit B**, with at least 50% of the hours of operation within the geographic boundaries of the District and 75% within California, whichever is greater, for the duration of the Project Implementation Phase as specified in Paragraph 5(B).

K. Participant agrees and represents that purchase of the new equipment subject of this Agreement is not required by or to be used for compliance with any local, state, federal rule, regulation, settlement agreement, mitigation agreement, memorandum of understanding (MOU), memorandum of agreement (MOA), or other legal mandate currently in effect.

L. Participant waives all rights to any emission reduction credits that may accrue as a result of purchase of the new equipment. Any such potential credits shall be the sole property of District.

M. If the Participant intends to sell or transfer ownership of the new equipment during the Project Implementation Phase specified in Paragraph 5(B), the District must be notified by the Participant in writing of the intent and the District must approve the sale or transfer of ownership prior to the transaction. In the event Participant sells or transfers ownership of said new equipment during the Project Implementation Phase, Participant shall return, if requested by District, pro-rated funds to the District specified in Paragraph 4(A).

N. The District reserves the right to reduce the incentive amount if it is determined that the actual costs paid by Participant are less than the costs indicated on the application. Additionally, District reserves the right to disallow certain ineligible costs submitted on the claim for payment request and thereby reduce the incentive amount. A determination of cost eligibility will be at the sole discretion of the District.

O. The incentive amount provided to Participant for the purchase of the new equipment in this Agreement is based on the cost-effectiveness of the project. Should the cost-effectiveness of the project be affected after the completion of the project, the incentive amount may be reduced.

P. An itemized invoice for a project must be received by the District before payment shall be made. A project invoice shall include enough detail to ensure only eligible project costs are being reimbursed, yet clear and concise enough to be understandable.

The District shall review the itemized invoice and only pay for eligible expenses. The District will not reimburse the Participant for any costs on the invoice which exceed the project incentive amount indicated in this Agreement in Paragraph 4(A). The District will pay the Participant the lower of the contract amount or the final invoice amount of eligible costs.

Q. Payment will be issued to Participant upon the following:

1. All required documents for a complete claim for payment request have been submitted to the District for approval.
2. Verification that the current equipment is/are disabled and disposed of in a manner consistent with the District's approved disposal methods specified in **Exhibit C** of this Agreement.
3. Verification that the new equipment is operational and eligible.

R. Participant is responsible for purchasing a certified new piece of equipment eligible for funding following current ARB Carl Moyer Program guidelines, policies and procedures. The new equipment and/or new engine shall meet the minimum following requirements:

1. Interim Tier 4 (interim Tier 4, Tier 4 Phase-Out, Tier 4 Phase-In/Alternate NOx) and Tier 4 Final engines participating in the averaging, banking and trading program that are certified to family emission limits (FELs) higher than the applicable emission standards, as designated on ARB's Executive Order, are eligible to participate in the Carl Moyer Program. The appropriate emission factor for calculating emission reductions and cost-effectiveness shall be equivalent to the emission factors associated with the Tier 3 for engines 50 to 750 horsepower and Tier 2 for engines less than 50 horsepower or greater than 750 horsepower.
2. Interim Tier 4 and Tier 4 engines participating in the averaging, banking and trading program that are certified to FEL below the applicable emission standards, as designated on ARB's Executive Order, are eligible to participate in the program. The appropriate emission factor for calculating emission reductions and cost-effectiveness shall be the emission factors associated with the applicable interim Tier 4, (interim Tier 4, Tier 4 Phase-Out, Tier 4 Phase-in/Alternate NOx) or Tier 4 Final emission standard.
3. The engine in the new equipment must be certified to a NOx emission standard that is at least 15 percent lower than the emission standard(s) applicable to the existing engine and be certified to either the current applicable emission standard, or to a FEL NOx or NOx+non-methane hydrocarbons (NMHC) level that is lower than the required emission standard.

4. For CI equipment, engines that are participating in the "Tier 4 Early Introduction Incentive for Engine Manufacturers" program, as detailed in California Code of Regulations, title 13, section 2423(b)(6), are eligible for Carl Moyer Program funding provided that they are certified to the final Tier 4 emission standards. The ARB Executive Order for these engines indicates that the engines are certified under this provision. The emission rates for these engines used to determine cost-effectiveness shall be equivalent to the emission factors associated with Tier 3 engines.
5. Interim Tier 4 CI engines between 75 and 750 hp, certified to the Phase-In, Phase-Out, and Alternate NOx standards as detailed in California Code of Regulations, title 13, section 2423(b)(1)(B), are eligible for funding.
6. Equipment manufactured under the "Flexibility Provisions for Equipment Manufacturers", as detailed in California Code of Regulations, title 13, section 2423(d) are eligible for funding as replacement equipment, provided the equipment meets the Tier 3 or cleaner level. Eligible equipment produced under the flexibility provisions whose reference engine family is certified to an FEL are also subject to the provisions of section (1) or (2) above. Equipment manufactured under the "Flexibility Provisions for Equipment Manufacturers," with an engine whose reference engine family meets a standard, Tier or FEL less stringent than Tier 3 standard (or Tier 2 standard for engines less than 50 horsepower or greater than 750 horsepower), are ineligible for funding.
7. The certification emission standard and/or Tier designation for the engine must be determined from the Executive Order or United States Environmental Protection Agency Certificate of Conformity (for federally preempted engines) issued for that engine. ARB Executive Orders for off-road engines may be found at  
<http://www.arb.ca.gov/msprog/offroad/cert/cert.php>

S. Participant attests by signature on this Agreement that the Participant (or designee) shall not submit another application or sign another agreement for the same specific equipment with any other grant funding source, including but not limited to, other Air Districts or to ARB for a multi-district solicitation, or any local, state or federal agency with the following exception:

1. Starting July 1, 2011, participant may apply for and receive additional funding for the new equipment purchased through this Agreement from federal programs to reduce greenhouse gas emissions (GHG), or funding provided by the Alternative and Renewable Fuel and Vehicle Technology Program to reduce GHG. Should Participant apply for or receive this additional funding, Participant must disclose the funding source and total funding amount applied for or received to the District. The total public funds, Carl Moyer Program funds and federal funds, received by the Participant during the term of this Agreement cannot exceed 85 percent of the project cost. Participant shall

refund a portion of or all incentive funds provided by the District, as determined and requested by the District, should the Participant receive total public funds greater than 85 percent of the project cost.

T. Participant certifies by signature on this Agreement that the Participant has disclosed all other public funds that Participant has applied for or received for the purchase of the new equipment in this Agreement. Participant also agrees to disclose to District the receipt of any public funds after the execution of this Agreement for the purchase of the new equipment.

U. Participant certifies by signature on this Agreement that the Participant's fleet, engine(s), or equipment/vehicle is/are in compliance with all applicable federal, state, and local air quality rules and regulations at time of Agreement execution.

V. Participant agrees to maintain compliance with all applicable federal, state, and local air quality rules and regulations for the full term of the Agreement as specified in Paragraph 5(B).

W. Participant agrees that the new equipment purchased through this Agreement must be included when defining the size of the Participant's fleet for determining all applicable regulatory requirements.

X. Participant agrees that throughout the Agreement term, the new equipment purchased through this Agreement must not be used in any way to generate credits or compliance extensions, and must be excluded when determining regulatory compliance.

## **9. REPERCUSSIONS FOR NONPERFORMANCE**

A. The Participant must operate the new equipment purchased through this Agreement according to the terms of the Agreement and cooperate with the District and ARB in implementation, monitoring, enforcement, and other efforts to assure the emission benefits are real, quantifiable, surplus, and enforceable.

B. Repercussions for noncompliance with the requirements, terms, and conditions set forth in this Agreement shall result in, including but not limited to, the District cancelling the Agreement with Participant and recapturing project funds in proportion to any loss of emissions reductions as agreed to in this Agreement.

C. District and ARB have authority to seek any remedies available under the law for noncompliance with Carl Moyer Program requirements and nonperformance with the Agreement. District may consider unforeseen circumstances beyond the Participant's control in determining repercussions for nonperformance.

D. ARB, as an intended third party beneficiary, reserves the right to enforce the terms of this Agreement at any time during the contract term to ensure emission reductions are obtained.

## **10. INSURANCE**

Participant shall provide District with proof of insurance for the new equipment in types and amounts approved by the District prior to any payment of funds under this Agreement.

## **11. FUNDING OUT**

The terms of this Agreement and the services to be provided herein are contingent on the approval and receipt of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified or this Agreement terminated at any time by giving Participant 30 days' prior written notice.

## **12. NON-ASSIGNMENT**

Neither party shall assign, transfer, or subcontract this Agreement, nor their rights or duties under this Agreement, without the prior express, written consent of the other party.

## **13. TERMINATION**

District may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of District there is:

- A. An illegal or improper use of funds;
- B. A failure to comply with any term of this Agreement; or
- C. A substantially incorrect or incomplete report submitted to District.

In no event shall any payment by District constitute a waiver by District of any breach of this Agreement or any default, which may then exist on the part of Participant. Neither shall such payment impair or prejudice any remedy available to District with respect to the breach or default. District shall have the right to demand of Participant the repayment to District of any funds disbursed to Participant under this Agreement, which, in the judgment of District, were not expended in accordance with the terms of this Agreement. Participant shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, District and ARB have the authority to fine the Participant or seek any other remedies under law, in equity, or otherwise specified in this Agreement.

## **14. INDEMNIFICATION**

Participant agrees to indemnify, save, hold harmless, and at District's request, defend District, its boards, committees, representatives, officers, agents, and employees from and against any and all costs and expenses (including reasonable attorneys' fees and litigation costs), damages, liabilities, claims, and losses (whether in agreement, tort, or

strict liability, including, but not limited to, personal injury, death, and property damage) occurring or resulting to District which arises from any negligent or wrongful acts or omissions of Participant, its officers, agents, subcontractors, or employees in their performance of this Agreement.

#### **15. RECORD KEEPING**

Participant shall maintain records sufficient to provide, on an annual basis for the term of this Agreement, information regarding annual hours of operation, fuel usage, general maintenance details, and any other available information, which may be deemed pertinent to the evaluation of the program. Participant shall maintain and retain records for at least two (2) years after Agreement expiration or three (3) years after the final project payment, whichever is later.

#### **16. NOTICES**

The persons and their addresses having authority to give and receive notices under this Agreement are as follows:

##### **PARTICIPANT**

Stephanie Dietz  
Interim City Manager  
678 W. 18th Street  
Merced, CA 95340

##### **DISTRICT**

Samir Sheikh  
Executive Director/APCO  
1990 E. Gettysburg Avenue  
Fresno, California 93726  
(559) 230-6000

Any and all notices between District and Participant provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties, or in lieu of such personal service, when deposited in the United States mail, postage prepaid, addressed to such party.

#### **17. GOVERNING LAW**

This Agreement shall be governed in all respects by the laws of the State of California. Venue for any action arising out of this Agreement shall only be in Fresno County, California.

#### **18. TIME IS OF THE ESSENCE**

It is understood that for Participant's performance under this Agreement, time is of the essence. The parties reasonably anticipate that Participant will, to the reasonable satisfaction of District, complete all activities provided herein within the time schedule outlined in this Agreement, provided that Participant is not caused unreasonable delay in such performance due to circumstances beyond the Participant's control.

**19. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between Participant and District with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement.

**20. MODIFICATION**

Any matters of this Agreement may be modified from time to time by the written consent of all the parties without in any way affecting the remainder.

**21. NO FINANCIAL THIRD-PARTY BENEFICIARIES**

Notwithstanding anything else stated to the contrary herein, it is understood that Participant's services and activities under this Agreement are being rendered only for the benefit of District, and no other person, firm, corporation, or entity shall be deemed an intended financial third-party beneficiary of this Agreement.

**22. AUDIT**

In addition to enforcement by the District and auditing of the new equipment as the District deems necessary, the ARB, as an intended third party beneficiary, reserves the right to conduct a fiscal audit of the project and/or to inspect the project engine or equipment and associated records during the full term of the Agreement [see Paragraph 5(B)]. The Participant must maintain and retain the project records for at least two (2) years after Agreement expiration or three (3) years after final project payment, whichever is later.

**PARTICIPANT**

**City of Merced**

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

Stephanie Dietz  
Interim City Manager

**DISTRICT**

**San Joaquin Valley Unified Air Pollution  
Control District**

\_\_\_\_\_  
Craig Pedersen  
Governing Board Chair

**Recommended for approval:**  
San Joaquin Valley Unified Air  
Pollution Control District

\_\_\_\_\_  
Samir Sheikh  
Executive Director/APCO

**Approved as to legal form:**  
San Joaquin Valley Unified Air Pollution  
Control District

\_\_\_\_\_  
Annette A. Ballatore  
District Counsel

**Approved as to accounting form:**  
San Joaquin Valley Unified Air Pollution  
Control District

\_\_\_\_\_  
Mehri Barati, C.P.A.  
Director of Administrative Services

**For accounting use only:**  
San Joaquin Valley Unified Air Pollution  
Control District

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

Legal approval step  
is on separate sheet,  
per instructions

-Schuyler

**AGREEMENT G-81904-A1**

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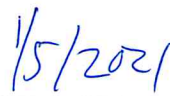
**SAN JOAQUIN VALLEY  
UNIFIED AIR POLLUTION CONTROL DISTRICT  
HEAVY-DUTY ENGINE PROGRAM  
FUNDING AGREEMENT  
(OFF-ROAD AGRICULTURAL EQUIPMENT REPLACEMENT)**

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ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

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

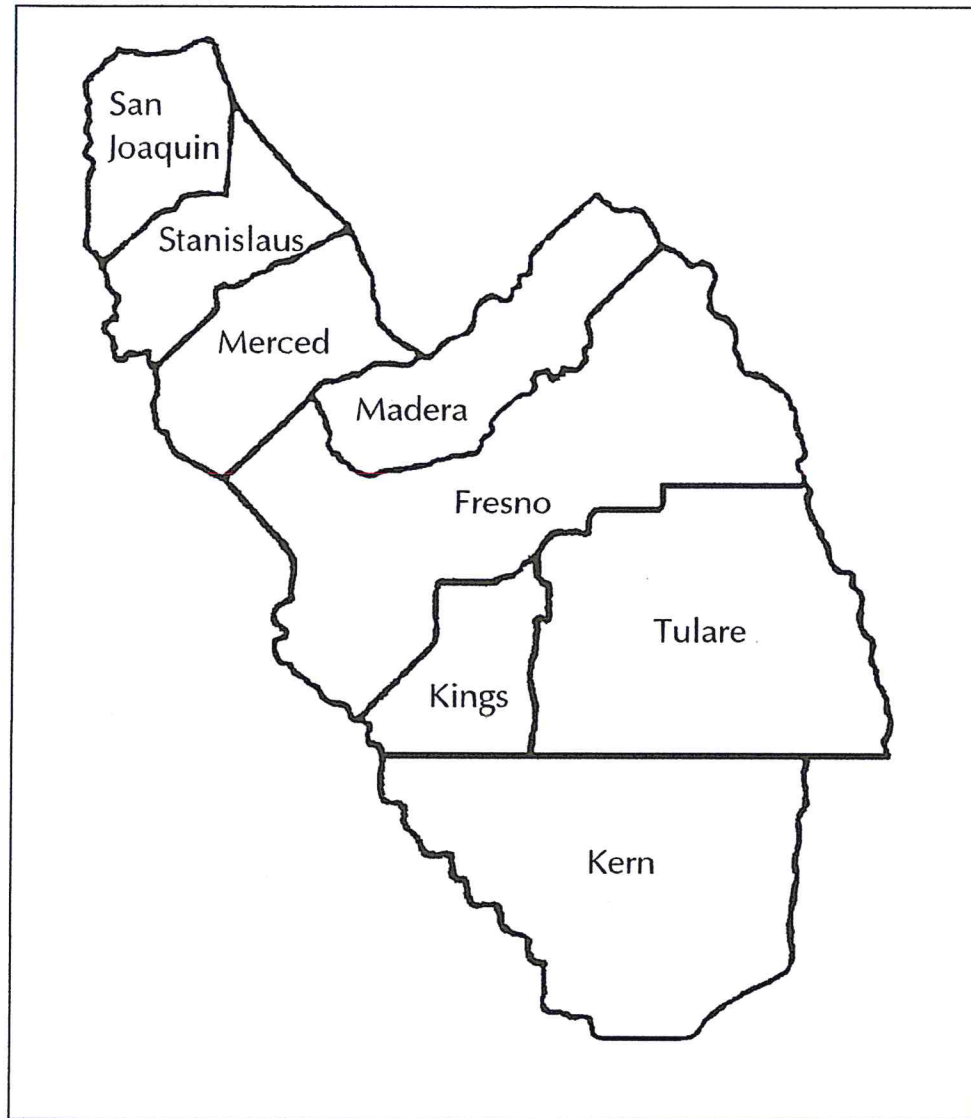
APPROVED AS TO FORM:

BY:    
City Attorney Date

ACCOUNT DATA:

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

**SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT  
GEOGRAPHIC LOCATION**



**Exhibit A**

**G-81904-A1**  
**City of Merced**

<b>Unit # 1</b>	<b>Current Equipment</b>	<b>New Equipment</b>
<b>Make:</b>	<b>Challenger</b>	<b>New Holland</b>
<b>Model:</b>	<b>MT665</b>	<b>T8.410</b>
<b>VIN:</b>	<b>N117022</b>	
<b>Year:</b>	<b>2002</b>	<b>2020</b>
<b>Fleet ID:</b>	<b>L1036</b>	
	<b>Current Engine</b>	<b>New Engine</b>
<b>Make:</b>	<b>SISU Diesel, Inc.</b>	<b>FPT Industrial</b>
<b>Model:</b>	<b>8.4L</b>	<b>F2CFE614C*B</b>
<b>Serial #:</b>	<b>P05345</b>	
<b>Year:</b>	<b>2002</b>	<b>2020</b>
<b>HP:</b>	<b>272</b>	<b>370</b>
<b>Tier:</b>	<b>Tier 1</b>	<b>Tier 4 Final</b>
<b>EPA Family Name:</b>	<b>2SIDL08.4F3A</b>	<b>LFPXL08.7T4V</b>
<b>Fuel:</b>	<b>DSL</b>	<b>DSL</b>

<b>Equipment Usage</b>	
<b>Avg Annual Hours:</b>	<b>500</b>
<b>% of usage within District:</b>	<b>100.00</b>
<b>% of usage within California:</b>	<b>100.00</b>
<b>Project Life (reporting length):</b>	<b>10</b>

<b>Eligible Cost of New Equipment</b>	<b>Grant Amount</b>
<b>\$259,803.18</b>	<b>\$155,881.91</b>

**Exhibit B**

## SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

### Current (Old) Equipment Disposal Requirements

Participant is required to dispose of the current equipment and its engine listed in **Exhibit B** of this Agreement in the following manner:

1. The current equipment and its engine must be destroyed within **60 days** of being replaced, as determined from the invoiced date of the new equipment. The Participant must transfer the current equipment and its engine for permanent destruction to a District approved dismantler within **30 days** of receiving/purchasing the new equipment, as determined from the invoiced date of the new equipment.
2. The Participant is responsible for ensuring the current equipment and its engine are submitted to the dismantling facility in a timely manner to allow the dismantler ample time to properly destroy the equipment and engine within the 60 days time frame. The Participant is responsible for coordinating the destruction efforts with the dismantler.
3. Upon transfer of the current equipment and its engine, the Participant must obtain an acceptable receipt from the dismantler as described in the program specific Payment Procedures document.
4. The District approved dismantler has **30 days** from the transfer date, as determined from the date on the receipt provided to Participant, to properly destroy the current equipment and its engine. The current equipment will, at a minimum, be rendered permanently inoperable by puncturing a significantly sized hole with serrated and uneven edges in the transmission casing and the axle housing. The engine block will be punctured with a minimum six-inch serrated, uneven hole which should include a portion of the oil pan rail.

Once the current equipment and its engine have been properly destroyed, the dismantler will notify the District to schedule an on-site post-inspection of the current equipment and engine.

**The destruction of the old equipment and its engine by the Participant will render the project ineligible for funding.** Funding is not available for the salvage of any existing equipment. The existing equipment salvage value will be negotiated between the Participant and the dismantler.

The District holds the Participant and dismantler responsible to ensure the disabled equipment and engine do not return to service. If the disabled equipment and/or engine is/are found to be operational at any time after the post-monitoring inspection, the Participant and/or dismantler will be subject to enforcement action by the District, including repayment of incentive funds, civil penalties, and any other legal action deemed appropriate.

## Exhibit C



## ADMINISTRATIVE REPORT

Agenda Item J.9.

Meeting Date: 2/1/2021

*Report Prepared by: Julie Nelson, Associate Planner, Development Services Department*

**SUBJECT:** Adoption of a Resolution Setting a Public Hearing for Monday, March 1, 2021, to Vacate a 32-Foot-Wide Strip of Right-of-Way, Containing Approximately 19,627.87 Square Feet, Generally Located Approximately 330 Feet North of Yosemite Avenue Between Mansionette Drive and Sandpiper Avenue (Extended) (Vacation #21-01)

### REPORT IN BRIEF

Set a public hearing for March 1, 2021, to vacate a 32-foot-wide strip of right-of-way, containing approximately 19,627.87 square feet, generally located approximately 330 feet north of Yosemite Avenue between Mansionette Drive and Sandpiper Avenue (extended).

### RECOMMENDATION

**City Council** - Adopt a motion adopting **Resolution 2021-05**, a Resolution of the City Council of the City of Merced, California, declaring its intention to vacate a 32-foot-wide strip of right-of-way, containing approximately 19,627.87 square feet, generally located approximately 330 feet north of Yosemite Avenue between Mansionette Drive and Sandpiper Avenue (extended) (Vacation #21-01), and setting time and place for Public Hearing.

### ALTERNATIVES

1. Approve as recommended by staff; or,
2. Approve, subject to modifications 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 motion).

### AUTHORITY

Government Code Section 66477.5 (c) specifies the procedures for vacating land previously dedicated for public use, such as for parks and other public facilities. The City of Merced Administrative Policies and Procedures No. A-6 provides direction to staff for processing vacation requests, and City Council Resolution No. 86-90 establishes a policy concerning costs associated with the vacation.

### CITY COUNCIL PRIORITIES

Not applicable.

### DISCUSSION

The proposed vacation is a request to vacate/abandon a 32-foot-wide strip of right-of-way located approximately 330 feet north of Yosemite Avenue between Mansionette Drive and Sandpiper Avenue (extended) (Attachment 1). This right-of-way was previously dedicated to the City for roadway purposes to allow the construction of an east/west road to connect Mansionette Drive and Sandpiper Avenue (extended). The east/west street was to be constructed as part of the police station that was once proposed on the parcel to the south of the right-of-way (refer to the location map at Attachment A)

When the City Council determined the police station would not be located on this parcel, the land was subsequently sold to Valley Children's Hospital. Through the development process for Valley Children's Hospital, it has been determined that the east/west road is no longer needed.

The original dedication for the road came from two different properties. The total right-of-way is 64 feet wide. The northern 32 feet was dedicated from the parcel on the north side of the right-of-way, shown as Parcel B on the Location Map at Attachment A. The southern 32 feet was dedicated from the parcel on the south side of the right-of-way (Attachment B), which is owned and being developed by Valley Children's Hospital (Parcel A). When property is vacated, it returns to the parcel from which it was dedicated. In this case the southern 32 feet will be returned to Parcel A, the parcel being developed by Valley Children's Hospital. The northern 32 feet is not being vacated at this time. The City is exploring how to use this remaining right-of-way, a bikeway/walking path has been considered, but definite plans have not been determined.

Staff is requesting the City Council adopt the resolution at Attachment 6 setting the public hearing for Vacation #21-01 for Monday, March 1, 2021.

## **IMPACT ON CITY RESOURCES**

There would be no impact on City resources as a result of this action.

## **ATTACHMENTS**

1. Location Map
2. Proposed Vacation/Abandonment Area
3. Draft City Council Resolution



HUMMINGBIRD CT

BOBWHITE CT

REDWING CT

REDWING DR

PARCEL B

MANSIONETTE DR

64-Ft.-Wide  
Right-of-Way

SANDPIPER AVE

32-Ft.-Wide  
Vacation Area

PARCEL A

YOSEMITE AVE

171



January 28, 2010

W00209A

**EXHIBIT "A"**

**DESCRIPTION**

**ROAD DEDICATION FROM WATHEN**

All that portion of Remainder D as shown on "Final Map for Mansionette Estates Unit 2", recorded in Volume 55 of Official Plats at pages 12, 13 and 14, Merced County Records, being more particularly described as follows:

**COMMENCING** at the northwest corner of said Remainder D;

Thence South  $00^{\circ}42'36''$  West, 283.54 feet along the west line of said Remainder D to **TRUE POINT OF BEGINNING**;

- (1) thence North  $89^{\circ}56'09''$  East, 612.97 feet parallel with the north line of said Remainder D to the east line of said Remainder D;
- (2) thence South  $00^{\circ}42'17''$  West, 33.14 feet along the said east line of Remainder D;
- (3) thence North  $44^{\circ}40'47''$  West, 1.60 feet;
- (4) thence South  $89^{\circ}56'09''$  West, 606.93 feet parallel with and 32.00 feet south of course (1);
- (5) thence South  $45^{\circ}19'22''$  West, 6.99 feet to the west line of Remainder D;
- (6) thence North  $00^{\circ}42'36''$  East, 36.91 feet to the **POINT OF BEGINNING**;

Containing 19627.87 square feet



*David D. Heinrichs*  
1-28-2010

AVENUE

NIGHTINGALE

COURT

21

20

19

18

17

16

15

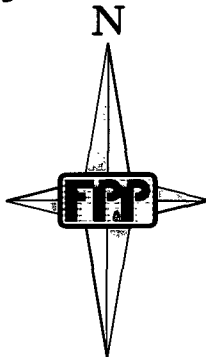
N89°56'09"E

NORTH LINE OF REMAINDER D

POINT OF COMMENCING  
N.W. CORNER OF REMAINDER D

S00°42'36"W 283.54'

REMAINDER D  
55 O.P. 12  
M.C.R.



SCALE 1" = 100'

2-1-2010

TRUE POINT OF BEGINNING

N00°42'36"E 36.91'

32' N89°56'09"E 612.97'

S00°42'17"W 33.14'

S45°19'22"W 6.99'

S89°56'09"W 606.93'

N44°40'47"W 1.60'

ROAD DEDICATION AREA  
19,627± SQUARE FEET

DRIVE

MANSIONETTE

SANDPIPER

32'

47'

Y O S E M I T E

A V E N U E

EXHIBIT "B"

**RESOLUTION NO. 2021-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
DECLARING ITS INTENTION TO VACATE A 32-  
FOOT-WIDE STRIP OF RIGHT-OF-WAY,  
CONTAINING APPROXIMATELY 19,627.87  
SQUARE FEET, GENERALLY LOCATED  
APPROXIMATELY 330 FEET NORTH OF  
YOSEMITE AVENUE BETWEEN MANSIONETTE  
DRIVE AND SANDPIPER AVENUE (EXTENDED)  
(VACATION #21-01) AND SETTING TIME AND  
PLACE FOR PUBLIC HEARING**

WHEREAS, the City Engineer of the City of Merced has recommended that the hereinafter described right-of-way is unnecessary for prospective public purposes; and

WHEREAS, the City Engineer has filed maps or plans with the City Clerk of the City of Merced showing the right-of-way to be vacated at a specific time that will be determined.

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

SECTION 1. The City Council of the City of Merced declares its intention to proceed under the provisions of Part 3 of the Streets and Highways Code of the State of California, being the Public Streets, Highways, and Service Easements Vacation Law, Chapter 3, to vacate a 32-foot-wide strip of right-of-way, containing approximately 19,627.87 square feet, generally located approximately 330 feet north of Yosemite Avenue between Mansionette Drive and Sandpiper Avenue (extended), as described in Exhibit A and shown on the map at Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 2. Reference is made to the maps and plans which are filed in the office of the City Clerk of the City of Merced for further particulars as to the proposed vacation.

SECTION 3. March 1, 2021, at the hour of 6:00 p.m. of said day in the Council Chamber of the City Council, 678 West 18<sup>th</sup> Street, Merced, California, is fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation. Said hearing may be postponed or continued.

Pursuant to Governor Newsom's Executive Order N-29-20, this meeting may be conducted by teleconference and there would be no in-person public access to the meeting location. However, if the Governor's order has been lifted by the date of the public hearing, the meeting will not be held via teleconference and you would be able to attend the meeting in the City Council Chambers at 678 W. 18<sup>th</sup> Street.

If you wish to submit your public comment to the City Council electronically you may do so as long as your comments are received no later than 1:00 p.m. on the day of the meeting. Comments received before the deadline will be read as part of the record. Material may be emailed to [cityclerk@cityofmerced.org](mailto:cityclerk@cityofmerced.org) and should be limited to 500 words or less. Please specify which portion of the agenda you are commenting on, i.e. item # or Oral Communications. Your comments will be read to the City Council at the appropriate time. Any correspondence received during or after the meeting will be distributed to the City Council and retained for the official record.

You may provide telephonic comments via voicemail by calling (209) 388-8688 by no later than 1:00 p.m. on the day of the meeting to be added to the public comment. Voicemails will be limited to a time limit of three (3) minutes. Please specify which portion of the agenda you are commenting on, i.e. item # or Oral Communications. Your comments will be read to the City Council at the appropriate time.

To view video or listen to the City Council meeting live, go to the City's website [www.cityofmerced.org](http://www.cityofmerced.org), Facebook Live, or Comcast Public Access Channel 96.

SECTION 4. The City Engineer is directed to post or cause to be posted at least two weeks before the date set for hearing not less than three (3) notices of vacation of a portion of public right-of-way, not more than three hundred (300) feet apart, conspicuously along the lines of said portion of the public street proposed to be vacated, stating adoption of this resolution and the time and place of the hearing herein called. Posting a copy of this resolution shall constitute the posting of the required notice.

SECTION 5. The City Clerk is directed to cause a copy of this Resolution to be published once each week for two successive weeks prior to the public hearing in the official newspaper.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2021, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:


\_\_\_\_\_  
Mayor

ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

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

(SEAL)

APPROVED AS TO FORM:

 11/8/21  
City Attorney Date

January 28, 2010

W00209A

**EXHIBIT "A"**

**DESCRIPTION  
ROAD DEDICATION FROM WATHEN**

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- (2) thence South  $00^{\circ}42'17''$  West, 33.14 feet along the said east line of Remainder D;
- (3) thence North  $44^{\circ}40'47''$  West, 1.60 feet;
- (4) thence South  $89^{\circ}56'09''$  West, 606.93 feet parallel with and 32.00 feet south of course (1);
- (5) thence South  $45^{\circ}19'22''$  West, 6.99 feet to the west line of Remainder D;
- (6) thence North  $00^{\circ}42'36''$  East, 36.91 feet to the **POINT OF BEGINNING**;

Containing 19627.87 square feet



*David D. Heinrichs*  
1-28-2010

AVENUE

NIGHTINGALE

COURT

21

20

19

18

17

16

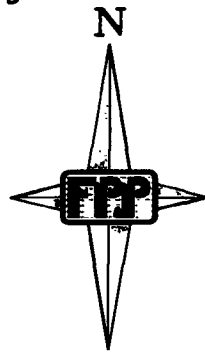
15

N89°56'09"E

NORTH LINE OF REMAINDER D

POINT OF COMMENCING  
N.W. CORNER OF REMAINDER D

REMAINDER D  
55 O.P. 12  
M.C.R.



*David D. Heinrichs*  
2-1-2010

SCALE 1" = 100'

S00°42'36"W 283.54'

TRUE POINT OF BEGINNING

N00°42'36"E 36.91'

32' N89°56'09"E 612.97'

S00°42'17"W 33.14'

S45°19'22"W 6.99'

S89°56'09"W 606.93'

N44°40'47"W 1.60'

ROAD DEDICATION AREA  
19,627± SQUARE FEET

SANDPIPER

MANSIONETTE DRIVE

Y O S E M I T E

A V E N U E

EXHIBIT "B"



## ADMINISTRATIVE REPORT

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### Agenda Item J.10.

Meeting Date: 2/1/2021

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*Report Prepared by: Julie Nelson, Senior Planner, Development Services*

**SUBJECT:** Approval of a Temporary Encroachment Permit #20-01 to Permit UC Merced to Install Banners on Various Light Poles Within the City for Three (3) Years with Authorization to Extend for an Additional Two (2) Years Upon Written Request by the Applicant and Approval of the City Manager

### REPORT IN BRIEF

Considers approving a temporary encroachment permit to allow UC Merced to install banners on various light poles within the City.

### RECOMMENDATION

**City Council** - Adopt a motion approving a temporary encroachment permit with UC Merced, to allow the placement of banners on City light poles in various locations and authorizing the City Manager or designee to execute the necessary documents.

### ALTERNATIVES

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

### AUTHORITY

City Charter Section 200, Merced Municipal Code section 13.38.040

### DISCUSSION

UC Merced has requested permission to install banners on City-owned light poles along various City streets to help create a closer identity between the University and the community and to promote their academic programs. The UC had banners up throughout the City for several years, but their permit expired and the banners were removed. Recently, the City Council approved similar banners promoting Merced College and the Downtown Farmer's Market. The City also uses similar banners to promote the Downtown, Christmas holidays, and other events. In order to allow someone other than the City to hang such banners, a Temporary Encroachment Permit is required.

UC Merced has requested to install banners at 30 locations, along Yosemite Avenue, Olive Avenue,

G Street, Main Street, Martin Luther King, Jr. Way, and R Street. The map and list at Attachment 1 shows the proposed locations for the banners. Each pole would have a banner on each side of the pole, and each banner would be double-sided (Attachment 2). The banners would be 30 inches wide and 96 inches tall. In comparison, the previous banners for UC Merced were 28 inches wide and 60 inches tall, and the banners recently approved from Merced College were 30 inches wide by 84 inches tall and the banners for the Downtown Farmer's Market were approved to be 30 inches wide and 94 inches tall.

If approved, the Temporary Encroachment Permit would allow the banners to be in place for three years. Upon written request to extend the time period, the City Manager would be authorized to extend the time period an additional 2 years.

The Temporary Encroachment Permit would be issued to the UC Merced. As such, the contractor would be required to provide all necessary insurance, indemnification, and be subject to compliance with all conditions of the Temporary Encroachment Permit. The UC has agreed to the terms of the permit and has signed the Temporary Encroachment Permit at Attachment 3. A letter from the Chancellor regarding the request for a Temporary Encroachment permit is provided at Attachment 4.

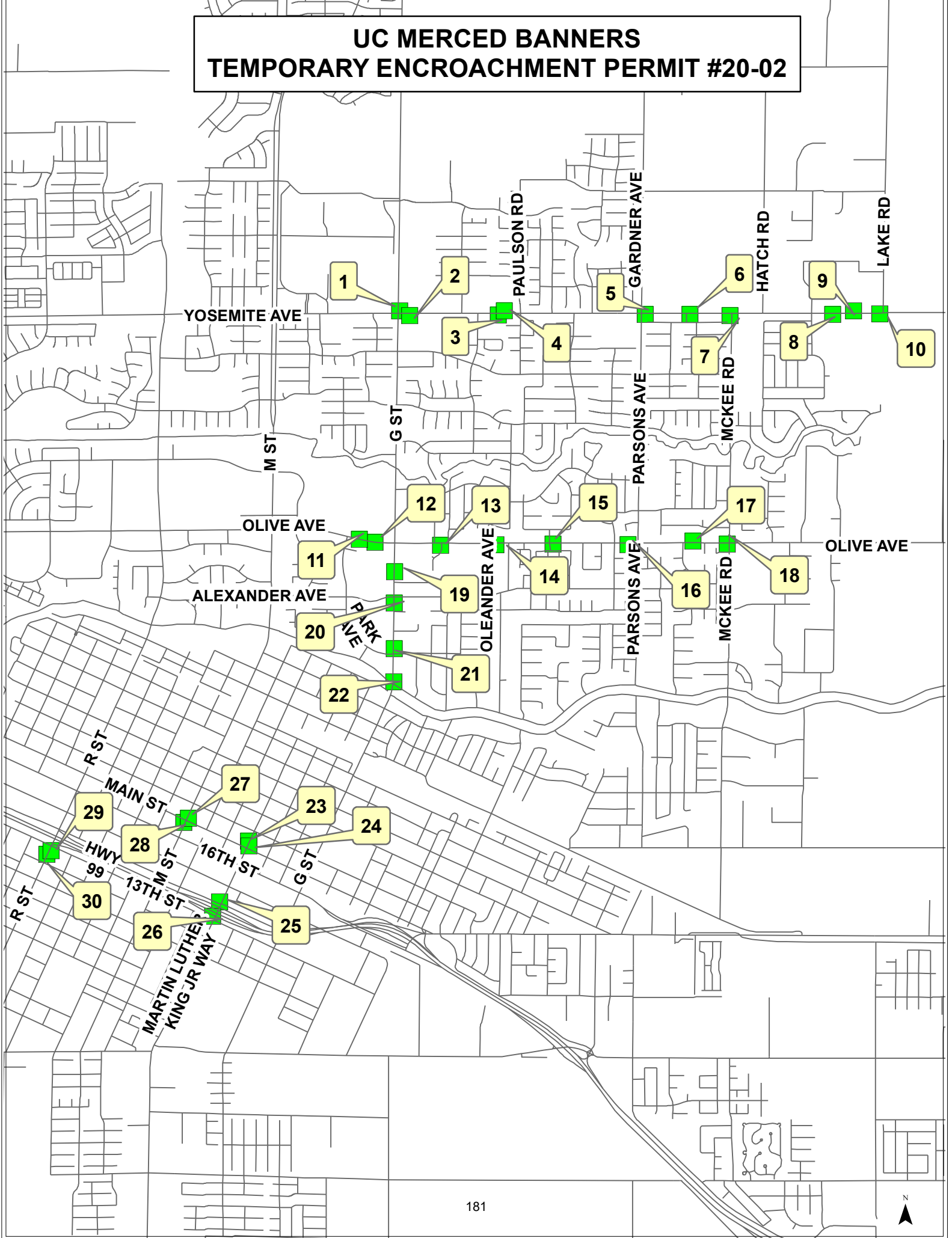
## **IMPACT ON CITY RESOURCES**

There would be no impact on City resources as a result of the approval of this request. The contractor hired by UC Merced would be responsible for installation and all maintenance of the banners.

## **ATTACHMENTS**

1. Location Map and List
2. Proposed Banners
3. Temporary Encroachment Permit
4. Letter from UC Merced Chancellor Munoz

**UC MERCED BANNERS  
TEMPORARY ENCROACHMENT PERMIT #20-02**



MAP NO.	POLE NUMBER	GENERAL LOCATION	POLE TYPE
1	C2013	Yosemite Ave Between G St. & Paulson	Galvanized 1 Mast
2	C4247	Yosemite Ave Between G St. & Paulson	Galvanized 1 Mast
3	C3691	Yosemite Ave Between G St. & Paulson	Galvanized 1 Mast
4	C5679	Yosemite Ave Between G St. & Paulson	Galvanized 1 Mast
5	C4356	Yosemite Ave Between Parson & McKee	Galvanized 1 Mast
6	C4358	Yosemite Ave Between Parson & McKee	Galvanized 1 Mast
7		Yosemite Ave Between Parson & McKee	Galvanized 1 Mast
8	C8397	Yosemite Ave Between Hatch & Lake Rd	Galvanized 1 Mast
9	C8403	Yosemite Ave Between Hatch & Lake Rd	Galvanized 1 Mast
10	C8400	Yosemite Ave Between Hatch & Lake Rd	Galvanized 1 Mast
11	C545	Olive Ave,west of G	Galvanized 2 Masts
12	C547	Olive Ave,west of G	Galvanized 2 Masts
13	C3851	Olive Ave @ El Capitan	Galvanized 1 Mast
14	C4174	Olive Ave @ Oleander Ave	Galvanized 1 Mast
15	C3932	Olive Ave @ Lincoln	Galvanized 1 Mast
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25	C136	14th @ MLK	Galvanized 1 Mast
26	77S	13th & MLK	Galvanized 1 Mast
27	C2355	Main St. @ M St	Galvanized 1 Mast
28	C2438	Main St. @ M St.	Galvanized 1 Mast
29	C8528	R St. @ 13th	Galvanized 1 Mast
30	C1523	R ST. @ 13th	Galvanized 1 Mast

EXAMPLE - ACTUAL IMAGES MAY VARY



A

B

Banners  
constructed of 13  
oz. material.

REVERSE SIDE



UNIVERSITY OF CALIFORNIA  
MERCED

## TEMPORARY ENCROACHMENT PERMIT

A Temporary Encroachment Permit (the "Permit") is hereby granted to The Regents of the University of California, on behalf of its Merced Campus, hereinafter called "Permittee", to allow banners for "UC Merced" to encroach in and upon real property, including street areas and City-owned light poles in various locations, subject to the following covenants and conditions:

1. Said encroachment shall be limited to the locations within the public rights-of-way for banners described in Exhibit A and for the locations shown in Exhibit B attached hereto for a period not to exceed three (3) years. Upon written request from Permittee at least one (1) month prior to the expiration of the Permit, the City Manager is authorized to extend the Permit for an additional two (2) year period upon Permittee's submittal of a new certificate of insurance.
2. The Permittee shall repair and replace said encroachment, and shall properly maintain the same in a condition free of defects at the sole cost of Permittee.
3. The Permittee shall repair or replace any damage caused in the encroachment area and/or other City facilities by the installation, existence, or removal of the encroachment, at Permittee's sole expense, within ten (10) days of notification from the City. This Permit notwithstanding, no encroachment may be installed without the prior written consent of the City.
4. The Permittee shall provide adequate provisions for the protection for the traveling public and to ensure minimum interference with pedestrian and/or street traffic at all times during the existence of the encroachment. Warning signs, lights and safety devices and/or other measures required for the public safety shall conform to the requirements of the City.
5. Neither the City of Merced or the City of Merced Public Financing and Economic Development Authority ("Authority") or their respective officials, officers, agents, or employees shall be responsible or liable for damage to any property installed or located within the easement area covered by this Permit. Said liability and responsibility shall be borne solely by the Permittee. Permittee, by accepting this

Permit, agrees to protect, defend (with counsel selected by the City), indemnify and hold the City of Merced, the Authority and their respective officials, officers, agents and employees, free and harmless from claims for damages of any kind whatsoever arising from or in connection with the installation and location of Permittee's property in the easement area covered by the Permit.

6. As a condition for and during the term of this Permit, the Permittee shall obtain and maintain in full force and effect at its own cost and expense, the following insurance coverage:

A. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law.

B. General Liability Insurance. Permittee shall obtain and keep in full force and effect a commercial, general liability policy or policies of at least One Million Dollars (\$1,000,000) combined limit for bodily injury and property damage; provided that the City, the Authority and their respective officials, officers, agents, and employees are to be named additional insureds under the policies, and that the policies shall stipulate that this insurance will operate as primary general liability insurance for Permittee and its employees, agents, contractors, and sub-contractors, and that no other insurance effected by City, the Authority or other named insureds will be called on to cover a loss covered thereunder. The General Liability insurance shall be provided by an ISO Commercial General Liability policy, with edition dates of 1985, 1988, or 1990. The City and Authority shall be named as an additional insured using ISO form CG 20 10 11 85 or the same form with an edition date no later than 1990.

C. Certificate of Insurance. Permittee shall complete and file with the City prior to engaging in any operation or activity set forth in this Permit, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Permit, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for non-payment of premium. In lieu of the ISO form CG20 10 11 85 with an edition date no later than 1990, City will accept certified copies of the insurance

- policy or policies with the endorsements and cancellation provisions required by this provision.
7. During the term of the Permit, the Permittee shall comply, and cause to comply, with all applicable federal, state, and local laws, statutes, rules, regulations, resolutions, and policies, both now existing and as amended in the future, including but not limited to the Americans with Disabilities Act.
  8. This Permit does not constitute a deed or grant of any easement by the City of Merced, and is transferable or assignable only with the prior written permission of the City of Merced, and is revocable at any time with or without notice by the City of Merced at its sole and absolute discretion. The Permittee shall remove or relocate the banners, without compensation, if required by public need or purpose identified by the City.
  9. Unless the City of Merced abandons its interest in said property, Permittee, by accepting this Permit, guarantees the prompt removal of any and all structures herein permitted and/or located within the public right-of-way easement subject to this Permit upon notification from the City of Merced that this Permit has been revoked.
  10. Consistent with the conditions in Section 2 above, the Permittee understands and agrees, by accepting this Permit, that the City has the right to remove the encroachment at its own expense without compensation to the Permittee if necessary for any City purposes.
  11. This Permit shall not become effective until receipt by the City of Merced of a copy of this Permit with properly signed endorsements accepting the same, subject to terms and conditions contained herein.
  12. This Temporary Encroachment Permit is to be cancelled and is void and of no further effect upon the recording of abandonment of the right-of-way to be filed for record by the City of Merced, affecting the herein described property.
  13. This Permit is issued with the understanding that any particular action is not to be considered as establishing any precedent: (1) on the question of permitting any certain kind of encroachment to be erected within the right-of-way or easement area of the City of Merced; or (2)

as to the acceptability of any such permits as to any other or future situation.

14. The banners shall be installed per City requirements as determined by the Public Works Department. In no case, shall the banners be mounted lower than fourteen (14) feet above grade (bottom of banner must be at least fourteen (14) feet above grade). In addition, no banner shall be mounted on light poles that contain traffic signal poles. For those intersections, the nearest light pole from the intersection, which does not contain a traffic signal, shall be used. Any changes to the banner locations shall be approved by the City's Planning Manager or referred back to the City Council, if necessary.


CITY OF MERCED  
A California Charter Municipal  
Corporation

BY: \_\_\_\_\_  
City Manager

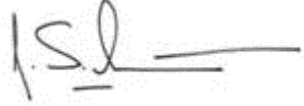
ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

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

APPROVED AS TO FORM:

BY:  \_\_\_\_\_  
City Attorney                      1/26/2021  
Date

PERMITTEE  
THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA, on Behalf of its  
Merced Campus

BY:   
Signature

Juan Sánchez Muñoz

Print Name

Its: Chancellor

ADDRESS: 5200 North Lake Road  
Merced, CA 95344

TELEPHONE: 209-228-4417

FAX:

E-MAIL: chancellormunoz@ucmerced.edu

EXAMPLE - ACTUAL IMAGES MAY VARY



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B

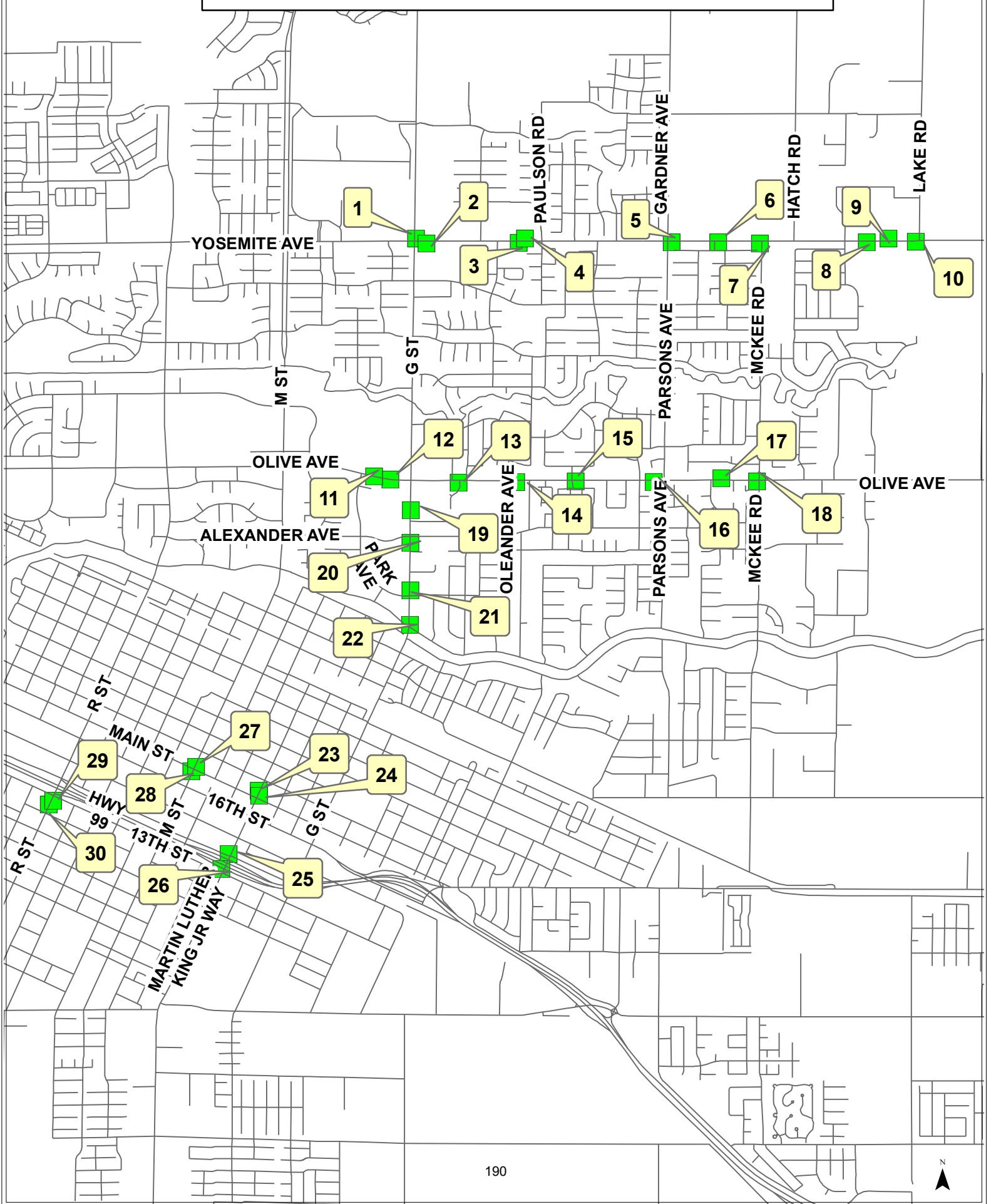
Banners  
constructed of 13  
oz. material.

REVERSE SIDE



UNIVERSITY OF CALIFORNIA  
MERCED

# UC MERCED BANNERS TEMPORARY ENCROACHMENT PERMIT #20-02



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January 26, 2021

Mayor Matthew Serrato  
and the Merced City Council  
City Hall  
678 18th St.  
Merced, CA 95340

Mayor Serrato and Councilors,

I am pleased to submit this request to you for permission to install banners throughout the city of Merced.


These banners will depict the great diversity of people and roles at the university, as well as publicly proclaim that we are a proud member of this community. In this, we will join our friends at Merced College in showing both residents and visitors that this is a city where education plays an important role, and where institutions have a vested interest in our shared success.

I hope you have seen some of the other ways we are reaching out to bring more young people to Merced — in television advertising, in videos at Fresno Yosemite Airport, in the Merced County Times and Merced Sun Star and of course across digital and social media.

Our long-range development plan calls for us to grow to 15,000 students by 2030, and that will mean 15,000 young people — and the concomitant faculty and staff — shopping, dining, residing and recreating in the region.

The university and the city have a shared history and will share in the successes yet to come. We are proud to be a part of Merced, and hope these banners will add not simply to the visual, but also to the cultural vibrancy of our community.

Thank you,

A handwritten signature in dark ink, appearing to read 'J.S.M.' followed by a horizontal line.

Juan Sánchez Muñoz, Ph.D.  
Chancellor



## ADMINISTRATIVE REPORT

**Agenda Item J.11.**

Meeting Date: 2/1/2021

*Report Prepared by: Michael R. Beltran II, PE, City Engineer*

**SUBJECT:** Approval of the California Department of Transportation (CALTRANS) Disadvantaged Business Enterprise (DBE) Implementation Agreement for Federally Funded Construction Projects for Fiscal Year 20/21

### REPORT IN BRIEF

The City intends to receive federal financial assistance from the U.S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the City will sign the California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement.

### RECOMMENDATION

**City Council** - Adopt a motion approving the California Department of Transportation (CALTRANS) Disadvantaged Business Enterprise (DBE) Implementation Agreement for Federally Funded Construction Projects.

### ALTERNATIVES

1. Approve, as recommended; or,
2. Deny.

### AUTHORITY

All public agencies utilizing Federal-Aid funds for construction projects are required by Title 49 CFR, Part 26, to adopt a Disadvantaged Business Enterprise (DBE) Program Plan.

### CITY COUNCIL PRIORITIES

Local Streets - Overall Streets, Sidewalks, and Street Lights

### DISCUSSION

The City of Merced has adopted a Disadvantaged Business Enterprise (DBE) Program, and Council has amended the program as necessary by supplemental actions.

As of May 1, 2006, the California Department of Transportation and its federal transportation assistance sub-recipients (the City of Merced) implemented a DBE race-neutral program pending the results of a more comprehensive study of the facts regarding the race-conscious DBE Program. The City of Merced has been following these guidelines.

The City of Merced adopted the DBE Program that has been established by Caltrans, since we will now be a sub-recipient and part of the statewide overall DBE Program. The City of Merced adopted a Race Conscious Implementation Agreement at its April 6, 2009, City Council Meeting.

The City intends to receive federal financial assistance from the U.S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the City will sign the California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement. Through the agreement, the City agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan as it pertains to Local Agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR 26 requirements. It is the policy of City to ensure that DBEs, as defined in 49 CFR 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the City's Policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
- To ensure that the DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in Federal-aid contracts.
- To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

## **IMPACT ON CITY RESOURCES**

None.

## **ATTACHMENTS**

1. CALTRANS DBE Implementation Agreement

**Exhibit 9-A: DBE Implementation Agreement for Local Agencies****CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) IMPLEMENTATION AGREEMENT**

For the City/County of CITY OF MERCED, hereinafter referred to as "SUB-RECIPIENT."

**I. Definition of Terms**

The terms used in this agreement have the meanings defined in 49 CFR 26.5.

**II. Objective/Policy Statement (49 CFR 26.1 and 26.23)**

SUB-RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, SUB-RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement (hereinafter referred to as Agreement). SUB-RECIPIENT agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan (hereinafter referred to as the DBE Program Plan) as it pertains to Local Agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR 26 requirements. It is the policy of SUB-RECIPIENT to ensure that DBEs, as defined in 49 CFR 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also SUB-RECIPIENT's policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
- To ensure that the DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in Federal-aid contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

**III. Nondiscrimination (49 CFR 26.7)**

SUB-RECIPIENT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the Local Agency components of the DBE Program Plan, SUB-RECIPIENT will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

**IV. Annual DBE Submittal Form (49 CFR 26.21)**

SUB-RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed Local Agency DBE Annual Submittal Form (Exhibit 9-B), by June 30 of each year for the following Federal Fiscal Year (FFY). This form must include the name, phone number, email address of the designated Disadvantaged Business Enterprise Liaison Officer (DBELO), and the choice of Prompt Pay Provision to be used by SUB-RECIPIENT for the following FFY.

**V. Race-Neutral Means of Meeting Caltrans Overall Statewide Annual DBE Goal (49 CFR 26.51(a))**

Caltrans expects SUB-RECIPIENT to meet the maximum feasible portion of Caltrans Overall Statewide Annual DBE Goal through race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes when a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts). Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate the participation of DBE and other small businesses (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs and other small businesses obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs and other small businesses on SUB-RECIPIENT mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory through print and electronic means to the widest feasible universe of potential prime contractors; and

9. Assisting DBEs and other small businesses to develop their capability to utilize emerging technology and conduct business through electronic media.

**VI. Race-Conscious Means of Meeting Caltrans Overall Statewide Annual DBE Goal (49 CFR 26.51(d))**

SUB-RECIPIENT must establish DBE contract goals to meet any portion of Caltrans Overall Statewide Annual DBE Goal that cannot be achieved through race-neutral means.

**VII. Quotas (49 CFR 26.43)**

SUB-RECIPIENT will not use quotas or set-asides in any way in the administration of the Local Agency component of the DBE Program Plan.

**VIII. DBE Liaison Officer (DBELO) (49 CFR 26.25)**

SUB-RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan as it pertains to the SUB-RECIPIENT, and ensures that the SUB-RECIPIENT is fully and properly advised concerning DBE Program Plan matters. [Specify resources available to the DBELO; e.g., the DBELO has a staff of two professional employees assigned to the DBE program on a full-time basis and two support personnel who devote a portion of their time to the program.] The name, address, telephone number, email address, and an organization chart displaying the DBELO's position in the organization are found in Attachment A to this Agreement. This information will be updated annually and included on the DBE Annual Submittal Form.

The DBELO is responsible for developing, implementing, and monitoring the SUB-RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine DBE contract goals.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race-neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

**IX. Federal Financial Assistance Agreement Assurance (49 CFR 26.13)**

Each agreement SUB-RECIPIENT signs with Caltrans must include the following assurance: The SUB-RECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR 26. The SUB-RECIPIENT shall take all necessary and reasonable steps under 49 CFR 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The SUB-RECIPIENT's DBE Program, as required by 49 CFR 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the SUB-RECIPIENT of its failure to carry out its approved program, Caltrans may impose sanctions as provided for under 49 CFR 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Each contract Sub-recipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Sub-recipient deems appropriate.

**X. DBE Financial Institutions (49 CFR 26.27)**

SUB-RECIPIENT must investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBELO. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBELO.

**XI. Directory (49 CFR 26.31)**

SUB-RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's [website](#).

**XII. Required Contract Clauses (49 CFR 26.13 and 26.29)**

For the purpose of this section, contractor also means consultant, and subcontractor also includes subconsultant. For prompt payment, the following State regulations are referenced: the California Business and Professions Code (CBPC), California Public Contract Code (CPCC) and California Civil Code (CCC).

SUB-RECIPIENT ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

**A. Contract Assurance**

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as SUB-RECIPIENT deems appropriate.

**NOTE:** This language is to be used verbatim, as is stated in Exhibit 12-G: Required Federal-aid Contract Language. See also 49 CFR 26.13(b).

**B. Prompt Payment****Prompt Progress Payment to Subcontractors**

The Local Agency shall require contractors and subcontractors to pay their subcontractors within seven (7) days for construction contracts, and within fifteen (15) days for consultant contracts, after receiving each progress payment. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions and remedies specified in Section 7108.5 of the CBPC and Section 10262 of the CPCC for construction contract, and Section 3321 of the CCC for consultant contract. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

**Prompt Payment of Withheld Funds to Subcontractors**

The Local Agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within seven (7) days for construction contracts, or within fifteen (15) days for consultant contracts after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including; either (1), (2), or (3) of the following provisions [Local Agency equivalent will need Caltrans approval] in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the Local Agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the CBPC and Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

2. No retainage will be held by the Local Agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor [within seven \(7\) days for construction contracts, or within fifteen \(15\) days for consultant contracts](#) after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the [CBPC](#) and [Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts](#). This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
3. The Local Agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Local Agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within [seven \(7\) days for construction contracts, or within fifteen \(15\) days for consultant contracts](#) after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Local Agency. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the [CBPC](#) and [Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts](#). This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

[Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.](#)

### **XIII. Local Assistance Procedures Manual (LAPM)**

The SUB-RECIPIENT will advertise, award and administer Federal-aid contracts in accordance with the current [Local Assistance Procedures Manual \(LAPM\)](#) including [Forms and Exhibits](#).

**XIV. Vehicle Manufacturers/Specialized Equipment (§26.49)**

If Federal-aid contracts will include vehicle/specialized equipment procurements, SUB-RECIPIENT will require each vendor, as a condition of being authorized to bid or propose on vehicle/specialized equipment procurements, to certify that it has complied with the requirements of 49 CFR 26.69.

**XV. Reporting to the DLAE**

SUB-RECIPIENT will promptly submit a copy of the Consultant Proposal DBE Commitment (Exhibit 10-O1) at the time of award of the consultant contract.

SUB-RECIPIENT will promptly submit a copy of Consultant Contract DBE Information (Exhibit 10-O2) or the Local Agency Bidder DBE Commitment (Construction Contracts) (Exhibit 15-G) to the DLAE within 30 days after execution of consultant or construction contract.

SUB-RECIPIENT will promptly submit a copy of the Final Report-Utilization of DBE, First-Tier Subcontractors (Exhibit 17-F) of the LAPM, immediately upon completion of each consultant or construction contract.

**XVI. Certification (§26.83(a))**

SUB-RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program (CUCP) will participate as DBEs on Federal-aid contracts.

**XVII. Confidentiality**

SUB-RECIPIENT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information consistent with federal, state, and local laws.

**XVIII. Prompt Payment from the Local Agency to the Contractors (California Public Contract Code §20104.50)**

The Local Agency shall make any progress payment within **30 days** after receipt of an undisputed and properly submitted payment request from a contractor on a construction contract. If the Local Agency fails to pay promptly, the Local Agency shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the Local Agency shall act in accordance with both of the following:

- (1) Each payment request shall be reviewed by the Local Agency as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- (2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the contractor as soon as practicable, but not later than **seven (7) days**, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

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

Date: November 25, 2020

Michael R. Beltran II, PE City Engineer

Phone #: (209) 385-6898

(Print Name and Title)

ADMINISTERING AGENCY

(Authorized Governing Body Representative)

This California Department of Transportation's Disadvantaged Business Enterprise Program  
Implementation Agreement is accepted by:

\_\_\_\_\_  
(Signature of DLAE)

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

\_\_\_\_\_  
(Print Name of DLAE)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
SCHUYLER A. CAMPBELL Date  
Deputy City Attorney

**Distribution:** (1) Original – DLAE  
(2) Signed copy by the DLAE – Local Agency

**EXHIBIT “A”**

CITY OF MERCED

DBE FLOW CHART

DBELO: Michael R. Beltran II, PE

City Engineer, Phone: (209) 385-6898

[beltranm@cityofmerced.org](mailto:beltranm@cityofmerced.org)

Assistant DBELO: Joe Cardoso, PLS

City Surveyor, Phone: (209) 388-7508

[cardosoj@cityofmerced.org](mailto:cardosoj@cityofmerced.org)

Staff: Paul Flores, EIT

Assistant Engineer, Phone (209) 388-8708

[floresp@cityofmerced.org](mailto:floresp@cityofmerced.org)

Staff: Eric Soito, Assistant Engineer, Phone: (209) 388-7511

[soitoe@cityofmerced.org](mailto:soitoe@cityofmerced.org)



## ADMINISTRATIVE REPORT

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**Agenda Item J.12.**

Meeting Date: 2/1/2021

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*Report Prepared by: Stephanie R. Dietz, City Manager*

**SUBJECT:** Approval of Memorandum of Understanding Between the City of Merced and the County of Merced by and Through the Merced County Probation Department for the Establishment of a Collaborative Working Relationship Among the Parties and to Document the Responsibilities of Each Party Relative to the Provision of the Community Service Program (CSP)

### REPORT IN BRIEF

Considers the authorization to approve the memorandum of understanding between the City of Merced and the County of Merced by and through the Merced County Probation Department for the establishment of a collaborative working relationship among the parties and to document the responsibilities of each party relative to the provision of the Community Service Program.

### RECOMMENDATION

**City Council** - Adopt a motion approving the memorandum of understanding and authorizing the City Manager or designee to execute all necessary documents.

### ALTERNATIVES

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

### AUTHORITY

Charter of the City of Merced, Section 200.

### CITY COUNCIL PRIORITIES

This recommendation is consistent with City Council's priority in establishing and strengthening community partnerships to enhance the quality of life of residents within Merced.

### DISCUSSION

The Memorandum of Understanding between the City of Merced and Merced County outlines an established working relationship among the City of Merced Parks and Recreation Department, City of Merced Police Department, and the County of Merced Probation Department. Additionally, it

documents the responsibilities of each party relative to the provision of the Community Service Program (CSP) in Merced County (see attached MOU for description of responsibilities). CSP is operated by the Merced County Probation Department, its purpose is to instill a sense of responsibility to the individuals within the program and to contribute towards the need of service in the community. All parties of this understanding agree to work together in the most efficient and professional manner in order to effectively make use of the program.

The term of this agreement is ongoing, with the effective commencement date of January 1, 2021. This MOU may be amended only in writing with signed approval through all parties specified in the MOU. A representative of any participating agency can request a review of the MOU at any time if deemed necessary for operational effectiveness. Participating agencies may elect to terminate their participation in this MOU by providing written notification to the CSP MOU participants. Termination will take effect no less than thirty (30) days after receipt of written notification or upon a date established by mutual agreement.

### **IMPACT ON CITY RESOURCES**

No additional resources are needed at this time.

### **ATTACHMENTS**

1. Memorandum of Understanding

# **MEMORANDUM OF UNDERSTANDING FOR ADULT AND JUVENILE COMMUNITY SERVICE WORK IN PUBLIC SPACES**

THIS AGREEMENT is made and entered into this 1<sup>st</sup> day of January , 2021, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18<sup>th</sup> Street, Merced, California 95340, (hereinafter referred to as “City”) and the County of Merced by and through the Merced County Probation Department, a California General Law County (hereinafter referred to as “County”).

## **SECTION 1**

### **1.1 PARTICIPATING DEPARTMENTS**

1.1.1 City of Merced – Parks and Recreation Department

1.1.2 City of Merced – Police Department

1.1.3 County of Merced – Probation Department

## **SECTION 2**

### **2.1 INTRODUCTION**

2.1.1 The City Council’s adopted Goals & Priorities endorses partnerships with the other Governmental entities to advance the quality of life for all those living or working in our city.

2.1.2 The County implements and provides oversight and supervision of a community service work program for adults and juveniles.

2.1.3 The City and County recognize the opportunity for positive community service experiences is a benefit to the community, the community service workers participating in the community service programs and the agencies.

### **2.2 STATEMENT OF PURPOSE**

2.2.1 The purpose of this MOU is to establish a collaborative working relationship among the parties and participating departments and to document the responsibilities of each party relative to the provision of the Community Service Program (CSP). The goal of this collaboration is to provide a positive community service program that benefits the community, the participants, and the agencies.

### **3. TERM**

3.1 The term of this Agreement is ongoing, with the effective commencement date being January 1, 2021. This MOU may be amended only in writing with signed approval of all parties to this MOU. A representative of any party can request a review of the MOU at any time if deemed necessary for operational effectiveness. Either party may elect to terminate its participation in this MOU by providing written notification to the other party. Termination will take effect not less than thirty (30) days after receipt of written notification or upon a date established by mutual agreement.

### **4. RESPONSIBILITIES OF THE PARTIES**

#### **4.1 Responsibilities of Merced County Probation Department**

- 4.1.1 Provide, operate, supervise, and maintain the adult and juvenile CSP.
- 4.1.2 Provide eligible community service program participants.
- 4.1.3 Provide a designated County representative to collaborate and coordinate with the participating departments.
- 4.1.4 Provide or arrange for transportation, as necessary, for persons participating in the CSP.
- 4.1.5 Participate in and provide representation for quarterly MOU meetings.

#### **4.2 Responsibility of City of Merced Participating Departments**

- 4.2.1 Provide CSP participants with the supplies necessary to perform public space clean-up/beautification work.
- 4.2.2 Provide feedback to the County regarding CSP program participants work performance.
- 4.2.3 Provide a designated city representative for each participating department to coordinate and collaborate with the County representative.
- 4.2.4 Participate in and provide representation for quarterly MOU meetings.

### **5. INDEMNIFICATION**

- 5.1 Each party shall be proportionally responsible for damages caused by the negligence and willful misconduct of its directors, officers, agents, employees and duly authorized volunteers occurring in the performance of this Agreement. It is the intention of the Parties that this paragraph be interpreted to impose on each party the responsibility for the negligence and

willful misconduct of their respective directors, officers, employees, and duly authorized volunteers.

**6. CSP PARTICIPANTS INSURANCE**

6.1 The CSP program participants shall be covered by the County's General Liability and Workers Compensation insurance.

**7. STATUS OF CSP PARTICIPANTS**

7.1 CSP participants shall at no time throughout the term of this Agreement be considered officers, employees, or agents of the City of Merced. CSP participants shall not be entitled to any compensation or benefits applicable to city employees. County shall defend, indemnify, and hold City harmless for any claims by any CSP participant to compensation or benefits applicable to city employees for work performed by the CSP participant pursuant to this MOU.

**8. SURVIVAL**

8.1 Upon termination of this Agreement for any reason, paragraphs 5, 6 and 7 shall survive the expiration or earlier termination of this Agreement.

**9. SEVERABILITY**

9.1 If any provision of this Agreement is held invalid by any law, rule, order of regulation of any government or by the final determination of any state or federal court, such invalidity shall not affect the enforceability of any other provision not held to be invalid.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED  
A California Charter Municipal  
Corporation

BY: \_\_\_\_\_  
City Manager

ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

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

APPROVED AS TO FORM:

BY: Stephanie R. Dietz 1/5/21  
City Attorney Date

ACCOUNT DATA:

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

COUNTY OF MERCED, by and through  
the MERCED COUNTY PROBATION  
DEPARTMENT, a California General  
Law County

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

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

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



## ADMINISTRATIVE REPORT

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### Agenda Item J.13.

Meeting Date: 2/1/2021

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*Report Prepared by: Michael R. Beltran II, PE, City Engineer*

**SUBJECT:** Second Reading and Final Adoption of an Ordinance Amending Sections 10.28.230 "No Parking Zones," and 10.16.010 "Speed Limits" to Include, but not be Limited to, Adding No Parking Along the North and South Sides of Eagle Street, Adopt a 25 mph Speed Limit on El Portal Between McKee Rd. and Parsons Ave., and to Add No Parking Zones on All Four Quadrants of K St. and the BNSF Crossing

### REPORT IN BRIEF

Second reading and final adoption of an Ordinance to amend sections 10.16.010 and 10.28.230 of the Merced Municipal Code.

### RECOMMENDATION

**City Council** - Adopt a motion adopting **Ordinance 2520**, an Ordinance of the City Council of the City of Merced, California, amending sections 10.16.010 "Speed Limits;" 10.28.230 "No Parking Zones" of the Merced Municipal Code.

### ALTERNATIVES

1. Approve, as recommended by the Traffic Committee; or,
2. Modify ordinance for adoption; or,
3. Deny.

### AUTHORITY

This request amends Sections 10.16.010 and 10.28.230 of the Merced Municipal Code (MMC).

The California Vehicle Code (CVC) gives a local body (or official) jurisdiction for traffic control devices, provided the devices are installed in accordance with the State Traffic Manual.

### CITY COUNCIL PRIORITIES

Not applicable.

### DISCUSSION

As a result of the September 8, 2020, meeting, the Traffic Committee approved, the addition of no parking zones to be put in along the North and South sides of Eagle St.

The Traffic Committee was requested by Mark Purdom, to add no parking due to these areas restricting ingress and egress for the delivery trucks serving the facilities.

As a result of the November 10, 2020, meeting, the Traffic Committee approved, a 25 mph speed limit on El Portal Dr. between McKee Rd. and Parsons Ave., and to include no parking zones on all 4 quadrants of K St. at the BNSF crossing.

The Traffic Committee was requested by Citizens, Jose & Mayra Lopez, Ronald Ringstrom, Jolene Schadler, Ben & Marianne French, Robin Donovan, Lupe Dawson, LuAnn Parson, Eduardo Zamora Sr., Craig Hall, Dona Robertson, Joe & Shirley Brucia, Vishwanatha Kuppenahalli, Rachel Heater, Hussien & Stefanie Eltareb, Mike Bermingham, and Nathan Frye to implement some form of speed control in the area.

The Traffic Committee was requested by the City Engineer, Michael Beltran, to amend the Municipal Code to add no parking zones on all 4 quadrants for distances provided in attachments in support of Quiet Zones and Median work being performed by BNSF and Amtrak.

### **IMPACT ON CITY RESOURCES**

No appropriation of funds is needed.

### **ATTACHMENTS**

1. Draft Minutes 11/10/20
2. Minutes 9/8/20
3. Citizen Action Requests 20-015, 20-016 and 20-018 Redacted
4. Proposed Ordinance

## TRAFFIC COMMITTEE

### MINUTES

November 10, 2020

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#### A. CALL TO ORDER

The meeting was called to order at 2:00 p.m.

#### B. ROLL CALL

Present:   Chairperson: Beltran, Michael – City Engineer  
                  Committee   Hren, Michael - Planning Manager Designee  
                  Members:   Olmos, Juan - Public Works Designee  
                                  Pintabona, Leon - Police Chief Designee  
                                  Wilson, Casey – Fire Chief Designee

Absent:

#### C. ORAL COMMUNICATIONS

None.

#### D. CONSENT CALENDAR

1. Traffic Committee Minutes of September 8, 2020

RECOMMENDATION:

Approve and file.

Michael Hren Moved, Juan Olmos Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Juan Olmos, Leon Pintabona, Michael Hren, Casey Wilson

Clerk's Note: Staff recommendation approved.

## **E. REPORTS**

1. Committee Member Reports

## **F. BUSINESS**

1. Request #20-016 – Request For Speed Control Implementation on El Portal Dr. Between Parsons Avenue and McKee Drive (Jose & Mayra Lopez, Ronald Ringstrom, Jolene Schadler, Ben & Marianne French, Edward Zamora Sr., Robin Donovan, Lupe Dawson, LuAnn Parson, Craig Hall, Joe & Shirley Brucia, Dona Robertson, Vishwanatha Kuppenahalli, Rachel Heater, Jussien & Stefanie Eltareb, Mike Bermingham and Nathan Frye)

*(Citizens state there is a serious speeding problem along El Portal Drive making it difficult to back out of driveways and cross the street to the community mailboxes. There are no crosswalks for when the children return to school. Certain times of the day it is almost impossible to turn or cross Parsons Avenue.)*

LuAnn Parson states a couple of accidents have happened at her residence, it is hard to see when backing out of driveway for residents due to high speed traffic, hard to cross the road. Request crosswalks, speed limit change, stripping, speed bumps to be implemented.

Committee Member Hren states what is considered as speed control, stop signs and speed bumps are not considered speed control.

Committee Member Wilson states the issues for Emergency Response teams when dealing with speed bumps, affecting response time.

Committee Member Pintabona states Police are only allowed to write warnings for the area without a speed control survey.

Chairperson Beltran states there has been no survey study done in this area.

**MOTION:** Amend the Municipal Code to 25mph for the area so Police may enforce the speed limit on El Portal between McKee and Parsons and increase Police presence.

**COUNCIL ACTION REQUIRED:** Approves amending the Municipal Code to 25mph on El Portal between McKee and Parsons.

Michael Hren Moved, Leon Pintabona Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Juan Olmos, Leon Pintabona, Michael Hren, Casey Wilson

2. Request #20-017 – Request Same Signage That Is Posted on E. North Bear Creek Drive at The Same Curve (Joy S. Widmark)

*(Citizens states in less than a year there have been two accidents on her property from lack of signage. Citizen states the other side of Bear Creek has more signage at the same curve.)*

Chairperson Beltran states the direction in which the signs are being requested would be considered to be the County property side of E. S. Bear Creek Dr. It would not be a city issue.

**MOTION:** Deny.

COUNCIL ACTION REQUIRED: No

Leon Pintabona Moved, Casey Wilson Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Casey Wilson, Leon Pintabona, Michael Hren, Juan Olmos

3. Request #20-018 – Request Red Curb to Be Painted on All 4 Quadrants for Distances as Described on Drawing. In Support of Quiet Zones and Median Work Being Performed by BNSF And Amtrak (City Engineer Michael Beltran)

*(City Engineer states red curb needs to be painted on all 4 quadrants as described on drawing.)*

Chairperson Beltran states this item needs to be put into the Municipal Code, work is already going to be taken care of by property owner.

**MOTION:** Amend the Municipal Code to include the red cubs on all 4 quadrants.

COUNCIL ACTION REQUIRED: Approves amending the current Municipal Code to include the red curbs.

Michael Hren Moved, Juan Olmos Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Casey Wilson, Leo Pintabona, Michael Hren, Juan Olmos

**G. ADJOURNMENT**

The meeting was adjourned at 3:25 p.m.

By:

Approved:

Nicole Tabares  
Administrative Assistant/  
Recording Secretary

Michael Beltran  
City Engineer/ Chairperson

## TRAFFIC COMMITTEE

### MINUTES

September 8, 2020

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#### A. CALL TO ORDER

The meeting was called to order at 2:00 p.m.

#### B. ROLL CALL

Present: Chairperson: Beltran, Michael – City Engineer  
Committee Dabney, Dan, - Police Chief Designee  
Members: Hren, Michael - Planning Manager Designee  
Olmos, Juan - Public Works Designee  
Wilson, Casey – Fire Chief Designee

Absent:

#### C. ORAL COMMUNICATIONS

None.

#### D. CONSENT CALENDAR

1. Traffic Committee Minutes of July 14, 2020

RECOMMENDATION:

Approve and file.

Michael Hren Moved, Dan Dabney Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Juan Olmos, Dan Dabney, Michael Hren, Casey Wilson

Clerk's Note: Staff recommendation approved.

## **E. REPORTS**

1. Committee Member Reports
2. The Brown Act Training PowerPoint

## **F. BUSINESS**

1. Request #2014 – Request for a Handicap Parking Space in Front of 260 W. 22<sup>nd</sup> St. (Margaret Biddison)  
*(Citizen states neighbors park their cars in front of her home, doesn't have a place to park with ease of access to her home.)*

Committee Chairperson Michael Beltran states on street ADA parking is generally not current ADA Standard compliant. Does not meet the requirements.

**MOTION:** Denied.

**COUNCIL ACTION REQUIRED:** None at this time.

Dan Dabney Moved, Juan Olmos Seconded

**Vote:** 5-0

**Voting Aye:** Michael Beltran, Juan Olmos, Dan Dabney, Michael Hren, Casey Wilson

2. Request #20-015 – Request for No Parking zones to be put in along the North and South sides of Eagle St. (Mark Purdom)  
*(Citizen states parking in these areas restricts ingress and egress for the delivery trucks serving the facilities.)*

Citizen offers to pay for pedestrian gate pathway from lease parking lot to the Public Works Dept. parking lot, and to supply funds to paint curbs red and post signs along Eagle St.

**MOTION:** Approve all items.

**COUNCIL ACTION REQUIRED:** Yes

Dan Dabney Moved, Casey Wilson Seconded

**Vote:** 4-1

**Voting Aye:** Michael Beltran, Casey Wilson, Dan Dabney, Michael Hren

**Voting No:** Juan Olmos

**G. ADJOURNMENT**

The meeting was adjourned at 2:52 p.m.

By:



Nicole Tabares  
Administrative Assistant/  
Recording Secretary

Approved:



Michael Beltran  
City Engineer/ Chairperson

# City of Merced

RQ#: 20-015

## Citizen Action Request Form: Traffic Committee

Contact Person: Mark Purdom - AIM Property Management Day Phone: [REDACTED]

Email Address: [REDACTED]

Address: [REDACTED] Today's Date: 08/27/20

Location of Concern: See attached.

Describe Concerns At This Location: See attached.

### For Official Use Only:

Project #: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date Field Inspected: \_\_\_\_\_

Field Inspection Results: \_\_\_\_\_

Date Response To Contact Person: \_\_\_\_\_ Resolution of Concern: \_\_\_\_\_

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

\_\_\_\_\_  
Traffic Engineer's Signature or Designee

\_\_\_\_\_  
Date

Location of Concern: Eagle Street parking on the south entrance and exit of the Olam and Werner/North Coast Distribution Facilities.

Describe Concerns at this location: There are an excessive amount of vehicles parking on the north and south sides of Eagle Street at the south entrance and exits of the Olam and North Coast/Werner Distribution Facilities. Both of these facilities have a high volume of 65 foot truck and trailers coming and going at all times. In our opinion, this presents safety issues for all parties. The parking of these vehicles in certain areas on Eagle Street also restricts reasonable ingress and egress for the delivery trucks servicing both distribution facilities. The City of Merced entered into a parking lot lease on the north portion of the North Coast/Werner building fronting on Grogan Avenue with the property owner, Lyons Investments. Most all of the vehicles parking on the street appear to be City of Merced employees. The parking area under lease seems ample to accommodate the majority of these vehicles parking on Eagle Street. We have attached an aerial and have highlighted in red the requested "No Parking" areas and the additional parking lot leased area.

IN AVE

Parkman lot lease



400 ft

# City of Merced

RQ#: 20-016

## Citizen Action Request Form: Traffic Committee

Contact Person: Jose and Mayra Lopez Day Phone: [REDACTED]

Email Address: [REDACTED]

Address: [REDACTED] Today's Date: 10/16/2020

Location of Concern (map attachments and photographs are encouraged):

El Portal Dr. between Parsons Ave. and McKee Rd. (See attached map).

### Describe Concerns At This Location:

There is steady traffic exceeding safe driving practices and the posted 30 mph speed limit, along with two blind "S" curves along the area. There are two highly trafficked areas that are accessed by cyclists and pedestrians. Rahilly Park is within 0.3 miles of the area. Chenoweth Elementary is within 0.4 miles of the area. Childrens, pets, and seniors are frequently accessing these areas. We have videos capturing drivers not yielding to vehicles already backing up more than half way on the street from the driveway. We get constant complaints of cars not slowing down, yielding or stopping for pedestrians crossing the street to access the community mailboxes. Drivers use El Portal Dr. as a thorough fare. The recent developed at El Moraga has increased the traffic in the area. Recently MPD ticketed two drivers at 47 mph and 58 mph. We are requesting some form of speed control implementation in this area. Perhaps lowering the speed limit to 25 mph. Also, posting more speed limit signs, as right now there is only two 30 mph signs on El Portal one westbound and another eastbound. There are no signs indicating the curves along the street. Most of all, a traffic light at El Portal Dr. and Parsons Ave. should strongly be considered. Please prioritize the lives of the children and families living here and the lives of those accessing the schools and parks in the area. Help us prevent a tragedy and keep Merced safe.

### For Official Use Only:

Project #: Date Received: Date Field Inspected:

Field Inspection Results:

Date Response To Contact Person:

Resolution of Concern:

Date Completed:

Traffic Engineer's Signature or Designee

Date

Google Maps schools



Map data ©2020 500 ft

Rating ▼

Hours ▼

More filters

## John Muir Elementary School

4.5 ★★★★★ (8)

Elementary school · 300 W 26th St  
(209) 385-6667



### Directions

## Merced High School

3.9 ★★★★★ (23)

High school · 205 W Olive Ave  
Open until 3:00 PM · (209) 325-1000



Website



### Directions

## Cruickshank Middle School

2.3 ★★☆☆☆ (3)

Middle school · 601 Mercy Ave  
(209) 385-6330



Website



### Directions

Peterson Elementary School

4.3 ★★★★★ (6)

School · 848 E Donna Dr  
(209) 385-6700



Website



### Directions

# City of Merced

RQ# : 20-018

## Citizen Action Request Form: Traffic Committee

Contact Person: Michael Beltran Day Phone: 2093856898  
Email Address: BELTRAN@CITY OF MERCEDE.ORG  
Address: CITY HALL Today's Date: 11/03/2020  
Location of Concern (map attachments and photographs are encouraged):  
K Street @ BNSF Crossing

Describe Concerns At This Location: red curb painted on all  
4 Quadrants for distances as described  
on Drawing. In Support of Quiet Zones  
and Median Work being performed by  
BNSF and AMTRAK

### For Official Use Only:

Project #: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date Field Inspected: \_\_\_\_\_

Field Inspection Results: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Response To Contact Person: \_\_\_\_\_

Resolution of Concern: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

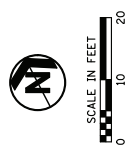
\_\_\_\_\_  
Traffic Engineer's Signature or Designee

\_\_\_\_\_  
Date

LEGEND

XX-XX PROPOSED SIGN  
XX-XX EXISTING SIGN

--- CONSTRUCTION LIMITS  
--- BNSF RIGHT-OF-WAY  
--- RIGHT-OF-WAY

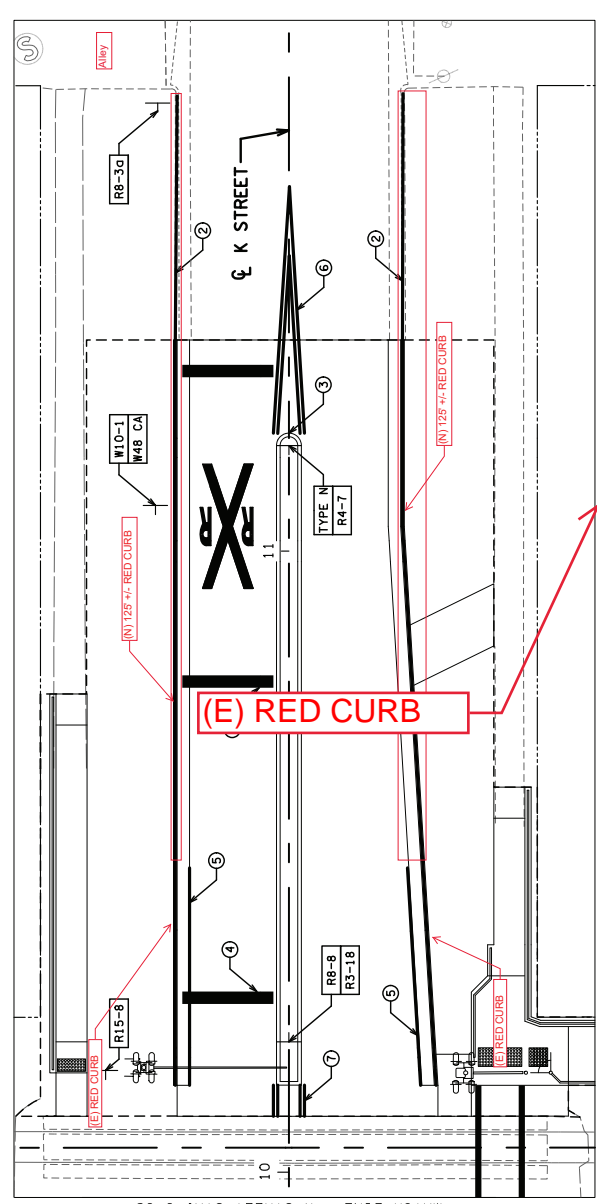
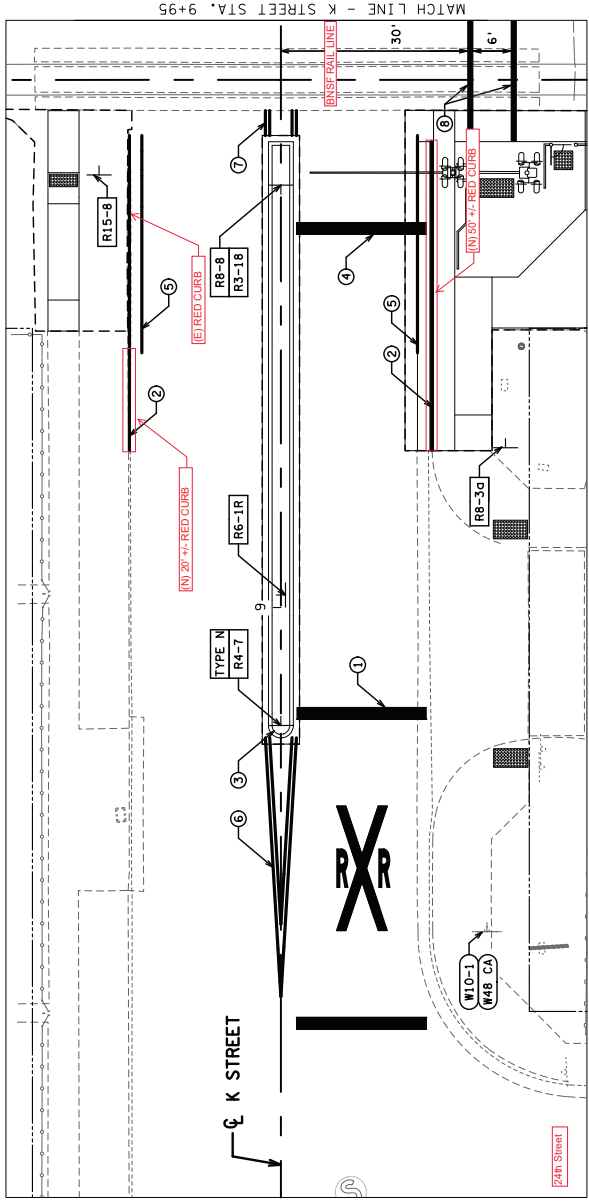


GENERAL NOTES:

- MET SANDBLAST AND REMOVE CONFLICTING STRIPES AND/OR PAVEMENT MARKINGS.
- REMOVE ALL CONFLICTING SIGNS.
- ALL STRIPING SHALL BE THERMOPLASTIC PER CITY OF MERCED STANDARDS.

SPECIFIC NOTES:

- 1 PAVEMENT MARKINGS AS SHOWN PER CALTRANS STD PLAN A24B.
- 2 RED CURB.
- 3 PAINT MEDIAN NOSE YELLOW WITH RPM TYPE D PER CALTRANS STD PLAN A20A.
- 4 24" SOLID WHITE STOP LINE PLACED 8' IN ADVANCED OF GATE ARM.
- 5 4" SOLID WHITE EDGELINE PER CALTRANS STD PLAN A20B, DETAIL 27B.
- 6 4" DOUBLE YELLOW LINE PER CALTRANS STD PLAN A20A, DETAIL 22. 11:20 TAPER.
- 7 4" DOUBLE YELLOW STRIPING PER CALTRANS STD PLAN A20B, DETAIL 28.
- 8 12" SOLID WHITE LINE.



(E) RED CURB

DO NOT STOP ON TRACKS

R4-7 24"x30"

R15-8 36"x18"

W10-1 36"x36"

W48 (CA) 30"x24"

R8-8 24"x30"

R3-18 24"x24"

R6-1R 12"x36"

R8-3g 12"x18"

LOOK

TRACKS

NO STOPPING

ONE WAY

TYPE N 18"x18"

RX

W

FOR REVIEW ONLY				DRAWING NUMBER	
				R106	
				FACILITIES ENGINEERING	
				KANSAS CITY, MO 64108	
				FILE NAME	
				X-BDR 2020 22X34 BNSF-STB.dwg	
				STATION	
				MERCED	
				PROJECT TYPE	
				PLATFORM	
				STATE	
				CALIFORNIA	
				PROJECT ID	
				TBD	
				PROJECT DESC.	
				AMTRAK STATION PLATFORM EXPANSION	
				DRAWING DESC.	
				PAVEMENT MARKING AND SIGNING PLAN	
				DESIGNER	
				TKDA	
				DESIGNER PROJ. NO.	
				17732.000	
				DESIGN PROJ. MGR	
				MATT ARCHER	
				ISSUED FOR CONSTRUCTION	
				NO.	
				DATE	
				BY	
				DESCRIPTION OF REVISIONS	

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
AMENDING SECTIONS 10.16.010, "SPEED  
LIMITS," AND 10.28.230, "NO PARKING ZONES"  
OF THE MERCED MUNICIPAL CODE**

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

**SECTION 1. AMENDMENT TO CODE.** Section 10.16.010, "Speed Limits," of the Merced Municipal Code is hereby amended by adding the following speed limit:

*"Street:*  
El Portal Drive

*Portion:*  
Twenty-five (25) miles per hour  
between McKee Road and Parsons  
Avenue"

**SECTION 2. AMENDMENT TO CODE.** Section 10.28.230, "No Parking Zones," of the Merced Municipal Code is hereby amended by adding the following portions of the following streets:

*"Street:*  
Both sides of Eagle Street

*Portion:*  
Beginning at the east line of  
Condor Drive, thence easterly 510  
feet.

Both sides of 'K' Street

Beginning at a point 194 feet  
south west of the south line of  
West 25th Street, thence  
southwesterly 256 feet."

**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 \_\_\_\_\_, 2021, and was passed and adopted at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2021, by the following called vote:

**AYES: Council Members:**

**NOES: Council Members:**

**ABSTAIN: Council Members:**

**ABSENT: Council Members:**

**APPROVED:**


\_\_\_\_\_  
**Mayor**

**ATTEST:**  
**STEPHANIE R. DIETZ, CITY CLERK**

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

**(SEAL)**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**City Attorney** **Date** 1/4/2020



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item K.1.**

Meeting Date: 2/1/2021

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

**SUBJECT:** Adoption of a Resolution Selecting the City of Merced Nominee for the Merced County Seat to be Presented to the San Joaquin Valley Air Pollution Control District Governing Board

### REPORT IN BRIEF

Considers nominating one applicant for appointment to the San Joaquin Valley Air Pollution Control District Governing Board.

### RECOMMENDATION

**City Council** - Adopt a motion adopting **Resolution 2021-06**, a Resolution of the City Council of the City of Merced, California, selecting a nominee for appointment by the Special City Selection Committee to the San Joaquin Valley Air Pollution Control District Governing Board

### ALTERNATIVES

1. Designate nominee as outlined in the staff report; or,
2. Refer to the City Manager with specific direction

### AUTHORITY

City of Merced Charter Section 200 and Section 405.  
Health and Safety Code Section 40600.5

### DISCUSSION

The State established a valley wide Special City Selection Committee with the responsibility of selecting the fifteen member San Joaquin Air Pollution Control District Governing Board. Presently, a vacancy exists that must be filled by a City Council Member from a city within Merced County. The following three applicants have applied for the seat. The matter of nomination is now before the Council.

1. City of Merced Council Member Fernando Echevarria
2. City of Los Banos Council Member Deborah Lewis
3. City of Gustine Council Member Dennis Brazil

### ATTACHMENTS

1. Resolution
2. Letter from San Joaquin Valley Air Pollution Control District
3. Application of Fernando Echevarria

- 4. Application of Deborah Lewis
- 5. Application of Dennis Brazil

**RESOLUTION NO. 2021-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
SELECTING A NOMINEE FOR APPOINTMENT  
BY THE SPECIAL CITY SELECTION  
COMMITTEE TO THE SAN JOAQUIN VALLEY  
AIR POLLUTION CONTROL DISTRICT  
GOVERNING BOARD**

WHEREAS, Health and Safety Code Section 40600.5 created a Special City Selection Committee for the appointment of city members of the San Joaquin Valley Air Pollution Control District (“District”) Governing Board;

WHEREAS, the Special City Selection Committee has adopted procedures and a rotation schedule for making their appointments, and based upon the adopted rotation schedule a city council member representing a city with a population of less than 100,000 from Merced County shall be appointed to the District Governing Board;

WHEREAS, in selecting a nominee for appointment by the Special City Selection Committee to the District Governing Board, the City Council considered the application materials from the eligible candidates; and,

WHEREAS, the vote to select a nominee took place as an item on the publicly noticed agenda and was discussed during the normal City Council meeting with time for public comment.

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

SECTION 1. The City of Merced nominates \_\_\_\_\_ to the Special City Selection Committee for appointment to the District Governing Board.

///

///

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2021, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:


\_\_\_\_\_  
Mayor

ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

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

(SEAL)

APPROVED AS TO FORM:

 1/25/21  
City Attorney Date



January 12, 2021

Jennifer Levesequé  
City of Merced  
678 W 18th Street, 1st Floor  
Merced, CA 95340

**RE: REVISED: APPOINTMENT TO THE GOVERNING BOARD OF  
THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL  
DISTRICT – MERCED CITY SEAT**

Dear Jennifer Levesque:

*\*Due to mail delays, we were just notified of an additional applicant.  
Please disregard the version of this letter dated January 8, 2021.*

There is currently a vacancy on the San Joaquin Valley Air Pollution Control District (District) Governing Board that must be filled by a Councilmember from a "small" city within Merced County. Pursuant to the Health and Safety Code Section 40600.5, appointments to the District Governing Board will be made by the San Joaquin Valley Special City Selection Committee (Committee). According to the procedures adopted by the Committee, the next step in the appointment process is for all cities within Merced County to select a candidate from the applicants for the vacant position, as follows:

- **Councilmember Deborah Lewis, City of Los Banos**
- **Councilmember Dennis Brazil, City of Gustine**
- **Councilmember Fernando Echevarria, City of Merced**

Your City Council must hold a vote to either nominate one of the applicants listed above to the Committee for appointment to the District Governing Board, or reject all applicants. The vote must take place as an item on your City Council's publicly noticed agenda, and be discussed during your regularly scheduled City Council meeting. Attached is a sample resolution for your consideration. Also attached is a copy of the proposed candidates' applications.

January 12, 2021

REVISED: APPOINTMENTS TO THE GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR  
POLLUTION CONTROL DISTRICT – MERCED CITY SEAT  
Page 2 of 2

In order for your city's vote to be counted towards nomination to the Committee, you must return a copy of your City Council Resolution on this matter to the District by **January 22, 2021**, to the following address:

Samir Sheikh  
Executive Director/APCO  
San Joaquin Valley Unified APCD  
1990 E. Gettysburg Avenue  
Fresno, CA 93726

Thank you in advance for your timely action on this matter. If you have any questions, please call me at (559) 230-6036.

Sincerely,



Samir Sheikh  
Executive Director/APCO

Attachments:

Sample Resolution (1 page)  
Deborah Lewis Candidate Application (1 page)  
Dennis Brazil Candidate Application (2 pages)  
Fernando Echevarria Candidate Application (2 pages)



**San Joaquin Valley**  
AIR POLLUTION CONTROL DISTRICT

JAN 12 2021

Permits Services  
SVAPCD

APPLICATION FOR APPOINTMENT AS A CITY REPRESENTATIVE  
ON GOVERNING BOARD OF  
THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

**Current Vacancies**

**Small City:** One member representing the cities with a population less than 100,000 from Merced County. Councilmembers from Cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced are eligible to apply.

If you are an elected official on the council of the cities identified above, you may submit an application for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

<b>Applicant Name:</b>	FERNANDO ECHEVARRIA
<b>Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):</b>	[REDACTED] MERCED CA. 95341
<b>Mailing Address:</b>	[REDACTED] MERCED CA. 95341
<b>Telephone:</b>	[REDACTED] Primary [REDACTED] Alt.
<b>Email Address:</b>	echevarria@cityofmerced.org
<b>Applicant Signature:</b>	[Signature] Date: 1-5-21

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **January 7, 2020**:

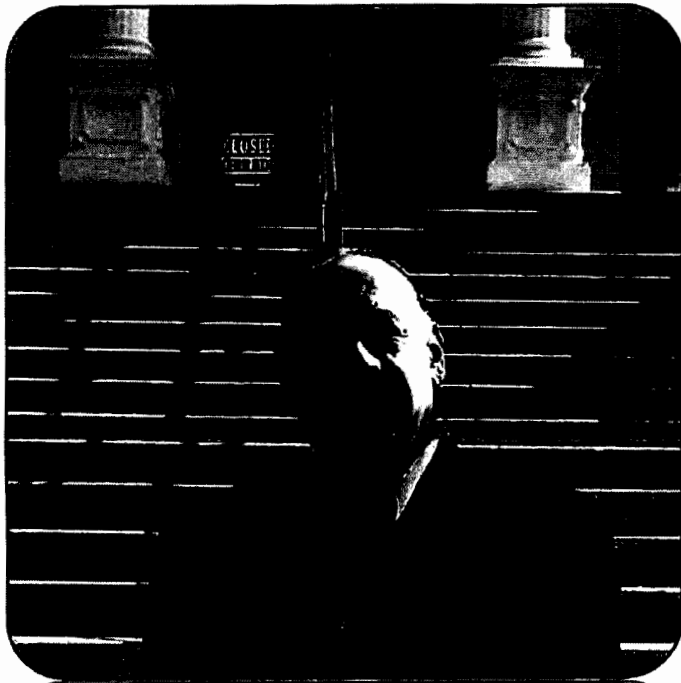
Samir Sheikh  
Air Pollution Control Officer  
San Joaquin Valley APCD  
1990 E. Gettysburg Avenue, Fresno, CA, 93726  
Or send via email to [ExecOffice@valleyair.org](mailto:ExecOffice@valleyair.org)

**VOTE**



**FERNANDO**

**ECHEVARRIA**



**Merced  
City**

**Council**

**DISTRICT 2**

***Experience*** in law enforcement for 10 years in public and private, 10 years with Merced County Health Dept., former employee of Merced City School District and Atwater Elementary School District.

***An advocate*** for Public Safety, working on the infrastructure, for helping in bringing more retail business to South Merced, for providing the youth of South Merced with more resources.

**Contact Phone, Cell # (209) 639-9138**

Treasurer Earl Brewer, Jr, Secretary Kenny Roberts  
FPPC#1400835



# San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

## APPLICATION FOR APPOINTMENT AS A CITY REPRESENTATIVE ON GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

### Current Vacancies

**Small City:** One member representing the cities with a population less than 100,000 from Merced County. Councilmembers from Cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced are eligible to apply.

If you are an elected official on the council of the cities identified above, you may submit an application for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

<b>Applicant Name:</b>	Deborah Lewis
<b>Residence Address</b> (Must live within the boundaries of the San Joaquin Valley APCD):	[Redacted] Los Banos, CA 93635
<b>Mailing Address:</b>	[Redacted] Los Banos, CA 93635
<b>Telephone:</b> ([Redacted]) ([Redacted])	Primary Alt.
<b>Email Address:</b>	deborah.Lewis@losbanos.org
<b>Applicant Signature:</b>	<i>Deborah Lewis</i> Date: 12-16-20

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **January 7, 2020**:

Samir Sheikh  
Air Pollution Control Officer  
San Joaquin Valley APCD  
1990 E. Gettysburg Avenue, Fresno, CA, 93726  
Or send via email to [ExecOffice@valleyair.org](mailto:ExecOffice@valleyair.org)



# San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

## APPLICATION FOR APPOINTMENT AS A CITY REPRESENTATIVE ON GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

### Current Vacancies

**Small City:** One member representing the cities with a population less than 100,000 from Merced County. Councilmembers from Cities of **Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced** are eligible to apply.

If you are an elected official on the council of the cities identified above, you may submit an application for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

<b>Applicant Name:</b>	DENNIS BRAZIL	
<b>Residence Address</b> (Must live within the boundaries of the San Joaquin Valley APCD):	[REDACTED]	
<b>Mailing Address:</b>	[REDACTED]	
<b>Telephone:</b>	[REDACTED] ( )	Alt.
<b>Email Address:</b>	DENNIS9599@ATT.NET	
<b>Applicant Signature:</b>	[Signature]	<b>Date:</b> 1-7-21

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **January 7, 2020**:

Samir Sheikh  
Air Pollution Control Officer  
San Joaquin Valley APCD  
1990 E. Gettysburg Avenue, Fresno, CA, 93726  
Or send via email to [ExecOffice@valleyair.org](mailto:ExecOffice@valleyair.org)

# Application for as a City Representative for San Joaquin Valley Air District

## **Small City**

Thank you for the opportunity to apply for the open seat on the board. With may past 4 years (2012-2016) of being on the board, I believe I would bring Knowledge and Experience to the Board and the District.

I look forward to hearing back from you.

Thank you,

Dennis Brazil

- City of Gustine Mayor 2010-2016
- San Joaquin Valley Board Member 2012-2016
- Environmental Justice Advisory Group 2020-Current day
- Board President of West Ambulance 2019-Current Day
- City of Gustine City Council 2020-Current Day
- Operations Manager for 28 Years 1991-2019 Retired



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item K.2.**

Meeting Date: 2/1/2021

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**SUBJECT:** Discussion on the Format of Future City Council Meetings During COVID-19

### **REPORT IN BRIEF**

Discuss the format of City Council Meetings.

### **RECOMMENDATION**

Provide staff direction on the format of future City Council Meetings.



# CITY OF MERCED

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

## ADMINISTRATIVE REPORT

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**Agenda Item K.3.**

Meeting Date: 2/1/2021

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**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.4.**

Meeting Date: 2/1/2021

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**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.