



CITY OF MENDOTA

"Cantaloupe Center Of The World"

ROLANDO CASTRO
Mayor

JESUS MENDOZA
Mayor Pro Tem

JOSE ALONSO

JOSEPH R. RIOFRIO

OSCAR ROSALES

AGENDA MENDOTA CITY COUNCIL

Regular City Council Meeting
CITY COUNCIL CHAMBERS
643 QUINCE STREET
February 9, 2021
6:00 PM

CRISTIAN GONZALEZ
City Manager

JOHN KINSEY
City Attorney

The Mendota City Council welcomes you to its meetings, which are scheduled for the 2nd and 4th Tuesday of every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda. **Please turn your cell phones on vibrate/off while in the council chambers.**

Any public writings distributed by the City of Mendota to at least a majority of the City Council regarding any item on this regular meeting agenda will be made available at the front counter at City Hall, located at 643 Quince Street Mendota, CA 93640, during normal business hours, 8 AM – 5 PM.

In compliance with the Americans with Disabilities Act, individuals requiring special assistance to participate at this meeting please contact the City Clerk at (559) 655-3291. Notification of at least forty-eight hours prior to the meeting will enable staff to make reasonable arrangements to ensure accessibility to the meeting.

Si necesita servicios de interpretación para participar en esta reunión, comuníquese con la Secretaria de la Ciudad al (559) 655-3291 o (559) 577-7692 entre las 8 a.m. y las 5 p.m. De lunes a viernes. La notificación de al menos veinticuatro horas antes de la reunión permitirá al personal adoptar las disposiciones necesarias para garantizar su participación en la reunión.

If you would like to participate in this meeting via Zoom, please use the following information:

Dial-in number: 1(669) 900-6833 Meeting ID: 481 456 459 Password: 93640

<https://zoom.us/j/481456459?pwd=S1ZEc0VYaXRRTFp6c293cHMyQIA1dz09>

CALL TO ORDER

ROLL CALL

FLAG SALUTE

FINALIZE THE AGENDA

1. Adjustments to Agenda
2. Adoption of final Agenda

PRESENTATIONS

1. City Council to receive presentations from Mendota Pentecostal Church, Mendota Youth Recreation, the Boys & Girls Club of Fresno County, and Westside Youth, Inc. regarding the use of CARES Act/COVID-19 grant funding.

CITIZENS' ORAL AND WRITTEN PRESENTATIONS

At this time, members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to the City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium and state their names and addresses for the record. Please watch the time.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of January 26, 2021.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

CONSENT CALENDAR

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. JANUARY 20, 2021 THROUGH FEBRUARY 2, 2021
WARRANT LIST CHECK NOS. 47766 THROUGH 47826
TOTAL FOR COUNCIL APPROVAL = \$381,418.64
2. Proposed adoption of **Resolution No. 21-12**, approving and accepting the public park landscape improvements constructed for Tract No. 6218 "La Colonia".

BUSINESS

1. Council discussion and appointment of a Planning Commissioner to the Recreation Commission.
 - a. *Receive report from City Clerk Cabrera-Garcia*
 - b. *Inquiries from Council to staff*
 - c. *Mayor Castro opens floor to receive any comment from the public*
 - d. *Council motion to appoint a Planning Commissioner to the Recreation Commission*
2. Council discussion and consideration of **Ordinance No. 21-04**, entrance into a development agreement in the matter of Application No. 20-24, the Left Mendota 1, LLC project.
 - a. *Receive report from City Planner O'Neal*
 - b. *Inquiries from City Council to staff*
 - c. *Mayor Castro opens floor to receive any comment from the public*
 - d. *Council considers waiving the second reading and adoption of Ordinance Nos. 21-04*

3. Council discussion and consideration of **Ordinance No. 21-05**, Amending Chapter 8.37 of Title 8 of the Mendota Municipal Code to Cure Omissions in the Adoption of Ordinance No. 20-16.
 - a. Receive report from City Attorney Kinsey*
 - b. Inquiries from Council to staff*
 - c. Mayor Castro opens floor to receive any comment from the public*
 - d. Council provides any input and waives the first reading of Ordinance No. 21-05, and sets the public hearing for the February 23rd City Council Meeting*

4. Council discussion and consideration of **Ordinance No. 21-06**, Amending Chapter 15.04 of Title 15 of the Mendota Municipal Code to Exempt Razor Wire Use by Commercial Cannabis Businesses.
 - a. Receive report from City Attorney Kinsey*
 - b. Inquiries from Council to staff*
 - c. Mayor Castro opens floor to receive any comment from the public*
 - d. Council provides any input and waives the first reading of Ordinance No. 21-06, and sets the public hearing for the February 23rd City Council Meeting*

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Finance Officer
 - a) Grant Update

2. City Engineer
 - a) Update

3. City Attorney
 - a) Update

4. City Manager

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)

2. Mayor

CLOSED SESSION

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
CA Government Code § 54957(b)
Title: City Manager

ADJOURNMENT

CERTIFICATION OF POSTING

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota City Council Regular Meeting of February 9, 2021, was posted on the outside bulletin board located at City Hall, 643 Quince Street, on Friday, February 5, 2021 at 3:30 p.m.



Celeste Cabrera-Garcia, City Clerk



MINUTES OF MENDOTA REGULAR CITY COUNCIL MEETING

Regular Meeting

January 26, 2021

Meeting called to order by Mayor Castro at 6:06 p.m.

Roll Call

Council Members Present: Mayor Rolando Castro, Mayor Pro Tem Jesus Mendoza, Councilors Jose Alonso, Joseph Riofrio, and Oscar Rosales

Council Members Absent: None

Flag salute led by Councilor Alonso

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda.

A motion was made by Councilor Rosales to adopt the agenda, seconded by Mayor Pro Tem Mendoza; unanimously approved (5 ayes).

PRESENTATIONS

1. Public Works Superintendent Banuelos to present the Public Works Department's 2020 Employee of the Year award to Maintenance Worker I Maria Alvarez.

Public Works Superintendent Banuelos presented the Public Works Department's 2020 Employee of the Year award to Maintenance Worker I Maria Alvarez.

The Council congratulated Ms. Alvarez.

At 6:11p.m. Mayor Castro announced that there would be a recess.

At 6:13 p.m. the Council reconvened the meeting.

2. Chief of Police Smith to present the Police Department's 2020 Employee of the Year award to Police Officer Gerardo Galaviz.

Chief of Police Smith requested that the item be moved to a future meeting agenda.

3. City Manager Gonzalez to present the City Administration Department's 2020 Employee of the Year award to Director of Administrative Services Jennifer Lekumberry.

City Manager Gonzalez presented the City Administration Department's 2020 Employee of the Year award to Director of Administrative Services Jennifer Lekumberry.

Council congratulated Ms. Lekumberry.

Ms. Lekumberry made a statement.

At 6:22 p.m. Mayor Castro announced that there would be a recess.

At 6:25 p.m. the Council reconvened the meeting.

CITIZENS ORAL AND WRITTEN PRESENTATIONS

Joyce Dale (Office of Senator Anna Caballero) – congratulated the Employees of the Year.

Discussion was held on Senator Caballero meeting with Council and staff, and the Senator's efforts for supporting Mendota.

Bethany Matos (West Hills College Firebaugh) – introduced herself.

Discussion was held on different classes that the college is providing; and the college's efforts in promoting college enrollment.

Liberty Lopez – congratulated the Employees of the Year; and commented on education options that West Hills college offers.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of January 12, 2021.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

A motion was made by Councilor Riofrio to approve items 1 and 2, seconded by Councilor Rosales; unanimously approved (5 ayes).

CONSENT CALENDAR

1. JANUARY 6, 2021 THROUGH JANUARY 19, 2021
WARRANT LIST CHECK NOS. 47715 THROUGH 47765
TOTAL FOR COUNCIL APPROVAL = \$1,295,208.84
2. Proposed adoption of **Resolution No. 21-08**, approving the Police Service Dog Contract with Top Dog Training Center.

A request was made to pull item 2 for discussion.

A motion was made by Councilor Riofrio to approve item 1 of the Consent Calendar, seconded by Councilor Alonso; unanimously approved (5 ayes).

2. Proposed adoption of **Resolution No. 21-08**, approving the Police Service Dog Contract with Top Dog Training Center.

Discussion was held on public safety efforts and the new police canine that was acquired.

A motion was made by Councilor Rosales to approve item 2 of the Consent Calendar, seconded by Mayor Pro Tem Mendoza; unanimously approved (5 ayes).

BUSINESS

1. Council discussion and consideration of **Resolution No. 21-09**, acknowledging receipt of the annual audit of City funds.

Mayor Castro introduced the item and Finance Officer Diaz stated that Josh Giosa with Price, Paige & Company would present the City's Financial Statements for the year ended on June 30, 2020.

Josh Giosa with Price, Paige, & Company presented the City's Financial Statements.

Discussion was held on the work of the Finance Department and on the City's financial statements.

A motion was made by Councilor Rosales to adopt Resolution No. 21-09, seconded by Mayor Pro Tem Mendoza; unanimously approved (5 ayes).

2. Council discussion and appointment of residents to the Mendota Recreation and Planning Commissions.

Mayor Castro introduced the item and City Clerk Cabrera-Garcia summarized the report.

Discussion was held on the applications submitted for the Planning Commission.

Jonathan Leiva – stated the reasons as to why he would like to serve on the Planning Commission.

Libertad Lopez – stated the reasons as to why she would like to serve on the Planning Commission.

Joshua Perez – stated the reasons as to why he would like to serve on the Planning Commission.

Mayor Castro appointed Joshua Perez, Libertad Lopez, Jessica Sanchez to serve as regular members on the Planning Commission, and Jonathan Leiva as the alternate member.

A motion was made by Councilor Riofrio to approve Mayor Castro's appointments to the Planning Commission, seconded by Councilor Rosales; unanimously approved (5 ayes).

Discussion was held on the appointments to the Recreation Commission.

Antonio Pizano – stated the reasons as to why he would like to serve on the Recreation Commission.

A motion was made by Councilor Rosales to appoint Antonio Pizano, Jessica Sanchez, and Paul Ochoa to the Recreation Commission, seconded by Councilor Alonso; unanimously approved (5 ayes).

3. Council discussion of the 2018 and 2019 Annual Progress Reports on the Implementation of the Mendota General Plan Housing Element.

Mayor Castro introduced the item and City Planner O'Neal summarized the report.

Discussion was held on the General Plan update.

4. Council discussion and consideration of **Resolution No. 21-10**, ratifying the First and Second Amendments to the Purchase and Sale Agreement with Valley Agricultural Holdings, LLC, for the Purchase of a 59-Acre Parcel Located in the Commercial Cannabis Overlay District.

Mayor Castro introduced the item and City Manager Gonzalez stated that Assistant City

Attorney Castro will be providing the reports for business items 4 and 5.

Assistant City Attorney Castro provided the reports for business items 4 and 5.

At 7:36 p.m. Mayor Castro left the Council Chambers and returned at 7:38 p.m.

Discussion was held on the item.

A motion was made by Councilor Riofrio to adopt Resolution Nos. 21-10 and 21-11, seconded by Councilor Rosales; unanimously approved (5 ayes).

5. Council discussion and consideration of **Resolution No. 21-11**, approving the Third Amendment to the Purchase and Sale Agreement with Valley Agricultural Holdings, LLC, for the Purchase of a 59-Acre Parcel Located in the Commercial Cannabis Overlay District.

The item was heard and approved during business item 4.

6. Council discussion and consideration of **Ordinance No. 21-02**, amending the Official Zoning Map of the City of Mendota in the matter of Application No. 20-23, the Valley Agricultural Holdings, LLC, Commercial Cannabis Project (APN 013-030-68ST); and **Ordinance No. 21-03**, Approving a Development Agreement between the City of Mendota and Valley Agricultural Holdings, LLC, in the matter of Application No. 20-23, the Valley Agricultural Holdings, LLC, Commercial Cannabis Project (Portion of APN 013-030-68ST).

Mayor Castro introduced the item and City Planner O'Neal summarized the report.

Assistant City Attorney Castro provided the report for the item, and requested that the City Council adopt Ordinance 20-03 as it appears in the agenda, with a modification to the section regarding development incentive for both development agreements.

Joseph Amador – inquired about the project.

Dustin Moore (Valley Agricultural Holdings, LLC) – provided information on the security plan for the project.

A motion was made by Councilor Riofrio to adopt Ordinance No. 21-02 and Ordinance No. 21-03 with the suggested modifications, seconded by Councilor Rosales; unanimously approved (5 ayes).

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
 - a. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code section 54956.9 (one case).

At 8:15 p.m. the Council moved into closed.

At 9:03 p.m. the Council reconvened in open session (with Councilor Rosales being absent) and City Attorney Kinsey stated that in regard to item 1 there was no reportable action.

BUSINESS CONTINUED

7. Council discussion and consideration of **Ordinance No. 21-04**, entrance into a development agreement in the matter of Application No. 20-24, the Left Mendota 1, LLC project.

Mayor Castro introduced the item and City Planner O'Neal provided the report and deferred to Assistant City Attorney Castro to provided additional information on the item.

Assistant City Attorney Castro provided information on proposed amendments to the development agreement.

Chris Lefkovitz (Left Bank Holdings, LLC) – provided comment on the proposed amendments to the development agreement.

Discussion was held on the project and the possibility of tabling the item for a future meeting.

A motion was made by Councilor Riofrio to table the item to a future meeting, seconded by Councilor Alonso; unanimously approved (4 ayes, absent: Rosales).

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. City Attorney
 - a) Update

City Attorney Kinsey thanked Assistant City Attorney Castro for his work.

Discussion was held on Mr. Castro's work.

2. City Manager

City Manager Gonzalez provided his report including staff preparing for oncoming weather forecasts, and Governor Newsom lifting the Stay-At-Home order.

Discussion was held on the impacts that oncoming weather will have on the City; and enforcing handicapped parking at various businesses.

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)

Councilor Riofrio commented on the COVID-19 vaccination event that was recently held, and the impacts of the ongoing pandemic.

Mayor Pro Tem Mendoza commented on the COVID-19 vaccination event that was recently held, and on Danny Trejo being drafted by the Los Angeles Football Club.

Councilor Alonso commented on the COVID-19 vaccination event that was recently held and his outreach for the event; and on Danny Trejo being drafted by the Los Angeles Football Club.

2. Mayor

Mayor Castro commented on the COVID-19 vaccination event that was recently held; on Danny Trejo being drafted by the Los Angeles Football Club; and congratulated the Employees of the Year.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 9:38 p.m. by Councilor Alonso, seconded by Mayor Pro Tem Mendoza; unanimously approved (4 ayes, absent: Rosales).

Rolando Castro, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk

CITY OF MENDOTA
CASH DISBURSEMENTS
1/20/2021-2/2/2021
CHECK# 47766-47826

Date	Check #	Check Amount	Vendor	Department	Description
1/20/2021	47766	\$ 103,687.00	CITY OF MENDOTA PAYROLL	GENERAL	PAYROLL TRANSFER FOR 1/4/2021-1/17/2021
1/29/2021	47767	\$ 114.98	ADT SECURITY SERVICES	GENERAL-WATER	SECURITY SERVICES FOR 2/3/21-3/2/21 COMMUNITY CENTER, SECURITY SERVICES FOR 1300 2ND STREET (WATER TP)
1/29/2021	47768	\$ 31,228.59	AETNA LIFE INSURANCE COMPANY	GENERAL	MEDICAL INSURANCE FOR FEBRUARY 2021
1/29/2021	47769	\$ 669.84	AFLAC	GENERAL	AFLAC INSURANCE FOR THE MONTH OF JANUARY 2021
1/29/2021	47770	\$ 45.00	ALEX AUTO DIAGNOSTICS	GENERAL	PROGRAM NEW IGNITION KEY '07 CHEVY SILVERADO (PD)
1/29/2021	47771	\$ 4,778.72	AMERITAS GROUP	GENERAL	VISION INSURANCE FOR FEBRUARY 2021 # 010-039247-00001, DENTAL INSURANCE FOR FEBRUARY 2021 # 010-039247-00002
1/29/2021	47772	\$ 97.66	ARAMARK	GENERAL-WATER-SEWER	PUBLIC WORKS UNIFORM RENTALS 1/21/2021
1/29/2021	47773	\$ 581.02	AT&T MOBILITY	GENERAL	POLICE DEPARTMENT CELL PHONE SERVICE 12/12/20-1/11/21
1/29/2021	47774	\$ 6.94	AUTOZONE, INC.	GENERAL	(1) COMM HALOGEN CAPSULE BULB UNIT #83 (PD)
1/29/2021	47775	\$ 24.94	RENE BAEZA	WATER	REIMBURSEMENT FOR GATE REMOTE
1/29/2021	47776	\$ 600.00	BC LABORATORIES, INCORPORATED	WATER	WATER TESTING: EPA 537-CA EXT
1/29/2021	47777	\$ 1,137.21	BSK ASSOCIATES	WATER-SEWER	MONTHLY WASTEWATER (WEEK 2-5) WQID 12/22/20, 12/15/20, 12/29/20, GENERAL EDT WEEKLY TREATMENT & DISTRIBUTION 1/12/21
1/29/2021	47778	\$ 920.60	CORBIN WILLITS SY'S INCORPORATED	GENERAL-WATER-SEWER	ENHANCEMENT & SERVICE MOMS FEES FOR FEBRUARY 2021
1/29/2021	47779	\$ 280.00	DEPARTMENT OF JUSTICE	GENERAL	(8) BLOOD ALCOHOL ANALYSIS NOVEMBER 2020 (PD)
1/29/2021	47780	\$ 300.00	DISCOUNT SHRED	GENERAL	(2) 96 GAL CONTAINERS- DOCUMENT DESTRUCTION (PD)
1/29/2021	47781	\$ 114,963.15	FOLSOM LAKE FORD, INCORPORATED	GENERAL	(3) 2020 EXPLORER VIN# 1FM5K8AW3LGC93286, VIN# 1FM5K8AW1LGC93285, VIN# 1FM5K8AW5LGC93287
1/29/2021	47782	\$ 143.68	FRESNO COUNTY SHERIFF	GENERAL	RMS JMS ACCESS FEE FOR DECEMBER 2020 (PD)
1/29/2021	47783	\$ 51.68	ID CARDS, INC.	GENERAL	(2) CUSTOM PVC CARD, FRONT & BACK LAMINATION (PD)
1/29/2021	47784	\$ 745.03	SIMPLOT GROWER SOLUTIONS	STREETS	(30) GALLON ROUNDUP POWER MAX (STREETS)
1/29/2021	47785	\$ 6,170.00	LEAGUE OF CALIFORNIA CITIES	GENERAL-WATER-SEWER	MEMBERSHIP DUES FOR CALENDAR YEAR 2021
1/29/2021	47786	\$ 1,496.00	MID VALLEY DISPOSAL, INCORPORATED	REFUSE-STREETS	ROLL OFF BIN EXCHANGE 30Y GREEN (1.38), ROLL OFF BIN EXCHANGE 10Y GREEN (3.42), ROLL OFF BIN EXCHANGE 40Y
1/29/2021	47787	\$ 1,722.76	MUTUAL OF OMAHA	GENERAL	LIFE, AD&D, STD INSURANCE FOR FEBRUARY 2021
1/29/2021	47788	\$ 438.76	OFFICE DEPOT	GENERAL-WATER-SEWER	(11) DESKPAD MONTHLY CALENDARS, (1) HP TONER, (2) PAPER 30%, STICKY NOTES, WRIST REST, (1) WALL CALENDAR
1/29/2021	47789	\$ 411.73	AT&T	GENERAL-WATER-SEWER	MONTHLY SERVICE 559-266-6456 FOR 12/26/20-1/25/21
1/29/2021	47790	\$ 11,656.40	PG&E	GENERAL-WATER-SEWER-STREETS-AIRPORT	WATER DEPARTMENT UTILITIES FOR 12/14/20-1/12/21, CITYWIDE UTILITIES FOR 12/8/2020-1/7/2021
1/29/2021	47791	\$ 763.00	PITNEY BOWES INC.	GENERAL-WATER-SEWER	SERVICE REQUEST-FOLDING MACHINE 3.5HRS LABOUR/TRAVEL
1/29/2021	47792	\$ 233.74	PLATT ELECTRIC SUPPLY	STREETS	(1500) STREET LIGHT WIRES 500FT
1/29/2021	47793	\$ 22,402.85	PROVOST & PRITCHARD	GENERAL-WATER-SEWER-STREETS	645 LA COLONIA (BASS AVE. SUBDIVISION) DEC. 2020, MOWRY BRIDGE FINAL DESIGN & CONSTRUCTION DEC. 2020
1/29/2021	47794	\$ 2,041.98	PURCHASE POWER	GENERAL-WATER-SEWER	POSTAGE METER REFILL FOR 1/12/21 & 1/13/21
1/29/2021	47795	\$ 283.43	QUINN COMPANY	GENERAL-WATER-SEWER	MCF00455-PUMP, 2 HOSES
1/29/2021	47796	\$ 480.06	R&B COMPANY	WATER	(2) FL12T BOX-12NM MTR BOX BODY ONLY NO MOUSEHOLES, (2) 4.74-5.32 DBL STRAP BRNZ SAD BID SEQ# 10
1/29/2021	47797	\$ 1,606.85	RAMON'S TIRE & AUTO	GENERAL-WATER-SEWER-STREETS	FORD EXPLORER #89 LEFT FRONT TIRE SENSOR REPAIR-PD, BACKHOE BIAS FARM TUBE/FIRESTONE.RIGHT TIRE REPAIR
1/29/2021	47798	\$ 125.00	RIGHT NOW PHLEBOTOMY	GENERAL	PHLEBOTOMY SERVICES #21-69 1/13/21 E. JIMENEZ (PD)
1/29/2021	47799	\$ 60,568.75	SIGNATURE PUBLIC FUNDING	WATER-SEWER	SOLAR GENERATING FACILITIES & INTEGRATED SWITCH VF
1/29/2021	47800	\$ 336.35	UNION PACIFIC RAILROAD COMPANY	STREETS	PUBLIC ROADWAY ENCROACHMENT FEBRUARY 2021

CITY OF MENDOTA
CASH DISBURSEMENTS
1/20/2021-2/2/2021
CHECK# 47766-47826

1/29/2021	47801	\$ 188.96	SUNNYSIDE TROPHY	GENERAL-WATER-SEWER	(2) 9X12 ROSEWOOD ADMINISTRATION & PUBLIC WORKS EMPLOYEE OF THE YEAR
1/29/2021	47802	\$ 575.00	TECH MASTER PEST CONTROL	GENERAL-WATER-SEWER	ROJAS PARK SQUIRREL&GOPHER BAIT STATIONS JAN. 2021, PEST CONTROL SERVICE FOR CITY HALL/DMV/YOUTH CENTER
1/29/2021	47803	\$ 58.11	THE HOME DEPOT	GENERAL-WATER-SEWER-STREETS	16KW 4.0GPM ELECTRIC TANKLESS WATER HEATER FOR CITYHALL, (6) 2X27 HUSKY RATCHET STRAP JJ-HOOK 3333,
1/29/2021	47804	\$ 126.88	UNIFIRST CORPORATION	GENERAL-WATER-SEWER	JANITORIAL SERVICES FOR 01/2021 TERRY CLOTHS, MATS
1/29/2021	47805	\$ 341.42	USA BLUEBOOK	WATER-SEWER	(1) 31-33 GAL OFFICE WASTE BAG, FREE CHLORINE REAGENT
1/29/2021	47806	\$ 200.00	VORTAL	GENERAL-WATER-SEWER	WEBSITE MAINTENANCE- SERVER/HOSTING ISSUE, REPAIR
2/2/2021	47807	\$ 302.70	ADT SECURITY SERVICES	GENERAL-WATER-SEWER	SECURITY SERVICES 2/11-3/12/21 CITY HALL/DMV/EDD
2/2/2021	47808	\$ 1,507.51	AUTOMATED OFFICE SYSTEMS	GENERAL-WATER-SEWER	MAINTENANCE CONTRACT COPIER JANUARY 2021-CITY HALL, MAINTENANCE CONTRACT COPIER JANUARY 2021 (PD)
2/2/2021	47809	\$ 98.55	ARAMARK	GENERAL-WATER-SEWER	PUBLIC WORKS UNIFORM RENTALS FOR 1/28/21
2/2/2021	47810	\$ 758.28	AT&T	GENERAL-WATER-SEWER	CITYWIDE TELEPHONE SERVICES 12/25/20-1/24/21, POLICE DISPATCH PHONE SERVICES 12/27/20-1/26/21
2/2/2021	47811	\$ 382.70	COLONIAL LIFE	GENERAL	LIFE INSURANCE PREMIUMS FOR JANUARY 2021
2/2/2021	47812	\$ 90.14	CROWN SERVICES CO.	GENERAL-WATER	TOILET 1XWK 1000 AIRPORT BLVD BLDG #A (PD), TOILET W/SINK 1XWK 1300 2ND ST.
2/2/2021	47813	\$ 327.02	DATAMATIC, INCORPORATED	WATER	MONTHLY SOFTWARE LICENSE AND SERVICE- MARCH 2021
2/2/2021	47814	\$ 573.50	DEPARTMENT OF CONSERVATION	GENERAL	STRONG MOTION INSTRUMENTATION AND SEISMIC HAZARD
2/2/2021	47815	\$ 4,534.39	DOOLEY ENTERPRISES, INCORPORATED	GENERAL	AMMUNITION 40 S&W 180 GR. RANGER T- FULL-METAL JACKET
2/2/2021	47816	\$ 239.78	PLATT ELECTRIC SUPPLY	STREETS	IMT LED4536SC SPECIFIER GRADE (STREET LIGHTS), SAL E011B/10 BALCK GLOVES 10 (STREET LIGHTS)
2/2/2021	47817	\$ 25.00	RAMON'S TIRE & AUTO	WATER-SEWER	RADIAL REPAIR UNIT- LEFT INSIDE PATCH, SUPPLIES, GREY FORD CAR OIL CHANGE, SYNTHETIC OIL & FILTER, TIRE REPAIR
2/2/2021	47818	\$ 65.10	WECO	GENERAL-WATER-SEWER	(6) RENTAL CYL ACETYLENE #4 OXYGEN D&K JANUARY 2021
2/2/2021	47819	\$ 47.21	NORMA LETICIA CUELLAR RAMOS	WATER	MQ CUSTOMER REFUND FOR CUE0007
2/2/2021	47820	\$ 8.72	ANGELICA HERNANDEZ	WATER	MQ CUSTOMER REFUND FOR HER0068
2/2/2021	47821	\$ 50.40	PEDRO J. HERNANDEZ	WATER	MQ CUSTOMER REFUND FOR HER0082
2/2/2021	47822	\$ 0.03	LA COLONIA ORIOLE HOMES INC	WATER	MQ CUSTOMER REFUND FOR LAC0008
2/2/2021	47823	\$ 15.28	ELSA ALDANA GALINDO	WATER	MQ CUSTOMER REFUND FOR MIR0003
2/2/2021	47824	\$ 39.92	JOSE R. RAMIREZ	WATER	MQ CUSTOMER REFUND FOR RAM0149
2/2/2021	47825	\$ 124.81	JANETTA SMITH	WATER	MQ CUSTOMER REFUND FOR SMI0004
2/2/2021	47826	\$ 24.13	WILLIAM SMITH	WATER	MQ CUSTOMER REFUND FOR SMI0005

\$ 381,418.64

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MICHAEL OSBORN, CITY ENGINEER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: ACCEPTANCE OF PUBLIC PARK LANDSCAPING IN LA COLONIA
DATE: FEBRUARY 9, 2021

ISSUE

Shall the City Council adopt Resolution No. 21-12, accepting the planting and irrigation system installed at the public park in the La Colonia development (Lot A of Tract 6218.)

BACKGROUND

The original Vesting Tentative Subdivision Map for La Colonia (VTM No. 2018-01) was approved, subject to conditions of approval, by the City Council on August 14, 2018. One of the conditions of approval was to provide a “mini park” within the development. The final map, accepted by the City Council on February 12, 2019 dedicated Lot A to the City for public park purposes. On or before February 1, 2020 the plantings and irrigation system of the park was completed. As required by the approved improvement plans for the park, the developer’s landscape contractor has continued to maintain the turf, shrubs, trees and associated irrigation system during a one-year establishment and maintenance period.

ANALYSIS

The one-year establishment and maintenance period for the plantings and irrigation of the system of the park has come to an end and the City Engineer and Public Works staff have found the park’s plantings to be well established and the irrigation system to be in working order. Therefore, it is recommended that the City accept these improvements and begin the maintenance of the park.

This acceptance does not include any of the other public improvements associated with Tract 6218. Acceptance of those improvements will occur at a later date, after they are completed and determined to be acceptable.

FISCAL IMPACT

No direct financial impact. There will incremental maintenance costs for the maintenance of the planting and irrigation system; however, these costs are included in the assessment rates applied to each property within Tract 6218 as part of the Landscape and Lighting Maintenance District (LLMD) 2019-01.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 21-12, accepting the planting and irrigation improvements constructed on the public park (Lot A) of Tract 6218, thereby taking over responsibility for on-going maintenance from the developer.

Attachment(s):

1. Resolution No. 21-12

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
AND ACCEPTING THE PUBLIC PARK LANDSCAPE
IMPROVEMENTS CONSTRUCTED FOR
TRACT NO. 6218 “LA COLONIA”**

RESOLUTION NO. 21-12

WHEREAS, Vesting Tentative Subdivision Map No. 2018-01 for La Colonia was approved by the City Council with Resolution 18-63 on August 14, 2018 subject to conditions of approval; and

WHEREAS, the Final Map 18-01 for Tract No. 6218 for the La Colonia subdivision was approved by the City Council with Resolution 19-08 on February 12, 2019; and

WHEREAS, said conditions of approval required the creations of a park within the development; and

WHEREAS, said final map dedicated the 17,336 square foot Lot A for public park purposes to the City of Mendota; and

WHEREAS, the approved park improvement plans required the developer’s contractor to maintain the park improvements for a one-year establishment and maintenance period; and

WHEREAS, the installation of the park’s landscaping including turf, shrubbery, trees and associated irrigation system was completed on February 1, 2020; and

WHEREAS, for the year following the completion of the park’s landscaping the developer’s landscape contractor has been maintaining the irrigation system and plantings; and

WHEREAS, the park’s plantings and irrigation system have been found to be in good condition and working order by the City Engineer and Public Works staff.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the planting and irrigation improvements constructed on the public park (Lot A) of Tract 6218 are accepted;

AND LET IT BE FURTHER RESOLVED, that the developer is no longer responsible for the maintenance of the plantings and irrigation system of Lot A in Tract 6218 and that the maintenance of said public park will now be the responsibility of the City, as part of the Landscape and Lighting Maintenance District (LLMD) 2019-01;

AND LET IT BE FURTHER RESOLVED, that this acceptance is only for the plantings and irrigation of Lot A in Tract 6218 and does not accept or in any way imply acceptance of the remainder of the public improvements in Tract 6218.

Rolando Castro, Mayor

ATTEST:

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 9th day of February, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CELESTE CABRERA-GARCIA, CITY CLERK
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: APPOINTMENT OF A PLANNING COMMISSIONER REPRESENTATIVE TO THE RECREATION COMMISSION
DATE: FEBRUARY 9, 2021

ISSUE

Which Mendota Planning Commissioner representative shall the City Council appoint to the Recreation Commission?

BACKGROUND

The Mendota Recreation Commission, a seven (7) member Commission, consists of four (4) at-large positions and three (3) designated representative positions. The three designated positions consist of representative of the City Council, a representative of the Planning Commission, and a representative of the Mendota Unified School District (“MUSD”).

At previous meetings, the City Council made various appointments to the Recreation Commission but did not appoint a Planning Commission representative, leaving the seat vacant. Pursuant to Mendota Municipal Code (“MMC”) section 2.36.020, the City Council selects individuals to appoint to the Recreation Commission.

ANALYSIS

Staff contacted the Planning Commissioners regarding the opportunity and Commissioners Jonathan Leiva and Jessica Sanchez stated that they would like to be considered for appointment as the representative. It is important to note that Commissioner Sanchez already serves on both the Planning and Recreation Commissions, but she may still be designated as the Planning Commission representative.

FISCAL IMPACT

None.

RECOMMENDATION

Staff recommends that the Council appoint a Planning Commissioner representative to the Mendota Recreation Commission.

Attachment(s):

None

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JEFFREY O'NEAL, AICP, CITY PLANNER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: APPLICATION NO. 20-24, THE LEFT MENDOTA 1, LLC COMMERCIAL CANNABIS PROJECT
DATE: FEBRUARY 9, 2021

ISSUE

In the matter of Application No. 20-24, the Left Mendota I, LLC Commercial Cannabis Project, shall the City Council waive the second reading of and adopt Ordinance No. 21-04?

BACKGROUND

At a regular meeting on January 12, 2021 the City Council conducted a public hearing and introduced and waived the first reading of Ordinance No. 21-04, which would enter the City into a development agreement with Left Mendota I, LLC.

ANALYSIS

Staff's analysis of the project remains unchanged from its original presentation and discussion on January 12, 2021. To finalize the development agreement, a second action is required: the second reading and adoption. If adopted, the ordinance would take effect 30 days later.

ENVIRONMENTAL

The City Council has determined that the proposed activities constitute an incremental increase to activities already occurring on the site and that CEQA Guidelines Section 15061(b)(3) applies. Under this "common sense" rule, if it can be shown with certainty that the project does not have the potential to have a significant effect on the environment, it is not subject to further environmental review. A notice of exemption will be filed with the State Clearinghouse.

PUBLIC NOTICE

No public notice is required for this second reading of the ordinances.

FISCAL IMPACT

Review and processing of the planning applications, engineering plans, and building plans are paid for by the applicant.

RECOMMENDATION

Staff recommends that the City Council waives the second reading of and adopts Ordinance No. 21-04, which would enter the City into a development agreement with Left Mendota I, LLC.

Attachment(s): Ordinance No. 21-04

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE COUNCIL
OF THE CITY OF MENDOTA APPROVING
AMENDMENTS TO DEVELOPMENT
AGREEMENT NO. 2018-01 IN THE MATTER
OF APPLICATION NO. 20-24, THE LEFT
MENDOTA 1, LLC COMMERCIAL CANNABIS
PROJECT (APNs 013-280-15 & 22S)**

ORDINANCE NO. 21-04

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers; and

WHEREAS, on November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act (“AUMA”), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult- Use Cannabis Regulation and Safety Act (“MAUCRSA”), which creates a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code sections 65864 *et seq.* (the “Development Agreement Statute”) which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, on September 12, 2017, the City Council of Mendota (“City Council”) adopted Ordinance No. 17-13 establishing zoning limitations and requirements for all cannabis businesses, including the proposed cannabis facility to be located on APNs 013-280-15 and 22S.

WHEREAS, since September 12, 2017, the City Council of the City of Mendota has adopted additional regulations for administration of commercial cannabis operations, which regulations are codified in Chapters 8.37 and 17.99 of the Mendota Municipal Code; and

WHEREAS, on or about March 13, 2018 the City and Marie Street Development, LLC entered into Development Agreement No. 2018-01 (the “Development Agreement”) to: (i) facilitate the orderly development of the Site in general and specifically to ensure that such development is consistent with Title 17 of the Mendota Municipal Code; (ii) create a physical environment that is consistent with, complements, and promotes the purposes and intent of the Commercial Cannabis Overlay District and the regulations adopted therewith; (iii) protect natural resources from adverse impacts; and (vi) reduce the economic risk of development of the Site to both City and Developer; and

WHEREAS, the Development Agreement authorized development of a cannabis business for the cultivation, manufacturing, distribution, and testing of cannabis and cannabis products (“the Project”) and provided for certain financial considerations; and

WHEREAS, the City of Mendota (“City”) has received an application from Left Mendota 1, LLC (“Developer”) to augment the Project via the addition of approximately 2.0 acres of greenhouses and to include delivery services for cannabis and cannabis products (hereinafter “the Project”); and

WHEREAS, the City and Developer seek to amend the Development Agreement to accommodate the proposed changes to the facility, the operations, and the financial considerations; and

WHEREAS, pursuant to Government Code section 65867.5, the City Council finds that the provisions of the Development Agreement are consistent with the City’s general plan and any applicable specific plan; and

WHEREAS, prior to this approval, the City’s planning commission has found that the proposed development plan meets all the requirements under Mendota Municipal Code section 17.84.050; and

WHEREAS, the proposed Development Agreement will have a positive impact on the City by generating significant revenues that would support transportation, parks and recreation, law enforcement, and fire protection in the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Based upon the findings, as referenced in the recitals above, the Development Agreement attached hereto as Exhibit 1 and incorporated herein by reference by and between the City of Mendota, and Left Mendota 1, LLC, is hereby approved.

SECTION 2. Each and every term and condition of the Development Agreement approved in Section 1 of this Ordinance shall be and is made a part of the Mendota Municipal Code and any appendices thereto. The City Council of the City of Mendota finds that public necessity, public convenience, and general welfare require that any provision of the Mendota Municipal Code or appendices there inconsistent with the provisions of this Development Agreement, to the extent of such inconsistencies and no further, be repealed or modified to make fully effective the provisions of the Development Agreement.

SECTION 3. Any provision of the Mendota Municipal Code or appendices thereto, inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason 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 the Ordinance. The City Council of the City of Mendota hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5. This approval is exempt from the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000, *et seq.*, as the approvals at issue simply contemplate an incremental modification to an existing operation at an existing facility and a land use authorized under the Mendota Municipal Code and, as a result, there is no possibility the activity in question may have a significant effect on the environment, (CEQA Guidelines section 15061(b)(3)).

SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

* * * * *

The foregoing ordinance was introduced on the 12th day of January, 2021 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 9th day of February, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Rolando Castro, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk

APPROVED AS TO FORM:

John Kinsey, City Attorney

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
TO:**

City of Mendota
643 Quine Street
Mendota, CA 93640
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

AMENDED DEVELOPMENT AGREEMENT

THIS AMENDED DEVELOPMENT AGREEMENT ("Agreement") is made and entered into on this _____, day of _____, 2021, by and between the **CITY OF MENDOTA**, a municipal corporation of the State of California ("City"), and **LEFT MENDOTA I, LLC**, a Delaware limited liability company ("Developer"). City or Developer may be referred to herein individually as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

A. On October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643) which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA establishes a statewide regulatory system for the cultivation, processing, transportation, testing, manufacturing, and distribution of medical marijuana to qualified patients and their primary caregivers.

B. On November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act ("AUMA"), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use.

C. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which creates a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in Commercial Cannabis Activity, as defined in Section 1.4 of this Agreement, may operate in a particular jurisdiction.

D. Developer proposes to improve, develop, and use real property for the operation of Cannabis Businesses that engage in cultivation, manufacturing, distribution, delivery or testing

of Cannabis and Cannabis Products, as defined in Section 1.4 of this Agreement, in strict accordance with California Cannabis Laws, as defined in Section 1.4 of this Agreement, as they may be amended from time to time, and the Municipal Code of the City of Mendota as it existed on the Effective Date (the "Project"). The Project includes approximately 100,000 square feet of buildings for Commercial Cannabis Activity.

E. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 et seq. (the "Development Agreement Statute"), which authorizes City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application.

F. Developer has submitted a request to the City for consideration of a development agreement.

G. Government Code section 65865 requires an applicant for a development agreement to hold a legal or equitable interest in the real property that is the subject of the development agreement. Developer is the fee simple owner or has an equitable interest in the real property located at 1269 Marie Street, in the City of Mendota, County of Fresno, State of California, Assessor's Parcel Number 013-280-15 (the "Site"), more particularly described in the legal description attached hereto as Exhibit A and the Site Map attached hereto as Exhibit B.

H. On September 12, 2017, the City Council of Mendota ("City Council") adopted Ordinance No. 17-13 establishing zoning limitations and requirements for all cannabis businesses, including the proposed cannabis facility to be located at the Site.

I. Government Code section 65867.5 requires the Planning Commission to hold a public hearing to review an application for a development agreement.

J. On February 27, 2018, the City Council, in a duly noticed and conducted public hearing, and conducted the first reading of proposed Ordinance No. 18-02.

K. Pursuant to Government Code section 65867.5, on March 13, 2018, the City Council reviewed, considered, adopted, and entered into this Agreement pursuant to Ordinance No. 18-02.

L. On September 8, 2020, the City Council adopted Ordinance No. 20-16, establishing additional requirements for the operation and entitlement of commercial cannabis businesses operating within the City.

M. Government Code section 65867 requires the Planning Commission to hold a public hearing to review an application for a development agreement.

N. On December 15, 2020, after a duly noticed and held Planning Commission meeting, the Planning Commission voted to recommend approval of Developer's application for an amended development agreement for the Project.

O. On January 12, 2021, the City Council, in a duly noticed public hearing, introduced and conducted the first reading of Ordinance No. 21-04, an Ordinance of the Council of the City of Mendota Approving Amendments to the Development Agreement No. 2018-01 in the matter of Application No. 20-24, the Left Mendota I, LLC Commercial Cannabis Project (APNs 013-280-15 & 22S).

P. Pursuant to Government Code section 65867.5, on January 26, 2021, the City Council reviewed, considered, adopted, and entered into this Agreement pursuant to Ordinance No. 21-04.

K. This Agreement is entered into pursuant to the Development Agreement Statute and the Mendota Municipal Code.

L. City and Developer desire to enter into this Agreement to: (i) facilitate the orderly development of the Site in general and specifically to ensure that such development is consistent with Title 17 of the Mendota Municipal Code; (ii) create a physical environment that is consistent with, complements, and promotes the purposes and intent of the Commercial Cannabis Overlay District and the regulations adopted therewith; (iii) protect natural resources from adverse impacts; and (vi) reduce the economic risk of development of the Site to both City and Developer.

M. The Parties intend through this Agreement to allow Developer to develop and manage the Project in accordance with the terms of this Agreement.

N. The City Council has determined that this Agreement is consistent with City's General Plan and have conducted all necessary proceedings in accordance with City's Municipal Code for the approval of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. Findings. City hereby finds and determines that entering into this Agreement furthers the public health, safety, and general welfare and is consistent with City's General Plan, including all text and maps in the General Plan. The intent of this Agreement is to amend and supersede the original Development Agreement No. 18-01 with MARIE STREET DEVELOPMENT, LLC ("Former Developer"), dated March 13, 2018, and any and all non-financial and terminable obligations of Former Developer therein. The City hereby finds as follows upon title to the Site vesting in Developer: (i) that Developer shall not be liable for any outstanding obligations or defaults of Former Developer under the original Development Agreement No. 18-01 and shall not be considered a successor-in-interest of the Former Developer for the purposes of Section 10.2 of the original Development Agreement; and (ii) that upon execution of this Agreement, there shall

be no outstanding amounts due to the City by Developer stemming from the original Development Agreement No. 18-01.

Section 1.2. Recitals. The Recitals above are true and correct and are hereby incorporated into and made a part of this Agreement. In the event of any inconsistency between the Recitals and the provisions of Articles I through 10 of this Agreement, the provisions of Articles I through 10 shall prevail.

Section 1.3. Exhibits. The following "Exhibits" are attached to and incorporated into this Agreement:

<u>Designation</u>	<u>Description</u>
Exhibit A	Legal Description
Exhibit B	Site Map
Exhibit C	Notice of Non-performance Penalty
Exhibit D	Notice of Termination
Exhibit E	Assignment and Assumption Agreement

Section 1.4. Definitions. In this Agreement, unless the context otherwise requires, the terms below have the following meaning:

- (a) "Additional Insureds" has the meaning set forth in Section 6.1.
- (b) "Additional License" means a state license to operate a cannabis business pursuant to the California Cannabis Laws that is not an Authorized License.
- (c) "Adult-Use Cannabis" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by adults 21 years of age or over in California pursuant to the California Cannabis Laws.
- (d) "Agreement" means this Development Agreement, inclusive of all Exhibits attached hereto.
- (e) "Application" means the application for a development agreement submitted by Developer to the City.
- (f) "Assignment and Assumption Agreement" has the meaning set forth in Section 10.1.
- (g) "AUMA" means the Adult Use of Marijuana Act (Proposition 64) approved by California voters on November 8, 2016.
- (h) "Authorized License" has the meaning set forth in Section 2.3.

(i) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(j) "California Building Standards Codes" means the California Building Code, as amended from time to time, in Part 2, Volumes I and 2, as part of Title 24 of the California Code of Regulations, as may be adopted by the Mendota Municipal Code.

(k) "California Cannabis Laws" includes AUMA, MAUCRSA and its implementing regulations, CUA, the Medical Marijuana Program Act of 2004, and any other applicable state laws that may be enacted or approved.

(l) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code. Cannabis and the term "marijuana" may be used interchangeably.

(m) "Cannabis Business" means a cannabis business operating pursuant to an Authorized License.

(n) "Cannabis Product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(o) "CEQA" means the California Environmental Quality Act, as set forth in Division 13 (Commencing with Section 21000) of the California Public Resources Code, and the CEQA Guidelines as set forth in Title 14 (Commencing with Section 15000) of the California Code of Regulations.

(p) "City" means the City of Mendota, a municipal corporation having general police powers.

(q) "City Council" means the City of Mendota City Council.

(r) "City Manager" means the City Manager of the City of Mendota, or his or her designee.

(s) "Charged Party" has the meaning set forth in Section 8.1.

(t) "Charging Party" has the meaning set forth in Section 8.1.

(u) "Commercial Cannabis Activity" means to cultivate, manufacture, distribute, process, store, package, label, transport, deliver or test cannabis or cannabis products as provided for by Division 10 (commencing with Section 26000) of the Business and Professions Code.

(v) "Conditional Use Permit" means a conditional use permit for the Project issued by the City pursuant to Mendota Municipal Code Chapter 17.08.050.

(w) "CUA" means the Compassionate Use Act (Proposition 215) approved by California voters on November 5, 1996.

(x) "Developer" means LEFT MENDOTA I, LLC, and as further set forth in Section 6.1.

(y) "Development Agreement Statute" has the meaning set forth in Recital E.

(z) "Exhibits" has the meaning set forth in Section 1.3.

(aa) "Major Amendment" means an amendment that shall have a material effect on the terms of the Agreement. Major Amendments shall require approval by the City Council.

(bb) "Marijuana" has the same meaning as cannabis and those terms may be used interchangeably.

(cc) "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified as Business and Professions Code section 26000 et seq. and its implementing regulations.

(dd) "MCRSA" has the meaning set forth in Recital A.

(ee) "Ministerial Fee" or "Ministerial Fees" has the meanings set forth in Section 4.1.

(ff) "Minor Amendment" means a clerical amendment to the Agreement that shall not materially affect the terms of the Agreement (e.g., change of notice address) and any amendment described as minor herein.

(gg) "Mortgage" has the meaning set forth in Article 7.

(hh) "Non-Performance Penalty" has the meaning set forth in Section 4.3

(ii) "Notice of Non-Performance Penalty" has the meaning set forth in Section 4.3.

(jj) "Notice of Termination" has the meaning set forth in Section 9.1.

(kk) "Processing Costs" has the meaning set forth in Section 1.11.

(ll) "Project" has the meaning set forth in Recital D

(mm) "Project Litigation" has the meaning set forth in Section 10.7.

(nn) "Public Benefit Fees" has the meaning set forth in Section 4.2.

(oo) "Public Benefit Amount" has the meaning set forth in Section 4.2.

(pp) "Site" has the meaning set forth in Recital G.

(qq) "State Cannabis Manufacturing Regulations" means the regulations related to cannabis manufacturing issued by a State Licensing Authority in accordance with Chapter 13 (commencing with Section 26130) of Division 10 of the Business and Professions Code, which may be amended from time to time.

(rr) "State Licensing Authority" means the state agency responsible for the issuance, renewal, or reinstatement of a state cannabis license, or the state agency authorized to take disciplinary action against a business licensed under the California Cannabis Laws.

(ss) "State Taxing Authority" has the meaning set forth in Section 4.2.

(tt) "Subsequent City Approvals" has the meaning set forth in Section 3.1.

(uu) "Term" has the meaning described in Section 1.7.

Section 1.5. Project is a Private Undertaking. The Parties agree that the Project is a private development and that City has no interest therein, except as authorized in the exercise of its governmental functions. City shall not for any purpose be considered an agent, partner, or joint venturer of Developer or the Project.

Section 1.6. Effective Date of Agreement. This Agreement shall become effective upon the date that the ordinance approving this Agreement becomes effective and title to the Site is vested in the Developer (the "Effective Date").

Section 1.7. Term. The "Term" of this Agreement is thirty (30) years from the Effective Date, unless terminated or extended earlier, as set forth in this Agreement.

(a) **Government Tolling or Termination.** City may provide written notice to Developer to cease all Commercial Cannabis Activity, upon which Developer shall immediately comply, if City is specifically required to comply with federal or state law and such federal or state law requires cessation of Commercial Cannabis Activities. If City temporarily halts this Agreement to comply with federal or state law, this Agreement shall be tolled for an equivalent period of time (the "Tolling Period"). Developer shall not accrue or be liable to City for any Ministerial Fees, Public Benefit Amount, or any other fees contemplated under this Agreement during the Tolling Period. Developer shall resume paying any applicable fees after the Tolling Period ends. City and Developer shall discuss in good faith the termination of this Agreement if the Tolling Period exceeds one (1) calendar year.

(b) **Developer Tolling or Termination.** Developer may not temporarily halt or suspend this Agreement for any purpose without causing a default of this Agreement, except as otherwise allowed by this Agreement.

(c) **Developer Termination.** Developer may provide written notice to City of intent to cease all Commercial Cannabis Activity, if Developer is required, directed, or believes, in its sole and absolute discretion, it must terminate Commercial Cannabis Activity. In such an event, Developer obligations under this Agreement shall terminate. Any resumption of Commercial Cannabis Activity shall be subject to approval by the City Manager. Notwithstanding anything to the contrary herein, temporary termination of Commercial Cannabis Activities to make renovations, repairs, or comply with any applicable laws shall not be considered termination of Commercial Cannabis Activities.

Section 1.8. Priority of Enactment. In the event of conflict between the various land use documents referenced in this Agreement, the Parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (a) General Plan, (b) Agreement, (d) Conditional Use Permit, and (e) Subsequent City Approvals, as defined in Section 3.1 of this Agreement.

Section 1.9. Amendment of Agreement. This Agreement shall be amended only by mutual consent of the Parties. All amendments shall be in writing. The City Council hereby expressly authorizes the City Manager to approve a Minor Amendment to this Agreement, upon notification of the City Council. A Major Amendment to this Agreement shall be approved by the City Council. The City Manager shall, on behalf of City, have sole discretion for City to determine if an amendment is a Minor Amendment or a Major Amendment. Nothing in this Agreement shall be construed as requiring a noticed public hearing, unless required by law.

Section 1.10. Recordation of Development Agreement. The City Clerk shall cause a copy of this Agreement to be recorded against the title of the Site within ten (10) business days of the Effective Date.

Section 1.11. Funding Agreement for Processing Costs. Developer has deposited Seven Thousand Five Hundred Dollars (\$7,500) with City to pay for the Application, all actual, reasonable fees and expenses incurred by City that are related to the preparation, processing and annual review of this Agreement, including recording fees, publishing fees, staff time, consultant and reasonable attorney fees and costs (collectively, "Processing Costs"). The Processing Costs are refundable solely to the extent of non-expended Processing Costs. Developer shall be entitled to a refund of available Processing Costs only after City determines all financial obligations associated with the Project have been received and paid by City.

(a) **Apportionment of Processing Costs.** If the amount deposited for purposes of Processing Costs is insufficient to cover all Processing Costs, City shall provide notice to Developer, and Developer shall deposit with City such additional funds necessary to pay for all Processing Costs within thirty (30) calendar days. The failure to timely pay any such additional amounts requested by City shall be considered a material default of this Agreement and City may immediately terminate this Agreement.

(b) **Accounting.** Developer may request, and City shall issue within a reasonable time, an accounting and written acknowledgement of Processing Costs paid to City.

ARTICLE 2

DEVELOPMENT OF PROPERTY

Section 2.1. Vested Right of Developer. During the Term, in developing the Site consistent with the Project described herein, Developer is assured that the development rights, obligation terms, and conditions specified in this Agreement, including, without limitation, the terms, conditions, and limitations set forth in the Exhibits, are fully vested in Developer and may not be modified or terminated by City except as set forth in this Agreement or with Developer's written consent.

Section 2.2. Vested Right to Develop. In accordance with Section 2.1, Developer shall have the vested right to develop and use the Project consistent with this Agreement, the existing City regulations and codes, the Conditional Use Permit, and Subsequent City Approvals.

Section 2.3. Permitted Uses and Development Standards. Developer shall be authorized to develop, construct, and use the Site for Commercial Cannabis Activity consistent with the following license types and uses associated with said license types (the "Authorized License"):

License Description	State License Type(s)
Cultivation Indoor	1A/2A/3A/5A
Cultivation Mixed Light	1B/2B/3B/5B
Cultivation	Processor
Cultivation Nursery	4
Manufacturing 1	6
Manufacturing 2	7
Laboratory Testing	8
Distribution	11
Non-storefront Retailer	9

Developer or its tenants or assignees shall be permitted to use the Site consistent with the Authorized License types for the Term of this Agreement and during the time Developer or its tenants or assignees is applying for the Authorized License with the applicable State Licensing Authority. Notwithstanding the foregoing, Developer or each of its tenants or assignees is required to apply for and obtain an Authorized License from the applicable State Licensing Authority. If the State Licensing Authority does not grant the Authorized License to Developer or its tenants or assignees, Developer or the tenant or assignee that was denied a license shall immediately cease Commercial Cannabis Activity on the Site. Developer or its tenants or assignees shall also, within ten (10) calendar days of receiving notice from the State Licensing Authority relating to a denial or rejection of a license, notify City of the State Licensing Authority's denial or rejection of any license. If the Authorized License is not granted by the State Licensing Authority, Developer or its tenants or assignees shall immediately cease operations. In this situation, this Agreement shall terminate immediately. For the purposes of clarification, a denial or rejection of Developer's tenants or assignee's Authorized License shall not result in the termination of this agreement provided (x) other Authorized Licenses have been issued to Developer, its tenants or assignees; or (y) Developer or its tenants or assignees are in the process of applying for an Authorized License. The Parties intend for this Agreement and the Conditional Use Permit to serve as the

definitive and controlling documents for all subsequent actions, discretionary or ministerial, relating to development of the Site and Project.

Section 2.4. Major Amendment to Permitted Uses. Developer may request to add to the Authorized License one or more of the license types then authorized by the California Cannabis Laws. If City Council allows any additional Authorized Licenses (“**Additional Licenses**”), City Council shall make a finding of whether Developer's or its tenants' or assignees' Additional Licenses will have any additional impact on City neighborhoods, infrastructure, or services. Developer shall be required to compensate City for all additional impacts on City infrastructure or services associated with any Additional Licenses and the Public Benefit Amount shall be revised as mutually agreed by the Parties. This process shall be a Major Amendment to this Agreement.

Section 2.5. Development Permit. Prior to commencing operation of any Commercial Cannabis Activity on the Site, Developer shall obtain a Conditional Use Permit and any applicable Subsequent City Approvals. Developer shall be required to comply with all provisions of the Mendota Municipal Code and any other City rules and administrative guidelines associated with implementation of the Commercial Cannabis Overlay District. Nothing in this Agreement shall be construed as limiting the ability of City to amend the Mendota Municipal Code or issue rules or administrative guidelines associated with implementation of the Commercial Cannabis Overlay District or Developer's obligation to strictly comply with the same.

Section 2.6. Subsequent Entitlements, Approvals, and Permits. Successful implementation of the Project shall require Developer to obtain additional approvals and permits from City and other local and state agencies. City shall comply with CEQA in the administration of all Subsequent City Approvals. In acting upon any Subsequent City Approvals, City's exercise of discretion and permit authority shall conform to this Agreement. Notwithstanding the foregoing, in the course of taking action on the Subsequent City Approvals, City will exercise discretion in adopting mitigation measures as part of the Conditional Use Permit. The exercise of this discretion is not prohibited by this Agreement, but the exercise of that discretion must be reasonable and consistent with this Agreement. Nothing in this Agreement shall preclude the evaluation of impacts or consideration of mitigation measures or alternatives, as required by CEQA.

Section 2.7. Initiatives and Referenda. If any City ordinance, rule or regulation, or addition to the Mendota Municipal Code is enacted or imposed by a citizen-sponsored initiative or referendum after the Effective Date that would conflict with this Agreement, an associated Conditional Use Permit, Subsequent City Approvals, or reduce the development rights or assurances provided to Developer in this Agreement, such Mendota Municipal Code changes shall not be applied to the Site or Project and this Agreement shall remain in full force and effect; provided, however, the Parties acknowledge that City's approval of this Agreement is a legislative action subject to referendum. City shall cooperate with Developer and shall undertake such reasonable actions as may be appropriate to ensure this Agreement remains in full force and effect and is implemented in accordance with its terms to the fullest extent permitted by state or federal law.

Section 2.8. Regulation by Other Government Entities. Developer acknowledges that City does not have authority or jurisdiction over any other government entities' ability to grant governmental

approvals or permits or to impose a moratorium or other limitations that may negatively affect the Project or the ability of City to issue a permit to Developer or comply with the terms of this Agreement. Any moratorium imposed by another government entity, including the State Licensing Authority, on City shall not cause City to be in breach of this Agreement.

Section 2.9. Developer's Right to Rebuild. Developer may renovate portions of the Site any time within the Term of this Agreement consistent with the Mendota Municipal Code. Any such renovation or rebuild shall be subject to all design, building code, and other requirements imposed on the Project by this Agreement.

Section 2.10. Changes in California Building Standards Codes. Notwithstanding any provision of this Agreement to the contrary, development of the Project shall be subject to changes occurring from time to time to the California Building Standards Codes.

Section 2.11. Changes Mandated by Federal or State Law. The Site and Project shall be subject to subsequently enacted state or federal laws or regulations that may preempt the Mendota Municipal Code, or mandate the adoption or amendment of local regulations, or are in conflict with this Agreement or local rules or guidelines associated with the Commercial Cannabis Overlay District. As provided in Section 65869.5 of the Development Agreement Statute, in the event state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Upon discovery of a subsequently enacted federal or state law meeting the requirements of this Section, City or Developer shall provide the other Party with written notice of the state or federal law or regulation, and a written statement of the conflicts thereby raised with the provisions of the Mendota Municipal Code or this Agreement. Promptly thereafter, City and Developer shall meet and confer in good faith in a reasonable attempt to modify this Agreement, as necessary, to comply with such federal or state law or regulation provided City shall not be obligated to agree to any modification materially increasing its obligations or materially adversely affecting its rights and benefits hereunder. In such discussions, City and Developer will attempt to preserve the terms of this Agreement and the rights of Developer derived from this Agreement to the maximum feasible extent while resolving the conflict. If City, in its judgment, determines it necessary to modify this Agreement to address such conflict, City shall have the right and responsibility to do so, and shall not have any liability to Developer for doing so or be considered in breach or default of this Agreement. City also agrees to process, in accordance with the provisions of this Agreement, Developer's proposed changes to the Project that are necessary to comply with such federal or state law and that such proposed changes shall be conclusively deemed to be consistent with this Agreement without further need for any amendment to this Agreement.

Section 2.12. Health and Safety Emergencies. In the event that any future public health and safety emergencies arise with respect to the development contemplated by this Agreement, City agrees that it shall attempt, if reasonably possible as determined by City in its discretion, to address such emergency in a way that does not have a material adverse impact on the Project. If City determines, in its discretion, that it is not reasonably possible to so address such health and safety emergency, to select that option for addressing the situation which, in City's discretion, minimizes, so far as reasonably possible, the impact on development and use of the Project in accordance

with this Agreement, while still addressing such health and safety emergency in a manner acceptable to City.

ARTICLE 3

ENTITLEMENT AND PERMIT PROCESSING, INSPECTIONS

Section 3.1. Subsequent City Approvals. City shall permit the development, construction, and conditionally permitted use contemplated in this Agreement. City agrees to timely grant, pursuant to the terms of this Agreement, the Mendota Municipal Code as it existed on the Effective Date, and any Subsequent City Approvals reasonably necessary to complete the goals, objectives, policies, standards, and plans described in this Agreement. The Subsequent City Approvals shall include any applications, permits, and approvals required to complete the improvements necessary to develop the Site, in general accordance with this Agreement ("Subsequent City Approvals"). Nothing herein shall require City to provide Developer with Subsequent City Approvals prior to, or without complying with, all of the requirements in this Agreement, the Mendota Municipal Code as it existed on the Effective Date, and any applicable state law.

Section 3.2. Timely Processing. City shall use its reasonable best efforts to process and approve, within a reasonable time, any Subsequent City Approvals or environmental review requested by Developer during the Term of this Agreement.

Section 3.3. Cooperation between City and Developer. Consistent with the terms set forth herein, City agrees to cooperate with Developer, on a timely basis, in securing all permits or licenses that may be required by City or any other government entity with permitting or licensing jurisdiction over the Project.

Section 3.4. Further Consistent Discretionary Actions. The exercise of City's authority and independent judgment is recognized under this Agreement, and nothing in this Agreement shall be interpreted as limiting City's discretion or obligation to hold legally required public hearings. Except as otherwise set forth herein, such discretion and action taken by City shall, however, be consistent with the terms of this Agreement and not prevent, hinder or compromise development or use of the Site as contemplated by the Parties in this Agreement.

ARTICLE 4

PUBLIC BENEFIT, PROCESSING, AND OVERSIGHT

Section 4.1. Processing Fees and Charges. Developer shall pay to City those processing, inspection, plan checking, and monitoring fees and charges required by City which are in force and effect at the time those fees and charges are incurred (including any post-Effective Date increases in such fees and charges) for processing applications and requests for building permits, inspections, other permits, approvals and actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions (each a "Ministerial Fee" and collectively, the "Ministerial Fees").

Section 4.2. Public Benefit.

(a) The Parties acknowledge and agree that this Agreement confers substantial private benefit upon Developer that will place burdens upon City infrastructure, services, and neighborhoods. Accordingly, the Parties intend to provide consideration to City to offset these impacts that is commensurate with the private benefits conferred on Developer (the "Public Benefit Fees"). Developer acknowledges that the Public Benefit Fees provided for herein are greater than the annual fee provided for in Mendota Municipal Code section 17.99.070 and, despite this fact, voluntarily agrees to pay the fees acknowledging that the private benefits conferred are of equal or greater consideration to the fees, and waives any right to challenge said fees as a violation of any law. In consideration of the foregoing, Developer shall remit to City the following payments (collectively referred to as the "Public Benefit Amounts"):

(i) An annual payment of Eighty-Five Thousand Dollars (\$85,000) for each Non-Storefront Retailer Authorized License actively operating on the Site ("Non-Storefront Payment"), paid in equal payments of Twenty-One Thousand Two Hundred and Fifty Dollars (\$22,250) on the First (1st) business day of every Third (3rd) month; and

(ii) An annual payment of Two Hundred and Ten Thousand Dollars (\$210,000) paid in equal payments of Fifty-Two Thousand Five Hundred Dollars (\$52,500) on the First (1st) business day of every Third (3rd) month ("Quarterly Payment"); and

(iii) \$8.00 per square foot (the "Square Foot Charge") of the existing buildings on the premises allocated for Authorized Licenses, which are occupied by tenants and such tenants are actually engaging in indoor cultivation, manufacturing, or distribution of cannabis or cannabis products *less* any Quarterly Payments that have been tendered to the City during the applicable period. The Square Foot Charge shall be paid to the City on the First (1st) Business Day of every 6th month throughout the Term. For purposes of clarification, the Square Foot Charge shall only become due as to that portion of the Site where the Developer or its tenants or assignees are actively engaging in Commercial Cannabis Activities, and with respect to indoor cultivation, the actual canopy space where indoor cultivation occurs. In the event the Developer or its tenants or assignees are not actively engaging in Commercial Cannabis Activities on the Site, the City shall only receive the Quarterly Payment. In the event the Developer or any of its tenants or assignees are actively engaging in Commercial Cannabis Activities on the Site, the Square Foot Charge shall be reduced by any Quarterly Payments already paid to the City; and

(iv) Fifty cents (\$0.50) per square foot of the canopy space in any structure used for mixed light cultivation type of Authorized Licenses, which are occupied by tenants and such tenants are actually engaging in mixed-light cultivation of cannabis ("Greenhouse Payment"). The Greenhouse Payment shall be paid to the City on the First (1st) Business Day of every 3rd month of the Term. For the purposes of this Section, the Greenhouse Payment shall mean the actual amount of canopy (measured by the aggregate area of vegetative growth of live cannabis plants on the premises).

(b) Developer shall remit the Non-Storefront Payment, Quarterly Payment, Square Foot Charge and Greenhouse Payment, as applicable, to City on as described in subdivision (a) of

this section. Failure to remit the Quarterly Payment, Non-Storefront Payment, and Square Foot Charge, and Greenhouse Payment as applicable, is a material breach of this Agreement.

(c) The Square Foot Charge referred to in subdivision (a) of this section shall be subject to a five percent (5%) increase at the commencement of the tenth (10th) year of the term (“First Adjustment Date”), the twentieth (20th) year of the Term (“Second Adjustment Date”), and the thirtieth (30th) year of the Term (the “Third Adjustment Date”). The Parties hereby agree that there shall be no further increases to the Square Foot Charge after the Third Adjustment Date for the remainder of the Term.

(d) Notification. At least thirty (30) days before the adjustment of the Square Foot Charge as provided in subdivision (c) of Section 4.2 of this Agreement, City shall notify Developer in writing of the amount of the new Square Foot Charge in effect until the next adjustment date. The City’s failure to provide Developer with advance notice of an increased Square Foot Charge prior to an adjustment date shall not be deemed a waiver of the City’s right and entitlement to receive said increased Square Foot Charge owed by Developer in any way.

Section 4.3. Reporting. Developer shall provide City with copies of Authorized Licenses issued by a State Licensing Authority to Developer and its tenants within forty-five (45) calendar days of issuance of such license to a tenant and each annual renewal thereafter (“**State Licenses**”). Developer shall also provide City with a list of tenants that have received a rent credit for employing at least fifty percent (50%) of City residents in accordance with Section 4.8 of this Agreement within thirty (30) calendar days of each anniversary of the Effective Date of this Agreement (“**Local Workforce Report**”). Failure or refusal of Developer to pay the Public Benefit Amount shall constitute full and sufficient grounds for the revocation or suspension of the Conditional Use Permit. Notwithstanding anything to the contrary herein, failure to provide copies of State Licenses or Local Workforce Report within the applicable time period shall not amount to a material default of this Agreement and shall not constitute grounds for the revocation or suspension of the Conditional Use Permit.

Section 4.4. Records. Subsequent tenants or assignees shall keep records of all Commercial Cannabis Activity in accordance with Chapter 16 (commencing with Section 26160) of Division 10 of the Business and Professions Code. All records required by this Article 4 shall be maintained and made available for City’s examination and duplication (physical or electronic) upon the City Manager’s request at the Site or at an alternate facility as approved in writing by the City Manager or his or her designee. Upon request, Developer shall make all records relating to this Article 4 available to City within three (3) business days.

Section 4.5. Penalty. Developer acknowledges that to ensure proper compliance with the terms of this Agreement and any applicable laws, City must engage in costly compliance review, inspections, and, if necessary, enforcement actions to protect the health, safety, and welfare of its residents. Penalty and interest provisions are necessary to assist City in compliance review and enforcement actions. If Developer fails to make any payment when due as required by this Agreement, including the Public Benefit Amount, and fails to cure such failure within the allotted Cure Period, Extended Cure Period, or any extension thereof mutually agreed upon by the Parties in writing, the City may impose a “Non-Performance Penalty.” A Non-Performance Penalty of one percent (1%) shall be applied to all past due payments. City shall deliver to Developer a

"Notice of Non-Performance Penalty," attached hereto as Exhibit C. Payment of the Non-Performance Penalty shall be in a single installment due on or before a date fifteen (15) calendar days following delivery of the Notice of Non-Performance Penalty.

Section 4.6. Interest on Unpaid Non-Performance Penalty. If Developer fails to pay the Non-Performance Penalty after City has delivered the Notice of Non-Performance Penalty, then, in addition to the principal amount of the Non-Performance Penalty, Developer shall pay City interest at the rate of eighteen percent (18%) per annum, computed on the principal amount of the Non-Performance Penalty, from a date fifteen (15) calendar days following delivery of the Notice of Non-Performance Penalty.

Section 4.7. Exempt from City Tax. For the Term of this Agreement, Developer shall be exempt from any City tax on commercial cannabis businesses. Notwithstanding the foregoing, Developer and Project shall be subject to any and all taxes, assessments, or similar charges or fees of general applicability enacted by the federal government, state government, or County of Fresno, including any tax applicable to an area greater than the City limits to which City may be a party (i.e., county tax sharing agreement). In the event that the City applies a new tax on commercial cannabis businesses, the City shall refund or credit the amount owed as Public Benefit Amount by an equal amount up to the amount of Public Benefit Amount owed to the Developer and any assuming owner proportional to the percentage ownership share of the gross land area of the Site. For the purposes of clarification, other than the Public Benefit Amount, the Processing Fees, and any other fees contemplated pursuant to this Agreement, Developer shall be exempt from any and all City taxes and fees relating to commercial cannabis activity and commercial cannabis businesses passed following the execution of this Agreement.

Section 4.8. Employing City Residents. Developer agrees to use its best efforts to promote the hiring and employment of local City residents to construct, if necessary, operate the business(es) within the Project, and provide maintenance and security services to the Project, provided Developer has control over such hiring and employment. As part of such efforts, Developer agrees to include in any lease, license or other conveyance of any right to use the Project such language that any transferee of such interest shall use its best efforts to hire and employ local City residents for its business. Developer further agrees to provide a four percent (4%) base rent credit to any tenant whose workforce consists of at least fifty percent (50%) of local City residents at the end of each calendar year for the period the tenant's workforce meets the criteria set forth herein.

Section 4.9. Manner of Payment. All payments required to be made to City pursuant to this Agreement shall be paid by Developer via check, ACH payment, or wire transfer through a bank licensed and in good standing with all appropriate regulatory bodies. No payment required pursuant to this Agreement may be made in cash. Developer understands and agrees that any failure to comply with this Section 4.9 shall constitute a material breach of this Agreement.

Section 4.10. Charitable Donation. Upon the full execution of this Agreement, Developer shall make a one-time donation in the amount of Ten Thousand Dollars (\$10,000) to a charity or program focused on drug education or rehabilitation as selected by the City.

Section 4.11. Site Beautification. Upon the full execution of this Agreement, Developer shall spend up to Ten Thousand Dollars (\$10,000) to clean up the vacant land portions of the Site and

building facades. Developer agrees to use its best efforts to promote the hiring and employment of local City residents to complete this work.

ARTICLE 5

PUBLIC FACILITIES, SERVICES, AND UTILITIES

City shall use the Public Benefit Amount to pay for the impact on and maintenance or improvement of City neighborhoods, for the general welfare of the residents of Mendota, and the existing level of service of City infrastructure and services to accommodate for the Project.

ARTICLE 6

INSURANCE AND INDEMNITY

Section 6.1. Insurance. Developer shall require all persons doing work on the Project, including its contractors and subcontractors (collectively, "Developer" for purposes of this Article 6 only), to obtain and maintain insurance of the -types and in the amounts described in this Article with carriers reasonably satisfactory to City.

(a) **General Liability Insurance.** Developer shall maintain commercial general liability insurance or equivalent form with a limit of not less than One Million Dollars (\$1,000,000) (or as otherwise approved, in writing, by City) per claim and Two Million Dollars (\$2,000,000) each occurrence. Such insurance shall also:

(i) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as "Additional Insureds" by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed additional insured.

(ii) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives.

(iii) Contain standard separation of insured provisions.

(b) **Automotive Liability Insurance.** Developer shall maintain business, automobile liability insurance or equivalent form with a limit of not less than One Million Dollars (\$1,000,000) for each accident. Such insurance shall include coverage for owned, hired, and non-owned automobiles. Such insurance shall also:

(i) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as Additional Insureds by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed Additional Insureds.

(ii) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives.

(iii) Contain standard separation of insured provisions.

(c) **Workers' Compensation Insurance.** Developer shall take out and maintain during the Term of this Agreement, workers' compensation insurance for all of Developer's employees employed at or on the Project, and in the case any of the work is subcontracted, Developer shall require any general contractor or subcontractor similarly to provide workers' compensation insurance for such contractor's or subcontractor's employees, unless such employees are covered by the protection afforded by Developer. In case any class of employee engaged in work on the Project is not protected under any workers' compensation law, Developer shall provide and shall cause each contractor and subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Developer hereby indemnifies City for any damage resulting from failure of Developer, its agents, employees, contractors, or subcontractors to take out or maintain such insurance. Workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) for each accident shall be maintained.

Section 6.2. Other Insurance Requirements. Developer shall do all of the following:

(a) Prior to taking any actions under this Agreement, furnish City with properly executed certificates of insurance that clearly evidence all insurance required in this Article, including evidence that such insurance will not be canceled, allowed to expire, or be materially reduced in coverage without thirty (30) days prior written notice to City. Provide to City, upon request, and within seven (7) calendar days of said request, certified copies of endorsements and policies, and properly executed certificates of insurance evidencing the insurance required herein.

(b) Replace or require the replacement of certificates, policies, and endorsements for any insurance required herein expiring prior the termination of this Agreement.

(c) Maintain all insurance required herein from the Effective Date of this Agreement to the earlier of the expiration of the Term or the mutual written termination of this Agreement.

(d) Place all insurance required herein with insurers licensed to do business in California with a current Best's Key Rating Guide reasonably acceptable to City.

Section 6.3. Indemnity. To the fullest extent permitted by law, Developer shall defend, indemnify, and hold harmless City and its agents, elected and appointed officials, officers, employees, consultants, and volunteers (collectively, "City's Agents") from any and all liability arising out of a claim, action, or proceeding against City, or City's Agents, to attack, set aside, void, or annul an approval concerning the Project, this Agreement, any applicable Conditional Use Permit, or Subsequent City Approvals.

Upon receiving notice of a claim, action, or proceeding, Developer shall assume the defense of the claim, action, or proceeding and the payment of all attorneys' fees and costs, incurred in good faith and in the exercise of reasonable discretion, of City's counsel in defending such an action prior to Developer's assumption of such defense. In the event City elects to contract with outside counsel, to provide for such a defense, City shall meet and confer with Developer regarding the selection of counsel, and Developer shall pay all costs related to retention of such counsel. City shall have the absolute and sole authority to control the litigation and make litigation decisions, including, but not limited to, approving counsel to defend City and settlement or other disposition

of the matter, provided the City shall not reject any reasonable good faith settlement. If City does reject a reasonable, good faith settlement that is acceptable to Developer, Developer may enter into a settlement of the action, as it relates to Developer, and City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgment rendered in connection with such action. This Section 6.3 applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. The City's remedies are limited to that portion of the Project that is in breach of this Section 6.3.

Section 6.4. Failure to Indemnify; Waiver. Failure to indemnify City, when required by this Agreement and upon receiving proper notice, shall constitute a material breach of this Agreement and of any applicable Conditional Use Permit and Subsequent City Approvals, which shall entitle City to all remedies available under law, including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which City may rescind its approval of any applicable Conditional Use Permit. Developer's failure to indemnify City shall be a waiver by Developer of any right to proceed with the Project, or any portion thereof, and a waiver of Developer's right to file a claim, action or proceeding against City or City's Agents based on City's rescission or revocation of any Conditional Use Permit, Subsequent City Approvals, or City's failure to defend any claim, action, or proceeding based on Developer's failure to indemnify City.

Section 6.5. Waiver of Damages. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge that City would not have entered into this Agreement had it been exposed to liability for damages from Developer and, therefore, Developer hereby waives all claims for damages against City for breach of this Agreement. Developer further acknowledges that under the Development Agreement Statute, land use approvals (including development agreements) must be approved by the City Council and that, under law, the City Council's discretion to vote in any particular way may not be constrained by contract. Developer therefore waives all claims for damages against City in the event that this Agreement or any Project approval is: (1) not approved by the City Council or (2) is approved by the City Council, but with new changes, amendments, conditions, or deletions to which Developer is opposed. Developer further acknowledges that, as an instrument which must be approved by ordinance, a development agreement is subject to referendum; and that, under law, the City Council's discretion to avoid a referendum by rescinding its approval of the underlying ordinance may not be constrained by contract, and Developer waives all claims for damages against City in this regard. Notwithstanding the foregoing, nothing in this Section 6.5 shall amount to a waiver of Developer's right to exercise any of the administrative remedies available to Developer under applicable law and pursue any and all equitable remedies against the City in the event of the City's breach of this Agreement, including without limitation exercising its right to appeal, filing a Writ of Mandamus, or seeking specific performance.

ARTICLE 7

MORTGAGEE PROTECTION

This Agreement, once executed and recorded, shall be superior and senior to any lien placed upon the Site or any portion thereof following recording of this Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for

value. This Agreement shall immediately be deemed in default and immediately terminate upon the foreclosure or transfer of any interest in the Site or Project, provided such foreclosure or the transfer of interest results in the change of Developer, whether by operation of law or any other method of interest change or transfer, unless the City Manager has authorized such change or transfer in advance, in writing, which authorization shall not be unreasonably withheld.

ARTICLE 8

DEFAULT

Section 8.1. General Provisions.

(a) Subject only to any extensions of time by mutual consent in writing, or as otherwise provided herein, the failure or delay by any Party to perform in accordance with the terms and provisions of this Agreement shall constitute a default. Subject to Section 8.1(g), any Party alleging a default or breach of this Agreement (“Charging Party”) shall give the other Party (“Charged Party”) not less than thirty (30) calendar days written notice, which shall specify the nature of the alleged default and the manner in which the default may be cured (“Cure Period”). During any such Cure Period, the Charged Party shall not be considered in default for purposes of termination of this Agreement or institution of legal proceedings for the breach of this Agreement.

(b) After expiration of the t Cure Period, if such default has not been cured or is not in the process of being diligently cured in the manner set forth in the notice, or if the breach cannot reasonably be cured within thirty (30) calendar days, the Charging Party may, at its option, institute legal proceedings pursuant to this Agreement or give notice of its intent to terminate this Agreement pursuant to Government Code section 65868. In the event City is the Charging Party, City may, in its sole discretion, give notice, as required by law, to the Charged Party of its intent to revoke or rescind any operable Conditional Use Permit related to or concerning the Project.

(c) Prior to the Charging Party giving notice to the Charged Party of its intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review by City in the manner set forth in Government Code sections 65865, 65867, and 65868 or the comparable provisions of the Mendota Municipal Code within thirty (30) calendar days from the expiration of the Cure Period.

(d) Following consideration of the evidence presented and said review before City, and after providing the Charged Party an additional thirty (30) calendar day period to cure, the Charging Party may institute legal proceedings against the Charged Party or may give written notice of termination of this Agreement to the Charged Party.

(e) Evidence of default may arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Government Code section 65865.1, as set forth in Section 8.2. If any Party determines that another Party is in default following the completion of the normally scheduled periodic review, without reference to the procedures specified in Section 8.1(c), said Party may give written notice of termination of this Agreement, specifying in the notice the alleged nature of the default and potential actions to cure said default where appropriate. If the alleged default is not cured in sixty (60) calendar days or within such longer period specified

in the notice, or the defaulting Party is not diligently pursuing a cure, or if the breach cannot reasonably be cured within the period or the defaulting party waives its right to cure such alleged default, this Agreement may be terminated by the non-defaulting Party by giving written notice.

(f) In the event Developer is in material default under the terms and conditions of this Agreement, no permit application shall be accepted by City nor will any permit be issued to Developer until the default is cured, or the Agreement is terminated.

(g) In the event that a person or entity other than the Developer is in default, the Developer shall use commercially reasonable efforts to bring the person or entity in default into compliance. The City shall provide the Developer with notice and opportunity to cure as provided for in paragraph (a) through (e) above, except that the time periods in paragraphs (a), (b), (c) and (e) shall be ninety (90) days ("Extended Cure Period").

Section 8.2. Annual Review. City shall, every twelve (12) months during the Term of this Agreement, review the extent of good faith, substantial compliance of Developer and City with the terms of this Agreement. Such periodic review by City shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. City shall deposit in the mail or email to Developer a copy of all staff reports and, to the extent practical, related exhibits concerning this Agreement or the Project's performance, at least seven (7) calendar days prior to such annual review. Developer shall be entitled to appeal a determination of City or City Manager to the City Council. Any appeal must be filed within ten (10) calendar days of the Developer's receipt of the written decision of City or the City Manager, respectively. Developer shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before City, the City Manager, or City Council, as applicable.

Section 8.3. Estoppel Certificates. City shall, with at least twenty (20) calendar days prior written notice, execute, acknowledge, and deliver to Developer, Developer' lender, potential investors, or assignees an Estoppel Certificate in writing which certifies that this Agreement is in full force and effect, that there are no breaches or defaults under the Agreement, and that the Agreement has not been modified or terminated and is enforceable in accordance with its terms and conditions.

(a) At Developer's option, City's failure to deliver such Estoppel Certificate within the stated time period shall be conclusive evidence that the Agreement is in full force and effect, that there are no uncured breaches or defaults in Developer's performance of the Agreement or violation of any City ordinances, regulations, and policies regulating the use and development of the Site or the Project subject to this Agreement.

Section 8.4. Default by City. In the event City does not accept, review, approve, or issue any permits or approvals in a timely fashion, as defined by this Agreement, or if City otherwise defaults under the terms of this Agreement, City agrees that Developer shall not be obligated to proceed with or complete the Project, and shall constitute grounds for termination or cancellation of this Agreement by Developer.

Section 8.5. Cumulative Remedies of Parties. In addition to any other rights or remedies, City or Developer may institute legal or equitable proceedings to cure, correct, or remedy any default,

enforce any covenant, or enjoin any threatened or attempted violation of the provisions of this Agreement, so long as any such action conforms to section 8.1 (c) of this Agreement.

Section 8.6. Enforced Delay, Extension of Times of Performance. Delays in performance, by either Party, shall not be deemed a default if such delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed where mandated by governmental entities other than City including in the event of a pandemic, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulations enacted by the state or federal government, litigation, or other force majeure events. An extension of time for such cause shall be in effect for the period of forced delay or longer, as may be mutually agreed upon.

ARTICLE 9

TERMINATION

Section 9.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term, unless it is terminated earlier pursuant to the terms of this Agreement. Upon termination of this Agreement, City shall record a notice of such termination in substantial conformance with the "Notice of Termination" attached hereto as Exhibit D, and this Agreement shall be of no further force or effect except as otherwise set forth in this Agreement.

Section 9.2. Effect of Termination on Developer' Obligations. Termination of this Agreement shall eliminate any further obligation of Developer to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement, in whole or in part, shall not, however, eliminate the rights of Developer to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

Section 9.3. Effect of Termination on City's Obligations. Termination of this Agreement shall eliminate any further obligation of City to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement shall not, however, eliminate the rights of City to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

Section 9.4. Survival After Termination. The rights and obligations of the Parties set forth in this Section 9.4, Section 2.8, Section 6.3, Section 10.3, Section 10.4, Section 10.5, Section 10.7, and any right or obligation of the Parties in this Agreement which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

ARTICLE 10

OTHER GENERAL PROVISIONS

Section 10.1. Assignment and Assumption. Developer shall not have the right to sell, assign, or transfer all or any part of its rights, title, and interests in all or a portion of Site, or Project, subject to or a part of this Agreement, to any person, firm, corporation, or entity during the Term of this

Agreement without the advance written consent of the City Manager, such consent shall not be unreasonably withheld or conditioned. Any assignment or transfer prohibited by this Agreement will be considered an immediate breach of this Agreement and City may elect to immediately terminate this Agreement as it applies to the assumed property. If the City Manager approves an assignment or transfer of any interest detailed in this Section 10.1, City and Developer shall execute an "Assignment and Assumption Agreement" in the form attached hereto as Exhibit E. Nothing in this Section 10.1 applies to the Developer's capitalization or ownership provisions.

Section 10.2. Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of interest in the Site or Project, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including California Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Site, and is binding upon Developer.

Section 10.3. Notices. Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by facsimile or email (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile or email transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile or email after 5:00 p.m. on a normal business day, or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City: City of Mendota
 643 Quince Street
 Mendota, CA 93640
 Attention: City Manager

And to: Wanger Jones Helsley PC
265 E. River Park Circle, Suite 310
Fresno, California 93720
Attention: John P. Kinsey, Esq.

If to Developer: Left Mendota I, LLC
1315 N North Branch St, Suite D
Chicago, IL 60642
Attention: Chris Lefkovitz

And to: Katchko Vitiello & Karikomi, PC
11835 W Olympic Blvd 860E
Los Angeles, California 90064
Attention: Yelena Katchko, Esq.

Section 10.4. Governing Law and Binding Arbitration. The validity, interpretation, and performance of this Agreement shall be controlled by and construed pursuant to the laws of the State of California. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by binding arbitration in Fresno, California, before one arbitrator. The arbitration shall proceed pursuant to the Comprehensive Arbitration Rules and Proceedings (“Rules”) of the Judicial Arbitration and Mediation Services (“JAMS”). If the Parties cannot agree on an arbitrator within 30 days of the first notice by either Party of the need for arbitration, the arbitrator shall be chosen in accordance with the then current Rules of JAMS. The arbitrator shall apply California substantive law and shall have the power to enforce the rights, remedies, duties, liabilities and obligations of discovery by the imposition of the same terms, conditions and penalties as can be imposed in like circumstances in a civil action by a court of competent jurisdiction of the State of California. The arbitrator shall have the power to grant all legal and equitable remedies provided by California law and award compensatory damages provided by California law, except that punitive damages shall not be awarded. The arbitration award shall be final and binding upon the Parties and may be enforced through an action thereon brought in the Superior Court for the State of California in Los Angeles County.

Section 10.5. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any term or provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any term or provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, any provisions that are not invalid or unenforceable shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement. The Parties expressly agree that each Party is strictly prohibited from failing to perform any and all obligations under this Agreement on the basis that this Agreement is invalid, unenforceable, or illegal. By entering into this Agreement, each Party disclaims any right to tender an affirmative defense in any arbitration

or court of competent jurisdiction, that performance under this Agreement is not required because the Agreement is invalid, unenforceable, or illegal.

Section 10.6. Cumulative Remedies. In addition to any other rights or remedies, City and Developer may institute legal or equitable proceedings to cure, correct, or remedy any default, to specifically enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of the provisions of this Agreement. The prevailing party in any such action shall be entitled to reasonable attorneys' fees and costs. Notwithstanding the foregoing or any other provision of this Agreement, in the event of City default under this Agreement, Developer agrees that Developer may not seek, and shall forever waive any right to, monetary damages against City, but excluding therefrom the right to recover any fees or charges paid by Developer in excess of those permitted hereunder.

Section 10.7. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity challenging this Agreement or any associated entitlement, permit, or approval granted by City to Developer for the Project (collectively, "Project Litigation"), the Parties agree to cooperate with each other as set forth herein. City may elect to tender the defense of any lawsuit filed and related in whole or in part to Project Litigation with legal counsel selected by City. Developer will indemnify, hold City harmless from, and defend City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees, and expenses of litigation awarded to the prevailing party or parties in such litigation. Developer shall pay all litigation fees to City, within thirty (30) days of receiving a written request and accounting of such fees and expenses, from City. Notwithstanding the aforementioned, City may request, and Developer will provide to City within seven (7) days of any such request, a deposit to cover City's reasonably anticipated Project Litigation fees and costs.

Section 10.8. Constructive Notice and Acceptance. Every person who after the Effective Date and recording of this Agreement owns or acquires any right, title, or interest to any portion of the Site is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Site, and all rights and interests of such person in the Site shall be subject to the terms, requirements, and provisions of this Agreement.

Section 10.9. Statute of Limitations and Laches. City and Developer agree that each Party will undergo a change in position in detrimental reliance upon this Agreement from the time of its execution and subsequently. The Parties agree that section 65009(c)(1)(D) of the California Government Code, which provides for a ninety (90) day statute of limitations to challenge the adoption of this Agreement, is applicable to this Agreement. In addition, any person who may challenge the validity of this Agreement is hereby put on notice that, should the legality or validity of this Agreement be challenged by any third party in litigation, which is filed and served more than ninety (90) days after the execution of this Agreement, City and Developer shall each assert the affirmative defense of laches with respect to such challenge, in addition to all other available defenses. This Section in no way limits the right of a Party, claiming that the other Party breached the terms of this Agreement, to bring a claim against the other Party within the four (4) year statute of limitations set forth in Section 337 of the California Civil Code.

Section 10.10. Change in State Regulations. In no event shall Developer operate the Project in violation of the Agreement, or any applicable regulations issued pursuant to the California Cannabis Laws, as may be amended from time to time.

Section 10.11. Standard Terms and Conditions.

(a) **Venue.** Venue for all legal proceedings shall be in the Superior Court of California in and for the County of Fresno.

(b) **Waiver.** A waiver by any Party of any breach of any term, covenant, or condition herein contained or a waiver of any right or remedy of such Party available hereunder, at law or in equity, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition herein contained or of any continued or subsequent right to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

(c) **Completeness of Instrument.** This Agreement, together with its specific references, attachments, and Exhibits, constitutes all of the agreements, understandings, representations, conditions, warranties, and covenants made by and between the Parties hereto. Unless set forth herein, no Party to this Agreement shall be liable for any representations made, express or implied.

(d) **Supersedes Prior Agreement.** It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, or representations, written, electronic, or oral, between the Parties hereto with respect to the Site and the Project.

(e) **Captions.** The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

(f) **Number and Gender.** In this Agreement, the neutral gender includes the feminine and masculine, and the singular includes the plural, and the word "person" includes corporations, partnerships, firms, or associations, wherever the context requires.

(g) **Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" or "can" are permissive.

(h) **Term Includes Extensions.** All references to the Term of this Agreement shall include any extensions of such Term.

(i) **Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

(j) **Other Documents.** The Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and, to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to fulfill the purposes and intentions of this Agreement.

(k) **Time is of the Essence.** Time is of the essence in this Agreement in each covenant, term, and condition herein.

(l) **Authority.** All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states, or firms and that all former requirements necessary or required by state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, no Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon. .

(m) **Document Preparation.** This Agreement will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

(n) **Advice of Legal Counsel.** Each Party acknowledges that it has reviewed this Agreement with its own legal counsel and, based upon the advice of that counsel, freely entered into this Agreement.

(o) **Attorney's Fees and Costs.** If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

(p) **Calculation of Time Periods.** Unless expressly stated otherwise, all time referenced in this Agreement shall be calendar days, unless the last day falls on a legal holiday, Saturday, or Sunday, in which case the last day shall be the next business day.

(q) **Confidentiality.** Both Parties agree to maintain the confidentiality of the other Party's "Confidential Information" under this Agreement and shall not disclose such information to third parties. "Confidential Information" shall include, but not be limited to, business plans, trade secrets, and industry knowledge. Confidential Information shall not apply to information that: (i) is in the public domain at the time of disclosures or (ii) is required to be disclosed pursuant to a court order, governmental authority, or existing state law.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the Effective Date of the Agreement, as defined above.

“CITY”

Date: _____, 2020

CITY OF MENDOTA, CA
a California Municipal Corporation

By: Cristian Gonzalez
Its: City Manager

Attest:

Celeste Cabrera-Garcia
City Clerk

Approved to as Form:

John P. Kinsey
City Attorney

“DEVELOPER”

Date: _____, 2020

LEFT MENDOTA I, LLC, a Delaware
Limited Liability Company

By:
Its:

“FORMER DEVELOPER”

Date: _____, 2020

MARIE STREET DEVELOPMENT, a
California Limited Liability Company

By:
Its:

EXHIBIT A

Legal Description of the Land

The land referred to below is situated in the County of Fresno, State of California, and is described as follows:

Parcel 1:

That portion of the Southeast quarter of Section 31, Township 13 South, Range 15 East, Mount Diablo Base and Meridian, in the City of Mendota, County of Fresno, State of California, according to the Official Plat thereof, described as follows:

Beginning at a point on the East line of said Section 31, which bears North 0° 44' East, a distance of 646.62 feet from the Southeast corner of said Section; thence continuing along the Easterly line of said Section, North 0° 44' East, a distance of 973.11 feet; thence South 46° 44' West, a distance of 1249.23 feet to a point on the Northeasterly right of way line of Southern Pacific Railroad; thence South 43° 16' East, a distance of 700 feet along said Northeasterly right of way line; thence North 46° 44' East a distance of 573.25 feet to the Point of Beginning.

Excepting therefrom the Southwesterly 80 feet thereof as granted to the City of Mendota in Deed recorded May 3, 1973 in Book 6159, at Page 983, Instrument No. 41480, Fresno County Records.

APN: 013-280-15

Parcel 2:

That portion of the South half of the South half of the South half of Section 31, Township 13 South, Range 15 East, Mount Diablo Base and Meridian, in the City of Mendota, County of Fresno, State of California, according to the Official Plat thereof, described as follows:

Beginning at the intersection of the South line of said Section 31, with the Westerly right of way line of the Southern Pacific Railroad Company's Right of Way; thence North 43° 16' West, 49.42 feet; thence North 49° 26 1/2' West, 446.10 feet; thence South 46° 44' West 202 feet; thence South 43° 16' East, 258.78 feet to a point on the South line of said Section 31; thence along the South line of said Section, North 89° 57' East to the point of beginning.

Excepting therefrom all oil, gas, minerals and other hydrocarbon substances as heretofore reserved of record.

APN: 013-162-14S

Parcel 3:

A Tract of Land in Section 31, Township 13 South, Range 15 East, Mount Diablo Base and Meridian, in the City of Mendota, County of Fresno, State of California, according to the Official Plat thereof, described as follows:

Beginning at a point in the Easterly boundary of said Section 31, distant therealong North 01° 30' 19" East 534.96 feet from the Southeast corner of said Section 31; thence leaving said Easterly boundary South 23° 45' 57" West 101.78 feet; thence South 45° 54' 32" West 335.44 feet; thence South 00° 05' 34" West 10.60

feet to a point in the Southwesterly boundary of that certain 2.53 acre Tract of Land described as Tract Three of Parcel F-26, F-27 and F-28 in that certain Declaration of Taking recorded on October 17, 1968, in Book 5626 Page 838 of Official Records; thence along said boundary North 42° 29' 41" West 138.48 feet; thence leaving said Southwesterly boundary along the Northwesterly boundary of said 2.53 acre Tract described in said Declaration of Taking, North 47° 30' 19" East 513.25 feet to a point in the Easterly boundary of said Section 31; thence leaving said Northwesterly boundary along the Easterly boundary of said Section 31, also being the Easterly boundary of said 2.53 acre Tract described in said Declaration of Taking South 01° 30' 19" West 111.71 feet to the Point of Beginning.

Excepting therefrom all oil, gas and other hydrocarbon substances in and under said land and the right to remove the same provided that all digging, drilling or other extractive operations are conducted in such manner as not to interfere with the use of the land by, or any of the facilities of the United States as may be conclusively determined by it acting through the Secretary of the Interior or his duly authorized representative.

APN: 013-280-22S

Parcel 4:

A Tract of Land in the Southeast quarter of the Southeast quarter of Section 31, Township 13 South, Range 15 East, Mount Diablo Base and Meridian, in the City of Mendota, County of Fresno, State of California, as per Plat thereof, described as follows:

Beginning at Point "A" of Tract 2 described in Court Order recorded October 17, 1968 as Instrument No. 74385 in Book 5626 Page(s) 838, of Official Records, said Point "A" also being a point on the North boundary of Parcel 5 in the Deed from O. F. Matheson, et al, recorded January 6, 1960 in Book 4322 Page(s) 602; thence running along said North boundary South 89° 16' 41" East 50.00 feet; thence leaving said North boundary South 46° 06' 38" West 70.22 feet to a point in the West boundary of said Tract 2, said point being distant North 83° 24' 33" West 128.40 feet from the Southeast corner of said Section 31; thence along said West boundary North 1° 29' 56" East 50.00 feet to the Point of Beginning.

Also excepting therefrom an undivided one-half of all oil, gas, hydrocarbons and other minerals in and under said land as granted to Paul Matheson, et ux, by Deed recorded June 6, 1969 in Book 5693 Page 721 of Official Records;

Also excepting therefrom an undivided one-fourth interest in and to all oil, gas, asphaltum and other hydrocarbons and minerals in or under said land, together with the right, privilege, and easement to enter into and upon said property or any part thereof, in such manner and with such machinery, engines, tools, rigs, materials and supplies as may be property, necessary and usual and therein or thereon to explore, dig, mine and drill for the said reserved substances, and to erect buildings, barracks, tanks and other structures, usual, proper or necessary to extract, sever and remove all or any of the reserved portion of said substances from said land as reserved in the Deed recorded December 8, 1973, as Document No. 111142, in Book 6249 Page 144 of Official Records.

APN: 013-280-19

Parcel 5:

A Tract of Land in the Southeast quarter of the Southeast quarter of Section 31, Township 13 South, Range 15 East, Mount Diablo Base and Meridian, in the City of Mendota, County of Fresno, State of California, as per Plat thereof, described as follows:

Beginning at Point "B" of Tract 3 described in Court Order recorded October 17, 1968 as Instrument No. 74385 in Book 5626 Page(s) 838, said Point "B" being a point in the South boundary of the land described in the Deed to Paul Matheson, et al, recorded September 8, 1964 in Book 5062 Page(s) 193 of Official Records; thence leaving said Southerly boundary and running along the Easterly boundary of said Tract 3 the following 2 courses: North 1° 29' 56" East 31.97 feet; thence North 18° 06' 05" East 29 3 7 feet; thence leaving said Easterly boundary South 89° 16' 41" East 119.54 feet to a point in the East line of said Section 31; thence running along said East line South 1° 30' 19" West 60.00 feet to a point in said South boundary, said point being distant along said East line North 1° 30' 19" East 63.13 feet from the Southeasterly corner of said Section 31; thence leaving said East line and running along said South boundary North 89° 16' 41" West 127.92 feet to the Point of Beginning.

Excepting therefrom any portion of said land lying Southeasterly of the right of way line of the Southern Pacific Railroad Company.

Also excepting an undivided one-half of all oil, gas, hydrocarbons and other minerals in and under said land as granted to Paul Matheson, et ux, by Deed recorded June 6, 1969 in Book 5693 Page 721, Official Records.

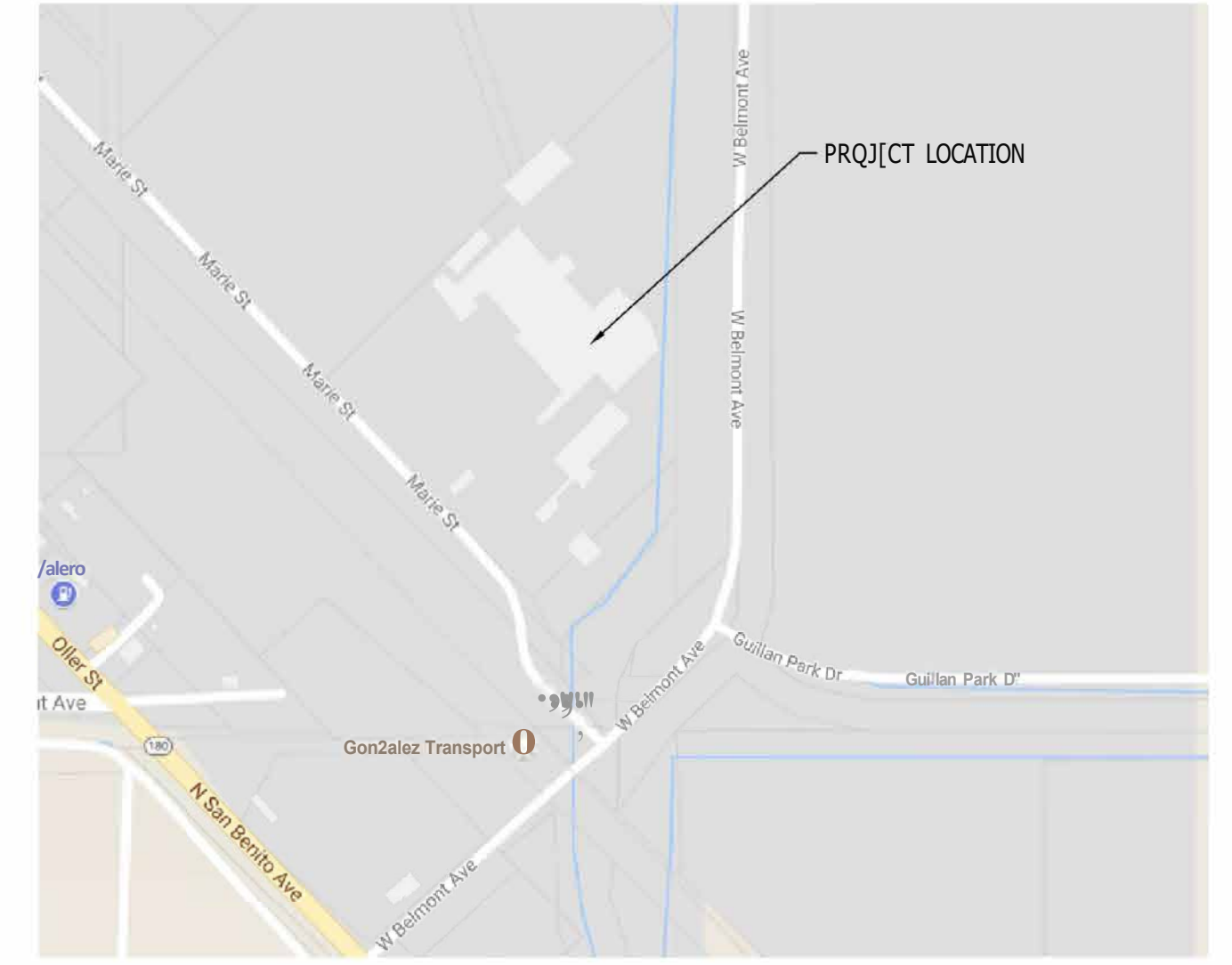
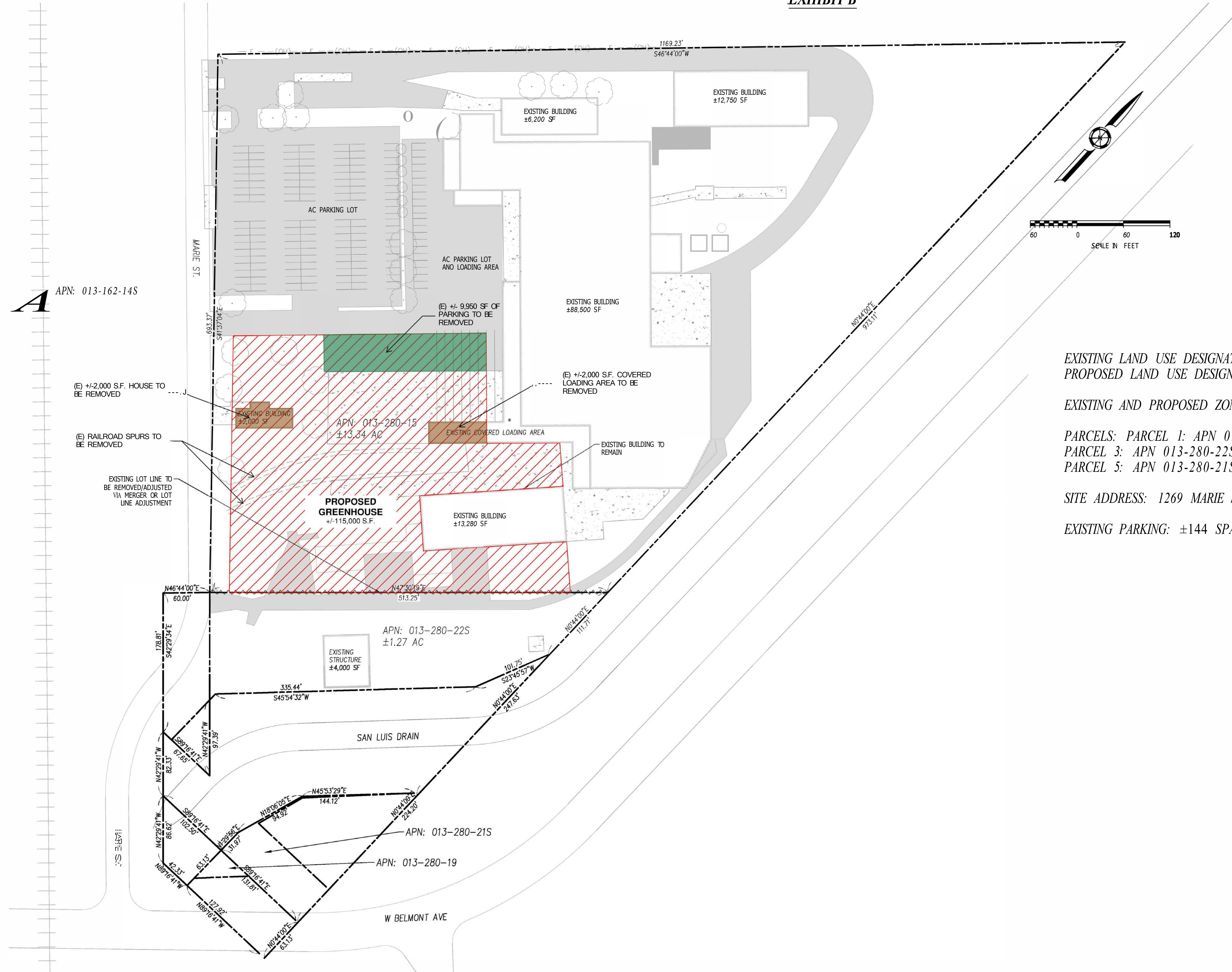
Also excepting an undivided one-fourth interest in and to all oil, gas, asphaltum and other hydrocarbons and minerals in or under said land, together with the right, privilege and easement to enter into and upon said property or any part thereof, in such manner and with such machinery, engines, tools, rigs, materials and supplies as may be proper, necessary and usual and therein or thereon to explore, dig, mine, and drill for the said reserved substances, and to erect buildings, barracks, tanks and other structures, usual, proper or necessary to extract, sever and remove all or any of the reserved portion of said substances from said land.

APN: 013-280-21S

Assessor's Parcel Numbers(s):

- Parcel 1: 013-280-15
- Parcel 2: 013- 162-14-S
- Parcel 3: 013-280-22-S
- Parcel 4: 013-280-19
- Parcel 5: 013-280-21-S

EXHIBIT B



VICINITY MAP

EXISTING LAND USE DESIGNATION: PUBLIC QUASI PUBLIC
 PROPOSED LAND USE DESIGNATION: LIGHT INDUSTRIAL

EXISTING AND PROPOSED ZONING DISTRICT: M-1 LIGHT MANUFACTURING

PARCELS: PARCEL 1: APN 013-280-15, PARCEL 2: APN 013-162-14S
 PARCEL 3: APN 013-280-22S, PARCEL 4: APN 013-280-19
 PARCEL 5: APN 013-280-21S

SITE ADDRESS: 1269 MARIE ST. MENDOTA, CA

EXISTING PARKING: ±144 SPACES

APN: 013-162-14S

- (E) +/- 2,000 S.F. HOUSE TO BE REMOVED
- (E) RAILROAD SPURS TO BE REMOVED
- EXISTING LOT LINE TO BE REMOVED/ADJUSTED VIA MERGER OR LOT LINE ADJUSTMENT

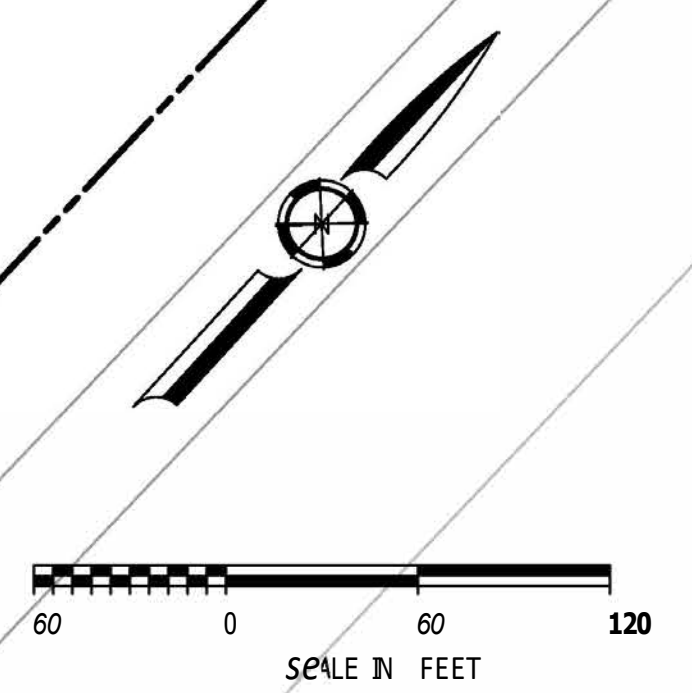
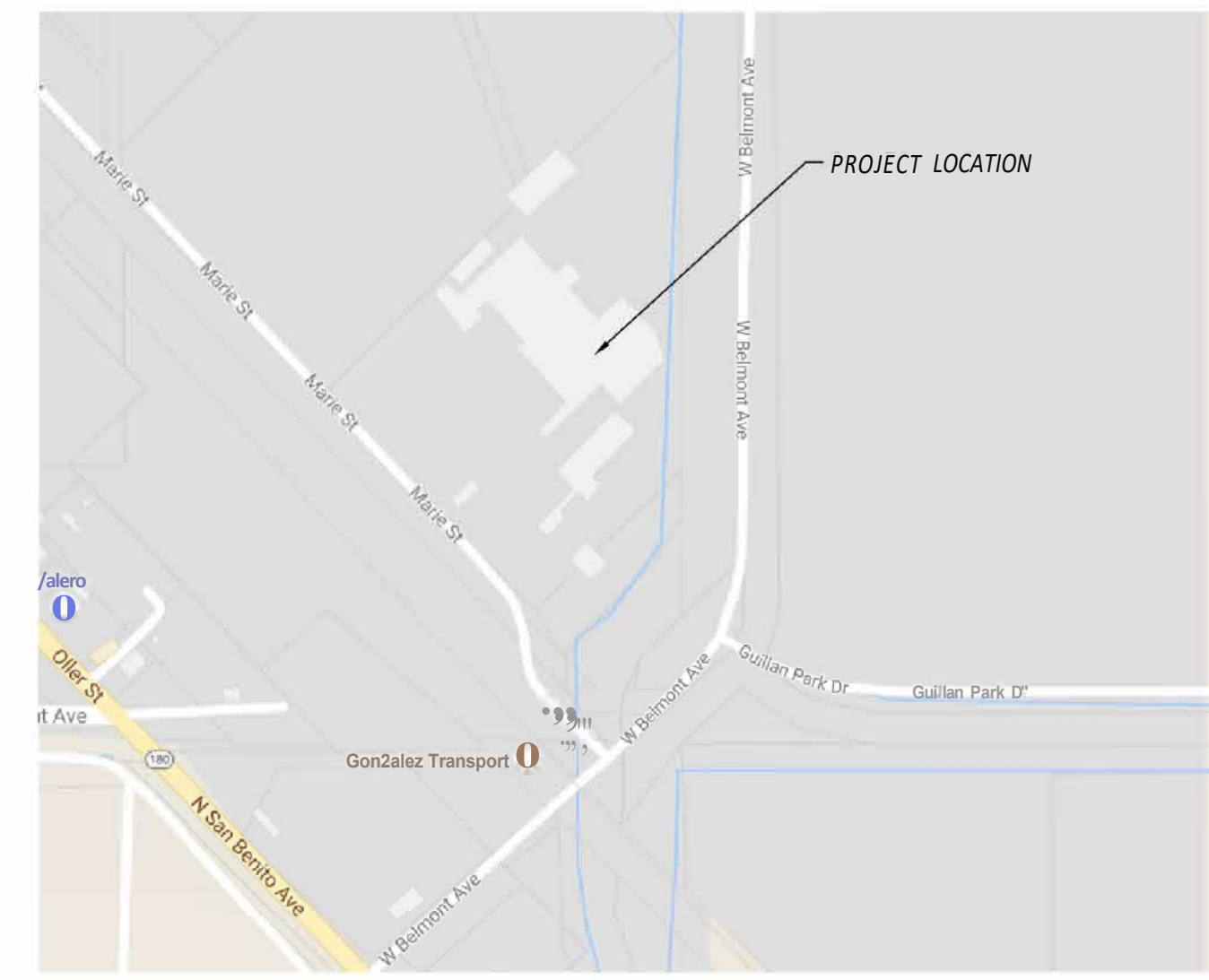
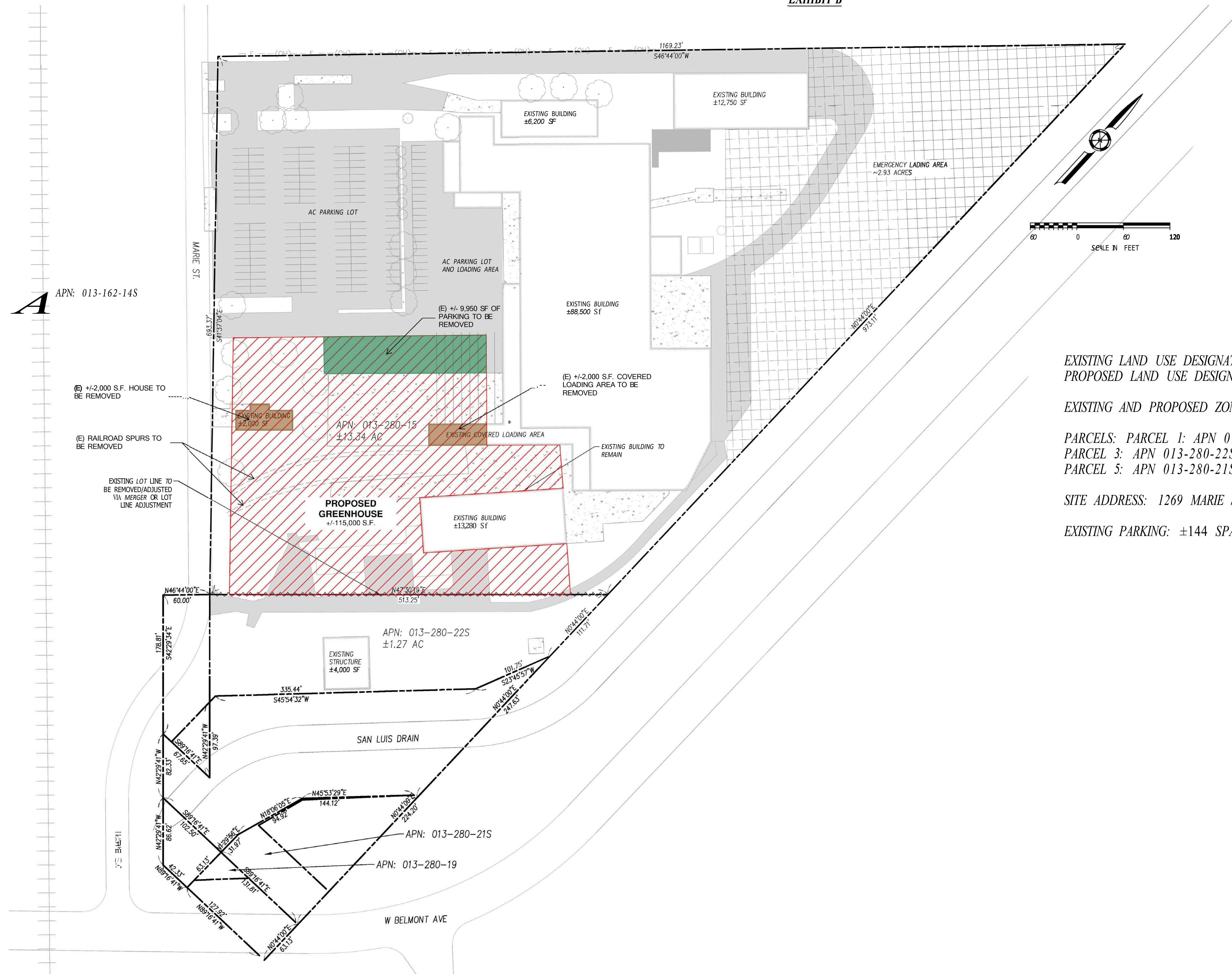


EXHIBIT B



VICINITY MAP

EXISTING LAND USE DESIGNATION: PUBLIC QUASI PUBLIC
 PROPOSED LAND USE DESIGNATION: LIGHT INDUSTRIAL

EXISTING AND PROPOSED ZONING DISTRICT: M-1 LIGHT MANUFACTURING

PARCELS: PARCEL 1: APN 013-280-15, PARCEL 2: APN 013-162-14S
 PARCEL 3: APN 013-280-22S, PARCEL 4: APN 013-280-19
 PARCEL 5: APN 013-280-21S

SITE ADDRESS: 1269 MARIE ST. MENDOTA, CA

EXISTING PARKING: ±144 SPACES

APN: 013-162-14S

- (E) ±2,000 S.F. HOUSE TO BE REMOVED
- (E) RAILROAD SPURS TO BE REMOVED
- EXISTING LOT LINE TO BE REMOVED/ADJUSTED VIA MERGER OR LOT LINE ADJUSTMENT

Exhibit C

Notice of Non-Performance Penalty

Pursuant to Article 4, Section 4.5 of the Development Agreement by and between the City of Mendota (“City”) and LEFT MENDOTA I, LLC (“Developer”) for the development of property located at 1269 Marie Street, Mendota, California 93640 (“Agreement”), if Developer fails to make any payment required by the Agreement, the City may impose a Non-Performance Penalty of one percent (1%) to all past due payments. Pursuant to the Agreement, City shall deliver a Notice of Non-Performance Penalty (“Notice”) to Developer, and Developer shall pay the Non-Performance Penalty in a single installment due on or before a date fifteen (15) calendar days following delivery of the Notice.

City hereby informs Developer that Developer has failed to make payment(s) required by the Agreement. The past due amount is _____. Accordingly, pursuant to Section 4.5 of the Agreement, a penalty of _____ (“Penalty Amount”) is hereby imposed. Please remit payment of the Penalty Amount by _____.

City Manager
City of Mendota

Date

Exhibit D

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
TO:**

City of Mendota
643 Quince St
Mendota, CA 93640
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Recording Fee Exempt per Government Code §6103

Notice of Termination

Pursuant to Article 9, Section 9.1 of the Development Agreement by and between the City of Mendota ("City") and LEFT MENDOTA I, LLC ("Developer") for the development of property located at 1269 Marie Street, Mendota, California 93640 ("Agreement"), _____ informs _____ that the Agreement is hereby terminated, in accordance with the terms and conditions as stated therein, pursuant to Article ____, Section ____.

In accordance with Article 9, Section 9.1 of the Agreement, City shall record this Notice of Termination.

Title:
Entity:

Date

Exhibit E

Assignment and Assumption Agreement

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made and entered into this ___ day of _____, _____, by and between the **CITY OF MENDOTA**, a municipal corporation of the State of California (“City”), **LEFT MENDOTA I, LLC**, a Delaware limited liability company (“Assignor”), and _____, a _____ (“Assignee”). City, Assignor, or Assignee may be referred to herein individually as a “Party” or collectively as the “Parties.” There are no other parties to this Agreement.

RECITALS

A. City and Assignor entered into a development agreement, dated _____, for the development of property located at 1269 Marie Street, in the City of Mendota, County of Fresno, State of California, Assessor’s Parcel Number 013-280-15 (“Development Agreement”), attached hereto as Exhibit “1” and incorporated herein by this reference;

B. Pursuant to Article 10, Section 10.1 of the Development Agreement, Assignor may transfer all or part of its rights, title, and/or interests in all or a portion of Site, or Project, as those terms are defined in the Development Agreement, to any person, firm, corporation, or entity during the Term of the Development Agreement only with the advance written consent of the City Manager, who shall not unreasonably withhold or condition such consent;

C. Assignor desires to transfer to Assignee some or all of Assignor’s rights and obligations under the Development Agreement, in accordance with Article 10, Section 10.1 of the Development Agreement;

D. Assignee desires to assume some or all of Assignor’s rights and obligations under the Development Agreement, in accordance with Article 10, Section 10.1 of the Development Agreement;

E. The City Manager has agreed to permit Assignor’s transfer of some or all of Assignor’s rights and obligations under the Development Agreement to Assignee, and to Assignee’s assumption of same, subject to the terms and conditions specified in this Agreement;

F. The Parties intend through this Agreement to allow Assignor to transfer, and Assignee to assume, some or all of Assignor’s rights and obligations under the Development Agreement, in accordance with Article 10, Section 10.1 of the Development Agreement.

G. The City Council has conducted all necessary proceedings in accordance with City’s Municipal Code for the approval of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

Section 1. Assignment. Assignor hereby assigns to Assignee (all/some) of Assignor's rights and obligations under the Development Agreement. If Assignor is transferring only some of Assignor's rights and obligations under the Development Agreement, then the specific rights and obligations subject to transfer shall be specified in Exhibit "1," attached hereto and incorporated herein by this reference.

Section 2. Assumption. Assignee hereby accepts and assumes the foregoing transfer or assignment of (all/some) of Assignor's rights and obligations under the Development Agreement.

Section 3. Consent. In accordance with Article 10, Section 10.1 of the Development Agreement, the City Manager hereby consents to Assignor's transfer of, and Assignee's assumption of, Assignor's rights and obligations under the Development Agreement, as specified herein, subject to any reasonable terms and conditions the City Manager may require, as set forth in Exhibit "2," attached hereto and incorporated herein.

Section 4. Conditions of Assignment. The Parties hereby agree to abide by the terms or conditions of assignment, if any, set forth in Exhibit 2, and acknowledge that City's consent would not have been provided but for the Parties' agreement to abide by the terms or conditions of assignment.

Section 4. Effective Date. The assignment and assumption of rights and obligations as specified herein shall be effective on _____.

Section 5. Terms of the Development Agreement. The terms of the Development Agreement are incorporated herein by this reference. Assignor acknowledges and agrees that the representations, warranties, covenants, agreements and indemnities contained in the Development Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein.

Section 6. Inconsistency. In the event of any conflict or inconsistency between the terms of the Development Agreement and the terms of this Agreement, the terms of the Development Agreement shall govern.

Section 7. Further Actions. Each of the Parties hereto covenants and agrees, at its own expense, to execute and deliver, at the request of the other Parties hereto, such further instruments of transfer and assignment and to take such other action as such the other Parties may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Agreement.

“City”

Date: _____, ____

CITY OF MENDOTA, CA
a California Municipal Corporation

By: Cristian Gonzalez
Its: City Manager

Attest:

City Clerk

Approved to as Form:

John P. Kinsey
City Attorney

“Assignor”

Date: _____, ____

LEFT MENDOTA I, LLC, a Delaware Limited
Liability Company

By:
Its:

“Assignee”

Date: _____, ____

Name:
Corporate Status:

Title:
Name:

Exhibit 1
(Interest Subject to Transfer)

Exhibit 2
(Conditions of Consent)

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE COUNCIL
OF THE CITY OF MENDOTA AMENDING
CHAPTER 8.37 OF TITLE 8 OF THE
MENDOTA MUNICIPAL CODE TO CURE
OMISSIONS IN THE ADOPTION OF
ORDINANCE NO. 20-16**

ORDINANCE NO. 21-05

WHEREAS, pursuant to the authority granted to the City of Mendota (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public health, the public morals, or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City’s police power; and

WHEREAS, in 1996, the voters of the State of California adopted the Compassionate Use Act of 1996 (“CUA”), the intent being to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2003, Senate Bill 420, titled the “Medical Marijuana Program Act” (“MMPA”), was enacted to clarify the scope of the CUA and to promulgate rules by which counties and cities can adopt and enforce regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted, affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical cannabis cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, in late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243, and SB 643, collectively called the Medical Marijuana Regulation and Safety Act (“MMRSA”), which provides a statewide program for the licensing and regulation of commercial medical cannabis activity, specifically, the operation of medical cannabis dispensaries and the delivery and cultivation of medical cannabis; and

WHEREAS, in November 2016, the voters of the State of California adopted the Adult Use of Marijuana Act (“AUMA”), the intent being to establish a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of cannabis; and

WHEREAS, in 2012, as amended in 2016 and 2017, the City adopted Chapter 8.36 of the Mendota Municipal Code pertaining to recreational and medical cannabis activities, which banned commercial cannabis cultivation, commercial deliveries of cannabis, and cannabis dispensaries in the City based upon various health, safety, welfare, and land use findings relating to cannabis cultivation, dispensing, and consumption; and

WHEREAS, in 2017, the Legislature passed, and the Governor signed, SB 94 and AB 133, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), integrating the MCRSA and AUMA to create a general framework for the regulation of commercial medicinal and adult-use cannabis in California; and

WHEREAS, in 2017, the City added Chapter 17.99 to the Mendota Municipal Code (“MMC”) establishing the Commercial Cannabis Overlay District (“CCOD”) in order to address a number of health, safety, and welfare concerns associated with cannabis activities, and amended Chapter 8.36 for consistency therewith; and

WHEREAS, on June 11, 2019, the City adopted Ordinance No. 19-06, which amended Chapter 8.36 of the MMC to eliminate the ban on cannabis dispensaries, and added Chapter 8.37 to the MMC, which established regulations for the operation of commercial cannabis businesses, including cannabis dispensaries, referred to therein as commercial cannabis retail businesses; and

WHEREAS, on September 22, 2020, the City adopted Ordinance No. 20-16 to add Chapter 17.99 of the MMC, which establishes the Commercial Cannabis Overlay District (“CCOD”) to address a number of health, safety, and welfare concerns associated with cannabis activities, and amended Chapter 8.36 for consistency therewith; and

WHEREAS, on September 22, 2020, the City adopted Ordinance No. 20-16 to preserve and promote the public health, safety, and welfare of the citizens of Mendota, to facilitate the establishment of permitted commercial cannabis businesses within the City while ensuring such businesses do not interfere with other lawful land uses, and to provide new sources of revenue to fund City services; and

WHEREAS, MMC Chapter 8.37 should be corrected for consistency with the provisions of Ordinance No. 20-16, which amended Chapter 17.99 of the MMC to, among other things, permit the outdoor cultivation of cannabis. This correction should be made retroactively effective as of the effective date of Ordinance No. 20-16.

NOW, THEREFORE, the City Council of the City of Mendota does ordain as follows:

SECTION 1. The Recitals set forth above are incorporated herein and by this reference made an operative part hereof.

SECTION 2. Section 8.37.140 of Chapter 8.37 of Title 8 of the Mendota Municipal Code is hereby amended to read as follows:

8.37.140 - Operating requirements for cannabis cultivators.

A. General.

1. Cultivator may operate twenty-four (24) hours a day. Operations shall be subject to the provisions of the Noise Control Ordinance, Title 9, Chapter 9.05 of this code, as may be amended.
- ~~2. **Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors or in a greenhouse.**~~
- ~~2.~~ **3.** Cannabis plants shall not be visible from a public or private road, sidewalk, park, or any common public viewing area.
- ~~3.~~ **4.** Cultivator shall only be allowed to cultivate the square feet of canopy space permitted by state law.
- ~~4.~~ **5.** Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- ~~5.~~ **6.** Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- ~~6.~~ **7.** The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the cultivation site, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- ~~7.~~ **8.** All applicants seeking a commercial cannabis business permit for cultivation uses shall submit the following in addition to the information generally otherwise required for a commercial cannabis business permit:
 - i. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities (indoor, mixed-light, **or outdoor**) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light, **or outdoor**).

- ii. A description of a legal water source, irrigation plan, and projected water use.
- iii. Identification of the source of electrical power and plan for compliance with applicable building codes and related codes.
- iv. Plan for addressing public nuisances that may derive from the cultivation site.

B. Security Measures.

- 1. A permitted cultivator shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis and cannabis products at the commercial cannabis business. Except as may otherwise be determined by the city manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - i. Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - ii. Premises shall have perimeter security and lighting, including motion sensors, as approved by the chief of police.
 - iii. Prevent individuals from remaining on the premises and nearby vicinity if they are not engaging in an activity directly related to the permitted operations of the cultivator.
 - iv. Establish limited access areas accessible only to authorized personnel.
 - v. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriters Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
 - vi. Install twenty-four (24) hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the business which are open and accessible to the public, all interior spaces where cannabis, cannabis products, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior

cameras shall be in weatherproof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The cultivators shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the city manager or his/her designee(s), and that it is compatible with the city's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the city manager or his/her designee(s). Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the city manager or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the cultivation site business, and shall be capable of enlargement via projection or other means. Internet protocol address information shall be provided to the Mendota Police Department by the cultivator, to facilitate remote monitoring of security cameras by the Mendota Police Department or its designee.

- vii. Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- viii. Panic buttons shall be installed with direct notification to Mendota Police Department dispatch, and shall be configured to immediately alert dispatch for the Mendota Police Department.
- ix. Any bars installed on the windows or the doors shall be installed only on the interior of the building.
- x. Armed security personnel shall be on-site during all hours of operation. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the city manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the chief of police.
- xi. Premises shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

- xii. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the cultivator; or (b) a licensed security professional.
- xiii. The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.
- xiv. An accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.
- xv. Demonstrate to the chief of police, city manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.
- xvi. State of the art network security protocols in place to protect computer information and all digital data.
- xvii. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- xviii. Each cultivator shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the city manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the cultivator, annually prepare and submit to the chief of police a security plan for approval and maintain a copy of the current security plan on the premises, to present to a peace officer immediately upon request that meets the following requirements:
 - 1. Confirms that a designated manager will be on duty during business hours.
 - 2. Identifies all managers and their contact phone numbers.
 - 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the manager's office.
 - 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company twenty-four (24) hours a day, seven days a week, and provides contact information for each licensed security company.

5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the premises, the parking lot, and any adjacent property under the business' control.
 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.
2. As part of the application and permitting process each cultivator shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
 3. Cooperate with the city whenever the city manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this chapter.
 4. Notify the city manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - i. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the city manager or his/her designee(s).
 - ii. Diversion, theft, loss, or any criminal activity involving the cultivator or any agent or employee of the cultivator.
 - iii. The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
 - iv. Any other breach of security.
 5. Compliance with the foregoing requirements shall be verified by the chief of police prior to commencing business operations. The chief of police may supplement these security requirements once operations begin, subject to review by the city manager if requested by the business owner.

SECTION 3. The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.* ("CEQA"), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the ground that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the ground that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under

Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason 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 the Ordinance. The City Council of the City of Mendota hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

SECTION 6. This ordinance shall become effective and in full force at 12:00 midnight on the 31st day following its adoption.

* * * * *

The foregoing ordinance was introduced on the 9th day of February, 2021, and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 23rd day of February, 2021, and its corrections are made retroactively effective as of the effective date of Ordinance No. 20-16, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Rolando Castro, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk

APPROVED AS TO FORM:

John Kinsey, City Attorney

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE COUNCIL
OF THE CITY OF MENDOTA AMENDING
CHAPTER 15.04 OF TITLE 15 OF THE
MENDOTA MUNICIPAL CODE TO
EXEMPT RAZOR WIRE USE BY
COMMERCIAL CANNABIS BUSINESSES**

ORDINANCE NO. 21-06

WHEREAS, pursuant to the authority granted to the City of Mendota (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public health, the public morals, or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City’s police power; and

WHEREAS, in 1996, the voters of the State of California adopted the Compassionate Use Act of 1996 (“CUA”), the intent being to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2003, Senate Bill 420, titled the “Medical Marijuana Program Act” (“MMPA”), was enacted to clarify the scope of the CUA and to promulgate rules by which counties and cities can adopt and enforce regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted, affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical cannabis cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, in late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243, and SB 643, collectively called the Medical Marijuana Regulation and Safety Act (“MMRSA”), which provides a statewide program for the licensing and regulation of commercial medical cannabis activity, specifically, the operation of medical cannabis dispensaries and the delivery and cultivation of medical cannabis; and

WHEREAS, in November 2016, the voters of the State of California adopted the Adult Use of Marijuana Act (“AUMA”), the intent being to establish a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of cannabis; and

WHEREAS, in 2012, as amended in 2016 and 2017, the City adopted Chapter 8.36 of the Mendota Municipal Code pertaining to recreational and medical cannabis activities, which banned commercial cannabis cultivation, commercial deliveries of cannabis, and cannabis dispensaries in the City based upon various health, safety, welfare, and land use findings relating to cannabis cultivation, dispensing, and consumption; and

WHEREAS, in 2017, the Legislature passed, and the Governor signed, SB 94 and AB 133, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), integrating the MCRSA and AUMA to create a general framework for the regulation of commercial medicinal and adult-use cannabis in California; and

WHEREAS, in 2017, the City added Chapter 17.99 to the Mendota Municipal Code (“MMC”) establishing the Commercial Cannabis Overlay District (“CCOD”) in order to address a number of health, safety, and welfare concerns associated with cannabis activities, and amended Chapter 8.36 for consistency therewith; and

WHEREAS, on June 11, 2019, the City adopted Ordinance No. 19-06, which amended Chapter 8.36 of the MMC to eliminate the ban on cannabis dispensaries, and added Chapter 8.37 to the MMC, which established regulations for the operation of commercial cannabis businesses, including cannabis dispensaries, referred to therein as commercial cannabis retail businesses; and

WHEREAS, on September 22, 2020, the City adopted Ordinance No. 20-16 to add Chapter 17.99 of the MMC, which establishes the Commercial Cannabis Overlay District (“CCOD”) to address a number of health, safety, and welfare concerns associated with cannabis activities, and amended Chapter 8.36 for consistency therewith; and

WHEREAS, on September 22, 2020, the City adopted Ordinance No. 20-16 to preserve and promote the public health, safety, and welfare of the citizens of Mendota, to facilitate the establishment of permitted commercial cannabis businesses within the City while ensuring such businesses do not interfere with other lawful land uses, and to provide new sources of revenue to fund City services; and

WHEREAS, MMC Section 15.04.110 prohibits the installation and use of razor wire on fencing in non-residential districts throughout the City; and

WHEREAS, in light of the City’s recent amendments to MMC Chapters 8.37 and 17.99 to permit outdoor cannabis cultivation, the use of razor wire by licensed commercial cannabis businesses engaging in outdoor cannabis cultivation represents a permissible safety precaution.

NOW, THEREFORE, the City Council of the City of Mendota does ordain as follows:

SECTION 1. The Recitals set forth above are incorporated herein and by this reference made an operative part hereof.

SECTION 2. Section 15.04.110 of Chapter 15.04 of Title 15 of the Mendota Municipal Code is hereby amended to read as follows:

15.04.110 – Same—Other.

Except as otherwise indicated, the provisions of Section 15.04.090 shall apply. Fencing in non-residential districts is subject to the following standards:

A. Fence height shall not exceed ten (10) feet. Under certain circumstances, a maximum height of less than ten (10) feet may be imposed.

B. Barbed wire shall be permitted only if the lowest strand is at least six feet above grade, and when used for security purposes in addition to a regular fence.

C. Barbed wire shall be oriented towards the interior of the property.

D. The installation or other use of razor wire is prohibited. **This subdivision shall not apply to commercial cannabis businesses operating pursuant to Chapters 8.37 and 17.99 of this code.**

SECTION 3. The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.* (“CEQA”), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the ground that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the ground that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason 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 the Ordinance. The City Council of the City of Mendota hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

SECTION 6. This ordinance shall become effective and in full force at 12:00 midnight on the 31st day following its adoption.

* * * * *

The foregoing ordinance was introduced on the 9th day of February, 2021, and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 23rd day of February, 2021, and its corrections are made retroactively effective as of the effective date of Ordinance No. 20-16, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Rolando Castro, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk

APPROVED AS TO FORM:

John Kinsey, City Attorney

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: NANCY M. DIAZ, FINANCE OFFICER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: GRANTS UPDATE
DATE: FEBRUARY 9, 2021

GRANTS UPDATE

- **County of Fresno, Urban Community Development Block Grant (CDBG) Program** – Staff submitted a revised budget to include funding from 2019-2020 and 2020-2021 and activities to be completed for the Rojas-Pierce Park Expansion. We are waiting for approval from County of Fresno.
- **County of Fresno, Urban Community Development Block Grant Program for Eligible Activities to Support Coronavirus and Other Infectious Disease Response** – Staff has received approval from U.S. Department of Housing and Urban Development (HUD) to implement the “Mendota Internet Connectivity, Project No. 19741-CV”. This program will allow the City to pay up to (3) months of broadband/internet service for qualifying applicants. The City will be in partnering with the Office of Community and Economic Development, located at California State University, Fresno to implement the program. This is partial funding provided by the County of Fresno. The remaining allocation is being used to purchase equipment for the local Fire Department. County of Fresno will be administering the purchasing and oversight of those funds.
- **FEMA-4482-DR-CA California Covid-19 Pandemic** – Staff is in the process of submitting for reimbursement.
- **San Joaquin Valley Air Pollution Control District (SJVAPCD), Public Benefits Grants Program, New Alternative Fuel Vehicle Purchase** – Staff is currently waiting for the 2020 CNG fit to be approved by the SJVAPCD to place an order for a Ford F-250. The Tropos vehicle for the Public Works Department has been ordered. We are expecting the vehicle to be ready in January 2021.
- **Office of Traffic Safety (OTS) Grant** – Staff has purchased the emergency fire equipment from Diamondback Fire & Rescue. The Mendota Fire Department should have received earlier this month. The first quarterly report will be due by January 30, 2021.
- **COPS Hiring Program** – Our COPS HP Grant is updated with all required documents. As part of the grant agreement, the Mendota Police Department would need to hire an additional officer with the Lieutenant position not being filled. The first quarterly report will be due by January 30, 2021.
- **Statewide Park Development and Community Revitalization Program (SPP)** – Staff is working on the application for a new community center, outdoor fitness court and inclusive playground to be located at the Rojas-Pierce Park. A survey was sent out with

December's utility billing to get feedback from the community which was due on January 31, 2021. A raffle was to be held for those who participated in the survey. However, we received ample prizes from Mendota Pizza Factory, Mendota Donut, Star Burger, Gil's Flowers and Mayor Protemp Mendoza for all participants to receive a prize.

- **Coronavirus Relief Funds and CARES Funding** – The Department of Finance issued the City of Mendota \$154,512.00 for the Coronavirus Relief Funds and The County of Fresno has reimbursed the City \$229,732.87 for CARES Funding. Both funding allocations have assisted with purchasing equipment for the Mendota Police Department, small business grant program, utility bill assistance grant program, (2) message trailers, non-profit organization grant program for COVID-19 relief assistance, overtime for Public Works and Police Department.
- **Wonderful Community Grants** – The rental relief program has officially been accepting applications to assist with rental assistance. The due date is February 1, 2021. There will be (50) applicants to be approved for \$1,000 to be paid to their landlord or property owner.
- **Airport CAREs Grant** – City received the \$1,000.00 grant as part of the CARES act on November 25, 2020. Staff submitted reimbursement for the airport insurance.
- **Local Early Action Planning Grants (LEAP)** – Staff will be submitting an application to the Department of Housing and Community Development Department for the Local Early Action Planning Grant. This grant funding will assist the City of Mendota to identify necessary analysis scope, complete data collection, analyze data and identify necessary water and sewer improvements.
- **Proposition 64 Public Health and Safety Grant Program** – The City has partnered with City of Fresno, The Boys & Girls Club of Fresno County and Fresno Economic Opportunities Commission for the grant proposal submitted to Board of State and Community Corrections (BSCC) on January 29, 2021. The City of Fresno will be the lead applicant. The City's budget proposal was for \$452, 509.75 to include (2) Community Resource Officers, (2) Administrative Assistants, (1) K-9, (1) car, and other costs (training, equipment, professional services) Grant period is May 1, 2021 to April 30, 2024.
- **Good Neighbor Citizenship Company Grants** – Staff applied for a grant with State Farm for \$198,825.00 for a “pocket park” on the corner of Bass Avenue and I Street. Grant decisions will be communicated by the end of the first quarter in 2021. (April 2021)
- **Urban Flood Protection Grant Program** – The City of Mendota's Stormwater Improvement Project has been selected to compete in the evaluation process under the Urban Flood Protection Grant Program. This will be conducted via a virtual field inspection on March 24, 2021. There will be preliminary tasks to be completed prior to the virtual field inspection.

Attachment(s):

1. Grants Spreadsheet

Grant Information

Grant Name	Application Due Date	Award Date	Agency: Federal/State/County/Private	Pass-thru	Matching	Award Amount	Purpose of Grant	Notes	Comments by Council or Staff
Statewide Park Development and Community Revitalization Program (SPP)	3/12/2021	TBD	State	N	N	Maximum \$8,500,000	1) Community Center - Rojas-Pierce Park; 2) Fitness Court - Veterans Park; 3) Renovation - Pool Park		
Rubberized Pavement Grant Program	2/29/2021	12/31/2021	State	N	N	up to \$350,000	City-wide street projects for FY 21/22		
Proposition 64 Public Health and Safety Grant Program	1/29/2021	5/1/2021	State	N	N	\$452,509.75	(2) Community Resource Officers, (2) Administrative Assistants, (1) K-9, (1) vehicle	Partnership with City of Fresno (Lead Applicant), Fresno EOC, The Boys & Girls Clubs of Fresno County	
Good Neighbor Citizenship Company Grants	10/31/2020	4/30/2021	Private	N	N	\$ 198,825.00	Pocket Park at Bass Avenue and I Street		
CARES County of Fresno	10/1/2020	12/31/2020	County	N	N	\$ 229,732.87	COVID-19 relief funds: Non-profit organizations; Message Trailers; Overtime		
Coronavirus Relief Funds (CRF)	10/1/2020	TBD	State	N	N	\$ 154,512.00	Expenditures incurred for COVID-19 - Use funds for Police Department MDT's		
FEMA-4482-DR-CA	TBD	TBD	State	N	Y	TBD	Expenditures incurred for COVID-19	25% match	
CDGB -Coronavirus and Other	TBD	7/1/2020	County	N	N	\$ 104,796.00	Fire Department Equipment & Broadband Assistance for Mendota Residents		
Wonderful Community Grants	8/31/2020	9/15/2020	Private	N	N	\$ 50,000.00	COVID-19 relief funds	Mendota Community Corporation Administering	
Tobacco Grant Program	8/7/2020	TBD	State	N	N	TBD	Add new tobacco language to our municipal code for enforcement; overtime for educational awareness to local vendors.		
Urban Community Development Block	7/31/2020	7/1/2021	County	N	N	\$ 150,000.00	Phase III Rojas-Pierce Park Expansion Project		
California Aid to Airports Program	7/9/2020	3/31/2021	State	N	N	\$ 10,000.00	Annual credit grant to fund operational costs at the airport		
Community Facilities Grant	7/1/2020	8/1/2020	Federal	N	Y	\$ 50,000.00	Purchase (2) Police Ford Explorers, upfit and equipment. This grant is in conjunction with the New Alternative Fuel Vehicle Purchase Grant.	USDA	
New Alternative Fuel Vehicle Purchase	6/22/2020	10/31/2020	Local	N	N	Up to \$20,000 per vehicle	Purchase (1) Police Ford Explorer and (1) Ford F-250 Truck		
CARES Act Airport Grant	6/18/2020	TBD	Federal	N	N	\$ 1,000.00	Reimburse operational and maintenance expenses or debt service payments for the William Robert Johnston Municipal Airport.		
Urban Flood Protection Grant Program	6/15/2020	TBD	State	N	N	\$ 4,500,000.00	Removal and replacement of undersized and critically damaged storm drain from 8th Street southeasterly past 10th Street to an existing ditch.		
COPS Hiring Program	3/11/2020	10/1/2020	Federal	N	Y	\$ 125,000.00	Hire (1) Full-time Police Officer for 3 years.	25% match	
Office of Traffic Safety Grants	1/30/2020	10/1/2020	State	N	N	\$ 81,527.00	DUI Saturations, Traffic Enforcements, Car Seat Installation/Giveaway Event, Emergency Medical Services for the Fire Department	We received 2/3 grants applied. Car Seat Installation was not approved.	
Fresno COG 2019-2020 CMAQ	1/1/2020	5/1/2020	Federal	Y	Y	\$ 458,304.00	Alley Paving Project for 7U & 7U1 (near Unida/Belmont/Derrick) and about 1/3 of the alleys on the eastside.	11.47% match	
SB 2 Planning Grant Program	12/20/2019	6/1/2020	State	N	N	up to \$160,000	Update planning documents and processes of housing approvals/production		
New Alternative Fuel Vehicle Purchase	12/20/2019	6/1/2020	Local	N	N	Up to \$20,000 per vehicle	Purchase (1) Public Works/Utilities Trades Vehicle & (2) Police Explorers Interceptors Vehicles	(2) Police Explorers Vehicles to be paid with funding from USDA	
Beverage Container Recycling City/County Payment Program	12/17/2019	2/28/2020	State	N	N	\$ 5,000.00	Billboard Advertisement and Radio Advertisement to promote beverage container recycling.	If you don't expend the full \$5,000.00, you must repay CalRecycle.	
Automatic Meter Read Construction		10/21/2019	State	N	Y	\$ 3,074,561.00	Install City-wide Automatic Meter Reading Meters	Grant Component \$2,724,912.00	
Access to Historical Records: Archival Projects	10/3/2019	7/1/2020	Federal	N	Y	\$ 95,907.00	Digitize public records and make freely available online.		
National Fitness Campaign 2020	8/1/2019	10/1/2020	Private	N	Y	\$ 30,000.00	Outdoor Fitness Court	If the City wishes to pursue this grant, we would need to match \$100,000.00.	
Urban Community Development Block	7/31/2019	7/1/2020	County	N	N	\$ 150,000.00	Phase II Rojas-Pierce Park Expansion Project		
California Aid to Airports Program	7/31/2019	10/31/2019	State	N	N	\$ 10,000.00	Annual credit grant to fund operational costs at the airport		
Urban County Per Capita Grant Program	6/3/2019	2020	State	N	N	\$ 6,969.92	Rojas-Pierce Park Expansion	One-time basis	
Per Capita Grant Program	6/3/2019	2020	State	N	N	\$ 177,952.00	Rojas-Pierce Park Expansion	One-time basis	

Key: Applied for Grants

- In process
- Approved
- Denied
- Closed

Potential Grant Opportunities

Grants	Council	Application Due Date	Agency	Matching	Award Amount	Purpose of Grant	Comments by Council or Staff
Tire-Derived Product Grant Program		TBD	State	TBD	up to \$150,000	Landscape Projects or Playground Projects with tire-derived products	Next cycle available April 2021.
Clean, Safe and Reliable Drinking Water		Open	State	TBD	TBD	Planning grant for water storage; pressure booster and water quality	
Walmart Community Grant		12/31/2020	Private	N	up to \$5,000	Quality of life; Community and economic development; Public Safety; Environmental sustainability	
Clean Green Yard Machines: Commercial		TBD	District	TBD	TBD	Replacement of landscaped maintenance equipment	
Airport Improvement Plan Grant		TBD	State	TBD	TBD	Improvements to Airport	Need to complete a NEPA for the pre-application process; Cost Estimate is
Caltrans Sustainable Transportation Grant		10/11/2019	State			Local and regional multimodal transportations and land use planning projects to further the region's RTP SCS.	City will apply for this type of grant when population reaches 25,000 or above.

Memorandum

To: City Council via Cristian Gonzalez, City Manager

From: Michael Osborn, City Engineer

Subject: City Engineer's Report to City Council

Date: February 3, 2021

Engineering Projects:

1. Rojas Pierce Park:
 - *Expansion is completed; working with staff for funding for next Phase*
 - *It is best to stay of the new turf under after 1st feed and mow in spring to protect our investment*
2. Bass & Barboza Roundabout:
 - *Project is completed; working with Caltrans for reimbursement*
3. Mowry Bridge Replacement Project (MBRP):
 - *Contractor has made great progress, existing bridge is removed and new piles are going in*
 - *Completion around July 2021*
4. Well 10 and Water Main Relocation
 - *On hold; working with USBR and BB Limited to reduce costs*
5. Mendota Meter Reading Project
 - *Preparing construction documents*
 - *Construction to start in late Spring of 2021*
6. Citywide RRXG Improvements:
 - *STBG funded, RFP to be reissued for design services this month*
7. MJHS Safe Routes to School Project:
 - *ATP funds authorized; RFP for design services to be issued this month*
8. Safe Routes to School Master Plan
 - *ATP funds authorized; RFP for report preparation this month*
9. WWTP Ponds 1 & 6
 - *Preparing pond completion report to bring on-line*
10. 2021 Alley Paving Project
 - *Preparing construction documents to pave 3,000 linear feet of alleys*
 - *Alleys to be included are between Belmont & Unida and 3 of the 5 alleys between Marie & Lolita*
 - *Construction to start in late Spring 2021 with \$483,000 of CMAQ funding*

Planning Projects

1. Rojas Pierce Park Annexation
 - a. *Working with LAFCO and WWD to complete process*
 - b. *WWD has agreed to dedicate additional 4.6 acres of land for further expansion of the park and connection of Amador Ave and Smoot Ave*

Grant Applications:

1. Mendota Stormwater Improvement Project
 - EOPCC \$4.2 million
 - Prop 68 Urban Flood Protection Grant Program
 - Application submitted on 6/15/20; received follow-up notification that this project has progressed to step 2 – virtual site visit
 - Prop 1 Storm Water Grant Program, Round 2
 - Application submitted on 7/1/20; funding decisions anticipated soon
2. Caltrans Sustainable Transportation Planning Grant
 - Preparing application for funds to prepare Derrick & Oller Corridor Enhancement Plan to improve safety and circulation in these two major corridors

Development Projects:

1. CES Mendota
 - Initial meetings with applicant; anticipating formal application
2. Axiom/Valley Ag Holdings
 - Continuing discussions with applicant; formal application received

On-going (this month):

1. Representation of the City at FCOG TTC meetings
2. Representation of the City and westside cities at FCOG RTP/SCS roundtable
3. Seeking funding opportunity for lighting study and improvements

Overall P&P Staff engaged (months of October - January):

- Engineers: 5
- Surveyors: 3
- Planners: 9
- Environmental Specialist: 0
- GIS/CAD Specialists: 6
- Construction Manager: 1
- Project Administrator: 3

Abbreviations:

EOPCC – Engineer's Opinion of Probable Construction Cost
NTP – Notice to Proceed
CUCCAC – California Uniform Construction Cost Accounting Commission
STBG – Surface Transportation Block Grant
CMAQ – Congestion Mitigation and Air Quality (grant)
ATP – Active Transportation Plan (grant)
RFP – Request for Proposal

RFA- Request for Authorization (for grant funding)
FCOG – Fresno Council of Governments
ADA – Americans with Disabilities Act
DBE – Disadvantaged Business Enterprise
TTC – Technical Transportation Committee (through FCOG)
RTP/SCS – Regional Transportation Plan, Sustainable Communities Strategies