



CITY OF MENDOTA

"Cantaloupe Center Of The World"

ROLANDO CASTRO
Mayor

VICTOR MARTINEZ
Mayor Pro Tem

JESSE MENDOZA

JOSEPH R. RIOFRIO

OSCAR ROSALES

AGENDA MENDOTA CITY COUNCIL

Regular City Council Meeting
CITY COUNCIL CHAMBERS
643 QUINCE STREET
June 23, 2020
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.

If you require interpretation services to participate at this meeting, please contact the City Clerk at (559) 655-3291 between the hours of 8 a.m. – 5 p.m. Monday through Friday. Notification of at least twenty-four hours prior to the meeting will enable staff to make the necessary arrangement to ensure participation at the meeting.

If you would like to participate at 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=S1ZEc0VYaXRRTFp6c293cHMvQIA1dz09>

Si se solicitan servicios de interpretación en español, participe en esta reunión a través de Zoom, utilizando la siguiente información:

Número de marcación: 1(669) 900-6833 ID de la reunión: 998 0352 7013 Contraseña: 93640
<https://zoom.us/j/99803527013?pwd=ZG5ueTZybCtCSDIURFRHcko2OEIKQT09>

CALL TO ORDER

ROLL CALL

FLAG SALUTE

FINALIZE THE AGENDA

1. Adjustments to Agenda
2. Adoption of final Agenda

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 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, 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 June 9, 2020 and the special City Council meeting of June 16, 2020.
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. JUNE 09 2020 THROUGH JUNE 16, 2020
WARRANT LIST CHECKS NO. 46917 THROUGH 46966
TOTAL FOR COUNCIL APPROVAL = \$288,201.85
2. Proposed adoption of **Resolution No. 20-41**, requesting that the Fresno County Clerk render specified services to the City of Mendota in order to conduct the municipal election to be held on November 3, 2020.
3. Proposed adoption of **Resolution No. 20-42**, adopting a list of street projects for Fiscal Year 2020-2021 funded by SB1: The Road Repair and Accountability Act of 2017.
4. Proposed adoption of **Resolution No. 20-43**, authorizing the City Manager or his designee to execute all documents necessary to receive the Active Transportation Program funding for ATPL-5285(021) "Mendota Junior High Safe Routes to School Project".
5. Proposed adoption of **Resolution No. 20-44**, authorizing application for and receipt of AB101 Local Early Planning Grant ("LEAP") Program Funds.
6. Proposed approval of an application from Westside Youth Inc. for a permit to sell fireworks.

BUSINESS

1. Council discussion and consideration of **Resolution No. 20-45**, ratifying and modifying Emergency Order No. 20-07 issued in response to the continuing COVID-19 pandemic emergency.
 - a. *Receive report from City Manager Gonzalez*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council takes action as appropriate*

2. Introduction and first reading of **Ordinance No. 20-13**, amending the Mendota Municipal Code to establish a penalty for the possession or use of dangerous or illegal fireworks.
 - a. *Receive report from City Manager Gonzalez*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council provides any input and waives the first reading of Ordinance No. 20-13, and sets the public hearing for the July 14th City Council Meeting*

3. Council discussion and consideration of appeals submitted regarding the outcome of the scoring process following the Formal Invitation for the Submittal of Applications to Enter into a Development Agreement for Commercial Cannabis Activity.
 - a. *Receive report from City Attorney Kinsey*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council takes action as appropriate*

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

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 June 23, 2020, was posted on the outside bulletin board located at City Hall, 643 Quince Street Friday, June 19, 2020 at 3:45 p.m.



Celeste Cabrera-Garcia, City Clerk



MINUTES OF MENDOTA REGULAR CITY COUNCIL MEETING

Regular Meeting

June 9, 2020

Meeting called to order by Mayor Castro at 6:01 p.m.

Roll Call

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

Council Members Absent: None

Flag salute led by Mayor Castro

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 Councilor Rosales; unanimously approved (5 ayes).

CITIZENS ORAL AND WRITTEN PRESENTATIONS

None offered.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of May 26, 2020.
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 Mendoza to approve items 1 and 2, seconded by

Councilor Rosales; unanimously approved (5 ayes).

CONSENT CALENDAR

1. MAY 26, 2020 THROUGH JUNE 02, 2020
WARRANT LIST CHECKS NO. 46867 THROUGH 46916
TOTAL FOR COUNCIL APPROVAL = \$436,672.95
2. Proposed adoption of **Resolution No. 20-37**, approving the Professional Services Agreement for the Landscape & Lighting District Administration.
3. Proposed adoption of **Resolution No. 20-38**, ratifying Emergency Order No. 20-07 issued in response to the continuing COVID-19 Pandemic Emergency.
4. Proposed adoption of **Resolution No. 20-39**, accepting the terms of the CARES Act Airport Grant and designating an authorized representative.
5. Proposed approval of applications for permits to sell fireworks

A request was made to pull item 4 for discussion.

A motion was made by Councilor Riofrio to approve items 1 through 3 and 5 of the Consent Calendar, seconded by Councilor Rosales; unanimously approved (5 ayes).

4. Proposed adoption of **Resolution No. 20-39**, accepting the terms of the CARES Act Airport Grant and designating an authorized representative.

Discussion was held on the amount of the grant; how the funding from the grant can be utilized; the purpose of designating an authorized representative; and whether the City still maintains an active lease with the Fresno Westside Mosquito Abatement District.

A motion was made by Councilor Riofrio to approve item 4 of the Consent Calendar, seconded by Councilor Rosales; unanimously approved (5 ayes).

BUSINESS

1. Council discussion and consideration of the budget for Fiscal Year 2020-2021.

Mayor Castro introduced the item and City Manager Gonzalez thanked Finance Officer Diaz for her work in preparing the proposed budget, and summarized the report including the impact that COVID-19 has had on revenue projections; various aspects of the budget; and requested that the Council review and consider the proposed budget for modifications and/or adoption.

Discussion was held on the possibility of holding a special City Council meeting to review the proposed budget; elements of the specific budget for each department; the increase of

funds for certain department budgets; and significant changes to the proposed 20/21 fiscal year budget compared to the 19/20 fiscal year budget.

A motion was made by Councilor Riofrio to table the item and schedule a Special City Council meeting on June 16th at 12 p.m. to discuss and consider the proposed budget, seconded by Councilor Mendoza; unanimously approved (5 ayes).

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Animal Control, Code Enforcement, and Police Department a) Monthly Report

Chief of Police Andreotti provided his report for the Animal Control Department, including an increase in staff picking up deceased animals; and presented the statistics reflecting the number of dogs that were impounded.

Discussion was held on staff picking up deceased animals.

Chief Andreotti provided his report for the Code Enforcement Department, including the status of the weed abatement process.

Discussion was held on illegally parked trailers throughout the City; force abatement cases being on hold due to COVID-19; vehicles not moving for the street sweeper; whether the City can address residential subleasing issues in the City; issues with families living in substandard conditions; and whether additional housing will improve the overcrowding situation in Mendota.

Chief Andreotti summarized the report for the Police Department, including a personnel update; significant cases; and issues with individuals being taken to jail but being released due to having a zero-bail amount for their charges.

Discussion was held on significant cases; issues with vehicles speeding throughout the City; and how the civil unrest occurring throughout the country has impacted the department (at 6:52 p.m. Councilor Riofrio left the Council Chambers and returned at 6:53 p.m., and Councilor Mendoza left at 6:53 p.m.).

2. City Attorney

City Attorney Kinsey stated that COVID-19 related work has decreased for his office (at 6:55 p.m. Councilor Riofrio returned to the Council Chambers).

Discussion was held on whether Councilor Rosales could participate in the discussion of upcoming Closed Session items.

6. City Manager

City Manager Gonzalez reported on current COVID-19 statistics for the City.

Discussion was held on whether the mattress drop-off program is still active; whether the City can schedule a community clean-up event, and potentially have it has a “curb-side” style event; issues with City street lights; issues with overgrown trees; the possibility of the Council having a tour of City facilities; dedicating the new baseball field in the future; the possibility of having a softball game; the status of National Night Out event; other cities that have cancelled their fireworks show; the personnel status of the police department; an instance where another city received a significant amount of masks from the state (at 7:18 p.m. Mayor Pro Tem Martinez left the Chambers and returned at 7:20 p.m.); the status of the United Security Bank; the possibility of acquiring a K-9 police officer; the possibility of opening Cervantes Street to traffic; the status of the housing subdivision in the southwestern area of the City; and the status of the buildout of Amador Street and Smoot Street.

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)

Mayor Pro Tem Martinez thanked the staff for their work and commented on the ongoing COVID-19 pandemic emergency.

Councilor Mendoza stated that he wishes that the community continues to be safe and utilize precautionary measures in response to the COVID-19 pandemic emergency.

Councilor Rosales thanked staff and those who attended Mr. Robert Silva's funeral services.

2. Mayor

Mayor Castro thanked Mr. Gonzalez for attending Mr. Silva's funeral services; provided his condolences to Mendota residents who had recently passed away; and provided information on an upcoming fundraising opportunity for the Mojarro family.

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
 - a) Potential initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (one potential case)

2. 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 potential case)

At 7:46 p.m. the Council moved into closed session (at this time Councilor Rosales left the Council Chambers).

At 8:26 p.m. the Council reconvened in open session and City Attorney Kinsey stated that in regard to items 1 and 2 of the closed session, there was no reportable action.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 8:26 p.m. by Councilor Mendoza, seconded by Councilor Riofrio; unanimously approved (4 ayes, absent: Rosales).

Rolando Castro, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk



MINUTES OF MENDOTA SPECIAL CITY COUNCIL MEETING

Special Meeting

June 16, 2020

Meeting called to order by Mayor Pro Tem Martinez at 12:10 p.m.

Roll Call

Council Members Present: Mayor Rolando Castro (via phone), Mayor Pro Tem Victor Martinez, Councilors Jesus Mendoza, Joseph Riofrio, and Oscar Rosales

Council Members Absent: None

Flag salute led by Councilor Riofrio in honor of all United States troops and first responders

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 Councilor Riofrio; unanimously approved (5 ayes).

CITIZENS ORAL AND WRITTEN PRESENTATIONS

None offered.

BUSINESS

1. Council discussion and consideration of the budget for Fiscal Year 2020-2021.

Mayor Pro Tem Martinez introduced the item and City Manager Gonzalez summarized the report, including the impacts that COVID-19 has had on projected revenues; and presented the proposed budget.

Discussion was held on alley improvement funding; proposed street projects; the proposed roundabout at Bass Avenue and Barboza Street; the proposed phase 2 Rojas-Pierce Park Expansion Project, including funding sources; constructing a snack bar and restroom facilities for the new fields at Rojas-Pierce Park; potential opportunities to generate revenue by selling City-owned land; General Fund revenues and expenditures, including various department budgets; grant revenue; potential meetings that the City Council may attend, including a trip to Washington, D.C.; looking at other engineering firms to service the City; increasing code enforcement personnel; and whether any improvements will be made to Pool Park (at 1:19 p.m. Mayor Pro Tem Martinez left the Council Chambers and returned at 1:21 p.m.).

Discussion was held on constructing a new combined city hall/police department.

Council consensus was reached to direct staff to look into the possibility of constructing a combined city hall/police department building.

A motion was made by Councilor Rosales to adopt Resolution No. 20-40 with a modified budget to include the necessary costs to fund a trip to Washington D.C. and to change the existing part-time code enforcement position to a full-time position, seconded by Councilor Riofrio; unanimously approved (5 ayes).

Discussion was held on the grants that the City was recently awarded.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 1:32 p.m. by Councilor Riofrio, seconded by Councilor Rosales; unanimously approved (5 ayes).

Rolando Castro, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk

CITY OF MENDOTA
CASH DISBURSEMENTS
6/9/2020 - 6/16/2020
Check# 46917 - 46966

Date	Check #	Amount	Vendor	Department	Description
6/9/2020	46917	\$92,827.00	CITY OF MENDOTA PAYROLL	GENERAL	PAYROLL TRANSFER 5/25/2020 - 6/7/2020
6/9/2020	46918	\$382.70	COLONIAL LIFE	GENERAL	LIFE INSURANCE FOR MAY 2020
6/9/2020	46919	\$346.40	AT&T	GENERAL-WATER-SEWER	MONTHLY SERVICES CHARGE 559-266-6456 5/26/20 - 6/25/20
6/9/2020	46920	\$108.87	BANKCARD CENTER	GENERAL	CREDIT CARD EXPENSES 4/25/2020 - 5/12/2020
6/9/2020	46921	\$42.00	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT	GENERAL-WATER-SEWER	GASOLINE DISPENSING 10K STORAGE TANK 6/1/2020 - 5/31/2021
6/16/2020	46922	\$5,043.92	AMERITAS GROUP	GENERAL	VISION & DENTAL INSURANCE FOR JULY 2020
6/16/2020	46923	\$493.00	CALIFORNIA POLICE	GENERAL	MEMBERSHIP RENEWAL ASSOCIATES (PD) THROUGH 6/30/2021 & MEMBERSHIP RENEWAL FOR CHIEFS (PD)
6/16/2020	46924	\$297.29	DATAMATIC, INC.	WATER	MONTHLY SOFTWARE LICENSE & SERVICE MAINTENANCE FEE JULY 2020
6/16/2020	46925	\$2,445.00	LIEBERT CASSIDY WHITMORE	GENERAL-WATER-SEWER	ERC MEMBERSHIP WITH PREMIUM LIEBERT LIBRARY FY 2020/2021
6/16/2020	46926	\$6,000.00	MOUNTAIN VALLEY ENVIRONMENTAL	WATER-SEWER	JULY 2020 -CITY WATER AND WASTEWATER TREATMENT
6/16/2020	46927	\$275.00	MUNICIPAL CODE CORPORATION	GENERAL-WATER-SEWER	ADMINISTRATIVE SUPPORT FEE 6/1/2020 - 5/31/2021
6/16/2020	46928	\$143.00	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT	WATER	FY20/21-CUMMINS DIESEL-FIRED STANDBY GENERATOR
6/16/2020	46929	\$26.80	LA COLONIA ORIOLE HOMES INC	WATER	MO CUSTOMER REFUND FOR LAC0049
6/16/2020	46930	\$66.85	EDUARDO RAMIREZ VALLE	WATER	MO CUSTOMER REFUND FOR VAL0102
6/16/2020	46931	\$2,500.00	ADMINISTRATIVE SOLUTIONS - FRESNO	GENERAL	MEDICAL CHECK RUN 6/9/2020
6/16/2020	46932	\$302.70	ADT SECURITY SERVICES	GENERAL-WATER-SEWER	SECURITY SERVICES- 6/13/2020 - 7/12/2020 CITY HALL, DMV, & EDD
6/16/2020	46933	\$669.84	AFLAC	GENERAL	AFLAC INSURANCE FOR JUNE 2020
6/16/2020	46934	\$34.60	AIRGAS USA, LLC	WATER	(1) RENT CYL SMALL CARBON DIOXIDE MAY 2020
6/16/2020	46935	\$213.72	AMERIPRIDE SERVICES INC	GENERAL-WATER-SEWER	PUBLIC WORKS UNIFORM SERVICES 5/21/2020, 5/28/2020, & 6/4/2020
6/16/2020	46936	\$32,510.42	APPLIED CONCEPTS, INC.	GENERAL-STREETS	(2) MESSAGE TRAILER, TRAFFIC STATE SENSOR, SOLAR PANEL, JACK & WARRANTY
6/16/2020	46937	\$23,845.00	AVISON CONSTRUCTION, INC.	GENERAL	ROJAS PIERCE PARK EXPANSION PROJECT - 5/1/2020 - 5/21/2020
6/16/2020	46938	\$1,105.40	BPS TACTICAL, INC	GENERAL	(2) PATROL DUTY VEST COVER (PD)
6/16/2020	46939	\$4,120.02	BSK ASSOCIATES	GENERAL-WATER-SEWER-STREETS	PROFESSIONAL SERVICES SEPTEMBER 2019 BLACK AVE & 5TH STREET
6/16/2020	46940	\$1,676.11	CALIFORNIA STATE LANDS COMMISSION	WATER	MOWRY BRIDGE-PROF SERV-ENVIRONMENT PLAN 1/1/2020 - 3/31/2020
6/16/2020	46941	\$85.00	CENTRAL VALLEY VETERINARY CLINIC	GENERAL	(3) EUTHANASIA (1) 60-100LBS (2) 20-60LBS
6/16/2020	46942	\$1,496.65	COMCAST	GENERAL-WATER-SEWER	CITYWIDE XFINITY PHONE SERVICES 6/6/2020 - 7/5/2020
6/16/2020	46943	\$451.84	COMCAST BUSINESS	GENERAL	FRESNO CITY SHERIFF TO MENDOTA POLICE DEPARTMENT CIRCUIT JUNE 2020
6/16/2020	46944	\$154.50	CORELOGIC INFORMATION	GENERAL-WATER-SEWER	REALQUEST SERVICES FOR MAY 2020
6/16/2020	46945	\$200.00	DATA TICKET, INC.	GENERAL	DAILY CITATION PROCESS, DAILY NOTICE, APPEAL FOR MAY 2020

CITY OF MENDOTA
 CASH DISBURSEMENTS
 6/9/2020 - 6/16/2020
 Check# 46917 - 46966

6/16/2020	46946	\$99.00	DEPARTMENT OF JUSTICE	GENERAL	MAY 2020 FINGERPRINT (2) (PD)
6/16/2020	46947	\$62.09	EINERSON'S PREPRESS	WATER-SEWER	(1) 500 CT BUSINESS CARDS
6/16/2020	46948	\$11,666.67	FIREBAUGH POLICE	GENERAL-WATER-SEWER	POLICE DEPARTMENT DISPATCH SERVICES MAY 2020
6/16/2020	46949	\$140.60	FRESNO COUNTY SHERIFF	GENERAL	RMS JMS ACCESS FEE FOR MAY 2020 (PD)
6/16/2020	46950	\$25.00	FRESNO COUNTY RECORDER	GENERAL	RECONVEYANCE FEES
6/16/2020	46951	\$180.00	INSYARATH, KHAMPHOU	GENERAL	CRIME STATS FOR MAY 2020 (PD)
6/16/2020	46952	\$85.00	MADERA PUMPS, INC.	WATER	SERVICE CALL-CHECK FAULT HISTORY & MADE ADJUSTMENT OF PUMP
6/16/2020	46953	\$94.91	METRO UNIFORM	GENERAL	(1) MENS LAPD NAVY SERGE WEAVE TROUSER & WAIST BAND (PD)
6/16/2020	46954	\$1,428.77	NORTHSTAR CHEMICAL	WATER	(700 GAL) SODIUM HYPOCHLORITE - 12.5 MILL A
6/16/2020	46955	\$13,988.97	PAPE MACHINERY	WATER-SEWER-STREETS	JD-544J - DIAGNOSE BUCKET LIFT REPAIR, OIL FILTER, VALVE, PRESSURE, & SPOOL VALVE TESTED POST REPAIR
6/16/2020	46956	\$28,146.35	PG&E	GENERAL-WATER-SEWER-STREETS-AVIATION	CITYWIDE UTILITY SERVICES 4/10/2020 - 5/8/2020, CITYWIDE UTILITY SERVICES 5/8/2020 - 6/8/2020
6/16/2020	46957	\$294.00	PRICE, PAIGE & COMPANY	GENERAL-STREETS	PROFESSIONAL SERVICES CITY'S FINANCE STATEMENT YR END 6/30/20
6/16/2020	46958	\$194.17	PURL'S SHEETMETAL & AIR	GENERAL-WATER-SEWER	(10) AIR FILTERS FOR CITY HALL, (1) DIAGNOSTIC - CONDENSOR UNIT FAN MOTOR VIBRATE SERVICES
6/16/2020	46959	\$683.58	R&B COMPANY	WATER	(1) BADGER METER , CELLPOINT, NICOR CONNECTOR
6/16/2020	46960	\$121.88	RTL ENTERPRISES, INC.DBA INTERSTATE	GENERAL-WATER-SEWER	CITY HALL VEHICLE (1) MTP-T4 AT - CORE BATTERY
6/16/2020	46961	\$19.95	SEBASTIAN	GENERAL	SECURITY SERVICES 5/21/2020 - 6/20/2020 (PD)
6/16/2020	46962	\$76.67	SIGNMAX	STREETS	(4) "ALL WAY" STOP SIGN LOCATED BLACK AVE& SORENSEN
6/16/2020	46963	\$801.93	UNITED RENTALS NORTHWEST	STREETS	(1) BOOM 30-36" TOWABLE RENTAL FOR TREE MAINTENANCE ON RIGHT-OF-WAY AND HIGH SCHOOL BANNERS INSTALL
6/16/2020	46964	\$1,134.71	VERIZON WIRELESS	GENERAL-WATER-SEWER	CITYWIDE CELLPHONE CHARGES 5/7/2020 - 6/6/2020
6/16/2020	46965	\$14,994.60	WANGER JONES HELSLEY PC ATTORNEY	GENERAL-WATER-SEWER	LEGAL SERVICES RE: GENERAL LEGAL SERVICE 5/15/20, SPORTFISHING PROTECT V. ALL,& SPECIAL LEGAL SERICES
6/16/2020	46966	\$36,099.37	WITBRO, INC.	STREETS	BLACK AVE & 5TH STREET RECONSTRUCTION - STPL 12/31/20 - 5/31/20

\$288,201.85

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CELESTE CABRERA-GARCIA, CITY CLERK
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: REQUESTING THE FRESNO COUNTY CLERK PROVIDE ELECTION SERVICES
DATE: JUNE 23, 2020

ISSUE

Shall the City Council adopt Resolution No. 20-41, requesting that the Fresno County Clerk render specified services to the City of Mendota in order to conduct the municipal election to be held on November 3, 2020?

BACKGROUND

Due to the department size and consequent lack of resources smaller cities tend to have, many of them contract with the office of the County Clerk to provide the needed personnel, equipment, and other resources to manage, count votes for and report the results of the local elections. This has been what the City of Mendota has done for decades.

The City Council previously adopted a similar resolution. However, following the adoption of the resolution, the office of the Fresno County Clerk requested that additional clarifying language be included within the resolution. The attached resolution incorporates all of the required language.

ANALYSIS

Without the help of the County Clerk, the City of Mendota would need to spend countless hours and resources to run our own local elections. The cost of providing this service to the City was \$1,331.07 in 2016 and \$2,207.32 in 2018.

FISCAL IMPACT

Expenditures consistent with what the City was charged in previous elections.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 20-41, requesting that the Fresno County Clerk render specified services to the City of Mendota in order to conduct the municipal election to be held on November 3, 2020.

Attachment(s):

1. Resolution No. 20-41

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA REQUESTING
THE BOARD OF SUPERVISORS OF THE
COUNTY OF FRESNO TO CONSOLIDATE
AND CANVASS THE ELECTION AND PERMIT
THE COUNTY CLERK/REGISTRAR OF VOTERS
OF FRESNO COUNTY TO RENDER SPECIFIED
SERVICES TO THE CITY OF MENDOTA
RELATING TO THE CONDUCT OF THE MUNICIPAL
ELECTION TO BE HELD IN THE CITY OF MENDOTA
ON NOVEMBER 3, 2020, AND APPROPRIATING
FUNDS TO PAY FOR SAID SERVICES**

RESOLUTION NO. 20-41

WHEREAS, the next Statewide General Election will take place on November 3, 2020; and

WHEREAS, the City of Mendota, will hold a Regular Municipal Election on Tuesday, November 3, 2020, for the election of three Council Members; two (2) for a four-year (4-year) term and one (1) for a two-year term (2-year); and

WHEREAS, it is the desire of the City Council of the City of Mendota to adopt a Resolution requesting the Board of Supervisors of the County of Fresno to consolidate said election with the Statewide General Election pursuant to Part 3 of Division 10 of the Elections Code of the State of California (commencing with Section 10400) to be held on the same date and that, within the City of Mendota, the precincts, vote center locations, ballot drop box locations, and election officers of the two (2) elections be the same; the County Clerk/Registrar of Voters canvass the returns of the Regular Municipal Election; and the election be held in all respects as if there were only one (1) election; and

WHEREAS, it is the desire of the City Council of the City of Mendota to adopt a Resolution requesting the Board of Supervisors of the County of Fresno to render specified services to the City of Mendota relating to the conduct of a Municipal Election pursuant to Section 10002 of the Elections Code of the State of California; and

WHEREAS, Section 10002 of the Elections Code of the State of California requires the City of Mendota to reimburse the County of Fresno in full for the services performed upon presentation of a bill to the City of Mendota.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota:

1. Pursuant to the requirements of Section 10403 of the Elections Code of the State of California, the Board of Supervisors of the County of Fresno is hereby requested to consent and agree to the consolidation of the Regular Municipal Election and the Statewide General Election on November 3, 2020, for the purpose of the election of members of the City Council to represent the City, two (2) members for a four-year (4-year) term and one (1) member for a two-year (2-year) term.
2. The County Clerk/Registrar of Voters of the County of Fresno is authorized to canvass the returns of the Regular Municipal Election. The election shall be held in all respects as if there were only one (1) election, and only (1) form of ballot shall be used. In accordance with the provisions of Section 10403 of the Elections Code of the State of California, the City Council of the City of Mendota acknowledges that the consolidated election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election pursuant to Section 10418 of the Elections Code of the State of California.
3. The Board of Supervisors of the County of Fresno is requested to direct the County Clerk/Registrar of Voters to take any and all steps necessary for and related to the holding of the consolidated election in a manner consistent with law, including, without limitation: the provision of all election materials and equipment; publication of notices; the hiring, training and supervision of election officers and other election personnel; the printing and distribution of ballot materials; the translation of ballot materials; the collection of submitted ballots; the tallying and canvassing of votes; and the certification of election results.
4. An appropriate sum be hereby appropriated and set aside from the General Funds of the City of Mendota to reimburse the County of Fresno in full for the services to be performed as herein requested and that said sum be paid to the County of Fresno upon demand and presentation of a bill to the City of Mendota.

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 23rd day of June, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MICHAEL OSBORN, CITY ENGINEER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: STREET PROJECT LIST PROPOSED FOR SB1 (RMRA) FUNDING
DATE: JUNE 23, 2020

ISSUE

Should the City Council adopt Resolution No. 20-42, adopting the list of street projects proposed for Fiscal Year 2020-2021 SB1 (RMRA) funding?

BACKGROUND

On April 28, 2017 the Governor signed Senate Bill (SB) 1 which is known as the Road Repair and Accountability Act of 2017 and beginning on November 1, 2017, the State Controller (Controller) has begun to deposit various portions of this new funding in the newly created Road Maintenance and Rehabilitation Account (RMRA), with a percentage of that being apportioned to the City of Mendota.

The California Transportation Commission (CTC) is requiring that agencies provide a list of projects that may utilize Fiscal Year 2020-21 SB1 (RMRA) funding by July 15, 2020 to receive their fiscal year 2020-21 SB1 fund distribution. They have informed us that the project list can include projects planned for after fiscal year 2020-21 and be a carry-over of the list of projects previously proposed and adopted.

Resolution No.19-27 adopted the attached list of projects along with following projects that have been completed, or will be completed, by the end of fiscal year 2020-21:

1. Black & 5th Street Reconstruction (construction completed in Spring 2020)

In addition, the Lozano & Derrick Avenue (SR 33) Restriping Project and the Citywide Railroad Corridor Crossing Improvements have been added as new projects to this list.

ANALYSIS

This list of projects was prepared by staff, specifically the City Manager/ Director of Public Works and City Engineer based on the 2015 Pavement Condition Survey of downtown conducted by the Director of Public Works, targeting “red” streets and incorporating other critical areas outside of downtown. The City will begin utilizing the new Pavement Management System to generate future projects for FY 2021/22. The California Transportation Commission now uses an on-line project intake tool. Upon adoption, the projects on the list will be submitted via this tool.

Per AB 135, the project list shall not limit the flexibility of the City to fund projects in accordance with local needs and priorities so long as the projects are consistent with subdivision (b) of Section 2030; therefore, this list may be rearranged or amended.

FISCAL IMPACT

The City received \$69,306.83 in FY 17/18 and \$220,993.61 in FY 18/19 and is expected to receive \$205,116 in FY 19/20 and \$211,654 in FY 20/21; these amounts will cover the restriping project or only cover a portion of any one of the other projects on the list per year and to make a project happen, other street funding (regular Gas Tax, LTF, Measure C, State & Federal grants) will be needed.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 20-42, adopting the list of projects proposed to utilize Fiscal Year 2020-2021 SB1 (RMRA) funds.

Attachment(s):

1. Resolution No. 20-42
2. Exhibit "A", FY 2020-2021 List of Projects

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA ADOPTING
A LIST OF STREET PROJECTS FOR
FISCAL YEAR 2020-2021 FUNDED BY SB1:
THE ROAD REPAIR AND ACCOUNTABILITY
ACT OF 2017**

RESOLUTION NO. 20-42

WHEREAS, Senate Bill 1 (“SB 1”), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt, by resolution, a list of all projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project’s completion, and the estimated useful life of the improvement; and

WHEREAS, the City, will receive an estimated \$211,654 in RMRA funding in Fiscal Year 2020-21 from SB 1; and

WHEREAS, this is the fourth (4th) year in which the City is receiving SB 1 funding, enabling the City to continue essential road maintenance and rehabilitation projects, safety improvements, repair and replace aging bridges, and increase access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has started to use a Pavement Management System to develop the SB1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community’s priorities for transportation investment; and

WHEREAS, the funding from SB1 will help the City rehabilitate one ¼-mile length of street within the City this year and continue to do so into the future; and

WHEREAS, the project list, attached hereto as Exhibit “A,” shall not limit the City’s flexibility to fund projects in accordance with local needs and priorities so long as the projects are consistent with subdivision (b) of Government Code Section 2030; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in "poor" condition; this was further justified in 2019 when the Pavement Management System was implemented and showed the Pavement Condition Index (PCI) of the City to be forty-three (43) (compared to the statewide average of sixty-five (65)) and this revenue will help the City increase the overall quality of its road system and, over the next decade, will bring our streets and roads into a safer and more drivable condition; and

WHEREAS, the SB 1 project list and overall investment in the City's local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials, and practices, will provide for a better quality of life for the City's residents and a better experience for those visiting the City.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota, State of California, as follows:

1. The foregoing recitals are true and correct.
2. The list of projects, attached hereto as Exhibit "A" and incorporated herein by this reference, include two (2) new projects and eight (8) previously proposed and adopted projects which may utilize fiscal year 2020-21 Road Maintenance and Rehabilitation Account revenues in their delivery. With the relisting of these projects in the adopted fiscal year resolution, the City is reaffirming its intent to fund these projects with Road Maintenance and Rehabilitation Account revenues to the public and the State.
3. The Council hereby finds that the adoption of this resolution is not subject to environmental review under the California Environmental Quality Act ("CEQA"). The adoption of this resolution, in and of itself, does not have the potential for resulting in either a direct physical change in the environment, or a reasonable foreseeable indirect physical change in the environment and therefore is not considered a "project" under CEQA. (Pub. Res. Code, §21065; 14 Cal. Code Regs., §15378, subd. (a).) Further, this resolution is a government finding mechanism that does not involve any commitment on behalf of the City to any specific project which may result in a potentially significant impact on the environment. (14 Cal. Code Regs., §15378, subd. (b)(4).) This determination reflects the independent judgement and analysis of the Council.

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 23rd day of June, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

Exhibit A

Exhibit "A"

FY 2020-2021 SB1 Project List

Proposed Project	Description	Location	Estimated Completion Date		Estimated Useful Life (# of Yr)	
			Pre-Construction	Construction	Min.	Max.
Lozano & Derrick Avenue (SR 33) Restriping	In general, the project consists of modifying the intersection to allow vehicles to turn left onto southbound SR 33 from westbound Lozano	Lozano and Derrick Ave (SR 33)	Jun-20	Aug-20	5	15
Citywide Railroad Corridor Crossing Improvements	Improving the railroad corridor within the city by adding concrete panels to crossing, installing medians or channelizers, and reconstruction of the roadway adjacent to crossings at all three crossings within the City	1) SR33 between Bass Avenue and SR 180; 2) 9th Street between Marie St and Naples St; and 3) W Belmont Ave between Marie St and SR 180.	Mar-21	Nov-21	15	50
Previously Adopted SB1 Project List						
7th Street	In general, the project consists of grind and overlay of 7th Street between Stamoules Street and Rio Frio Street	7th Street from Stamoules Street to Tule Street	Mar-22	Aug-22	10	20
5th Street and Quince Street Reconstruction	In general, the project consists of reconstruction of 5th Street from Quince Street to Derrick Avenue (State Route 33) and Quince Street from 5th Street to 6th Street, including demolition of existing asphalt and concrete pavements, Full Depth Reclamation soil-cement treatment, new HMA pavement, curbs, gutters, ramps, driveway and alley approaches, and traffic striping and markings to add two way left turn lanes, parking/bike lanes and high visibility school zone cross walks.	5th Street from Quince to Derrick Avenue (SR 33), and Quince Street from 5th Street to 6th Street	Mar-23	Aug-23	15	30
Fleming & McCabe Avenue Reconstruction	In general, the project consists of reconstruction of the two streets between Rowe Avenue and Sorensen Avenue, including demolition of existing asphalt and concrete pavements, Full Depth Reclamation soil-cement treatment, new HMA pavement, curbs, gutters, ramps, driveway approaches, and traffic striping and markings to add center lane lines, parking/bike lanes and high visibility school zone cross walks.	Flemming Avenue from Rowe Avenue to Sorensen Avenue, and McCabe Avenue from Rowe Avenue to Sorensen Avenue	Mar-22	Nov-22	15	30
Marie Street & 5th Street Reconstruction	In general, the project consists of reconstruction of Marie Street between Divisadero Street and 5th Street and 5th Street between Marie Street and Lolita Street, including demolition of existing asphalt and concrete pavements, Full Depth Reclamation soil-cement treatment, new HMA pavement, curbs, gutters, ramps, and traffic striping and markings to add center lane line and parking/bike lanes.	Marie Street from Divisadero Street to 5th Street, and 5th Street from Marie Street to Lolita Street	Mar-22	Sep-22	15	30

Exhibit "A"

FY 2020-2021 SB1 Project List

Proposed Project	Description	Location	Estimated Completion Date		Estimated Useful Life (# of Yr)	
			Pre-Construction	Construction	Min.	Max.
Rio Frio Street Reconstruction	In general, the project consists of reconstruction of Rio Frio Street between 7th Street and 8th Street, including demolition of existing asphalt and concrete pavements, Full Depth Reclamation soil-cement treatment, new HMA pavement, curbs, gutters, ramps, and traffic striping and markings to add two way left turn lanes and parking/bike lanes.	Rio Frio Street from 7th Street to 8th Street	Mar-22	Sep-22	15	30
Naples Street Reconstruction	In general, the project consists of reconstruction of Naples Street between 2nd Street and 9th Street, including demolition of existing asphalt and concrete pavements, storm drain inlets, manholes and pipes, Full Depth Reclamation soil-cement treatment, new HMA pavement, curbs, gutters, ramps, and traffic striping and markings to add two way left turn lanes and parking/bike lanes.	Naples Street from 2nd Street to 9th Street	Mar-24	Oct-24	15	30
Kate Street Reconstruction	In general, the project consists of reconstruction of North Kate Street between Divisadero Street and I Street, including demolition of existing asphalt and concrete pavements, Full Depth Reclamation soil-cement treatment, new HMA pavement, curbs, gutters, ramps, and traffic striping and markings to add center lane line and parking/bike lanes.	North Kate Street between Divisadero Street and I Street	Mar-25	Nov-25	15	30
Stamoules Street Reconstruction	In general, the project consists of reconstruction of Stamoules Street between 7th Street and 9th Street, including demolition of existing asphalt and concrete pavements, Full Depth Reclamation soil-cement treatment, new HMA pavement, curbs, gutters, ramps, and traffic striping and markings to add two way left turn lanes and parking/bike lanes.	Stamoules Street from 7th Street to 9th Street	Mar-25	Sep-25	15	30

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MICHAEL OSBORN, CITY ENGINEER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: ATP FUNDING FOR “MENDOTA JUNIOR HIGH SAFE ROUTES TO SCHOOL PROJECT”
DATE: JUNE 23, 2020

ISSUE

Shall the City Council adopt Resolution No. 20-43, authorizing the City Manager or his designee to execute all documents necessary to receive the Active Transportation Program (ATP) grant funding programmed for the “Mendota Junior High Safe Routes to School Project” project?

BACKGROUND

City staff and the City Engineer prepared an application to Fresno Council of Governments (FCOG) during the 2017 Cycle 3 competitive regional call for ATP funded projects. The “Mendota Junior High Safe Routes to School Project (Project) includes installing overhead flashing beacons and signage for the crosswalk at 9th Street and Belmont Avenue. The push button on the overhead flashing beacon poles will activate new flashing school crossing signs installed at the triangular intersection to alert drivers of pedestrians. The Project also includes installation of ADA compliant curb ramps and newly painted crosswalks. The project application initially was not selected for funding; however, during the 2017 Regional ATP Augmentation, the City requested consideration for new SB1 funding and was awarded the full funding requested in the amount of \$158,000. In April 2020, the California Transportation Commission (CTC) authorized allocation of first \$1,000 for Environmental clearance (CEQA/NEPA.) In April 2020, a Request for Authorization was submitted accordance with the Caltrans Local Agency Policy Manual (LAPM) and in May 2020 funding was authorized for Preliminary Engineering (PE).

ANALYSIS

This is an important project for the City to improve the safety of the school crossing of Belmont Avenue in front of Mendota Junior High School. The crossing will essentially be like the crossing in from the Mendota High School, but without the in-roadway lights.

As part of the process, Caltrans has issued the E-76 form which authorizes the City to proceed with the PE phase. Also as standard process, Caltrans has issued a Program Supplement Agreement (PSA No. 017) to the City’s Master Agreement with Caltrans No. 06-5285F15 which requires that the City Council adopt a resolution that clearly identifies the representative(s) who is/are authorized to sign on the City’s behalf.

FISCAL IMPACT

The project is programmed for FY 19/20 and since all costs associated with the project are eligible expenses under the ATP, the City will be reimbursed for 100% of the total project costs. There is not anticipated to be any impact to the City's General Fund.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 20-43, authorizing the City Manager or his designee to execute all documents necessary to receive the Active Transportation Program (ATP) grant funding programmed for the "Mendota Junior High Safe Routes to School Project".

Attachment(s):

1. Resolution No. 20-43

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AUTHORIZING
THE CITY MANAGER OR HIS DESIGNEE
TO EXECUTE ALL DOCUMENTS NECESSARY
TO RECEIVE THE ACTIVE TRANSPORTATION
PROGRAM FUNDING FOR ATPL-5285(021)
“MENDOTA JUNIOR HIGH SAFE ROUTES TO
SCHOOL PROJECT”**

RESOLUTION NO. 20-43

WHEREAS, City Staff working with the City Engineer submitted an application to the Fresno Council of Governments (“FCOG”) during the 2017 Cycle 3 Active Transportation Program (“ATP”) Regional Bid call for projects requesting \$158,000 for the Mendota Junior High Safe Routes to School Project, ATPL-5285(021); and

WHEREAS, in 2017, this project was initially not awarded, but additional SB1 Augmentation funds became available and FCOG was able to award full funding for this project, programmed for FY 19/20; and

WHEREAS, the City submitted a Request of Authorization (“RFA”) to the California Transportation Commission (“CTC”) and subsequently to Caltrans for \$1,000.00 for Environmental Clearances (“E&P”)/Preliminary Engineering (“PE”) for this project; and

WHEREAS, Caltrans has issued the E-76 form authorizing the PE phase to proceed as well as a Program Supplement Agreement (“PSA”) No. F017 to the Master Agreement No. 06-5285F15, for this project; and

WHEREAS, additional RFA’s for PE (design) and Construction Funding will be submitted to Caltrans upon completion of the PE (environmental clearance) phase; and

WHEREAS, all of the costs associated with the project are eligible expenses under the ATP guidelines and the City will be reimbursed for 100% of the cost of the project.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Mendota does hereby authorize the City Manager or his designee to execute all documents necessary to receive the ATP funding programmed for this project, ATPL-5295(021).

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 23rd day of June, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: JEFFREY O'NEAL, AICP, PLANNING CONSULTANT
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: CITY COUNCIL TO CONSIDER AUTHORIZING CITY MANAGER TO APPLY FOR AB101 LOCAL EARLY ACTION PLANNING (LEAP) GRANT PROGRAM FUNDS
DATE: JUNE 23, 2020

ISSUE

Shall the City Council supplement its request to the Fresno Local Agency Formation Commission (LAFCo) to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) for the Amador-Smoot Reorganization?

BACKGROUND

On January 27, 2020, the California Department of Housing and Community Development (HCD) announced the release of a Notice of Funding Availability (NOFA) for approximately \$119,040,000 as part of the Local Early Action Planning Grants Program (LEAP or Program). LEAP is made available as a portion of the Local Government Planning Support Grants Program pursuant to Chapter 3.1 of the Health and Safety Code (Sections 50515 to 50515.05). Similar to the SB 2 Planning Grant, which the City was awarded earlier this year, LEAP provides one-time, non-competitive funding to jurisdictions for the preparation and adoption of documents and completion of tasks that accelerate housing production. Applications will be accepted through July 1, 2020.

ANALYSIS

The minimum award of LEAP funding is \$25,000 while the maximum depends on the jurisdiction's size as of January 2019. Mendota is eligible for a \$65,000 maximum. Staff is requesting the full amount to assist with analysis of the City's existing infrastructure to identify deficiencies. Once problem areas are identified, the City can work towards addressing the deficiencies, which will facilitate infill housing development. The resulting information will complement the recently adopted master plans, which themselves identify new infrastructure needs.

Staff intends to submit the grant application following Council approval of the Resolution of grant authorization. HCD anticipates a 60- to 90-day review and approval period for the grant. The grant funding must be expended by December 31, 2023.

FISCAL IMPACT

The grant would provide \$65,000 towards analyzing the City's infrastructure deficiencies.

RECOMMENDATION

Staff recommends that the City Council adopts Resolution No. 20-44, authorizing the City Manager to submit an application for AB 101 LEAP funds and execute any agreements necessary for use of funds.

Attachments:

1. Resolution No. 20-44

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AUTHORIZING
APPLICATION FOR AND RECEIPT OF AB101
LOCAL EARLY PLANNING (“LEAP”) GRANT
PROGRAM FUNDS**

RESOLUTION NO. 20-44

WHEREAS, pursuant to Health and Safety Code 50515, et seq., the Department of Housing and Community Development (“Department”) is authorized to issue a Notice of Funding Availability (“NOFA”) as part of the Local Government Planning Support Grants Program (hereinafter referred to as the “Local Early Action Planning Grants” program or “LEAP”); and

WHEREAS, the City Council of the City of Mendota desires to submit a LEAP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for analysis of existing deficiencies in the City’s subsurface utility infrastructure, which will allow the City to identify necessary improvements to facilitate infill housing development; and

WHEREAS, the Department has issued a NOFA and Application on January 27, 2020 in the amount of \$119,040,000 for assistance to all California jurisdictions.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Mendota hereby directs as follows:

SECTION 1. The City Manager is hereby authorized and directed to apply for and submit to the Department the Application package; and

SECTION 2. In connection with the LEAP grant, if the Application is approved by the Department, the City Manager of the City of Mendota is authorized to submit the Application, enter into, execute, and deliver on behalf of the Applicant, a State of California Agreement (“Standard Agreement”) for the amount of \$65,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto; and

SECTION 3. The Applicant shall be subject to the terms and conditions as specified in the NOFA, and the Standard Agreement provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreement. Pursuant to the NOFA and in conjunction with the terms of the

Standard Agreement, the Applicant hereby agrees to use the funds for eligible uses as allowable.

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 23rd day of June, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: NANCY M. DIAZ, FINANCE OFFICER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: FIREWORK STAND PERMIT
DATE: JUNE 23, 2020

ISSUE

Should the City Council approve the application for a fireworks stand permit for Westside Youth, Inc.?

BACKGROUND

The City Council approved 4 fireworks applications submitted at the June 9th City Council Meeting. Westside Youth, Inc. did not submit an application to be considered for approval by the City Council.

ANALYSIS

Staff received an application from Westside Youth, Inc. on June 17, 2020. Westside Youth, Inc., a local non-profit organization has had a fireworks stand during the Fourth of July fireworks sales to raise funds for their organization.

The Mendota Municipal Code (MMC) 8.12.060 allows six fireworks stands. Currently, there are 3 permits issued. On June 17, 2020, Mendota Boys Basketball had cancelled their application which was submitted on June 9th for Council's approval.

FISCAL IMPACT

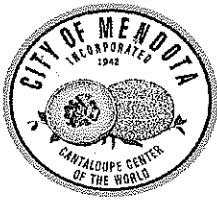
None.

RECOMMENDATION

Staff recommends that the City Council approve the fireworks stand permit application for Westside Youth, Inc.

Attachment(s):

1. Westside Youth, Inc. Fireworks Stand Permit Application



City of Mendota
643 Quince Street Mendota, CA 93640
Ph. (559)655-3291 Fax (559)655-4064

Permit Application to Sell Fireworks

Prerequisites to Issuance of Permit

The following qualifications must be met by each applicant for a permit under this chapter:

A. No permit shall be issued to any person, firm or corporation except nonprofit associations or corporation organized primarily for civic betterment or youth activities;

B. Each organization must maintain a bona fide membership of at least twenty-five (25) members, and must have been organized and established for a minimum of one year continuously preceding the filing of the application for the license;

C. No organization may receive more than one permit for sale during any one calendar year.

Organization's Name: Westside Youth Inc Phone# 655-4808

Address: 1709 7th Street, Mendota, CA 93640

Representative's Name: Dino Perez Phone # 970-7840

Address: 1591 11th St, Mendota, CA 93640

Dates of Operation: June 28 2020 - July 4, 2020

Location of stand: 697 Derrick Ave. Mendota, CA 93640

Assessor Parcel Number: _____

Property owner signature: X [Signature] Date: X 6-11-20

(Property owner authorizes the organization named above to use the property for the sale of fireworks.)

The applicant agrees to comply strictly with the terms of any permit granted to it and furnish additional information upon request of the city manager.

Each applicant shall file with the city a cash deposit made payable to the city in the amount of fifty dollars (\$50.00) to assure compliance with the provisions of this chapter.

Applicant's Signature: [Signature] Date: 6/8/20

Date Received: 6/17/2020 For Office Use Only

Required documents attached:	Yes	No
▪ Completed Permit Application	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Property owner written permission	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Certificate of Liability Insurance	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Approval of State Fire Marshall	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Deposit paid	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Seller's Permit	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Received by: [Signature] Date: 6/17/2020

TO BE FILLED IN BY THE PROPERTY OWNER

PROPERTY INFORMATION

THE UNDERSIGNED, THEREAFTER CONTROLLED BY PARTY OF THE PROPERTY LISTED BELOW HEREBY

WHEELER TOOTH INC

AND PHANTOM FIREWORKS THE USE OF THE PROPERTY LOCATED AT:

877 Derrick Avenue

ZIP: 91204-1114

CITY OF: Mendota

COUNTY: Fresno

FOR THEIR 2010 FIREWORKS BEACON

THE ORGANIZATION AND / OR PHANTOM FIREWORKS INC, AGREES TO SEE THAT THE PROPERTY LISTED ABOVE WILL BE CLEARED OF ALL STANDS AND DEBRIS WITHIN 2 HOURS OF CLOSE OF THE BEACON

Mendota Food Center

Adam Mulhans

Adam Mulhans
Signature

(PROPERTY OWNER/CONTROLLER OF PROPERTY)

DATE:

CA

PROPERTY OWNER PLEASE INDICATE BELOW THE NAME OF THE ADDITIONAL INSURED AND HOW YOU WANT YOUR CERTIFICATE OF INSURANCE TO READ

INDIVIDUAL

INSURED: Mendota Food Center / Ehsan Ahmad / Taha Mulhans / Adam Mulhans

CERTIFICATE OF INSURANCE TO BE MAILED TO:

Adam Mulhans

Mendota Food Center

877 Derrick Avenue

Mendota, CA 91204-1114

PHONE: (559) 231-1111

CERTIFICATE OF INSURANCE WILL BE MAILED PRIOR TO THE TIME OF STANDS AND THE RISK OF ANY DAMAGE

PHANTOM FIREWORKS

877 DERRICK AVENUE

MENDOTA, CA 91204-1114

PHONE: (559) 231-1111



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/13/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Britton-Gallagher and Associates, Inc. One Cleveland Center, Floor 30 1375 East 9th Street Cleveland OH 44114	CONTACT NAME: PHONE (A/C, No, Ext): 216-658-7100 FAX (A/C, No): 216-658-7101 E-MAIL ADDRESS: info@brittongallagher.com	
	INSURER(S) AFFORDING COVERAGE NAIC #	
INSURED Phantom Fireworks Western Region, LLC 2445 Belmont Avenue Youngstown OH 44505	INSURER A: Everest Indemnity Insurance Co. 10851	
	INSURER B: Axis Surplus Ins Company 26620	
	INSURER C: Berkshire Hathaway Homestate Insurance Company	
	INSURER D: Everest Denali Insurance Company 16044	
	INSURER E: Arch Speciality Ins Co 21199	
INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 1171501965

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Non-owned Stnd <input type="checkbox"/> End't Included GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	Y	Y	SI8GL00843-191	10/30/2019	10/30/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
D	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y	Y	SI8CA00095-191	10/30/2019	10/30/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
E	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			UXP0057739-05	10/30/2019	10/30/2020	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	PHWC023923	10/30/2019	10/30/2020	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Excess Liability #2	Y	Y	P-001-000046155-02	10/30/2019	10/30/2020	Each Occ/ Aggregate \$5,000,000 Total Limits \$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Products Liability extends only to the products purchased from Phantom Fireworks Western Region, LLC.
 The Certificate Holders are named as Additional Insureds with respect to General Liability as required by written contract subject to policy terms, conditions and exclusions.
 Location: 697 Derrick Ave. Mendota CA. Property Owner: Mendota Food Center; Saleem Ahmed. Additional Insured: The City of Mendota, Its officers, officials, employees, property owner & authorized volunteers when in full capacity.
 Municipality: City of Mendota / County of Fresno

CERTIFICATE HOLDER**CANCELLATION**
 Westside Youth Inc
 c/o Dino Perez
 1709 7th Street
 Mendota CA 93640

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



Complete and return all copies to the Office of State Fire Marshal with the required fee of \$50.00 made payable to "CAL FIRE". **Applications must be received prior to June 15th of the current year.**

Office of State Fire Marshal
 2251 Harvard Street, Suite 400
 Sacramento, CA 95815
 (916) 568-2943

LICENSEE INFORMATION

Name (First, Last):	Westside Youth Inc.	Phone Number: (209) 491 - 5180
Mailing Address (Street Address, City, CA, Zip):	2777 E. Malaga Ave., Fresno, CA 93725	
Local Contact Person and Phone Number (if different from Licensee above):	Jon Fortado	

STAND INFORMATION

Physical Address (Street Address, City, CA, Zip):	697 Derrick Ave., Mendota, CA
County of Stand Location:	Fresno

WHOLESALE FIREWORK VENDOR INFORMATION

Business Name:	PHANTOM FIREWORKS	License No.:	W-0526
Contact Name:	RYNE CONDER	Phone Number: (209) 491 - 5180	

FIRE AUTHORITY HAVING JURISDICTION

Fire Department:	Fresno County Fire Dept.
Physical Address (Street Address, City, CA, Zip):	210 S. Academy, Sanger, CA 93657



Signature of Fire Authority Having Jurisdiction	Signature of Retail Booth Applicant
<u>4/21/2020</u>	<u>4/17/2020</u>
Date	Date

-NOTICE-

COPY OF THIS NOTICE MUST BE POSTED AT STAND WITH A COPY OF THE LOCAL PERMIT

A validated license has been issued to this organization shown above for the sale of Safe and Sane fireworks at the location indicated. After a permit has been issued by the authority having jurisdiction this license allows the sale of only classified "S and Sane" fireworks at the approved location from NOON, JUNE 28th to NOON, July 6th, of the year indicated. **NOTE:** Retail licensees are required to be at least 21 years of age, employees of fireworks stands must be at least 18 and fireworks may be sold to anyone under the age of 16.

DATE: 2020 SALESMAN: Jon CITY: MENDOTA

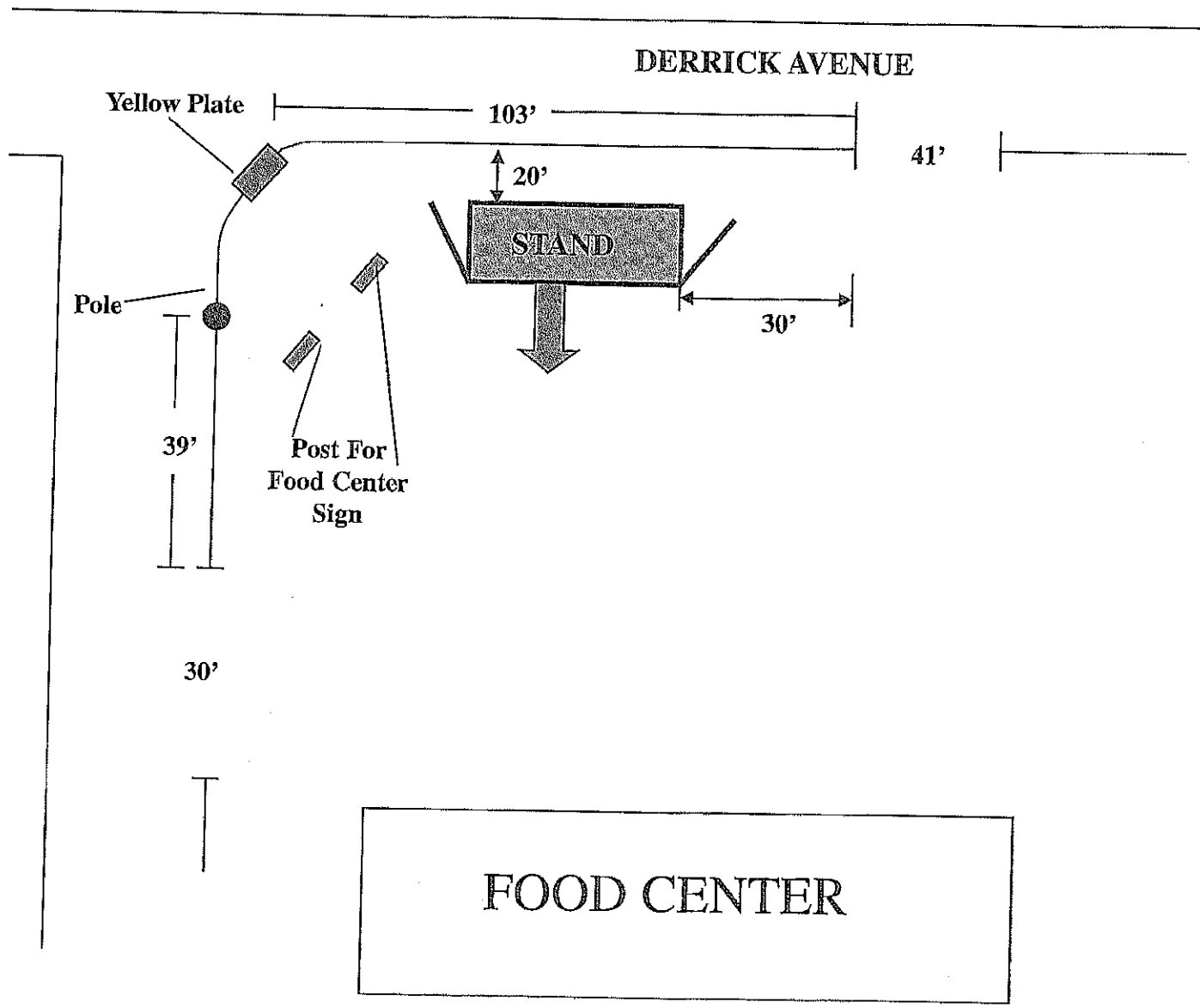
ACCT #: 604017 ORGANIZATION: WESTSIDE YOUTH INC.

CHAIRMAN: Dino Perez PHONE: Home (559) 970-7840 (559) 655-4808

STAND SIZE: 24' STAND UP DATE: 6/22 STAND DOWN DATE: 7/10 NOON

ADDRESS / INTERSECTION: 697 DERRICK AVENUE FIRE: Fresno County

SPECIAL INSTRUCTIONS: STAND FACES DERRICK AVENUE, 30 FEET FROM ENTRANCE AND 20 FEET BACK



DISPLAY CONSPICUOUSLY AT PLACE OF BUSINESS FOR WHICH ISSUED

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

TEMPORARY SELLER'S PERMIT

Valid June 28, 2020 through July 5, 2020

ACCOUNT NUMBER

220464512 - 00001

WESTSIDE YOUTH INC
DINO M. PEREZ
697 DERRICK AVE
MENDOTA CA 93640-2203



Office of Control:
Fresno Office

NOTICE TO PERMITTEE:
You are required to obey all Federal and State laws that regulate or control your business. This permit does not allow you to do otherwise.

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION. THIS PERMIT IS VALID FOR THE PERIODS SHOWN AND IS NOT TRANSFERABLE.

For general tax questions, please call our Customer Service Center at 1-800-400-7115 (TTY:711).
For information on your rights, contact the Taxpayers' Rights Advocate Office at 1-888-324-2798 or 1-916-324-2798.

CDTFA-442-ST REV. 7 (5-18)

A MESSAGE TO OUR NEW PERMIT HOLDER

As a seller, you have rights and responsibilities under the Sales and Use Tax Law. In order to assist you in your endeavor and to better understand the law, we offer the following sources of help:

- Visiting our website at www.cdtfa.ca.gov
- Visiting an office
- Attending a Basic Sales and Use Tax Law class offered at one of our offices
- Sending your questions in writing to any one of our offices
- Calling our toll-free Customer Service Center at 1-800-400-7115 (TTY:711)

As a seller, you have the right to issue resale certificates for merchandise that you intend to resell. You also have the responsibility of not misusing resale certificates. While the sales tax is imposed upon the retailer,

- You have the right to seek reimbursement of the tax from your customer
- You are responsible for filing and paying your sales and use tax returns timely
- You have the right to be treated in a fair and equitable manner by the employees of the California Department of Tax and Fee Administration (CDTFA)
- You are responsible for following the regulations set forth by the CDTFA

As a seller, you are expected to maintain the normal books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a CDTFA representative when requested. You are also expected to notify us if you are buying, selling, adding a location, or discontinuing your business, adding or dropping a partner, officer, or member, or when you are moving any or all of your business locations. If it becomes necessary to surrender this permit, you should only do so by mailing it to a CDTFA office, or giving it to a CDTFA representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with CDTFA, please contact the Taxpayers' Rights Advocate Office for help by calling toll-free, 1-888-324-2798 or 1-916-324-2798. Their fax number is 1-916-323-3319.

Please post this permit at the address for which it was issued and at a location visible to your customers.

California Department of Tax and Fee Administration

Business Tax and Fee Division

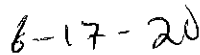
To Whom It May Concern:

As property owners of the Mendota Food Center located at 697 Derrick Ave.
we authorize Westside Youth Inc. to sell fireworks on our parking lot.

This sale of fireworks is scheduled to take place from June 28, 2020 until July 4,
2020.

Sincerely,





Owner

Date

* CITY of MENDOTA *

643 Quince St. Mendota, CA. 93640

June 17, 2020 Receipt #.: 24462
Wednesday 3:55 pm Register #.: 003
By: Grecia Terminal ID: T90

RENTS

RENTALS & CON. 50.00
Cmt: WESTSIDE YOUTH FIREWORKS APP 2020
01 3400 3420

Total 50.00

Check # 001727
Check Amt...: 50.00
Cash.....: .00
Amt Tendered: 50.00
Total Paid...: 50.00
Change.....: .00
Paid By.:

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CELESTE CABRERA-GARCIA, CITY CLERK
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: CONSIDERATION OF POTENTIAL RELAXATION OF CERTAIN EMERGENCY MEASURES TO AUTHORIZE OPEN AIR MARKETS TO OPERATE IN THE CITY
DATE: JUNE 23, 2020

ISSUE

Shall the City Council relax certain emergency measures, conditioned upon implementation of adequate protective measures, to authorize open air markets to operate in the City?

BACKGROUND

Following similar actions by the State and County, on March 16, 2020 the City of Mendota adopted Resolution No. 20-18 proclaiming the existence of a local emergency in response to the continuing spread of COVID-19. Following the City's emergency proclamation, on March 19, 2020, Executive Order N-33-20 issued by Governor Newsom directed all Californians to stay home except to go to an essential job or to shop for essential needs.

As a result of the ongoing COVID-19 pandemic emergency, cities and other lower-level government entities have the ability to enact regulations that are more restrictive than those set by the State, but never regulations that are less restrictive. As such, between March and early May 2020, the City's Director of Emergency Services issued Emergency Orders Nos. 20-01 through 20-07 in response to the ongoing COVID-19 pandemic emergency. Some of the emergency orders that were issued addressed the authorization of open markets in the City.

Current City regulations do not permit open markets to operate in the City. At previous City Council meetings, the Council has held extensive discussions regarding its reservations and concerns in permitting open air markets to operate during these times. The Council has also received input from members of Westside Youth, Inc. regarding their desire to hold their open market in order to generate revenue for their organization.

ANALYSIS

Given the ongoing COVID-19 pandemic emergency, the Council has the discretion to authorize or not authorize the operation of open markets in the City. Westside Youth, Inc. submitted the organization's operational plan (attached hereto) for their open market, should the City Council elect to authorize open air markets to operate. Under current state and county orders, open air markets are considered authorized businesses that may operate under new modifications and guidance consistent with state, county, and local guidelines.

City Council Options:

Option 1: Take no action on the item.

The City Council can take no action on the item and allow the provisions of Emergency Order No. 20-07 to remain in effect. Under this scenario, open markets will continue to not be permitted in the City.

Option 2: Adopt Resolution No. 20-45, ratifying and modifying Emergency Order No. 20-07 issued in response to the continuing COVID-19 pandemic emergency.

The Council may adopt Resolution No. 20-45 and modify the provisions of Emergency Order No. 20-07 in order to authorize open markets to operate in the City.

FISCAL IMPACT

Dependent on the Council's decision.

RECOMMENDATION

Staff recommends that the City Council discuss the item and take appropriate action.

Attachment(s):

1. Westside Youth Inc.'s Operational Plan
2. Resolution No. 20-45

Westside Youth Inc.
Open Air Market Committee Meeting
June 9, 2020

Committee Members:

Judy Mejia, WYC Board President
Dino Perez, WYC Director
Rosemary Gomez, WYC Office Manager
Sonya Mejia, WYC Volunteer & Cobra Cheer Coordinator
Carlos Quintanar, WYC Volunteer & Cobra Football Coach
Jessica Sanchez, WYC Volunteer & 655 Unidos Coordinator

Vendor Invites:

It has always been our goal to have participation from local vendors. Our volunteers will actively seek out more participation from local vendors by personally delivering a flyer that will serve as an invitation. We believe that our local vendors can provide variety in take-out food, fresh produce, fresh flowers/plants, and household items. Ultimately, it will be their discretion to participate or decline the invitation.

Crowd Control:

- *Entrance: Northwest corner of Sorensen Avenue and Smoot Avenue
- *Crowd to follow One-way in (westward direction) and one-way out (eastward direction)
- *Rojas-Pierce Park parking lot to be used by community members waiting to enter the Open-Air Market. Line markings will be 6-feet apart to encourage community to practice social distancing.
- *No admittance after 9:30 pm
- *Exit: Southwest corner of Sorensen Avenue and Smoot Avenue

Concerns from Chief of Police (email received from Christian Gonzalez dated 5/13/2020):

- *Event time: 5:00-10:00 pm, no admittance after 9:30 pm
- *On-scene WYC persons in charge:
 - 4:00-7:00 pm Rosemary Gomez, 559-248-6380
 - 4:00-7:00 pm Judy Mejia, 559-285-9153
 - 7:00-10:00 pm Dino Perez, 559-970-7840
- *Clarification of service area:

For the 2020 Open-Air Market season, Smoot Avenue will be the only service area
- *Map of barricade deployment for sectioned off service area (see attached)
 - *Entrance/Exit
 - *Entrance: Northwest corner of Sorensen Avenue and Smoot Avenue
 - *Exit: Southwest corner of Sorensen Avenue and Smoot Avenue

***Intersection of Smoot/Sorensen?** Yes

***Screening plan for the west side (end) of Smoot Avenue to intercept public trying to enter.** As per City Manager Christian Gonzalez's suggestion, WYC will ask The City of Mendota's Public Works to provide barriers for the west end of Smoot Avenue and for the entrance to the Open-Air Market.

***How will WYC personnel monitor and screen the public for entrance?** WYC personnel is willing to monitor and screen the public for entrance in accordance with local guidelines and consistent with current local business practices.

***Mandatory Mask for everyone:** Yes, in accordance with local guidelines.

***How many additional WYC personnel will be assigned?** In previous years, we had 2-3 WYC personnel assigned. For this year, we plan on having an additional 3-5 minimum, more when available.

***Duties:**

*Monitoring entrance/exit

*Monitoring public for face masks

*Monitoring public waiting in line

*Monitoring no social gatherings/groups of people

***Identification:** WYC volunteers will wear a reflective vest for high visibility.

***How does WYC plan to address groups of people? WYC is responsible**

*WYC in conjunction with MPD will monitor groups of people.

***Families that arrive together?** In accordance with local guidelines and consistent with practices at local businesses.

***Waiting area**

***Line in parking lot?** Yes

***Other?** At this time, only the RPP parking lot is planned as a waiting area.

***Does WYC plan to update their advertising to mention ONLY FRUIT AND VEGETABLES will be sold along with some food trucks?** We do not believe that limiting our community to only fruit and vegetables along with food trucks is in our interest. We do believe that our local vendors can provide variety in take-out food, fresh produce, fresh flowers/plants, and other household items.

***Take-out only:** Yes, at this time, in accordance with local guidelines. When our city enters the next phase, that allows local restaurants to have dine-in, then we would like to reserve that option for our vendors.

***NO non-food items or vendors:** Please see above.

***Event is not meant to be a social hangout:** WYC agrees 100%

Volunteers

WYC volunteers will wear a reflective vest for high visibility and have assigned duties.

Tasks/Duties

- *Monitoring entrance/exit
- *Monitoring public for face masks
- *Monitoring public waiting in line
- *Monitoring for no social gatherings/groups of people

Safety & Sanitation:

- *One restroom for WYC personnel and vendors. Public restroom is not needed as the Open-Air market is a place to make your purchases and then return home.
- *Hand-wash station for general use.
- *MPD Officers (one regular officer and one reserve officer)
- *Disposable masks will be available for purchase.

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA RATIFYING
AND MODIFYING EMERGENCY ORDER
NO. 20-07 ISSUED IN RESPONSE TO
THE CONTINUING COVID-19 PANDEMIC
EMERGENCY**

RESOLUTION NO. 20-45

WHEREAS, the City of Mendota (“City”) is empowered to protect the health and safety of its citizens; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency due to the outbreak and spread of COVID-19 (Novel Coronavirus); and

WHEREAS, on March 15, 2020, the County of Fresno declared a State of Emergency in response to the continuing spread of COVID-19; and

WHEREAS, at the City of Mendota’s (“City”) March 16, 2020, Special City Council Meeting, the City Council adopted Resolution No. 20-18, proclaiming a local emergency in response to the continuing spread of COVID-19; and

WHEREAS, pursuant to Governor Newsom’s Executive Order N-33-20, signed March 19, 2020, all residents of the City of Mendota have been directed to “immediately heed the current State public health directives ... [which] are consistent with the March 19, 2020, Memorandum of Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>”; and

WHEREAS, Executive Order N-33-20 also requires “all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>”; and

WHEREAS, pursuant to the authority of Government Code section 8634, and the Mendota Municipal Code (“MMC”) section 2.44.060, the City’s Director of Emergency Services issued Emergency Services Director Orders Nos. 20-01 through 20-07 to address the ongoing spread and impacts of COVID-19; and

WHEREAS, on April 28, 2020, the City Council adopted Emergency Ordinance Nos. 20-10 and 20-11, modifying existing COVID-19 response ordinances to provide continued and necessary support to the community; and

WHEREAS, on May 4, 2020, Governor Newsom announced that the State was prepared to begin moving toward “Phase 2,” set to begin on May 8, 2020, which will

allow “gradual reopening of lower-risk workplaces with adaptations including bookstores, clothing stores, florists and sporting goods stores, with modifications” (See California’s Progress Toward Stage 2 Reopening, found at: <https://www.gov.ca.gov/2020/05/04/governor-newsom-provides-update-on-californias-progress-toward-stage-2-reopening/>); and

WHEREAS, on May 4, 2020, Governor Newsom announced the State’s “Phase 2” framework allows “counties to move more quickly through Stage 2 if they attest that they meet the state’s readiness criteria,” which include: (1) stability of hospitalizations; (2) personal protective equipment inventory; (3) health care surge capacity; (4) testing capacity; (5) contact tracing capability; and (6) public health guidance in place (See State Report Card, found at: <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.4-Report-Card-on-California-Resilience-Roadmap.pdf>); and

WHEREAS, on May 5, 2020, the County of Fresno Department of Public Health issued Interim Guidance for Reopening Fresno County Businesses While Maintaining Customer Safety and Public Health, which addresses non-essential businesses seeking to reopen as part of “Phase 2.” Among other things, these businesses have been directed to consider: (1) employee safety; (2) customer/visitor safety; (3) 6-Foot distancing protocol; and (4) sanitation (See Fresno County Public Health Notice COVID-19 Interim Guidance for Reopening, found at: <https://www.co.fresno.ca.us/Home/ShowDocument?id=44523>.); and

WHEREAS, on May 7, 2020, Governor Newsom released the State’s Updated Industry Guidance, found at: <https://www.gov.ca.gov/2020/05/07/governor-newsom-releases-updated-industry-guidance/>. Among other things, this guidance directs businesses seeking to reopen to: (1) Perform a detailed risk assessment and implement a site-specific protection plan; (2) Train employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them; (3) Implement individual control measures and screenings; (4) implement disinfecting protocols; and (5) Implement physical distancing guidance; and

WHEREAS, on May 8, 2020, the City’s Director of Emergency Services issued Emergency Order No. 20-06, ratified by Resolution No. 20-31 of the City Council on May 12, 2020, relating to initiating Phase 2 operations in response to the ongoing COVID-19 pandemic emergency; and

WHEREAS, on May 11, 2020, the City of Fresno authorized what it termed “Authorized Businesses” to physically open their doors for business based on an occupancy of one (1) customer per 500 square feet of space. These “Authorized Businesses” include, but are not limited to: auto, truck, boat, motorcycle, RV and mobile home sales; new construction; furniture stores; electronics and camera stores; spa and pool stores; lawn and garden equipment stores; building and remodeling supply stores; and auctions (See City of Fresno Authorized Business Information, found at: <https://www.fresno.gov/coronavirus-old/authorized-businesses-information/>; Authorized Business Categories and Conditions, found at: <https://www.fresno.gov/wp->

content/uploads/2020/05/ENGLISH-FresnoCityHall_AuthorizedBusiness_Boards_24x36.pdf); and

WHEREAS, on May 12, 2020, Governor Newsom released additional updated State guidance regarding retail businesses, found at: <https://covid19.ca.gov/pdf/guidance-retail.pdf>. Among other things, this guidance directs retailers seeking to reopen to: (1) Establish a written, worksite-specific COVID-19 prevention plan, perform a comprehensive risk assessment of all work areas, and designate a person at each facility to implement the plan; (2) Train employees on how to prevent and limit the spread of COVID-19, including how to screen themselves for symptoms and the importance of not coming to work if they have them or someone they live with has been diagnosed with COVID-19; (3) Implement individual control measures and screenings; (4) implement disinfecting protocols throughout the premises; and (5) Implement physical distancing guidance to ensure physical distancing of at least six (6) feet between workers and customers; and

WHEREAS, following public discussions during the May 12, 2020, regular City Council meeting, the City Council indicated its desire that, in the near future, the Director of Emergency Services do the following: (1) repeal the business and service curfews imposed by Emergency Order No. 20-03; (2) repeal the authorization for farmers' markets and open air markets to operate within the City allowed by Emergency Order No. 20-06; and (3) authorize specific types of non-essential retail activity throughout the City; and

WHEREAS, on May 13, 2020, the City Manager, acting as the Director of Emergency Services pursuant to MMC Section 2.44.050 and by the powers vested in him by MMC Section 2.44.060 and Resolution No. 20-18, signed Emergency Order No. 20-07; and

WHEREAS, Emergency Order No. 20-07, attached hereto as Exhibit "A" and incorporated herein by this reference, relates to repealing daily business curfews, repealing authorization for farmers' markets, and authorizing additional non-essential retail operations in response to the ongoing COVID-19 pandemic emergency; and

WHEREAS, on May 21, 2020, the County of Fresno received a variance from the State, allowing non-essential retail businesses and "dine-in" restaurant services to reopen throughout the County subject to State and County guidelines; and

WHEREAS, on May 26, 2020, the City Council adopted Resolution No. 20-35 which modified Emergency Order No. 20-06 to defer to County and State guidance regarding reopening businesses throughout the City, reflecting the City's commitment to following County and State guidelines issued in response to the continuing COVID-19 pandemic emergency; and

WHEREAS, as of June 18, 2020, there were 161,099 positive cases of COVID-19 in California with 5,290 deaths, and 3,058 positive cases with 62 deaths in Fresno

County, with public health officials expecting the number of confirmed cases to increase as testing continues; and

WHEREAS, as of June 18, 2020, the City has 176 confirmed COVID-19 cases within its boundaries, with more cases expected to be confirmed as testing continues; and

WHEREAS, based on guidance released by the Fresno County Department of Public Health, California Department of Public Health, the Centers for Disease Control and Prevention, and other public health officials throughout the United States, the City intends to protect the health, safety, and economic welfare of the community while providing for safe, phased resumption of economic activity within the City's borders; and

WHEREAS, on June 9, 2020, the City Council adopted Resolution No. 20-38 which modified Emergency Order No. 20-07 to strike out the portions discussing "Authorized Non-Essential Retail Businesses" in favor of allowing non-essential business operations within the City pursuant to County and State guidelines; and

WHEREAS, Emergency Order No. 20-07, as amended on June 9, 2020, still prohibits the operation of Certified Farmers' Markets and Open Air Markets within the City's borders, which is no longer desirable as COVID-19 protocols continue to be relaxed at the County and State level; and

WHEREAS, moving forward, economic necessity requires the City to begin allowing certain businesses which have not been designated Essential Critical Infrastructure Workers to begin recommencing operations within the City's borders, subject to best practices for curtailing the transmission of COVID-19; and

WHEREAS, strict compliance with various statutes and regulations would prevent, hinder or delay appropriate actions to prevent and mitigate the effects of COVID-19; and

WHEREAS, it is imperative to prepare for and implement measures to respond to and reduce the spread of COVID-19; and

WHEREAS, it is imperative to have the necessary tools to ensure the health and safety of community members within the City; and

WHEREAS, the aforesaid conditions warrant and require immediate action to mitigate potential public calamity as the COVID-19 pandemic emergency continues.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Mendota hereby:

1. Declares the text of Section 3 of Emergency Order No. 20-07, as amended on June 9, 2020, and attached hereto as Exhibit "A," shall be amended to read as follows:

Section 2 of Emergency Order No. 20-06, and each of its subparts, are hereby repealed in their entirety. ~~Accordingly, Certified Farmers' Markets, Open Air Markets, and the like are not authorized to conduct public-facing business operations within the City's borders immediately upon the passage of this Order.~~

~~Farmers' Markets, Open Air Markets, and the like that opt to resume public-facing business operations within the City's borders following the passage of this Order, or that otherwise violate this Order, shall be punishable by administrative citation. Non-compliance shall subject the vendor and/or market organizer to an administrative fine of \$2,500 for the first offense, \$5,000 for the second offense, and \$10,000 for the third and any future offenses.~~

2. Declares Emergency Order No. 20-07, as modified here, to be official City policy until the local emergency outlined in City Council Resolution No. 20-18 is declared over.
3. Directs City staff to carry out and enforce the provisions of Emergency Order No. 20-07 as applicable throughout the City of Mendota.

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 23rd day of June, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

Exhibit A

CITY OF MENDOTA

**EMERGENCY SERVICES DIRECTOR ORDER No. 20-07 RELATING TO
ISSUING ADDITIONAL ORDERS IN RESPONSE TO THE COVID-19 PANDEMIC
EMERGENCY**

**DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY
OF MENDOTA REPEALING DAILY BUSINESS CURFEWS, REPEALING
AUTHORIZATION FOR FARMERS' MARKETS, AND AUTHORIZING ADDITIONAL
NON-ESSENTIAL RETAIL OPERATIONS IN RESPONSE TO ONGOING COVID-19
PANDEMIC EMERGENCY**

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency due to the outbreak and spread of COVID-19 (Novel Coronavirus); and

WHEREAS, on March 15, 2020, the County of Fresno declared a State of Emergency in response to the continuing spread of COVID-19; and

WHEREAS, at the City of Mendota's ("City") March 16, 2020, Special City Council Meeting, the City Council adopted Resolution No. 20-18, proclaiming a local emergency in response to the continuing spread of COVID-19; and

WHEREAS, pursuant to Governor Newsom's Executive Order N-33-20, signed March 19, 2020, all residents of the City of Mendota have been directed to "immediately heed the current State public health directives ... [which] are consistent with the March 19, 2020, Memorandum of Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>"; and

WHEREAS, Executive Order N-33-20 also requires "all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>"; and

WHEREAS, pursuant to the authority of Government Code section 8634, and the Mendota Municipal Code ("MMC") section 2.44.060, the City's Director of Emergency Services issued Emergency Services Director Orders Nos. 20-01 through 20-05 to address the ongoing spread and impacts of COVID-19; and

WHEREAS, on April 7, 2020, the City's Director of Emergency Services issued Emergency Order No. 20-03, ratified by Resolution No. 20-25 of the City Council on April 14, 2020, relating to issuing temporary COVID-19 pandemic response orders. Among other things, this Emergency Order directed all businesses to cease public-facing business operations between 10:00 p.m. and 4:00 a.m. daily, cease allowing customer use of waiting areas, and implement social distancing and related protocols to limit the spread of COVID-19; and

WHEREAS, on April 15, 2020, the City’s Director of Emergency Services issued Emergency Order No. 20-04, ratified by Resolution No. 20-27 of the City Council on April 28, 2020, relating to employee COVID-19 screening; and

WHEREAS, on April 15, 2020, the City’s Director of Emergency Services issued Emergency Order No. 20-05, ratified by Resolution No. 20-27 of the City Council on April 28, 2020, relating to mandatory facial coverings; and

WHEREAS, on April 28, 2020, the City Council adopted Emergency Ordinance Nos. 20-10 and 20-11, modifying existing COVID-19 response ordinances to provide continued and necessary support to the community; and

WHEREAS, on May 4, 2020, Governor Newsom announced that the State was prepared to begin moving toward “Phase 2,” set to begin on May 8, 2020, which will allow “gradual reopening of lower-risk workplaces with adaptations including bookstores, clothing stores, florists and sporting goods stores, with modifications” (See California’s Progress Toward Stage 2 Reopening, found at: <https://www.gov.ca.gov/2020/05/04/governor-newsom-provides-update-on-californias-progress-toward-stage-2-reopening/>); and

WHEREAS, on May 4, 2020, Governor Newsom announced the State’s “Phase 2” framework allows “counties to move more quickly through Stage 2 if they attest that they meet the state’s readiness criteria,” which include: (1) stability of hospitalizations; (2) personal protective equipment inventory; (3) health care surge capacity; (4) testing capacity; (5) contact tracing capability; and (6) public health guidance in place (See State Report Card, found at: <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.4-Report-Card-on-California-Resilience-Roadmap.pdf>); and

WHEREAS, on May 5, 2020, the County of Fresno Department of Public Health issued Interim Guidance for Reopening Fresno County Businesses While Maintaining Customer Safety and Public Health, which addresses non-essential businesses seeking to reopen as part of “Phase 2.” Among other things, these businesses have been directed to consider: (1) employee safety; (2) customer/visitor safety; (3) 6-Foot distancing protocol; and (4) sanitation (See Fresno County Public Health Notice COVID-19 Interim Guidance for Reopening, found at: <https://www.co.fresno.ca.us/Home/ShowDocument?id=44523>.); and

WHEREAS, on May 7, 2020, Governor Newsom released the State’s Updated Industry Guidance, found at: <https://www.gov.ca.gov/2020/05/07/governor-newsom-releases-updated-industry-guidance/>. Among other things, this guidance directs businesses seeking to reopen to: (1) Perform a detailed risk assessment and implement a site-specific protection plan; (2) Train employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them; (3) Implement individual control measures and screenings; (4) implement disinfecting protocols; and (5) Implement physical distancing guidance; and

WHEREAS, on May 8, 2020, the City’s Director of Emergency Services issued Emergency Order No. 20-06, ratified by Resolution No. 20-31 of the City Council on May 12, 2020, related to curbside non-essential retail and farmers’ markets in response to the ongoing COVID-19 pandemic emergency; and

WHEREAS, on May 11, 2020, the City of Fresno authorized what it termed “Authorized Businesses” to physically open their doors for business based on an occupancy of one (1) customer per 500 square feet of space. These “Authorized Businesses” include, but are not limited to: auto, truck, boat, motorcycle, RV and mobile home sales; new construction; furniture stores; electronics and camera stores; spa and pool stores; lawn and garden equipment stores; building and remodeling supply stores; and auctions (See City of Fresno Authorized Business Information, found at: <https://www.fresno.gov/coronavirus-old/authorized-businesses-information/>; Authorized Business Categories and Conditions, found at: https://www.fresno.gov/wp-content/uploads/2020/05/ENGLISH-FresnoCityHall_AuthorizedBusiness_Boards_24x36.pdf); and

WHEREAS, on May 12, 2020, Governor Newsom released additional updated State guidance regarding retail businesses, found at: <https://covid19.ca.gov/pdf/guidance-retail.pdf>. Among other things, this guidance directs retailers seeking to reopen to: (1) Establish a written, worksite-specific COVID-19 prevention plan, perform a comprehensive risk assessment of all work areas, and designate a person at each facility to implement the plan; (2) Train employees on how to prevent and limit the spread of COVID-19, including how to screen themselves for symptoms and the importance of not coming to work if they have them or someone they live with has been diagnosed with COVID-19; (3) Implement individual control measures and screenings; (4) implement disinfecting protocols throughout the premises; and (5) Implement physical distancing guidance to ensure physical distancing of at least six (6) feet between workers and customers; and

WHEREAS, following public discussions during the May 12, 2020, regular City Council meeting, the City Council indicated its desire that, in the near future, the Director of Emergency Services do the following: (1) repeal the business and service curfews imposed by Emergency Order No. 20-03; (2) repeal the authorization for farmers’ markets and open air markets to operate within the City allowed by Emergency Order No. 20-06; and (3) authorize specific types of non-essential retail activity throughout the City; and

WHEREAS, as of May 12, 2020, there were 69,382 positive cases of COVID-19 in California with 2,847 deaths, and 984 positive cases with ten (10) deaths in Fresno County with public health officials expecting the number of confirmed cases to increase as testing continues; and

WHEREAS, as of May 12, 2020, the City has thirty-two (32) confirmed COVID-19 cases within its boundaries, with more cases expected to be confirmed as testing continues; and

WHEREAS, based on guidance released by the Fresno County Department of Public Health, California Department of Public Health, the Centers for Disease Control and Prevention, and other public health officials throughout the United States, the City intends to protect the health, safety, and economic welfare of the community while providing for safe, phased resumption of economic activity within the City's borders; and

WHEREAS, moving forward, economic necessity requires the City to begin allowing certain businesses which have not been designated Essential Critical Infrastructure Workers to begin recommencing operations within the City's borders, subject to best practices for curtailing the transmission of COVID-19; and

WHEREAS, the aforesaid conditions warrant and require immediate action to mitigate potential public calamity as the COVID-19 pandemic emergency continues.

NOW, THEREFORE, as the Director of Emergency Services pursuant to MMC Section 2.44.050, and by the powers vested in me by MMC Section 2.44.060 and the City Council of the City of Mendota in Resolution No. 20-18, I hereby issue the following orders, **effective immediately, Wednesday, May 13, 2020**, and for so long as Executive Order N-33-20 and the Local Emergency declared in Resolution No. 20-18 in response to the COVID-19 pandemic emergency remain in effect:

1. Section 1 of Emergency Order No. 20-03, and each of its subparts, are hereby repealed in their entirety. Accordingly, the daily 10:00 p.m. to 4:00 a.m. curfew halting business operations and services within the City's borders shall cease immediately upon the passage of this Order.
2. Section 2 of Emergency Order No. 20-06, and each of its subparts, are hereby repealed in their entirety. Accordingly, Certified Farmers' Markets, Open Air Markets, and the like are not authorized to conduct public-facing business operations within the City's borders immediately upon the passage of this Order.

Farmers' Markets, Open Air Markets, and the like that opt to resume public-facing business operations within the City's borders following the passage of this Order, or that otherwise violate this Order, shall be punishable by administrative citation. Non-compliance shall subject the vendor and/or market organizer to an administrative fine of \$2,500 for the first offense, \$5,000 for the second offense, and \$10,000 for the third and any future offenses.

- ~~3. Notwithstanding the provisions contained in Section 1 of Emergency Order No. 20-06, and each of its subparts, "Authorized Non-Essential Retail Businesses," as defined below, may allow customer access to the business premises, subject to the restrictions below.~~

~~3.1 Definitions.~~

~~As used in this Section, "Authorized Non-Essential Retail Businesses" means those businesses and activities which are not considered essential within the current generally accepted definitions of Essential Critical~~

~~Infrastructure Workers, as defined in State and Federal public health directives, but are still important to the economic and social well-being of the community.~~

~~“Authorized Non-Essential Retail Businesses” include: (1) Auto, Truck, Boat, Motorcycle, RV, and Mobile Home Sales; (2) New Construction; (3) Furniture Stores; (4) Electronics and Camera Stores; (5) Spa and Pool Stores; (6) Lawn and Garden Equipment Stores; (7) Building and Remodeling Supply Stores; and (8) Auctions.~~

~~3.2 Authorized Non-Essential Retail Businesses may not allow customer occupancy at the business premises to exceed one (1) customer per 500 square feet.~~

~~3.3 Authorized Non-Essential Retail Businesses opting to resume public-facing business operations within the City pursuant to this Order shall ensure compliance with all Fresno County Department of Public Health, California Department of Public Health, and other State guidelines to limit the spread of COVID-19. These guidelines include, but are not limited to:~~

~~3.3.1 Performing a detailed risk assessment and implementing a site-specific protection plan;~~

~~3.3.2 Training employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them;~~

~~3.3.3 Implementing individual control measures and screenings, such as ensuring all employees wear reusable cloth-based facial coverings or single-use facial coverings that effectively cover the wearer’s nose and mouth at all times;~~

~~3.3.4 Implementing disinfecting protocols, such as ensuring all employees regularly wash or sanitize their hands, at least two (2) times per hour, and ensuring customer touch points are disinfected as often as is reasonably practicable; and~~

~~3.3.5 Implementing physical distancing guidance, such as ensuring all customers and employees remain at least six (6) feet apart at all times.~~

~~3.4 Authorized Non-Essential Retail Businesses opting to resume public-facing business operations within the City pursuant to this Order that fail to ensure compliance with Fresno County and State requirements discussed herein, or that otherwise violate this Order, shall be punishable by administrative citation. Non-compliance shall subject the business to an administrative fine of \$1,000 for the first offense, \$2,500 for the second offense, and \$5,000 for the third and any future offenses. Alternatively,~~

~~non-essential retail businesses that fail to ensure compliance with Fresno County and State requirements may be ordered to cease public-facing business operations within the City by the Director of Emergency Services.~~

4. Unless explicitly stated herein, nothing in this Order shall be interpreted as overriding or repealing any of the provisions contained in Emergency Order Nos. 20-01, 20-02, 20-03, 20-04, 20-05, or 20-06 which will continue in effect for so long as Executive Order N-33-20 and the Local Emergency declared in Resolution No. 20-18 in response to the COVID-19 pandemic emergency remain in effect.
5. This Order shall be subject to amendment or repeal at any time, and shall not be deemed to confer any contractual obligations, property rights, or assume any liability on the City of Mendota's behalf.
6. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
7. This Order does not, in any way, restrict: (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state, or federal officers, investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.
8. This Order shall be immediately translated into Spanish, and accommodations be made for all disabled persons to read its contents. This Order shall also be distributed to all local media and made prominently available on the City's website.

IT IS SO ORDERED.

Director of Emergency Services

Cristian Gonzalez, City Manager

May 13, 2020

3:00 p.m.

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CELESTE CABRERA-GARCIA, CITY CLERK
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: ADDING SECTION 8.12.130 TO CHAPTER 8.12 OF TITLE 8 OF THE MENDOTA MUNICIPAL CODE TO ESTABLISH A PENALTY FOR THE POSSESSION OR USE OF DANGEROUS OR ILLEGAL FIREWORKS
DATE: JUNE 23, 2020

ISSUE

Should the City Council perform the first hearing and schedule the public hearing for Ordinance No. 20-13, adding Section 8.12.130 to Chapter 8.12 of Title 8 of the Mendota Municipal Code to establish a penalty for the possession or use of dangerous or illegal fireworks?

BACKGROUND

The Mendota Police Department has relied on the State Fireworks Law (Section 12500 et seq. of the California Health and Safety Code) to cite individuals who possess or use illegal or dangerous fireworks. Due to a significant amount of illegal and dangerous fireworks being utilized throughout the City in recent weeks and the threat this activity poses to the health and safety of the community, the City Council has expressed its desire in imposing local administrative penalties to further address the issue and deter future occurrences.

ANALYSIS

The attached ordinance adds a section to the Mendota Municipal Code that imposes an administrative penalty in the amount of one thousand dollars (\$1,000.00) for the possession or use of dangerous or illegal fireworks. Through these provisions, code enforcement officers and any law enforcement or fire agency designated by the Police Chief may issue an administrative citation per occurrence to all responsible person(s). At present, officers continue to rely on the State Fireworks Law to address the possession and use of illegal fireworks.

FISCAL IMPACT

General Fund revenue generated from administrative citations.

RECOMMENDATION

Staff recommends that the City Council take any comment from the public on this matter, waive the first reading, and set the second reading and public hearing for the adoption of Ordinance No. 20-13 for the July 14th regular Council Meeting.

Attachment(s):

1. Ordinance No. 20-13

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA ADDING
SECTION 8.12.130 TO CHAPTER 8.12 OF
TITLE 8 OF THE MENDOTA MUNICIPAL CODE
TO ESTABLISH A PENALTY FOR THE
POSSESSION OR USE OF DANGEROUS
OR ILLEGAL FIREWORKS**

ORDINANCE NO. 20-13

WHEREAS, the City of Mendota (“City”) is empowered to protect the health and safety of its citizens; and

WHEREAS, the City has determined that the possession and use of dangerous or illegal fireworks creates an immediate danger to the public health, safety, and welfare for which immediate correction is required; and

WHEREAS, for the purpose of protecting the health and safety of its residents, the City has determined that the Mendota Municipal Code requires an addition in order to allow the imposition of administrative penalties in this regard.

NOW, THEREFORE, the City Council of the City of Mendota ordains as follows:

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

Section 2. Section 8.12.130 is hereby added to Chapter 8.12 of Title 8 of the Mendota Municipal Code, and reads as follows:

8.12.130. Possession or Use of Dangerous or Illegal Fireworks.

- (A) It shall be unlawful for any person to possess or use illegal or dangerous fireworks in the City as defined by the State Fireworks Law, Section 12500 et seq. of the California Health and Safety Code, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.
- (B) Upon identification of possession or use of illegal or dangerous fireworks, City Code Enforcement Officers and any law enforcement or fire agency designated by the City’s Police Chief may issue an administrative citation of one thousand dollars (\$1,000.00) per occurrence to all responsible person(s).
- (C) For the purposes of this Section, Responsible person(s) includes:
 - 1. The person(s) who owns, rents, leases, or otherwise has possession of the residence or other private property; and

2. The person(s) in immediate control of the residence or other private property; and
 3. The person(s) who organizes, supervises, sponsors, conducts, allows, or controls access to the illegal discharge or illegal possession of dangerous or illegal fireworks.
- (D) There is no requirement that the City provide advance notice to the responsible person(s) prior to issuing an administrative citation under this Section. Responsible person(s) shall be deemed to know the law as is the common standard for Municipal Code violations. Further, fireworks violations create an immediate danger to the public health, safety, and welfare for which immediate correction is required. Additionally, fireworks violations are noncontinuing violations for which it is not possible or practical to provide prior notice and an opportunity to correct.

Section 3. Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

Section 4. The City Council hereby finds and determines that its adoption of this Ordinance is not subject to environmental review under the Public Resources Code, § 21000 et seq., the California Environmental Quality Act (“CEQA”), because the amendments do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a “project” under CEQA. (Pub. Res. Code, § 21065; 14 Cal. Code Regs., §§ 15378(a), 15064(d)(3).) Accordingly, the City Clerk is hereby directed to file a Notice of Exemption.

Section 5. This ordinance shall take effect thirty (30) days after its passage.

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 23rd day of June, 2020 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 14th day of July, 2020 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: JOHN P. KINSEY, CITY ATTORNEY
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: COMMERCIAL CANNABIS RETAIL APPLICATION SCORING APPEALS – ELEMENT 7 MENDOTA, LLC; SG MENDOTA, LLC
DATE: JUNE 23, 2020

ISSUE

The Mendota Municipal Code provides a process under which the City accepted applications and proposals from parties who were interested in negotiating with the City to open cannabis retail businesses in the City, following the scoring of the proposals by a Scoring Committee. Element 7 Mendota, LLC (“Element 7”), SG Mendota, LLC (“SG Mendota”), and Terra Retail Group, LLC (“Terra”) submitted applications in response to the City of Mendota’s (“City”) Formal Invitation for the Submittal of Applications to Enter into a Development Agreement for Commercial Cannabis Activity (“Formal Invitation”). Scoring Criteria were developed based on the City’s policy objectives and the applications’ required contents set forth in the Formal Invitation and Mendota Municipal Code (“MMC”). SG Mendota received a score of 44.6, Element 7 received a score of 28.2, and Terra received a score of 34.8.

On March 10, 2020, the City conducted a public hearing on the proposals and the results of the Scoring Committee, at which representatives of each of the applicants attended. Following public comments, the Council established a deadline for the submission of appeals of the Scoring Committee’s scores of March 25, 2020, and a hearing date of April 14, 2020. Thereafter, Element 7 and SG Mendota submitted timely appeals. Element 7’s appeal argues: (1) the Scoring Criteria were not published in the MMC or Formal Invitation, so the City’s use of these materials in scoring the applications was improper; (2) SG Mendota’s application should have been deemed incomplete because its application fee check bounced; and (3) Terra’s application appeared to exceed the seventy-five-page (75-page) limit based on “visual evidence” from the March 10, 2020, regular City Council meeting.¹ SG Mendota’s appeal argues: (1) it could have received a higher score due to lack of clarity surrounding the Scoring Criteria²; and (2) the City allowed it to cure its bounced application fee check, so its application should not be disqualified as argued by Element 7.

Since the March 10, 2020, hearing, the City has moved to virtual meetings in accordance with the Governor’s Executive Order No. N-29-20. Originally, the City hoped to conduct an in-person hearing on the appeals, and thus vacated the April 14, 2020, hearing date. However, due to the continuing State of Emergency, in-person meetings have not yet resumed, and the City has determined that the hearing should not be continued further.

Since the date of the hearing, City Staff has learned that SG Mendota is no longer seeking to utilize the location identified in its application. SG Mendota now seeks to utilize a different location.

¹ See Element 7 Appeal Letter, pp. 5-6.

² SG Mendota Appeal Letter, p. 1, ¶ 1.

ANALYSIS

Absent a future change to the MMC, just one (1) business permit may be issued for cannabis retail activity per 20,000 residents in the City. The MMC and Formal Invitation provide the two (2) top-scoring applicants will be placed on the “qualified applicant list” maintained by the City Manager. These “qualified applicants” may apply for the one (1) available cannabis retail business permit.

Element 7 Appeal, Issue 1; SG Mendota Appeal, Issue 1: Scoring Criteria and MMC Interplay

Element 7’s first argument is that the eleven (11) Scoring Criteria were not specifically outlined in the MMC or Formal Invitation, such that the use of these Scoring Criteria was improper. SG Mendota echoes this argument, stating it could have received better scores because MMC section 8.37.070, subdivision C, did not request references be provided in the application materials.³

Citing to *Konica Business Machines U.S.A., Inc. v. Regents of the University of California, et al.*⁴, Element 7’s appeal urges the City Council to apply “close scrutiny ..., and that the permits be awarded in strict compliance with the stated application requirements in the Public Criteria.”⁵ Quoting an opinion issued by the California Attorney General regarding the contents of an application, the *Konica* court stated:

A basic rule of competitive bidding is that bids must conform to specifications, and that if a bid does not so conform, it may not be accepted. [Citations.] However, it is further well established that a bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted *if the variance cannot have affected the amount of the bid or given a bidder an advantage or benefit not allowed other bidders* or, in other words, if the variance is inconsequential.⁶

First, it is questionable whether *Konica* even applies to the Formal Invitation in question in this proceeding. Regardless, the authorities cited therein only hold “the public entity has the power to accept a bid which substantially conforms to the advertised requirements.”⁷ Continuing, the *Konica* court reasoned, “A deviating bid might be acceptable as substantially complying with the University’s RFQ had no bids met the advertised requirements[, but] ... there [was] no hint in the RFQ that ‘substantial’ compliance would be the standard when reviewing bids, some which meet the specifications fully and some which do not.”⁸ Determinative there, the *Konica* court noted, “But, more significantly, the Attorney General concludes a deviation is substantial unless it is so inconsequential that it *could not affect the amount of the bid.*”⁹

³ *Ibid.*

⁴ *Konica Business Machines U.S.A., Inc. v. Regents of the University of California, et al.* (1988) 206 Cal.App.3d 449 (“*Konica*”).

⁵ Element 7 Appeal Letter, p. 5, ¶ 9.

⁶ *Konica, supra*, 206 Cal.App.3d at 454, quoting 47 Ops.Cal.Atty.Gen. 129, 130-139 (1966), quoting *Dougherty v. Folk* (1941) 70 Ohio App. 304, italics in original.

⁷ *Konica, supra*, 206 Cal.App.3d at 454.

⁸ *Ibid.*

⁹ *Ibid.*, italics in original.

Here, the six (6) categories of materials listed in the MMC and Formal Invitation presented threshold requirements that determined whether an application was complete, and thus eligible to be scored. The Scoring Criteria were directly derived from these same requirements. No applicant had an advantage over another based on the use of the Scoring Criteria because no applicant had access to them before the application submission period ended. No contracts have been awarded and no “bid amounts” were made such that they could be impacted by the use of the Scoring Criteria. Instead, the Scoring Criteria were used to determine the two (2) applicants to be placed on the qualified applicants list to continue negotiations with the City for the one (1) available permit. As such, Staff disagrees with each of the above arguments.

Element 7 Appeal, Issue 2; SG Mendota Appeal, Issue 2: Late Application Fee

Element 7 also argues that SG Mendota should be disqualified from the application process based on its late payment of the mandatory application fee.¹⁰ To this end, Element 7 argues Section V of the Formal Invitation requires this fee be paid for an application to be deemed complete, and that the decision to allow SG Mendota to cure this defect after the application submission deadline amounts to impermissible favoritism under the California Public Contract Code.¹¹

The application submission period terminated on December 13, 2019.¹² The Formal Invitation provided that all applications “must be submitted in accordance with the requirements set forth in Section 8.37.070(B) of the MMC.”¹³ A “cost recovery deposit of \$3,473.90” was also required.¹⁴

Chapter 8.37 of the MMC provides: “Development agreement applications must be submitted in accordance with the requirements set forth in subdivision (B) herein, **and with the required cost recovery deposit**, which shall be established by resolution of the City Council.”¹⁵ Neither the MMC nor the Formal Invitation provided for a time to cure any defects present in an application following the application submittal period; however, the Scoring Guidelines created a period during which applicants could cure application defects.¹⁶

Element 7 argues this cure period was not in existence until after the application submission period ended, and California’s Public Contracting Code aims to “eliminate favoritism, fraud, and corruption in the awarding of public contracts.”¹⁷ As asserted in SG Mendota’s Appeal Letter, the City Manager exercised his discretion under the Scoring Guidelines to allow SG Mendota to cure its late application fee payment.¹⁸ SG Mendota’s failure to submit a timely application fee could not have affected the amount or contents of its application, rendering this defect inconsequential.

While the failure to submit a timely application fee may not be grounds for *disqualification*, City Staff believes this fact—which was unknown to the Scoring Committee—could still be considered as a factor upon which the Council could grant Element 7’s appeal. While not disqualifying *per*

¹⁰ See Element 7 Appeal Letter, pp. 4-5.

¹¹ See *Id.*

¹² Formal Invitation, p. 5, § 5.

¹³ *Id.* at p. 2, ¶ 4.

¹⁴ *Ibid.*

¹⁵ MMC § 8.37.070(A)(4), emphasis added.

¹⁶ Scoring Guidelines, p. 1, § A(3) & (4).

¹⁷ Cal. Pub. Contract Code § 100(d). See Element 7 Appeal Letter, p. 5.

¹⁸ SG Mendota Appeal Letter, p. 2.

se, the fact that the applicant’s trust account lacked sufficient funds for a relatively small application fee could potentially be considered as a factual basis for disagreeing with the determination of the Scoring Committee.

Further, as noted above, on May 22, 2020, SG Mendota requested that it be allowed to move its proposed retail location elsewhere within the City’s cannabis overlay district. Accordingly, the fact that SG Mendota’s proposed location might differ from its application materials could also be used as a factor for the Council to disagree with the findings of the Scoring Committee on appeal.

Element 7 Appeal, Issue 3: Application in Excess of Seventy-Five (75) Pages

As provided in the Formal Invitation and applicable MMC provisions, all applications were limited to seventy-five (75) pages.¹⁹ Element 7’s appeal argues, “[f]rom visual evidence, [Terra Retail Group, LLC’s] application seemed to be around 120-150 pages in length.”²⁰ The City Manager reviewed all applications for compliance with the applicable requirements prior to scheduling the scoring committee meeting and all applications were seventy-five (75) pages long, so there is no evidentiary support for this assertion.

FISCAL IMPACT

Unknown.

RECOMMENDATION

Overarching all issues here, the MMC and Formal Invitation expressly disclaim the creation of rights in connection with the application process and also reserve the City Council’s right to declare additional application periods by resolution.²¹

Both Element 7 and SG Mendota are represented by counsel and have taken the affirmative step of filing appeals to the City Council to request that it reconsider the findings of the Scoring Committee. We believe the City has two options:

Option 1 – Grant Element 7’s Appeal and Deny SG Mendota’s Appeal on the Merits:

The Council could grant Element 7’s appeal to reconsider the Scoring Committee’s findings. While City Staff disagrees with the legal arguments in Element 7’s letter, the Council would be within its rights to overturn the Scoring Committee’s findings for the factual reasons stated above. This would also entail denying SG Mendota’s appeal on the merits, and direction to staff to commence negotiations with Terra and Element 7 as the two (2) remaining applicants who are to be placed on the qualified applicants list maintained by the City Manager.

Option 2 – Deny Element 7’s Appeal on the Merits and Dismiss SG Mendota’s Appeal as Moot:

Deny Element 7’s appeal on the merits, and dismiss SG Mendota’s appeal as moot. Direct staff to commence negotiations with SG Mendota and Terra as the two (2) top-scoring applicants who would be placed on the qualified applicants list maintained by the City Manager.

¹⁹ Formal Invitation, p. 2; MMC § 8.37.070(B)(1)

²⁰ Element 7 Appeal Letter, p. 5, ¶ 11.

²¹ MMC §§ 8.37.070(A)(2) & 8.37.330; Formal Invitation, p. 6, § V(2)(a).

Attachments:

Element 7 Mendota, LLC, Appeal Letter; SG Mendota, LLC, Appeal Letter; Formal Invitation for the Submittal of Applications to Enter Into a Development Agreement for Commercial Cannabis Activity; Guidelines for Cannabis Development Agreement Application Scoring.



Element 7 Mendota, LLC
645 West 9th Street
Unit 110-631
Los Angeles, CA 90015

City of Mendota
643 Quince Street
Mendota, CA 93640

cc: Sheila Merchant, Esq., Element 7 Counsel

**RE: LETTER OF APPEAL OF A DECISION BY THE CITY OF MENDOTA TO THE
MENDOTA CITY COUNCIL REGARDING COMMERCIAL CANNABIS PERMITS**

Dear Sir / Madam,

I am writing in reference to the recent commercial cannabis application process for retail licensing in the City of Mendota (the “*City*”). Our company has spent over \$50,000 applying for a permit in the City and we believe that the process under which licenses were currently graded was not open and transparent and was therefore unjust.

Specific Action Appealed

Based on the City Manager’s report presented at the regular Council Meeting on March 10, 2020 (the “*Council Meeting*”), Element 7 was scored across 11 criteria receiving a score of 28.2. The 11 criteria that were used to reach this score were neither published in the Mendota Municipal Code (“*MMC*”), Mendota Ordinance 19-06 (the “*Ordinance*”), or the Formal Invitation for the Submittal of Applications to Enter into a Development Agreement for Commercial Cannabis Activity (the “*RFP*”, and together with the MMC and the Ordinance, the “*Public Criteria*”).

In fact, the RFP states that, “...the City will review, and score all submitted proposals in accordance with the provisions described in Chapter 8.37 of the MMC”, as listed below:

Development agreement applications shall include all required information set forth below and shall be provided (and labeled) in the application in the same order as shown below:

- 1. Location of Proposed Cannabis Business.** Proposed commercial cannabis businesses may only operate in a location where such land uses will be consistent with the provisions of Title 17 of this code.
- 2. Evidence of Owner Consent.** Evidence that the applicant has consent of the owner of the property to operate a commercial cannabis business at the proposed location. A real estate letter of intent ("RELOI") to lease or buy from an authorized party, a lease, an option to lease or purchase and ownership are acceptable forms of control. Letters of interest of any kind shall not be accepted. RELOIs, lease options and leases must clearly and specifically state that the RELOI, lease option or lease is for the type of establishment listed in the proposal. The RELOI, lease option or lease must be for two years or longer.

3. **Statement of Qualifications.** Describe applicant's qualification relative to the application, and experience running businesses similar to the one proposed, including cannabis and/or non-cannabis businesses. Applicants should also provide a plan demonstrating a minimum percentage of locally hired employees and proposed recruitment strategies for new hires.
4. **Business Implementation.** Provide verifiable, detailed descriptions and other background information for owners, key personnel and staff of the business, including the estimated number of employees to be hired in the first year, second year, third year, fourth year and fifth year and hourly wages for each employee. Describe other resources, including financial resources, dedicated to implement this proposal.
5. **Understanding and Approach.** Provide a statement demonstrating the business' understanding and approach to running the business and how that approach will integrate the business into the community in which it is located. This section shall include the following:
 - i. Description of day-to-day operations to meet industry best practices for the specific type of license in which applying for in the city.
 - ii. Description of how and where inventory will be kept, including the specific manner of securing the inventory, and how records will be maintained.
 - iii. Description of how any transaction information including patient records, reports, manifest and any other documents will be stored.
 - iv. Description of how medical and adult-use will be tracked and monitored to prevent diversion.
 - v. Description of applicant's practices for preventing deterioration of any cannabis goods held by the applicant, including any practices for responding to product recalls.
 - vi. Description of applicant's practice for transfer/transport of cannabis products to and from premises.
 - vii. Description of method(s) that will be used to dispose of unused cannabis.
 - viii. A schedule for beginning operations, including a narrative outlining any proposed construction, improvements, and a timeline for completion.
 - ix. Description of any environmentally friendly business practices relating to energy and climate, water conservation and materials/waste storage.
 - x. Description of the method(s) by which the applicant will mitigate any potentially adverse impact, such as loitering, graffiti, traffic, light, odor or noise, on surrounding property owners.
 - xi. Site Plan. A scaled premises diagram showing the boundaries of the property and proposed premises with all boundaries, dimensions, entrances and exits, interior partitions walls, labeling of each room, windows and common shared entryways. If the proposed premises consist of only a portion of the property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for. A floor plan shall also be included.
 - xii. Business Plan. A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation costs. The budget must demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the source and uses of funds.
 - xiii. Air Quality Management Plan. Must demonstrate that air circulation does not impact employee health and welfare, those surrounding the business, and surrounding outdoor areas.

- xiv. If the application is for a retail business with delivery services:
 1. Description of the process to ensure driver and patient safety.
 2. Description of the process to verify delivery is to a qualified purchaser and to a qualified location
 3. Description of the process to track and maintain communication with the delivery person at all times
 4. Description of the process to verify deliveries and provide accurate manifest for audit purposes.

6. Local Ownership and Community Benefit. Describe the business plan, if any, to maximize local ownership and community benefit.

Element 7 dutifully constructed a 75-page response to this RFP that carefully followed the RFP request from the City, addressing all points that were openly and transparently listed. Element 7 is one of California’s leading retail cannabis licensing companies as demonstrated by HDL’s assessment of our application submitted to the City of Chula Vista in 2019. The City of Chula Vista received 95 applications for cannabis retail licenses with Element 7 receiving the highest score of all applicants that submitted materials, demonstrating our understanding of cannabis policy, regulation, application requirements, and licensing in municipalities.



CITY OF CHULA VISTA
Commercial Cannabis Business Application Scores
Limited Retail Licenses
Overall Ranking by Points (Highest to Lowest)

	Id	Business Name	District	License Type	Total Points Possible	Total Points Awarded
1.	57034	Element 7 Chula Vista One LLC	4	Retail	500	494
2.	56809	Grasshopper Cannabis Delivery, LLC	1	Non-Storefront	500	490
3.	56993	March and Ash Chula Vista, Inc.	2	Retail	500	490

In Marina, California, Element 7 received 38/38 available points, a perfect 100% score, again demonstrating our ability to follow instructions and produce industry-leading localized cannabis licensing applications, which was essentially the same task required in Mendota.

Cannabis Business Application Log							Initial Ranking	
Retail (Dispensaries)							Pts (38 Pts max)	Score
Cannabis Permit App #	Company Name	Business Name	Location	Business Type	Contact Name			
RCA 2019-01	Marina GBE 007, LLC	Herbs & Legends	3343 Paul Davis Drive	Retailer - A & M	Jared Katz	18	47.37%	
RCA 2019-02	Higher Level of Care, LLC	Higher Level of Care - Marina	3016 Del Monte Blvd	Retailer - A & M	Salvatore Palma	38	100.00%	
RCA 2019-03	Marina Trading Company	Marina Trading Co.	3112 Del Monte Blvd	Retailer - A & M	Tyson Hunter	18	47.37%	
RCA 2019-04	Marina Trading Company	Marina Trading Co. (2)	265 Reservation Road Suite E	Retailer - A & M	Tyson Hunter	18	47.37%	
RCA 2019-05	MCC Operations	MCC Operations	445 Reservation Road Suite D & E	Retailer - A & M	Joey Espinoza	23	60.53%	
RCA 2019-06	Design Marketing, LLC	Gold Pine Cannabis	326 Reservation Road Suite G	Retailer - A, Manufacturing-A, Distribution- A	Darik M. Conley	7	18.42%	
RCA 2019-07	Pacific Roots Marina, LLC	Pacific Roots Marina	3100 Del Monte Blvd	Retailer - A & M	Aaron Herzberg	35	92.11%	
RCA 2019-08	Shryne Group, Inc.	Stiitz	3170 Del Monte Blvd	Retailer - A & M	Brian mitchell	20	52.63%	
RCA 2019-09	JC Marina Ventures, LLC	JC Marina Ventures	3343 Paul Davis Drive	Retailer - A & M, Distribution - A & M	Brooke Gehring	31	81.58%	
RCA 2019-10	Elemental Beachside Inc.	Elemental Wellness Center	3343 Paul Davis Drive	Retailer - A & M	Joseph Lomonaco	31	81.58%	
RCA 2019-11	Element 7 Marina, LLC	Element 7 Marina	234 Reservation Road	Retailer - A & M, Manufacturing - A & M, Distribution- A & M	Robert Divito	38	100.00%	
RCA 2019-12	ALLGC, LLC	Green Care Marina	3343 Paul Davis Drive	Retailer - A & M	Charles Lee	18	47.37%	

Upon internal review of how Element 7’s application was scored in Mendota, the immediately obvious red flag was that our application addressed the 6 required categories (as per Chapter 8.37 of the MMC), yet inexplicably, applicants were scored across 11 categories, including “strength of the applicant’s references” for which we received a score of 1.6, despite the fact that no references were provided by

Element 7 because no references were openly and clearly requested in the RFP or listed as being required in Chapter 8.37 of the MMC. Considering we did not provide a single reference, a score of 1.6 can logically only be an arbitrary score. We request the City provide an explanation of where in the Public Criteria such a requirement was shared with applicants.

In addition, other 'scores' were highly irregular and odd. For instance, Terra Retail Group LLC admitted at the Council Meeting that they had "no previous cannabis retail experience," yet received a significantly higher score than Element 7 who operate a retail cannabis dispensary in Arcata, and have permits and licenses under development in 12 other cities and municipalities in the state. In addition, our Chief Retail Officer, Neil Demers, and Head of Retail Experience, Nicholas Jack, were respectively named Cannabis Executive of the Year and Dispensary Manager of the Year at the 2018 National Cannabis Business Awards and have operated cannabis dispensaries in Colorado for over a decade between them. Our experience in the industry is very well qualified.

In addition, our capacity to 'Finance the Proposed Development' is as strong, if not stronger, than any other applicants. Element 7 is financed by a family office in Southern California, a private equity bank, and is currently undergoing final due diligence with a FDIC-insured bank in California that would allow us to deposit cash from cannabis retail sales with this bank, putting us in the 1% of cannabis retailers in California that have this access to FDIC-insured banking. We demonstrated access to \$5.0M in liquid funds for this project which is significantly more than what was required in the Public Criteria.

We would also question how the Cannabis Review Committee scored 'consistency with, and promotion of, City objectives' and 'Consistency with the Mendota Municipal Code's Requirements' with regards to the selection and scoring of sites proposed by SG Mendota LLC and Terra Retail Group, LLC. We understand that the site 'secured' by SG Mendota LLC has now been leased to a 3rd party on a 5-year lease which has recently commenced, and that the site secured by Terra Retail Group, LLC, sits 30 feet away from Iglesia De Dios Pentecostal, and 40 feet away from Grupo AA, an alcoholics anonymous service for residents of the City. I would have thought that the proximity to a church and a substance abuse service would have negatively impacted the scores for Terra Retail Group in these categories, and the fact that it did not do so again highlights the inconsistencies in both the scoring process and the understanding of the City's requirements from this scoring group.

In addition, Section V of the RFP states, "It is the responsibility of interested parties to assure themselves that the information contained in this invitation or other documents is accurate and complete." It came to our attention at the Council Meeting that one applicant, SG Mendota, LLC, bounced a check from their attorney's checking account, and thus they had not properly and timely submitted all of their application fees.

It is our opinion that the City should have deemed this application 'incomplete' and that the applicant should have been disqualified from the RFP process on the basis that payment of the required cost recovery deposit of \$3,473.90 was a material requirement for a 'complete' application under the Public Criteria.

Multiple municipalities across North America have adopted clear Public Contract code and regulations regarding this. In New Jersey, the Department of Health clearly states that for cannabis applications, "...any check returned for insufficient funds will result in the disqualification of the applicant." In Marina, Oxnard, Farmersville, and other cities across California, application forms clearly state that incomplete applications at the time of submittal will be deemed to be disqualified in fairness to the other applicants.

Pursuant principally to the California Public Contract Code, public agencies have a duty to publicly bid certain contracts, particularly construction contracts. Specific provisions applicable to cities are set forth in §20160-§20175.2 of the Public Contract Code. Public Contract Code §100 contains an express declaration of legislative intent, stating that the purpose of the code is to:

- (a) To clarify the law with respect to competitive bidding requirements.
- (b) To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds.
- (c) To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices.
- (d) To eliminate favoritism, fraud, and corruption in the awarding of public contracts.

Accepting an incomplete application or allowing one group to ‘fix’ their application after the deadline is a form of favoritism, which is specifically prohibited under the California Public Contract Code.

The purpose of public selection criteria is “to eliminate favoritism, fraud, and corruption...” and provide all qualified applicants “with a fair opportunity...thereby stimulating competition” (see eg. Pub. Contract Code, § 100). When the government bestows a benefit to a private entity such as granting one of a limited number of commercial cannabis permits, this is analogous to when the government bestows a benefit to a private entity in a public contract. In such bidding for public contract cases, “[b]ecause of the potential for abuse arising from deviations from strict adherence to standards which promote these public benefits, [these matters] receive close judicial scrutiny and contracts awarded without strict compliance with bidding requirements will be set aside. This preventative approach is applied even where it is certain there was in fact no corruption or adverse effect upon the bidding process....The importance of maintaining integrity in government and the ease with which policy goals underlying the requirement for open competitive bidding may be surreptitiously undercut, mandate strict compliance with bidding requirements” (*Konica Business Machs. U.S.A. v. Regents of Univ. of Cal.* (1988) 206 Cal. App. 3d, 456-457).

Similarly, when a city is granting one of a limited number of permits and deviates so egregiously from the clearly stated selection criteria using unknown, ambiguous, and inconsistent criteria to make its decision, the integrity of this government decision is in question. The potential for abuse is so great, that as a preventative measure, the stated criteria should be strictly adhered to in order to prevent allegations of corruption and abuse.

We agree with the spirit of the Court of Appeals decision in the Konica decision, and ask that close scrutiny be applied to this appeal, and that the permits be awarded in strict compliance with the stated application requirements in the Public Criteria.

Furthermore, Element 7 clearly followed the rules in the RFP stating that applications be strictly limited to 75 pages inclusive of all attachments. A spokesperson for Terra Retail Group, LLC, proudly produced the companies cannabis application while speaking at the podium on March 10, 2020.

From visual evidence, the application seemed to be around 120-150 pages in length. If this is the case, the cannabis review committee should either have disregarded any pages after the 75 permitted pages or disqualified the applicant for not adhering to the criteria of the RFP. We request the City release the full application of Terra Retail Group, LLC so all applicants can verify the true length of their application.

Specific Grounds of the Appeal

The selection criteria, as stated, was improper in that the City failed to follow the stated scoring criteria in the Formal Invitation for the Submittal of Applications to Enter into a Development Agreement for Commercial Cannabis Activity, in terms of (i) the content scored, (ii) possible length of competitor materials, and (iii) 'completeness' criteria which allowed an applicant that bounced a check and therefore did not submit their application fees on time to proceed. This failure to follow the Public Criteria gave an unfair competitive advantage to the applicant(s) deemed to have scored better than Element 7. The selection process was neither modified or waived pursuant to the '*Formal Invitation for the Submittal of Applications to Enter into a Development Agreement for Commercial Cannabis Activity*' or in the City of Mendota Ordinance 19-06.

Overview of Appeal

We, Element 7 Mendota LLC, submitted an application to operate a Commercial Cannabis Business in the City of Mendota. We properly submitted the requested fees and documents in a timely manner requested in the '*Formal Invitation for the Submittal of Applications to Enter into a Development Agreement for Commercial Cannabis Activity*', carefully following both the requested layout of the materials, and length of the submission.

At least one competitor, SG Mendota, LLC, failed to properly submit the requested fees, and another competitor, Terra Retail Group, LLC, possibly exceeded the length of the submission.

Relief or Action Sought from the City Council

For the City of Mendota to award a license to Element 7 Mendota LLC for operation of a Retail Cannabis Dispensary based on it having a completed application, the required experience, and the plan to build and operate a sustainable cannabis operation in Mendota.

Address to where notice can be sent to Appellant

Mr. Robert DiVito
Founder and CEO
Element 7
645 West 9th Street
#110-631
Los Angeles, CA 90015

Thank you for your time and consideration.

Kind Regards,



Robert DiVito

Founder and CEO

Element 7

www.e7ca.com

Cell Phone: (312) 823 7638

Email: robert@e7ca.com

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SG Mendota, LLC
1017 L St. #275
Sacramento, CA 95814

March 25, 2020

Cristian Gonzalez
Mendota City Manager
643 Quince Street
Mendota, CA 93640

Re: Appeal of Development Agreement Committee Scoring Results and City Council Action

Dear Mr. Gonzalez,

SG Mendota, LLC is appealing the results of the scoring committee for retail cannabis development agreement applications. We believe that our application should have received a higher score due to lack of clarity on the scoring criteria. We specifically take issue with scoring criteria that judged “the strength of the applicant’s references” because the Mendota Municipal Code (MMC) §8.37.070 (C) did not request references be submitted as part of the application. We believe that given the opportunity to have our references reviewed by the scoring committee we would receive a higher score, thus raising our overall score.

We request that the City Council stand by the original process outlined in the MMC §8.37.070 which specifies that once development agreement applications are scored, the top scoring applicants shall be placed on the qualified applicants list. Given the restriction on the number of retail licenses available in the city to one, per MMC §8.37.100, the top scoring applicant should be invited to submit a conditional use permit and begin the development agreement negotiation process with the city.

If the City Council determines that the results of the scoring committee are inadequate, we expect that the same scoring committee would re-score the applications based on the criteria outlined in MMC §8.37.070 (C)(1)-(5).

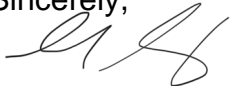
In addition to the above, we would like to address an issue raised by one of the other applicants. During the City Council meeting on March 10, 2020, it was alleged that SG Mendota LLC should be disqualified due to an issue with our payment to the city. The payment for the development agreement application was returned for non-sufficient funds due to a banking issue. We were notified of the issue by Marilu Sandoval, Administrative Assistant, on January 22nd. We were told that our application was is still in the process of being scored, however if we did not submit substitute payment within

seven days we would be disqualified. The payment was delivered on January 24th, two days after we were notified of the deficiency. The check was subsequently deposited into the City's account.

The Guidelines for Cannabis Development Agreement Application Scoring developed by the city gives the City Manager the discretion to allow an applicant to cure a deficiency which was the action taken in this instance. Additionally, the MMC does not include a section that requires the city to disqualify applicants in the event that a check is returned. Based on the conditions outlined by the city, the municipal code, and the conduct of the city, SG Mendota, LLC should not be disqualified.

We appreciate your time and attention to this matter and hope that the city will trust in, and adhere to, the process that was developed to review and issue cannabis licenses in the City.

Sincerely,

A handwritten signature in black ink, appearing to read 'MS', is written over the word 'Sincerely,'.

Melissa Sanchez,
SG Mendota, LLC

CC:

Celeste Cabrera-Garcia, City Clerk
John Kinsey, City Attorney

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CITY OF
MENDOTA

FORMAL INVITATION

**FOR THE SUBMITTAL OF APPLICATIONS TO
ENTER INTO A DEVELOPMENT AGREEMENT FOR
COMMERCIAL CANNABIS ACTIVITY**

Dated: October 15, 2019

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CITY OF
MENDOTA

I. INTRODUCTION

The City of Mendota is accepting applications from qualified parties (“Applicants”) to enter into a development agreement for commercial cannabis business activities. Pursuant to Mendota Municipal Code (MMC) Section 8.37.070(A)(2), applications to enter into a development agreement for commercial cannabis businesses must be submitted during the Development Agreement Application Submittal Period, which is from Monday, October 14, 2019 to Friday, December 13, 2019.

Applicants are encouraged to submit a proposal in accordance with the requirements set forth herein and as provided by Chapter 8.37 of the MMC. Once the Application Submittal Period terminates, the City will review and score all submitted proposals in accordance with the provisions described in Chapter 8.37 of the MMC.

II. BACKGROUND

On June 11, 2019, the City of Council of the City of Mendota adopted Ordinance No. 19-06, amending Chapter 8.37 of the Mendota Municipal Code (MMC) to eliminate the ban on cannabis dispensaries and to establish regulations for commercial cannabis businesses. A copy of Chapter 8.37 of the MMC is attached hereto as Attachment “A”.

On September 10, 2019, the City Council adopted Ordinance No. 19-09, modifying the location requirements for commercial cannabis retail businesses, of which a copy is attached hereto as Attachment “B”. A diagram showing the available properties that comply with the location requirements as set forth by Ordinance No. 19-09 is attached hereto as Attachment “C”. At the September 10th meeting, the Council also adopted Resolution No. 19-65, establishing the amount of the commercial cannabis business permit fee and the commercial cannabis development agreement processing fee, of which a copy is attached hereto as Attachment “D”.

On September 24, 2019, the City Council adopted Ordinance No. 19-08, amending the Mendota zoning code to permit commercial cannabis businesses in the C-3 district subject to a conditional use permit, of which a copy is attached hereto as Attachment “E”.

On October 8, 2019, the City Council adopted Resolution No. 19-75, establishing the application submittal period for applications to enter into a development agreement for commercial cannabis businesses, of which a copy is attached hereto as Attachment “F”.

III. DEVELOPMENT AGREEMENT APPLICATION PROCESS

Applicants must submit development agreement application in accordance with the provisions contained within Section 8.37.070 of the Mendota Municipal Code (MMC). A copy of Chapter 8.37 of the MMC is attached hereto as Attachment "A". A summary of the aforementioned provisions are as follows:

A. APPLICATION PROCESS

Section 8.37.070(A) of the Mendota Municipal Code (MMC) specifically describes the process for a development agreement application. In summary Applicants are required to ensure that:

1. Completed development agreement applications shall be submitted via United States Mail or in person to City Hall, located at 643 Quince Street, Mendota, California, with the attention to the City Manager.
2. Completed development agreement applications shall be submitted during the development agreement application submittal period which is from Monday, October 14, 2019 to Friday, December 13, 2019. The City Council may by resolution establish one or more submittal periods, as necessary.
3. Applicants are required to submit one unbound and two bound copies of the complete application, including all appendix and/or attachments. Applicants are also required to submit the complete application on either a USB thumb drive or CD.
4. Development agreement applications must be submitted in accordance with the requirements set forth in Section 8.37.070(B) of the MMC. A required cost recovery deposit of \$3,473.90 (three thousand, four hundred and seventy-three dollars and ninety cents) must also accompany the application. A copy of Resolution No. 19-65, which establishes the required cost recovery deposit, is attached hereto as Attachment "D".

B. APPLICATION FORMAT

Section 8.37.070(B) of the Mendota Municipal Code (MMC) specifically describes the format for a development agreement application. In summary, applicants are required to ensure that:

1. The application shall be limited to seventy-five (75) pages, including all responses, appendix, tables, etc. The page total does not include the applicant/owner information form or proof of payment, but does include the cover letter. Any submittal pages beyond this requirement will not be considered. Double-sided pages count as two pages.
2. Twelve (12) point font shall be used in the narrative portions of the application. All pages shall measure 8.5" x 11" and all pages are to be numbered in sequential order.

C. APPLICATION CONTENTS

Section 8.37.070(C) of the Mendota Municipal Code (MMC) specifically describes the contents for a development agreement application. Development agreement applications shall include all required information set forth below and shall be provided and labeled in the application in the same order as shown below:

1. Location of Proposed Cannabis Business.

Proposed commercial cannabis businesses may only operate in a location where such land uses will be consistent with the provisions of Title 17 of the Mendota Municipal Code. A copy of Ordinance No. 19-08 which amends the Mendota zoning code to permit commercial cannabis businesses in the C-3 district subject to a conditional use permit, is attached hereto as Attachment "E". A copy of Ordinance No. 19-09, which modifies the location requirements for commercial cannabis retail businesses, is attached hereto as Attachment "B". Moreover, a diagram which shows the available

properties that comply with the location requirements as set forth by Ordinance No. 19-09 is attached hereto as Attachment “C”.

2. Evidence of Owner Consent.

Evidence that the applicant has consent of the owner of the property to operate a commercial cannabis business at the proposed location is required. A real estate letter of intent (“RELOI”) to lease or buy from an authorized party, a lease, an option to lease or purchase and ownership are acceptable forms of control. Letters of interest of any kind shall not be accepted. RELOIs, lease options and leases must clearly and specifically state that the RELOI, lease option or lease is for the type of establishment listed in the proposal. The RELOI, lease option or lease must be for two years of longer.

3. State of Qualifications.

The applicant must describe applicant’s qualification relative to the application, and experience running businesses similar to the one proposed, including cannabis and/or non-cannabis businesses. Applicants should also provide a plan demonstrating a minimum percentage of locally hired employees and proposed recruitment strategies for new hires.

4. Business Implementation.

The applicant must provide verifiable, detailed descriptions and other background information for owners, key personnel and staff of the business, including the estimated number of employees to be hired in the first year, second year, third year, fourth year and fifth year and hourly wages for each employee. Describe other resources, including financial resources, dedicated to implement this proposal.

5. Understanding the Approach.

The applicant must provide a statement demonstrating the business’ understanding and approach to running the business and how that approach will integrate the business into the community in which it is located. This section shall include the following:

- a. Description of day-to-day operations to meet industry’s best practices for the specific type of license in which applying for in the City.
- b. Description of how and where inventory will be kept, including the specific manner of securing the inventory, and how records will be maintained.
- c. Description of how any transaction information including patient records, reports, manifest and any other documents will be stored.
- d. Description of how medical and adult-use will be tracked and monitored to prevent diversion.

- e. Description of applicant's practices for preventing deterioration of any cannabis goods held by the applicant, including any practices for responding to product recalls.
- f. Description of applicant's practice for transfer/transport of cannabis products to and from premises.
- g. Description of method(s) that will be used to dispose of unused cannabis.
- h. A schedule for beginning operations, including a narrative outlining any proposed construction, improvements, and a timeline for completion.
- i. Description of any environmentally-friendly business practices relating to energy and climate, water conservation and materials/waste storage.
- j. Description of the method(s) by which the applicant will mitigate any potentially adverse impact, such as loitering, graffiti, traffic, light, odor or noise, on surrounding property owners.
- k. Site Plan. A scaled premises diagram showing the boundaries of the property and proposed premises with all boundaries, dimensions, entrances and exits, interior partition walls, labeling of each room, windows and common shared entryways. If the proposed premises consist of only a portion of the property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for. A floor plan shall also be included.
- l. Business Plan. A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operational costs. The budget must demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the source and uses of funds.
- m. Air Quality Management Plan. Must demonstrate that air circulation does not impact those surrounding the business, surrounding outdoor areas, and employee health and welfare.
- n. If the application is for a retail business with delivery services:
 - 1) Description of the process to ensure driver and patient safety.
 - 2) Description of the process to verify delivery is to a qualified purchaser and to a qualified location.
 - 3) Description of the process to track and maintain communication with the delivery person at all times.
 - 4) Description of the process to verify deliveries and provide accurate manifest for audit purposes.

- o. Local Ownership and Community Benefit. Describe the business plan, if any, to maximize local ownership and community benefit.

IV. ADDITIONAL REQUIREMENTS FOR COMMERCIAL CANNABIS BUSINESSES

The aforementioned information regarding the requirements for development agreement applications is not an exhaustive list of all requirements for commercial cannabis businesses. For information on all of the requirements for both commercial cannabis businesses, and the development agreement application, please refer to Chapter 8.37 of the Mendota Municipal Code and the documents attached hereto this formal invitation for the submittal of applications to enter into a development agreement for commercial cannabis activity.

V. APPLICATION REVIEW AND SELECTION

Upon the termination of the Development Agreement Application Submittal Period on Friday, December 13, 2019, the review and selection process of the submitted development agreement applications will commence.

The City of Mendota will follow the application review and selection procedures that are in accordance with Section 8.37.070(A) of the Mendota Municipal Code. In summary:

- The City Manager shall review the development agreement applications for completeness within thirty (30) days after the end of the submittal period.
- Within sixty (60) days after the end of the submittal period, development agreement applications shall be scored by an independent five-member application evaluation committee, selected by the City Manager. The City shall employ blind scoring, whereby the identities of the owners will not be revealed, when the written proposals are scored by the application evaluation committee in accordance with the criteria set forth in the guidelines. No individual reviewing applications for completeness may participate in the selection of applicants by the application evaluation committee.
- The top two scoring development agreement applicants for all authorized license-types shall be placed on the qualified applicant list maintained by the City Manager. Upon conclusion of any appeal of the selections made by the application evaluation committee, or the appeal period if no appeal is filed, the applicants on the qualified application list shall be notified that they are invited to submit an application for a Conditional Use Permit.
- Applicants applying for more than one license type, or more than one location may not combine their application submittal package. A separate independent application must be submitted for each license type.

VI. DEVELOPMENT AGREEMENT APPLICATION SUBMISSION

The City will begin accepting development agreement applications on Monday, October 14, 2019 and will continue to accept applications until Friday, December 13, 2019.

Completed applications shall be submitted via United States Mail or in person to City Hall, located at 643 Quince Street, Mendota, California, with the attention to the City Manager. Applicants are required to submit one unbound and two bound copies of the complete application, including all appendix and/or attachments. Applicants are also required to submit the complete application on either a USB thumb drive or CD.

Development agreement applications must be submitted in accordance with the requirements set forth in Section 8.37.070(B) of the MMC. A required cost recovery deposit of \$3,473.90 (three thousand, four hundred and seventy-three dollars and zero cents) must also accompany the application. A copy of Resolution No. 19-65, which establishes the required cost recovery deposit, is attached hereto as Attachment "D".

V. LIMITATIONS AND CONDITIONS

1. The City Council reserves the right to establish, by resolution, one or more submittal periods, as necessary.
2. Respondent's Duty to Investigate:
 - a. The information presented in this formal invitation and in any document or other information provided by the City is provided solely for the convenience of the interested parties. It is the responsibility of interested parties to assure themselves that the information contained in this invitation or other documents is accurate and complete. The City and its employees and advisors provide no representations, assurances, or warranties pertaining to the accuracy of the information and no person responding to this formal invitation is entitled to rely upon any of the information provided.

ATTACHMENT A

Chapter 8.37 - COMMERCIAL CANNABIS BUSINESSES

Sections:

8.37.010 - Purpose and intent.

It is the purpose and intent of this chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), as well as provide access to adult use cannabis, while imposing sensible regulations on the use of land to protect the city's residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this chapter to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution, and transportation of cannabis, cannabis products, medicinal cannabis, and medicinal cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the city and to enforce rules and regulations consistent with state law. The provisions of this chapter are in addition to any other permits, licenses, and approvals which may be required to conduct business in the city, and are in addition to any permits, licenses, and approvals required under state, city, or other law.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.020 - Definitions.

When used in this chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

"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.

"Cannabis" means all parts of the 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. It also means the separated resin, whether crude or purified, obtained from cannabis. It includes medicinal cannabis, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation. It 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, the sterilized seed of the plant which is incapable of germination, or "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

"Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.

"Cannabis retail business" means a business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the city authorizing the operation of a retailer, and a valid state A-license or M-license as required by state law to operate a retailer.

"Canopy" means the designated area(s) at a licensed premise, except nurseries, that will contain mature plants at any point in time.

- (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;

- (2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary which include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds or garden plots; and if mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

"Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

"Chief of police" means the chief of police of the city of Mendota, or his or her designee(s).

"City" means the city of Mendota.

"City manager" means the city manager of the city of Mendota, or his or her designee(s).

"Code" means the Mendota Municipal Code.

"Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products by an operator who has a license issued by the state.

"Commercial cannabis business" means any business or operation which engages in commercial cannabis activity.

"Commercial cannabis business permit" means a regulatory permit issued by the city pursuant to this chapter to a commercial cannabis business, and is required before any commercial cannabis activity may be conducted in the city. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this chapter and any regulations adopted by the city governing the commercial cannabis activity at issue.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

"Cultivator" means a person holding a valid commercial cannabis business permit for cultivation issued by the city, and a valid state license for cultivation.

"Customer" means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age or older who possesses a physician's recommendation.

"Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. It also includes the use by a retailer of any technology platform owned and controlled by the retailer. Delivery must be part of a store-front retailer.

"Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

"Distributor" means a person holding a valid commercial cannabis business permit for distribution issued by the city, and, a valid state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed retailer.

"Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

"Greenhouse" means a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental lighting for cultivation.

"Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.

"Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container.

"License" means a license issued by the state to engage in commercial cannabis activity, and includes both an A-license and an M-license, as well as a testing laboratory license.

"Licensee" means any person holding a state license, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

"Limited-access area" means an area in which cannabis is stored or held and is only accessible to some licensee and authorized personnel.

"Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

"M-license" means a state license issued for commercial cannabis activity involving medicinal cannabis.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

"Manufacturer" means a licensee with a valid commercial cannabis business permit that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.

"Microbusiness" means the cultivation of cannabis on an area less than ten thousand (10,000) square feet, by an entity authorized to act as a licensed distributor, Level 1 manufacturer, and retailer under state law, provided such licensee can demonstrate compliance with all requirements imposed by state law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1 of the Business and Professions Code.

"Operation" means any act for which licensure is required under the provisions of state law or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

- (1) A person with an aggregate ownership interest of twenty (20) percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance;
- (2) The manager of a nonprofit or other entity;
- (3) A member of the board of directors of a nonprofit; or
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license or who has a financial interest in the business other than a fixed lease of real property.

"Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health and Safety Code Section 11362.5.

"Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

"Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee unless the operator is granted an M-license and an A-license for the same type of activity and such operation is lawful under state and local laws, rules and regulations.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

"Testing laboratory" means a laboratory, facility, or entity with a commercial cannabis business permit that offers or performs tests of cannabis or cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state;
- (2) Licensed by the bureau.

"Transport" means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA which may be amended or repealed by any subsequent state of California legislation regarding the same.

"Youth center" means any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades where ten (10) or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or similar amusement park facilities. It shall also include a park, playground or recreational area specifically designed to be used by children which may have play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on city, county or state parks. This definition shall not include any private martial arts, yoga, ballet, music or similar studio of this nature nor shall it include any private athletic training facility, pizza parlor, dentist office or doctor's office primarily serving children.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.030 - Commercial cannabis operations prohibited except as specifically authorized by this chapter.

Except as specifically authorized in this chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Business and Professions Code section 26090(e)), of cannabis or cannabis products and medicinal cannabis or medicinal cannabis product is expressly prohibited in the city.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.040 - Compliance with laws.

This chapter is intended to implement state law. Every cannabis retail business and commercial cannabis business must comply with all applicable state and local laws.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.050 - Permits required to engage in commercial cannabis operations.

It shall be unlawful for any person in or upon property located within the city to engage in, conduct or carry on (or to permit to be engaged in, conducted or carried on) commercial cannabis operations unless the person:

- (1) Has applied for and entered into a development agreement with the city;
- (2) Has a valid commercial cannabis business permit from the city;
- (3) Has a valid state license for the business's cannabis activity;
- (4) Has a valid conditional use permit;
- (5) Is currently in compliance with all applicable state and local laws;
- (6) Has a cannabis business license tax certificate.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.060 - Development agreement required for commercial cannabis businesses.

- A. Prior to operating in the city and as a condition of issuance of a conditional use permit for commercial cannabis operations, each commercial cannabis business shall enter into a development agreement pursuant to Government Code Section 65864 et seq. with the city setting forth the terms and conditions under which the commercial cannabis business will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as set forth in subsection (C) of this section, and such other terms and conditions that will protect and promote the public health, safety, and welfare. Further procedures and minimum standards for a development agreement may be enacted by resolution of the city council.
- B. The planning commission shall make a recommendation to the city council on whether to approve a development agreement submitted to it by city staff. The city council shall make a final decision on whether to approve a development agreement recommended to the city council by the planning commission.
- C. Development agreements shall include a provision requiring the payment of a public safety impact mitigation fee based on a pro-rata share of projected annual enforcement costs for commercial cannabis businesses within the city.
- D. All cannabis businesses operating pursuant to a development agreement shall be subject to any applicable taxes approved by the voters.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.070 - Development agreement application.

- A. Application Process.
 1. Completed development agreement applications shall be submitted via U.S. Mail or in person to City Hall, located at 643 Quince St, Mendota, CA 93640, with attention to the city manager.
 2. Completed development agreement applications shall be submitted during the development agreement application submittal period (the "submittal period"), which shall be established by resolution of the city council. The city council may by resolution establish one or more submittal periods, as necessary to implement the provisions of this chapter.

3. Applicants are required to submit one unbound and two bound copies of the complete application, including all appendix and/or attachments. Applicants are also required to submit the complete application on either a USB thumb drive or CD.
4. Development agreement applications must be submitted in accordance with the requirements set forth in subdivision (B) herein, and with the required cost recovery deposit, which shall be established by resolution of the city council.
5. The city manager shall review development agreement applications for completeness within thirty (30) days after the end of the submittal period.
6. Within sixty (60) days after the end of the submittal period, development agreement applications shall be scored by an independent five-member application evaluation committee, selected by the city manager. The city shall employ blind scoring, whereby the identities of the owners will not be revealed, when the written proposals are scored by the application evaluation committee in accordance with the criteria set forth in the guidelines. No individual reviewing applications for completeness may participate in the selection of applicants by the application evaluation committee.
7. The top two scoring development agreement applicants for all authorized license-types shall be placed on the qualified applicant list maintained by the city manager. Upon conclusion of any appeal of the selections made by the application evaluation committee, or the appeal period if no appeal is filed, the applicants on the qualified application list shall be notified that they are invited to submit an application for a conditional use permit.
8. Applicants applying for more than one license type, or more than one location may not combine their application submittal package. A separate independent application must be submitted for each license type.

B. Application Format.

1. Application shall be limited to seventy-five (75) pages, including all responses, appendix, tables, etc. The page total does not include the applicant/owner information form or proof of payment, but does include the cover letter. Any submittal pages beyond this requirement will not be considered. Double-sided pages count as two pages.
2. Twelve (12) point font shall be used in the narrative portions of the application. All pages shall measure 8.5" x 11" and all pages are to be numbered in sequential order.

C. Application Contents. Development agreement applications shall include all required information set forth below and shall be provided (and labeled) in the application in the same order as shown below:

1. Location of Proposed Cannabis Business. Proposed commercial cannabis businesses may only operate in a location where such land uses will be consistent with the provisions of Title 17 of this code.
2. Evidence of Owner Consent. Evidence that the applicant has consent of the owner of the property to operate a commercial cannabis business at the proposed location. A real estate letter of intent ("RELOI") to lease or buy from an authorized party, a lease, an option to lease or purchase and ownership are acceptable forms of control. Letters of interest of any kind shall not be accepted. RELOIs, lease options and leases must clearly and specifically state that the RELOI, lease option or lease is for the type of establishment listed in the proposal. The RELOI, lease option or lease must be for two years or longer.
3. Statement of Qualifications. Describe applicant's qualification relative to the application, and experience running businesses similar to the one proposed, including cannabis and/or non-cannabis businesses. Applicants should also provide a plan demonstrating a minimum percentage of locally hired employees and proposed recruitment strategies for new hires.
4. Business Implementation. Provide verifiable, detailed descriptions and other background information for owners, key personnel and staff of the business, including the estimated number of employees to be hired in the first year, second year, third year, fourth year and fifth year and

hourly wages for each employee. Describe other resources, including financial resources, dedicated to implement this proposal.

5. Understanding and Approach. Provide a statement demonstrating the business' understanding and approach to running the business and how that approach will integrate the business into the community in which it is located. This section shall include the following:
 - i. Description of day-to-day operations to meet industry best practices for the specific type of license in which applying for in the city.
 - ii. Description of how and where inventory will be kept, including the specific manner of securing the inventory, and how records will be maintained.
 - iii. Description of how any transaction information including patient records, reports, manifest and any other documents will be stored.
 - iv. Description of how medical and adult-use will be tracked and monitored to prevent diversion.
 - v. Description of applicant's practices for preventing deterioration of any cannabis goods held by the applicant, including any practices for responding to product recalls.
 - vi. Description of applicant's practice for transfer/transport of cannabis products to and from premises.
 - vii. Description of method(s) that will be used to dispose of unused cannabis.
 - viii. A schedule for beginning operations, including a narrative outlining any proposed construction, improvements, and a timeline for completion.
 - ix. Description of any environmentally-friendly business practices relating to energy and climate, water conservation and materials/waste storage.
 - x. Description of the method(s) by which the applicant will mitigate any potentially adverse impact, such as loitering, graffiti, traffic, light, odor or noise, on surrounding property owners.
 - xi. Site Plan. A scaled premises diagram showing the boundaries of the property and proposed premises with all boundaries, dimensions, entrances and exits, interior partitions walls, labeling of each room, windows and common shared entryways. If the proposed premises consist of only a portion of the property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for. A floor plan shall also be included.
 - xii. Business Plan. A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation costs. The budget must demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the source and uses of funds.
 - xiii. Air Quality Management Plan. Must demonstrate that air circulation does not impact employee health and welfare, those surrounding the business, and surrounding outdoor areas.
 - xiv. If the application is for a retail business with delivery services:
 1. Description of the process to ensure driver and patient safety.
 2. Description of the process to verify delivery is to a qualified purchaser and to a qualified location
 3. Description of the process to track and maintain communication with the delivery person at all times
 4. Description of the process to verify deliveries and provide accurate manifest for audit purposes.

6. Local Ownership and Community Benefit. Describe the business plan, if any, to maximize local ownership and community benefit.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.080 - Location and design requirements for commercial cannabis businesses.

- A. Each proposed commercial cannabis business shall:
 1. Be within a fully enclosed building and must not be visible from the public right-of-way.
 2. Conform to the general plan, any applicable specific plans, master plans, and design requirements.
 3. Comply with all applicable zoning and related development standards.
 4. Be constructed in a manner that prevents odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. Odors from the commercial cannabis business shall not be detectable from outside the premises. Best available odor control technology shall be utilized.
 5. Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
 6. Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
 7. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.
 8. Each applicant shall provide a neighborhood responsibility plan so the review authority may find that the proposed use and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.
- B. Each proposed commercial cannabis business shall:
 1. Demonstrate compatibility with the surrounding character of the neighborhood and blend in with existing buildings. The establishment should look like any other similarly situated building.
 2. Comply with all applicable zoning and related development standards including, but not limited to, parking, lighting, materials, and colors.
 3. Signage, as described below, shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.090 - Additional location requirements for retail cannabis businesses.

- A. All cannabis retail businesses must be located on property zoned C-3 (Central Business and Shopping) and must meet all of the requirements for development in that zone.
- B. All properties in which the cannabis retail business is located shall be no closer than eight hundred (800) feet from any parcel containing any of the following:
 1. A cannabis retail business.
 2. A school providing instruction for any grades pre-school through twelve (12) (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).

3. A day care center licensed by the state department of social services that is in existence at the time a complete commercial cannabis business permit application is submitted.
4. A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.100 - Limit on number of retail cannabis businesses permitted to operate.

A maximum of one cannabis retail business shall be permitted for every twenty thousand (20,000) residents in the city.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.110 - Operating requirements for commercial cannabis businesses.

- A. Cannabis shall not be consumed by any person on the premises of any commercial cannabis business.
- B. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.
- C. No person shall cause or permit the sale of tobacco products on or about the premises of the commercial cannabis business.
- D. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business or cannabis retail business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- E. Commercial cannabis businesses shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the city. Cannabis retail businesses and commercial cannabis businesses shall ensure that such information is compatible with the city's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the city manager or his/her designee(s) prior to being used by the permittee.
- F. All cannabis and cannabis products sold, distributed, or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with state and local laws.
- G. Commercial cannabis businesses shall provide the city manager or his/her designee(s) with the name, telephone number (both landline and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- H. Signage.
 1. Business identification signage shall conform to the requirements of this code.
 2. No signs placed on the premises of a cannabis retail business or a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 3. Each entrance shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis or cannabis products on the premises or in the areas adjacent to the business is prohibited.

4. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business may advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises or elsewhere including, but not limited to, the public right-of-way.
5. Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.

I. Minors.

1. Except as provided below, persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a delivery service. It shall be unlawful and a violation of this chapter for any person to employ any person who is not at least twenty-one (21) years of age.
2. The entrance to a commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
3. Persons at least eighteen (18) years old shall be allowed on the premises of a medicinal cannabis retail business to purchase medicinal cannabis or medicinal cannabis products. The entrance to a medicinal cannabis retail business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) is permitted to enter upon the premises of the medicinal cannabis retail business.

J. Best available odor control technology and devices shall be incorporated in a commercial cannabis business to ensure that odors from cannabis are not detectable off-site. A sufficient odor absorbing ventilation and exhaust system shall be provided so that odor generated inside the premises that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis retail business or commercial cannabis business. The following equipment, or any other equipment which the city manager or his/her designee(s) determine is a more effective method or technology, must be installed and maintained:

1. An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally;
2. An air system that creates negative air pressure between the premises' interior and exterior, so that the odors generated inside the premises are not detectable outside the premises.

K. The original copy of the commercial cannabis business permit issued by the city and the city-issued business license shall be posted inside the commercial cannabis business in a location readily visible to the public.

L. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.

M. Community Relations.

1. Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.
2. During the first year of operation pursuant to this chapter, the owner, manager, and community relations representative from commercial cannabis business shall attend meetings with the city manager or his/her designee(s), and other interested parties as deemed appropriate by the city manager or his/her designee(s), to discuss costs, benefits, and other community issues arising

as a result of implementation of this chapter. After the first year of operation, the owner, manager, and community relations representative from each commercial cannabis business shall meet with the city manager or his/her designee(s) when and as requested by the city manager or his/her designee(s).

3. Each commercial cannabis business or cannabis retail business shall develop a city-approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth use of cannabis, and that identifies resources available to youth related to drugs and drug addiction.
- N. The commercial cannabis business shall continually maintain the premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety and general welfare of employees, patrons, surrounding properties, and the general public. The premises shall not be maintained in a manner that causes a public or private nuisance. Litter must be removed daily from the premises, including adjacent public sidewalks and all parking lots under the control of the cannabis retail business or commercial cannabis business; these areas must be swept or cleaned, either mechanically or manually, on a weekly basis to control debris; upkeep and operating characteristics must be compatible with abutting properties and the surrounding neighborhood.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.120 - Operating requirements for cannabis retail businesses.

A. General.

1. Cannabis retail businesses, including delivery of cannabis, may operate between the hours of 6 :00 a.m. and 10:00 p.m. Other non-sales related activities germane to the business may take place on premises after hours.
2. There shall not be a physician located on the premises, or available through electronic means, such as video conference, at any time for the purpose of evaluating patients for the issuance of a cannabis recommendation or card where applicable.
3. Prior to dispensing cannabis or cannabis products to any person, the cannabis retail business shall verify the age of each customer.
4. Entrances shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area. Individuals must show their identification in order to gain access into the retailer.
5. A cannabis retail business may have only that quantity of cannabis and cannabis products readily available to meet the daily demand for sale on-site in the retail sales area of the premises.
6. All restroom facilities shall remain locked and under the control of management.
7. Delivery vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.

B. Security Measures.

1. A permitted cannabis retail business 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 or cannabis products at the cannabis retail 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 contain a secured lobby/trap room, where a customer first enters and awaits verification by the cannabis retail business that the customer is a qualified to purchase cannabis.

- ii. Premises contain only one entrance which members of the public enter and exit.
- iii. 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.
- iv. Premises shall have perimeter security and lighting, including motion sensors, as approved by the chief of police.
- v. 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 cannabis retail business.
- vi. Establish limited access areas accessible only to authorized cannabis retail business personnel.
- vii. 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 shall be kept in a manner as to prevent diversion, theft, and loss.
- viii. 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 cannabis retail business which are open and accessible to the public, all interior spaces where cannabis, 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 cannabis retail business 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 site of the cannabis retail 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 cannabis retail business, to facilitate remote monitoring of security cameras by the Mendota Police Department or its designee.
- ix. 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.
- x. 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.
- xi. Any bars installed on the windows or the doors shall be installed only on the interior of the building.
- xii. Armed security personnel shall be on-site during operating hours. If armed security personnel are not on-site when the cannabis retail business is closed, a verified response security patrol shall be utilized. 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.

- xiii. 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.
 - xiv. 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 cannabis retail business; or (b) a licensed security professional.
 - xv. The interior must have at least one camera placed to focus on each transaction, to include the clerk as well as the customer waiting area. 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.
 - xvi. An accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.
 - xvii. 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.
 - xviii. State of the art network security protocols in place to protect computer information and all digital data.
 - xix. Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
2. Each cannabis retail business 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 operational issues. The designated security representative/liaison shall, on behalf of the cannabis retail business, 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:
 - i. Confirms that a designated manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
 - ii. Identifies all managers of the cannabis retail business and their contact phone numbers.
 - iii. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the manager's office.
 - iv. 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.
 - v. 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.
 - vi. 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.
 3. Provide 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. For delivery, include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
 4. 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.
 5. 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 cannabis retail business or any agent or employee of the cannabis retail business.
 - iii. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the cannabis retail business.
 - iv. Any other breach of security.
6. 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.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.130 - Operating requirements for cannabis distributors.

A. General.

1. Distributors 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. Distributor vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.
3. Distributor shall comply with all applicable state standards and laws, including but not limited to, Section 26001 (r) of the Business and Professions Code, as may be amended.

B. Security Measures.

1. A permitted distributor 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 or cannabis products. 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 if they are not engaging in an activity directly related to the permitted operations of the distributor.
 - iv. Establish limited access areas accessible only to authorized personnel.
 - v. 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 or cannabis products 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 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 weather-proof 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 distributor 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 realtime, 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 site of the distributor, 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 distributor, to facilitate remote monitoring of security cameras by the 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 of the premises shall be installed only on the interior of the building.
- x. Armed security personnel shall be on-site during all hours of operation or alternative security as authorized by the city manager or his/her designee(s). 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 distributor; 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 or 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. Have 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. 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 distributor, 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

of the business, 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 and will be responsible for monitoring the behavior of patrons.
 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 commercial cannabis business, 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 distributor 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. The distributor shall stagger transportation times, vary routes from the premises, and take other security measures as requested by the chief of police.
 3. The distributor shall 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 distributor or any agent or employee of the distributor.
 - 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.

(Ord. No. 19-06, § 4, 6-11-2019)

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.
3. Cannabis plants shall not be visible from a public or private road, sidewalk, park, or any common public viewing area.
4. Cultivator shall only be allowed to cultivate the square feet of canopy space permitted by state law.
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.
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.
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.
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) 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).
 - 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.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.150 - Operating requirements for cannabis testing laboratory.

A. General.

1. Testing laboratories 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. Testing laboratories shall comply with all applicable state standards and laws. Standard operating procedures, as recommended by the bureau, must be followed.
3. Testing laboratories shall be required to conduct all testing in a manner pursuant to Business and Professions Code 26100 and shall be subject to any additional or subsequent state and local law.

B. Security Measures.

1. A permitted testing laboratory 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. 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 if they are not engaging in an activity directly related to the permitted operations of the testing laboratory.
 - iv. Establish limited access areas accessible only to authorized personnel.
 - v. 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 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 which 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 weather-proof 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 distributor 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 realtime, 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 site of the testing laboratory, 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 testing laboratory, to facilitate remote monitoring of security cameras by the 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 of the premises shall be installed only on the interior of the building.
- x. Security personnel shall be on-site during all hours of operation or alternative security as authorized by the city manager or his/her designee(s). 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.
- 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 testing laboratory; 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 or 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. Have 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. 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 testing laboratory, 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 of the business, 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 and will be responsible for monitoring the behavior of patrons.
 - 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 testing laboratory, 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 testing laboratory 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. The testing laboratory shall 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 testing laboratory or any agent or employee of the testing laboratory.
 - 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.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.160 - Reserved.

8.37.170 - Other operational requirements.

The city manager or his/her designee may develop other commercial cannabis activity operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.180 - Commercial cannabis business permits.

Prior to commencing operations, a commercial cannabis business shall obtain a commercial cannabis business permit.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.190 - Effect of state license suspension, revocation, or termination.

Suspension of a license issued by the state shall immediately suspend the ability of a commercial cannabis business to operate within the city, until the state reinstates or reissues the license. Should the state revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of the commercial cannabis business to operate within the city.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.200 - City business license.

Prior to commencing operations, a commercial cannabis business shall obtain a city business license.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.210 - Building permits and inspection.

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.220 - Promulgation of regulations, standards, and other legal duties.

- A. In addition to any regulations adopted by the city council, the city manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the city's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this chapter.
- B. Regulations shall be published on the city's website.
- C. Regulations promulgated by the city manager shall become effective upon date of publication.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.230 - Records and recordkeeping.

- A. Each owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this chapter), or at any time upon reasonable request of the city, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve (12) month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the city a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the city manager or his/her designee(s).
- B. Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business or cannabis retail business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the city manager or his/her designee(s) upon a reasonable request.
- C. All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing, and distribution processes until purchase as set forth [in] MAUCRSA.

- D. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) regulations, each commercial cannabis business shall allow the city to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the city's request, unless otherwise stipulated by the city. The city may require the materials to be submitted in an electronic format that is compatible with the city's software and hardware.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.240 - Fees, charges, and taxes.

- A. No person may commence or continue any commercial cannabis activity in the city without timely paying in full all fees and charges required for the operation of a commercial cannabis business. Fees and charges associated with the operation of a commercial cannabis business shall be established by resolution of the city council which may be amended from time to time.
- B. All commercial cannabis businesses authorized to operate under this chapter shall pay all sales, use, business, and other applicable taxes, and all license, registration, and other fees required under federal, state, and local law. Each commercial cannabis business shall cooperate with the city with respect to any reasonable request to audit the business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.250 - Limitations on city's liability.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

- A. They must execute an agreement, in a form approved by the city attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the city, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the city's issuance of the commercial cannabis business permit or the alleged violation of any federal, state or local laws by the commercial cannabis business or cannabis retail business or any of its officers, employees or agents.
- B. Maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the city manager.
- C. Reimburse the city for all costs and expenses, including but not limited to legal fees and costs and court costs, which the city may be required to pay as a result of any legal challenge related to the city's approval of the applicant's commercial cannabis business permit. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.260 - Permit holder responsible for violations.

The person to whom a commercial cannabis business permit is issued pursuant to this chapter shall be responsible for violations of any laws, whether committed by the permittee or any employee or agent of the permittee, which occur in or about the premises of the commercial cannabis business or cannabis retail business.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.270 - Inspection and enforcement.

- A. The city manager, or his/her designee(s) charged with enforcing the provisions of this chapter, may enter the location of a commercial cannabis business at any time, without notice, and inspect the premises as well as any recordings and records required to be maintained pursuant to this chapter under applicable provisions of state law.
- B. It is unlawful for any person to impede, obstruct, interfere with, or otherwise not to allow, the city to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this chapter or under state or local law.
- C. The city manager, or his/her designee(s) charged with enforcing the provisions of this chapter may enter the premises of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the city shall be logged, recorded, and maintained in accordance with established procedures by the city manager.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.280 - Violations declared a public nuisance.

Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.290 - Each violation a separate offense.

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the city. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, any permit issued pursuant to this chapter being deemed null and void, disgorgement and payment to the city for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The city may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business, or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the city manager, or his/her designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the city.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.300 - Criminal penalties.

Each and every violation of the provisions of this chapter may in the discretion of the district attorney or city attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the county jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.310 - Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by law.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.320 - Severability.

If any section, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter. The city council hereby declares that it would have passed this ordinance and adopted this chapter and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.330 - No vested rights.

Neither this chapter, nor any other provision of this code or action, failure to act, statement, representation, certificate, approval, or permit issued by the city or its departments, or their respective representatives, agents, employees, attorneys, or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any commercial cannabis activity. Any benefit conferred by this chapter shall expire permanently and in full on the effective date of the city council's enactment of new cannabis legislation or upon repeal of this chapter. Should the city repeal or amend this chapter, no claim for loss of property rights or due process of any kind shall be maintained against the city.

(Ord. No. 19-06, § 4, 6-11-2019)

8.37.340 - Yearly review.

The city manager shall review the operation of this chapter within twelve (12) months of its effective date and report his/her findings and recommendations to the city council. After the initial twelve (12) month review, the city council shall annually review this chapter and its effects on the community.

(Ord. No. 19-06, § 4, 6-11-2019)

ATTACHMENT B

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AMENDING
THE CITY'S CANNABIS ORDINANCE TO
MODIFY THE LOCATION REQUIREMENTS
FOR COMMERCIAL CANNABIS RETAIL
BUSINESSES**

ORDINANCE NO. 19-09

WHEREAS, in 2019, the City enacted Ordinance No. 19-06, which amended Chapter 8.36 of the Mendota Municipal Code (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;

WHEREAS, in light of the developments to state laws and regulations regarding commercial cannabis retail businesses, the City initiated proceedings to amend its zoning code to permit a limited number of commercial cannabis retail businesses in its primary commercial district, the C-3 district, subject to a conditional use permit;

WHEREAS, on July 16, 2019, the City's Planning Commission recommended approval of a proposed ordinance amending the City's zoning code to permit a limited number of commercial cannabis retail businesses in the C-3 district, subject to a conditional use permit, on the condition that the City amend Section 8.37.090 of the MMC to provide that cannabis retail business shall be located at least 500 feet from other cannabis retail businesses, schools, day care centers, and youth centers, rather than at least 800 feet, as originally required in Ordinance No. 19-06;

WHEREAS, on August 12, 2019 the City Council voted to accept the Planning Commission's recommendation and directed staff to amend Section 8.37.090 of the MMC to provide that cannabis retail business shall be located at least 500 feet from other cannabis retail businesses, schools, day care centers, and youth centers, rather than at least 800 feet;

WHEREAS, staff has prepared this Ordinance No. 19-09 to amend Section 8.37.090 of the MMC to provide that cannabis retail business shall be located at least 500 feet from other cannabis retail businesses, schools, day care centers, and youth centers, rather than at least 800 feet.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA DOES HEREBY 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 3 amends Title 8, Chapter 8.37, Section 8.37.090, Subdivision (B) by modify the distance requirement from 800 feet to 500 feet.

SECTION 3. Title 8, Chapter 8.37, Section 8.37.090 is hereby amended to read as follows:

8.37.090 – Additional Location Requirements for Retail Cannabis Businesses

- A. All cannabis retail businesses must be located on property zoned C-3 (Central Business and Shopping) and must meet all of the requirements for development in that zone.
- B. All properties in which the cannabis retail business is located shall be no closer than eightfive hundred (8500) feet from any parcel containing any of the following:
 - 1. A cannabis retail business.
 - 2. A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
 - 3. A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
 - 4. A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.

SECTION 4. Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

SECTION 5. The City Council hereby finds and determines that its adoption of this Ordinance is not subject to environmental review under the Public Resources Code, § 21000 *et seq.*, the California Environmental Quality Act (CEQA), because the amendments do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a “project” under CEQA. (Pub. Res. Code, § 21065; 14 Cal. Code Regs., § 15378(a).) Further, the uses permitted as a result of the amendment contained herein may never actually occur and therefore any potential environmental impacts remain wholly speculative. (14 Cal. Code Regs., §15064(d)(3).) Finally, any uses permitted as a result of the amendment contained herein will be subject to environmental review under CEQA prior to the issuance of a

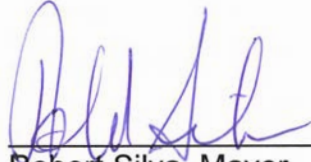
conditional use permit. Accordingly, the City Clerk is hereby directed to file a Notice of Exemption.

SECTION 6. This ordinance shall take effect thirty (30) days after its passage.

SECTION 7. 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 27th day of August, 2019 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 10th day of September, 2019 by the following vote:

AYES: 4 – Mayor Silva, Mayor Pro Tem Castro, Councilors Mendoza and Rosales
NOES: 0
ABSENT: 1 – Councilor Martinez
ABSTAIN: 0



Robert Silva, Mayor

ATTEST:



Celeste Cabrera-Garcia, City Clerk



APPROVED AS TO FORM:



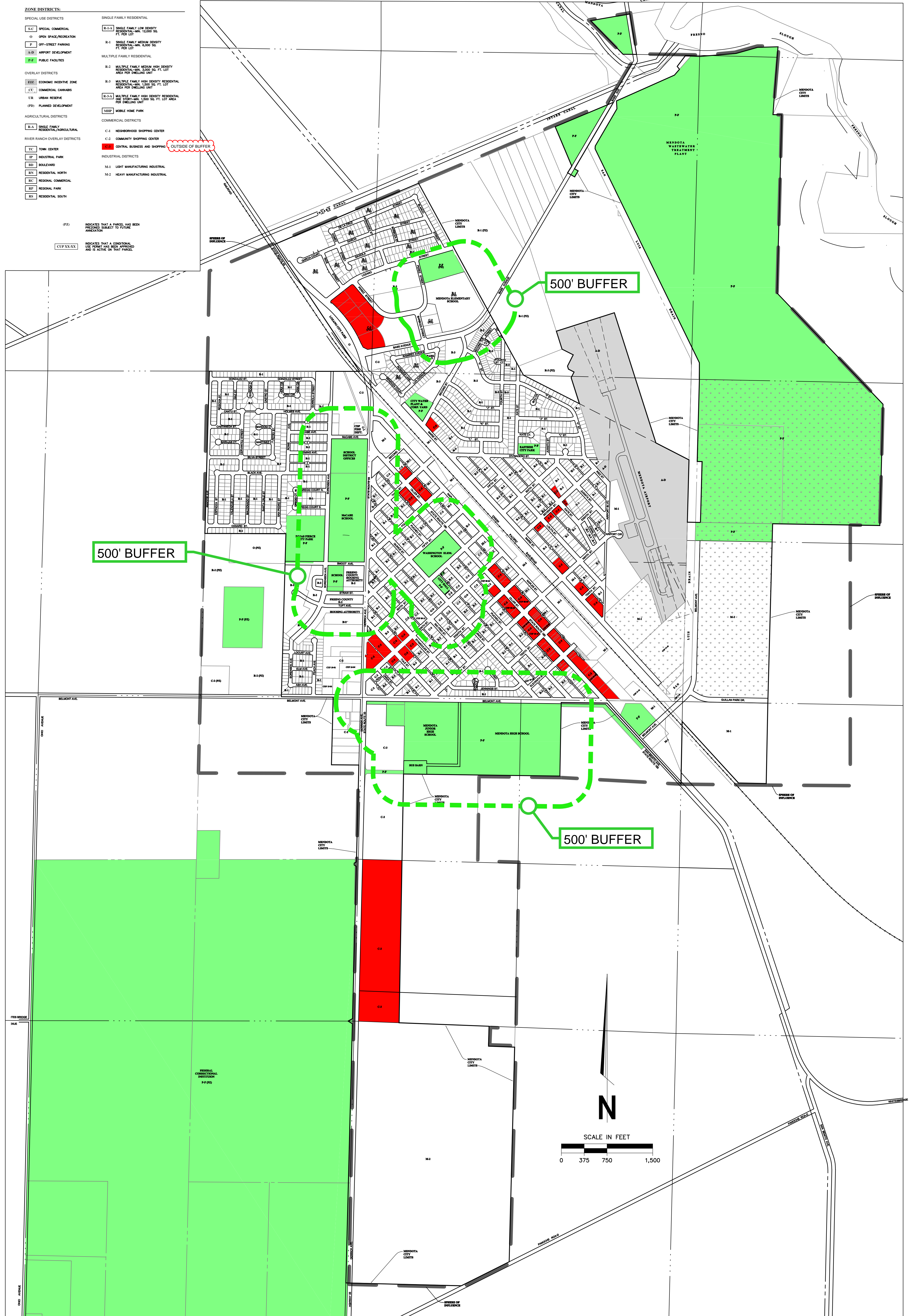
John Kinsey, City Attorney

ATTACHMENT C

ZONE DISTRICTS:	
SPECIAL USE DISTRICTS	
S-C	SPECIAL COMMERCIAL
O	OPEN SPACE/RECREATION
P	OFF-STREET PARKING
A-D	AIRPORT DEVELOPMENT
P-F	PUBLIC FACILITIES
OVERLAY DISTRICTS	
EEZ	ECONOMIC INCENTIVE ZONE
CC	COMMERCIAL CANNABIS
UR	URBAN RESERVE
FPD	PLANNED DEVELOPMENT
AGRICULTURAL DISTRICTS	
R-A	SINGLE FAMILY RESIDENTIAL/AGRICULTURAL
RIVER RANCH OVERLAY DISTRICTS	
TC	TOWN CENTER
IP	INDUSTRIAL PARK
BD	BOULEVARD
NRN	RESIDENTIAL NORTH
NR	RESIDENTIAL COMMERCIAL
RP	REGIONAL PARK
RS	RESIDENTIAL SOUTH
SINGLE FAMILY RESIDENTIAL	
R-1A	SINGLE FAMILY LOW DENSITY RESIDENTIAL-MIN. 1,000 SQ. FT. PER LOT
R-1	SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL-MIN. 6,000 SQ. FT. PER LOT
MULTIPLE FAMILY RESIDENTIAL	
R-2	MULTIPLE FAMILY MEDIUM-HIGH DENSITY RESIDENTIAL-MIN. 3,000 SQ. FT. LOT AREA PER DWELLING UNIT
R-3	MULTIPLE FAMILY HIGH DENSITY RESIDENTIAL-MIN. 1,000 SQ. FT. LOT AREA PER DWELLING UNIT
R-3A	MULTIPLE FAMILY HIGH DENSITY RESIDENTIAL-MIN. 1,000 SQ. FT. LOT AREA PER DWELLING UNIT
COMMERCIAL DISTRICTS	
MBP	MOBILE HOME PARK
COMMERCIAL DISTRICTS	
C-1	NEIGHBORHOOD SHOPPING CENTER
C-2	COMMUNITY SHOPPING CENTER
C-3	CENTRAL BUSINESS AND SHOPPING
INDUSTRIAL DISTRICTS	
M-1	LIGHT MANUFACTURING INDUSTRIAL
M-2	HEAVY MANUFACTURING INDUSTRIAL

(FPD) INDICATES THAT A PARCEL HAS BEEN PREVIOUSLY SUBJECT TO FUTURE ANNEXATION

(CUP XXXX) INDICATES THAT A CONVEYANCE OF THE PARCEL HAS BEEN PROVIDED AND IS ACTIVE ON THE PARCEL



CITY OF MENDOTA

OFFICIAL ZONING MAP

DEPICTING PARCELS ZONED C-3 OUTSIDE OF A 500 FOOT BUFFER FROM SCHOOLS & YOUTH CENTERS

ATTACHMENT D

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA ESTABLISHING
THE AMOUNT OF THE COMMERCIAL
CANNABIS BUSINESS PERMIT FEE AND
THE COMMERCIAL CANNABIS DEVELOPMENT
AGREEMENT PROCESSING FEE**

RESOLUTION NO. 19-65

WHEREAS, on June 11, 2019, the City Council adopted Ordinance No. 19-06, which amended the Mendota Municipal Code (MMC) to establish regulations for commercial cannabis businesses operating within the City of Mendota (City), including requirements that, prior to commencing any commercial cannabis activity, such businesses apply for and execute a development agreement with the City and obtain a commercial cannabis business permit; and

WHEREAS, the City will incur certain costs associated with accepting, processing, and reviewing applications for development agreements for commercial cannabis activity, as well as costs associated with accepting, processing, and reviewing applications for commercial cannabis business permits and the enforcement of the City's commercial cannabis business regulations, and desires to recover such costs; and

WHEREAS, pursuant to the provisions of the California Constitution and the laws of the State of California, the City is authorized to adopt and implement rates, fees, and charges for municipal services and the enforcement of regulatory programs; provided, however, that such rates, fees, and/or charges do not exceed the estimated reasonable cost of providing such services; and

WHEREAS, as amended by Ordinance No. 19-06, the MMC requires that prior to engaging in any commercial cannabis activity, a commercial cannabis business must apply for a development agreement with the City, which includes payment of a cost recovery fee, and authorizes the City Council to establish the amount of such fee by resolution (Commercial Cannabis Development Agreement Processing Fee); and

WHEREAS, as amended by Ordinance No. 19-06, the MMC requires that prior to engaging in any commercial cannabis activity, a commercial cannabis business must obtain a commercial cannabis business permit, and authorizes the City Council to establish the amount of the fee for such permit by resolution (Commercial Cannabis Business Permit Fee); and

WHEREAS, the City Engineer has prepared a fee study, attached hereto as Exhibit "A" and incorporated herein by this reference, that calculates the estimated reasonable costs of accepting, processing, and reviewing applications for development

agreements for commercial cannabis activity, and of accepting, processing, and reviewing applications commercial cannabis business permits, as well as enforcing the City's regulations for commercial cannabis businesses (Fee Study); and

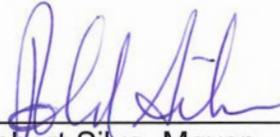
WHEREAS, on September 10, 2019 the City held a public hearing at a regularly scheduled meeting of the City Council at which the public had the opportunity to make oral or written presentations regarding the amount of the Commercial Cannabis Development Agreement Processing Fee and the Commercial Cannabis Business Permit Fee; and

WHEREAS, the City published notice of the public hearing in accordance with Government Code Section 6062a, and made the data upon which the Commercial Cannabis Development Agreement Processing Fee and the Commercial Cannabis Business Permit Fee are based available to the public fourteen days prior to the public hearing; and

WHEREAS, the City has complied with all applicable legal requirements for the establishment of the Commercial Cannabis Development Agreement Processing Fee and the Commercial Cannabis Business Permit Fee; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota, State of California, as follows:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. The City Council hereby finds that the amount of the Commercial Cannabis Business Permit Fee as set forth in the Fee Study does not exceed the estimated reasonable cost of accepting, processing, and reviewing applications for commercial cannabis business permits and enforcing regulations applicable to commercial cannabis businesses operating in the City of Mendota.
3. The City hereby establishes the amount of the Commercial Cannabis Permit Fee pursuant to Section 8.37.240 of the MMC as set forth in the Fee Study.
4. The City Council hereby finds that the amount of the Commercial Cannabis Development Agreement Processing Fee as set forth in the Fee Study does not exceed the estimated reasonable cost of accepting, processing, and reviewing applications for development agreements for commercial cannabis businesses.
5. The City hereby establishes the amount of the Commercial Cannabis Development Agreement Processing Fee pursuant to Section 8.37.070(A)(4) of the MMC as set forth in the Fee Study.



Robert Silva, 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 10th day of September, 2019, by the following vote:

- AYES: 4 – Mayor Silva, Mayor Pro Tem Castro, Councilors Mendoza and Rosales**
- NOES: 0**
- ABSENT: 1 – Councilor Martinez**
- ABSTAIN: 0**



Celeste Cabrera-Garcia, City Clerk



Exhibit A

City of Mendota

Cannabis Permit Fee Study

August 2019

Prepared for:
City of Mendota

Prepared by:
Provost & Pritchard Consulting Group
286 W Cromwell Ave, Fresno, CA 93711

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Report Prepared for:

Cristian Gonzalez
City Manager

City of Mendota
643 Quince Street
Mendota, CA 93640

Contact:

Cristian Gonzalez, City Manager
(559) 655-3291

Report Prepared by:

Provost & Pritchard Consulting Group

David McGlasson, PE, PLS, City Engineer
Michael Osborn, PE, Assistant City Engineer

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1 Introduction and Background

The City of Mendota commissioned this study to gather information on the cost of preparing and issuing permits for cannabis production, processing, wholesale distribution and retail sale, and to consider development of a revised schedule of fees and charges intended to recover all, or a larger portion of, the costs of providing these services.

Having fees that are closely related to the cost of providing services will give City leaders the opportunity to make more informed decisions as they work to meet the budgetary and policy goals of the City.

In general, the “user fees” included in this study are those that the City provides to businesses and citizens where the result of the service is an individual rather than general benefit. In order to be fair to the general population and not confer special benefits on only a small number of individuals, the City charges for such services.

This study evaluates the actual costs of providing the particular services, with the goal of identifying the full cost of providing the service, which is the maximum amount that can legally be charged.

In order to accomplish this goal, a number of objectives were identified. These include ensuring that the calculated maximum fees are fair and reasonable, that the fee is clear and as simple as practical, and that the fee structure correctly follows the City’s processes while creating a nexus between the fees and the service provided.

This study was based information developed in collaboration with City staff, who were instrumental in understanding the time and people required to provide the service addressed. The study did not evaluate the effectiveness or efficiency of any of the City’s processes, but focused on the actual cost of providing service in accordance with existing procedures.

2 User Fee Concepts

This report section looks at some concepts which are important to agency fee-setting in California. Fees are not totally discretionary on the part of the City, but must be set in accordance with specific rules as set forth by the State of California. There is, however, a good deal of latitude within these policies for cities to set fees in a manner that City leaders believe provides maximum benefit to the City, its citizens and customers.

2.1 Fee Concepts Under California Law

The primary source of General Fund revenues for cities are tax revenues, collected by the County and the state and distributed by the state under a variety of names and distribution methodologies. Since there never seems to be enough tax revenue available to meet all of a city's needs or wants, other funding methods have been created over time, including fees, special charges, fines, and grant revenues. Most of these methods generate revenue that is specific to one department or program; they do not typically contribute to the general fund revenues.

While most city services have a citywide benefit, there are a number of services where the benefits are conferred primarily on one individual. It's those services for which the City can charge cost recovery fees in an effort to be fair to the broader population. A key concept is that the cost recovery fee must be closely related to the actual cost of providing the service in question. In other words, a user fee cannot be a "fund raiser" with a broad benefit to the City, but must be set at or below the actual cost of providing the service.

The costs recovered can be very thorough. For example, if issuing a particular permit requires an hour of a clerk's time, the cost is not limited to a one-half-hour share of that person's direct hourly wage. The full salary cost, including all benefits and overhead, can be used. Also, the cost of any review time, inspections, and any other worker's time cost may be included. If any special equipment is required to carry out the service, a fair charge may be made for that equipment. In fact, every amount of labor, benefits, materials, tools and equipment required to carry out the work associated with the fee can be included.

All that said, it is uncommon for a City to set full reimbursement fees for every permit and service it carries out. The decision to set fees for full or partial cost recovery is made by the City Council. This report identifies the full-cost-recovery amount. Determination of the actual fees to be included in a new schedule of fees will be a job done at the direction of the City Council, with the administrative assistance of City Staff.

2.2 Fee Policy Considerations

While in general it may be most advantageous for a city to set fees for full cost recovery, there are several policy subjects worth consideration as the final fee structure is being set:

- Will the number of people requesting a service decline if the fee is set too high? Is that good or bad for the City? While revenue may decline if the cost is believed to be too high, does the City perceive a benefit from having to spend less time providing that particular service?
- Some subsidy of fees can encourage behavior the City would like to see increase, or may allow certain individuals with fewer resources to take advantage of a service they would otherwise have to pass by.
- To avoid overcharging individuals for services which may have a partial public benefit.

3 Fee Study Methodology

This section looks at the methodology applied to calculated costs and from there the maximum permissible fee.

3.1 Average Cost Analysis Methodology

As mentioned above, the purpose of a fee study is to determine the average full cost of providing the services offered by the City, so that City leaders can intelligently establish a fee schedule to recover all or a major part of the cost of providing a service without violating the state law which prohibits charging more than the cost of providing that service.

Cost recovery provides a way to create equity where the provision of certain services doesn't seem equitable; the service benefits a group of people, or an individual, while having no effect on other members of the community. If the service were to be provided without fee, or even with a subsidized fee, the community would be paying all or part of the cost of providing a benefit to individual members of the public. The exaction of user fees tied to full cost recovery eliminates that inequity.

The study methodology looked at several standard factors:

- The amount of labor required to carry out the service
- The cost of the labor being provided, including all benefits and overhead
- The cost of any equipment used to provide the service
- The costs, including taxes, delivery and any other factors, of any materials required

For each department involved in the study, the needs and practices of the department determined the structure of the study. Because even similar applications often require differing amounts of time to process, this approach looks at typical, or average, processing times, so a single fee amount can be applied to similar applications without going through detailed project cost accounting, which would also entail trying to either collect fees in arrears, or to collect a large up-front deposit designed to cover all possible expenses, with any unused deposit being returned when the process is complete. Both of these approaches would require a great deal of additional administrative effort and would add to overall processing costs without bringing substantial value to the City.

4 Proposed Cannabis Permit Fee

4.1 Processing Time Estimate

The City determined that two departments would be involved in the Cannabis Permit issuance and ongoing enforcement. These will be the Police Department and the administrative staff at City Hall. A review of the expected processes and procedures was held, and estimates of the range of likely processing times was developed. From that range, average processing times were agreed upon.

These averages are believed to be conservative; it may well be that the actual average processing times will be somewhat longer than shown in the tables below, making the recommended fees lower than the maximums that could be justified. Because of the City's lack of experience with this permit, the decision was made to err on the low side of the estimates and to make any necessary corrections in the future as experience is gained.

4.2 Determination of Recommended Fee

The City has determined that there will be multiple parts to the Cannabis Permit Fee, depending upon the proposed use being applied for. Any use involving wholesale or retail commerce will require the full procedure and all of the steps outlined in this section. Some will be charged under existing City permitting ordinances, while others will be new, established pursuant to this fee study. The steps involved will include:

Development Agreement Application Processing: Initial City screening of an application, for completeness and adequacy, by City staff. Following acceptance of a complete application, the application will be reviewed by a five-member review committee to establish conditions of approval.

Development Agreement Application Processing

Staff Type	Hours	Hourly Rate	Total
City Clerk	5.0	52.04	260.20
Police Officer	5.0	40.22	201.10
City Manager	5.0	93.76	468.80
City Planner	5.0	93.76	468.80
City Engineer	5.0	165.00	825.00
City Attorney	5.0	250.00	1,250.00
Total Fee:			\$3,473.90

Development Agreement: Once conditions of approval are established, the actual development agreement can be prepared. This will be done by staff, the City Planner, the City Engineer and the City Attorney as appropriate, and will be paid based on a deposit paid by the applicant, the amount of which will be determined by the City Manager. The deposit may be increased or decreased during preparation of the Development Agreement if deemed necessary by the City Manager. Cost recovery shall be built into the Development Agreement itself; no specific fees will be charged.

Conditional Use Permit: Applicants will be required to secure a Conditional Use Permit in accordance with established City ordinance and policy. Standard fees will apply.

City Business License: All cannabis-related businesses operating within the City shall obtain a City of Mendota business license, pursuant to existing City ordinance.

Annual Permit Compliance: The City anticipates there will be significant ongoing annual costs of enforcing permit conditions for cannabis permits, which should not be borne by the other citizens of Mendota or other permit holders in general. The estimated costs of ongoing enforcement are shown in the table below. Tasks anticipated include annual compliance checking by the police department; occasional compliance spot checking provided by the police department, City Clerk and City Attorney; citizen interface and questions by City Clerk and City Manager; and annual City Manager review including City Manager and City Attorney.

Annual Cannabis Permit Compliance Enforcement

Staff Type	Hours	Hourly Rate	Total
Police Officer	24.0	40.22	965.28
City Clerk	2.0	52.04	104.08
City Manager	5.0	93.76	468.80
City Attorney	5.0	250.00	1,250.00
Total Fee:			\$2,788.16

4.3 Updating Fees in Future Years

Fees will be automatically updated in future years by incrementing in proportion to increases in the Consumer Price Index (CPI). Changes to the fees as a result of CPI increases will be effective each year on July 1.

Additionally, the City may from time to time revisit the staff involved, the labor hours expended and the actual salary rates related to each position classification, as the City's situation changes. Changes in any of these factors, for any of the fees listed, may be incorporated into the fee calculation included herein by resolution of the City Council.

ATTACHMENT E

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AMENDING
THE ZONING CODE TO PERMIT
COMMERCIAL CANNABIS RETAIL
BUSINESSES IN THE C-3 DISTRICT
SUBJECT TO A CONDITIONAL USE PERMIT**

ORDINANCE NO. 19-08

WHEREAS, pursuant to the authority granted 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 June of 2017, the Governor approved the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which established a uniform licensing regime for both medical and adult-use cannabis, thereby supplanting the MMRSA and adjusting various provisions of the AUMA; and

WHEREAS, on January 16, 2019 the Office of Administrative Law officially approved state regulations developed by the Bureau of Cannabis Control (Bureau) for cannabis businesses across the supply chain (Regulations); and

WHEREAS, the Regulations at 16 C.C.R. § 5416, subd. (d) expressly provide that “a [cannabis] delivery employee may deliver to **any jurisdiction** within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division”; and

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

WHEREAS, in 2017, the City enacted Ordinance No. 17-13, which created the Commercial Cannabis Overlay District to allow the establishment of commercial cannabis businesses involving the cultivation, manufacturing, distribution, and testing of cannabis products in a limited area of the City, but retained the ban on cannabis dispensaries; and

WHEREAS, in 2019, the City enacted 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, in light of the developments to state laws and regulations regarding commercial cannabis retail businesses, the City now desires to permit a limited number of commercial cannabis retail businesses in its primary commercial district, the C-3 district, subject to a conditional use permit; and

WHEREAS, on July 16, 2019, the City’s Planning Commission recommended approval of a proposed ordinance amending the City’s zoning code to permit a limited number of commercial cannabis retail businesses in the C-3 district, subject to a conditional use permit, on the condition that the City amend Section 8.37.090 of the MMC, as set forth in Ordinance No. 19-06, to provide that cannabis retail business shall be located at least 500 feet from other cannabis retail businesses, schools, day care centers, and youth centers, rather than at least 800 feet; and

WHEREAS, on August 12, 2019 the City Council voted to accept the Planning Commission's recommendation and directed staff to amend Section 8.37.090 of the MMC to provide that cannabis retail business shall be located at least 500 feet from other cannabis retail businesses, schools, day care centers, and youth centers, rather than at least 800 feet; and

WHEREAS, on August 27, 2019 the City Council conducted a public hearing and first reading for Ordinance No. 19-09, amending Section 8.37.090 of the MMC to provide that cannabis retail businesses shall be no close than 500 feet from any other cannabis retail business, school, day care center, or youth center; and

WHEREAS, on September 10, 2019 the City Council adopted Ordinance No. 19-09, amending Section 8.37.090 of the MMC to provide that cannabis retail businesses shall be no close than 500 feet from any other cannabis retail business, school, day care center, or youth center; and

WHEREAS, having amended Section 8.37.090 in accordance with the Planning Commission's recommendation, the City now desires to adopt the proposed ordinance amending the City's zoning code to permit a limited number of commercial cannabis retail businesses in the C-3 district, subject to a conditional use permit.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA DOES HEREBY 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 3 amends Title 17, Chapter 17.52, Section 17.52.030 by adding Subdivision KK.

SECTION 3. Title 17, Chapter 17.52, Section 17.52.030 is hereby amended to read as follows:

17.52.030 - Uses permitted subject to conditional use permit.

In the C-3 central business and shopping center district, uses permitted subject to conditional use permit are as follows:

- A. Auditoriums;
- B. Automatic self-serve car wash;
- C. Automobile parts sales;
- D. Automobile service stations (with incidental repair);
- E. Bakeries (wholesale);
- F. Bars, provided that no bar may be located within five hundred (500) feet of a church, school or other bar;
- G. Bowling establishments;
- H. Buildings with heights greater than two stories;

- I. Bus stations;
- J. Car sales (new and used);
- K. Churches;
- L. Clinics and laboratories;
- M. Communications substations, gas regulator stations, utility pumping stations, radio and television stations;
- N. Convenience markets;
- O. Drive-in restaurants;
- P. Dry cleaners;
- Q. Hospitals;
- R. Janitorial services;
- S. Linen supply services;
- T. Mortuaries;
- U. Nurseries (within or behind the main buildings);
- V. Nursing and convalescent hospitals or homes;
- W. Private clubs, lodges;
- X. Public grounds and buildings;
- Y. Parking lots, in conjunction with permitted uses;
- Z. Radio and television repair;
- AA. Restaurant/bars;
- BB. Significant tobacco retailers, provided that no significant retailer may be located within five hundred (500) feet of a school;
- CC. Theaters;
- DD. Trade and professional schools;
- EE. Day nurseries, child care nurseries or nursery schools, not exceeding two hundred fifty (250) children;
- FF. Light Manufacturing (where required for the repair or assembly of pre-manufactured components of the retailed goods, and where the floor space devoted to the repair and/or assembly process is less than ten (10) percent of the total floor are of business);
- GG. Pool halls and billiards clubs.
- HH. Planned developments, including mixed commercial-residential and/or mixed office-residential uses, pursuant to Chapter 17.84.
- II. Social facilities;
- JJ. Wireless telecommunications facilities;
- KK. Cannabis retail businesses.

SECTION 4. Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

SECTION 5. The City Council hereby finds and determines that its adoption of this Ordinance is not subject to environmental review under the Public Resources Code, § 21000 *et seq.*, the California Environmental Quality Act (CEQA), because the amendments to the zoning code, in and of themselves, do not have the potential for

resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a "project" under CEQA. (Pub. Res. Code, § 21065; 14 Cal. Code Regs., § 15378(a).) Further, the uses permitted as a result of the amendments contained herein may never actually occur and therefore any potential environmental impacts remain wholly speculative. (14 Cal. Code Regs., §15064(d)(3).) Finally, any uses permitted as a result of the amendments contained herein will be subject to environmental review under CEQA prior to the issuance of a conditional use permit. Accordingly, the City Clerk is hereby directed to file a Notice of Exemption.

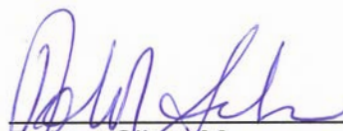
SECTION 6.This ordinance shall take effect thirty (30) days after its passage.

SECTION 7.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 13th day of August, 2019 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 24th day of September, 2019 by the following vote:

AYES: 4 – Mayor Silva, Mayor Pro Tem Castro, Councilors Mendoza and Rosales
NOES: 0
ABSENT: 1 – Councilor Martinez
ABSTAIN: 0

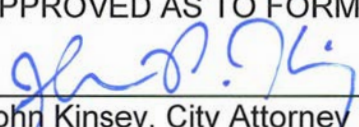


Robert Silva, Mayor

ATTEST:


Celeste Cabrera-Garcia, City Clerk



APPROVED AS TO FORM:


John Kinsey, City Attorney

ATTACHMENT F

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA ESTABLISHING
THE APPLICATION SUBMITTAL PERIOD
FOR APPLICATIONS TO ENTER INTO A
DEVELOPMENT AGREEMENT FOR
COMMERCIAL CANNABIS ACTIVITY**

RESOLUTION NO. 19-75

WHEREAS, on May 28, 2019 the City Council of the City of Mendota (City) adopted Ordinance No. 19-06, amending the Mendota Municipal Code (MMC) to eliminate the ban on cannabis dispensaries and to establish regulations for commercial cannabis businesses; and

WHEREAS, as amended by Ordinance No. 19-06, MMC Chapter 8.37 requires that businesses desiring to engage in commercial cannabis activities must first apply for and enter into a development agreement with the City, among other requirements; and

WHEREAS, pursuant to MMC § 8.37.070(A)(2), applications for a development agreement for commercial cannabis businesses must be submitted during the Development Agreement Application Submittal Period (Application Submittal Period), which shall be established by resolution of the City Council; and


WHEREAS, pursuant to MMC § 8.37.070(A)(6), within sixty days after the end of the Application Submittal Period, applications must be scored by an independent five-member Application Evaluation Committee, the members of which are to be selected by the City Manager; and

WHEREAS, the City Council desires to establish the Application Submittal Period pursuant to MMC § 8.37.070(A)(2), to direct the City Manager to select the members of the Application Evaluation Committee pursuant to MMC § 8.37.070(A)(6), and to direct the City Clerk to provide notice to the public of the establishment of the Application Submittal Period; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that pursuant to MMC § 8.37.070(a)(2) the Application Submittal Period for the submission of applications to enter into a development agreement for commercial cannabis activities is hereby established and shall commence on October 14, 2019 and last until December 13, 2019.

BE IT FURTHER RESOLVED, by the City Council of the City of Mendota that pursuant to MMC § 8.37.070(A)(6) the City Manager is hereby directed to select the members of the Application Evaluation Committee.

BE IT FURTHER RESOLVED, by the City Council of the City of Mendota that the City Clerk is hereby directed to provide notice to the public of the commencement of the Application Submittal Period.




Robert Silva, 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 8th day of October, 2019, by the following vote:

AYES: 4 – Mayor Silva, Mayor Pro Tem Castro, Councilors Martinez and Mendoza
NOES: 0
ABSENT: 1 – Councilor Rosales
ABSTAIN: 0



Celeste Cabrera-Garcia, City Clerk



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Guidelines for Cannabis Development Agreement Application Scoring

All completed applications for a development agreement for commercial cannabis uses in the City of Mendota (“City”) shall be reviewed and scored in accordance with the procedures set forth herein.

A. Application Completeness Review

1. All applications for a commercial cannabis development agreement must be submitted in accordance with the requirements of Chapter 8.37 of the Mendota Municipal Code (“MMC”).

2. Prior to the end of the Application Submittal Period, the City Manager shall designate City staff to assist in reviewing applications for completeness. The identity and number of the staff selected may be decided by the City Manager in his discretion in accordance with the purpose and intent of these Guidelines and Chapter 8.37 of the MMC. No person who assists in the completeness review may serve on the Application Evaluation Committee (“Committee”).

3. Within thirty (30) days after the end of the Application Submittal Period, the City Manager shall review all submitted applications and determine whether they are complete. If any application is determined to be incomplete or otherwise not submitted in accordance with the requirements of Chapter 8.37 of the MMC, the City Manager may, in his discretion, either (a) reject the application, or (b) return the application to the applicant with instructions to rectify the identified deficiencies. If the City Manager elects to return the application to the applicant, the applicant shall have seven (7) days to rectify the identified deficiencies. If the applicant fails to rectify the identified deficiencies within the allotted time the City Manager shall reject the application. The City Manager’s determination shall be in writing and shall state whether the application was determined to be complete or incomplete, and, if the application is determined to be incomplete, the reasons for such determination.

4. The City Manager may, in his discretion, and in consultation with the City Attorney, waive the City’s right to reject any application not prepared or submitted in accordance with these Guidelines and Chapter 8.37 of the MMC if the City Manager determines that the application is in substantial conformance with all applicable requirements and the application’s identified deficiencies will not materially impair the City’s review and scoring of the application.

B. Selection of the Application Evaluation Committee

1. The City Manager shall select five (5) individuals to serve on the Committee.

2. A person shall be ineligible to serve on the Committee if the person: (a) is a member of the Mendota City Council or the Mendota Planning Commission, (b) has any financial or other conflict of interest concerning any applicant for a development agreement, (c) reviewed development agreement applications for completeness prior to the Committee’s scoring, or (d) is otherwise prohibited from serving on the Committee pursuant to Chapter 8.37 of the MMC.

C. Application Scoring

1. The Committee shall not score any application unless the application was submitted in accordance with all of the requirements of Chapter 8.37 of the MMC, or unless otherwise approved by the City Manager at the City Manager's discretion.

2. The Committee shall employ blind scoring in its review of the applications. Prior to distributing any application to the Committee, the City Manager shall remove all of the applicant's identifying information from the application. Each application's identifying information shall be maintained by the City Manager and no member of the Committee shall be permitted access to such information.

3. For each application, the Committee shall assign a score between one (1) and five (5) for each of the following scoring categories:

- a. The extent to which the proposed development is consistent with, and promotes, the City's objectives of: (i) accommodating medically-ill persons in need of medicinal cannabis; (ii) providing access for adult recreational cannabis use; (iii) protecting the City, and its residents, from any negative impacts associated with cannabis sale, distribution, or use; (iv) generating employment opportunities for the City's residents; and, (v) establishing a consistent source of revenue that can be used to benefit the City and its residents;
- b. The proposal's consistency with the requirements of the MMC;
- c. The design quality of any prior, similar projects of the applicant;
- d. The feasibility of the applicant's proposal;
- e. The applicant's prior experience with development for commercial cannabis uses;
- f. The applicant's prior experience with operating a commercial cannabis business;
- g. The applicant's capacity to finance the proposed development project;
- h. The applicant's commitment to sustainable practices;
- i. The applicant's commitment to engagement with the City's residents and local communities;
- j. The strength of the applicant's references; and
- k. The thoroughness of the applicant's responses to the application's required contents.

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: NANCY M. DIAZ, FINANCE OFFICER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: GRANTS UPDATE
DATE: JUNE 23, 2020

GRANTS UPDATE

- **County of Fresno, Urban Community Development Block Grant Program** – Staff is working on the application for FY 21/22 for the CDBG Program. This will be an agenda item for our next City Council Meeting on July 14th. The City anticipates utilizing these funds for the Phase III of the Rojas-Pierce Park Expansion Project.
- **County of Fresno, Urban Community Development Block Grant Program for Eligible Activities to Support Coronavirus and Other Infectious Disease Response** – Staff is working on an application and a guideline flyer for the broadband/internet connectivity. County of Fresno will need to approve our application and guideline flyer before starting the program. 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.
- **FEMA-4482-DR-CA California Covid-19 Pandemic** – Staff is in the process of submitting for reimbursement.
- **San Joaquin Valley Air Control District, Public Benefits Grants Program, New Alternative Fuel Vehicle Purchase** – Staff will be able to purchase (2) Ford Explorer Interceptor starting July 1st. We are pending our agreement for the “Trades” electric vehicle for the Public Works. We hope to have an executed agreement and approval in the next two months.
- **Urban Flood Protection Grant Program** – Provost and Pritchard has submitted an application for the “City of Mendota Stormwater Improvement” project. This will be removal and replacement of the undersized and critically damaged storm drain system from 8th Street southeasterly past 10th Street to an existing ditch on the Gonzalez tow yard with a properly sized storm drain system to a new extended dry detention basin just upstream of the existing ditch. This grant is administered through the Natural Resources Agency and funding provided by State of California. This project is estimated to cost \$4,500,000.00.
- **California State Water Resources Control Board** – Staff had a conference call on May 20, 2020 with the State Water Board and Provost and Pritchard to discuss the meter installation of the automatic meter reading system. The total project funding is \$3,074,561.00. The grant portion of funding is \$2,724,912.00.
- **2019-20 Congestion Mitigation and Air Quality Improvement Program (CMAQ)** – Michael Osborn with Provost & Pritchard has applied for funding to pave unpaved alleys in the northeast side of Mendota. This project will reduce pollution and overall dust levels affecting the residents of the City. The City of Mendota was rewarded partial funding and approved for \$458,304.00. We

requested \$1,183,432.00. Based on our approved funding, the City will have a match of \$52,567.47.

- **Cal Recycle City/County Beverage Payment Program** – The radio advertisement was approved by our grant manager with CalRecycle. The radio advertisement will be aired on Weeks of June 8th and June 15th and through the web at KMJNOW.com. This radio advertisement will educate the public on beverage container recycling.
- **U.S. Department of Justice, Community Oriented Policing Services (COPS) – COPS Hiring Program** – The City of Mendota was approved for the COPS Hiring Program. We will receive \$125,000.00 over the 3-year grant period.
- **Office of Traffic Safety (OTS) Grant** – The City of Mendota was approved for 2/3 grants applied in March 2020. We were approved for STEP (Traffic Enforcements, DUI Suppressions) and emergency medical services equipment for our local fire department.

Attachment:

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
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 for Mendota Residents		
Rubberized Pavement Grant Program	10/3/2021	12/31/2021	State	N	N	up to \$350,000	City-wide street projects for FY 21/22		
Urban Flood Protection Grant Program	TBD	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.		
Urban Community Development Block	7/31/2020	7/1/2021	County	N	N	\$ 150,000.00	Phase III Rojas-Pierce Park Expansion Project		
Community Facilities Grant	6/7/2020	8/1/2020	Federal	N	Y	\$ 50,000.00	Purchase (2) Police Explorers, upfit and equipment. This grant is in conjunction with the New Alternative Fuel Vehicle Purchase Grant.	USDA	
COPS Hiring Program	3/11/2020	TBD	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	Late Fall 2020	Local	N	N	Up to \$20,000 per vehicle	Purchase (1) Public Works/Utilities Trades Vehicle & (2) Police Explorers	Staff will submit (2) applications for (1) Police Explorer and (1) CNG Pick-up	
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 Componet \$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		
Per Capita Grant Program	6/3/2019	Late Summer '19	State	N	N	TBD	Local park rehabilitation, creation and improvement grants	One-time basis	
Key: Applied for Grants									
In process									
Approved									

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	sustainability	
Proposition 68 - Parks		TBD	State	N	up to \$8,000.00	Improvements to Mendota Pool Park & Community Center/Park Improvements	Reimbursement Grant
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
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.
CMAQ & STBG Programs		TBD	Federal	TBD	TBD	Paving alley way	
Consolidated Rail Infrastructure and Safety Improvements Grant Program		10/18/2019	Federal	Yes	TBD	Projects that address congestion challenges, highway-rail grade crossings, upgrade short-line railroad infrastructure, relocate rail lines, improve intercity passenger rail capital assets.	City would need to have a letter of support or MOU from the property owner, Union Pacific Railroad
Recreational Trails and Greenways Grant Program		10/11/2019	State	TBD	up to \$4,000,000	Projects must provide non-motorized infrastructure development and enhancements that promote new or alternate access to parks, waterways, outdoor recreational pursuits, and forested or natural environments.	Technical Assistance will be Thursday, Sept. 26
Tobacco Grant Program		TBD	State	TBD	TBD	Tobacco Ordinance, Retailers Compliance Checks and Community Outreach	Reimbursement Grant