



CITY OF MENDOTA

"Cantaloupe Center Of The World"

ROBERT SILVA
Mayor
ROLANDO CASTRO
Mayor Pro Tem
VICTOR MARTINEZ
JESSE MENDOZA
OSCAR ROSALES

AGENDA
MENDOTA CITY COUNCIL
Regular City Council Meeting
CITY COUNCIL CHAMBERS
643 QUINCE STREET
April 23, 2019
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, those 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.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

FINALIZE THE AGENDA

1. Adjustments to Agenda
2. Adoption of final Agenda

PRESENTATION

1. City Manager Gonzalez to introduce City Clerk Celeste Cabrera-Garcia.

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 special City Council meeting of April 2, 2019 and the regular City Council meeting of April 9, 2019.
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. APRIL 9, 2019 THROUGH APRIL 18, 2019
WARRANT LIST CHECKS NO. 45197 THRU 45251
TOTAL FOR COUNCIL APPROVAL = \$304,438.49
2. Proposed adoption of **Resolution No. 19-24**, approving the Used Mattress Collection Services Agreement with the Mattress Recycling Council California, LLC.
3. Proposed adoption of **Resolution No. 19-25**, accepting the Lozano Lift Station Modification project and authorizing the filing of the Notice of Completion.
4. Proposed adoption of **Resolution No. 19-26**, setting the schedule for two Special City Council meetings to consider the budget for Fiscal Year 2019-2020.
5. Proposed adoption of **Resolution No. 19-27**, adopting a list of street projects for Fiscal Year 2019-2020 funded by SB1: the Road Repair and Accountability Act of 2017.
6. Proposed adoption of **Resolution No. 19-28**, authorizing execution of an agreement with the City of Firebaugh for dispatching services.

BUSINESS

1. Council discussion and consideration of **Resolution No. 19-29**, approving a licensing agreement with Gonzalez Hall & Promotions, Inc. and authorizing the City Manager to execute same.
 - 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 considers Resolution No. 19-29 for adoption*

2. Council discussion on the upcoming site visit to the Axiom facility.
 - a. *Receive report from City Manager Gonzalez*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*

3. Council discussion on the proposed ordinance establishing regulations for sidewalk vendors in accordance with SB 946.
 - 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 provide direction to staff on how to proceed*

4. Council discussion and consideration of the proposed modifications of the curb “bulb-outs” on the west side of the Black Avenue and Sorensen Avenue intersection.
 - a. *Receive report from Assistant City Engineer Osborn*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council provide direction to staff on how to proceed*

5. Introduction and first reading of **Ordinance No. 19-04**, approving a second amendment to the Development Agreement by and between the City of Mendota and KSA Homes, Inc. relating to the development of the property commonly known as the La Colonia property.
 - 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 provide any input and waive the first reading of Ordinance No. 19-04, and sets the public hearing for the May 14th City Council Meeting*

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Administrative Services
 - a) Monthly Report

2. City Attorney
 - a) Update

3. City Manager

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)
2. Mayor

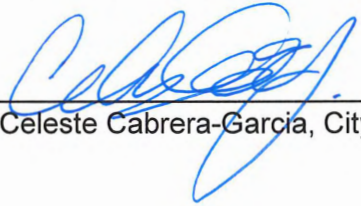
CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL INITIATION OF LITIGATION pursuant to subdivision (c) of Government Code Section 54956.9 (1 potential matter).

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 April 23, 2019, was posted on the outside bulletin board located at City Hall, 643 Quince Street Friday, April 19, 2019 at 6:55 p.m.



Celeste Cabrera-Garcia, City Clerk



MINUTES OF MENDOTA SPECIAL CITY COUNCIL MEETING

Special Meeting

April 2, 2019

Meeting called to order by Mayor Silva at 3:04 p.m.

Roll Call

Council Members Present: Mayor Robert Silva, Councilors Victor Martinez, Jesse Mendoza, and Oscar Rosales

Council Members Absent: Mayor Pro Tem Rolando Castro

Flag salute led by Finance Director Marquez

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 Martinez; unanimously approved (4 ayes, absent: Castro).

CITIZENS ORAL AND WRITTEN PRESENTATIONS

None offered.

BUSINESS

1. Receive report from City Manager Gonzalez on the attainment of 2018 goals.

Mayor Silva introduced the item and City Manager Gonzalez summarized the goals for 2018 and their status.

Discussion was held on the acquisition of land from Westlands Water District; the status of the Rojas-Pierce Park Improvement project; status of the development of the city-

owned property near the wastewater treatment plant; holding a workshop regarding cannabis business activities; the status of the Canna-Hub development; the status of the development of the commercial corner at the La Colonia property; the impacts that new businesses have on the sales and use tax; the amount of payments that the City has to make as a result of a settlement that the City entered into a few years ago; and the need to construct a standalone police department building.

2. Discussion between City staff and Council on 2019 goals.

Mayor Silva introduced the item and City Manager Gonzalez reported on current and upcoming projects.

Discussion was held on the road projects will be done within the next year, including their timelines; the need to improve the intersection of Black Street and Sorensen Avenue; the status of the extension of Amador Street; the proposed roundabout at the intersection of Bass Avenue and Barboza Avenue; grants that the City has received to improve crosswalks; the possibility of providing the Council with a tour of City facilities; the status of the Prop 1 Storm Water grant application; the need to improve and expand parks; modifying city administrative fees; acquiring grants for various projects; having a plaque at the Veteran's park that contains the names of local veterans; the status of the Fireworks Show; purchasing new holiday ornaments for Oller Street and 7th Street; the possibility of having a banner program for veterans; installing a flag pole at Robert Silva Plaza; developing a community center; unfreezing police officer positions; the upcoming Earth Day event; installing cameras throughout town; and municipal code violations throughout the City.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 4:48 p.m. by Councilor Rosales, seconded by Councilor Mendoza; unanimously approved (4 ayes, absent: Castro).

Robert Silva, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk



MINUTES OF MENDOTA REGULAR CITY COUNCIL MEETING

Regular Meeting

April 9, 2019

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

Roll Call

Council Members Present: Mayor Robert Silva, Mayor Pro Tem Rolando Castro, Councilors Victor Martinez (at 6:06 p.m.), Jesse Mendoza, and Oscar Rosales

Council Members Absent: None

Flag salute led by Mayor Pro Tem Castro

FINALIZE THE AGENDA

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

A motion was made by Mayor Pro Tem Castro to adopt the agenda, seconded by Councilor Rosales; unanimously approved (4 ayes, absent: Martinez).

PRESENTATIONS

1. Proposed adoption of **Proclamation No. 19-02**, recognizing the week of April 8th through April 12th as National Boys & Girls Club Week.

Mayor Silva introduced the item.

Amanda Navarrete (Mendota Boys & Girls Club Unit Director) - introduced herself; and reported on the activities that the Club will have throughout the week (at 6:06 p.m. Councilor Martinez entered the Council Chambers).

City Clerk Cabrera-Garcia read the proclamation into the record.

The Council presented the proclamation to the Mendota Boys & Girls Club.

2. Council to recognize Matt Flood for his service to the community.

Mayor Silva introduced the item, read the plaque into the record, and presented it to Mr. Flood.

The Council thanked Mr. Flood for his service to the community and wished him well with his future endeavors.

Mr. Flood thanked the Council and staff for their support and well wishes.

CITIZENS ORAL AND WRITTEN PRESENTATIONS

Ezequiel Franco Lopez (Fresno, CA) – stated that his niece has continuously attempted to open the water account for 485 Lolita Street, but has not been successful; and commented on the issues surrounding the ownership of the home.

Discussion was held on the reasons why the water account has not been opened; and the Council requested that Mr. Lopez and his niece meet with staff to discuss the issue.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of March 26, 2019.
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 Rosales to approve items 1 and 2, seconded by Councilor Martinez; unanimously approved (5 ayes).

CONSENT CALENDAR

1. MARCH 26, 2019 THROUGH APRIL 04, 2019
WARRANT LIST CHECKS NO. 45135 THRU 45196
TOTAL FOR COUNCIL APPROVAL = \$243,985.06
2. Proposed adoption of **Proclamation No. 19-03**, recognizing May 18, 2019 as Kids to Parks Day in the City of Mendota.
3. Proposed adoption of **Resolution No. 19-22**, revising the Management Benefit resolution.

4. Proposed adoption of **Resolution No. 19-23**, approving the Professional Services Contract with New Vision Aviation, Inc. and authorizing the City Manager to execute same.

A request was made to pull item 4 for discussion.

A motion was made by Mayor Pro Tem Castro to adopt items 1 through 3 of the Consent Calendar, seconded by Councilor Rosales; unanimously approved (5 ayes).

4. Proposed adoption of **Resolution No. 19-23**, approving the Professional Services Contract with New Vision Aviation, Inc. and authorizing the City Manager to execute same.

Discussion was held on the purpose of the contract; and the involvement of other agencies with the project.

A motion was made by Mayor Pro Tem Castro to adopt item 4 of the Consent Calendar, seconded by Councilor Mendoza; unanimously approved (5 ayes).

BUSINESS

1. Council discussion and consideration of potential Mendota Municipal Code amendments regarding permitted cannabis business activities.

Mayor Silva introduced the item and City Attorney Kinsey summarized the report including the current provisions contained in the Mendota Municipal Code (MMC) regarding cannabis business activities; the passage of regulations by the State, including regulations regarding delivery; the issues that the new regulations raise for the City; the possibility of MMC amendments regarding cannabis business activities; and requested the Council's direction on the item.

Discussion was held on the regulations that were approved by the state regarding cannabis businesses; potential options that the City has in regards to MMC amendments, such as cannabis delivery activities; and the City's previous position on the issue.

Tim McGraw (Canna-Hub) - spoke on the positive impact that an MMC amendment concerning cannabis delivery activities will have on Canna-Hub.

Discussion was held on what is staff's recommendation; allowing a dispensary to operate within the City; and various issues that should be taken into consideration, such the zoning designation in which a dispensary may be allowed.

Tim McGraw (Canna-Hub) - provided an update on the development of the Canna-Hub campus.

Discussion was held on the quality of the campus.

Council consensus was reached to direct staff to provide a draft MMC amendment concerning regulations for cannabis delivery licenses and storefronts for the Council's consideration.

Joe Gutierrez (647 Perez Street) - commented on the importance of providing education for the community regarding the proposed changes;

2. Council discussion and consideration of project alternatives for Proposition 68 grant funding.

Mayor Silva introduced the item and Finance Administrative Supervisor Diaz summarized the report including an upcoming meeting that she will be attending regarding grants that the City may be qualify for; and requested the Council's input on the various project alternatives for which to seek grant funding.

Discussion was held on the various park project alternatives to seek grants for; the need to improve local parks; the need for additional employees; ensuring that employees are working efficiently; available grants (at 6:52 p.m. Councilor Martinez left the Council Chambers and returned at 6:53 p.m.); options available for utilizing recycled water; and available opportunities to have non-profit organizations as grant co-applicants.

Council consensus was reached to direct staff to on which park project alternatives to seek potential grant funding for.

3. Council discussion and consideration of **Resolution No. 19-21**, approving the reinstatement of the Finance Officer position.

Mayor Silva introduced the item and City Manager Gonzalez summarized report including the City's experience with various grants writers; the inability for the grant writers to provide results; proposed to have a staff member that will conduct grant writing services in-house; the various duties that would be assigned to the staff member; and reclassifying a position to allow for such activities.

Discussion was held on the condition of the City's loan portfolio; the reasons as to why the City did not acquire grant funding via the grant consultants; speaking with the School District regarding how they are successful in acquiring grants; and tabling the item for a future meeting.

PUBLIC HEARING

1. Public hearing and second reading of **Ordinance No. 19-02**, amending Title 17, Chapter 17.08, Section 17.08.040 of the Mendota Municipal Code to modify the procedure for the initiation of zoning amendments.

Mayor Silva introduced the item and City Attorney Kinsey summarized the report including the provisions that the ordinance provides to streamline the procedure for the initiation of zoning amendments.

At 7:13 p.m. Mayor Silva opened the hearing to the public and, seeing no one present willing to comment, closed it in that same minute.

A motion was made by Councilor Rosales to adopt Ordinance No. 19-02, seconded by Councilor Martinez; unanimously approved (5 ayes).

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

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

Chief Andreotti provided information on animal control, code enforcement, and the police department.

Discussion was held on the fees that individuals have to pay when their vehicles are towed; the impound fees that Gonzalez Towing charges; whether the City can post the business's fees so that customers are aware of the fees; the ways that individuals are impacted when they have their vehicle towed; and the police department's policies and practices regarding towing vehicles.

Joe Gutierrez (647 Perez Street) – stated that all individuals should be treated equally, regardless of their legal status.

Discussion was held on policies and practices regarding tinted windows violations and infractions.

2. City Attorney
 - a) Update

Nothing to report.

4. City Manager

City Manager Gonzalez reported on the Public Works Officer's Conference that he recently attended; and thanked the staff for their hard work while he was at the conference.

Councilor Martinez requested an update on the Rojas-Pierce Park Improvement project.

Assistant Engineer Osborn provided an update on the project.

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)

Mayor Pro Tem Castro reported on the upcoming Opening Day for the local baseball program.

Councilor Rosales thanked staff for their hard work.

Councilor Mendoza reported on the upcoming Opening Day for the local baseball program; the community clean-up event; and thanked the staff and Council for their work.

2. Mayor

Mayor Silva reported on a meetings he recently attended.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 7:43 p.m. by Mayor Pro Tem Castro, seconded by Councilor Rosales; unanimously approved (5 ayes).

Robert Silva, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk

CITY OF MENDOTA
CASH DISBURSEMENTS
4/9/2019 - 4/18/2019
Check# 45197 - 45251

Date	Check #	Amount	Vendor	Department	Description
April 9, 2019	45197	\$4,398.24	AMERITAS GROUP	GENERAL	DENTAL & VISION INSURANCE FOR MAY 2019
April 9, 2019	45198	\$26,508.39	GUTHRIE PETROLEUM	GENERAL-WATER-SEWER-STREETS	(6773 GAL) UNLEADED GASOLINE & (1794 GAL) BLK DIESEL FUEL NO.2
April 9, 2019	45199	\$277.40	AT&T	GENERAL-WATER-SEWER	MONTHLY SERVICES 3/26/19 - 4/25/19 FOR 559-266-6456
April 16, 2019	45200	\$100,627.00	WESTAMERICA BANK	GENERAL	PAYROLL TRANSFER 4/1/19 - 4/14/19
April 17, 2019	45201	\$2,476.36	ACME ROTARY BROOM SERVICES	STREETS	(16EA) E5TH SCHWARZE TORNADO SWEEPER GUTTER BROOM
April 17, 2019	45202	\$2,815.00	ADMINISTRATION SOLUTIONS, INC	GENERAL	(7) HRA ADMINISTRATION - APRIL 2019 (PD), (17) MONTHLY MEDICAL ADMINISTRATION FEE - APRIL 2019, MEDICAL CHECK RUN 4/16/19
April 17, 2019	45203	\$802.92	AFLAC INSURANCE	GENERAL	AFLAC INSURANCE FOR APRIL 2019
April 17, 2019	45204	\$29.75	AIRGAS USA, INC.	WATER	(1) RENT CYL IND SMALL CARBON DIOXIDE MARCH 2019
April 17, 2019	45205	\$218.20	ALERT-O-LITE	GENERAL	EARTH DAY - (1) MINI SKID STEER, TRENCH ATTACHMENT, RENTAL
April 17, 2019	45206	\$734.48	GREGG ANDREOTTI	GENERAL	BCSS GRANT REIMBURSEMENT - DISCK SPORTS GOODS PURCHASES MYR & WSY, EXPENSE REIMBURSEMENT - LUNCH MEETING FRESNO COUNTY
April 17, 2019	45207	\$107.64	AUTOZONE INC	GENERAL	POLICE DEPARTMENT VEHICLE SUPPLIES - (1) DURALAST 22" WIPER BLADE, (1) 26" WIPER BLADE, (1) RAIN-X SPRAY
April 17, 2019	45208	\$400.00	BAR PSYCHOLOGICAL GROUP	GENERAL	(1) POST PRE-EMPLOYMENT PSYCH SCREEN (PD)
April 17, 2019	45209	\$942.62	BEST UNIFORM	GENERAL	(1) BODY ARMOR (PD)
April 17, 2019	45210	\$358.00	BMI	GENERAL	MUSIC LICENSE FEE 4/1/2019 - 3/31/2020
April 17, 2019	45211	\$315.29	BSN SPORTS INC.	GENERAL	BASEBALL DIAMOND - (1) SET OF BASES (1) SET OF ANCHOR
April 17, 2019	45212	\$53.34	CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC	STREETS	(5) FLOUR LAMP & (1) WORK RIGHT GLOVE - STREET LIGHTS
April 17, 2019	45213	\$384.70	CHEMSEARCH	SEWER	(2) PIT BOSS 5 GAL US NC - WWTP
April 17, 2019	45214	\$185.00	CITY AUTO GLASS	GENERAL-WATER-SEWER	AWOP - VAN REAR GLASS REPLACEMENT
April 17, 2019	45215	\$1,332.81	COMCAST	GENERAL-WATER-SEWER	CITYWIDE XFINITY SERVICES 4/6/19 - 5/5/19
April 17, 2019	45216	\$2,150.00	CORBIN WILLITS SY'S INC.	GENERAL-WATER-SEWER	SERVICES & ENHANCEMENT SET UP, TESTING, & TRAINING, SERVICES & ENHANCEMENT TRAINING FOR CAL-PERS PAYROLL
April 17, 2019	45217	\$840.00	D&D DISPOSAL INC	GENERAL	ANIMAL CONTROL DISPOSAL SERVICES MARCH 2019
April 17, 2019	45218	\$466.00	DEPARTMENT OF JUSTICE	GENERAL	(3) FINGERPRINT APPS & FBI (1) CHILD ABUSE (PD), (11) BLOOD ALCOHOL ANALYSIS MARCH 2019 (PD)
April 17, 2019	45219	\$890.51	EINERSON'S PREPRESS	GENERAL-WATER-SEWER	ACCOUNTS PAYABLE CHECKS (5000 CT), (2) BUSINESS CARDS (250 CT) (PD)
April 17, 2019	45220	\$1,327.61	EWING, FRESNO	GENERAL	EARTH DAY - WATER LINE PARTS (2440) PVC PIPE, (57) OVC 90 ELL ST, (60) LO BLK 1/2 X 6 CUT-OFF, (55) 1 PVC TEE SSS
April 17, 2019	45221	\$136.00	FRESNO CITY COLLEGE	GENERAL	(2) REGISTRATION #19950 PC832 - FIREARMS, (2) REGISTRATIONS & TEMP PARKING 19939/PC832 - LAWS (C.E.)
April 17, 2019	45222	\$25.35	FERGUSON ENTERPRISES, INC	GENERAL	(2) 20 MFD 4440/370V RND RUN USA CAP CITY HALL A/C UNIT

CITY OF MENDOTA
CASH DISBURSEMENTS
4/9/2019 - 4/18/2019
Check# 45197 - 45251

April 17, 2019	45223	\$11,250.00	FIREBAUGH POLICE DEPARTMENT	GENERAL	POLICE DISPATCH SERVICES FOR MARCH 2019
April 17, 2019	45224	\$2,207.32	FRESNO COUNTY ELECTIONS	GENERAL	NOVEMBER 6, 2018 GENERAL ELECTIONS
April 17, 2019	45225	\$388.82	FRESNO COUNTY SHERIFF	GENERAL	RMD JMS ACCESS FEE FOR MARCH 2019, (9) PRISONER PROFESSIONAL SERVICES 2ND & 3RD QUARTER 10/1/18 - 3/31/19 (PD)
April 17, 2019	45226	\$72.50	GIERSCH & ASSOCIATES INC.	WATER	PROFESSIONAL SERVICES - MENDOTA WATER GENERAL 2019 ENGINEERING
April 17, 2019	45227	\$3,500.00	HARDIN-DAVIDSON ENGINEERING	AVIATION	AIRPORT M90 HANGERS SERVICES
April 17, 2019	45228	\$15.01	HAVEN'S TOTAL SECURITY INC.	GENERAL	(2) BEST, ACE, & BARREL KEYS FOR BASEBALL DIAMOND
April 17, 2019	45229	\$654.75	INSTRUMENT TECHNOLOGY CORPORATION	WATER	(3) SAWS - BO BOPPER SINGLE MAGNET VALVE COVER
April 17, 2019	45230	\$840.00	KERWEST NEWSPAPER	GENERAL	(8) ADOPTION ORDINANCE NO. 19-03 NUISANCE, (6) SUMMARY OF ORD NO 19-01 LA COLONIA PASS THRU, (7.5) ADOPTIN OF ORD NO. 19-02 ZONING
April 17, 2019	45231	\$1,087.82	KOPPEL & GRUBER	CFD	CFD NO. 2006-1 (PD & FIRE SERVICES) ANNUAL ADMINISTRATION
April 17, 2019	45232	\$48.40	LAGERLOF, SENEAL, GOSNEY, & KRUSE, LLP	WATER-SEWER	PROFESSIONAL SERVICES - RENDERED 3/31/19 RE: FORM 8038-G
April 17, 2019	45233	\$600.00	LAW & ASSOCIATES INVESTIGATIONS	GENERAL	LAW ENFORCEMENT BACKGROUND INVESTIGATION (PD)
April 17, 2019	45234	\$450.00	LIGHTHOUSE ELECTRICAL INC	SEWER	WWTP - HOOK/TERMINATE NEW CONTROLS MOTOR STARTER
April 17, 2019	45235	\$1,047.32	LOS BANOS VETERINARY CLINIC	GENERAL	(11) ANIMAL CONTROL EUTHANASIA & (15) DA2P - PV & BORDETELIA FOR JANUARY, FEBRUARY, AND MARCH
April 17, 2019	45236	\$1,866.82	MAACO COLLISION REPAIR	GENERAL	UNIT#81 - 2015 FORD EXPLORER INTERCEPTOR PAINT, BODY, & LABOR (PD)
April 17, 2019	45237	\$56,736.00	MID VALLEY DISPOSAL INC	STREETS	ROLL OFF BIN EXCHANGE 10Y (QTY 11.24, 13.50, 13.90, 15.01) AND SANITATION CONTRACT SERVICES FOR APRIL 2019
April 17, 2019	45238	\$352.59	OFFICE DEPOT	GENERAL-WATER-SEWER	MULTIPLE DEPARTMENT OFFICE SUPPLIES
April 17, 2019	45239	\$289.61	PAPE MICHINERY	WATER-STREETS	BACKHOE #11 - (2) TUBE, (10) WASHER, (2) SNAP RING
April 17, 2019	45240	\$30,209.27	PROVOST & PRITCHARD	GENERAL-WATER-SEWER	PASSTHRU - PROFESSIONAL SERVICES - DECEMBER 2017 JANUARY 2018 FEBRUARY 2019 AMOR MEDICAL CTR, CITY ENGINEERING RETAINER
April 17, 2019	45241	\$256.58	RAMON'S TIRE & AUTO SERVICE	GENERAL-WATER-SEWER	MULTIPLE DEPARTMENT TIRE REPAIR (3) ROTATION, BALANCE, & PATCHING
April 17, 2019	45242	\$731.94	ERNEST PACKING SOLUTIONS	GENERAL-WATER-SEWER	JANITORIAL SUPPLIES - (6) TORK PREM (2) CAN LINER (20) LARGE GLOVES
April 17, 2019	45243	\$2,265.46	SORENSEN MACHINE WORKS	GENERAL-WATER-SEWER-STREETS	MULTIPLE DEPARTMENT SUPPLIES FOR MARCH 2019
April 17, 2019	45244	\$194.85	TCM INVESTMENTS	GENERAL	MPC3503 LEASE PAYMENT FOR COPIER (PD)
April 17, 2019	45245	\$12.41	THE FRESNO BEE	GENERAL-WATER-SEWER	FINAL CLOSING BILL FOR NEWSPAPER SERVICES
April 17, 2019	45246	\$765.19	THOMASON TRACTOR COMPANY	GENERAL	(1) UNIVERSAL JOINT BEARING (1) CLUTCH
April 17, 2019	45247	\$275.00	UNITED HEALTH CENTERS	GENERAL	PRE-EMPLOYMENT SCREEN (PD)

CITY OF MENDOTA
 CASH DISBURSEMENTS
 4/9/2019 - 4/18/2019
 Check# 45197 - 45251

April 17, 2019	45248	\$1,045.21	UNITED RENTALS NORTHWEST	GENERAL	EARTH DAY - (1) TRENCHER 16-27HP DITCHWITCH
April 17, 2019	45249	\$2,586.98	USA BLUEBOOK	WATER-SEWER	(4) 5LB BIG BLUE BIO BLOCK, (1) PROSOLO ODO/CT KIT 4M CABLE PROBE ASSM, (3) FREE CHLORINE REAGENT SET FOR HACH, (1) MEDIA ROLL MERV
April 17, 2019	45250	\$1,015.33	VERIZON WIRELESS	GENERAL-WATER-SEWER	CITYWIDE CELL PHONE SERVICES 3/7/19 - 4/6/19
April 17, 2019	45251	\$34,870.70	HAYDON CONSTRUCTION INC	SEWER	LOZANO LIFT STATION IMPROVEMENTS 11/21/2018 - 3/21/2019
		\$304,438.49			

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: NANCY M. DIAZ, FINANCE ADMINISTRATIVE SUPERVISOR
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: USED MATTRESS COLLECTION SERVICES AGREEMENT
DATE: APRIL 23, 2019

ISSUE

Should the City Council approve and authorize the City Manager to sign a Used Mattress Collection Services Agreement with Mattress Recycling Council California, LLC for the California Used Mattress Recycling Program?

BACKGROUND

The Mattress Recycling Council (MRC) is a mattress recycling organization certified by the State of California to plan and implement a mattress recycling program in California. The MRC is an authorized program as set forth in California Public Resources Code to negotiate and execute agreements to collect and transport used mattresses for recycling.

ANALYSIS

The California Used Mattress Recycling Program will allow the City to participate in two programs for recycling mattresses and box springs:

- 1) Drop-off Location: There will be a bin located at the Public Works Yard, 912 Marie Street. Residents will be allowed to discard their used mattresses and box springs at no-cost. The City will submit a monthly invoice to MRC to reimburse the unit(s) at a rate determined by the MRC.
- 2) Illegal Dumping: This program will allow the City of Mendota to collect the used mattresses and box springs that are illegally dumped to be recycled. At the end of the calendar year, the City will receive a check based on how many unit(s) had been collected by illegal dumping.

There is no program in place to allow residents to drop-off or discard used mattresses and box springs on a weekly basis. The residents are allowed at our “Community Clean-Up” events hosted by Mid Valley Disposal to discard mattresses/box springs at no cost. However, this event has been held twice a year. By applying for the “California Used Mattress Recycling Program”, the City will be able to recover a minimal cost for the illegal dumping and allow residents to drop-off their used mattresses and box springs at our City Yard all year long.

FISCAL IMPACT

To be determined by the Mattress Recycling Council California, LLC for both programs.

RECOMMENDATION

Staff recommends that the City Council approve and authorize the City Manager to execute a Used Mattress Collection Services Agreement with the MRC.

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
USED MATTRESS COLLECTION SERVICES
AGREEMENT WITH MATTRESS RECYCLING
COUNCIL CALIFORNIA, LLC (MRC)**

RESOLUTION NO. 19-24

WHEREAS, as set forth in California Public Resources Code 42985 *et seq.*, the State of California established the Used Mattress Recovery and Recycling Act to require manufacturers of mattresses sold in this state to develop, finance and implement a convenient and cost-effective program to recover and recycle used mattresses generated in this state;

WHEREAS, the Mattress Recycling Council California, LLC (MRC) is an organization certified by the State of California to negotiate and execute agreements to collect and transport used mattresses for recycling; and

WHEREAS, the community of Mendota will benefit from this program by being allowed to drop-off their used mattresses and box springs to be recycled; and

WHEREAS, the City will also be able to dispose of mattresses and box springs that are illegally dumped; and

WHEREAS, the Used Mattress Collection Services Agreement attached hereto as Exhibit "A" and incorporated herein by this reference, between the City of Mendota and MRC, authorizes the City to collect used mattresses and box springs to be recycled; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota approves the Used Mattress Collection Services Agreement by and between the City of Mendota and Mattress Recycling Council California, LLC is hereby approved, and the City Manager is authorized and directed to execute same.

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 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

Exhibit A

**California Used Mattress Recycling Program
Used Mattress Collection Services Agreement**

Between

Mattress Recycling Council California, LLC

and

City of Mendota

**California Used Mattress Recycling Program
Collection Facility and Used Mattress Management Services Agreement**

This Agreement is made on this 23 day of April, 2019 ("Agreement") by and between City of Mendota located at 643 Quince Street, Mendota, CA 93640 (the "Service Provider") and Mattress Recycling Council California, LLC, a Delaware limited liability company having its offices at 501 Wythe Street, Alexandria, VA 22314 ("MRC").

RECITALS

Whereas, MRC is the "mattress recycling organization" certified by the State of California to plan and implement a mattress recycling program in California (the "Program"), as set forth in California Public Resources Code §§ 42985 – 42994 (2014) (the "Act"), and is organized (among other things) to negotiate and execute agreements to collect and transport used mattresses for recycling;

Whereas, California Public Resources Code § 42987.1(o) requires that MRC develop and submit to the state of California a recycling plan that (among other things) provides for MRC to pay an amount to a municipal or solid waste facility or operation that accepts used mattresses dropped off by California residents at no charge (a facility) that both MRC and the facility determine is reasonable for the facility to accept, store, and handle such mattresses;

Whereas, the Service Provider operates one or more such facility(ies) in California;

Whereas, MRC and the Service Provider, pursuant to § 42987.1(o), wish to enter into this Agreement, which describes the terms and conditions under which the Service Provider will provide the Services described herein to MRC;

Now, therefore, for and in consideration of the terms of this Agreement and the mutual promises and covenants contained herein, the parties hereto agree as follows:

ARTICLE 1 – DEFINITIONS

- 1.1 "Consolidate" means (as applicable) accepting, handling, storing, and packing only acceptable Program Products into Collection Containers provided by, or approved for use by, MRC or its subcontractors in a manner that is efficient, complies with the requirements of MRC or its subcontractors, and is conducive to safe and efficient transport.
- 1.2 "Collection Containers" are containers provided by, or approved for use by, MRC or its contractors to hold and transport Program Products.
- 1.3 "Collection Facility(ies)" means all permanent or temporary collection facilities that are owned, leased, subleased, or otherwise controlled by the Service

Provider and designated by the Program to collect Program Products, and as specifically identified in Attachment E (“Collection Facility Information”).

- 1.4 “Effective Date” means the date that the parties’ obligations begin under this Agreement. The Effective Date is the first date shown above.
- 1.5 “Force Majeure” is defined in 14.2.
- 1.6 “Guidelines” are listed in Attachment D, and give a more specific overview of how the Program is to be implemented. MRC reserves the right to update, change, modify, amend, add or remove terms, or otherwise alter these Guidelines at any time with or without prior notice.
- 1.7 “Including” (whether or not capitalized) means “including but not limited to.”
- 1.8 “Initial Term” is defined in Article 2.1.
- 1.9 “Law” means all existing and future federal, state, and local statutes, laws, codes, ordinances, decrees, rules, regulations, requirements, and orders, of any governmental authority, entity, or agency whether federal, state, municipal, local, or other government body or subdivision, including those relating to unemployment compensation, worker’s compensation, disability, taxes, worker and public health and safety, the environment, and the Program.
- 1.10 “Materials and Activities” mean materials, supplies, tools, vehicles, equipment, labor, water, light, power, facilities, construction of any nature, supervision, and all other services, acts, activities, resources, and goods, but not Collection Containers, necessary for or otherwise used by the Service Provider to Collect, Pack, and otherwise comply with and fully perform its obligations under the Agreement.
- 1.11 “Non-Conforming Units” are Program Products that individual residents drop off at no-cost for recycling that are later determined to be contaminated or too damaged to recycle, and they must be disposed of as solid waste. Non-Conforming Units do not include any Units delivered by any entity other than an individual resident (i.e., a business or other entity).
- 1.12 “Non-Program Products” mean products not covered by the Program that are collected and/or managed by the Service Provider. Non-Program Products include: sleeping bags, pillows, an unattached mattress pad or mattress topper (even items with resilient filling intended to be used with or on top of a mattress), a car bed, crib or bassinet mattress, juvenile products or the pads used for such juvenile products, waterbeds, air mattresses that contain no upholstery material (such as a camping mattress), sofa beds and futons.
- 1.13 “Program Products” include “mattresses” (which are defined as a resilient material or combination of materials that is enclosed by a ticking [the outermost layer of fabric or related material of a mattress] and is intended or promoted for sleeping upon), “foundations” (for example, a box spring, which is used to support a mattress and may include constructed wood or other frames, steel

springs, or other materials used alone or in combination), and a renovated mattress or renovated foundation.

- 1.14 "Program" means the California Used Mattress Recycling Program created by MRC.
- 1.15 "Services" means all services for which Service Provider is responsible, as described in this Agreement and in the Attachments hereto, including any and all Materials and Activities.
- 1.16 "State" means the State of California.
- 1.17 "Storage and Transportation Services Option" means the Service Provider's option to provide its own storage and transportation of Program Products from their collection location to an MRC-contracted recycler. If this option is selected on Attachment A, Service Provider will be bound to the terms in Attachment F "Storage and Transportation Services" for such Services.
- 1.18 "Temporary Collection Events" mean an event hosted by the Service Provider to Consolidate Program Products at locations within the State that are short in duration and not at permanent collection facilities.
- 1.19 "Transportation Providers" or "Transporter" means a contractor hired by MRC or Service Provider to transport Program Products from the Collection Facilities or Temporary Collection Events. This term will apply to the Service Provider if Service Provider selects the Storage and Transportation Option listed on Attachment A.
- 1.20 "Unit" means a single Program Product dropped off at a facility by a California resident at no charge. For example, an individual mattress and an individual box spring would each be a single Unit.

ARTICLE 2 – TERM OF AGREEMENT

- 2.1 This Agreement will commence upon the Effective Date and will remain in full force and effect for a period of two (2) years (the "Initial Term").
- 2.2 Immediately after expiration of the Initial Term, this Agreement will automatically renew for additional successive one (1) year terms unless either party notifies the other in writing at least sixty (60) days in advance of the renewal term commencement date that the Agreement will not be renewed. The consideration of each option year will be the same as the consideration during the previous contract period, unless otherwise agreed to in writing by MRC.
- 2.3 If either party provides notice that the Agreement will not be renewed, the Service Provider, before the end of the term of the Agreement or at another time agreed to in writing by the parties, will, at no additional cost to MRC (a) make all Collection Containers supplied by MRC or a subcontractor available for pick up by a Transportation Provider, (b) undertake the orderly cessation of the Services, and (c) cooperate fully at the direction of MRC in the orderly transition of the Services to its successor, if any.

ARTICLE 3 – GENERAL OBLIGATIONS OF THE SERVICE PROVIDER

- 3.1 In consideration of MRC's payments, if any, to the Service Provider for Services, and for activities undertaken at MRC's expense, the Service Provider will perform the Services provided for in Attachment A ("Scope of Work") in conformity with the Program and Guidelines, except to the extent the Program and/or Guidelines conflict with the terms of this Agreement or any applicable Law.
- 3.2 The Service Provider will manage all Program Products Collected at the Collection Facilities only in accordance with Attachment A ("Scope of Work"), and will not dispose of Program Products in any other method without the prior written approval of MRC.
- 3.3 The Service Provider will be responsible for:
 - a. making day-to-day and critical decisions regarding the Services, including the management and supervision of all activities comprising the Services;
 - b. complying with all applicable Law; and
 - c. securing and locking the Collection Facilities at all times when the facilities are closed or not attended.
- 3.4 The Service Provider may amend Attachment E ("Collection Facility Information") to add or delete sites, subject to MRC's prior written approval for each such addition/deletion.
- 3.5 The Service Provider is responsible for and will manage, at its sole expense, any and all Non-Program Products it collects at the Collection Facilities or places in Collection Containers. MRC accepts no responsibility for such Non-Program Products, and will not pay Service Provider any consideration in connection with such Non-Program Products.
- 3.6 The Service Provider will not charge a per-unit fee to California residents that drop off Program Products with the Service Provider. This section does not preclude the Service Provider from charging fees for curbside collection or services other than Program Product drop off. Nothing in this Agreement prohibits the Service Provider from charging fees to California residents, businesses, or other entities for dropping off Non-Program Products.
- 3.7 The Service Provider will inspect each Unit before placing it in a Collection Container to confirm whether it is a Program Product. Service Provider will separate and document Non-Conforming Units dropped off by individual residents, will dispose of such Units as solid waste, and then will invoice MRC for such Units at rates listed in Attachment B. Non-Conforming Units obtained from businesses or other entities receive no compensation from MRC.
- 3.8 The Service Provider will provide the Services at its own risk and take every precaution to protect all public and private property during the performance of the Services. If the Service Provider's personnel or equipment cause any damage to the property of MRC or its contractors, the Service Provider, at its sole expense, will promptly replace the damaged property or repair it to the condition existing before the damage.

- 3.9 The Service Provider will thoroughly familiarize itself with the nature and scope of the Services under this Agreement and with matters that may affect the Services, including the Law governing the Services, Guidelines, and this Agreement. Any failure by the Service Provider to thoroughly familiarize itself with such matters does not relieve the Service Provider of its obligations under this Agreement.
- 3.10 Work under this Agreement will be performed only by competent personnel under the indirect or direct management or supervision of the Service Provider.
- 3.11 The Service Provider will commit adequate resources to participate in the Program and meet its obligations under this Agreement, including providing, at its sole expense, any and all Materials and Activities.
- 3.12 The reporting and notification requirements identified in Attachment A (“Scope of Work”) and elsewhere in this Agreement are an integral part of the Services. The Service Provider will comply with all reasonable requests from MRC for preparation, access, review, and/or adjustment of these deliverables throughout the term of this Agreement.
- 3.13 The Service Provider will inspect the Collection Containers upon arrival and determine whether they are in proper condition for use. MRC or its contractor is responsible for replacing any defective Collection Containers and repairing normal wear-and-tear to the Collection Containers. The Service Provider will immediately notify MRC if at any point during the term of the Agreement a Collection Container(s) is not in proper condition for use and will not use any such defective Collection Containers until they are repaired or replaced by MRC or its contractor. If a Collection Container is functional, but is delivered in a damaged condition, the Service Provider will notify MRC or its contractor in writing of the nature and location of such damage upon the arrival of the Collection Container.

ARTICLE 4 – SERVICE PROVIDER REPRESENTATIONS AND WARRANTIES

- 4.1 The Service Provider represents, covenants, and warrants that:
 - a. it is a Municipality [specify entity type – e.g., corporation, limited liability company, municipality] in good standing and qualified to carry on business in California, and has all necessary approval, capacity, and authority to enter into this Agreement and fully perform its obligations under this Agreement;
 - b. this Agreement does not in any way conflict with any other agreements of the Service Provider;
 - c. it possesses the business, professional, and technical expertise, as well as training, Materials and Activities, facilities, and equipment necessary and required to perform the Services;
 - d. it will perform the Services in a diligent, safe, and workmanlike manner that conforms with generally accepted industry, professional, and best

management practices, and with the care and skill ordinarily exercised, for such Services; and

- e. it and/or its facilities, equipment, employees, or agents, have been issued, as of the date of this Agreement and throughout the term of the Agreement, all permits, licenses, certificates, or approvals required by applicable statutes, ordinances, orders, rules, regulations, and regulatory or administrative bodies necessary to perform the Services.

ARTICLE 5 – MRC OBLIGATIONS

- 5.1 Upon receiving a request from the Service Provider, MRC will arrange for timely pick-up by a Transportation Provider of Program Products Consolidated by the Service Provider. MRC or an MRC contractor will, at its expense, arrange for the Transportation Provider to transport such Program Products after pick-up to intermediary locations, processors, or other final destinations that are part of the Program.
- 5.2 MRC will make available to the Service Provider consumer brochures and signage.
- 5.3 MRC's Transportation Provider will provide Collection Containers to the Service Provider, or approve use of the Service Provider's containers as Collection Containers, for each of the Collection Facilities. All Collection Containers supplied by MRC or a subcontractor will remain the property of the MRC or subcontractor (as applicable).
- 5.4 MRC has no authority to manage, direct, or supervise employees, representatives, or agents of the Service Provider, including how they perform the work and achieve compliance with applicable Law. MRC does not have responsibility for making day-to-day and critical decisions regarding the Services, including the management or supervision of any activities comprising the Services.
- 5.5 Nothing herein creates an exclusive arrangement between MRC and the Service Provider. The Service Provider may not restrict MRC from contracting with other entities under the Program.

ARTICLE 6 – COVENANTS OF MRC

- 6.1 MRC covenants, represents, and warrants that:
 - a. it is a non-profit corporation validly existing under the laws of Delaware;
 - b. it has the corporate power, capacity, and authority to enter into and complete this Agreement; and
 - c. the execution and delivery of this Agreement has been validly authorized by all necessary corporate actions by MRC.

ARTICLE 7 – AGREEMENT TERMINATION

- 7.1 The Service Provider acknowledges that, except for any payments for rendering Services as specifically provided for in Attachment A (“Scope of Work”) of this Agreement at the Compensation Rates set in Attachment B, it will not receive any other monetary payments under this Agreement.
- 7.2 MRC or the Service Provider may terminate this Agreement at any time without cause upon sixty (60) days’ written notice to the other party.
- 7.3 Either party may terminate this Agreement or any Services under this Agreement immediately, upon prior written notice if the other party:
- a) has breached any material provision of this Agreement, and has failed to cure such breach within thirty (30) days of receiving written notification of such breach; or
 - b) has violated applicable Law.
- 7.4 MRC may terminate this Agreement immediately:
- a) if Service Provider fails to maintain the insurance requirements described in this Agreement; or
 - b) upon a finding by MRC in its sole and reasonable opinion that Service Provider has acted fraudulently or dishonestly in providing Storage and Transportation Services (as applicable).
- 7.5 This Agreement is contingent upon MRC’s ability to fund the Program through fees collected on Mattress sales in the State. MRC may terminate the Agreement immediately upon written notice if such funding is reduced to such an extent that, in MRC’s sole and reasonable opinion, it is unable to fulfill its duties under this Agreement.

ARTICLE 8 – TITLE AND RISK OF LOSS

- 8.1 The parties acknowledge that the Program Products are not household hazardous waste.
- 8.2 The Service Provider (and not MRC) has title to and risk of loss and liability for any and all Program Products, Non-Conforming Units and Non-Program Products that the Service Provider receives. Notwithstanding the foregoing, once a Transportation Provider accepts for transportation any Program Products Collected by the Service Provider under this Agreement and Consolidated on a Collection Container, title to and risk of loss as to those Program Products, will transfer to that Transportation Provider. MRC at no time takes title to or assumes liability for any Program Products, Non-Conforming Units or Non-Program Products. However, MRC will require in its contracts with its Transportation Providers that they accept title and risk of loss immediately upon accepting any Program Products for transportation from the Service Provider.

- 8.3 MRC is not responsible for any damage to persons or property resulting from the use, misuse, or failure of any equipment used by the Service Provider, or by any of its employees or contractors, including the Collection Containers, even if such equipment is furnished, rented, or loaned to the Service Provider by MRC.

ARTICLE 9 – CONSIDERATION AND PAYMENT

- 9.1 As consideration under this Agreement, MRC or its contractors will (i) provide the Service Provider with Collection Containers, consumer brochures, and signage; (ii) facilitate the transportation of Program Products by Transportation Providers as set forth in this Agreement; (iii) pay the Service Provider for Services rendered as set forth in this Agreement; and (iv) perform other services incidental to the management of the Program.
- 9.2 MRC's payment to Service Provider for Services Rendered in the manner set forth in Attachment B ("Compensation Rates") will be made in U.S. currency. Other than such payments, MRC will not provide the Service Provider with any monetary compensation or reimbursement for the Service Provider's Collection of Program Products, furnishing of the Materials and Activities, or its performance of the Services.
- 9.3 The Service Provider will invoice MRC on a monthly basis, either by hardcopy or electronically, as determined by MRC. Invoices furnished by the Service Provider under this Agreement must include the information included in Attachment C ("Model Invoice") and must state:
- a. the unique, identifying invoice number;
 - b. the specific work categories of Services provided for under the Agreement;
 - c. the specific number of Units consolidated;
 - d. copies of each Transportation Bill of Lading or equivalent shipping documentation that includes the information included in Attachment D's "Model Bill of Lading" validating the number of units consolidated; and
 - e. any additional information as agreed to in writing by the parties that is relevant to the Services being performed by the Service Provider.
- 9.4 Each invoice must include the signature of the Service Provider employee responsible for submitting the invoice and a certification that the invoice accurately reflects the Services performed.
- 9.5 MRC reserves the right to refuse payment of any invoice or portion thereof that is not received in an acceptable form.
- 9.6 All amounts invoiced by the Service Provider to MRC, or paid by MRC to the Service Provider, are subject to audit by MRC, as described below in ARTICLE 10 – AUDIT AND INSPECTION RIGHTS OF MRC.

9.7 The Service Provider will submit all invoices to MRC by the method directed by MRC and/or at the address specified below. MRC will send all payments due to the Service Provider to the address specified below.

To: Mattress Recycling Council California, LLC
Attn: Accounts Payable
Phone: 1-855-229-1691
E-mail: payables@mattressrecyclingcouncil.org
Address: 501 Wythe Street Alexandria, VA 22314

MRC will send all payments due to the Service Provider to the address specified below.

To: City of Mendota
Attn: Nancy Diaz
Phone: (559) 655-3291
E-mail: nancy@cityofmendota.com
Address: 643 Quince Street, Mendota, CA 93640

9.8 Provided that the Service Provider has supplied the required information and otherwise performed its obligations under this Agreement, MRC will pay such invoice within forty-five (45) days of the date that MRC receives the invoice. In the event MRC has a good-faith objection to an invoice, MRC will pay the undisputed amount pursuant to the terms of this Agreement and notify in writing the Service Provider of said objections and describe in reasonable detail the basis for the objections. The Dispute Resolution provisions in ARTICLE 17 - DISPUTE RESOLUTION will be used to resolve such disputed portion of an invoice. During any such dispute, the Service Provider will continue with its responsibilities under this Agreement and will not stop providing the Services unless this Agreement is terminated pursuant to Article 7. MRC will make all payments due to the Service Provider over which there is no good-faith dispute.

9.9 MRC's payment of all or a part of an invoice neither relieves the Service Provider of any of its obligations under this Agreement nor constitutes a waiver of any claims by MRC.

9.10 The Service Provider warrants that, to the best of its knowledge, all documents, including invoices, billings, back-up information for invoices, and reports, submitted by the Service Provider to MRC to support amounts invoiced in connection with the Services truly reflect the facts about the activities and transactions to which they pertain. The Service Provider warrants that MRC, for whatever purpose, may rely upon all such documents and the data therein as being complete and accurate. The Service Provider will promptly notify MRC

upon discovery of any instances where the Service Provider becomes aware of any discrepancies in relation to documents under this Article.

ARTICLE 10 – AUDIT AND INSPECTION RIGHTS OF MRC

- 10.1 MRC and its representatives may (a) monitor and verify that the Service Provider has complied with this Agreement, the applicable Law, and Guidelines; and (b) consult with the Service Provider about such compliance; provided, however, that MRC will not, and affirmatively disclaims any ability to, control, supervise or manage (1) the employees of the Service Provider; (2) the activities undertaken by the Service Provider in the performance of this Agreement; and (3) the means by which the Service Provider meets all requirements, including applicable Law.
- 10.2 MRC may audit and inspect, with full access, the Service Provider’s Collection Facilities during the Collection Facilities’ hours of operation, as well as any other site at which the Service Provider performs the Services. MRC will provide the Service Provider with at least twenty-four (24) hours’ notice before any such audit or inspection.
- 10.3 The Service Provider will maintain and make available to MRC, during regular business hours, accurate books and accounting records relating to its Services under this Agreement. The Service Provider will permit MRC to audit, examine, and make excerpts and transcripts, for any books or records, and to make audits of any invoices, materials, records, and other data related to all other matters covered by this Agreement, unless such documents are confidential in accordance with the California Public Records Act (Govt. Code § 6250 – 6276.48). The Service Provider will maintain such data and records in an accessible location and condition for a period of not less than three (3) years from the date produced under this Agreement or until after final audit has been resolved, whichever is later. The Service Provider will include this requirement in any subcontract for the performance of any of the Services under this Agreement.
- 10.4 In addition to those reports detailed in Attachment A (“Scope of Work”), the Service Provider will maintain the following records:
 - a. For each pick-up of Program Products by a Transportation Provider from a Collection Facility, a copy of the Bill of Lading or equivalent shipping documentation that includes the information included in Attachment D’s “Model Bill of Lading”, that will be provided by the Transporter;
 - b. Records confirming the number of Units the Service Provider received at each Collection Facility including:
 - i. The number transported to MRC-contracted recyclers,
 - ii. The number of Non-Conforming Units dropped off by individual residents that Service Provider disposes of as solid waste, and
 - iii. The number transported to other entities;

- c. Records of any inspections required by Law; and
- d. Records of compliance for any required state and local employee trainings.

ARTICLE 11 – INDEMNIFICATION

- 11.1 The Service Provider, and its successors and assigns (collectively, the “Indemnifying Party”), will, to the fullest extent allowed by law, indemnify, defend, and hold harmless MRC and its sole member (as identified under MRC’s Certificate of Incorporation), and their member companies, officers, directors, stockholders, employees, successors, assigns, attorneys, agents, and invitees (collectively, the “Indemnified Parties”) from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively, “Claims”), including cost of defense, settlement, arbitration, and reasonable attorney’s fees, resulting from injuries to or death of persons, including but not limited to employees of either party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the Indemnifying Party, or the acts or omissions of anyone else directly or indirectly acting on behalf of the Indemnifying Party, its officers, agents, employees, or contractors, or for which the Indemnifying Party is legally liable under law regardless of whether caused in part by an Indemnified Party.
- 11.2 MRC, and its successors and assigns (collectively, the “MRC Indemnifying Party”), will, to the fullest extent allowed by law, indemnify, defend, and hold harmless the Service Provider and its officers, directors, stockholders, employees, successors, assigns, attorneys, agents, and invitees (collectively, the “MRC Indemnified Parties”) from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively, “Claims”), including cost of defense, settlement, arbitration, and reasonable attorney’s fees, resulting from injuries to or death of persons, including but not limited to employees of either party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the MRC Indemnifying Party, or the acts or omissions of anyone else directly or indirectly acting on behalf of the MRC Indemnifying Parties, or for which the MRC Indemnifying Party is legally liable under law excepting only such injury, death, or damage to the extent caused by the active negligence or willful misconduct of an MRC Indemnified Party.
- 11.3 The following provisions apply to Paragraphs 11.1 and 11.2 above:

- a. This indemnity will not be limited by the types and amounts of insurance or self-insurance maintained by the Indemnifying or Indemnified Parties or their contractors;
 - b. Nothing in this indemnity will be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party; and
 - c. The provisions of this indemnity will survive the expiration or termination of this Agreement.
- 11.4 MRC WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR INCIDENTAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF SUCH POTENTIAL DAMAGES. NOTHING IN THIS AGREEMENT CONSTITUTES A WAIVER OR LIMITATION OF ANY RIGHTS THAT MRC MAY HAVE UNDER THE APPLICABLE LAW.

ARTICLE 12 – INSURANCE

- 12.1 The Service Provider at its own expense must maintain environmental and commercial general liability insurance with limits for each of not less than \$1 million for each occurrence, as well as any other insurance, such as, for example and without limitation, worker's compensation and automobile insurance, to the extent and in the amounts required by applicable law.
- 12.2 Service Provider must name MRC and its sole member (as identified under MRC's Certificate of Incorporation), and their officers, agents, and employees as additional insureds on its commercial general liability insurance policy. To the extent the Service Provider's commercial general liability insurance includes a blanket provision adding additional insureds where required by contract, this Agreement is deemed to require that MRC and its sole member (as identified under MRC's Certificate of Incorporation), and their officers, agents, and employees are named as additional insureds on the Service Provider's commercial general liability insurance by separate endorsement. Service Provider's general liability insurance must be on a primary and non-contributory basis to any coverage available to MRC.
- 12.3 If Service Provider exercises the Storage and Transportation Services Option, it will also maintain business automobile insurance with limits of not less than \$1 million combined single limit. Service Provider will provide a Certificate of Insurance with regard to the business automobile coverage that names MRC and its sole member (as identified under MRC's Certificate of Incorporation), and their officers, agents, and employees are named as additional insureds. No exclusion will be permitted in any event if it conflicts with a coverage expressly required in

this Agreement, including but not limited to the indemnity provisions in Article 11 of the Agreement.

- 12.4 Service Provider is required to provide MRC with notification of any cancellation or change in Service Provider's insurance coverage during the period of the Agreement with MRC. Such notification must be made not less than sixty (60) days' prior to the date said cancellation or change becomes effective.
- 12.5 In the event a Certificate of Insurance required by this Article should expire or be cancelled during the term of this Agreement, Service Provider agrees to provide, at least sixty (60) days prior to said expiration or cancellation, a new Certificate of Insurance evidencing coverage, as provided for herein, for not less than the remainder of the Agreement. In the event Service Provider fails to keep in effect at all times insurance coverage as herein provided, MRC may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.
- 12.6 Service Provider will require all third parties that it uses to provide any services under this contract to comply with the same insurance requirements specified above.
- 12.7 Compliance by Service Provider with the foregoing requirements to carry insurance and furnish certificates will not relieve Service Provider from liability assumed under the provisions of this Agreement.
- 12.8 Upon the request of MRC, Service Provider must be able to provide evidence of insurance.

ARTICLE 13 – ASSIGNMENT AND SUBCONTRACTING

- 13.1 The Service Provider may not assign, novate, or otherwise transfer (including transfer by operation of law) this Agreement or the obligations and rights hereunder without the express written consent of MRC, which consent will not be unreasonably withheld. Any change of control by the Service Provider constitutes an assignment that requires prior written consent. A "change of control" includes, among other items, any merger, consolidation, sale of all or substantially all of the assets, or sale of a substantial block of stock. Any attempted assignment, novation, or other transfer made in violation of this Article is void and has no effect.
- 13.2 MRC may not assign, novate, or otherwise transfer (including transfer by operation of law) this Agreement or the obligations and rights hereunder without the express written consent of the Service Provider, which consent will not be unreasonably withheld. Any change of control by MRC constitutes an assignment that requires prior written consent. Any attempted assignment, novation, or other transfer made in violation of this Article is void and has no effect.
- 13.3 The Service Provider may subcontract any part of the Services with MRC's prior written permission, such permission not to be unreasonably withheld. As part of

any subcontract relating to this Agreement, the Service Provider must include the following Articles and Attachments to the extent applicable for the Services being provided by the Subcontractor: ARTICLE 8 – TITLE AND RISK OF LOSS, ARTICLE 10 – AUDIT AND INSPECTION RIGHTS OF MRC, ARTICLE 12 - INSURANCE, ARTICLE 18 – COMPLIANCE WITH LAW, ARTICLE 19 – CONFIDENTIALITY/PUBLICITY, Attachment A (“Scope of Work”), and Attachment D (“Guidelines”). Nothing contained in this Agreement or otherwise creates any contractual relationship between MRC and any subcontractor of the Service Provider. A subcontract does not relieve the Service Provider of its responsibilities and obligations hereunder. The Service Provider is as fully responsible to MRC for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Service Provider.

- 13.4 The Service Provider’s obligation to pay its subcontractors is an obligation independent from MRC’s obligation to make payments to the Service Provider. As a result, MRC has no obligation to pay or to enforce the payment of any moneys to any subcontractor of the Service Provider.

ARTICLE 14 – FORCE MAJEURE

- 14.1 Any delay or failure of either party to perform its obligations hereunder will be suspended if, and to the extent, it is caused by the occurrence of a Force Majeure. In the event that either party intends to rely upon the occurrence of a Force Majeure to suspend or to terminate its obligations, such party will notify the other party in writing, in accordance with the requirements of Article 15, within 2 business days after becoming aware of the Force Majeure, or as soon as reasonably possible, setting forth the particulars of the circumstances. Written notices will likewise be given after the effect of such occurrence has ceased.
- 14.2 An occurrence of a “Force Majeure” means riots, wars, civil disturbances, insurrections, labor strikes of MRC service providers, contractors or subcontractors, acts of terrorism, epidemics, acts of nature (or any threat of such occurrences) whose effects prevent safe passage of vehicles upon state or federal highways for a continuing period of not less than fourteen (14) days and federal or state government orders, any of which is beyond the reasonable anticipation or control of the applicable party and which prevents performance of this Agreement, but only to the extent that due diligence is being exerted by the applicable party to resume performance at the earliest possible time.

ARTICLE 15 – NOTICES

- 15.1 Except where otherwise expressly authorized, notice will be by, facsimile, first class certified or registered mail, or by commercial delivery service issuing a receipt for delivery. Notices will be addressed as set forth below. Either party may change the address information below by providing written notice to the

other party. Notice is effective upon delivery, or if delivery is refused, when delivery is attempted.

To: Mattress Recycling Council California, LLC
Attn: Mike O'Donnell
Email: mikeo@mattressrecyclingcouncil.org
Address: 501 Wythe Street Alexandria, VA 22314

To: City of Mendota
Attn: City Manager
Phone: (559) 655-3291
E-mail: cristian@cityofmendota.com
Address: 643 Quince Street, Mendota, CA 93640

ARTICLE 16 – INDEPENDENT CONTRACTOR STATUS

- 16.1 The parties intend that the Service Provider, in performing the Services specified herein, is acting as an independent contractor and that the Service Provider will control the work and the manner in which it is performed. This Agreement is not intended and may not be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association.
- 16.2 Each party, or its subcontractors, as appropriate, is solely liable and responsible for providing all compensation and benefits due to, or on behalf of, all persons performing work on its behalf in connection with this Agreement. Neither party has any liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the other party.
- 16.3 Each party understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of Workers' Compensation liability, solely employees of that party and not employees of the other party. Each party is solely liable and responsible for furnishing any and all Workers' Compensation benefits to its employees as a result of any injuries arising from or connected with any work performed by or on behalf of that party pursuant to this Agreement.
- 16.4 Third-party Transportation Providers are independent contractors and are not employees, partners, or agents of either party. Neither party is liable for the acts or omissions of third-party Transportation Providers under this Agreement. However, if Service Provider exercises the Storage and Transportation Services Option, Service Provider will be liable for any acts or omissions in providing such services.

ARTICLE 17 - DISPUTE RESOLUTION

- 17.1 Subject to the conditions and limitations of this Article, any controversy or claim arising out of or relating to this Agreement will be exclusively settled by arbitration under the laws of the State of California, in accordance with the rules of the American Arbitration Association.
- 17.2 The parties agree to consolidation of any arbitration between them with any other arbitration involving, arising from, or relating to this Agreement.
- 17.3 Each party hereto accepts the jurisdiction of the courts of the State of California for the purposes of commencing, conducting, and enforcing an arbitration proceeding pursuant to this Article. Each party will accept service of notice of the other party's intent to proceed with arbitration, and of any other step in connection therewith or enforcement thereof, if such notice is in writing and sent by certified letter addressed to said party according to Article 15.1, and such notice will have the same effect as if the party had been personally served within the State of California.
- 17.4 Any decision of an arbitrator engaged under this Article is final, binding, and enforceable upon both parties.
- 17.5 The Service Provider will continue with its responsibilities under this Agreement during any dispute.
- 17.6 The parties will continue to work during the dispute resolution process in a diligent and timely manner in accordance with all applicable provisions of this Agreement.
- 17.7 Each party hereto will bear the costs and expenses incurred by it in connection with such arbitration processes. The cost of any independent decision maker will be shared equally between the parties.

ARTICLE 18 – COMPLIANCE WITH LAW

- 18.1 Each party will comply with all Law applicable to this Agreement.
- 18.2 The Service Provider will promptly notify MRC in writing upon discovery of any failure, or any allegation of any failure, of the Service Provider or other persons or entities to comply with any applicable Law relevant to the performance of Services or any requirement of this Agreement.
- 18.3 Duties and obligations imposed by this Agreement, and rights and remedies available thereunder, are in addition to (and not a limitation of) duties, obligations, rights, and remedies otherwise imposed or afforded by applicable Law.
- 18.4 MRC will comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implemented regulations.

- 18.5 If services under this Agreement are funded with state funds granted to Service Provider, MRC will not utilize any such funds to assist, promote or deter union organization by employees performing work under this Agreement and will comply with the provisions of Government Code Sections 16645 through 16649.
- 18.6 The Service Provider will provide MRC with sixty (60) days' prior written notice before entering into negotiations or engaging in any direct or indirect lobbying activities with any government authority or agency to develop any variance or revision to Cal. Public Resources Code §§ 42985 – 42994.

ARTICLE 19 – CONFIDENTIALITY/PUBLICITY

- 19.1 The Service Provider will not disclose any details in connection with this Agreement to any person or entity without MRC's prior written authorization, except as may be otherwise provided hereunder or required by law. However, in recognizing the Service Provider's need to identify its services and related clients to sustain it, MRC will not inhibit the Service Provider from publishing its role in the Program within the following conditions:
- a. The Service Provider may utilize and develop publicity material regarding the MRC Program only upon the prior written consent of MRC, which consent will not be unreasonably withheld; and
 - b. During the term of the Agreement, the Service Provider will not, and will not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of MRC without the prior written consent of MRC, which consent will not be unreasonably withheld.
- 19.2 The Collection Facilities may be listed, referenced, or advertised as collection sites by MRC for the Program during the term of this Agreement.
- 19.3 To the extent that the Service Provider is subject to disclosure requirements under the California Public Records Act (Govt. Code § 6250 – 6276.48) and other applicable federal, state, and local public record laws (collectively, "the Disclosure Laws"), the following additional terms apply:
- a. The Service Provider acknowledges that MRC claims that the pricing information in this Agreement constitutes proprietary information; and
 - b. In the event the Service Provider receives a request for disclosure of such information or disclosure under the Disclosure Laws, the Service Provider will provide MRC with reasonable prior notice, and in no case less than ten (10) days' notice, of the request prior to disclosing the information or documentation. If MRC claims the information or documentation is exempt from disclosure under the Disclosure Laws, it must obtain a protective order, injunctive order, or other appropriate remedy from a California court of law before the Service Provider's deadline for responding to the request. If MRC fails to obtain such judicial relief within that time, the Service Provider may disclose the requested information without any penalty or liability to MRC.

ARTICLE 20 – MISCELLANEOUS PROVISIONS

- 20.1 **No Waiver.** The failure at any time to enforce any provision of this Agreement or failure to exercise any right herein granted does not constitute a waiver of such provision or of such right thereafter to enforce any or all of the provisions of this Agreement.
- 20.2 **Selective Waiver.** Either party may waive any default by the other party under this Agreement by an instrument in writing to that effect and no such waiver will extend to any subsequent or other default by the other party. No failure or delay on the part of either party to exercise any right hereunder operates as a waiver thereof. Either party may elect to selectively and successively enforce its rights hereunder, such rights being cumulative and not alternative.
- 20.3 **Entire Contract/Order of Precedence.** This Agreement and all Attachments and exhibits hereto, and all referenced documents, including the Guidelines, constitute the entire agreement between the parties with respect to the matters herein, and integrates, merges, and supersedes all prior negotiations, representations, or agreements relating thereto, whether written or oral, except to the extent they are expressly incorporated herein. The provisions of this Agreement and the accompanying document are to be construed and interpreted as consistent whenever possible. Any conflicts in this Agreement and the accompanying documents will be resolved in accordance with the following descending order of precedence:
- a. Attachment A (“Scope of Work”);
 - b. Attachment B (“Compensation Rates”);
 - c. Attachment F (“Storage and Transportation Services”), if applicable;
 - d. The terms of this Agreement;
 - e. Attachment D Guidelines;
 - f. Attachment E (“Collection Facility Information”); and
 - g. Attachment C (“Model Invoice”).
- 20.4 **Amendment or Modification.** Unless otherwise provided herein, no amendments, changes, alterations, variations, or modifications to this Agreement will be effective unless in writing and signed by the respective duly authorized officers of the parties hereto.
- 20.5 **Additional Sites.** Service Provider, either currently or in the future, may have additional sites, solid waste facilities, collection facilities or subsidiaries (“Additional Sites”) that it wishes to add to this Agreement. Additional Sites may become a Service Provider under this Agreement by executing its own Compensation Rate form in Attachment B. The Additional Sites will then be governed by the terms of this Agreement and the Attachments hereto (including its personalized Compensation Rate form in Attachment B). Any changes or modifications made by an Additional Site to Attachment B will not affect other Service Providers that exist under this Agreement, nor will it change or modify

any of the other Service Providers' terms, conditions, responsibilities and/or liabilities under this Agreement.

- 20.6 **Governing Law/Venue.** This Agreement is executed and intended to be performed in the State of California, and the laws of that State will govern its interpretation and effect. Any legal proceedings relating to this Agreement will initially be brought before a court of jurisdiction prescribed by law in the State of California.
- 20.7 **Severability.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof will remain in full force and effect and will in no way be affected, impaired, or invalidated thereby.
- 20.8 **Calendar Days.** Any reference to the word "day" or "days" herein will mean calendar day or calendars days, respectively, including weekends and Federal Holidays, unless otherwise expressly provided. If a deadline falls on a weekend or Federal Holiday, the next business day will be the applicable deadline.
- 20.9 **No Third-Party Beneficiary.** This Agreement is intended solely for the benefit of the parties hereto, and no third party has any right or interest in any provision of this Agreement or as a result of any action or inaction by any party in connection therewith.
- 20.10 **Authorization.** Each party represents and warrants that it has full power and authority to enter into this Agreement and to perform its obligations set forth herein. The representative(s) signing this Agreement on behalf of each party represents that he/she has the authority to execute this Agreement on behalf of the applicable party and to bind it to its contractual obligations hereunder.
- 20.11 **Survival of Terms.** All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement will so survive, including but not limited to: ARTICLE 4 – SERVICE PROVIDER REPRESENTATIONS AND WARRANTIES; ARTICLE 8 – TITLE AND RISK OF LOSS; ARTICLE 10 – AUDIT AND INSPECTION RIGHTS OF MRC; ARTICLE 11 – INDEMNIFICATION; ARTICLE 12 – INSURANCE; ARTICLE 16 – INDEPENDENT CONTRACTOR STATUS; ARTICLE 17 - DISPUTE RESOLUTION; ARTICLE 18 – COMPLIANCE WITH LAW; ARTICLE 19 – CONFIDENTIALITY/PUBLICITY; and ARTICLE 20 - MISCELLANEOUS.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be executed by its duly authorized representative on the day and year set forth above.

By:

Authorized Signatory
**Mattress Recycling Council
California, LLC**

Print Name

Print Title

Authorized Signatory
City of Mendota

[Name of Service Provider]

Cristian Gonzalez

Print Name

City Manager

Print Title

ATTACHMENT A: SCOPE OF WORK

As part of the Services under this Agreement, the Service Provider will do the following:

- 1) Provide the Services necessary to consolidate acceptable Program Products dropped off by individual California residents free of charge into Collection Containers for pick up by Transportation Providers.
- 2) Include no Non-Program Products, no Non-Conforming Units and no Units that are unsuitable for recycling in the Collection Containers provided by MRC or its subcontractors.
- 3) If exercising the Storage and Transportation Services Option, Service Provider will provide the services described in Attachment F.
 Please mark here if Service Provider elects to exercise this option.
- 4) If not exercising the Storage and Transportation Services Option for some or all of the Scope of Work, notify Transporter *before* collection containers are full to allow adequate time for Transporter to schedule pick-up services.
- 5) Provide to MRC a minimum of ninety (90) days' advance notice of any Temporary Collection Events conducted by the Service Provider that include the Collection of Program Products dropped off by individual California residents free of charge to be picked up by Transportation Providers at the Temporary Collection Event.
- 6) Provide reports to MRC on a monthly basis, within thirty (30) days after the end of each month, containing the date and location of any such Temporary Collection Events held by or on behalf of the Service Provider.

ATTACHMENT B: COMPENSATION RATES

Service Provider: City of Mendota

Service	Description	Unit Price
<u>Program Product Consolidation</u>	MRC will compensate the Service Provider for all Units of Program Products dropped off by California residents free of charge that Service Provider Consolidates in a Collection Container picked up by a Transportation Provider. The Service Provider will not place either Non-Program Products, Non-Conforming Units or Units that are unsuitable for recycling in such Collection Containers.	\$__ per Unit
<u>Solid Waste Disposal of Non-Conforming Units</u>	MRC will compensate Service Provider for disposal of Non-Conforming Units dropped off by individual California residents free of charge. Excludes Units dropped off by businesses or other entities.	\$__ per Unit
<u>Storage and Transportation Services Option</u>	Service Provider may provide its own storage container and Transportation Services to transport above Units to an MRC-contracted recycler. Such Services will be governed by Attachment F ("Storage and Transportation Services")	Storage Container: \$__ per Month per Storage Container Transport: \$__ per Trip

By initialing this form, the parties agree to the Compensation Rates above:

MRC initials: _____ Service Provider initials: _____

Additional Sites: Pursuant to Section 20.5 of the agreement entitled "California Used Mattress Recycling Program Collection Facility and Used Mattress Management

Services Agreement" entered into between the Mattress Recycling Council California, LLC and _____, executed on _____, 201__ (the "Agreement"), this Attachment B form may be used to add Additional Sites to the Agreement. By signing below, the Additional Site hereby agrees that the Agreement's terms will govern its relationship with MRC, and it accepts all the same terms, conditions, responsibilities and liabilities attributed to a Service Provider as set forth in the Agreement.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be executed by its duly authorized representative on the day and year set forth above.

By:

**Mattress Recycling Council
California, LLC**

[Name of Additional Site/Service Provider]

Print Name

Print Name

Print Title

Print Title

Notices and Payments for Service Provider should be sent to:

Attn: _____

Address: _____

Phone: _____

Email: _____

ATTACHMENT C: MODEL INVOICE

Service Provider: _____

Collection Facility Location: _____

Unique Identifying Invoice Number: _____

Service (refer to Attachment B of Agreement for definitions of below Service terms)	Quantity of Units	Unit Price	Invoiced Amount
Program Product Consolidation		\$___ per Unit	
Program Product Consolidation – not from individual (retail, business, etc)		No compensation	
Solid Waste Disposal of Non-Conforming Units		\$___ per Unit	
TOTAL			

The above invoice represents, to the best of my knowledge, complete and accurate information regarding the Services rendered and for which the Service Provider seeks payment through the Program. I hereby certify on behalf of the Service Provider that the attached back-up documentation is accurate.

Name:

Company Title:

Date:

ATTACHMENT D: GUIDELINES



**Mattress
Recycling
Council**

**California Mattress Recycling Program
COLLECTION GUIDELINES**

December 2015

CONTACTS

MRC Program Coordinators

Mark Patti
Southern California Coordinator
661-302-8888

Imperial, Kern, Los Angeles, Orange,
Riverside, San Bernardino, San Diego,
San Luis Obispo, Santa Barbara,
Ventura

Rodney Clara
Northern California Coordinator
415-509-8453

Alameda, Contra Costa, Fresno, Kings,
Lake, Marin, Mendocino, Monterey
Napa, San Benito, San Francisco, San
Mateo, Santa Clara, Santa Cruz,
Sonoma, Stanislaus, Solano, Tulare

Liz Wagner
Northern California Coordinator
916-798-1594

Alpine, Amador, Butte, Calaveras,
Colusa, Del Norte, Eldorado, Glenn,
Humboldt, Inyo, Lassen, Madera,
Mariposa, Modoc, Mono, Nevada,
Placer, Plumas, Sacramento, San
Joaquin, Shasta, Sierra, Siskiyou,
Sutter, Tehama, Trinity, Tuolumne,
Yolo, Yuba

TABLE OF CONTENTS

2.....	Program Materials
5.....	Mattress Collection & Handling
7.....	Transportation & Recycling
7.....	Recordkeeping
7.....	Program Withdrawal & Termination

About the Mattress Recycling Council

In 2013, California enacted Senate Bill 254, later amended by Senate Bill 1274, which requires mattress manufacturers to create a recycling program for mattresses discarded in the state. The Mattress Recycling Council (MRC) is the non-profit organization established by the mattress industry to develop and operate the California mattress recycling program. The Program began December 30, 2015.

MRC has contracted with service providers to transport and recycle mattresses and box-springs from collection sites throughout the state. For simplicity, we will refer to both mattresses and box-springs as just mattresses. These Guidelines describe the Program and what your facility needs to do to participate. MRC reserves the right to update, change, modify, amend, add or remove terms, or otherwise alter these Guidelines at any time with or without prior notice.

What MRC Provides

Staff at all participating collection sites must be knowledgeable regarding these Guidelines before accepting mattresses.

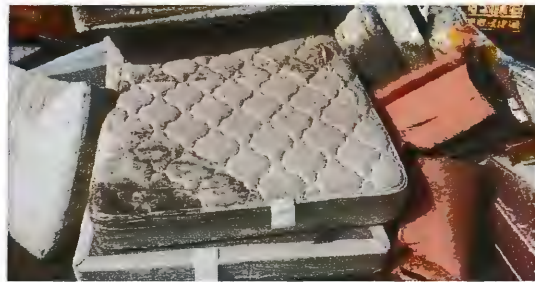
MRC provides the following to participating solid waste facilities:

- A collection container to store mattresses that is appropriate for the number of mattresses that the collection site expects to generate and the site's available space
- Transportation from the solid waste facility to a contracted recycler
- No-cost mattress recycling services

PROGRAM MATERIALS

ACCEPTABLE

Only mattresses used and discarded in California can be accepted by the Program. The pictures below exemplify mattresses that are acceptable by the program.



A participating collection site may not charge for mattresses that are dropped off by individuals at its site and recycled through the Program.

UNACCEPTABLE

- Out-of-state mattresses
- Severely damaged, twisted, wet, frozen or soiled mattresses
- Mattresses infested with bed bugs or other living organisms
- Sleeping bags
- Pillows and cushions
- Loose bedding, blankets or sheets
- Car beds
- Juvenile products, i.e., a carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, or crib bumper
- Water beds
- Camping air mattresses
- Fold-out sofa beds
- Futons and furniture
- Loose mattress pads and toppers



Page 3

Mattress Inspection and Examination

Facility staff should screen incoming mattresses to determine whether they are suitable for recycling and should remove mattresses that are:

- Excessively wet or frozen
- Severely twisted, punctured or crushed
- Infested with bed bugs or other living organisms
- Exceptionally soiled or moldy

Mattresses not suitable for recycling should be disposed of through your existing solid waste stream.

Bed Bug Identification

Mattresses and box springs infested with bed bugs are unacceptable for recycling and should be disposed of through your existing solid waste stream. Staff at collection sites should evaluate program materials for evidence of bed bug infestation.



Bed bugs are tan to brown in color, but may appear redder if they have fed.

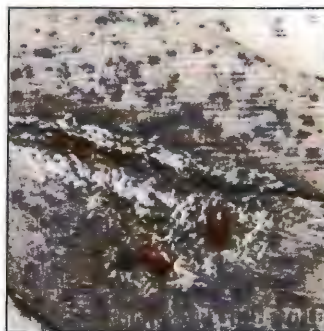
Adult Bed Bugs are dorsally flat insects, broadly oval, and the size of an apple or melon seed (1/4").

Nymphs look like adults in shape but are smaller.

Eggs are white and barrel shaped.



Signs of bed bug activity may be more obvious than the insects themselves. Look for clusters of dark spots or smudges on mattresses (fecal spots), especially along seams. Eggs, shed skins, and all life stages of bed bugs may also be present in these 'soiled' areas.



For more information on bed bugs, please refer to the resources made possible by the Connecticut Coalition Against Bed Bugs at www.ct.gov/caes/CCABB

MATERIALS COLLECTION & HANDLING

Each collection site will have unique operational considerations. Participating facilities must make their own decisions about how to best manage their operations in the safest manner possible in accordance with applicable laws. At a minimum, each participating site must meet these requirements:

MINIMUM PROGRAM REQUIREMENTS	
SITE	Each collection site must be secure with adequate space and staffing to handle and store acceptable mattresses.
PERMITS	Each collection site must have knowledge of, and comply with all applicable federal, state and local laws. These may include, but are not limited to, zoning requirements, state permit requirements, and OSHA or other workplace requirements. Please contact your Local Enforcement Agency (LEA) to confirm whether your site is in compliance with all applicable notifications or requirements for accepting mattresses for recycling at your site. In many cases, this will be your County or local Public Health Department.
INSURANCE	Each collection site must maintain general liability insurance of at least \$1,000,000 per occurrence.
TRAINING	Staff at each collection site must be trained and knowledgeable regarding these Guidelines before accepting mattresses for recycling.
STORING & LOADING MATTRESSES <i>See page 6 for photos and guidelines</i>	<p>Collection sites must keep mattress dry by storing in weather proof containers, or under cover, to maximize their recyclability. In addition, all collection sites must:</p> <ul style="list-style-type: none"> • Make every effort to place mattresses in MRC-designated storage containers immediately upon acceptance • Keep mattresses intact and not intentionally crush or puncture them • Efficiently stack mattresses to maximize the number of units loaded in each storage container • Provide oversight to keep unacceptable items out of MRC-designated storage containers • Remove any non-program materials from MRC-designated storage containers before transport to MRC recyclers • Practice good housekeeping standards, and keep storage containers and program materials in a neat and orderly condition

Loading Mattresses in Storage Containers

Container Type	Number of Mattresses
20-foot sea container	25-40
30-yard roll-off container	25-35
40-yard roll-off container	25-40
48-foot trailer	110-180
53-foot trailer	125-190

Expected number of mattresses that should fit in various container sizes



Mattresses and box springs must be packed as efficiently as possible to maximize the number of units in each container.

TRANSPORTATION AND RECYCLING

Transporters

MRC will assign each collection site a transporter to provide a storage container and transport services.

- MRC contracted transporters will provide participating locations with evidence of automobile insurance coverage of at least \$1,000,000 per occurrence
- Each collection site must notify transporter at least 2 business days before a storage container is full of mattresses
- The assigned transporter will pick up full containers and drop off an empty container at the same time
- On the scheduled pick up day, the collection site must make the collection container readily accessible to the transporter
- At the time of pick-up, collection site staff must be present to sign a three-part Bill of Lading (BOL) supplied by the transporter that details the quantity of mattresses in the container, and must provide appropriate copies of the BOL to the transporter

A collection site may choose to provide its own storage containers and transportation at its own cost. These locations must contact the recycler directly to arrange for a convenient drop-off time.

Recyclers

Recyclers under contract with MRC will meet established recycling standards and accurately account for all mattresses it receives, the mattress components it recycles (e.g., foam, steel, wood, fiber, etc.), and any residual disposal. Solid waste facilities will be assigned a recycler by MRC to best service your facility.

PROGRAM WITHDRAWAL & TERMINATION

A collection site's participation in the California mattress recycling program is voluntary. Either party may withdraw from participation with 30 days' notice to the other party. MRC reserves the right to remove any collection site not in compliance with these Guidelines from further participation in the Program.

RECORDKEEPING

Bill of Lading:

A Bill of Lading (BOL) will be provided by the transporter. Before a full container leaves the site, the BOL must be completed and signed by facility staff. Following is a sample BOL and required information:

BILL OF LADING
Unique BOL #: pre-printed #

Date:

Collection Site/ Generator

Facility Name and Operator:

Address:

Type of Collection Site: solid waste facility mattress retailer other _____

Collection Container Type: 20 ft. sea container 30 yd. roll-off 40 yd. roll-off

53 ft. trailer 48 ft. trailer other: _____

Collection Site Count: Mattress and Box Spring Units: _____

Collection Site Certified Net Weight (if available): _____ lbs.

I hereby certify that to the best of my knowledge, the above information is accurate, and all of the products described in this document were used and discarded in California.

Name (print), Title

Signature

Date

Transporter

Company Name:

Address:

Truck #:

Name (print), Title

Signature

Date

Mattress Recycler

Date:

Company Name:

Address:

Recycler Count: Mattress Units: _____ Box Spring Units: _____

Net Weight of all Mattress and Box Spring Units: _____ lbs.

Comments/Count Discrepancies:

I hereby certify that to the best of my knowledge, the above information is accurate, and all of the products described in this document were used and discarded in California.

Name (print), Title

Signature

Date

1. Type: (fixed or temporary event)	
2. Name of site/event	
3. Street address for site or event	
4. City, State, Zip Code for site or event	
5. Permit holder	
6. Phone # for general public	
7. Days/hours open to the public	
8. Website or webpage	
9. Maximum # of units per vehicle, per day (self-imposed)	
10. Service area (cities/towns)	
11. Will fees apply if mattresses are delivered in a mixed load?	
12. Contact person's name and title	
13. Contact person's agency/company	
14. Contact person's phone	
15. Contact person's email	
16. Best newspapers/radio stations for promotion?	
17. Additional information	

Site
4

1. Type: (fixed or temporary event)	
2. Name of site/event	
3. Street address for site or event	
4. City, State, Zip Code for site or event	
5. Permit holder	
6. Phone # for general public	
7. Days/hours open to the public	
8. Website or webpage	
9. Maximum # of units per vehicle, per day (self-imposed)	
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11. Will fees apply if mattresses are delivered in a mixed load?	
12. Contact person's name and title	
13. Contact person's agency/company	
14. Contact person's phone	
15. Contact person's email	
16. Best newspapers/radio stations for promotion?	
17. Additional information	

By initialing below, the parties agree that this Attachment E is hereby incorporated by reference into the original Agreement between the parties dated _____.

MRC initials: _____

Service Provider initials: _____

ATTACHMENT F: STORAGE AND TRANSPORTATION SERVICES

1. COMPENSATION

1.1. Rates.

1.1.1. The Rates for Storage and Transportation Services are set forth in Attachment B "Compensation" of this Agreement, and are incorporated by reference herein.

1.2. Payments to Service Provider.

1.2.1. In order to receive payment from MRC for Storage and Transportation Services, Service Provider, at its own expense, must provide MRC with a properly completed Bill of Lading as shown in Attachment D's Guidelines, and an invoice as shown in Attachment C properly accounting for the Storage Containers and the Transportation Services.

2. SCOPE OF STORAGE AND TRANSPORTATION SERVICES

Service Provider's responsibilities for providing Storage and Transportation Services are as follows:

2.1. General Requirements.

2.1.1. All Program Products placed in Collection Containers will become the responsibility of Service Provider until they are delivered to an MRC-contracted recycler, at which point responsibility and property will transfer to the recycler. At no time, however, will Service Provider own such Program Products.

2.1.2. Service Provider will provide, at its expense, a Bill of Lading to the recycler in a format that conforms to the Model Bill of Lading included in the Guidelines in this Agreement, Attachment D.

2.1.3. Service Provider will take every precaution to protect all public and private property during the performance of its responsibilities under this Agreement.

2.1.4. Any damage to property caused by Service Provider's personnel or equipment (including that of its subcontractors) will be promptly repaired to the condition existing before the damage or be replaced. All costs for such repairs or replacements will be solely the responsibility of Service Provider.

2.1.5. To the extent possible, Service Provider, in carrying out its work, must employ such methods or means that will not interrupt or interfere with the recycler's work.

2.2. Providing Storage Containers.

2.2.1. Service Provider will have thirty (30) days from the date of this contract to provide storage container(s) to its designated collection location(s).

2.2.2. Service Provider will be responsible for keeping all Storage Containers and other equipment that Service Provider or its subcontractors provide in the performance of this Agreement in good working order and in a clean, sanitary and attractive condition, and as free from offensive odors as possible. Equipment is subject to periodic inspection by MRC.

2.2.3. All Storage Containers and other equipment provided by Service Provider or its subcontractors will be marked and properly identified in a method mutually acceptable to MRC and Service Provider.

2.2.4. Service Provider will post appropriate notices on Storage Containers provided by Service Provider or its subcontractors stating that such containers are only for temporary storage of mattresses and/or Program Products dropped off free of charge by California consumers, and that Program Products obtained from other entities, Non-Program Products and Units that are not suitable for recycling may not be placed in such Storage Containers.

2.3. Transportation of Program Products.

2.3.1. Service Provider will pick-up and transport collected Program Products from its solid waste facility(ies) to recycler's premises.

2.3.2. Service Provider is responsible for scheduling deliveries with the recycler. MRC will not be liable for any fees related to unscheduled, late or canceled deliveries made to the recycler.

ATTACHMENT G: FORM W-9 (REQUIRED)

Form W-9
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

**Give Form to the
requester. Do not
send to the IRS.**

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <i>Note.</i> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)																																																																	
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.																																																																	
<i>Note.</i> If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">Social security number</td> </tr> <tr> <td style="width: 40%; text-align: center;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> </table> </td> <td style="width: 10%; text-align: center;">-</td> <td style="width: 20px; height: 20px;"></td> <td style="width: 10%; text-align: center;">-</td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> <tr> <td colspan="2" style="text-align: center;">or</td> </tr> <tr> <td colspan="2" style="text-align: center;">Employer identification number</td> </tr> <tr> <td style="text-align: center;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> </table> </td> <td style="text-align: center;">-</td> <td style="width: 20px; height: 20px;"></td> <td style="text-align: center;">-</td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> </table>	Social security number		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> </table>											-		-							or		Employer identification number		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> </table>																					-		-														
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Part II Certification	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.	

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued);
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: CRISTIAN GONZALEZ, CITY MANAGER
MICHAEL L. GIERSCH, PROJECT ENGINEER, GIERSCH AND ASSOC.

SUBJECT: LOZANO LIFT STATION MODIFICATIONS – ACCEPTANCE OF IMPROVEMENTS;
AUTHORIZATION TO FILE A NOTICE OF COMPLETION

DATE: APRIL 23, 2019

ISSUE

Because of constant maintenance issues involving the Lozano Lift Station, part of the City's sanitary sewer collection system, a project to replace the lift station was developed. Following preparation of PS&E (plans, specifications and estimate), the project was advertised for bids, and the construction contract in the amount of \$392,000 was awarded to Haydon Construction at the November 14, 2017 Council Meeting.

The project improvements have been constructed in accordance with the plans and specifications, and to the satisfaction of the Engineer and City maintenance staff.

BACKGROUND

The project includes the construction of a new RFP (reinforced fiberglass polyester) lift station, dual sewer pump, and electrical connection. The lift station was constructed adjacent to the existing system, and the existing concrete surface expanded to allow for maintenance vehicle access to the new lift station. While the existing pump system was removed following the installation and activation of the new pumps, the chamber continues to be used as additional storage for accumulated sewage. The additional capacity will result in less frequent start-up of the pumps, which is expected to extend their service life.

The seventeen month duration of the project primarily results from three factors:

- Length of time it took for the supplies to be delivered once they were ordered.
- Project construction originally commenced in June 2018. While excavation of the pit for the lift station was being performed, water in a significant quantity from the nearby retention basin seeped into the pit, threatening undermining of the pit. The project was suspended to allow the basin to allow City maintenance crews to pump out the retention basin, and also to allow the underlying soil to dry out sufficiently.

- The project resumed in September 2018, shortly after the Labor Day weekend. The soil had dried out enough to allow for the excavation of the entire pit (26 foot depth). The new pumps were installed and made operational on Friday, November 30, 2018, and the old pumps (which by this time had failed completely) were removed from the existing station.
- The remainder of the project, expansion of the concrete surfacing around the new lift station, was delayed due to the large amount of rain over the winter months. The soil needed to dry sufficiently before the concrete could be poured. After the concrete was poured, chain link fencing around the new lift station was then installed.

Because of Haydon Construction's willingness to allow for the deduction of a bid item and for the reduction of work on another bid item, the final construction cost of \$310,662.32 is a reduction of 20.7% from the original contract award cost. A total of six (6) change orders were issued.

RECOMMENDATION

Adopt Resolution No. 19–25, which authorizes

- a) acceptance of the Lozano Lift Station Improvement Project; and
- b) filing of the Notice of Completion by the Engineer upon receipt of all required documentation from the Contractor

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA ACCEPTING
THE LOZANO LIFT STATION MODIFICATION
PROJECT AND AUTHORIZING FILING OF
THE NOTICE OF COMPLETION**

RESOLUTION NO. 19-25

WHEREAS, the Lozano Sanitary Sewer Lift Station is part of the City's sanitary sewer collection system; and

WHEREAS, said facility is over 25 years old and requires frequent maintenance; and

WHEREAS, modification of the lift station was needed due to the resultant costs of maintenance; and

WHEREAS, at the November 14, 2017 Council meeting, following an advertisement for bids, a contract in the amount of \$392,000 was awarded to Haydon Construction, the sole bidder; and

WHEREAS, after some delays beyond the control of the Contractor and the City, construction of the lift station modifications has been completed to the satisfaction of the Engineer and City staff; and

WHEREAS, a total of six (6) change orders were issued, resulting in a 20.7% decrease from the original Contract award amount (Final total \$310,662.32).

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Mendota that the improvements for the Lozano Lift Station Improvement project are hereby accepted, and that the Project Engineer, Giersch and Associates, Inc., are authorized to File a Notice of Completion with the Fresno County Clerk following submittal of all documents required of the Contractor.

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 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA SETTING THE
SCHEDULE FOR TWO SPECIAL CITY
COUNCIL MEETINGS TO CONSIDER THE
BUDGET FOR FISCALYEAR 2019-2020**

RESOLUTION NO. 19-26

WHEREAS, each year the City Council, by law, establishes the budget for the City of Mendota; and

WHEREAS, the City Council holds public hearings and receives public input on the proposed budget prior to its final adoption.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the City Council hereby establishes the following schedule for Special City Council meetings to consider the budget for fiscal year 2019-2020:

May 28, 2019, 3:00pm to 5:00pm in the Council Chambers of City Hall
June 4, 2019, 5:00pm to 7:00pm in the Council Chambers of City Hall

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 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

AGENDA ITEM

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MICHAEL OSBORN, ASSISTANT CITY ENGINEER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: STREET PROJECT LIST PROPOSED FOR SB1 (RMRA) FUNDING
DATE: April 23, 2019

ISSUE

Should the City Council approve a resolution adopting the list of street projects proposed for Fiscal Year 2019-20 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 2019-20 SB1 (RMRA) funding by May 1, 2019 to receive their fiscal year 2019-20SB1 fund distribution. They have informed us that the project list can include projects planned for after fiscal year 2019-20 and be a carry-over of the list of projects previously proposed and adopted.

Resolution 18-22 adopted the attached list of projects along with following projects that have been completed, or will be completed, by the end of fiscal year 2019-20:

1. Black & 5th Street Reconstruction (construction upcoming in summer 2019)

In addition, the 7th Street Rehabilitation project has been added as a new project to this list.

ANALYSIS

This list of projects was prepared by staff, specifically the Director of Public Works, the City Manager 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 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 is projected to received \$69,307 in FY 17/18 and is expected to receive \$204,683 in FY 18/19 and \$213,054 in FY 19/20; these amounts will only cover a portion of any one project 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 the attached resolution adopting the list of projects proposed to utilize Fiscal Year 2019-20 SB1 (RMRA) funds.

**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 2019-20
FUNDED BY SB1: THE ROAD REPAIR AND
ACCOUNTABILITY ACT (RMRA) OF 2017**

RESOLUTION NO. 19-27

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, beginning on November 1, 2017, the State Controller (Controller) began to deposit various portions of this new funding in the newly created Road Maintenance and Rehabilitation Account (RMRA), with a percentage of the being apportioned to the City of Mendota; and

WHEREAS, the City, will receive an estimated \$213,054 in RMRA funding in Fiscal Year 2019-20 from SB 1; and

WHEREAS, this is the third year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has utilized pavement conditions surveys 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 communities 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 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; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in "poor" condition and this revenue will help us increase the overall quality of our road system and over the next decade will bring our streets and roads into a safer and drivable condition; and

WHEREAS, the SB 1 project list and overall investment in our 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 residence and a better experience to 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 and made part hereof as Exhibit "A" include one new project and previously proposed and adopted projects which may utilize fiscal year 2019-20 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 to the public and the State our intent to fund these projects with Road Maintenance and Rehabilitation Account revenues.
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 funding 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.

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 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

Exhibit "A"

FY 19-20 SB1 Project List

Proposed Project	Description	Location	Estimated Completion Date		Estimated Useful Life (# of Yr)	
			Pre-Construction	Construction	Min.	Max.
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-20	Aug-20	10	20

Previously Adopted SB1 Project List

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-20	Aug-20	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-21	Nov-21	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-21	Sep-21	15	30
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

Exhibit "A"

FY 19-20 SB1 Project List

Proposed Project	Description	Location	Estimated Completion Date		Estimated Useful Life (# of Yr)	
			Pre-Construction	Construction	Min.	Max.
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-23	Oct-23	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-24	Nov-24	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-24	Sep-24	15	30

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AUTHORIZING
EXECUTION OF AN AGREEMENT WITH
THE CITY OF FIREBAUGH FOR DISPATCHING
SERVICES**

RESOLUTION NO. 19-28

WHEREAS, in 2009 the City of Mendota Police Department entered into an agreement with the City of Firebaugh Police Department for dispatching services (the "2009 Agreement"); and

WHEREAS, the City of Mendota Police Department and the City of Firebaugh Police Department have previously agreed to extensions of the 2009 Agreement; and

WHEREAS, the City of Mendota and the City of Firebaugh seek to enter into a new contract for the City of Firebaugh to provide dispatching services and related tasks to the City of Mendota Police Department; and

WHEREAS, the City of Firebaugh, through its Police Department, is capable of providing emergency dispatching services for the City of Mendota Police Department 24 hours a day, 7 days a week, including holidays, 365 calendar days a year; and

WHEREAS, Staff for the City of Mendota and the City of Mendota Police Department have negotiated a new Agreement for Dispatch Services, a copy of which is attached hereto as Exhibit "A";

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota hereby approves the Agreement for Dispatch Services, and authorizes City Manager to execute the Agreement for Dispatch Services, in substantial form presented as Exhibit "A," and all other documentation necessary to effectuate such Agreement for Dispatch Services, subject to such reasonable modifications, revisions, additions and deletions as he may approve prior to execution, said execution to provide conclusive evidence of such approval.

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 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

Exhibit A

AGREEMENT FOR DISPATCH SERVICES

THIS AGREEMENT is made between the CITY OF MENDOTA hereinafter referred to as "MENDOTA" and the CITY OF FIREBAUGH, hereinafter referred to as "FIREBAUGH."

WHEREAS, MENDOTA desires to contract with FIREBAUGH for the performance of law enforcement dispatch service/9-1-1 answering responsibilities for CITY by FIREBAUGH through its Police Department; and

WHEREAS, FIREBAUGH agrees, through its Police Department, to render such service, on the terms and conditions set forth;

NOW, THEREFORE, the parties agree as follows:

1. FIREBAUGH agrees, through its Police Department, to provide training to MENDOTA police personnel in the use of the police radio procedures and language as deemed necessary by both parties. This training shall include the computer priority system, uniformity or dispositions, and radio language protocols. MENDOTA agrees that its personnel shall comply with FIREBAUGH radio procedures and protocols and shall hold its employees accountable.
2. FIREBAUGH agrees, through its Police Department to receive phone calls for request for MENDOTA'S police department law enforcement service/primary 9-1-1 answering responsibilities in the FIREBAUGH'S Police Department communications center, and FIREBAUGH further agrees, through its police department, to dispatch MENDOTA police personnel in response to such police calls. MENDOTA agrees to have its police personnel monitor such communications at all times to meet the public safety concerns of MENDOTA.
3. FIREBAUGH further agrees to provide the following Full Time dispatch services to the City Of MENDOTA; 24 hours a day/ 7 days a week, including holidays, 365 calendar days per year:
 1. Dispatch 911 calls/Police/Fire/EMS
 2. Dispatch officers to call for service
 3. Answer business calls after hours
 4. California Law Enforcement Telecommunications System (C.L.E.T.S.) entry (refer to Firebaugh Police Departmental Order; Policy and Procedure Memo DO#: 2013-03 for further explanation)
 - a. Towed/Stored or Impounded Vehicle entries
 - b. Stolen Vehicle Entry and Record Removal
 - c. Repossessed Vehicle Entry
 - d. Missing Unidentified Person Entry and Record removal
 - e. Restraining Order Entry and Record Removal
 - f. Stolen Gun and Property Entry and Record Removal
 - g. Stolen Gun Recovery/Removal
 - h. Warrant Arrest Dispositions
 5. Dispatch public works after hours
 6. Dispatch Code Enforcement Officers

4. MENDOTA agrees to convert its vehicles to such frequencies as required by FIREBAUGH'S police communications system, and further agrees to provide radios in its police vehicles that have primary and secondary channeling ability as determined by the FIREBAUGH Police Chief to ensure reasonable communications back up.
5. MENDOTA agrees to have its personnel use such alpha-numerical identifier system as determined by FIREBAUGH'S Police Chief and MENDOTA assumes responsibility for keeping FIREBAUGH'S Police Department communication system secure as required by law.
6. This agreement shall become effective when executed by both parties, and shall continue in full force and effect, unless and until terminated by either party upon giving a ninety (90) days advance notice. FIREBAUGH will strive to give one hundred-eighty days' notice if situation is anticipated.
7. FIREBAUGH is proposing a three year (3) contract effective July 1, 2019 and ending on June 30, 2022. Fiscal year cost to MENDOTA listed below;

a. 2019/2020	\$140,000
b. 2020/2021	\$147,000
c. 2021/2022	\$154,350

8. MENDOTA shall pay monthly to FIREBAUGH the cost agreed for performing the dispatching service under this agreement. The monthly payment shall be made to the following:

City of Firebaugh/Police
 1133 P Street
 Firebaugh, California 93622

9. The payment is due no later than the 20th day of each service month. FIREBAUGH shall bill MENDOTA by the 10th of each month to the following:

City of Mendota
 643 Quince Street
 Mendota, California 93640

10. FIREBAUGH reserves the right to modify the rate charged for service under this agreement after 90 day written notice to MENDOTA. FIREBAUGH also reserves the right to bill MENDOTA for additional unique costs incurred by increased demands of MENDOTA, such as; adding a second dispatcher for special events; and the FIREBAUGH staff appearing for Mendota in police cases and/or FIREBAUGH researching dispatch records on MENDOTA'S request. FIREBAUGH shall bill any unique costs separately and they shall be payable thirty (30) days from invoice date. FIREBAUGH shall notify MENDOTA of any modifications at least thirty (30) days in advance of any rate modification. This agreement may be otherwise modified at any time only by a separate written agreement signed by both parties.

- 11. MENDOTA shall hold FIREBAUGH harmless for reduction in dispatching services resulting from labor relations actions and obligations to pay FIREBAUGH shall be reduced for services not performed for that reason.
- 12. The dispatch service rendered by FIREBAUGH pursuant to this Agreement shall begin on JULY 1, 2019 and the Agreement shall end JUNE 30, 2022.
- 13. The Agreement supersedes any prior agreement between FIREBAUGH and MENDOTA for the performance of dispatching services.
- 14. In **WITNESS WHEREOF** the **CITY OF FIREBAUGH** and the **CITY OF MENDOTA** have, by order of their respective City Councils, caused these documents to be subscribed by designated officials on the date hereinafter written.

CITY OF FIREBAUGH

BY _____
Ben Gallegos City Manager Date

BY _____
Salvador Raygoza Police Chief Date

CITY OF MENDOTA

BY _____
Cristian Gonzalez City Manager Date

BY _____
Gregg Andreotti Police Chief Date

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: CITY COUNCIL APPROVING A LICENSE AGREEMENT BETWEEN GONZALEZ HALL PROMOTIONS AND CITY OF MENDOTA AND DIRECTING THE CITY MANAGER TO EXECUTE THE DOCUMENTS NECESSARY
DATE: APRIL 23, 2019

ISSUE

Should the City Council approve Resolution No. 19-29, directing the City Manager to execute a License Agreement with Gonzalez Hall Promotions to license to use of city owned real property located at the intersection of 3rd and Naples in Mendota?

BACKGROUND

The City Council directed staff to be proactive with city owned property that is not currently being utilized. The City published an RFP (request for proposals) seeking interest in the licensing of real property located at the intersection of Naples and 3rd Street. Only one proposal was submitted, from Gonzalez Hall Promotions, at \$200 per month for 15 years.

ANALYSIS

The property in question is located on Naples Street. For the past 10+ years the lot has been sitting empty with no use, while still requiring maintenance, mainly weed abatement. There are no current plans for the lot, so entering into a 15 year lease is not a concern to staff, and seems to be a responsible decision. Gonzalez Hall Promotions stated that they intend to develop the lot into overflow parking for their adjacent event hall business. This will be a great improvement to the lot and the area.

FISCAL IMPACT

If approved, there would be an additional \$2,400 going into the general fund annually, and a total of \$36,000 throughout the life of the agreement.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 19-29, authorizing the City Manager to execute the License Agreement with Gonzalez Hall Promotions.

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

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
A LICENSING AGREEMENT WITH GONZALEZ
HALL & PROMOTIONS, INC. AND AUTHORIZING
THE CITY MANAGER TO EXECUTE SAME**

RESOLUTION NO. 19-29

WHEREAS, the License Agreement, attached hereto as “Exhibit A”, is by and between the City of Mendota, a California municipal corporation (the “City”) and Gonzalez Hall & Promotions, Inc., a California corporation (“Licensee”)

WHEREAS, the City is the owner of certain real property consisting of approximately 13,624 square feet (170.3 feet x 80 feet), constituting the official and technical terminus of Third Street on the east side of Naples Street (the “Property”), and zoned as M-1 (Light Manufacturing District); and

WHEREAS, the City desires to license the Property to an individual or entity capable of developing the Property for use in connection with approved commercial or industrial operations consistent with the surrounding uses and the City’s General Plan; and

WHEREAS, on December 14, 2018, the City published a Request for Proposals for the Lease of City Property for Industrial Uses (the “RFP”) pursuant to Mendota Municipal Code Section 2.48.120, for the purpose of soliciting qualified individuals or entities to submit proposal for commercial use of the Property; and

WHEREAS, on December 18, 2018, Licensee, through its President, Ramon Gonzalez, submitted a proposal to use the Property for parking purposes (the “Proposal”), as the Property is located near Licensee’s social hall, located at 1417 3rd Street in Mendota, California; and

WHEREAS, the City is willing to grant Licensee a right to use the Property, under the terms and conditions set forth in this License; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Mendota that the License Agreement by and between the City of Mendota and Gonzalez Hall & Promotions, Inc., attached hereto as Exhibit “A,” is hereby approved, and the City Manager is hereby authorized and directed to execute same.

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 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

Exhibit A

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the “*License*”), is made and entered into at Mendota, California, the ____ day of April, 2019 (the “*License Date*”), by and between the City of Mendota, a California municipal corporation (the “*City*”) and Gonzalez Hall & Promotions, Inc., a California corporation (“*Licensee*”). The City and Licensee are sometimes collectively referred to in this License as the “*Parties*,” and individually as a “*Party*.”

I.

RECITALS

A. **WHEREAS**, the City is the owner of certain real property consisting of approximately 13,624 square feet (170.3 feet x 80 feet), constituting the official and technical terminus of Third Street on the east side of Naples Street (the “*Property*”), and zoned as M-1 (Light Manufacturing District). The Property is highlighted in blue in the parcel map attached hereto as Exhibit “A”, which is incorporated herein and shall be considered part of this License for all purposes.

B. **WHEREAS**, the City desires to license the Property to an individual or entity capable of developing the Property for use in connection with approved commercial or industrial operations consistent with the surrounding uses and the City’s General Plan.

C. **WHEREAS**, on December 14, 2018, the City published a Request for Proposals for the Lease of City Property for Industrial Uses (the “*RFP*”) pursuant to Mendota Municipal Code Section 2.48.120, for the purpose of soliciting qualified individuals or entities to submit proposal for commercial use of the Property. The RFP is attached hereto as Exhibit “B”, and is incorporated herein and shall be considered part of this License for all purposes.

D. **WHEREAS**, on December 18, 2018, Licensee, through its President, Ramon Gonzalez, submitted a proposal to use the Property for parking purposes (the “*Proposal*”), as the Property is located near Licensee’s social hall, located at 1417 3rd Street in Mendota, California. The Proposal is attached to this License as Exhibit “C”, and is incorporated herein and shall be considered part of this License for all purposes.

E. **WHEREAS**, the City is willing to grant Licensee a right to use the Property, under the terms and conditions set forth in this License.

II.

LICENSE

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby state and agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are hereby incorporated as though fully set forth herein.

2. Grant of License. The City hereby grants to Licensee for the benefit of Licensee, its agents, employees, consultants, affiliates, guests, and invitees the non-assignable, nontransferable, exclusive right to use the Property for the purpose of parking cars, trucks, and vans. Licensee may not use the Property for any other purpose or business without obtaining the City's prior written consent, which may be withheld, conditioned or delayed at the City's sole discretion.

3. License Fee. During the Term, as defined herein, Licensee shall make monthly payments to the City for use of the Property in the amount of Two Hundred and No/100 Dollars (\$200.00) per month ("**License Fee**") as follows: (a) on May 1, 2019 (the "**First Payment Date**") Licensee shall remit to the City a License Fee payment; and (b) on the first day of each month following the First Payment Date during the Term, Licensee shall remit to the City a License Fee payment at the address set forth below, or at such other place or to such other persons or entities as the City from time to time may designate to Licensee in writing.

In the event that Licensee fails to remit to the City a License Fee payment, within ten (10) days after payment of the License Fee is due, the City may terminate this License upon twenty (20) days written notice to Licensee, unless the Licensee pays all past-due amounts prior to the expiration of such twenty (20) day notice period.

4. Term. The term ("**Term**") of this License shall commence on the License Date, and shall terminate upon the earlier of the following events (which shall be referenced herein as the "**Terminating Events**"):

4.1. Expiration. This License shall expire fifteen (15) years after commencement of this License on the License Date.

4.2. Commencement of Legal Proceedings. The City may terminate this License upon commencement of any judicial or administrative proceeding, in any jurisdiction within the State of California, which disputes the City's ownership of the Property, the status of the Property as a legal parcel, or the City's authority to grant a license for use of the Property. Should the City elect to terminate this License pursuant to this Section, the City shall comply with the termination procedures set forth in Section 4.4 herein.

4.3. Termination by Mutual Agreement. This License shall terminate upon mutual written agreement of the Parties (the "**Termination Agreement**"). The Termination Agreement shall specify the time by which Licensee is required to promptly remove all personal property from the Property. If Licensee fails to remove said personal property by the time set forth in the Termination Agreement, the City will take necessary action to remove any property which may be located thereon, at the expense of Licensee, as permitted by law. Licensee shall pay the City all fees and charges owed as of the date

of removal or termination, whichever is later, computed at the daily rate currently in effect.

4.4. Termination by Either Party. Either Party may, at any time upon thirty (30) days advance written notice to the other Party (the “*Notice of Termination*”), terminate this License, provided that Licensee shall not be in default for non-payment of the License Fee. The Notice of Termination shall specify the time by which Licensee is required to promptly remove all personal property from the Property. If Licensee fails to remove said personal property, the City will take necessary action to remove any property which may be located thereon, at the expense of Licensee, as permitted by law. Licensee shall pay the City all fees and charges owed as of the date of removal or termination, whichever is later, computed at the daily rate currently in effect.

5. Improvements. Licensee shall not construct, erect or improve the Property with any structure, permanent or otherwise without the express written consent of the City. The City hereby approves Licensee’s offer to make the improvements necessary to use the Property for parking purposes which Licensee specifically identified in the Proposal attached hereto as Exhibit “C”.

6. “As-Is” Condition. The Parties understand and agree that Licensee shall accept this License to use the Property for parking purposes in an “as-is” condition, without representation or warranty by the City as to physical or environmental conditions of the Property, or any existing structures thereon. The City makes no representations regarding the character or extent of soil or subsurface conditions, or the conditions and existence of utilities which may be encountered during the course of construction of any improvements, development, construction, or occupancy of the Property. Licensee shall be responsible for independently reviewing all available information which may be available about existing conditions of the Property, and for undertaking an independent analysis of site conditions, including any environmental, health, and/or safety issues.

7. No Service Provided; Repairs, Maintenance and Alterations. The Parties understand and agree that the City shall not be required to furnish any services or facilities or to make any repairs or alterations in or to the Property. Licensee hereby assumes the full and sole responsibility for the condition, operation, repair, replacement and maintenance of the Property.

8. Indemnification. Licensee covenants and agrees that, during the term of this License, any injury suffered as a result of the use of the Property by Licensee and its employees, licensees, invitees, and guests shall be the sole responsibility of Licensee, and the City shall not be liable to Licensee, or any other person or persons whatsoever for any such injury, loss or damage to persons or property unless caused by the City’s employees’, or the City’s agents’, gross negligence or willful misconduct. Licensee shall defend, indemnify and hold the City, its officers, directors, employees, consultants, agents, successors and assigns (“Indemnitees”), harmless from and against any and all claims, costs, liabilities, debts, demands, suits, actions, causes of action, proceedings, damages, judgments, liens, expenses or obligations of whatever nature, including attorneys’ fees and costs and the costs of all other professional and all court

or arbitration or other dispute resolution costs (collectively “Costs”) which may be made against Indemnitees arising out of or in connection with: (a) any use of the Property under this License, (b) any breach by Licensee of its obligations under this License; (c) the death and/or injury to any person or damage to any property (real or personal) which may be caused or is claimed to have been caused, by the negligence, act or omission by Licensee, or Licensee’s agents, employees, guests, invitees, or licensees; and (d) any enforcement by the City of any provision of this License. The foregoing indemnity shall not apply to the extent any such Costs are ultimately established by a court of competent jurisdiction to have been caused by the Indemnitees’ gross negligence or willful misconduct. Licensee, upon notice from the City, shall defend the same at Licensee’s expense by counsel satisfactory to the City. The provisions of this section shall survive the expiration or other termination of this License.

9. Taxes.

9.1. Licensee shall pay before delinquency any and all taxes, assessments, licenses, fees and other public charges, which may be levied, assessed or imposed the Property. Payment of any taxes, assessments, licensee, fees, or other public charges shall not in any manner reduce the fees and charges owed by Licensee to the City pursuant to this License.

9.2. Licensee acknowledges and agrees that this License may create a real property possessory interest that may be subject to real property or other taxation, and that Licensee shall be subject to, and liable for, the payment of any taxes levied on such interest. No such possessory interest tax, or any other tax, shall reduce or constitute a substitute for the fees or charges required to be paid, as a condition of this License or as otherwise required by the City. Licensee agrees to pay all such taxes when due.

9.3. Licensee shall defend, protect, indemnify and hold the City free and harmless from any and all liability, loss, or damage resulting from any taxes, assessments, or other charges required by, or relating to, this License to be paid by Licensee, and from all interests, penalties, and other sums imposed

10. Removal of Personal Property. Upon termination of the License, under any of the Terminating Events set forth herein, Licensee shall remove all of Licensee’s personal property from the Property and shall surrender possession of the Property to the City in good order and repair.

III.

MISCELLANEOUS PROVISIONS

11. Notices. All notices under this License or pursuant to law shall be in writing. A notice shall be deemed received on the third (3rd) scheduled delivery day after pickup or timely deposit for overnight delivery via Express Mail, FedEx, UPS, DHL WorldWide Express, Airborne Express, California Overnight (for delivery addresses within the latter entity’s service area), or other nationally or regionally recognized overnight service, duly addressed, with delivery fees prepaid or charged to the sender’s

account; on the next mail delivery day after pickup or timely deposit in the U.S. Mail, duly addressed, with first-class postage affixed; when personally delivered to the recipient; when transmitted by electronic means, and such transmission is electronically confirmed as having been successfully transmitted; or when delivered to the home or office of an addressee in the care of a person whom the sender has reason to believe will promptly communicate the notice to the addressee. The Parties' current addresses are below:

THE CITY:

Mr. Cristian Gonzalez
City Manager
City of Mendota
643 Quince Street
Mendota, California 93640

LICENSEE:

Mr. Ramon Gonzalez
President
Gonzalez Hall & Promotions, Inc.
1417 3rd Street
Mendota, CA 93640

Any Party may change its contact information by delivering notice to the other Party.

12. Licensee Not Agent of the City. Neither issuance of this License, nor any acts of Licensee under this License, shall in any way constitute Licensee as an agent, contractor, partner, or employee of the City for any purpose

13. Attorneys' Fees. If any legal action or proceeding arising out of or relating to this License is brought by either Party to this License, the prevailing Party shall be entitled to receive from the other Party, in addition to any other relief that may be granted, the reasonable attorney's fees, costs, and expenses incurred in the action or proceeding by the prevailing Party.

14. Entire Agreement. This License constitutes the Parties' entire, integrated agreement with respect to the subject matter described herein, and there are no other agreements regarding that subject. This License replaces and supersedes all prior written, oral, and implied agreements and understandings by and among the Parties or any of them regarding that subject matter, as well as any related written, oral, or implied representations, warranties, and covenants.

15. Written Amendments. This License may be altered, modified, or amended solely by a written agreement signed by both Parties.

16. Equitable Relief; Remedies Cumulative. The breach of this License would result in irreparable injury, so if there is an actual or threatened default hereunder, the aggrieved Party shall be entitled to injunctive relief and/or specific enforcement as applicable, in addition to monetary damages.

17. Counterparts; Electronic Signatures. This License may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Faxed, photocopied, or electronically transmitted signatures have the same effect as ink originals.

18. Successors and Assigns. Licensee agrees that this License and the rights and obligations hereunder are not transferrable or assignable without the express written consent of the City.

19. No Third-Party Beneficiaries. This License is made solely for the benefit of Licensee, and no other person shall have or acquire any right by virtue of this License.

20. California and U.S. Law; Fresno County Venue. This License concerns real property located in Fresno County, California and shall be construed and enforced in accordance with the laws of the State of California. Any action or proceeding arising out of or related to this License shall be filed and maintained solely in the state court with jurisdiction therefor sitting in Fresno County, California.

21. Time of the Essence. Time is of the essence of every provision of this License.

22. Authority. Each Party represents and warrants that it has the capacity and authority to enter into this License, and each person signing in a representative capacity represents and warrants that he/she is authorized to do so.

IN WITNESS WHEREOF, the Parties hereto have executed this License as of the day and year first above written.

“The City”
City of Mendota

By: Cristian Gonzalez
Its: City Manager

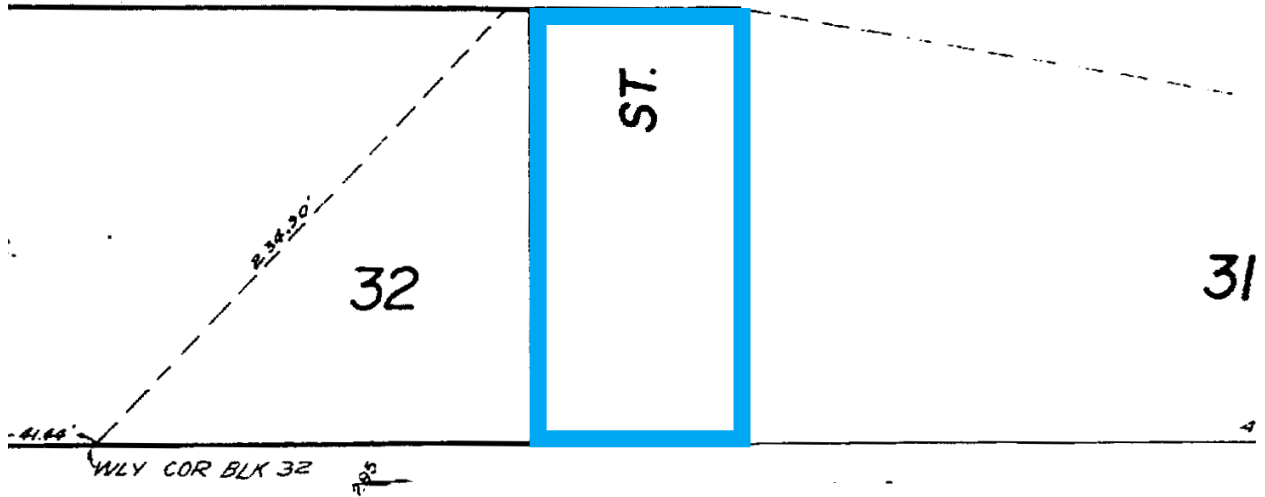
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Gonzalez Hall & Promotions, Inc.

By: Ramon Gonzalez
Its: President

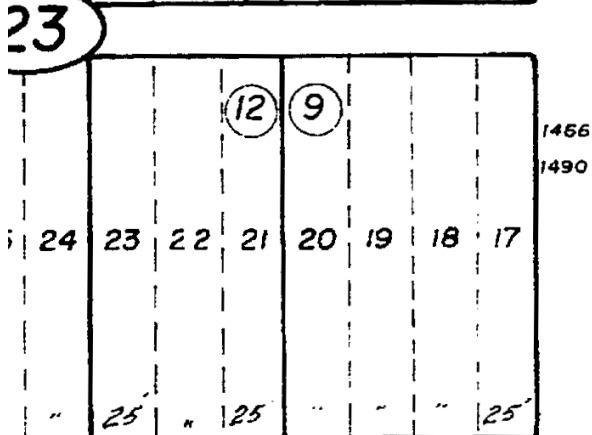
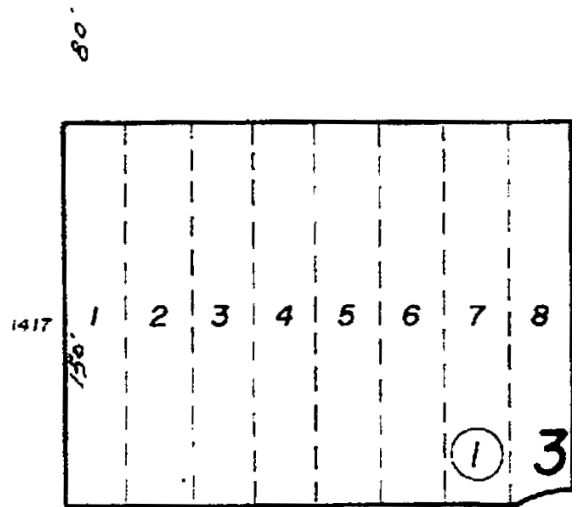
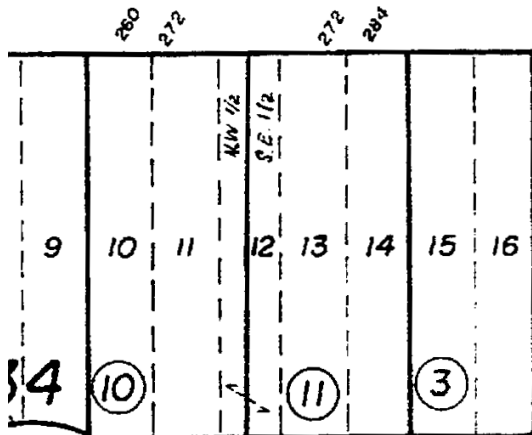
EXHIBIT A

The Property

ATTACHMENT A



NAPLES



THIRD

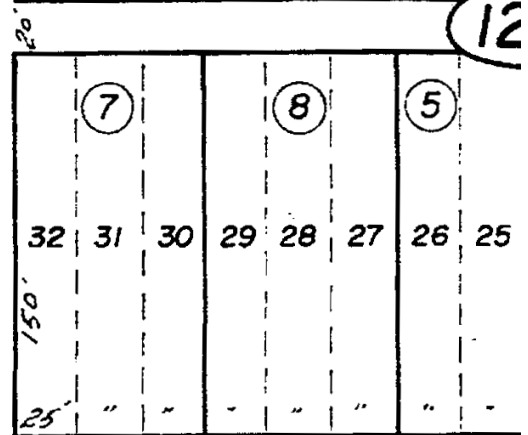


EXHIBIT B

Request for Proposals for the Lease of City Property for Industrial Uses



CITY OF
MENDOTA

REQUEST FOR PROPOSALS
FOR THE LEASE OF CITY PROPERTY
FOR INDUSTRIAL USES

Dated: December 14, 2018

TABLE OF CONTENTS

I.	Introduction.....	1
II.	Background.....	1
III.	The Property	1
IV.	The Project.....	2
V.	General Proposal Requirements	2
VI.	Specific Proposal Requirements	2
VII.	Selection Process & Criteria.....	3
VIII.	Proposal Submission	4
IX.	Limitations and Conditions.....	4



CITY OF
MENDOTA

I. INTRODUCTION

The City of Mendota is seeking proposals from qualified parties (“Respondents”) to lease certain City property consisting of approximately 13,624 ft² (170.3’ x 80’) located along Naples Street (the “Land”), identified below within “Attachment A”, attached hereto, in blue highlight and zoned as M-1 (Light Manufacturing District).

Respondents are encouraged to submit a proposal in accordance with the requirements set forth herein. The City will review all submitted proposals in accordance with the Selection Process & Criteria discussed below. If the City is able to reach an agreement with any of the Respondents, the specific terms and legal considerations of the lease will be documented in a formal Lease Agreement (the “Lease”) to be entered into by the City and the successful Respondent.

II. BACKGROUND

The City of Mendota has control and ownership of the property on Naples Street, constituting the official and technical terminus of Third Street, east of Naples Street. The property in question had been historically used as a storage yard for City equipment, including vehicles and heavy machinery, but has not been in active use for that purpose since the construction and utilization of more secure and appropriate facilities that serve the same purpose.

Due to a growing economy and the consequent demand for suitable industrial land for commercial purposes, the City Council is interested in leasing out this property to the most qualified and reliable Respondent. Therefore, the process will follow the Competitive Negotiation process as contained in Mendota Municipal Code Section 2.48.120.

III. THE PROPERTY

The Property consists of approximately 13,600 ft² located in the middle of the industrial section of the City, as depicted in “Attachment A”. It is zoned with the M-1 designation (Light Manufacturing District) and is has the General Plan Land Use Designation of Light Industrial.

The Property is surrounded by industrial, commercial, and high-density residential uses, including vacant land and an apartment complex to its west, a heavy truck parking facility to its northwest, the San Joaquin Valley Railroad to its north, northeast, and east, a petroleum storage and dispensary business to its southeast, and a commercial social hall to its south. All of these properties share the same zoning classification and General Plan Land Use Designation of Light Industrial.

The Land has no permanent buildings on site and will be provided without any improvements, with the exception that the City will waive all City costs related to procurement of the appropriate entitlement for the use of the Land.

IV. THE PROJECT

The City desires to lease the Property to an individual or entity capable of developing it for use in connection with approved commercial or industrial operations consistent with the surrounding uses and the City's General Plan.

The City envisions a development that is unique or otherwise fulfills a need, thereby diversifying the commercial portfolio of the community and provides residents and surrounding communities with a valuable service. The City desires an arrangement under which the Respondent, or its agent or successor in interest, will establish a use that improves that sector of the City. Special consideration will be given to a proposed project that attracts residents from outside communities to do business in Mendota.

V. GENERAL PROPOSAL REQUIREMENTS

While attempting to allow potential Respondents the ability to draft responses which meet their individual needs, the City wishes to provide some general guidelines regarding what it is looking for in a successful Respondent.

- The City seeks a responsible entity that will follow through with the entitlement process, development, and establishment of an accepted and successful use of the subject land.
- The City prefers someone that has experiencing developing land, completing projects, and successfully managing a business.

VI. SPECIFIC PROPOSAL REQUIREMENTS

The City encourages interested and qualified entities to submit proposals in response to this RFP. Multiple proposals of the use for the land from one entity are acceptable within one proposal. Proposals shall include the following:

- The term, in years, for which the Respondent is willing to lease the Land;
- The total amount Respondent is willing to pay, per year, to lease the Land;
- A detailed description of the proposed use, including business type, buildings planned (if any), ground surface to be constructed, fencing, security, and any other details you may deem appropriate for the City to determine the suitability of the use.

Additionally, proposals may include the following information:

- The square footage of the proposed project, including a planned full buildout timeframe;
- The number of individuals the Respondent anticipates to employ including how many of those will be Mendota residents;
- An explanation of how Respondent intends to incorporate local contractors and purchase goods and materials locally;
- An explanation of how Respondent intends to give back to worthwhile and positive community organizations;
- The estimated cost of the project in full buildout;

VII. SELECTION PROCESS & CRITERIA

After the deadline for submission, the City Manager, Finance Director, and Economic Development Manager will evaluate all timely and qualified proposals and score them on a scale of 1 to 100. Upon completion of the evaluation process, the City Manager will present the findings to the City Council at one of its regular or special meetings to select the winning Respondent. The City Council will consider and evaluate the proposals and render a final determination regarding whether to move forward with the lease. If asked to present their proposal to the City Council, Respondents should be prepared to discuss the proposal in detail and to answer questions from the Council and staff.

The following criteria will be used to select the Respondent to which the lease will be granted and will comprise the score that ranges from 1 to 100 for the purposes of qualifying each response:

- 50% of the score will be determined based on the Respondent's proposed cost of the lease and the length of the lease term;
- 30% of the score will be determined based on the suitability of the property for the designed use, the benefits it brings to the area and community, and the quality of the proposed project as a whole;
- 20% of the score will be determined by the quality of the Respondent's written proposal, their disposition towards hiring Mendota residents for construction and long-term operation of the business, and detail related to how their project will provide intangible benefits to the community.

If a Respondent is selected to undertake the project, the Respondent will be expected to:

- Enter into a Lease Agreement that includes, but is not limited to, at least, as a minimum, the term and yearly lease amount contained within their proposal, indemnifies the City to the extent allowable by law, and all other necessary

provisions and stipulations to make said Lease Agreement legally binding and enforceable;

- Work with City Staff to acquire the appropriate entitlements required to operate on the property;
- As part of the Agreement, pay all applicable Development Impact Fees and install pavement or another appropriate and durable material on the totality of the property, with all necessary and required appurtenances.

It is important to note that the successful Respondent will be expected to enter into a long-term Lease Agreement which will contain requirements related to performance and payment expectations. Violations of these are anticipated to be penalized, up to and including cancellation of the lease for actions that are detrimental to the City and its officers or the community as a whole.

VIII. PROPOSAL SUBMISSION

The City will begin accepting proposals when this RFP is issued, and will continue to accept proposals until 5:00pm on Friday, February 2, 2019. It is anticipated that the City Council will meet on February 13, 2019 for the purpose of considering the highest scoring proposal(s) submitted.

Proposals must be complete, clear, and concise. Submit the proposal in standard PDF format by e-mail attachment(s) to matt@cityofmendota.com, or by mail or delivery to the following address:

Mendota City Hall
Attn: Matt Flood, City Clerk
643 Quince St
Mendota, CA 93640

All proposals shall be sealed and clearly marked: "Proposal for Lease of Naples Property for Industrial Use." Respondents shall be solely responsible for ensuring its proposal arrives to the City by the deadline set forth above. The City shall not be responsible for any issues arising from mail delivery or circulation.

IX. LIMITATIONS AND CONDITIONS

1. The City reserves the right to reject any and/or all responses, or to withhold the award for any reason. The City may also waive or decline to waive irregularities in any response.
2. The City reserves the right to request additional information from any Respondent.

3. The City reserves the right to extend the deadline for submissions in response to this RFP.

4. The City reserves the right to waive any of the requirements of this RFP.

5. The City may begin negotiations with selected Respondents at the City's discretion. The City anticipates negotiations regarding lease terms to take place after the deadline for proposal submission. If negotiations are successful, the proposed Lease Agreement will be brought to the City Council for its consideration to approve.

6. Upon selection of a Respondent, the City shall provide a Lease and Development Agreement for the parties' execution which will set forth the terms of the lease and development.

7. This RFP and any statements made by City staff or representatives are not a contract or a commitment of any kind by the City and do not commit the City to award an exclusive negotiating agreement or constitute an offer to lease the Property.

8. Potential Respondents are responsible for all costs associated with preparing their submittal. No reimbursement will be made by the City for any cost incurred in preparation of the response to this RFP.

9. The issuance of this RFP does not constitute an agreement by the City that the City Council will approve any contract or that the City will enter into any contract.

10. Respondent's Duty to Investigate:

a. It is the sole responsibility of the Respondent to investigate and determine conditions of the Property, including existing and planned utility connections, the suitability of the conditions for any proposed improvements, the status of any hazardous material remediation, and the need for any additional remediation of the Property.

b. The information presented in this RFP and in any report 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 RFP 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 RFP is entitled to rely upon any of the information provided.

11. All responses to this RFP shall become the property of the City. The City may use any and all ideas and materials included in any submittals, whether or not the respondent is selected to lease the property.

12. Proposals and all other information and documents submitted in response to this RFP are subject to the California Public Records Act, California Government Code § 6250 *et seq.*, which generally mandates the disclosure of documents in the possession of the City

upon the request of any person, unless the content of the document falls within a specific exemption category.

13. “As-Is” Property Condition. The Property will be leased to the successful Respondent in an “as-is” condition, without representation or warranty by the City as to physical or environmental conditions of the land or any existing structures. The City makes no representations regarding the character or extent of soil or subsurface conditions or the conditions and existence of utilities that may be encountered during the course of construction of any work, development, construction, or occupancy of the Property. Respondents will be responsible for independently reviewing all available information that may be available about existing conditions, and undertaking independent analysis of site conditions, including any environmental, health, and/or safety issues.

14. The City will not pay for any broker’s commission and/or finder’s fee applicable to the lease of the Property. Therefore, any commission and/or finder’s fee to be paid to any broker or representative of the successful Respondent shall be paid directly by the successful Respondent by a separate arrangement which does not involve the City.

EXHIBIT C

Proposal of Gonzalez Hall & Promotions, Inc.



December 18, 2018

City of Mendota
643 Quince Street
Mendota, CA 93640

RE: Property on Naples

To whom it may concern:

Please accept this proposal as our intent to rent the above mentioned property.

We are willing to pay \$200.00 per month for a term of 50 years.

Our intent is to use the property for parking space as it is conveniently close to our social hall located at 1417 3rd Street.

We will level and put base rock or asphalt on to the property and stripe it properly for parking

We will also install a wrought iron fence in the front with an electric gate door.

Sincerely,

Ramon Gonzalez
Ramon Gonzalez/President
Gonzalez Hall & Promotions, Inc.

Attachment

GONZALEZ HALL & PROMOTIONS INC.

1417 3rd Street . Mendota, CA 93640 . Phone 559.655.3739 . Fax 559.655.2115

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AMENDING
TITLE 5 OF THE MENDOTA MUNICIPAL
CODE CONCERNING REGULATIONS
FOR SIDEWALK VENDORS**

ORDINANCE NO. 19-XX

WHEREAS, the City of Mendota (City) is responsible for enforcing laws and regulations for the health and safety of the City's residents;

WHEREAS, Senate Bill ("SB") 946 was signed into law on September 17, 2018, and becomes effective January 1, 2019;

WHEREAS, SB 946 limits the authority of cities and counties to regulate sidewalk vendors, except in accordance with California Government Code Sections 51038 and 51039;

WHEREAS, the City Council finds that the establishment of a sidewalk vending program will benefit the City as a whole by facilitating entrepreneurship and providing economic opportunity for people to support themselves and their families, and by contributing to a diversity of food options and lively streets;

WHEREAS, the City Council finds that the act of vending on sidewalks and other areas of the public right-of-way also creates the potential for increased safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic;

WHEREAS, the City Council finds that restrictions on sidewalk vending are needed to accommodate vendors and their equipment, while also safe-guarding the flow of pedestrian movement on sidewalks and in the public right-of-way, and ensuring no interference with the performance of police, firefighter, and emergency medical personnel services;

WHEREAS, the City Council finds that the regulation of vendors engaged in the sale of food and food products will help to ensure that sidewalk vendors obtain all necessary permits and comply with applicable sanitation, food preparation, and food handling laws, and thereby will protect the public health and safety against health problems such as food contamination, poor hygienic practices, and the threat of food poisoning;

WHEREAS, the City Council finds that regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant;

WHEREAS, the City Council finds that restrictions on sidewalk vending in public parks are necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks;

WHEREAS, the City Council finds that restrictions on sidewalk vending in residential areas are necessary to ensure that such areas are protected from excessive noise and traffic impacts while allowing economic opportunities for sidewalk vendors;

WHEREAS, the City Council adopts this Ordinance under the authority provided in SB 946, and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City's purpose of protecting of the health, safety, and welfare of its residents, businesses and visitors;

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred; and

WHEREAS, the City Council of the City of Monrovia hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance.

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 of this ordinance replaces Title 5, Chapter 5.28 in its entirety to establish regulations for sidewalk vendors in accordance with SB 946. Section 4 amends Title 5, Chapter 5.32 to incorporate deleted provisions of former Title 5, Chapter 5.28 and to clarify that the chapter, as amended, does not apply to sidewalk vendors. Section 5 amends Title 5, Chapter 5.04, Section 5.04.010 for consistency with the above changes.

SECTION 3. Title 5, Chapter 5.28 of the Mendota Municipal Code is hereby amended to read as follows:

5.28.010 – Definitions

The following words and phrases, whenever used in this chapter, shall mean as follows:

“Certified farmers’ market” shall mean a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

“Director” shall mean

“Person” shall mean one or more individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit, or any other activity.

“Roaming sidewalk vendor” shall mean a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk vendor” shall mean a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“Stationary sidewalk vendor” shall mean a sidewalk vendor who sells from a fixed location.

“Swap meet” shall mean a location operated in accordance with Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

“Temporary special permit” shall mean a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, city or privately sponsored filming, parades, or outdoor concerts.

“Sell” or “selling” shall mean to sell, offer for sale, display for sale, or solicit offers to purchase, food, food products, beverages, goods, or merchandise.

“Vending cart” shall mean a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for selling, whether mobile or stationary, that is not a vehicle as defined in the California Vehicle Code.

5.28.020 – Permit Required

No person shall conduct or engage in sidewalk vending within the City without first obtaining a sidewalk vending permit pursuant to this chapter.

5.28.020 – Permit Application

To apply for a sidewalk vending permit, a person must file an application with the Director or designee, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. The legal name and current address and telephone number of the applicant;
- B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- C. A description of the food or merchandise offered for sale;
- D. A description of the area(s) the applicant intends to operate;
- E. Whether the applicant intends to operate as a stationary sidewalk vendor and/or a roaming sidewalk vendor;
- F. A California seller's permit number pursuant to Section 6067 of the Revenue and Taxation Code;
- G. Certification by the applicant that the information contained in the application is true to his or her knowledge and belief;
- H. If a vendor of food or food products, certification of completion of a food handler course and proof of all required approvals from the Los Angeles County Department of Public Health;
- I. Proof of liability insurance; and
- J. Any other reasonable information regarding the time, place, and manner of the proposed vending.

5.28.030 – Criteria for Approval or Denial of Permit

The Director, or his or her designee, shall approve the issuance of a permit unless he or she determines that:

- A. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
- B. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents;
- C. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in section 5.98.090; or

- D. The applicant has failed to pay any previous administrative fines, complete any community service, and/or complete any other alternative disposition associated with a previous violation of this chapter.

If the permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

5.28.040 – Permit Expiration and Renewal

A sidewalk vending permit shall be valid for twelve (12) months from the date of issuance, and shall expire and become null and void on the anniversary of its issuance. A person may apply for a permit renewal on a form provided by the City prior to the expiration of his or her active sidewalk vending permit.

5.28.050 – Permit Rescission

The Director may rescind a permit issued to a sidewalk vendor for a fourth violation or subsequent violation of this Chapter. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending permit upon the expiration of the term of the rescinded permit.

5.28.060 – Appeals

Any person aggrieved by the decision of the Director to issue, deny issuance, or rescind a sidewalk vending permit may appeal the decision to the City Council. The appeal shall be filed with the City Clerk within fourteen (14) days following the date of the Director's decision.

5.28.070 – Permits Nontransferable

No permit granted pursuant to this chapter shall be transferable.

5.28.080 – Operating Requirements

Sidewalk vendors shall comply with the following:

A. No sidewalk vendor shall vend in the following locations:

1. Within fifteen (15) feet of any street intersection;
2. Within ten (10) feet of any fire hydrant, fire call box, or other emergency facility;
3. Within ten (10) feet of any driveway or driveway apron;
4. Upon or within any roadway, median strip, or dividing section;

5. Upon or within any parkway or landscaped areas lacking paved pathways for travel;
 6. Within 500 feet of a permitted certified farmers' market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the farmers' market or swap meet, or the limited duration of the temporary special permit;
 7. Within 500 feet of a public or private school site during school hours, and not within one hour before or one hour after school drop off and pick up operations;
 8. In any City parking lot;
 9. On private property without the consent of the property owner.
- B. No sidewalk vendor shall sell in a manner that blocks or obstructs the free movement of pedestrians or vehicles. Sidewalk vendors must at all times provide a clearance of not less than three (3) feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices;
- C. Sidewalk vending is only permitted between the hours of 8:00 a.m. and 10:00 p.m., daily, except as follows:
1. In residential areas, sidewalk vending shall only be permitted between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 6:00 p.m. on weekends and holidays.
 2. In nonresidential areas, the limit on hours of operation shall not be more restrictive than the hours of operation of other businesses or uses on the same street.
 3. In park areas, sidewalk vending shall be permitted only during hours open to the public.
- D. Stationary sidewalk vendors shall not sell in areas that are zoned exclusively residential.
- E. Stationary sidewalk vendors shall not sell at any park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
- F. Sidewalk vendors shall provide a trash receptacle for customers and ensure proper disposal of customer trash. Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the vendor's customers within a fifteen (15) foot radius of the vending location.

- G. Vendors of food or food products shall possess and display in plain view on the vending cart a valid Public Health Permit from the Los Angeles County Department of Public Health.
- H. Sidewalk vendors shall possess at all times while selling, a valid sidewalk vendor permit issued pursuant to this chapter, as well as any other permit or license required by the City and any other appropriate governmental agency.
- I. Sidewalk vendors shall possess at all times while selling, current liability insurance.
- J. Sidewalk vendors shall comply with all applicable state and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and regulations; noise standards; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).
- K. Vending carts shall not be chained, fastened, or affixed at any time to any building or structure, including, but not limited to lampposts, parking meters, traffic signals, fire hydrants, benches, bus shelters, trash cans, street signs, trees, or other objects within the public right-of-way. No vending cart shall become a permanent fixture on any site or be considered an improvement to real property.

5.28.090 – Administrative Citations

- A. A violation of this chapter by a sidewalk vendor who has a valid sidewalk vending permit from the City is punishable only by an administrative citation in amounts not to exceed the following:
 - 1. One hundred dollars (\$100) for a first violation.
 - 2. Two hundred dollars (\$200) for a second violation within one year of the first violation.
 - 3. Five hundred dollars (\$500) for each additional violation within one year of the first violation.
- B. A person engaged in sidewalk vending without a valid City sidewalk vending permit is punishable by an administrative in amounts not to exceed the following, in lieu of the amounts set forth in paragraph A:
 - 1. Two hundred fifty dollars (\$250) for a first violation.
 - 2. Five hundred dollars (\$500) for a second violation within one year of the first violation.

3. One thousand dollars (\$1,000) for each additional violation within one year of the first violation.
 4. Upon proof of a valid sidewalk vending permit issued by the City, the administrative citations set forth in this paragraph shall be reduced to amounts set forth in paragraph A.
- C. A violation of this chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.
- D. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
- E. When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.
- F. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the City shall accept, in full satisfaction, twenty (20) percent of an administrative citation imposed pursuant to this chapter.
- G. The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition."

SECTION 4.Title 5, Chapter 5.32 of the Mendota Municipal Code is hereby amended as follows:

5.32.010 – Definitions

For the purposes of this chapter, the following words have the meanings set out in this section:

"Itinerant vendor" means a person, other than a sidewalk vendor, engaged in the business of selling food, goods, wares, merchandise or any other thing of value from a motorized vehicle or mobile unit.

“Merchandise” means any item of personal property whether tangible or intangible, or any service capable of sale.

“Nonprofit organization” means an organization which is capable of being so designated under the rules and regulations of the Internal Revenue Service.

(Ord. 91-04 § 8, 1991: prior code § 6.09.001)

~~5.32.020 - Prohibition.~~

~~—— It is unlawful for any itinerant vendor to sell merchandise at any time within the city limits on~~

- ~~A. Any street, sidewalk or other public way;~~
- ~~B. Any publicly owned property;~~
- ~~C. Any open lot or field whether publicly or privately owned; and~~
- ~~D. Privately owned property where such sales take place out of doors.~~

~~—— It is unlawful to sell any agricultural products, specifically including fruit, nuts, flowers or live plants within the city limits of the City of Mendota under this chapter.~~

~~(Prior code § 6.09.002)~~

~~(Ord. No. 09-09, § 1, 7-28-2009)~~

~~5.32.030 – Exceptions.~~

~~The following activities or entities shall not be subject to the provisions of Section 5.32.020:~~

- ~~A. Nonprofit organizations provided they sell only during civic-sponsored or authorized festivals, events or holiday periods and they do the following:
 - ~~1. Obtain a permit from the City Hall specifying the items to be sold, the dates of sale and the location where the sale is to be held, and~~
 - ~~2. Sell only in areas designated by the city for such sales;~~~~
- ~~B. Garage or yard sales which a person conducts on or at his residence provided such person complies with all other regulations of the city;~~
- ~~C. Sidewalk type sales of local business conducted on their own property adjacent to the structure in which their regular business is conducted;~~
- ~~D. Any activity covered under Chapter 5.28.~~

~~(Prior code § 6.09.003)~~

~~5.32.040 – Violation – Penalty.~~

~~Any person or entity violating the provisions of this chapter shall have committed an infraction and will be subject to the general penalty provisions of Chapter 1.20 of this code.~~

~~(Prior code § 6.09.004)~~

5.32.020 – Permits

All itinerate vendor equipment and vehicles must be inspected and approved by the local health officer prior to the issuance or renewal of an itinerate vendor permit and such permit shall be displayed in plain sight on the vehicle. The permit fee for an annual permit shall be set by resolution of the city council. Permits shall be issued for a period of one year. The application fee for an annual permit shall be set by resolution of the city council.

5.32.030 – Number of permits issued

One itinerant food vendor permit shall be issued for each one thousand five hundred (1,500) residents or a portion thereof, in the city, as established by an official census.

5.32.040 – Issuance of new permits

New itinerant vendor permits shall be issued to the person who applied for an itinerant vendor's license for the longest period of time. If there is no such person or it is impossible to determine the identity of that person, the new permittee shall be chosen by lot. Permit renewals shall be issued consistent with the provisions of Section 5.28.060.

5.32.050 – Notices when less than all permits are issued

Whenever there are less than the maximum number of itinerant vendor permits issued in the city, the city clerk shall post notice in City Hall, mail notice to any itinerant vendor who held a permit during the prior year who failed to renew that permit, and mail notice to persons who made written request for such notice and paid a fee of five dollars (\$5.00) to cover processing costs. Written requests for notice more than twelve (12) months old will not be honored.

5.32.060 – Priority to existing permits

Persons holding an itinerant food vendor permit shall have priority on the reissuance and renewal of their permits subject to the following conditions:

- A. The permittee shall have complied with all provisions of this code with respect to the operation of the temporary facility;
- B. The temporary facility shall have been approved by the local health officer; and
- C. The permittee shall have actively exercised the permit during the prior permit period by operating the temporary facility in the city during substantially all of the permit period.

5.32.070 – Sitting and outdoor seating

- A. The temporary facility shall not be located closer than fifty (50) feet from a permitted restaurant. Disposal of grease from the temporary facility shall conform to all applicable health and safety requirements.
- B. The permittee may, by application for an encroachment permit and payment of required fees, request the city's approval for a temporary street-side location for its temporary facility. In addition, the permittee may, by application for an encroachment permit, and payment of required fees, request the city's approval for the temporary placement of tables and/or chairs on the city sidewalk, within the city's street right-of-way, adjacent to the temporary facility. In considering the permittee's encroachment permit application, the city shall make the following findings.

1. That adequate parking exists for customers of the temporary facility.
2. That placement of tables and chairs shall provide adequate setback for pedestrian traffic on the sidewalk, as demonstrated by a written site plan, and as demonstrated by placement on the sidewalk.
3. That tables and chairs shall only be allowed during the period of June 1st to September 30th of the each year.

5.32.080 – Revocation of permit

- A. Whenever an itinerant vendor operating under a permit issued pursuant to this chapter is violating any provision of this chapter, the City shall deliver a written citation enumerating the violations to the owner or any employee of the owner. If the permittee does not correct the violations within the time specified in the citation, then the permit shall be automatically revoked and the permittee must cease conducting any further business. Once a permit has been revoked, the owner must apply for a new permit and pay a new fee.
- B. The permittee may appeal the issuance of the citation to the City Manager. If a request for appeal is made before the time specified in the citation to correct the violations, then the permit shall not be automatically revoked and the permittee may continue to conduct business until the City Manager has heard and decided the appeal.
- C. Notwithstanding a timely request for an appeal pursuant to subdivision B, above, if the City Manager determines that continued operation of the permitted business would present an immediate and serious risk to public health or safety, then the permittee shall immediately cease all business operations conducted under the permit.

5.32.090 – Request for notice

The request for notice shall contain the following:

- A. The name of the owner of the temporary facility;
- B. The address of the owner;
- C. The telephone number of the owner;
- D. The license number of the temporary facility;
- E. It shall be accompanied by the five-dollar (\$5.00) fee and shall be dated and signed by the owner of the temporary facility.

5.32.100 – Violation—Penalty

Any itinerant vendor who operates within the city limits without a permit or after his permit has been revoked is guilty of a misdemeanor. The owner, manager and/or operator shall be responsible for any violation of this chapter.

SECTION 5. Title 5, Chapter 5.04, Section 5.04.010 of the Mendota Municipal Code is hereby amended as follows:

For purposes of this title, the following terms shall have the following meanings:

“Business” means trades, callings, professions and occupations of every kind whether or not carried on for profit.

~~“Itinerant food vendor” means a person engaged in the business of selling food items, including prepared food, ice cream, bakery products, fruits and vegetables, from a motor vehicle or mobile unit.~~

“Itinerant vendor” means a person, other than a sidewalk vendor, engaged in the business of selling food, goods, wares, merchandise or any other thing of value from a motorized vehicle or mobile unit.

“Peddler” means a person, other than a sidewalk vendor, not having a fixed place of business who travels from place to place for the purpose of selling or offering for sale any goods, wares or merchandise.

“Person” or “Party” means a firm, corporation, partnership, club, association or other entity conducting or carrying on a business in the city.

“Sale” means the transfer, in any manner or by any means, of title to real or personal property for consideration, including a transaction whereby the possession of property is transferred and the seller retains legal title as security for payment of the purchase price.

“Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

SECTION 6. 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 7. This ordinance shall take effect thirty (30) days after its passage.

SECTION 8. 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 ____ day of May, 2019 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the ____ day of May, 2019 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Robert Silva, 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: MICHAEL OSBORN, ASSISTANT CITY ENGINEER
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: MODIFICATION TO BLACK AVENUE BULB-OUTS
DATE: APRIL 23, 2019

ISSUE

Should the City Council direct staff and the City Engineer to include the proposed modification of the curb “bulb-outs” on the west side of the Black Avenue and Sorensen Avenue intersection in the Black Avenue & 5th Street Reconstruction project authorized for construction this summer?

BACKGROUND

In 2013-2014 the intersection of Black Avenue and Sorensen Avenue was reconstructed as part of the Smoot, Sorensen, McCabe Street Rehabilitation Project. The reconstruction involved modifying the standard curb returns at the northwest and southwest corners by extending the curb line towards the centerline; a traffic calming technique referred to as bulb-outs. This was done to 1) improve pedestrian mobility by installing accessible curb ramps, 2) improve the safety of school crossings by reducing the length of the crosswalks across Black and Sorensen, and 3) calm the vehicular traffic on Black Avenue. While it accomplished those objectives, the curb return modifications also caused the location of the stop sign and crosswalk to shift away from the Sorensen centerline. This shift of the crosswalk, along with the private fencing, street trees and on-street parking around the residence at the northwest corner of the intersection, somewhat impaired eastbound motorists’ ability to see traffic heading southbound on Sorensen, thus encouraging the eastbound motorist to creep forward into the throat, blocking the crosswalk and impeding other turning movements from Sorensen onto Black.

Around the time that the bulb-outs were constructed, the previously-approved Las Palmas development resumed active construction and Phases IV through IX have since doubled the amount of residences accessed via Holmes Avenue and Black Avenue. Residential streets the width of Black Avenue are not well suited to handle the traffic volumes now using Black Avenue, and the increased traffic has changed the situation at Black and Sorensen.

ANALYSIS

We have heard the public's frustration and dissatisfaction with this intersection and have studied it to find a cost-effective way to improve vehicular movements through the intersection while still providing for safer pedestrian use and school crossings. The attached exhibit shows a proposed modification to the bulb-outs. This modification limits the extent of concrete and paving removal and replacement, thus minimizing construction costs. Functionally, it widens the throat of the intersection by eight (8) feet, more than the width of a full-size car. It also relocates the accessible curb ramps that cross Black Avenue to allow the marked school zone crosswalk and the eastbound stop sign to shift just over eight (8) feet closer to Sorensen. These modifications will allow the eastbound motorist greater ability to see vehicles traveling southbound on Sorensen. These modifications will also provide more space for vehicles turning onto Black Avenue to navigate around an eastbound vehicle waiting on Black Avenue to turn onto Sorensen. The proposed modifications preserve the safer pedestrian crossing aspects of the original design.

FISCAL IMPACT

If the Council so directs, this modification can be included in the Black Avenue & 5th Street Reconstruction project ("Project"). The construction of that project is fully funded by Federal Surface Transportation Block Grant (STBG) funds of \$697,342. Because the bulb-out modifications would be additional scope to what was already approved for construction by Caltrans and the FHWA, the proposed modification would be included as an additive alternate or as a separate line item in the construction bid proposal to separate its cost.

If Staff is directed to include the proposed modification into the Project, there will be no additional engineering fee for incorporating this into the plans and specifications. Construction of this modification is estimated to cost \$75,000, if included as part of the Project. There is economy in including it in the Project as a contractor will already be mobilized and performing similar work immediately adjacent to the bulb-outs. Depending on how the bids come in, Staff will work with Caltrans for additional STBG funding or the City may have to pay the additional cost of the modifications out of local streets and roads funds (Measure C, gas tax, SB1/RMRA or LTF.)

There will be no impact on the General Fund.

RECOMMENDATION

Staff recommends that the City Council direct Staff and the City Engineer to include the proposed modifications of the curb "bulb-outs" on the west side of the Black Avenue and Sorensen Avenue intersection in the Black Avenue & 5th Street Reconstruction project authorized for construction this summer.

SHIFTS CROSSWALK 9.0'
CLOSER TO SORENSON AVE.

BLACK AVE.

38.1'

31.7'

23.8'

(E) SDDI TO
REMAIN, BOTH
SIDES

SORENSON AVE.

WHERE THE DRIVERS EYE
SHOULD BE PER HDM

WHERE THE FRONT OF
THE CAR SHOULD BE
PER HDM

EDGE OF TRAVELED WAY

- LINEWORK FROM EXISTING TOPO
- LINEWORK FROM ORIGINAL DESIGN
- PROPOSED LINEWORK



SCALE IN FEET



10/19/2018 1:57 PM G:\mendota_city\3336\333618007-Black Framing McCabe & 5th\DWG\EXHIBIT\BULB OUT EXHIBIT.dwg -Robson Brechtman

EST. 1968
PROVOST & PRITCHARD
 CONSULTING GROUP
 An Employee Owned Company

BLACK AVENUE AND 5TH STREET RECONSTRUCTION

CITY OF MENDOTA
FRESNO COUNTY

BULB-OUT MODIFICATION EXHIBIT

DESIGN ENGINEER:
M. OSBORN
 DATE: 10/18/2018
 JOB NO: 333618007
 SHEET **1** OF **1**

AGENDA ITEM

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CRISTIAN GONZALEZ, CITY MANAGER

SUBJECT: WAIVER OF FIRST READING AND PASSING TO THE SECOND READING OF ORDINANCE 19-04, AN ORDINANCE APPROVING AMENDMENT NO. 2 TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MENDOTA AND KSA HOMES, INC. RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE LA COLONIA PROPERTY

DATE: April 23, 2019

DISCUSSION:

On August 14, 2018, the Mendota City Council, by Resolution 18-63, approved Tentative Map 18-01, an 86-lot subdivision known as La Colonia. At that same meeting, Ordinance 18-04, approving the project's Development Agreement, was introduced, and then duly passed and approved by your Council on August 28, 2018. That Development was subsequently amended on March 12th to revise the division of responsibilities between the City and the Developer.

One of the subjects covered by the Development Agreement is construction of a traffic signal at the intersection of Bass Avenue and Barboza Street. This signal light has been a condition of approval of the development since it was negotiated prior to the approval of the Tentative Map in the Summer of 2018. Recent conversations with Caltrans, Fresno COG and the Developer's traffic engineer suggest that while some form of intersection control is appropriate at that location, a traffic signal may not be the best solution.

Traffic signals work well when the traffic counts on the two intersecting streets are reasonably equal. That is not the case at Bass and Barboza. Bass Avenue carries far more traffic, and its traffic count will only increase over time while Barboza will be fully developed when La Colonia is completed. Where traffic on the intersecting streets is so unbalanced, a roundabout is a better solution. A roundabout allows continuous flow on the busier street while still allowing protected turns and crossings from the minor street. All of the engineers involved agree that a roundabout will provide a superior solution at this location that will provide a higher level of service to the citizens of Mendota.

Staff has determined that Federal funding is available for construction of a roundabout at this location from Fresno COG Lifeline funds, and under the CMAQ program (Congestion Mitigation and Air Quality Improvement program), because roundabouts provide improved traffic circulation versus stop signs and traffic signals. Because of this availability, the overall

cost to the City of a roundabout will be substantially less than a signal would be. The City would have to pay the entire cost of design and construction of the signal out of Street Development Impact Fees, whereas the only local cost for the roundabout will be the design engineering. Construction and construction engineering will be eligible to be paid with Federal funds.

This proposed amendment to the Development Agreement would have the Developer retain his traffic engineer, Peters Engineering, to prepare engineering drawings (Plans) for the roundabout. Peters Engineering has designed many similar roundabouts for both Caltrans and local agencies, and is well-suited to prepare the plans necessary. The Plans would be combined with specifications and bid documents prepared under separate agreement with the City Engineer, and would be put out to public bid for construction late in 2019. This amendment provides that the cost of the Peters contract would be reimbursed to the Developer by the City from Street Development Impact Fees upon completion of the Plans and acceptance of the Plans by the City Engineer.

FISCAL IMPACT:

While the total obligation of the City to construct the traffic signal under the existing agreement had not been exactly defined, staff estimates that this amendment will result in a savings to the Street Development Impact Fee account of approximately \$250,000.

RECOMMENDATION:

Staff recommends that that City Council move to introduce the Ordinance No. 19-04 and give first reading, by title only, with second reading waived, and set the public hearing for the May 14th City Council meeting.

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
A SECOND AMENDMENT TO THE
DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF MENDOTA AND
KSA HOMES, INC. RELATING TO THE
DEVELOPMENT OF THE PROPERTY
COMMONLY KNOWN AS THE LA
COLONIA PROPERTY**

ORDINANCE NO. 19-04

WHEREAS, on August 28, 2018 the City Council of the City of Mendota (“City”) adopted Ordinance No. 18-04, approving a development agreement (“Development Agreement”) by and between the City and KSA Homes, Inc. (“Developer”) (collectively, “Parties”), attached hereto as Exhibit “A” and incorporated herein by this reference;

WHEREAS, an Addendum to the Development Agreement was adopted on October 23, 2018, attached hereto as Exhibit “B” and incorporated herein by this reference; and

WHEREAS, after approval of the Development Agreement, Developer requested certain changes to the parcel map resulting in the development property being subdivided into 85 lots, rather than the original 86 lots;

WHEREAS, on March 12, 2019 the City adopted Ordinance No. 19-01 approving amendments to the Development Agreement (“First Amendment to Development Agreement”), attached hereto as Exhibit “C” and incorporated herein by this reference;

WHEREAS, after approval of the First Amendment to Development Agreement, City and Developer agreed to certain other changes to the agreement regarding the requirements of Exhibit “F”;

WHEREAS, to accommodate the Parties’ desired modifications, the Parties have agreed to execute a second amendment to the Development Agreement (“Second Amendment to Development Agreement”); and

WHEREAS, staff has prepared the Second Amendment to Development Agreement in accordance with the Parties’ intentions, which is attached hereto as Exhibit “D” and incorporated herein by this reference;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA 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. This Ordinance incorporates, and by this reference makes a part hereof, the Second Amendment to Development Agreement, attached hereto as Exhibit "D".

SECTION 3. This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to the "Development Agreement Regulations."

SECTION 4. In accordance with the Development Agreement Regulations, the City Council hereby finds and determines, as follows:

1. The Amendment to Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, in that it establishes certain development rights, obligations and conditions for the implementation of the La Colonia Property;
2. The Amendment to Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the general plan designations which will apply to the La Colonia Property;
3. The Amendment to Development Agreement is in conformity with public convenience, general welfare, and good land use practice;
4. The Amendment to Development Agreement will not be detrimental to the public health, safety, and general welfare;
5. The Amendment to Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and

SECTION 5. The foregoing findings and determinations are based upon the following:

1. The Recitals set forth in this Ordinance, which are deemed true and correct;
2. Ordinance No. 18-04, adopted by the City Council on August 28, 2018 approving the Development Agreement by and between City and Developer, and the Recitals therein, which are deemed true and correct;
3. Ordinance No. 19-01, adopted by the City Council on March 12, 2019, approving the First Amendment to Development Agreement by and between City and Developer, and the Recitals therein, which are deemed true and correct;
4. Resolution No. 18-61, adopted by the City Council on August 14, 2018, making findings as to the Mitigated Negative Declaration for the La Colonia Project, approved by and incorporated in said Resolutions, which Resolutions and exhibits are incorporated herein by reference as if set forth in full;
5. The City's General Plan, as amended by the General Plan Amendment adopted by the City Council by Resolution No. 18-62 prior to adoption of this Ordinance;
6. All City staff reports (and all other public reports and documents) prepared for the Planning Commission, City Council, or others relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions

relating to the Property;

7. All documentary and oral evidence received at public hearings or submitted to the Planning Commission, or City during the comment period relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions relating to the Property; and
8. All other matters of common knowledge to the City Council, including, but not limited to the City's fiscal and financial status; City general ordinances, policies and regulations.

SECTION 6. Pursuant to 14 C.C.R. § 15162, when a negative declaration has been adopted for a project, no subsequent analysis need be performed upon a subsequent approval unless substantial evidence shows that changed conditions could potentially cause new significant environmental effects. In accordance with § 15162, the City hereby finds:

1. No substantial changes are proposed in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. No substantial changes have occurred with respect to the circumstances under which the project will be undertaken which will require major revisions of the negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
3. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the negative declaration was adopted, shows any of the following: (A) the project will have one or more significant effects not discussed in the previous negative declaration; (B) significant effects previously examined will be substantially more severe than shown in the previous negative declaration; (C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (D) mitigation measures or alternatives which are considerably different from those analyzed in the previous negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

SECTION 7. The City Council hereby approves the Second Amendment to Development Agreement, attached hereto as Exhibit "D", subject to such minor, conforming, and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney prior to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, as approved by the City Council.

SECTION 8. Upon the effective date of this Ordinance as provided in Section 10 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Second

Amendment to Development Agreement on behalf of the City of Mendota.

SECTION 9. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Second Amendment to Development Agreement pursuant to the terms thereof.

SECTION 10. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption.

* * * * *

The foregoing ordinance was introduced on the 23rd day of April, 2019 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 May, 2019 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Robert Silva, Mayor

ATTEST:

Celeste Cabrera-Garcia, City Clerk

APPROVED AS TO FORM:

John Kinsey, City Attorney

Exhibit A
(Development Agreement)

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
AN AGREEMENT BY AND BETWEEN THE
CITY OF MENDOTA AND KSA HOMES,
INC., RELATING TO THE DEVELOPMENT
OF THE PROPERTY COMMONLY KNOWN
AS THE LA COLONIA PROPERTY**

ORDINANCE NO. 18-04

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

WHEREAS, in accordance with the Development Agreement Statute, the City of Mendota (the "City") has enacted regulations (the "Development Agreement Regulations") to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute; and

WHEREAS, the La Colonia Property is owned by KSA Homes, Inc., a California Limited Liability Corporation ("Developer"); and

WHEREAS, on August 14, 2018, the City certified the Mitigated Negative Declaration for the La Colonia Project; and

WHEREAS, prior to adopting this Ordinance, the City Council, on August 14, 2018, adopted Resolution No. 18-61, finding that, where feasible, mitigation measures have been imposed and modifications incorporated into the Project which avoid or substantially lessen all significant adverse environmental impacts; and

WHEREAS, the City Council of the City of Mendota adopted Resolution No. 18-62, which approved a general plan amendment for the La Colonia Property; and

WHEREAS, the City Council of the City of Mendota adopted No. 18-03, which approved a zone change for the La Colonia Property; and

WHEREAS, Developer desires to carry out the development of the La Colonia Property consistent with the General Plan, as amended, zone change and the Development Agreement and the vested entitlements referenced therein; and

WHEREAS, the Development Agreement will assure the City and its residents and the Developer that the Development will proceed as proposed and that the public improvements and other amenities and funding obligations, will be accomplished as proposed; and

WHEREAS, the Planning Commission held a duly noticed public hearing on June 19, 2018, on the Mitigated Negative Declaration, the General Plan Amendment, zone change and project entitlements, during which public hearing the Planning Commission received comments from the Developer, City staff, public agencies and members of the general public; and

WHEREAS, following the public hearing, the Planning Commission made a recommendation to the City Council on the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map and the Development Agreement; and

WHEREAS, pursuant to Section 65867 of the Government Code, the City Council, on August 14, 2018, held a duly noticed public hearing on the Mitigated Negative Declaration, the General Plan Amendment, zone change, project entitlements, and the Development Agreement, during which public hearing, the City Council received comments from the Developer, City staff, public agencies and members of the general public; and

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

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A.

SECTION 2. This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to "Development Agreement Regulations".

SECTION 3. In accordance with the Development Agreement Regulations, the City Council hereby finds and determines, as follows:

1. The Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, in that it establishes certain development rights, obligations and conditions for the implementation of the La Colonia Property;
2. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the general plan designations which will apply to the La Colonia Property;
3. The Development Agreement is in conformity with public convenience, general welfare and good land use practice;
4. The Development Agreement will not be detrimental to the public health, safety and general welfare;

5. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and

SECTION 4. The foregoing findings and determinations are based upon the following:

1. The Recitals set forth in this Ordinance, which are deemed true and correct;
2. Resolution No. 18-61, adopted by the City Council on August 14, 2018, making findings as to the Mitigated Negative Declaration for the La Colonia Project, approved by and incorporated in said Resolutions, which Resolutions and exhibits are incorporated herein by reference as if set forth in full;
3. The City's General Plan, as amended by the General Plan Amendment adopted by the City Council by Resolution No. 18-62 prior to adoption of this Ordinance;
4. All City staff reports (and all other public reports and documents) prepared for the Planning Commission, City Council, or others relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions relating to the Property;
5. All documentary and oral evidence received at public hearings or submitted to the Planning Commission, or City during the comment period relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions relating to the Property; and
6. All other matters of common knowledge to the City Council, including, but not limited to the City's fiscal and financial status; City general ordinances, policies and regulations.

SECTION 5. The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, subject to such minor, conforming and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney prior to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, as approved by the City Council.

SECTION 6. Upon the effective date of this Ordinance as provided in Section 8 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Development Agreement on behalf of the City of Mendota.

SECTION 7. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Development Agreement.

SECTION 8. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption.

* * * * *


The foregoing ordinance was introduced on the 14th day of August, 2018 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 28th day of August, 2018 by the following vote:

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



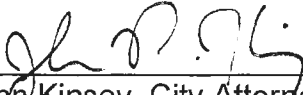
Victor Martinez, Mayor Pro Tem

ATTEST:



Matt Flood, City Clerk

APPROVED AS TO FORM:



John Kinsey, City Attorney



DEVELOPMENT AGREEMENT

By and Between
THE CITY OF MENDOTA
and
KSA HOMES, INC.

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into this 28th day of August, 2018 (the “**Effective Date**”) by and between the City of Mendota, a municipal corporation (the “**City**”), and **KSA Homes, Inc., a California corporation (“Developer”)**, pursuant to the authority of Section 65864 et seq. of the Government Code of the State of California. City or Developer may be referred to herein individually as a “Party” or collectively as the “Parties.” There are no other parties to this Agreement.

RECITALS

A. Legal Authority. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Sections 65864 et seq. of the Government Code (“**Development Agreement Law**”) authorizing any city, county or city and county to enter into a binding development agreement with an applicant for a development project, establishing certain development rights in the property which is the subject of the development project application.

B. Project Description. On August 14, 2018, the City adopted the Mitigated Negative Declaration for the La Colonia Project (Resolution No. 18-61). The La Colonia Project includes two parcels containing approximately 18.7 acres on the south side of Bass Avenue, east of State Highway 33 in the City of Mendota, bearing Fresno County Assessor’s Parcel Numbers of 013-061-015 and 012-160-039 (the “Subject Property”). The La Colonia Project includes 86 lots for single family homes, a lot for a mini park, and a 1.65-acre lot for future commercial development. Attached hereto as **Exhibit B** and incorporated herein by this reference is a map depicting the location of the La Colonia Project that is governed by this Agreement.

C. Developer’s Interest in Land. California Government Code section 65865 requires an applicant for a development agreement to hold a legal or equitable interest in the real property that is the subject of the development agreement. Developer is the fee simple owner or has an equitable interest in the Subject Property, more particularly described in the legal description attached hereto as **Exhibit A** and the Site Map attached hereto as **Exhibit B**. Developer seeks to develop the Subject Property consistent with the 2025 Mendota General Plan (“**General Plan**”).

D. Development Approvals. The following development approvals (“**Development Approvals**”) affecting the Subject Property have been previously approved by the City or will be approved concurrently with this Agreement:

1. A Mitigated Negative Declaration (“MND”), including project-specific mitigation measures adopted by the City.
2. General Plan Amendment 2018-01, amending the Land Use Map of the General Plan to change the land use designation of the project site from “Community Commercial” and “High Density Residential” to “Medium Density Residential” and a smaller area of “Community Commercial” and “Recreational” approved by the City Council. (Resolution No. 18-62).
3. Zone Change 2018-01, changing the zoning of the Site, adopted by the City Council. (Ordinance No. 18-03).
4. This Development Agreement approved by the City Council (Ordinance No. 18-04, adopted on August 28, 2018).
5. Tentative Subdivision Map No. 2018-01, creating 86 single family lots, a lot for commercial development, and a lot for a mini park, approved by the Planning Commission on June 19, 2018 (“Tentative Map”) (**Exhibit C**).

E. Certainty Desired. Developer desires to carry out the development of the Subject Property as a mixed use development consistent with the General Plan, the Development Approvals, and this Agreement. The complexity, magnitude and long term build-out of the Subject Property would be difficult for Developer to undertake if the City had not determined, through this Development Agreement, to inject a sufficient degree of certainty in the land use regulatory process to justify the substantial financial investment associated with the development of the Subject Property. In order to obtain the housing, tax and other benefits the development of the Subject Property will provide and to assure that the impacts of the La Colonia Project will be adequately addressed, City desires certainty as to the scope of development, and in particular that needed infrastructure, facilities and services related to the La Colonia Project will be provided in a timely fashion. Developer desires certainty regarding the type and amount of development fees and exactions that it will be charged by the City and to define the design review and permitting process. As a result of the execution of this Agreement, both Parties can be assured that the development of the Subject Property can proceed without disruption caused by a change in City planning and development policies and requirements.

F. Subsequent Development Approvals. In addition to the Development Approvals, the development of the Subject Property will require various additional future land use and construction approvals from the City to implement the Development Approvals (“**Subsequent Development Approvals**”). Subsequent Development Approvals may include but are not limited to: parcel maps (vesting or otherwise), conditional use permits, site plans and building permits.

G. Consistent with General Plan. The City hereby finds and determines that the execution of this Agreement is in the best interests of the public health, safety and general welfare and is consistent with the General Plan.

H. Voluntary Agreement. This Agreement is voluntarily entered into by the Developer in order to implement the General Plan and in consideration of the rights conferred and the procedures specified herein for the development of the Subject Property. This Agreement is voluntarily entered into by the City in the exercise of its legislative discretion in order to implement the General Plan and in consideration of the agreements and undertakings of the Developer hereunder.

I. Project Provides Substantial Benefits. This Agreement furthers the public health, safety and general welfare, and the provisions of this Agreement are consistent with the General Plan. For the reasons recited herein, the City and Developer have determined that the La Colonia Project is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty regarding Development Approvals and Subsequent Development Approvals, thereby encouraging planning for, investment in and commitment to use and develop the Subject Property. Continued use and development of the Subject Property is anticipated to, in turn, provide the following substantial benefits and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Law was enacted:

1. Provide for the development of unused agricultural land.
2. Provide increased tax revenues for the City.
3. Provide for jobs and economic development in the City.
4. Provide infrastructure improvements that can be utilized by regional users and future users.

J. CEQA. The City Planning Commission, in its independent judgment, on the basis of an initial environmental assessment and findings of no significance, found that the La

Colonia Project will not have a significant impact on the environment and adopted a Mitigated Negative Declaration on June 19, 2018.

K. This Agreement was reviewed at a duly noticed public hearing before the City Council of the City.

L. The City Council, after a duly noticed public hearing, found that the provisions of this Agreement are consistent with the General Plan and other applicable plans and policies of the City.

M. On August 28, 2018, the City Council adopted **Ordinance** No. 18-04 approving this Agreement. A copy of the Ordinance is attached hereto as **Exhibit D** and incorporated herein by this reference.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer (each herein sometimes called a “**Party**” and jointly the “**Parties**”) hereby agree as follows:

AGREEMENT

ARTICLE 1

GENERAL PROVISIONS

100. Property Description and Binding Covenants. The Subject Property is that property described in **Exhibit A**. The Developer represents that it has a legal or equitable interest in the Subject Property and that all other persons holding legal or equitable interests in the Subject Property (excepting owners or claimants in easements) are bound by this Agreement. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the Subject Property, and the burdens and benefits hereof shall bind and inure to all successors in interest to the Parties. The Developer hereby warrants that any and all parties having record title interest at the time of execution of this Agreement in the Subject Property which may ripen into a fee have subordinated to this Agreement and that all such instruments of subordination, if any, are attached hereto and made a part of this Agreement. To the extent there exists any area of the Subject Property have has not yet been annexed to the City, said property shall be so annexed prior to expiration of the term of this Agreement as the same may be amended and the duration extended pursuant to the terms of Section 700.

101. Vested Rights. Developer shall have a vested right to develop the Subject Property for the period this Agreement is in effect in accordance with the Development Approvals,

Subsequent Development approvals, the provisions of this Agreement and Applicable Rules (as defined in Section 102.1). The Parties have negotiated and agreed upon the development impact fees, dedications, and exactions that will be required in connection with the development of the Subject Property. The off-site improvements, dedications and exactions applicable to the Subject Property are set forth in Exhibit E (Storm Drain), Exhibit F (Traffic Signal), Exhibit G (Well), and Exhibit H (Soccer Field). The Parties intend that these shall be the only off-site improvements, dedications, and exactions applicable to the development of the Subject Property during the period this Agreement is in effect. In lieu of portions of the development impact fees applicable to the development of the Subject Property, Developer shall be required to construct the off-site improvements as further described in Exhibit E (Storm Drain), Exhibit F (Traffic Signal), Exhibit G (Well), and Exhibit H (Soccer Field) (collectively, the “In Lieu Improvements”).

As set forth in Exhibit E, Exhibit F, Exhibit G, and Exhibit H, Developer shall be eligible for partial reimbursement of the subject off-site improvements. Portions of the reimbursements, as specified in each of these Exhibits, shall be payable as acceptable progress is made and upon timely completion of the enumerated improvements and acceptance thereof by the City. The remaining portions of the reimbursements shall be repaid as credits against the cumulative Development Impact Fees that would otherwise be assessed to the development. These fees are set forth in Exhibit I. No reimbursement will be made for any costs for the improvements in Exhibit E, Exhibit F, Exhibit G, and Exhibit H which are in excess of the total Development Impact Fees which would be assessed to the development.

To the extent that the City’s regular Development Impact Fees for the development exceed the reimbursable portions of the offsite improvements set forth in Exhibit E, Exhibit F, Exhibit G, and Exhibit H, the remaining amounts shall be paid by the Developer to the City. The City shall divide the funds between its several Development Impact accounts in proportion to the total overall fee that would have been charged to the development in the absence of this Development Agreement.

After the first eight (8) years of this Agreement, the development impact fees applicable to the development of the Subject Property shall be all applicable fees, as reasonably determined by the City, adopted by the City and in effect at the time payment of the fees is required, including any new fees the City adopted at any time the Agreement is in effect. The amount of the fees applicable to the development of the Subject Property after the first eight (8) years the agreement is in effect shall be as set forth in the most current adopted Master Fee schedule at the time payment is required.

The amounts of permit processing fees shall be in accordance with City standard practice and regulation at the time of this Agreement. Nothing provided in this Agreement shall limit the

Developer from exercising vesting rights obtained before or after execution of this Agreement through other means.

To the extent not otherwise provided in this Agreement, the conditions of approval and mitigation measures in the Development Approvals related to dedications and reservation of easements are intended to meet the requirements of Government Code section 65865.2 related to a development agreement providing a provision for the reservation or dedication of land for a public purpose.

102. Rules, Regulations and Official Policies.

102.1 Applicable Rules, Regulations and Official Policies. For the term of this Agreement, the rules, regulations, ordinances and official policies governing the permitted uses of land, density, design, improvement and construction standards and specifications applicable to the development of the Subject Property shall be the Applicable Rules as defined in this Section 102.1. The Applicable Rules are defined as those rules, regulations, and official policies set forth in (i) the Development Approvals; (ii) this Agreement (including Exhibits); and (iii) with respect to matters not addressed by these documents, those rules regulations, official policies, standards and specifications in force on the date of this Agreement, to the extent not inconsistent with the Development Approvals and this Agreement. The Applicable Rules shall also include, any changes in the General Plan, City of Mendota Zoning Ordinance (“**Zoning Ordinance**”) or any future rules, ordinances, regulations or policies adopted by the City which are made applicable by the provisions of Section 102.2.

Except as otherwise provided in this Agreement, to the extent any future changes in the General Plan, Zoning Ordinance or any future rules, ordinances, regulations or policies adopted by the City purport to be applicable to the development of the Subject Property but are inconsistent with the terms and conditions of this Agreement, the terms of this Agreement shall prevail, unless the parties mutually agree to amend or modify this Agreement pursuant to Section 700.

To the extent not otherwise provided in this Agreement, the requirements of the Applicable Rules shall fulfill the requirements of Government Code section 65865.2 related to the agreement specifying allowed uses, allowed density and intensity of uses and maximum height and size of proposed buildings.

102.2 Changes in State or Federal Law. This Section shall not preclude the application to the development of the Subject Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations. In the event state or federal laws or regulations enacted after the date of this Agreement, or action by any governmental jurisdiction other than the City required

by state or federal laws, prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, then the Parties shall meet and confer in good faith to determine the feasibility of modifying, extending or suspending one or more provisions of this Agreement as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental jurisdiction required by state or federal laws. The Developer shall provide a reasonable number of options to the City and demonstrate the feasibility of modifying, extending or suspending the Agreement in part. Developer is required to provide all engineering and analysis (which shall meet industry and City standards) to support its position.

To the extent that any actions of federal or state agencies (or actions of regional and local agencies, including the City, required by federal or state laws) have the effect of preventing, delaying or modifying development of the Subject Property, the City shall not in any manner be liable for any such prevention, delay or modification of said development. The Developer is required, at its cost and without cost to or obligation on the part of the City, to participate in such regional or local programs and to be subject to such development restrictions as may be necessary or appropriate by reason of such actions of federal or state agencies required by federal or state laws (or such actions of regional and local agencies, including the City, required by federal or state laws).

103. City's Reservation of Authority. The Parties acknowledge that the intent of the Parties is that this Agreement be construed in a manner that protects the vested rights granted to Developer herein to the maximum extent allowed by law. The Parties further acknowledge and agree, however, that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions contained in this Agreement are intended to reserve to the City all of its police power and/or statutory or other legal powers or responsibilities that cannot be so limited. This Agreement shall be construed to reserve to the City all such power and authority which cannot be restricted by contract, including compliance with the California Environmental Quality Act (CEQA). Nor shall this Agreement be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit the discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws, and entitlement of use which require the exercise of discretion by the City or any of its officers or officials.

104. Term; Recordation. The term of this Agreement shall commence upon the recordation of this Agreement with the County Recorder and shall extend for a period of twenty (20) years. Thereafter, unless said term is modified or extended by mutual consent of the Parties, subject to the provisions of Section 700 hereof, upon expiration of said term, this Agreement shall be deemed terminated and of no further force and effect and the Parties shall, upon request of the City, execute an appropriate certificate of termination which shall be recorded in the official

records of the County, subject, however, to the provisions of Section 307 hereof. The City Planning Director shall record the Agreement within 10 days of final approval by Council.

105. Sale or Assignment; Release. This Agreement, its rights, duties or obligations may be assigned, sold, exchanged or transferred, in whole or in part, in connection with a transfer by Developer of all or a portion of its interests in the Subject Property, subject to the terms of this Section.

105.1 A sale, transfer or assignment of all or a portion of Developer's interest in this Agreement shall not require the approval of the City if:

- a. All processing fees then due have been paid as required by the terms of this Agreement, and all In Lieu Improvements required in **Exhibit E** (Storm Drain), **Exhibit F** (Traffic Signal), **Exhibit G** (Well), and **Exhibit H** (Soccer Field) and any other public improvements and facilities required to be constructed or installed by Developer in connection with the development of the Subject Property, or applicable portion thereof, have been constructed and installed, or Developer or the proposed assignee have provided security adequate, in the reasonable discretion of the City, to assure construction and installation of any and all such public improvements and facilities and the City receives a copy of the assignment that meets the requirements of Section 105.3; or
- b. The sale, transfer or assignment is to an entity controlled by or in common control with Developer; or
- c. The transfer or assignments results from the death or mental or physical incapacity of an individual who is a controlling member of the Developer corporation; or
- d. The transfer or assignment is in trust for the benefit of a spouse, children, grandchildren or other family members of a controlling member of the Developer corporation; or
- e. The transfer or assignment consists of the granting of a security interest in this Agreement and the enforcement or use of such security interest in accordance with the remedies available thereunder.

105.2 Any other sale, transfer or assignment of all or a portion of Developer's interest in this Agreement shall require the prior written approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed.

105.3 Any proposed assignee or transferee shall agree to assume and be bound by all applicable duties, obligations and covenants of the Developer under this Agreement. The assumption must be set forth in an assumption agreement in a form reasonably acceptable to and approved in writing by the City. Any assumption agreement shall include a Notice to the assignee that they may be subject to fees for development of the property, as limited by the terms of this Agreement.

105.4 If the Developer transfers the Subject Property and assigns this Agreement in violation of the terms of this Section, the City may terminate the Agreement at its discretion with fifteen (15) days' written notice.

105.5 The Developer acknowledges that the City has formed a community facilities district (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") to finance all or a portion of the cost of providing police, fire and paramedic services, as well any other services determined by the City which are allowed to be financed pursuant to the Act, that are in addition to those provided in the territory within the CFD prior to the formation of the CFD and do not supplant services already available within the territory proposed to be included in the CFD and to levy a special tax to pay for such services. The Developer agrees to include Tract No. 6218 in the CFD or annex Tract No. 6218 into the CFD, and the Developer shall cooperate with the City and take any necessary actions in order to assist the City in annexing Tract No. 6218 into the CFD. In furtherance of the foregoing, the Developer agrees to approve the levy of a special tax on any residential dwelling unit in the amount that is no less than \$855.43 per year but not greater than \$855.43 per year, which shall be subject to an annual escalation factor of no less than 2% but no greater than the rate of increase in the Consumer Price Index published by the U.S. Department of Labor for the County of Fresno.

105.6 Because of the extensive landscaping Developer will be constructing along the Bass Avenue frontage of the Project, and the landscaping improvements required for the pocket park proposed within the development, the City intends to form a Landscape and Lighting District (LLD) under the Landscape and Lighting of 1972 (Street & Highways Section 22500, et seq.) to finance the ongoing maintenance, irrigation and repair costs for those areas, which will all be the responsibility of the City. The Developer agrees to annex Tract No. 6218 into the LLD, and the Developer shall cooperate with the City and take any necessary actions in order to assist the City in annexing Tract No. 6218 into the LLD. In furtherance of the foregoing, the Developer agrees to approve the levy of an assessment on any residential dwelling unit in the amount that is no less than \$242.00 per year but not greater than \$242.00 per year, which shall be subject to an

annual escalation factor of no less than 2% but no greater than the rate of increase in the Consumer Price Index published by the U.S. Department of Labor for the County of Fresno.

ARTICLE 2
DEVELOPMENT OF THE SUBJECT PROPERTY

200. Permitted Uses and Development Standards. In accordance with and subject to the terms and conditions of this Agreement, the Developer may develop the Subject Property for the uses and in accordance with the Applicable Rules, including the standards, uses and processes contained in the Development Approvals, Subsequent Development Approvals, and this Agreement.

201. Approvals.

201.1. Processing Subsequent Development Approvals.

201.1.1 Timely Submittals By Developer. Developer acknowledges that City cannot begin processing Subsequent Development Approvals until Developer submits complete applications. Developer shall use its best efforts to (i) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (ii) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other required materials as set forth in the Applicable Rules. Developer shall use all reasonable efforts to submit or cause to be submitted documents, applications, plans and other information necessary for City to carry out its obligations hereunder that are in a final form, not subject to unreasonable changes by the Developer and that comply with this Agreement and all Applicable Rules. Plan changes made after submittal pursuant to this Section will be subject to such additional charges as provided in **Exhibit I**. The City reserves the right to reject any incomplete or non-conforming submittals.

201.1.2 Timely Processing By City. Upon submission by Developer of all appropriate applications and applicable processing fees for any Subsequent Development Approvals, City shall promptly and diligently, subject to the reasonable availability of City resources and City's procedural requirements, commence and complete all steps necessary to act on Developer's Subsequent Development Approval applications. Upon Developer's request and at the City's discretion, the City may provide, at Developer's expense, additional staff and/or staff consultants for concurrent, expedited planning and processing of each Subsequent Development Approval application.

201.1.3 Effect of Legal Proceedings. Notwithstanding any pending administrative or judicial proceedings, initiative or referendum concerning the Development Approvals or Subsequent Development Approvals, and provided that such actions by City or Developer are not proscribed by law or court order, City shall process the Developer's applications for Subsequent Development Approvals as provided for herein to the fullest extent allowed by law and Developer may proceed with development pursuant to the Development Approvals or Subsequent Development Approvals to the fullest extent allowed by law.

201.2. Certificate of Occupancy. Subject to any requirements in this Agreement for issuance of certificates of occupancy, the City shall use all reasonable efforts to diligently and promptly provide a certificate of occupancy for any portion of the Subject Property when applied for by the Developer and upon completion of all necessary requirements to obtain a certificate of occupancy.

201.3. Non-Development Entitlement Plan Review. Nothing provided in this Section 201 is intended to include the submission and review by the City of plans for off-site improvement (as required under Exhibit E, Exhibit F, Exhibit G, and Exhibit H), including but not limited to, construction plans for traffic signals, storm drains, and public water systems or well sites. Procedures to be used for review of off-site improvements shall be pursuant to then existing City policies, ordinances and standards. Plan submittals for off-site improvements will not be given priority status over any other submittals but will be reviewed on a "first in first out" basis.

202. Public Facilities.

202.1. Financing and Construction. Developer is responsible for financing and constructing the following public facilities in conjunction with the development of the Subject Property, all as set forth in the Development Approvals:

202.1.1 On-Site Improvements. Developer shall construct the On-Site Improvements as provided in the Conditions of Approval for the subdivision.

202.1.2 Off-Site Improvements. Developer will construct all Off-Site Improvements as provided in Exhibit E, Exhibit F, Exhibit G, and Exhibit H pursuant to the description and timing provided in those exhibits.

202.1.3 Financing of Off-Site Improvements. Developer is responsible for financing the construction of the Off-Site Improvements described in Exhibit E, Exhibit F, Exhibit G, and Exhibit H. Partial reimbursement of these costs will be made, in accordance

with the provisions of Paragraph 101 of this Agreement and **Exhibit E**, **Exhibit F**, **Exhibit G**, and **Exhibit H**.

202.2. Public Works Development Standards; Specifications. In completing the construction of the On-Site and Off-Site Improvements described in **Exhibit E**, **Exhibit F**, **Exhibit G**, and **Exhibit H**, Developer shall comply with (a) the conditions and terms of the Development Approvals and Subsequent Development Approvals, (b) all approved construction plans, (c) all applicable laws, ordinances, and resolutions in effect at the time of construction not inconsistent with this Agreement, and (d) the construction standards contained in the City's Standard Specifications in effect at the time of construction. If the City does not have standard specifications for any construction to be performed, the Developer will complete construction in accordance with the standards and specification of the State of California, Department of Transportation. Developer shall complete all construction to the satisfaction of, and use materials satisfactory to, the City Engineer and the City. The City Engineer and/or the City may inspect all construction and materials.

202.3. Acceptance and Warranty of Public Facilities. The City's final written acceptance of any Off-Site Improvements will constitute a finding that it complies with the plans and specifications required above. The City may not unreasonably condition, delay or withhold acceptance of Off-Site Improvements. The Off-Site Improvements shall be owned by the City upon their completion and acceptance. Developer shall provide a warranty for any defects (whether latent or patent) in work or material or design in the Off-Site Improvements that occur or appear within one year after the date of written acceptance. The warranty shall provide that the City may give written notice to repair or correct any defect within seven (7) calendar days of notice, occurring or appearing within one year, and Developer and/or its warrantor will repair or correct the defect without additional cost to the City. After a failure of the Off-Site Improvements requiring an emergency repair by City crews, the Developer or its warrantor shall reimburse all reasonable costs for labor and materials within forty-five (45) days of invoice. Failure to repair or correct any defect may result in an offset to, or suspension of, reimbursements, if any, or may be considered a default of this Agreement, until the repair or correction is completed to the reasonable satisfaction of the City. Developer shall include the City as a named beneficiary to any subcontract for or warranty of the public facilities. This subsection will survive termination of this Agreement.

202.4. Prevailing Wages. As the Off-Site Improvements identified in **Exhibit E**, **Exhibit F**, **Exhibit G**, and **Exhibit H** constitute public works, under State law, Developer is required to pay and to cause its contractor and subcontractors to pay prevailing wages for the construction of the Off-Site Improvements as those wages are determined pursuant to Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations and comply with the other applicable provisions of Labor Code Sections 1720 et seq.

and implementing regulations of the Department of Industrial Relations. Developer shall or shall cause its contactor and subcontractors to keep and retain such records as are necessary to determine that prevailing wages have been paid as required by law. During the construction of the Off-Site Improvements, Developer shall or shall cause its contractor to post at the La Colonia Project the applicable prevailing rates of per diem wages. Developer shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the City) the City against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Developer, its contractors and subcontractors) to pay prevailing wages as required by law or to comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with construction of the Off-Site Improvements as being subject to Prevailing Wages.

203. Reimbursements and Credits. For the first eight (8) years this Agreement is in effect, Developer shall be responsible for paying only those fees identified herein. Notwithstanding the above, Developer shall be responsible for paying any fees the City collects for other agencies pursuant to (i) state or federal law or (ii) any City agreement or City ordinance adopted or entered into to comply with state or federal law or judgment of a court of law, provided that Developer does not hereby waive any right it may have to contest the validity or amount of any such fee.

204. Conditions to and Formula for Reimbursement for Off-Site Improvements. Based on the credit applicable to the development fees for construction of the Off-Site Improvements as set forth in Paragraph 101 above and in Exhibit E, Exhibit F, Exhibit G, and Exhibit H, Developer shall not be entitled to any other reimbursement and/or credits pursuant to any fee programs as provided in the Mendota Municipal Code and/or adopted City policies for those fee programs.

205. Amendments to Development Approvals. Given the potential for a long-term build-out of the La Colonia Project, the Parties acknowledge that development of the Subject Property may require amendments to Development Approvals or Subsequent Development Approvals. Amendments to the Development Approvals or Subsequent Development Approvals shall be processed as follows:

205.1. Administrative Amendments. Upon the written request of Developer for an amendment or modification to a Development Approval or Subsequent Development Approval, the Planning Director or his/her designee shall determine: (i) whether the requested amendment or modification is minor; and (ii) whether the requested amendment or modification is consistent with the Applicable Rules. If the Planning Director or his/her designee finds that the proposed amendment or modification is minor, consistent with the Applicable Rules, and is not subject to

further environmental review under CEQA (See CEQA Guidelines §§ 15162, 15163), the amendment shall be determined to be an “**Administrative Amendment**” and the Planning Director or his/her designee may approve, or may approve with appropriate conditions, the Administrative Amendment. The determination of whether a requested amendment or modification is an Administrative Amendment shall be within the reasonable discretion of the Planning Director.

Examples of amendments or modifications which may, depending on particular circumstances, be treated as Administrative Amendments, include, but are not limited to, the following: (1) lot line adjustments that do not alter the concepts of the project design; (2) alterations in vehicle circulation patterns or vehicle access points which do not adversely affect capacity or service levels; (3) changes in trail alignments; (4) substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan; (5) variations in the location of structures that do not substantially alter the design concepts of the project; (6) variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the project; (7) minor alterations in design or configuration of buildings that are consistent with development standards for the La Colonia Project; and (8) minor adjustments to the Subject Property legal description. Administrative Amendments are subject to the City’s normal processing fees at the time the Administrative Amendment is considered for approval. In no event shall an Administrative Amendment be deemed a new entitlement or otherwise subject the development of the Subject Property to any new or increased fees or exactions, any provisions of the Mendota Municipal Code or City policies or procedures to the contrary notwithstanding.

205.2 Material Amendments. Any request of Developer for an amendment or modification to a Development Approval or Subsequent Development Approval that is reasonably determined by the Planning Director or his/her designee to be a material amendment (“**Material Amendment**”), as opposed to an Administrative Amendment, shall be subject to review, consideration and action pursuant to the laws in effect at the time the Material Amendment is considered for approval. Notwithstanding any provision in the Agreement to the contrary, the City may impose mitigation measures necessary to comply with CEQA for Material Amendments. Material Amendments are subject to processing fees in effect at the time the Material Amendment is considered for approval.

205.3 Future Amendments. Any future amendment or modification to a Development Approval or Subsequent Development Approval shall be incorporated in this Agreement without the need to amend this Agreement.

209. Encumbrances and Lender's Rights.

209.1 Permitted Encumbrances. This Agreement shall be superior and senior to any lien placed upon the Subject Property. The Parties agree that this Agreement shall not prevent or limit any owner of an interest in the Subject Property from encumbering the Subject Property with any deed of trust or other security device securing financing with respect to the Subject Property.

209.2 Lender's Rights. The holder of any mortgage, deed of trust, or other security arrangement ("**Lender**") with respect to the Subject Property, or any portion thereof, that has requested, in writing, receipt of notice of any event of default under this Agreement shall be entitled to receive a copy of any notice of default and shall be allowed an opportunity to cure such default. The Lender shall receive a second default notice thirty (30) days before the City institutes legal proceedings and the Lender shall again be allowed an opportunity to cure such default.

The holder of any mortgage, deed of trust, or other security arrangement with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all the terms and conditions of this Agreement. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

ARTICLE 3

DEFAULT, REMEDIES, TERMINATION

300. General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either Party to perform any term or provision of this Agreement shall constitute a default. In the event of default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the Party charged with being in default shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may at its option:

1. Terminate this Agreement, in which event neither Party shall have any further rights against or liability to the other with respect to this Agreement or the Subject Property; provided, however, if portions of the Subject Property are held in separate ownership at the time such event of default occurs and such event of default is related only to one portion, this Agreement may be terminated only as to such portion and no such termination shall impair the continuing applicability of this Agreement to the remainder of the Subject Property; or

2. Institute legal or equitable action to cure, correct or remedy any default, including, but not limited to, an action for specific performance of the terms of this Agreement; provided, however, that in no event shall either party be liable to the other for money damages for any default or breach of this Agreement.

301. Developer Default; Enforcement. No building permit shall be issued or building permit application accepted for the building shell of any structure on any portion of the Subject Property if the permit applicant owns or controls such portion of the Subject Property and if such applicant or any entity or person controlling such applicant has been found to be in default as to such portion of the Subject Property by the City Council of the City of Mendota under the terms and conditions of this Agreement, unless such default is cured or this Agreement is terminated. A default as to an owner of any portion of the Subject Property shall have no impact on any portion of the Subject Property not owned by such defaulting owner. The Developer shall cause to be placed in any covenants, conditions and restrictions applicable to the Subject Property, lessee or City, acting separately or jointly, to enforce the provisions of this Agreement and to recover attorneys' fees and costs for such enforcement.

302. Annual Review. The City Manager shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by the Developer with the terms and conditions of this Agreement. Such periodic review shall be limited in scope to compliance with the terms and conditions of this Agreement pursuant to California Government Code Section 65865.1. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. The costs of notice and related costs incurred by the City for the annual review conducted by the City pursuant to this Section 302 shall be borne by the Developer.

The City Manager shall provide thirty (30) days prior written notice of such periodic review to the Developer. Such notice shall require the Developer to demonstrate good faith compliance with the terms and conditions of this Agreement and to provide such other information as may be

reasonably requested by the City Manager and deemed by him to be required in order to ascertain compliance with this Agreement. If, following such review, the City Manager is not satisfied that the Developer has demonstrated good faith compliance with all the terms and conditions of this Agreement, the City Manager may refer the matter, along with his recommendations, to the City Council.

Failure of the City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement; nor shall the Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

303. Enforced Delay; Extension of Times of Performance. In addition to specific provisions of this Agreement, either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities' enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulations, litigation or similar grounds for excused performance. If written notice of such delay is given within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon. In particular, a shutdown of the Federal government, whether ordered by the Executive or caused by the actions of the Congress, which affects disbursement of funds to the Applicant from any Federal agency, time of performance shall be extended three (3) days for every one (1) day for which the Federal government shutdown is in effect.

304. Limitation of Legal Acts. In no event shall the City, or its officers, agents or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that the Developer's sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

305. Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Developer acknowledges and agrees that the City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity or meaning of this Agreement shall be that accorded legislative acts of the City. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court.

306. Invalidity of Agreement.

306.1 If this Agreement is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment.

306.2 If any provision of this Agreement is determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any law which becomes effective after the date of this Agreement and either party in good faith determines that such provision is material to its entering into this Agreement, either party may elect to terminate this Agreement as to all obligations then remaining unperformed in accordance with the procedures set forth in Section 300, subject, however, to the provisions of Section 307 hereof.

307. Effect of Termination on Developer's Obligations. Termination of this Agreement shall not affect the Developer's obligations to comply with the General Plan and the terms and conditions of any and all land use entitlements approved with respect to the Subject Property prior to such termination, nor shall it affect any other covenants of the Developer specified in this Agreement to continue after the termination of this Agreement. If portions of the Subject Property are held in separate ownership at the time of such termination, this Agreement may be terminated only as to such portion and no such termination shall impair the continuing applicability of this Agreement to the remainder of the Subject Property.

ARTICLE 4
INDEMNITY; INSURANCE

400. Indemnity/Insurance.

400.1. Indemnification. To the furthest extent allowed by law, Developer shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Developer or any other person, and from any and all claims, demands and actions in law or equity (including attorneys' fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement or the performance of any or all work to be done on on-site or off site public or private improvements pursuant to this Agreement (including, but not limited to design, construction and/or ongoing operation and maintenance unless and until the facility is dedicated to and officially accepted by the City). Developer's obligations under the preceding sentence shall apply regardless of whether Developer or any of its officers, officials, employees or agents are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs

or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents or volunteers.

If Developer should subcontract all or any portion of the services to be performed under this Agreement, Developer shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph. The Developer further agrees that the use for any purpose and by any person of any and all of the streets and improvements required under this Agreement, shall be at the sole and exclusive risk of the Developer at all times prior to final acceptance by the City of the completed street and other improvements. This section shall survive termination or expiration of this Agreement.

400.2. Insurance. Throughout the life of this Agreement, Developer shall pay for and maintain in full force and effect all policies of insurance described in this section with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated by not less than “A- VII” in Best’s Insurance Rating Guide, or (ii) authorized by CITY’s Risk Manager. The following policies of insurance are required:

a. COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and shall include insurance for bodily injury, property damage and personal injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, contractual liability (including indemnity obligations under this Agreement), with limits of liability of not less than \$5,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal injury and \$5,000,000 aggregate for products and completed operations.

b. COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and no-owned automobiles or other licensed vehicles (Code 1 B Any Auto), with combined single limits of liability of not less than \$5,000,000 per accident for bodily injury and property damage.

c. WORKERS’ COMPENSATION insurance as required under the California Labor Code. Developer shall file with the City pursuant to Section 3800 of the Labor Code, a Certificate of Workers’ Compensation.

d. EMPLOYERS' LIABILITY with minimum limits of liability of not less than \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

Developer shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Developer shall also be responsible for payment of any self-insured retentions.

The above described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a 10 calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this Agreement, Developer shall provide a new certificate evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, Developer shall file with City a new certificate and all applicable endorsements for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Developer's insurance shall be primary and no contribution shall be required of City. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Developer shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance prior to start of construction of any phase of development. Developer shall furnish City with copies of the actual policies upon the request of City's Risk Manager at any time during the life of the Agreement or any extension, and this requirement shall survive termination or expiration of this Agreement.

If at any time during the life of the Agreement or any extension, Developer fails to maintain the required insurance in full force and effect, the Planning Director, or his/her designee, may order that the Developer, or its contractors or subcontractors, immediately discontinue any further work under this Agreement and take all necessary actions to secure the work site to insure that public health and safety is protected. All payments due or that become due to Developer shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement.

If Developer should subcontract all or any portion of the services to be performed under this Agreement, Developer shall require each subcontractor to provide insurance protection in favor

of City, its officers, officials, employees, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Developer and City prior to the commencement of any work by the subcontractor.

401. Notice to Developer. The City shall promptly give notice to Developer in accordance with Section 600 of this Agreement of any case, action or proceeding brought against the City concerning this Agreement or the Subject Property.

ARTICLE 5

PROJECT AS A PRIVATE UNDERTAKING

500. Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the development of the Subject Property is a separately undertaken private development and that the contractual relationship created hereunder between the City and Developer is such that Developer is an independent contractor and is not an agent of the City. None of the terms or provisions of this Agreement shall be deemed to create a partnership or joint venture between the City and Developer or to provide third party beneficiary rights to any person or entity not a Party hereto. The only relationship between the City and the Developer is that of a governmental entity regulating the development of private property and the owner of such private property.

ARTICLE 6

NOTICES

600. Notices. All formal notices required by this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, to the principal offices of the City and the Developer with copies sent as set forth below. The addresses of the parties as of the date hereof are as set forth below. Such written notices, demands, correspondence and communication may be directed in the same manner to such other persons and addresses as either party may from time to time designate in writing. The Developer shall give written notice to the City, within ten (10) days after the close of escrow, of any sale or transfer of any portion of the Subject Property and any assignment or partial assignment of this Agreement, specifying the name or names of the transferee, the transferee's mailing address, the legal description of the land sold or transferred, and the name and address of any person or entity to whom any notice relating to this Agreement shall be given with respect to such transferred portion of the Subject Property.

Notices required to be given to the City shall be addressed as follows:

City of Mendota
Planning Department
643 Quince Street
Mendota, CA 93640
Attention: Planning Director

with a copy to:

Wanger Jones Helsley PC
265 E. River Park Circle, Suite 310
Fresno, CA 93720
Attention: J. Kinsey

Notice required to be given to the Developer shall be addressed as follows:

Steve Hair
KSA Homes, Inc.
3401 Office Park Drive, Suite 115
Bakersfield, CA 93309

with a copy to:

Karol Adams
10784 Deep Cliff Drive
Cupertino, CA 95014

ARTICLE 7
MISCELLANEOUS

700. Amendment of Agreement. This Agreement may be amended from time to time with respect to any portion of the Subject Property by mutual consent of the City and Developer (to the extent that it continues to own any portion of the Subject Property) and of the then-current owner(s) of the portions of the Subject Property affected by such amendment, with City costs payable by the amendment applicant, in accordance with the provisions of Government Code Sections 65867 and 65868.

701. Waiver of Provisions. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom

enforcement of a waiver is sought. No waiver of any right or remedy with respect to any occurrence or event shall be deemed a waiver of any other occurrence or event.

702. Time of Essence. Time is of the essence of each provision of this Agreement of which time is an element.

703. Entire Agreement. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement consists of twenty-one (21) pages and **Exhibits A through H**, which constitute the entire understanding and agreement of the Parties. Said exhibits are identified as follows:

- Exhibit A:** Legal Description of the Subject Property
- Exhibit B:** Site Map
- Exhibit C:** Tentative Subdivision Map
- Exhibit D:** Ordinance Adopting Development Agreement
- Exhibit E:** Exaction: Off-Site Improvement (Storm Drain)
- Exhibit F:** Exaction: Off-Site Improvement (Traffic Signal)
- Exhibit G:** Exaction: Off-Site Improvement (Well Improvement)
- Exhibit H:** Exaction: Off-Site Improvement (Soccer Field and Pocket Park Improvements)
- Exhibit I:** Development Impact and Processing Fees

Exhibits A through I are incorporated into the Agreement. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 7, the provisions of Articles 1 through 7 shall prevail.

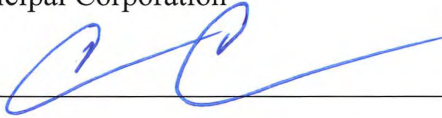
IN WITNESS WHEREOF, the City and the Developer have executed this Agreement as of the date first set forth above.

CITY:

DEVELOPER:

CITY OF MENDOTA,
a Municipal Corporation

KSA HOMES, INC.,
a California corporation

By: 

By: 

Name: STEPHEN W. HAIR

Its: President

ATTEST:

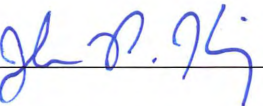
MATT FLOOD
City Clerk

By: 



APPROVED AS TO FORM:

JOHN KINSEY
City Attorney

By: 

Date: 9/25/18

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 013-061-15 and 012-160-39

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MENDOTA, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL 1 OF PARCEL MAP NO. 90-01, IN THE CITY OF MENDOTA, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 51, PAGE 26 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 013-061-15

PARCEL 2:

ALL THAT PROPERTY LOCATED IN THE CITY OF MENDOTA, COUNTY OF FRESNO, STATE OF CALIFORNIA, IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 13 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 25; THENCE, SOUTH 88°15' WEST, A DISTANCE OF 75.52 FEET; THENCE, ALONG THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD, AS FOLLOWS:

NORTH 44°17' WEST, A DISTANCE OF 2.62 FEET; THENCE, ALONG A CURVE TO THE RIGHT, WITH A RADIUS OF 5619.65 FEET, A DISTANCE OF 844.32 FEET; THENCE NORTH 35°36' WEST, A DISTANCE OF 1717.29 FEET; THENCE LEAVING SAID COUNTY ROAD, NORTH 64°58' EAST, A DISTANCE OF 1784 FEET; THENCE SOUTH 0°07' EAST, A DISTANCE OF 2804.22 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THE FOLLOWING PARCEL OF LAND DEED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED JANUARY 25, 1967, IN BOOK 5400 AT PAGE 663, AS DOCUMENT NO. 5458, O.R.F.C., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF SAID SECTION, SAID POINT BEARS SOUTH 90°14'55" WEST, 75.20 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION, THENCE, ALONG A LINE PARALLEL WITH AND 60 FEET NORTHEASTERLY, MEASURED AT RIGHT ANGLES AND RADIALLY FROM THE NORTHEASTERLY BOUNDARY OF THE SOUTHERN PACIFIC COMPANY'S RAILROAD RIGHT OF WAY, 100 FEET WIDE, THE FOLLOWING COURSES: (1) NORTH 43°17'15" WEST A DISTANCE OF 2.52 FEET AND (2) NORTHWESTERLY ALONG A TANGENT CURVE CONCAVE NORTHEASTERLY, WITH A RADIUS OF 5619.65 FEET, THROUGH AN ANGLE OF 1° 24'07", AND ARC DISTANCE OF 137.50 FEET; THENCE, ALONG A LINE PARALLEL WITH AND 50 FEET SOUTHWESTERLY, MEASURED RADIALLY AND AT RIGHT ANGLES FROM THE CENTERLINE OF THE DEPARTMENT OF PUBLIC WORKS SURVEY FROM MENDOTA TO OUTSIDE CANAL, ROAD 06-FRE-33. THE FOLLOWING COURSES: (3), FROM THE TANGENT WHICH BEARS NORTH 14°19'31" WEST, NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 1850 FEET, THROUGH AN ANGLE OF 34°09", AND ARC DISTANCE OF 1116.19 FEET AND (4), NORTH 48°53'40" WEST, A DISTANCE OF 416.24 FEET TO THE FIRST SAID PARALLEL LINE; THENCE (5), ALONG FIRST SAID PARALLEL LINE, NORTH 34°36'15" WEST, A DISTANCE OF 574.66 FEET; THENCE (6), AT RIGHT ANGLES, NORTH 55°23'45" EAST, A DISTANCE OF 19.60 FEET; THENCE (7) FROM A TANGENT WHICH BEARS SOUTH 34°32'44" EAST, SOUTHEASTERLY ALONG A CURVE CONCAVE NORTHEASTERLY, WITH A RADIUS OF 1950 FEET, THROUGH AN ANGLE OF 14°20'56", AND ARC DISTANCE OF 488.35 FEET; THENCE, ALONG A LINE PARALLEL WITH AND 100 FEET NORTHEASTERLY AND EASTERLY, MEASURED AT RIGHT ANGLES AND RADIALLY FROM THE

EXHIBIT "A"
Legal Description
(continued)

ABOVE DESCRIBED COURSES (4) AND (3), THE FOLLOWING COURSES (8) SOUTH 48°53'40" EAST, A DISTANCE OF 485.00 FEET AND (9) SOUTHEASTERLY ALONG A TANGENT CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 1950 FEET, THROUGH AN ANGLE OF 37°53'18", AND ARC DISTANCE OF 1289.49 FEET; THENCE (10), ALONG A NON-TANGENT LINE, SOUTH 66°30'00" EAST, 27.00 FEET; THENCE (11) SOUTHEASTERLY ALONG A TANGENT CURVE CONCAVE SOUTHEASTERLY WITH A RADIUS OF 90 FEET, THROUGH AN ANGLE OF 8°15'58", AN ARC DISTANCE OF 12.98 FEET TO SAID SOUTH LINE; THENCE (1), ALONG SAID SOUTH LINE, SOUTH 89°14'55" WEST, A DISTANCE OF 63.14 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM, THE FOLLOWING PARCEL OF LAND DEED TO FLOYD C. WILLIAMS, ET AL, BY GRANT DEED RECORDED ON DECEMBER 16, 1977, IN BOOK 6934 AT PAGE 668, AS DOCUMENT NO. 134508, O.R.F.C., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 25; THENCE, NORTH 0°52'38" EAST ALONG THE EAST LINE OF SAID SECTION 25, A DISTANCE OF 372.18 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF BASS AVENUE; THENCE, ALONG SAID NORTHERLY RIGHT OF WAY LINE, SOUTH 80°22'10" WEST, A DISTANCE OF 138.39 FEET; THENCE NORTH 29°16'35" WEST, A DISTANCE OF 108.33 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 33, SAID POINT BEING ON A CURVE TO THE LEFT, WITH A RADIUS OF 1950 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 65°48'25" WEST; THENCE, ALONG SAID SURVEY TO THE LEFT, THROUGH A CENTRAL ANGLE OF 24°42'05", AN ARC LENGTH OF 840.69 FEET; THENCE, NORTH 48°53'40" WEST, 485 FEET TO A POINT OF TANGENCY WITH A CURVE TO THE RIGHT WITH A RADIUS OF 1950.00 FEET; THENCE, ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 14°20'56", AN ARC LENGTH OF 488.35 FEET; THENCE SOUTH 55°23'45" WEST, A DISTANCE OF 19.60 FEET; THENCE NORTH 34°31'44" WEST, A DISTANCE OF 353.68 FEET; THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE OF HIGHWAY 33 AND RUNNING ALONG THE SOUTHERLY RIGHT OF WAY LINE OF THE INTAKE CANAL, NORTH 65°57'45" EAST, A DISTANCE OF 1784 FEET MORE OR LESS TO A POINT ON THE EAST LINE OF SAID SECTION 25; THENCE ALONG SAID EAST LINE, SOUTH 0°52'38" WEST, A DISTANCE OF 2432.04 FEET MORE OR LESS TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM, THAT PORTION OF LAND LYING IN THE EAST HALF OF SECTION 25, TOWNSHIP 13 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN AS DESCRIBED IN A GRANT DEED FROM NORMA LINDGREN, ET AL, TO THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AS RECORDED IN BOOK 5772 AT PAGE 419 AND 420, AS DOCUMENT NO. 20692, O.R.F.C. ON MARCH 24, 1970

ALSO EXCEPTING THEREFROM, THAT PORTION OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 13 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN, AS DESCRIBED IN A GRANT DEED FROM NORMA LINDGREN, ET AL TO THE CITY OF MENDOTA, STATE OF CALIFORNIA, AS RECORDED ON JANUARY 13, 1988 AS DOCUMENT NO. 4208, O.R.F.C.

ALSO EXCEPTING THEREFROM THAT PORTION IN THE GRANT DEED TO THE CITY OF MENDOTA, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, RECORDED NOVEMBER 3, 2010, INSTRUMENT NO. 2010-0147303, OFFICIAL RECORDS.

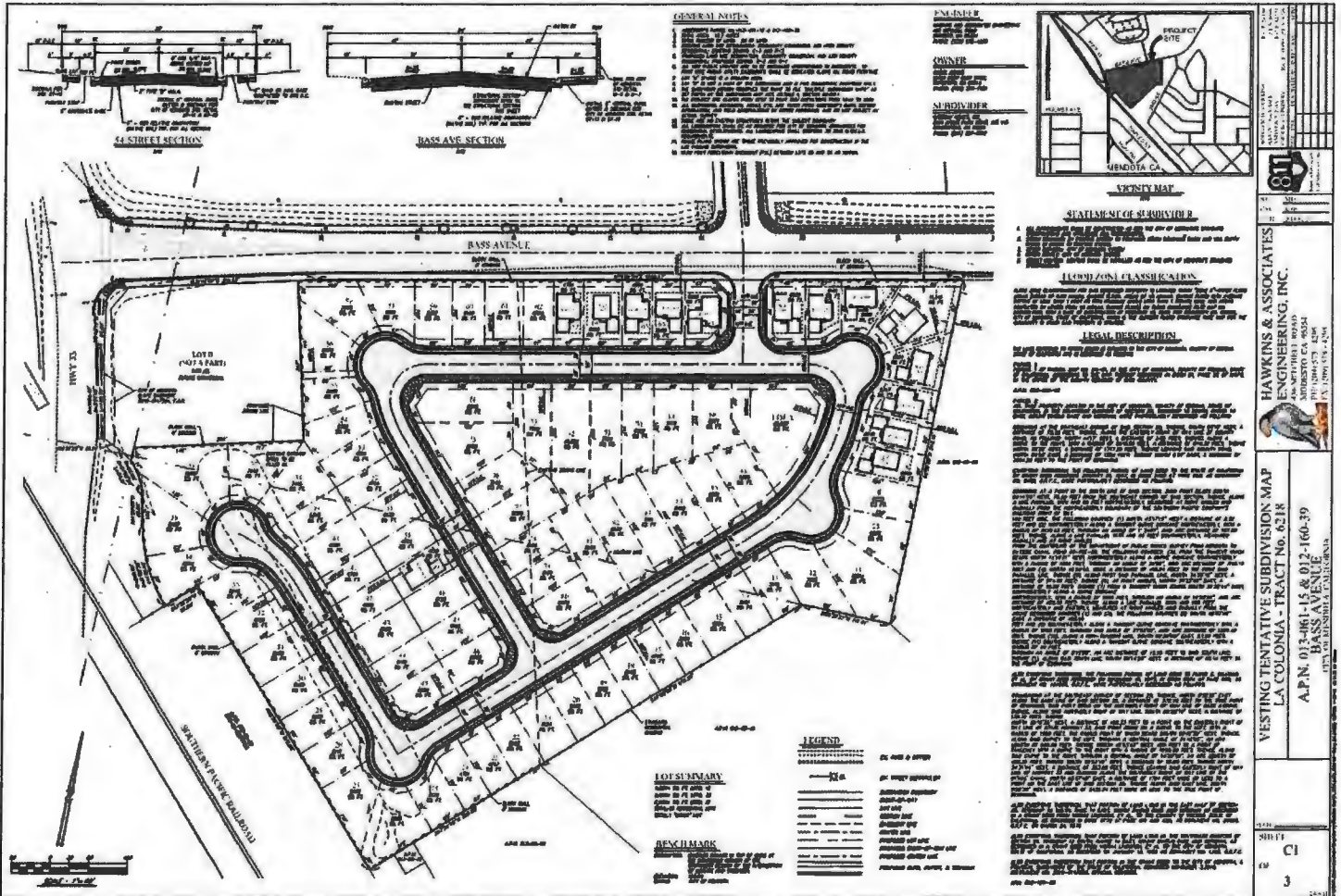
APN: 012-160-39

EXHIBIT "B"



Location of the La Colonia Subdivision.

EXHIBIT "C"



La Colonia Tentative Subdivision Map

EXHIBIT "D"

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
AN AGREEMENT BY AND BETWEEN THE
CITY OF MENDOTA AND KSA HOMES,
INC., RELATING TO THE DEVELOPMENT
OF THE PROPERTY COMMONLY KNOWN
AS THE LA COLONIA PROPERTY**

ORDINANCE NO. 18-04

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

WHEREAS, in accordance with the Development Agreement Statute, the City of Mendota (the "City") has enacted regulations (the "Development Agreement Regulations") to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute; and

WHEREAS, the La Colonia Property is owned by KSA Homes, Inc., a California Limited Liability Corporation ("Developer"); and

WHEREAS, on August 14, 2018, the City certified the Mitigated Negative Declaration for the La Colonia Project; and

WHEREAS, prior to adopting this Ordinance, the City Council, on August 14, 2018, adopted Resolution No. 18-61, finding that, where feasible, mitigation measures have been imposed and modifications incorporated into the Project which avoid or substantially lessen all significant adverse environmental impacts; and

WHEREAS, the City Council of the City of Mendota adopted Resolution No. 18-62, which approved a general plan amendment for the La Colonia Property; and

WHEREAS, the City Council of the City of Mendota adopted No. 18-03, which approved a zone change for the La Colonia Property; and

WHEREAS, Developer desires to carry out the development of the La Colonia Property consistent with the General Plan, as amended, zone change and the Development Agreement and the vested entitlements referenced therein; and

WHEREAS, the Development Agreement will assure the City and its residents and the Developer that the Development will proceed as proposed and that the public improvements and other amenities and funding obligations, will be accomplished as proposed; and

WHEREAS, the Planning Commission held a duly noticed public hearing on June 19, 2018, on the Mitigated Negative Declaration, the General Plan Amendment, zone change and project entitlements, during which public hearing the Planning Commission received comments from the Developer, City staff, public agencies and members of the general public; and

WHEREAS, following the public hearing, the Planning Commission made a recommendation to the City Council on the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map and the Development Agreement; and

WHEREAS, pursuant to Section 65867 of the Government Code, the City Council, on August 14, 2018, held a duly noticed public hearing on the Mitigated Negative Declaration, the General Plan Amendment, zone change, project entitlements, and the Development Agreement, during which public hearing, the City Council received comments from the Developer, City staff, public agencies and members of the general public; and

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

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A.

SECTION 2. This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to "Development Agreement Regulations".

SECTION 3. In accordance with the Development Agreement Regulations, the City Council hereby finds and determines, as follows:

1. The Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, in that it establishes certain development rights, obligations and conditions for the implementation of the La Colonia Property;
2. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the general plan designations which will apply to the La Colonia Property;
3. The Development Agreement is in conformity with public convenience, general welfare and good land use practice;
4. The Development Agreement will not be detrimental to the public health, safety and general welfare;

5. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and

SECTION 4. The foregoing findings and determinations are based upon the following:

1. The Recitals set forth in this Ordinance, which are deemed true and correct;
2. Resolution No. 18-61, adopted by the City Council on August 14, 2018, making findings as to the Mitigated Negative Declaration for the La Colonia Project, approved by and incorporated in said Resolutions, which Resolutions and exhibits are incorporated herein by reference as if set forth in full;
3. The City's General Plan, as amended by the General Plan Amendment adopted by the City Council by Resolution No. 18-62 prior to adoption of this Ordinance;
4. All City staff reports (and all other public reports and documents) prepared for the Planning Commission, City Council, or others relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions relating to the Property;
5. All documentary and oral evidence received at public hearings or submitted to the Planning Commission, or City during the comment period relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions relating to the Property; and
6. All other matters of common knowledge to the City Council, including, but not limited to the City's fiscal and financial status; City general ordinances, policies and regulations.

SECTION 5. The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, subject to such minor, conforming and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney prior to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, as approved by the City Council.

SECTION 6. Upon the effective date of this Ordinance as provided in Section 8 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Development Agreement on behalf of the City of Mendota.

SECTION 7. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Development Agreement.

SECTION 8. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption.

The foregoing ordinance was introduced on the 14th day of August, 2018 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 28th day of August, 2018 by the following vote:

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



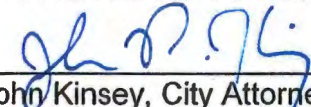
Victor Martinez, Mayor Pro Tem

ATTEST:



Matt Flood, City Clerk

APPROVED AS TO FORM:



John Kinsey, City Attorney



EXHIBIT "E"

Exaction: Off-Site Improvement (Storm Drain System)

The applicant proposes to connect to the City's existing storm drain system near 2nd Street and Bass Avenue. Storm water would flow into or be pumped into the existing ditch and would be conveyed to the the City's wastewater treatment plant (WWTP) where it would be discharged into a retention pond.

The applicant proposes to connect the drainage system within the proposed development to the City's existing storm drain system near 2nd Street and Bass Avenue via a system of catch basins, manholes and underground pipes and potentially a pump station, as approved by the City Engineer. The applicant shall improve the ditch to achieve the capacity needed to convey all current and proposed storm water that is tributary to the ditch, and shall construct a new basin at the WWTP, in a location specified by the City and to the capacity required by the City Standards.

The Applicant will be obliged to pay 1/3 of the total cost of this work as a condition of approval of the subdivision. As to the remaining 2/3 of the cost, the applicant will be eligible for reimbursement from the City. The City is able to pay up to \$121,000 toward this reimbursement directly to the Applicant upon completion of the improvements to the satisfaction of the City, which shall be prior to the City's acceptance of the public improvements for Phase 1 of the subject development. This amount will be reimbursed in progress payments, to be made not more often than monthly, based on invoices submitted by the Applicant for progress work and materials which have been accepted by the City.

Any portion of the amount eligible for reimbursement that exceeds \$121,000 will be credited toward the total Development Impact Fees that will be due from this project. The total fees that will be due are summarized in **Exhibit I** of this Agreement.

EXHIBIT "F"

Exaction: Off-Site Improvement (Traffic Signal Installation)

The applicant will be required to construct a traffic signal at the intersection of Bass Avenue and Barboza Street. The signal shall provide for through and protected left-turn phases for each direction, and shall be designed by a qualified civil or traffic engineer licensed to practice in the State of California. Plans shall be submitted to the City for review along with the other improvement plans for Phase 1 of the development, and prior to start of construction.

The traffic signal may be completed in two parts. The first part, the underground work for the traffic signal, including conduits, pedestals and detector loops, must be done together with the Bass Avenue improvements and shall be completed prior to acceptance by the City of the public infrastructure improvements for the first Final Map phase of the development. The entire traffic signal must be in place, operational, and accepted by the City before a 60th building permit in the overall development will be released.

Upon completion and acceptance by the City of each of the two parts of the traffic signal work, the City will reimburse the Applicant for the actual documented cost of each part completed, up to a total of \$288,000. This amount will be reimbursed in progress payments, to be made not more often than monthly, based on invoices submitted by the Applicant for progress work and materials which have been accepted by the City.

Documented construction costs in excess of that amount shall be borne by the Applicant, but will be credited toward the total Development Impact Fees that will be due from this project. The total fees that will be due are summarized in Exhibit I of this Agreement.

EXHIBIT "G"

Exaction: Off-Site Improvement (Well Improvements) The City will be required by the Division of Drinking Water (DDW) to increase its reliable water supply capacity in order to serve this development. The City has wells in addition to the three currently in service, but none are considered "active."

Applicant shall work with the City and DDW to design and construct improvements that may be necessary to bring one of the inactive wells, of City's choice, back to active status. This may include, but is not limited to, replacement of pumps, impeller, discharge piping, electrical service, control electronics and chlorination equipment.

Upon completion and acceptance by the City of the necessary work, the City will reimburse the Applicant for the actual documented cost of the improvements, up to a total of \$25,000. This amount will be reimbursed in progress payments, to be made not more often than monthly, based on invoices submitted by the Applicant for progress work and materials which have been accepted by the City.

Documented construction costs in excess of \$25,000 shall be borne by the Applicant, but will be credited toward the total Development Impact Fees that will be due from this project. The total fees that will be due are summarized in Exhibit I of this Agreement. The work must be completed, and the well certified for active service by DDW, prior to the City issuing a Certificate of Occupancy for any home in the development.

EXHIBIT "H"

Exaction: Off-Site Improvements (Soccer Field and Pocket Park Improvements)

1. Applicant shall reconstruct and improve the existing soccer field at Rojas Pierce Park to include:
 - Removal of existing turf and grading of the playfield surface to achieve a flat field without dips, rises or holes, and with sufficient slope to achieve drainage.
 - Furnish and install materials and equipment necessary to effect improvements and repairs to the irrigation system to achieve complete and even watering without dry spots over the entire turf area of the playfield.
 - Plant new hybrid Bermuda grass turf using hydroseed method.
 - Furnish and install new LED playfield lighting to provide vendor-recommended level of luminance in all areas of the field. New lighting can be powered from the existing 200-amp panel located adjacent to the field.
 - Furnish and install new metal bleachers on concrete pads, with metal shade structures (4 each). Each of the bleacher and shade structures shall be approximately 30 feet long. Two shall be installed on each side of the field, centered on the mid-field line.
 - Provide one modular restroom structure with two unisex restrooms. Connect to City sanitary sewer to the satisfaction of the City.
 - Provide new electronic scoreboard with sideline controls near mid-field. Scoreboard shall be designed for scoring soccer games, and shall be installed near the southwest corner of the existing soccer field. Scoreboard shall be Daktronics SO-2918 or equivalent. Colors and other options shall be selected by the City. An example scoreboard is illustrated below.
2. Applicant is required by the Conditions of Approval for the development to construct certain improvements to the pocket park within the development.
3. The field leveling, irrigation system, and hydro seeding of new grass shall be completed by February 28, 2019.
4. All remaining improvements at the Rojas Pierce Park and all pocket park improvements must be completed prior to the city releasing the 60th building permit for the project.

Cost of the Rojas-Pierce Park pocket park improvements shall be borne by the Applicant but shall be credited toward the total Development Impact Fees that become due from this project, including an allowance of \$12,903 for the land donated for the pocket park. The total Development Impact Fees that will be due are summarized in **Exhibit I** of this Agreement.



EXHIBIT "I"

Exaction: Development Impact and Processing Fees

The project will be subject to two types of City-imposed fees during construction:

1. Processing fees, including application, plan and map checking and inspection fees shall be per the City's standard development fee schedule.

In particular, plan checking and inspection fees are cost recovery for the City and are not fixed amounts.

2. Development Impact Fees, per the City's adopted schedule

These fees are assessed per unit, per acre or per the unit specified in the fee schedule. The costs of some of the items of off-site infrastructure, as set forth in Exhibit E, Exhibit F and Exhibit H, will be creditable against the Development Impact Fees otherwise owed by the Project, and will therefore serve as reimbursement for those costs.

The Development Impact Fees charged to the project under the adopted schedule are in the table below. Credits will be applied to these fees in accordance with the Development Agreement and Exhibit E, Exhibit F and Exhibit H.

La Colonia Development Impact Fees

Fee	Unit Type	Units	Fee per Unit	Subtotal
City Management and General Services	EDU	86	\$218.81	\$18,817.66
Law Enforcement	EDU	86	\$591.49	\$50,868.14
Fire Protection	EDU	86	\$714.10	\$61,412.60
Storm Drainage	AC	17.00	\$5,169.45	\$87,880.65
Water Supply & Treatment	EDU	86	\$2,350.30	\$202,125.80
Wastewater & Treatment	EDU	86	\$1,947.56	\$167,490.16
Traffic Impact	EDU	86	\$690.05	\$59,344.30
Recreational Facilities	EDU	86	\$1,364.51	\$117,347.86
Water Connection Charges	Connection	86	\$420.77	\$36,186.22
Sewer Connection Charges	Connection	86	\$480.88	\$41,355.68
Total				\$842,829.07

Exhibit B
(Addendum to Development Agreement)

**ADDENDUM TO DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF MENDOTA AND
KSA HOMES, INC.**

This Addendum to the Development Agreement by and between the City of Mendota and KSA Homes, Inc. (“**Addendum**”) is made this 24 day of October, 2018 (the “**Effective Date**”), by and between the City of Mendota (“**City**”), a municipal corporation, and KSA Homes, Inc. (“**Developer**”), a California corporation. City and Developer are sometimes collectively referred to herein as the “**Parties**” or individuals as “**Party**.”

RECITALS

A. On August 28, 2018, City and Developer entered into a development agreement (“**Development Agreement**”), attached hereto as Exhibit “A” and incorporated herein by this reference.

B. Exhibit “H” to the Development Agreement provides, among other things, that Developer shall reconstruct the existing soccer field at Rojas Pierce Park by April 30, 2019.

C. The Parties desire that, rather than requiring Developer to reconstruct an existing soccer field at Rojas Pierce Park by April 30, 2019, Exhibit “H” to the Development Agreement require Developer to construct a new soccer field at Rojas Pierce Park by May 30, 2019.

ADDENDUM

In this context, the Parties hereby agree that the Development Agreement shall be modified as follows:

- A. Exhibit “H” is replaced in its entirety with the following:
1. Applicant shall construct a new soccer field at Rojas Pierce Park to include:
 - Grading of the playfield surface to achieve a flat field without dips, rises or holes, and with sufficient slope to achievedrainage.
 - Furnish and install materials and equipment necessary for a new irrigation system to achieve complete and even watering without dry spots over the entire turf area of the playfield.
 - Plant new hybrid Bermuda grass turf using hydroseed method.
 - Furnish and install new LED playfield lighting to provide vendor-recommended level of luminance in all areas of the field. New lighting can be powered from the existing 200-amp panel located adjacent to the field.
 - Furnish and install new metal bleachers on concrete pads, with metal shade structures (4 each). Each of the bleacher and shade structures shall be

approximately 30 feet long. Two shall be installed on each side of the field, centered on the mid-fieldline.

- Provide one modular restroom structure with two unisex restrooms. Connect to City sanitary sewer to the satisfaction of the City.
 - Provide new electronic scoreboard with sideline controls near mid-field. Scoreboard shall be designed for scoring soccer games, and shall be installed near the southwest corner of the existing soccer field. Scoreboard shall be Daktronics SO-2918 or equivalent. Colors and other options shall be selected by City. An example scoreboard is illustrated below.
2. Applicant is required by the Conditions of Approval for the development to construct certain improvements to the pocket park within the development.
 3. The field leveling, irrigation system, and hydro seeding of new grass shall be completed by May 30, 2019.
 4. All remaining improvements at the Rojas Pierce Park and all pocket park improvements must be completed prior to the city releasing the 60th building permit for the project.

Cost of the Rojas-Pierce Park pocket park improvements shall be borne by the Applicant but shall be credited toward the total Development Impact Fees that become due from this project, including an allowance of \$12,903 for the land donated for the pocket park. The total Development Impact Fees that will be due are summarized in **Exhibit I** of this Agreement.



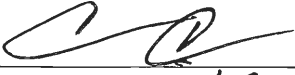
B. The Development Agreement, as modified by this Addendum, shall remain in full force and effect in all other respects.

C. This instrument reflects the entire agreement of the Parties regarding the Addendum to the Development Agreement and supersedes all previous agreements or understandings regarding the Development Agreement. No other modification or amendment of the Development Agreement will be effective unless in writing executed by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Addendum to the Development Agreement by and between the City of Mendota and KSA Homes, Inc. as of the Effective Date set forth above.


CITY:

CITY OF MENDOTA,
a municipal corporation

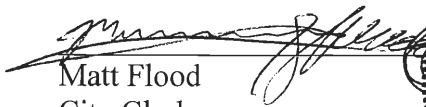

Name: Cristian Gonzalez
Its: Interim City Manager

DEVELOPER:

KSA HOMES, INC.,
a California corporation

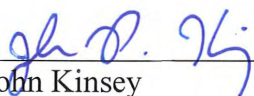

Name: Stephen W. Hain
Its: Pres

ATTEST:


Matt Flood
City Clerk



APPROVED AS TO FORM:


John Kinsey
City Attorney

Date: 10/29/2018

Exhibit C
(First Amendment to Development Agreement)

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

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
AN AMENDMENT TO THE DEVELOPMENT
AGREEMENT BY AND BETWEEN THE
CITY OF MENDOTA AND KSA HOMES,
INC. RELATING TO THE DEVELOPMENT
OF THE PROPERTY COMMONLY KNOWN
AS THE LA COLONIA PROPERTY**

ORDINANCE NO. 19-01

WHEREAS, on August 28, 2018 the City Council of the City of Mendota ("City") adopted Ordinance No. 18-04, approving a development agreement ("Development Agreement") by and between the City and KSA Homes, Inc. ("Developer") (collectively, "Parties");

WHEREAS, an Addendum to the Development Agreement was adopted on October 23, 2018; and

WHEREAS, after approval of the Development Agreement, Developer requested certain changes to the parcel map resulting in the development property being subdivided into 85 lots, rather than the original 86 lots;

WHEREAS, City and Developer have agreed to alter certain rights and responsibilities under the Development Agreement and to various clarifying and conforming changes;

WHEREAS, to accommodate Developer's requested changes to the parcel map and the Parties' other desired modifications, the Parties have agreed to amend the Development Agreement;

WHEREAS, staff has prepared a revised Development Agreement modifying the Development Agreement in accordance with the Parties' intentions, which is attached hereto as Exhibit "A" and incorporated herein by this reference ("Amendment to Development Agreement");

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

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Amendment to Development Agreement attached hereto as Exhibit "A".

SECTION 2. This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to the "Development Agreement Regulations."

SECTION 3. In accordance with the Development Agreement Regulations, the City Council hereby finds and determines, as follows:

1. The Amendment to Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, in that it establishes certain development rights, obligations and conditions for the implementation of the La Colonia Property;
2. The Amendment to Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the general plan designations which will apply to the La Colonia Property;
3. The Amendment to Development Agreement is in conformity with public convenience, general welfare, and good land use practice;
4. The Amendment to Development Agreement will not be detrimental to the public health, safety, and general welfare;
5. The Amendment to Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and

SECTION 4. The foregoing findings and determinations are based upon the following:

1. The Recitals set forth in this Ordinance, which are deemed true and correct;
2. Ordinance No. 18-04, adopted by the City Council on August 28, 2018 approving the Development Agreement by and between City and Developer, and the Recitals therein, which are deemed true and correct;
3. Resolution No. 18-61, adopted by the City Council on August 14, 2018, making findings as to the Mitigated Negative Declaration for the La Colonia Project, approved by and incorporated in said Resolutions, which Resolutions and exhibits are incorporated herein by reference as if set forth in full;
4. The City's General Plan, as amended by the General Plan Amendment adopted by the City Council by Resolution No. 18-62 prior to adoption of this Ordinance;
5. All City staff reports (and all other public reports and documents) prepared for the Planning Commission, City Council, or others relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions relating to the Property;
6. All documentary and oral evidence received at public hearings or submitted to the Planning Commission, or City during the comment period relating to the Mitigated Negative Declaration, the General Plan Amendment, zone change, Vesting Tentative Subdivision Map, the Development Agreement, and other actions relating to the Property; and
7. All other matters of common knowledge to the City Council, including, but not limited to the City's fiscal and financial status; City general ordinances, policies and regulations.

SECTION 5. Pursuant to 14 C.C.R. § 15162, when a negative declaration has been adopted for a project, no subsequent analysis need be performed upon a subsequent approval unless substantial evidence shows that changed conditions could potentially cause new significant environmental effects. In accordance with § 15162, the City hereby finds:

1. No substantial changes are proposed in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. No substantial changes have occurred with respect to the circumstances under which the project will be undertaken which will require major revisions of the negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
3. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the negative declaration was adopted, shows any of the following: (A) the project will have one or more significant effects not discussed in the previous negative declaration; (B) significant effects previously examined will be substantially more severe than shown in the previous negative declaration; (C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (D) mitigation measures or alternatives which are considerably different from those analyzed in the previous negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

SECTION 6. The City Council hereby approves the Amendment to Development Agreement, attached hereto as Exhibit "A" subject to such minor, conforming, and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney prior to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, as approved by the City Council.

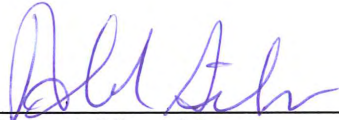
SECTION 7. Upon the effective date of this Ordinance as provided in Section 8 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Amendment to Development Agreement on behalf of the City of Mendota.

SECTION 8. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Amendment to Development Agreement pursuant to the terms of the Amendment to Development Agreement.

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

The foregoing ordinance was introduced on the 26th day of February, 2019 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 12th day of March, 2019 by the following vote:

AYES: 5 – Mayor Silva, Mayor Pro Tem Castro, Councilor Martinez, Mendoza, and Rosales
NOES: 0
ABSENT: 0
ABSTAIN: 0



Robert Silva, Mayor

ATTEST:



Matt Flood, City Clerk



APPROVED AS TO FORM:



John Kinsey, City Attorney

Exhibit A
(Revised Development Agreement)

**FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF MENDOTA AND
KSA HOMES, INC.**

This First Amendment is entered into by and between the City of Mendota, a California municipal corporation, and KSA Homes, Inc., a California corporation, (collectively, "Parties") as of March 12, 2019 ("Effective Date").

RECITALS

WHEREAS, on August 28, 2018 the City Council of the City of Mendota ("City") adopted Ordinance No. 18-04, approving a development agreement ("Development Agreement") by and between the City and KSA Homes, Inc. ("Developer") (collectively, "Parties"), attached hereto as Exhibit "A" and incorporated herein by this reference;

WHEREAS, an Addendum to the Development Agreement was adopted on October 23, 2018, attached hereto as Exhibit "B" and incorporated herein by this reference; and

WHEREAS, after approval of the Development Agreement, Developer requested certain changes to the parcel map resulting in the development property being subdivided into 85 lots, rather than the original 86 lots;

WHEREAS, City and Developer have agreed to alter certain rights and responsibilities under the Development Agreement and to various clarifying and conforming changes;

WHEREAS, to accommodate Developer's requested changes to the parcel map and the Parties' other desired modifications, the Parties have agreed to execute an amendment to the Development Agreement ("Amendment");

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the mutual promises and agreements as hereafter set forth, the Parties hereto agree and compromise as follows:

A. Amendments to the Development Agreement

The Parties agree that the Development Agreement shall be amended as follows:

1. Recitals

Recitals, Section D ("Development Approvals"), Subsection 5 is hereby amended to read as follows:

5. Tentative Subdivision Map No. 2018-01, proposing creation of 86 single family lots, a lot for commercial development, and a lot for a mini park, approved by the Planning Commission on June 19, 2018 ("Tentative Map") (**Exhibit C**). The Tentative Subdivision Map proposed creation of 86 single-family lots. In the process of finalizing lot configurations, Developer has

revised the lot arrangement to include 85 lots. The City Engineer has determined the Final Map to be in substantial conformance with the Tentative Map.

2. Article 1

Article 1, Section 101 is hereby amended to read as follows:

101. Vested Rights. Developer shall have a vested right to develop the Subject Property for the period this Agreement is in effect in accordance with the Development Approvals, Subsequent Development Approvals, the provisions of this Agreement and Applicable Rules (as defined in Section 102.1). The Parties have negotiated and agreed upon the development impact fees, dedications, and exactions that will be required in connection with the development of the Subject Property. The off-site improvements applicable to the Subject Property are set forth in **Exhibit E** (Storm Drain) and **Exhibit F** (Traffic Signal). The parties intend that these shall be the only off-site improvements applicable to the development of the Subject Property during the period this Agreement is in effect. As set forth in **Exhibit E** and **Exhibit F**, Developer shall be eligible for reimbursement of the subject off-site improvements. Reimbursement, as specified in each of these Exhibits, shall be payable as acceptable progress is made and upon timely completion of the enumerated improvements and acceptance thereof by the City.

Additionally, in lieu of the Development Impact Fees that would otherwise be assessed to the development, which are set forth in **Exhibit G**, Developer shall remit to City a lump sum payment in the amount of \$884,050.60 (“In Lieu Payment”) on or before May 1, 2019. The In Lieu Payment shall be deposited in the City’s General Fund and shall be used to fund various park improvement projects as determined by the City.

After the first eight (8) years of this Agreement, the development impact fees applicable to the development of the Subject Property shall be **all** applicable fees, as reasonably determined by the City, adopted by the City in effect at the time payment of the fees is required, including any new fees the City adopted at any time the Agreement is in effect. The amount of the fees applicable to the development of the Subject Property after the first eight (8) years the Agreement is in effect shall be as set forth in the most current adopted Master Fee schedule at the time payment is required.

The amounts of permit processing fees shall be in accordance with City standard practice and regulation at the time of this Agreement. Nothing provided in this Agreement shall limit the Developer from exercising vesting rights obtained before or after execution of this Agreement through other means.

To the extent not otherwise provided in this Agreement, the conditions of approval and mitigation measures in the Development Approvals related to dedications and reservation of easements are intended to meet the requirements of Government Code section 65865.2 related to a development agreement providing a provision for the reservation or dedication of land for a public purpose.

Article 1, Section 105.1, subdivision (a) is hereby amended to read as follows:

- a. All processing fees then due have been paid as required by the terms of this Agreement, and all In Lieu Improvements required in **Exhibit E** (Storm Drain) and **Exhibit F** (Traffic Signal), and any other public improvements and facilities required to be constructed or installed by Developer in connection with the development of the Subject Property, or applicable portion thereof, have been constructed and installed, or Developer or the proposed assignee have provided security adequate, in the reasonable discretion of the City, to assure construction and installation of any and all such public improvements and facilities and the City receives a copy of the assignment that meets the requirements of Section 105.3; or

Article 1, Section 105.6 is hereby amended to read as follows:

105.6 Because of the extensive landscaping Developer will be constructing along the Bass Avenue frontage of the Project, and the landscaping improvements required for the pocket park proposed within the development, the City intends to form a Landscape and Lighting District (LLD) under the Landscape and Lighting Act of 1972 (Street & Highways Section 22500, et seq.) to finance the ongoing maintenance, irrigation and repair costs for those areas, which will all be the responsibility of the City. The Developer agrees to annex Tract No. 6218 into the LLD, and the Developer shall cooperate with the City and take any necessary actions in order to assist the City in annexing Tract No. 6218 into the LLD. In furtherance of the foregoing, the Developer agrees to approve the levy of an assessment on any residential dwelling unit in the amount that is adopted by the City for the 2019-20 fiscal year as part of the formation of the LLD, which amount shall be calculated as the total estimated lighting operation and landscape maintenance cost for the fiscal year, plus a ten-percent reserve, spread equally across the 81 units of Tract No. 6218. This assessment shall be subject to an annual escalation factor of no less than 2% but no greater than the rate of increase in the Consumer Price Index published by the U.S. Department of Labor for the County of Fresno.

3. Article 2

Article 2, Section 201.1.1 is hereby amended to read as follows:

201.1.1 Timely Submittals by Developer. Developer acknowledges that City cannot begin processing Subsequent Development Approvals until Developer submits complete applications. Developer shall use its best efforts to (i) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (ii) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other required materials as set forth in the Applicable Rules. Developer shall use all reasonable efforts to submit or cause to be submitted documents, applications, plans and other information necessary for City to carry out its obligations hereunder that are in a final form, not subject to unreasonable changes by Developer and that comply with this Agreement and all Applicable Rules. Plan changes made after submittal pursuant to this Section will be subject to such additional charges as provided in **Exhibit G**. The City reserves the right to reject any incomplete or non-conforming submittals.

Article 2, Section 201.1.1 is hereby amended to read as follows:

201.3 Non-Development Entitlement Plan Review. Nothing provided in this Section 201 is intended to include the submission and review by the City of plans for off-site improvement (as required under **Exhibit E** and **Exhibit F**), including but not limited to, construction plans for traffic signals, storm drains, and public water systems or well sites. Procedures to be used for review of off-site improvements shall be pursuant to then existing City policies, ordinances and standards. Plan submittals for off-site improvements will not be given priority status over any other submittals but will be reviewed on a "first in first out" basis.

Article 2, Section 202.1.2 is hereby amended to read as follows:

202.1.2 Off-Site Improvements. Developer will construct all Off-Site Improvements as provided in **Exhibit E** and **Exhibit F** pursuant to the description and timing provided in those exhibits.

Article 2, Section 202.1.2 is hereby amended to read as follows:

202.1.3 Financing of Off-Site Improvements. Developer is responsible for financing the construction of the Off-Site Improvements described in **Exhibit E** and **Exhibit F**. Reimbursement of these costs will be made in accordance with Paragraph 101 of this Agreement and **Exhibit E** and **Exhibit F**.

Article 2, Section 202.2 is hereby amended to read as follows:

202.2 Public Works Development Standards; Specifications. In completing the construction of the On-Site and Off-Site Improvements described in Exhibit E and Exhibit F, Developer shall comply with (a) the condition and terms of the Development Approvals and Subsequent Development Approvals, (b) all approved construction plans, (c) all applicable laws, ordinances, and resolutions in effect at the time of construction not inconsistent with this Agreement, and (d) the construction standards contained in the City's Standard Specifications in effect at the time of construction. If the City does not have standard specifications for any construction to be performed, the Developer will complete construction in accordance with the standards and specifications of the State of California, Department of Transportation. Developer shall complete all construction to the satisfaction of, and use materials satisfactory to, the City Engineer and the City. The City Engineer and/or the City may inspect all construction and materials.

Article 2, Section 202.4 is hereby amended to read as follows:

202.4 Prevailing Wages. As the Off-Site Improvements identified in Exhibit E and Exhibit F constitute public works, under State law, Developer is required to pay and to cause its contractor and subcontractors to pay prevailing wages for the construction of the Off-Site Improvements as those wages are determined pursuant to Labor Code Section 1720 et seq. and in implementing regulations of the Department of Industrial Relations and comply with the other applicable provisions of Labor Code Section 1720 et seq. and implementing regulations of the Department of Industrial Relations. Developer shall or shall cause its contractor and subcontractors to keep and retain such records as are necessary to determine that prevailing wages have been paid as required by law. During the construction of the Off-Site Improvements, Developer shall or shall cause its contractor to post at the La Colonia Project the applicable prevailing rates of per diem wages. Developer shall indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Developer, its contractors and subcontractors) to pay prevailing wages as required by law or to comply with the other applicable provisions of Labor Code Section 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with construction of the Off-Site Improvements as being subject to Prevailing wages.

Article 2, Section 204 is hereby amended to read as follows:

204. Reimbursement for Off-Site Improvements. Except as provided in this Agreement, Developer shall not be entitled to any reimbursement and/or credits pursuant to any fee programs as provided in the Mendota Municipal Code and/or adopted City policies for those fee programs.

4. Article 7

Article 7, Section 703 is hereby amended to read as follows:

703. Entire Agreement. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement consists of twenty-three (23) pages and Exhibits A through G, which constitute the entire understanding and agreement of the Parties. Said exhibits are identified as follows:

- Exhibit A:** Legal Description of the Subject Property
- Exhibit B:** Site Map
- Exhibit C:** Tentative Subdivision Map
- Exhibit D:** Ordinance Adopting Development Agreement
- Exhibit E:** Exaction: Off-Site Improvement (Storm Drain)
- Exhibit F:** Exaction: Off-Site Improvement (Traffic Signal)
- Exhibit G:** Development Impact and Processing Fees

Exhibits A through G are incorporated into the Agreement. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 7, the provisions of Articles 1 through 7 shall prevail.

5. Exhibit E

Exhibit E is hereby amended to read as follows:

EXHIBIT "E"

Exaction: Off-Site Improvement (Storm Drain System)

The Applicant proposes to connect to the City's existing storm drain system near 2nd Street and Bass Avenue. Storm water would flow into or be pumped into the existing ditch and would be conveyed to the City's wastewater treatment plant (WWTP) where it would be discharged into a retention pond.

The Applicant proposes to connect the drainage system within the proposed development to the City's existing storm drain system near 2nd Street and Bass Avenue via a system of catch basins, manholes and underground pipes and potentially a pump station, as approved by the City Engineer. The applicant shall improve the ditch to achieve the capacity needed to convey all current and proposed storm water that is tributary to the ditch, and shall construct a new retention basin at the WWTP, in a location specified by the City and to the capacity required by the City Standards. This work will also require coordination with PG&E for relocation and elevation of existing power poles which run along the northerly side of the proposed retention basin.

The Applicant will be eligible for reimbursement from the City for labor and materials costs associated with completed and accepted work. Reimbursement will be made in progress payments, to be made not more often than monthly, based on invoices submitted by the Applicant for labor and materials which have been accepted by the City.

6. Exhibit F

Exhibit F is hereby amended to read as follows:

EXHIBIT "F"

The applicant will be required to construct a traffic signal at the intersection of Bass Avenue and Barboza Street. The signal shall provide for through and protected left-turn phases for each direction, and shall be designed by a qualified civil or traffic engineer licensed to practice in the State of California. Plans shall be submitted to the City for review along with the other improvement plans for Phase 1 of the development, and prior to start of construction.

The traffic signal may be completed in two parts. The first part, the underground work for the traffic signal, including conduits, pedestals and detector loops, must be done together with the Bass Avenue improvements and shall be completed prior to acceptance by the City of the public infrastructure improvements for the first Final Map phase of the development. The entire traffic signal must be in place, operational, and accepted by the City before a 60th building permit in the overall development will be released.

The City will reimburse the Applicant for the actual documented cost of each part completed and accepted. Ninety-five (95) percent of this amount will be reimbursed in progress payments, to be made not more often than monthly, based on invoices submitted by the Applicant for labor and materials which have been completed in the prior month, with the final five (5) percent due and payable thirty (30) days after each part of the traffic signal work is accepted as complete by the City.

7. Exhibit G

Exhibit G is hereby amended to read as follows:

EXHIBIT "G"

Exaction: Development Impact and Processing Fees

The project will be subject to two types of City-imposed fees during construction:

- 1. Processing fees, including application, plan and map checking and inspection fees shall be per the City's standard development fee schedule.**
In particular, plan checking and inspection fees are cost recovery for the City and are not fixed amounts.

- 2. Development Impact Fees, per the City's adopted schedule**
These fees are normally assessed per unit, per acre or per the unit specified in the fee schedule. In lieu of paying these fees, Developer shall remit to City a lump sum payment in the amount of \$884,050.60 on or before May 1, 2019, consisting of the total amount of fees listed below (\$834,050.60) plus a Rojas Park impact fee (\$50,000).

Fee	Unit Type	Units	Fee per Unit	Subtotal
City Management and General Services	EDU	85	\$218.81	\$18,598.85
Law Enforcement	EDU	85	\$591.49	\$50,276.65
Fire Protection	EDU	85	\$714.10	\$60,698.50
Storm Drainage	AC	17.00	\$5,169.45	\$87,880.65
Water Supply & Treatment	EDU	85	\$2,350.30	\$199,775.50
Wastewater & Treatment	EDU	85	\$1,947.56	\$165,542.60
Traffic Impact	EDU	85	\$690.05	\$58,654.25
Recreational Facilities	EDU	85	\$1,364.51	\$115,983.35
Water Connection Charges	Connection		\$420.77	\$35,765.45
Sewer Connection Charges	Connection		\$480.88	\$40,874.80
Total				\$834,050.60

8. Exhibit H

Exhibit H is deleted in its entirety.

9. Exhibit I

Exhibit I is deleted in its entirety.

B. Ratification & Conflict

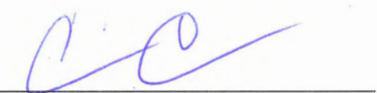
Except as expressly amended by this Amendment, the terms and conditions of the Development Agreement shall remain unaltered, are hereby reaffirmed, and shall continue in full force and effect. In the event of any conflict or inconsistency between the terms of the

Development Agreement and the terms of this Amendment, the terms of this Amendment shall govern and control.

WHEREFORE, the undersigned declare that they have read this document and understand its terms and freely enter into this Agreement.

CITY OF MENDOTA

KSA HOMES, INC.

By: 

By: _____

Its: City Manager

Its: _____

Exhibit D
(Second Amendment to Development Agreement)

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF MENDOTA AND
KSA HOMES, INC.**

This Second Amendment is entered into by and between the City of Mendota, a California municipal corporation, and KSA Homes, Inc., a California corporation, (collectively, “Parties”) as of _____ (“Effective Date”).

RECITALS

WHEREAS, on August 28, 2018 the City Council of the City of Mendota (“City”) adopted Ordinance No. 18-04, approving a development agreement (“Development Agreement”) by and between the City and KSA Homes, Inc. (“Developer”) (collectively, “Parties”), attached hereto as Exhibit “A” and incorporated herein by this reference;

WHEREAS, an Addendum to the Development Agreement was adopted on October 23, 2018, attached hereto as Exhibit “B” and incorporated herein by this reference;

WHEREAS, after approval of the Development Agreement, Developer requested certain changes to the parcel map resulting in the development property being subdivided into 85 lots, rather than the original 86 lots;

WHEREAS, on March 12, 2019 the City adopted Ordinance No. 19-01 approving amendments to the Development Agreement (“First Amendment to Development Agreement”), attached hereto as Exhibit “C” and incorporated herein by this reference;

WHEREAS, after approval of the First Amendment to Development Agreement, City and Developer agreed to certain other changes to the agreement regarding the requirements of Exhibit “F”; and

WHEREAS, to accommodate the Parties’ desired modifications, the Parties have agreed to execute this second amendment to the Development Agreement (“Second Amendment to Development Agreement”).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the mutual promises and agreements as hereafter set forth, the Parties hereto agree and compromise as follows:

A. Amendments to the Development Agreement

The Parties agree that the Development Agreement, as amended, shall be revised as follows:

1. Exhibit F

Exhibit F is hereby amended to read as follows:

EXHIBIT “F”

The applicant will be required to provide design plans for a roundabout to be constructed at the intersection of Bass Avenue and Barboza Street (“Design Plans”) by July 31, 2019, unless the City agrees in writing to a later date. The Design Plans shall be reviewed by the City Engineer upon submission. If the City Engineer finds, in his sole discretion, that the Design Plans are incomplete, or that they fail to comply with the City’s needs or any applicable law or regulation, the City Engineer shall return the Design Plans to Developer and provide instructions on how to rectify the deficiencies identified. After the Design Plans are deemed complete and approved by the City Engineer, Developer shall submit an invoice for the design work to the City for reimbursement. The City shall reimburse Developer out of a fund containing traffic impact fees. Thereafter, the City shall bid out the project independently.

As a condition to the above, Developer agrees not to develop Lot 1 and Lot 67 at the intersection of Bass Avenue and Barboza Street until construction of the roundabout is completed. Additionally, Developer agrees to dedicate one of the following lots for temporary access during construction of the roundabout: Lot 61, Lot 62, or Lot 63. The decision of which lot to dedicate shall be made by the City in consultation with Developer.

B. Ratification & Conflict

Except as expressly amended by this Second Amendment to Development Agreement, the terms and conditions of the Development Agreement, as amended by the First Amendment to Development Agreement, shall remain unaltered, are hereby reaffirmed, and shall continue in full force and effect. In the event of any conflict or inconsistency between the terms of the Development Agreement or the First Amendment to Development Agreement and the terms of this Second Amendment to Development Agreement, the terms herein shall govern and control.

WHEREFORE, the undersigned declare that they have read this document and understand its terms and freely enter into this Agreement.

CITY OF MENDOTA

KSA HOMES, INC.

By: _____

By: _____

Its: _____

Its: _____

ADMINISTRATIVE SERVICES DEPARTMENT REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: JENNIFER LEKUMBERRY, DIRECTOR OF ADMINISTRATIVE SERVICES
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: MONTHLY REPORT (MARCH 2019)
DATE: APRIL 24, 2019

HUMAN RESOURCES

- **Recruitment**
 - One Full Time City Clerk- Filled (4/15/2019)

RISK MANAGEMENT

- **Claims**
 - There were no new claims against the city in the month March.
- **Worker's Compensation Claims**
 - There was 1 new worker's compensation claim in the month of March.
- **Dog Bite Hearing**
 - There was 1 dog bite hearing and the dog was returned to its owner.

SENIOR CENTER

- For the month of March, there was an average of 8 attendees daily at the senior center.

SPECIAL PROJECTS

- Worked on 2018 Government Compensation Report
- Completed the SAM.Gov renewal
- Updated the Management Resolution

- Worked on the Finance Officer job description and salary