



City of Los Banos

At the Crossroads of California

www.losbanos.org

AGENDA

CITY COUNCIL MEETING

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

DECEMBER 18, 2019

If you require special assistance to attend or participate in this meeting, please call the City Clerk's Office @ (209) 827-7000 at least 48 hours prior to the meeting.

The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.

Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria de la ciudad al (209) 827-7000 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Deshabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the meeting and in the City Clerk's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

Cualquier escritura o los documentos proporcionaron a una mayoría del Ayuntamiento respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina de la Secretaria de la ciudad en City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la ciudad en www.losbanos.org.

HOLIDAY OPEN HOUSE

6:00 PM

* * * * *

1. CALL TO ORDER. **7:00 PM**

2. PLEDGE OF ALLEGIANCE.

3. ROLL CALL: (City Council Members)

Faria ____, Johnson-Santos ____, Jones ____, Lewis ____, Villalta ____

4. CONSIDERATION OF APPROVAL OF AGENDA.

5. PUBLIC FORUM. (Members of the public may address the City Council Members on any item of public interest that is within the jurisdiction of the City Council;

includes agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation. Detailed guidelines are posted on the Council Chamber informational table.)

6. CONSIDERATION OF APPROVAL OF CONSENT AGENDA. (Items on the Consent Agenda are considered to be routine and will be voted on in one motion unless removed from the Consent Agenda by a City Council Member.)

A. Check Register for #219346 – #219582 in the Amount of \$1,081,132.36.

Recommendation: Approve the check register as submitted.

B. Minutes for the December 4, 2019 City Council Meeting.

Recommendation: Approve the minutes as submitted.

C. City Council Resolution No. 6165 – Approving a Lease Agreement Between the City of Los Banos and Pentagon Company DBA Delta Farms for Approximately 50 Acres of Pasture Land and 150 Acres of Farmable Land Located at the Wastewater Treatment Plant.

Recommendation: Approve the resolution as submitted.

D. City Council Resolution No. 6166 – Approving and Adopting Final Tract Map No. 2016-02 East Center Phase 2B and Accompanying Subdivision Improvement Agreement; More Specifically Identified as APN 431-270-005; Applicant: Pioneer Development Company, Inc.

E. City Council Resolution No. 6167 – Amending City Council Resolution No. 5604 Regarding Use of City Council Chambers to Include City Hall Conference Rooms.

Recommendation: Approve the resolution as submitted.

7. PUBLIC HEARING. (If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City at, or prior to, the public hearing.)

A. Public Hearing – To Receive Public Comment and Consideration of a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities to Allow the Use of a Type 41 Alcohol License for the On-Sale of Beer and Wine in Conjunction with a Bona Fide Eating Establishment for Bertha Carillo DBA Aju! Restaurant to be Located at 1041 East Pacheco Boulevard; More Specifically Identified as Assessor's Parcel Number 026-182-003.

1) City Council Resolution No. 6168 – Finding the Proposed Project to be Categorically Exempt from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities and Approving Conditional Use Permit #2019-04 to Allow for the Sale of Alcohol Under a Type 41

On-Sale Beer and Wine License at 1041 East Pacheco Boulevard; More Specifically Identified as Assessor's Parcel Number: 026-182-003.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing and adopt the resolution as submitted.

- B. Public Hearing – To Receive Public Comment and Consideration of A Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities to Allow the Use of a Type 41 Alcohol License for the On-Sale of Beer and Wine in Conjunction with a Bona Fide Eating Establishment for Tariq Abedi DBA Mountain Mike's Pizza to be Located at 2260 E. Pacheco Boulevard Suites A and B; More Specifically Identified as Assessor's Parcel Number 428-160-027.

- 1) City Council Resolution No. 6169 – Finding the Proposed Project to be Categorically Exempt from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities and Approving Conditional Use Permit #2019-06 to Allow for the Sale of Alcohol under a Type 41 On-Sale Beer and Wine License at 2260 East Pacheco Boulevard, Suites A and B; More Specifically Identified as Assessor's Parcel Number: 428-160-027.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing and adopt the resolution as submitted.

- C. Public Hearing – To Receive Public Comment and Consideration of Amendments to the City Building Code Ordinance by Adoption by Reference the California Building Code 2019 Edition and Related 2019 Edition Codes.

- 1) Ordinance No. 1179 – Adopting by Reference the 2019 Edition of the California Building Code, the 2019 Edition of the California Energy Code, the 2019 Edition of the California Historical Building Code, the 2019 Edition of the California Referenced Standards Code, the 2019 Edition of the California Electrical Code, the 2019 Edition of the California Mechanical Code, the 2019 Edition of the California Administrative Code, the 2019 Edition of the California Existing Building Code, the 2019 Edition of the California Green Building Standards Code, the 2019 Edition of the California Residential Code, the 2019 Edition of the California Plumbing Code; by Amendment to Title 8 Chapter 1 of the Los Banos Municipal Code.

(First Reading & Introduction)

Recommendation: Receive staff report, open public hearing, receive public comment, waive the first reading and introduce the ordinance as submitted.

- D. Public Hearing – To Receive Public Comment and Consideration of Amendments to the City Fire Prevention Code Ordinance by Adoption by Reference the California Fire Code 2019 Edition and Local Amendments Thereto.

- 1) Ordinance No. 1180 – Adopting by Reference the 2019 Edition of the California Fire Code by Amendment to Title 4 Chapter 3 of the Los Banos Municipal Code and Adoption of Local Amendments Thereto.
(First Reading & Introduction)

Recommendation: Receive staff report, open public hearing, receive public comment, waive the first reading and introduce the ordinance as submitted.

8. ANNOUNCEMENT OF DISTRICT 2 VACANCY ON PLANNING COMMISSION.

Recommendation: Receive staff report and announce the vacant position.

9. CITY OF LOS BANOS IMPROVEMENT STANDARDS AND SPECIFICATIONS UPDATE, IN REGARDS TO COUNCIL MEMBER JONES' COUNCIL MEMBER REQUEST.

Recommendation: Informational item only, no action to be taken.

10. ADVISEMENT OF PUBLIC NOTICES. (2 Reports)

11. CITY MANAGER REPORT.

- A. Report Pursuant to Government Code Section 54953(c)(3) Executive Compensation: Finance Director.

12. REPORT/UPDATE ON MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MCAG) AND MEASURE V COMMITTEE.

Recommendation: Informational item only, no action to be taken.

13. CITY COUNCIL MEMBER REPORTS.

- A. Brett Jones
- B. Deborah Lewis
- C. Tom Faria
- D. Daronica Johnson-Santos
- E. Mayor Mike Villalta

14. ADJOURNMENT.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.


Sara Blevins, Deputy City Clerk

Dated this 12th day of December 2019

CK # 219346 - # 219582

12/18/2019

\$1,081,132.36

Bank Reconciliation

Checks by Date

User: jcanchola

Printed: 12/10/2019 - 11:14AM

Cleared and Not Cleared Checks

Print Void Checks



City of
Los Banos
At the Crossroads of California

Check	Check Date	Name	Module	Void	Amount
219347	11/27/2019	Advanced Marking Systems	AP		11.74
219348	11/27/2019	Alfredo Alvarez	AP		1,138.58
219349	11/27/2019	Ameripride Services	AP		298.58
219350	11/27/2019	Animal Damage Management, Inc.	AP		3,877.50
219351	11/27/2019	Aramark Uniform Ser Inc	AP		890.78
219352	11/27/2019	AT&T	AP		431.06
219353	11/27/2019	Dorothy June Baker	AP		47.85
219354	11/27/2019	Bruce's Tire Inc	AP		3,000.31
219355	11/27/2019	BSK Associates	AP		847.00
219356	11/27/2019	California Dairies Inc	AP		169.30
219357	11/27/2019	Central Valley Toxicology, Inc	AP		31.00
219358	11/27/2019	Centro Business Forms Inc.	AP		249.60
219359	11/27/2019	CEP America California	AP		639.00
219360	11/27/2019	Central Sanitary Supply	AP		128.42
219361	11/27/2019	Coffee Break Service Inc.	AP		132.60
219362	11/27/2019	Comcast	AP		106.16
219363	11/27/2019	Comcast	AP		808.00
219364	11/27/2019	Copy Shipping Solutions	AP		46.75
219365	11/27/2019	CSMFO	AP		405.00
219366	11/27/2019	LN Curtis & Sons	AP		3,491.15
219367	11/27/2019	Stephanie Cruz	AP		450.00
219368	11/27/2019	The ABY MFG Group. Inc.	AP		241.50
219369	11/27/2019	Fast Track Car Wash	AP		206.50
219370	11/27/2019	Ferguson Enterprises Inc DBA Groeniger & Company	AP		2,305.76
219371	11/27/2019	GCS Environmental Equipment Services	AP		606.24
219372	11/27/2019	Bernard Gullo	AP		743.14
219373	11/27/2019	Halcyon Creek Inc.	AP		46.42
219374	11/27/2019	Holt of California	AP		2,653.76
219375	11/27/2019	Johnnie's Cleaners	AP		236.25
219376	11/27/2019	Kalmikov Enterprises, Inc	AP		197.46
219377	11/27/2019	Kings View Corporation	AP		400.00
219378	11/27/2019	Language Line Services	AP		2.69
219379	11/27/2019	Lucas Business Systems	AP		302.19
219380	11/27/2019	Marfab Inc	AP		367.64
219381	11/27/2019	Merced Truck & Trailer Inc	AP		74.31
219382	11/27/2019	Monterey Auto Services Inc.	AP		121.50
219383	11/27/2019	MOO, Inc.	AP		275.86
219384	11/27/2019	NDN International LLC	AP		1,748.31
219385	11/27/2019	The Office City	AP		420.31
219386	11/27/2019	OSE	AP		792.88
219387	11/27/2019	O'Reilly Auto Parts	AP		543.85
219388	11/27/2019	Pinnacle Peak Holding Corporation	AP		54.93
219389	11/27/2019	Precision Civil Engineering, Inc	AP		3,255.00
219390	11/27/2019	Provost and Pritchard Engineering, Inc.	AP		10,369.20

219391	11/27/2019	Protech Security & Electronics, Inc.	AP	129.29
219392	11/27/2019	Jeremy Rahn	AP	833.98
219393	11/27/2019	Santos Ford Inc.	AP	626.84
219394	11/27/2019	Save Mart Supermarkets	AP	196.16
219395	11/27/2019	Henry Schein Inc.	AP	429.10
219396	11/27/2019	Sherwin Williams Co	AP	68.13
219397	11/27/2019	Sorensens True Value	AP	286.99
219398	11/27/2019	Sorensens True Value	AP	10.28
219399	11/27/2019	Sprint Solutions, Inc.	AP	987.74
219400	11/27/2019	Stantec Consulting Services, Inc.	AP	5,071.50
219401	11/27/2019	Stommel, Inc.	AP	12,441.00
219402	11/27/2019	Joan Soares	AP	500.00
219403	11/27/2019	Thomson Reuters (Tax & Accounting) Inc.	AP	342.64
219404	11/27/2019	United Way of Merced County, Inc.	AP	121.02
219405	11/27/2019	Beatriz Barraza	AP	45.21
219406	11/27/2019	Valley Critter Care , Inc.	AP	1,520.21
219407	11/27/2019	Verizon Wireless	AP	661.10
219408	11/27/2019	WECO Industries, LLC	AP	100.55
219409	11/27/2019	Matthew Culley	AP	625.31
219410	11/27/2019	Anderson Pump Company Inc	AP	27,654.27
219411	11/27/2019	Richard A Blak Phd	AP	400.00
219412	11/27/2019	BSK Associates	AP	14,919.24
219413	11/27/2019	CDTFA California Dept. of Tax & Fee	AP	803.00
219414	11/27/2019	City of Newman	AP	10.00
219415	11/27/2019	Federal Express Corporation	AP	51.43
219416	11/27/2019	Gouveia Engineering Inc.	AP	18,033.45
219417	11/27/2019	Merced County Auditor Controller	AP	792.50
219418	11/27/2019	Provost and Pritchard Engineering, Inc.	AP	11,478.00
219419	11/27/2019	Quad Knopf, Inc.	AP	10,251.99
219420	11/27/2019	SWRCB Accounting Office	AP	31,217.00
219443	12/5/2019	Aflac-Customer Service	AP	494.24
219444	12/5/2019	Food 4 Less	AP	1,077.74
219445	12/5/2019	In Shape Health Clubs Inc	AP	669.71
219446	12/5/2019	Los Banos Police Assn	AP	350.00
219447	12/5/2019	Los Banos Police Assn	AP	175.00
219448	12/5/2019	Los Banos Police Assn	AP	875.00
219449	12/5/2019	MassMutual	AP	1,176.39
219450	12/5/2019	MassMutual	AP	4,142.50
219451	12/5/2019	Merced County Sheriff	AP	150.00
219452	12/5/2019	Nationwide Retirement Solutions	AP	3,262.50
219453	12/5/2019	Professional Fire Fighter	AP	630.00
219454	12/5/2019	Public Employees Union, Local One	AP	1,036.97
219455	12/5/2019	State Disbursement Unit	AP	2,088.00
219456	12/5/2019	Vantagepont Transfer Agents - 306797	AP	884.45
219457	12/5/2019	Vantagepoint Transfer Agents - 705827	AP	25.00
219458	12/5/2019	Vantagepoint Transfer Agents - 801838	AP	3,150.00
219459	12/5/2019	Wex Bank	AP	266.87
219460	12/6/2019	Alhambra	AP	173.15
219461	12/6/2019	Accela, Inc.	AP	3,384.00
219462	12/6/2019	All Weather Inc	AP	1,900.00
219463	12/6/2019	Anthony Gomes	AP	200.00
219464	12/6/2019	Aramark Uniform Ser Inc	AP	623.70
219465	12/6/2019	AT&T	AP	381.68
219466	12/6/2019	Brenntag Pacific Inc	AP	3,041.47

219467	12/6/2019	BSK Associates	AP	2,061.00
219468	12/6/2019	Burton's Fire Inc.	AP	187.38
219469	12/6/2019	Diane Bondi-Antonetti	AP	600.00
219470	12/6/2019	Central Sanitary Supply	AP	92.77
219471	12/6/2019	Clark Pest Control Inc	AP	157.00
219472	12/6/2019	Comcast	AP	129.52
219473	12/6/2019	Crescent Surplus Inc.	AP	94.91
219474	12/6/2019	LN Curtis & Sons	AP	912.45
219475	12/6/2019	Display Sales	AP	1,850.74
219476	12/6/2019	Maricela Deloa	AP	600.00
219477	12/6/2019	Edges Electrical Group, LLC	AP	2,785.34
219478	12/6/2019	Electric Drives Inc	AP	534.03
219479	12/6/2019	Employee Relations, Inc.	AP	50.00
219480	12/6/2019	Ernest Packaging Solutions	AP	99.98
219481	12/6/2019	F S Rod Inc	AP	324.00
219482	12/6/2019	Fastenal Company	AP	17.96
219483	12/6/2019	Federal Express Corporation	AP	81.05
219484	12/6/2019	Ferguson Enterprises Inc DBA Groeniger & Company	AP	1,192.33
219485	12/6/2019	GCS Environmental Equipment Services	AP	2,896.02
219486	12/6/2019	Goodwin Consulting Group	AP	3,781.25
219487	12/6/2019	Grainger Parts Operations	AP	302.62
219488	12/6/2019	Hach Company	AP	1,132.03
219489	12/6/2019	Heppner Precision Machine Shop, Inc.	AP	5,193.13
219490	12/6/2019	Holt of California	AP	1,069.61
219491	12/6/2019	Ingraham Trophies	AP	115.94
219492	12/6/2019	Kalmikov Enterprises, Inc	AP	536.69
219493	12/6/2019	Kully Supply, Inc.	AP	830.40
219494	12/6/2019	Marfab Inc	AP	265.06
219495	12/6/2019	Merced Truck & Trailer Inc	AP	26.68
219496	12/6/2019	Monterey Auto Services Inc.	AP	40.75
219497	12/6/2019	N & S Dos Palos Tractor	AP	265.00
219498	12/6/2019	Nine Lives Foundation	AP	1,079.98
219499	12/6/2019	The Office City	AP	33.72
219500	12/6/2019	O'Reilly Auto Parts	AP	1,252.13
219501	12/6/2019	Pacific Water Resources	AP	1,097.17
219502	12/6/2019	Polsinelli PC	AP	2,423.00
219503	12/6/2019	Provost and Pritchard Engineering, Inc.	AP	315.00
219504	12/6/2019	Sherwin Williams Co	AP	443.33
219505	12/6/2019	Robert & Susan Hansen	AP	870.00
219506	12/6/2019	Soares Lumber & Fence Inc	AP	6.53
219507	12/6/2019	Sorensens True Value	AP	777.31
219508	12/6/2019	Specialty Distributors, Inc.	AP	78.02
219509	12/6/2019	Sprint Solutions, Inc.	AP	189.95
219510	12/6/2019	Terryberry Company LLC	AP	173.93
219511	12/6/2019	The Don Chapin Co., Inc.	AP	1,398.07
219512	12/6/2019	United Site Services, Inc.	AP	478.94
219513	12/6/2019	Sunshine Investments	AP	104.49
219514	12/6/2019	Mori & Hiroko Hiroshi	AP	92.56
219515	12/6/2019	Jaime Reyes	AP	113.44
219516	12/6/2019	Micheal Munoz	AP	182.10
219517	12/6/2019	Corina Lopez	AP	49.26
219518	12/6/2019	Francisca Vargas	AP	200.00
219519	12/6/2019	Blossom Valley Realty, JR Souza	AP	100.00
219520	12/6/2019	Home Sweet Home Property Management	AP	131.35

219521	12/6/2019	Domingo & Montserrat Alvarez	AP	100.00
219522	12/6/2019	Kayla Bosco	AP	98.59
219523	12/6/2019	Pacific Credit Services	AP	4.37
219524	12/6/2019	Pacific Credit Services	AP	171.26
219525	12/6/2019	Patrick Ferreira	AP	52.24
219526	12/6/2019	Michael Deldin, M. D.	AP	14.04
219527	12/6/2019	Pacific Credit Services	AP	32.33
219528	12/6/2019	Valerie Lomax	AP	77.61
219529	12/6/2019	Our Lady Fatima School	AP	30.86
219530	12/6/2019	RB Construction	AP	21.99
219531	12/6/2019	RB Construction	AP	21.99
219532	12/6/2019	D.R. Horton	AP	7.33
219533	12/6/2019	D.R. Horton	AP	7.33
219534	12/6/2019	D.R. Horton	AP	23.09
219535	12/6/2019	D.R. Horton	AP	23.09
219536	12/6/2019	D.R. Horton	AP	23.09
219537	12/6/2019	Our Lady Fatima School	AP	30.86
219538	12/6/2019	Pacific Credit Services	AP	73.13
219539	12/6/2019	Westhill Property Mgmt	AP	8.96
219540	12/6/2019	James Johnson	AP	30.05
219541	12/6/2019	Thomas Wilder	AP	8.96
219542	12/6/2019	Aldina Real Estate, Inc.	AP	89.54
219543	12/6/2019	Louis Lee	AP	95.49
219544	12/6/2019	BellaMia Real Estate	AP	131.21
219545	12/6/2019	Rosa Cortez	AP	89.54
219546	12/6/2019	Pacific Credit Services	AP	117.00
219547	12/6/2019	Sandra Nunez	AP	91.04
219548	12/6/2019	Bourdet Family Trust	AP	50.74
219549	12/6/2019	Brenda Ornelas-Ayala	AP	39.58
219550	12/6/2019	RB Construction	AP	21.99
219551	12/6/2019	RB Construction	AP	21.99
219552	12/6/2019	RB Construction	AP	21.99
219553	12/6/2019	D.R. Horton	AP	10.26
219554	12/6/2019	D.R. Horton	AP	7.33
219555	12/6/2019	D.R. Horton	AP	23.09
219556	12/6/2019	D.R. Horton	AP	7.33
219557	12/6/2019	D.R. Horton	AP	23.09
219558	12/6/2019	Pacific Credit Services	AP	105.98
219559	12/6/2019	D.R. Horton	AP	23.09
219560	12/6/2019	Windecker Inc	AP	5.44
219561	12/6/2019	Christina Ybarra	AP	350.00
219562	12/6/2019	Zee Medical Service Co	AP	22.05
219563	12/6/2019	Caliber Bodyworks, Inc.	AP	6,334.13
219564	12/6/2019	Dell Marketing L P	AP	3,629.56
219565	12/6/2019	Home Depot	AP	2,858.99
219566	12/6/2019	Liebert Cassidy Whitmore	AP	462.00
219567	12/6/2019	Los Banos Volunteer	AP	2,416.67
219568	12/6/2019	Pet Partners	AP	812.00
219569	12/6/2019	Lucille L Mallonee	AP	363.08
219570	12/6/2019	Lucille L Mallonee	AP	74.93
219571	12/6/2019	McElvany Inc	AP	14,858.93
219572	12/6/2019	Gerald "Obie" O'Brien	AP	77.14
219573	12/6/2019	PG&E Company	AP	107,757.28
219574	12/6/2019	Premier Access Insurance Co.	AP	19,940.84

219575	12/6/2019	Ronny's Inc.	AP	8,629.50
219576	12/6/2019	Santos Ford Inc.	AP	29,619.82
219577	12/6/2019	Schwarze Industries Inc.	AP	328,135.04
219578	12/6/2019	Sun Life Financial	AP	6,691.93
219579	12/6/2019	United Pavement Maintenance, Inc.	AP	265,598.62
219580	12/6/2019	Law Offices of William A Vaughn	AP	12,000.00
219581	12/6/2019	Windecker Inc	AP	14,497.75
219582	12/6/2019	Food 4 Less	AP	416.91

Break in check sequence due to the following:
Check #219346 (Payroll)

Total Void Check Count: 0
Total Void Check Amount:

Break in check sequence due to the following:
Check #219421 - #219442 (Payroll)

Total Valid Check Count: 214
Total Valid Check Amount: 1,081,132.36
Total Check Count: 214
Total Check Amount: 1,081,132.36

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
DECEMBER 4, 2019**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the City Council. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER: Mayor Villalta called the City Council Meeting to order at the hour of 7:01 p.m.

PLEDGE OF ALLEGIANCE: Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Tom Faria, Daronica Johnson-Santos, Deborah Lewis, Brett Jones, Mayor Michael Villalta; Absent: None.

STAFF MEMBERS PRESENT: City Manager Terrazas, City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Treasurer/Accounting & Budget Supervisor Tomas, Finance Director Williams, Police Chief Brizzee, Fire Chief Hurley, Community & Economic Development Director Elms, Public Works Director/City Engineer Fachin.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Faria, seconded by Johnson-Santos to approve the City Council Meeting agenda. The motion carried by the affirmative action of all City Council Members present.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. BEN GONZALEZ, Los Banos, spoke regarding the speeding problems on Scripps Drive and how he is seeking help from the City, the residents on that street have all signed a petition for speed cushions but were denied because Scripps is considered a thoroughfare, that is a school zone and many children are constantly walking in the area, has seen three accidents on that street, would like some kind of help out there in relation to the speeding issues; JULIAN KELLY, Kelly Products Consultant Group, spoke regarding his program called Mighty Minds and how it will be introduced at an event called Kids Day in Tech to be held at the Community Center on December 14, program is to introduce children to the technology field, he spoke to the other categories of technology programs that will also be introduced in the future, he asked for the Council's support in this new program that will be available to kids in all social and economic backgrounds; SHARON SILVA, Downtown Association, spoke

regarding the events happening in the downtown area, the Association's goal is to get activities happening in the downtown area and to make it a prime shopping location, she spoke to some of the activities that the Association has hosted in the recent months, one of their biggest goals for this holiday season is to get as many trees lit up in the downtown area as well as on I Street, her speaking time ran out and Mayor Villalta asked her to come back to the next City Council meeting to continue her report; JIM VALENTINE, Los Banos Kiwanis, spoke regarding their Annual Christmas Eve Dinner being held and sponsored at Los Banos Fire Station No.1, encouraged all to attend and/or volunteer to work the event from 11:00 a.m.–2:00 p.m.; STEVE GALLICHIO, Republic Services Operations Supervisor for Los Banos, Dos Palos and Atwater, wanted to come out and introduce himself, stated that he has been on the job for about six weeks, there is a lot to do and a lot to get done, issues are being addressed and it is an ongoing process, looking into hiring more drivers, improving equipment and offering new training, their goal is to be proactive not reactive, spoke regarding a few important points related to local garbage issues.

No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Johnson-Santos, seconded by Faria to approve the consent agenda as follows: Check Register for #219051 – #219345 in the Amount of \$1,105,890.64; Minutes for the November 20, 2019 City Council Meeting; City Council Resolution No. 6161 – Authorizing the City Manager to Award the Bid for the Purchase of One (1) 2020 Ford Interceptor Utility Police Vehicle to Santos Ford Los Banos in the Amount of \$34,925.75; City Council Resolution No. 6162 – Accepting the 8th & 9th Street Waterline Project as Complete and Authorizing the Filing of a Notice of Completion with the Merced County Recorder. The motion carried by the affirmative action of all Council Members present.

MERCED COLLEGE BOND MEASURE PRESENTATION – BY CHRIS VITELLI, ED.D., MERCED COLLEGE SUPERINTENDENT. Merced College Superintendent Chris Vitelli provided information related to the bond measure and an overview of the facilities that will be built in Los Banos as a part of the measure.

There was Council Member and representative discussion regarding the buildings and programs that will be added to the Merced College campuses in Merced and Los Banos thanks to the bond measure.

Informational item inly, no action taken.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF APPROVING AND ADOPTING AN UPDATED AB 1600 DEVELOPMENT IMPACT FEE JUSTIFICATION STUDY PREPARED FOR THE CITY OF LOS BANOS BY DTA (DAVID TAUSSIG & ASSOCIATES, INC.); ADJUSTING THE CITY'S DEVELOPMENT IMPACT FEES FOR ALL DEVELOPMENT WITHIN THE CITY OF LOS BANOS; AND A PROPOSED AMENDMENT TO TITLE 9, CHAPTER 2, ARTICLE 6 OF THE LOS BANOS MUNICIPAL CODE ESTABLISHING A GENERAL GOVERNMENT

FACILITIES DEVELOPMENT IMPACT FEE; CITY COUNCIL RESOLUTION NO. 6163 – ADOPTING A DEVELOPMENT IMPACT FEE JUSTIFICATION STUDY FOR THE CITY OF LOS BANOS AND REVISING DEVELOPMENT IMPACT FEES FOR ALL DEVELOPMENT WITHIN THE CITY OF LOS BANOS; ORDINANCE NO. 1178 – AMENDING TITLE 9 CHAPTER 2 ARTICLE 6 OF THE LOS BANOS MUNICIPAL CODE ESTABLISHING A GENERAL GOVERNMENT FACILITIES DEVELOPMENT IMPACT FEE. Public Works Director/City Engineer Fachin presented the staff report and requested that this item be continued to the January 15, 2020 City Council Meeting so that staff can work on outstanding issues with the stakeholders.

Mayor Villalta opened the public hearing. No one came forward to speak.

The Council asked which items were still up for discussion for which staff stated it was fees related to the animal shelter. City Attorney Vaughn warned that the Council may ask questions but should not state their opinions until after the public hearing is held on January 15, 2020.

Motion by Lewis, seconded by Jones to continue this public hearing, resolution and ordinance to the January 15, 2020 City Council Meeting. The motion carried by the affirmative action of all City Council Members present.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION REGARDING THE PROPOSAL THAT THE CITY OF LOS BANOS ACTING AS THE CITY OF LOS BANOS GROUNDWATER SUSTAINABILITY AGENCY (GSA) APPROVE THE DELTA MENDOTA SUBBASIN (5-022.07), SAN JOAQUIN RIVER EXCHANGE CONTRACTORS GSP GROUP, GROUNDWATER SUSTAINABILITY PLAN (GSP) AS IT RELATES TO THE CITY OF LOS BANOS GSA; CITY COUNCIL RESOLUTION NO. 6164 – ACTING AS THE CITY OF LOS BANOS GROUNDWATER SUSTAINABILITY AGENCY (GSA) APPROVING THE GROUNDWATER SUSTAINABILITY PLAN (GSP) FOR THE SAN JOAQUIN RIVER EXCHANGE CONTRACTORS GSP GROUP IN THE DELTA-MENDOTA SUBBASIN (5-022.07) DATED DECEMBER 2019 AS IT PERTAINS TO THE CITY OF LOS BANOS GSA. Public Works Director/City Engineer Fachin presented the staff report.

There was Council Member and staff discussion regarding the Groundwater Sustainability Plan and the five projects to offset the City's groundwater overdraft as a Groundwater Sustainability Agency. The Plan that the City is a part of consists of eleven agencies as a whole.

Mayor Villalta opened the public hearing. THEO CLAUS, UC Merced, spoke regarding how this Plan is a huge document and how it can be improved to get the next generation excited about studying it, sustainability is a serious issue and it should be looked at in different ways such as a smart farm nexus; JULIAN KELLY, Los Banos, spoke regarding the smart farm nexus and how he is seeing some interest in the school how there is already some interest in a smart farm nexus from the school districts, asking Council to

consider implementing a smart box to gather further data as it relates to groundwater sustainability. No one else came forward to speak and the public hearing was closed.

Motion by Lewis, seconded by Faria to adopt City Council Resolution No. 6164 – Acting as the City of Los Banos Groundwater Sustainability Agency (GSA) Approving the Groundwater Sustainability Plan (GSP) for the San Joaquin River Exchange Contractors GSP Group in the Delta-Mendota Subbasin (5-022.07) Dated December 2019 as it Pertains to the City of Los Banos GSA. The motion carried by the affirmative action of all City Council Members present.

CANCELLATION OF THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR WEDNESDAY, JANUARY 1, 2020 DUE TO THE NEW YEARS DAY HOLIDAY. Motion by Faria, seconded by Johnson-Santos to cancel the January 1, 2020 City Council Meeting due to the New Years Day Holiday. The motion carried by the affirmative action of all City Council Members present.

ADVISEMENT OF PUBLIC NOTICES (Two Reports). Community & Economic Development Director Elms stated that there is a vesting tentative tract map for Mission Village South, Phase 5 and a site plan review for a conditional use permit for Crockers Lockers, to be located on Ortigalita Road south of Tractor Supply, that will be reviewed at the Planning Commission meeting on Wednesday, December 11 at 7:00 p.m.

CITY MANAGER REPORT. City Manager Terrazas thanked the high school students for being present tonight and encouraged them to attend future meetings.

REPORT/UPDATE ON MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MCAG) AND MEASURE V COMMITTEE. Mayor Villalta stated that he was the only one who voted no to give money to the Atwater-Merced Expressway but in the end was given a promise that all the future money would go to the expansion of Pioneer Road. He thanked Council for their support. A safety committee consisting of members from the City of Los Banos, Los Banos Police Department, Los Banos Unified School District, California Highway Patrol and CalTrans is in the process of being created to identify and strategize concerns surrounding Highway 152.

CITY COUNCIL MEMBER REPORTS.

DARONICA JOHNSON-SANTOS: No report.

BRETT JONES: No report.

DEBORAH LEWIS: Reminded all about the downtown Christmas parade being held on Friday, December 6. Breakfast with Santa is on Saturday morning at 8:00 a.m. at the Los Banos Community Center. She would like to make a Council Request regarding ideas that have been brought forth to Council relating to zone changes and design standards as it relates to downtown.

TOM FARIA: Reminded all that Friday night's Christmas parade will begin at 6:00 p.m. and his Los Banos High School choir group will be singing at the tree lighting that will be held after the parade if weather permits. His favorite part about the parade is being able to ride in the fire truck. The Los Banos High School choir will have their concert on Tuesday evening at the high school at 7:30 p.m. with a \$5 admission and Creekside Junior High will have their concert on Wednesday, December 18 in the school's multi-purpose room free of charge.

MAYOR MICHAEL VILLALTA: Mayor Villalta reiterated details for the the upcoming events such as the Kiwanis Christmas Eve Dinner, the Christmas parade, and the Breakfast with Santa event.

ADJOURNMENT. The meeting was adjourned at 8:50 PM.

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members
FROM: Mark Fachin, P.E., Public Works Director/City Engineer 
DATE: December 18, 2019
SUBJECT: Lease Agreement with Pentagon Company dba Delta Farms
TYPE OF REPORT: Consent Agenda

Recommendation:

That the City Council adopt the Resolution authorizing the Mayor to execute a Five Year Lease with Pentagon Company dba Delta Farms for approximately 50 acres of pasture land and 150 acres of farmable land located at the Wastewater Treatment Plant.

Background:

In August 2005, the City of Los Banos purchased 50 acres of pasture land and 150 acres of farmland from Aldo J. Sansoni, Virginia M. Sansoni, Fred Petroni, and Mary Petroni. After the sale of this property to the City of Los Banos, the seller had the right to non exclusive possession of this property through December 31, 2009 for the sole use of farming at no charge. Delta Farms, who had been farming this land, entered into a lease agreement with the City of Los Banos commencing on January 1, 2009 and ending on December 31, 2013. This lease agreement was extended by six years by the First Amendment to the above referenced lease. The extended lease period ends on December 31, 2019. Their current lease rate is \$26,250.00 per year.

Discussion:

The City of Los Banos staff recommends that a new five year lease agreement between the City of Los Banos and Pentagon Company dba Delta Farms be entered into based on the following reasons:

- 1) The lease amount represents fair market value for the land;
- 2) Delta Farms maintains the 200 acres at their cost based on the agreement;

- 3) During the current lease, the City of Los Banos has experienced no issues with Delta Farms;
- 4) The irrigation system was developed, built, and maintained by Delta Farms and is unique to their operation; and
- 5) Delta Farms maintains the pasture acreage with no City effort required.

This proposed lease would commence on January 1, 2020; and end on December 31, 2024.

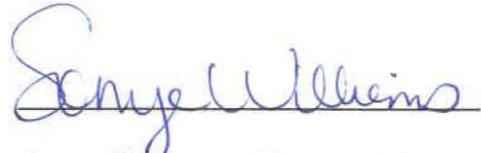
Fiscal Impact:

The leasing of this land will generate \$26,250.00 annual City revenue in the Wastewater Enterprise Fund as a result of this five year lease.

Reviewed by:



Alex Terrazas, City Manager



Sonya Williams, Finance Director

Attachments:

Resolution
Lease Agreement
Property Exhibit

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF LOS BANOS AND PENTAGON COMPANY DBA DELTA FARMS FOR APPROXIMATELY 50 ACRES OF PASTURE LAND AND 150 ACRES OF FARMABLE LAND LOCATED AT THE WASTEWATER TREATMENT PLANT

WHEREAS, Pentagon Company dba Delta Farms have requested that a Lease Agreement for five years with the City of Los Banos for approximately 50 Acres of Pasture Land and 150 Acres of Farmable Land located at the Wastewater Treatment Plant be entered into; and

WHEREAS, the extended term of the lease would commence on January 1, 2020 and terminate on December 31, 2024; and

WHEREAS, Pentagon Company dba Delta Farms agrees to pay rent during the lease term as described in the proposed Lease Agreement by and between the City of Los Banos and Pentagon Company dba Delta Farms; and

WHEREAS, said Lease Agreement by and between the City of Los Banos and Pentagon Company dba Delta Farms, as presented, has been reviewed by the City Attorney of the City of Los Banos; and

WHEREAS, the City Council of the City of Los Banos authorizes the Mayor to sign and execute the Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve the Lease Agreement with Pentagon Company dba Delta Farms, and authorizes the Mayor to sign and execute the agreement as presented.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 18th day of December 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

Recording Requested By:

City of Los Banos

And When Recorded Mail to:

**Lucille Mallonee, City Clerk
City of Los Banos
520 J Street
Los Banos, CA 93635**

Exempt from Recording Fees
Pursuant to Gov't Cd 6103

APN: 084-10-009

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**LEASE AGREEMENT BETWEEN
THE CITY OF LOS BANOS
AND PENTAGON COMPANY dba DELTA FARMS**

THIS LEASE ("this lease" or the "Lease Agreement") is entered into on January 1, 2020 by and between the CITY OF LOS BANOS, a California municipal corporation, ("Lessor") and PENTAGON COMPANY dba Delta Farms, a California general partnership ("Lessee").

Lessor for and in consideration of the rent to be paid by Lessee and of the covenants and provisions to be kept and performed by Lessee under this lease, hereby leases to Lessee, and Lessee agrees to lease from Lessor, the real property in the County of Merced, State of California (the "Premises" or the "leased Premises"), more particularly described in Exhibit A attached hereto and incorporated herein by this reference on the following terms and conditions:

ARTICLE 1. TERM OF LEASE

Section 1.01. Term. The term of this lease shall commence on January 1, 2020, and shall end on December 31, 2024 (the "Term"), unless terminated earlier pursuant to the provisions of this lease.

Section 1.02. Holding Over. Any holding over after the expiration of the term of this lease with the consent of the Lessor expressed or implied shall not extend the term of this lease or renew the same, regardless of the period of holding over. Any such holding over shall constitute a tenancy from month to month upon each and every term, condition and covenant of this lease insofar as the same may be applicable.

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ARTICLE 2. RENT

Section 2.01. Rent. Commencing January 1, 2020, Lessee agrees to pay to Lessor the sum of Twenty Six Thousand Two Hundred Fifty Dollars (\$26,250.00) per year, payable ½ on or before January 1st and ½ on or before July 1st of each year of this lease agreement.

In the event rent is not paid within 5 days after due date, Lessee agrees to pay a late charge of Five Hundred Dollars (\$500.00), plus interest at the rate of 10% per annum on the delinquent amount. Lessee further agrees to pay Fifty dollars (\$50.00) for each dishonored bank check. The late charge period is not a grace period, and Lessor is entitled to make written demand for any rent if not paid when due.

ARTICLE 3. USE OF PREMISES

Section 3.01. Permitted Use. During the term of this lease, Lessee shall use the Premises solely for the purpose of planting, growing, and harvesting of agricultural crops and for no other purpose without the prior written consent of Lessor.

(a) No crops with harvest dates after the lease termination date will be planted without the prior written approval of Lessor.

Section 3.02. Approvals and Licensing. If any license, permit, or other governmental authorization is required for the services and/or activities provided by Lessee in connection with the use or occupancy of the Premises or any portion of the Premises, Lessee shall procure and maintain said approvals and licenses throughout the term of this lease. Failure to procure and maintain said approvals and licenses throughout the term of this lease shall be deemed a material breach of the lease. Lessee shall notify Lessor immediately upon suspension or revocation of any license, permit, or other governmental authorization.

Section 3.03. Compliance with Laws. Lessee shall, at Lessee's own cost and expense, comply with all statutes, ordinances, regulations, and requirements of all governmental entities, both federal and state and county or municipal relating to any use and occupancy of the Premises, whether those statutes, ordinances, regulations, and requirements are now in force or are subsequently enacted. The violation of any such statute, ordinance, regulation, or requirement shall constitute grounds for termination of this lease by Lessor.

Section 3.04. Prohibited Uses. Lessee shall not use or permit the Premises or any portion of the Premises to be improved, developed, used, or occupied in any manner or for any purpose that is in any way in violation of any valid law, ordinance, or regulation of any federal, state, county, or local governmental agency, body, or entity. Furthermore, Lessee shall not maintain, commit, or permit the maintenance or commission of any nuisance as now or hereafter defined by any statutory or decisional law applicable to the Premises or any part of the Premises.

Section 3.05. Right of Entry and Access to Premises. Lessor and its agents or representative shall have the right, during reasonable business hours, to enter upon the leased Premises, to inspect the same or any crops growing or harvested thereon or being removed therefrom, the improvements therein, appurtenances thereto, and all equipment located thereon.

Lessor shall also have the right to enter the leased Premises to exercise, protect or defend any of the rights reserved to the Lessor hereunder. Lessee shall supply Lessor and its agents or representatives with keys or other instruments necessary to affect entry only to the leased Premises.

Section 3.06. Farming Practices. Lessee shall carry on all of the activities specified under Section 3.01 in accordance with good husbandry and the best practices of the farming community in which the leased premises are situated. Lessee agrees to use the best known practices and measures to prevent the entry or growth of Johnson grass, morning glory, Bermuda grass, knapweed and other noxious weeds or grasses upon the leased premises, including necessary control measures on adjacent or adjoining public and private roads, ditches, banks, fence lines, lanes and ways. It shall be the obligation of Lessee to bear the expense of compliance with all lawful requirements governing extermination and destruction of noxious growth, rodents and harmful insects and protection against orchard and plant infection on leased and adjacent property.

Vegetation shall be managed as follows:

(a) With respect to any portion of the leased Premises used to farm cotton, Lessee shall shred all cotton stalks remaining on such portion and disc the soil of any such portion in full compliance with Merced County pink bollworm plow-down regulations.

(b) Following the harvest of any other crop, Lessee shall disc until all crop residue is thoroughly mixed with the soil.

(c) Any portion of the leased Premises planted and not harvested, or left fallow, shall be maintained to minimize weed and pest infestations. Methods for minimizing infestations of weeds and pest shall include but not be limited to semiannual discing and/or mowing, and the application of herbicides and pesticides.

(d) Grazing of livestock, although permitted as a part of this lease, is not considered by the Lessor to be a means of vegetation control and therefore does not satisfy the requirements of this section.

(e) Lessor reserves the right to direct Lessee as to the timing and preferred method(s) for complying with this section.

(f) Lessee shall provide a performance bond for the full term of this lease, for the benefit of the Lessor, to insure weed and vegetation control are conducted in accordance with these provisions. Said performance bond shall be provided to the Lessor prior to the execution of this lease. In lieu of a performance bond, Lessee may provide a refundable deposit of Twenty Five Dollars (\$25.00) per irrigable acre subject to this lease.

If Lessee fails to take any required action or conduct any operation in accordance with the best course of husbandry practiced in the farming community surrounding the leased Premises, Lessor may, after giving Lessee 15 days' written notice of the failure in the manner

prescribed in Section 8.04 of this lease, enter the leased Premises and take any reasonable action Lessor may deem necessary to protect Lessor's interest in this lease and the leased Premises. Lessee agrees to reimburse Lessor on demand for the cost of any reasonable actions taken by Lessor in accordance with the provisions of this paragraph.

3.07. Chemical Storage and Use. Lessee shall not apply to, use upon, possess or store upon the Premises, any substance or chemical as designated from time to time by the United States or State of California or any office or agency thereof, as causing cancer or reproductive toxicity, as determined in accordance with the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65) or any other law or regulation. Lessee further agrees and acknowledges that all herbicides and pesticide storage and applications must meet the restrictions and permits required by the County Agricultural Commissioner in the State of California and all other governmental regulations. Only chemicals designated and approved for use on the land associated with this lease may be stored on the Premises. Lessee agrees to control and dispose of containers according to legal requirements, and hold Lessor harmless for the use, storage, or disposal of any agricultural chemicals. Lessee agrees not to apply pesticides, insecticides, fungicides, herbicides, or other chemical treatments that will have a residual effect beyond the term of this lease except with the prior written consent of Lessor.

3.08 Water Supply. Lessor does not warrant the existence of or the water supply to the Premises. Lessee accepts the risk and is fully aware of the condition of the water supply system serving the Premises. Lessee understands that there may be legal constraints upon the sources of water made available to the leased Premises. **Lessee accepts the risk of a shortage or reduction in water supply which may arise from failures of wells, lack of legal authority to divert or deliver water and agrees hereby to waive any and all claims against Lessor for damages, loss or reduction in crop yield or any other nature of damage or expense which may arise from water unavailability, fluctuations, or degradation of the quality of water diverted.** Lessee agrees to indemnify the Lessor, its City Council, officers, directors, agents, employees and volunteers from any such claims or costs of defense of those claims which might be made against Lessor by third parties claiming through Lessee or as a beneficiary of Lessees. As to any water supply features such as wells, pumps or other apparatus which require repair or replacement during the term of the Lease Agreement, Lessee shall promptly repair or reconstruct these facilities at its cost during the term of the Lease Agreement (except if damage is caused by an act of God or nature) except that if such facilities shall be damaged due to the negligence of Lessor or its unreasonable omission to act, Lessor shall bear the costs of repair or replacement.

(a) Lessee is prohibited from taking any action that would have the effect of decreasing or removing any riparian or water supply rights attached to the Premises.

ARTICLE 4. OPERATING COSTS

4.01. Operating Costs. Lessee shall pay all costs in connection with Lessee's operations on the leased Premises, including but not limited to costs of preparing the leased Premises for planting of crops, production costs, costs of tools and labor, electricity, water charges, and other utilities.

4.02. Taxes and Assessments. Lessee shall pay, before delinquency, all personal property taxes or assessments levied on Lessee's personal property situated in or about the leased Premises during the term of this lease. On demand, Lessee shall provide to Lessor satisfactory evidence of payment of taxes. Lessor shall be responsible for the payment of real property taxes or assessments levied on the leased Premises.

ARTICLE 5. MAINTENANCE ALTERATIONS AND REPAIRS

5.01. Maintenance. Lessee shall keep in good condition and repair all buildings, fences, wells, pumping plants, and irrigation systems or other improvements now located upon the Premises, which are the property of the Lessor. Lessee shall provide Lessor annually a written report of all major repairs made during the previous twelve months. Upon the termination of this Lease, Lessee shall leave the same in as good repair as they now are, damage by the elements, acts of God and ordinary wear and tear excepted. Lessor shall not be called upon or required to make any repairs or incur any expenses of any kind or nature, upon or in connection with the leased Premises or improvements, for and during the term or this Lease. Within thirty days of execution of this Lease the parties shall jointly prepare an inventory of all improvements currently located on the leased premises.

5.02. Waste or Nuisance. Lessee shall not commit, or permit others to commit, any waste on the leased Premises. Lessee shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined by California Civil Code Section 3479 on the leased Premises. Lessee shall not use or permit the use of the leased Premises for any unlawful purpose.

5.03. Alterations and Mechanics' Liens. Lessee shall not construct, any new improvements upon said leased Premises without first obtaining the written consent of Lessor. Lessee shall pay for all materials joined or affixed to said leased Premises, and pay in full all persons that perform labor upon said Premises at Lessee's instance and request. Lessee shall not permit or suffer any mechanic's or materialmen's liens of any kind or nature to be enforced against said leased Premises for any work done, or materials furnished thereon, at Lessee's instance or request. Lessee agrees to indemnify and hold Lessor harmless against any and all such liens. Lessor shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein. Lessee shall be liable to Lessor for all costs, damages and reasonable attorney's fees and any amounts expended in defending any proceedings, or in the payment of any of said liens or any judgment obtained therefor. Lessor may post and maintain upon the leased Premises notice of non-responsibility as provided by law.

5.04. Inspection by Lessor. Lessee shall permit Lessor or Lessor's agents, representatives, or employees to enter the leased Premises at all reasonable times to determine whether Lessee is complying with the terms of this lease and for the purpose of doing other lawful acts that may be necessary to protect the Lessor's interest in the leased premises.

5.05. Acceptance by Lessee. Lessee accepts the leased Premises, as well as the improvements on the premises and facilities appurtenant to the Premises, in their present

condition. Lessee agrees with, and represents to Lessor, that the leased Premises have been inspected by him and that Lessee has been assured by means independent of Lessor or Lessor's agents of the truth of all facts material to this lease and that the leased Premises are being leased by Lessee as a result of its inspection and investigation and not as a result of any representations made by Lessor or Lessor's agents.

5.06. No Warranty. Lessee expressly acknowledges that Lessor has made no warranty and no warranty shall be implied by reason of any term or provision of this Lease concerning the availability or sufficiency of water or any other utility for use upon the leased Premises; nor has Lessor made any warranty concerning the sufficiency of wells, pumping plants, canals, pipelines or any other irrigation equipment for provision of water to the crops, any dwellings or machinery upon the leased Premises; nor has Lessor made any warranty concerning the sufficiency of any provisions for the control of flooding of the leased Premises, nor has Lessor made any warranty concerning the sufficiency of adequacy of the land for the use or uses intended by Lessee.

5.07 Hazardous Materials.

(a) Lessee shall at all times in all respects comply with all environmental laws and any amendments thereto affecting Lessee's use of and operation on the leased Premises, including all federal, state and local laws, ordinances and regulations relating to Hazardous Material. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste that is or becomes regulated by any local government authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (1) defined as "Hazardous Waste," "Extremely Hazardous Waste" or "Restricted Hazardous Waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (2) defined as a "Hazardous Substance" under Section 25316 of the California Health and Safety Code, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (3) defined as a "Hazardous Material" or "Hazardous Substance" or "Hazardous Waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (4) defined as a "Hazardous Substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (5) petroleum or petroleum containing compounds; (6) asbestos; (7) listed under Article 9, or defined as Hazardous Wastes or Extremely Hazardous pursuant to Article 11, of Title 22 of the California Code of Regulations, Division 4, Chapter 20; (8) designated as a "Hazardous Waste" pursuant to Section 311 of the Federal Water Pollution control Act (33 USC Section 1317); (9) defined as "Hazardous Waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 USC Section 6901 et seq. (42 USC Section 6903); or (10) defined as a "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability act, 42 USC Section 9601 et seq. (42 USC Section 9601).

(b) If Lessee causes, or permits the use or storage of hazardous materials resulting in contamination of the leased Premises, then Lessee shall indemnify, defend and hold Lessor harmless from any claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Term of this Lease Agreement as a result of such contamination. This

indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any reasonable investigation of site conditions or any cleanup, remedial action, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the leased Premises, excepting pre-existing conditions. In no event shall Lessee be responsible for any contamination found on or under the leased Premises that existed prior to Lessee's occupancy. Without limiting the foregoing, if the presence of any Hazardous Material on the leased Premises caused or permitted by Lessee results in any contamination of the leased Premises, Lessee shall promptly take all actions at its sole expense as are necessary to render the leased Premises in compliance with all applicable environmental laws; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse effect on the leased Premises.

The provisions of this section shall survive the expiration or termination of this Lease Agreement.

5.08 Protected Natural Resources.

(a) Lessee shall at all times in all respects comply with all environmental laws and any amendments thereto affecting Lessee's use of and operation on the leased Premises, including all federal, state and local laws, ordinances and regulations relating to endangered, threatened and other sensitive species. Without limiting the generality of the foregoing, reference is made to the provisions set forth in the California Endangered Species Act (California Fish and Game Code Section 2050, et seq.); the Federal Endangered Species Act (16 U.S.C. Sections 1531 – 1543); and the Federal Migratory Bird Treaty Act (16 U.S.C. Sections 703-712).

Lessee shall assume responsibility for and payment of any fines or penalties levied on either Lessor or Lessee by any applicable local, state or federal authority (hereinafter "Authority") for breaches by Lessee of the Authority's environmental regulation. Lessee agrees to be solely liable for the payment of all fines and penalties resulting from Lessee's breach of Authority's environmental regulations, except and in proportion to the extent caused by the negligence or willful misconduct of Lessor.

In addition, Lessee understands and acknowledges that, during the Term of this Lease Agreement, the environmental regulations implemented or imposed by the Authority on Lessor and Lessee may change and Lessee specifically agrees to comply with any future applicable environmental regulations implemented or imposed by the Authority on Lessor or Lessee.

The provisions of this section shall survive the expiration or termination of this Lease Agreement.

5.09 Cultural Resources. If any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains be encountered during any activities, work shall be immediately suspended and the find area shall be staked off. The Lessee shall immediately notify the Lessor. Lessor will coordinate any necessary

investigation of the find with appropriate specialists as needed. The Lessee shall be required to implement any mitigation deemed necessary for the protection of the cultural resources.

In addition, pursuant to Section 5097.97 of the State Public Resources Code and Section 7050.5 of the State Health and Safety Code, in the event of the discovery of human remains, all work is to immediately stop and there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains and the Lessor and the County Coroner shall be immediately notified. If the remains are determined to be Native American, guidelines of the Native American Heritage Commission shall be adhered to in the treatment and disposition of the remains.

ARTICLE 6. INDEMNITY AND INSURANCE

Section 6.01. Indemnification. Lessee shall defend, indemnify, and hold harmless Lessor, its principals, officers, employees, agents, and volunteers from and against any claims, losses, injuries, suits, or judgments and from any and all liability for any and all claims, losses, injuries, suits, or judgments filed or brought by any and all persons (including, without limitation, attorney's fees, disbursements and court costs) because of, arising, from or resulting from, or in connection with the conduct by Lessee of any program, activity or service in, on, or about the Premises, or because of or arising from any negligent and or willful act or omission, its principals, officers, agents, employees, volunteers or subcontractors, or in any way connected with the Premises or with any improvements or personal property on the Premises, or some condition of the Premises or some building or improvement on the Premises except when caused by the sole negligence or willful misconduct of Lessor.

Section 6.02. Insurance. Lessee shall, at its own cost and expense, procure and maintain during the entire term of this lease public liability insurance and premises damage insurance insuring Lessor against loss or liability caused by or connected with Lessee's occupation and use of the Premises under this lease in amounts not less than:

(a) General Liability. Lessee shall maintain general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. Lessee, general liability policies shall be primary and shall not seek contribution from the Lessor's coverage, and be endorsed using Insurance Services Office form CG 20 10 to provide that Lessor and its officers, officials, employees, and agents shall be additional insureds under such policies.

(b) Auto Liability. Lessee shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than one million dollars (\$1,000,000) per accident. If Lessee owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

(c) Workers' Compensation. Lessee shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars

(\$1,000,000). Lessee shall submit to Lessor, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of Lessor, its officers, agents, employees, and volunteers.

The insurance required under this section shall be issued by a responsible insurance company or companies authorized to do business in California and shall be in a form reasonably satisfactory to Lessor. Lessee shall within 10 days of the date of this lease, deposit with Lessor a certificate showing that insurance to be in full force and effect.

Section 6.03. Cancellation Requirements. Each of the insurance policies shall be in a form reasonably satisfactory to Lessor and shall carry an endorsement that, before changing or canceling any policy, the issuing insurance company shall give Lessor at least 30 days' prior written notice. Duplicate originals or certificates of all such insurance policies shall be delivered to Lessor.

ARTICLE 7. DEFAULT, ASSIGNMENT, AND TERMINATION

Section 7.01. Restriction Against Subletting or Assignment. Lessee shall not encumber, assign, or otherwise transfer this lease, any right or interest in this lease, or any right or interest in the Premises or any of the Improvements that may now or hereafter be constructed or installed on the Premises without first obtaining the express written consent of Lessor. Lessee shall not sublet the Premises or any part of the Premises or allow any other person, other than Lessee's agents, servants, and employees, to occupy the Premises or any part of the Premises without the prior written consent of Lessor. A consent by Lessor to one assignment, one subletting, or one occupation of the Premises by another person shall not be deemed to be a consent to any subsequent assignment, subletting, or occupation of the Premises by another person. Any encumbrance, assignment, transfer, or subletting without the prior written consent of Lessor, whether voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of Lessor, terminate this lease. The consent of Lessor to any assignment of Lessee's interest in this lease or the subletting by Lessee of the Premises or parts of the Premises shall not be unreasonably withheld.

Section 7.02. Default Defined. The occurrence of any of the following shall constitute a material default and breach of this lease by Lessee:

(a) Any failure by Lessee to pay the rent or to make any other payment required to be made by Lessee under this lease (when that failure continues for 3 days after written notice of the failure is given by Lessor to Lessee).

(b) The abandonment or vacation of the Premises by Lessee (the absence of Lessee from or the failure by Lessee to conduct business on the Premises for a period in excess of 14 consecutive days shall constitute an abandonment or vacation for purposes of this lease).

(c) A failure by Lessee to observe and perform any other provision of this lease to be observed or performed by Lessee, when that failure continues for 30 days after written notice of Lessee's failure is given by Lessor to Lessee; provided, however, that if the nature of that default

is such that it cannot reasonably be cured within 30-day period, Lessee shall not be deemed to be in default if Lessee commences that cure within the 30-day period and thereafter diligently prosecutes it to completion.

(d) The making by Lessee of any general assignment for the benefit of creditors; the filing by or against Lessee of a petition to have Lessee adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, it is dismissed within 60 days); the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this lease, when possession is not restored to Lessee within 30 days; or the attachment, execution, or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this lease, when that seizure is not discharged within 30 days.

Section 7.03. Termination of Lease and Recovery of Damages. In the event of any default by Lessee under this lease, in addition to any other remedies available to Lessor at law or in equity, Lessor shall have the right to terminate this lease and all rights of Lessee hereunder by giving written notice of the termination. No act of Lessor shall be construed as terminating this lease except written notice given by Lessor to Lessee advising Lessee that Lessor elects to terminate the lease. In the event Lessor elects to terminate this lease, Lessor may recover from Lessee:

(a) The worth at the time of award of any unpaid rent that had been earned at the time of termination of the lease;

(b) The worth at the time of award of the amount by which the unpaid rent that would have been earned after termination of the lease until the time of award exceeds the amount of rental loss that Lessee proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the term of this lease after the time of award exceeds the amount of rental loss that Lessee proves could be reasonably avoided; and

(d) Any other amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this lease.

Section 7.04. Lessor's Right to Continue Lease in Effect.

(a) If Lessee breaches this lease and abandons the Premises before the natural expiration of the term of this lease, Lessor may continue this lease in effect by not terminating Lessee's right to possession of the Premises, in which event Lessor shall be entitled to enforce all its rights and remedies under this lease, including the right to recover the rent specified in this lease as it becomes due under this lease. For as long as Lessor does not terminate this lease, Lessee shall have the right to assign or sublease the Premises with the Lessor's prior written consent. Lessor shall not unreasonably withhold consent.

(b) No act of Lessor, including but not limited to Lessor's entry on the Premises, efforts to relet the Premises, or maintenance of the Premises, shall be construed as an election to terminate this lease unless a written notice of that intention is given to Lessee or unless the termination of this lease is decreed by a court of competent jurisdiction.

Section 7.05. Lessor's Right to Relet. In the event Lessee breaches this lease, Lessor may enter on and relet the Premises or any part of the Premises to a third party or third parties for any term, at any rental, and on any other terms and conditions that Lessor in its sole discretion may deem advisable, and shall have the right to make alterations and repairs to the Premises. Lessee shall be liable for all of Lessor's costs in reletting, including but not limited to remodeling costs necessitated by any modifications made by Lessee and required for the reletting. In the event Lessor relets the premises, Lessee shall pay all rent due under and at the times specified in this lease, less any amount or amounts actually received by Lessor from the reletting.

Section 7.06. Lessor's Right to Cure Lessee Defaults. If Lessee breaches or fails to perform any of the covenants or provisions of this lease, Lessor may, but shall not be required to, cure Lessee's breach. Any sum expended by Lessor, with the then maximum legal rate of interest, shall be reimbursed by Lessee to Lessor with the next due rent payment under this lease.

Section 7.07. Cumulative Remedies. The remedies granted to Lessor in this Article shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter allowed by law or provided in this lease.

Section 7.08. Waiver of Breach. The waiver by Lessor of any breach by Lessee of any of the provisions of this lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Lessee either of the same or another provision of this lease.

ARTICLE 8. MISCELLANEOUS

Section 8.01. Discrimination Prohibited. Neither Lessee nor any officer, employee, or agent of Lessee shall discriminate in the employment of persons providing services on the premises in any facility the use of which is authorized by this Agreement on account of race, color, national origin, ancestry, religion, sex, physical handicap, or medical condition, in violation of any federal or state law.

Section 8.02. Force Majeure--Unavoidable Delays. If the performance of any act required by this lease to be performed by either Lessor or Lessee is prevented or delayed by reason of an act of God, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, or any other cause except financial inability that is not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused.

Section 8.03. Attorneys' Fees. If any litigation is commenced between the parties to this lease concerning the Premises, this lease, or the rights and duties of either in relation to the

Premises or to this lease, the party prevailing in that litigation shall be entitled to, in addition to any other relief that may be granted in the litigation, a reasonable sum as and for its attorneys' fees in that litigation that are determined by the court in that litigation or in a separate action brought for that purpose.

Section 8.04. Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this lease or by law to be served on or given to either party to this lease by the other party to this lease shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom they are directed, or in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, addressed to:

Lessor

City of Los Banos
520 J Street
Los Banos, CA 93635

Lessee

Pentagon Company dba Delta Farms
13816 W Bisignani Road
Los Banos CA 93635

Either party, Lessor or Lessee, may change its address for the purpose of this section by giving written notice of that change to the other party in the manner provided in this section.

Section 8.05. Binding on Successors. This lease shall be binding on and shall inure to the benefit of the successors and assigns of Lessor and Lessee, but nothing in this section shall be construed as a consent by Lessor to any assignment of this lease or any interest therein by Lessee except as provided this lease.

Section 8.06. Partial Invalidity. If any provision of this lease is held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this lease shall remain in full force and effect unimpaired by the holding.

Section 8.07. Sole and Only Agreement. This instrument constitutes the sole and only agreement between Lessor and Lessee respecting the Premises, the leasing of the Premises to Lessee, or the lease term created under this lease, and correctly sets forth the obligations of Lessor and Lessee to each other as of its date. Any agreements or representations respecting the Premises or their leasing by Lessor to Lessee not expressly set forth in this instrument are null and void.

Section 8.08. Time of Essence. Time is expressly declared to be of the essence in this lease.

Section 8.09. No Partnership or Joint Venture. Nothing in this lease shall be construed to render Lessor in any way or for any purpose a partner, joint venturer, or associate in any

relationship with Lessee other than that of Lessor and Lessee, nor shall this lease be construed to authorize either to act as agent for the other.

Section 8.10. Oil, Gas, and Mineral Rights. All rights in any and all minerals, oil, gas, and other hydrocarbons located on or under the leased Premises are reserved to Lessor and are particularly excepted from the property covered by the terms of this lease.

Section 8.11. Hunting Rights. All of the hunting rights and privileges on the leased premises are reserved to Lessor. Lessee agrees that Lessee will not permit any hunting on the leased premises without the prior written consent of Lessor.

Section 8.12. ASCS/FSA Acreage Bases. All ASCS/FSA acreage bases of Lessor and Lessee shall not be affected by this lease agreement and shall be maintained in their original state with Lessor and Lessee as if the lease had not occurred. Lessee will be allowed to combine Lessor's farm number with Lessee's farm number for FSA farm payment purposes. All farm program payments will be the property of Lessee during the term of this lease.

Section 8.13. Crop Waiver. It is understood and agreed that Lessee may finance the growing of crops on the premises by a crop loan, and in this connection, if the lender to the Lessee shall require a waiver by the Lessor with respect to any crops growing on said demised premises to be mortgaged as security for such crop loan, the Lessor agrees that the Lessor will execute such waiver for one crop year at a time and only for the production of crops upon the demised premises for such crop year, provided that the advance cash rent for the subject crop year has been paid.

Section 8.14. Williamson Act Documentation. Lessee shall cooperate with Lessor in disclosing any necessary information relative to farming practices and crop production on the leased premises in connection with any forms required by the County of Merced and/or the State of California.

Section 8.15. Removal of Growing Crops. Lessee shall have thirty days after the termination of this lease to remove any then growing crops.

Section 8.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. A signature transmitted by facsimile or as a pdf copy to electronic mail shall be treated as original for all purposes.

///
///
///
///

IN WITNESS THEREOF, this Lease Agreement was executed by the parties thereto on the date(s) set forth below.

LESSOR:
CITY OF LOS BANOS,
a California Municipal Corporation

By: _____
Michael Villalta, Mayor

Dated _____

ATTEST:

Lucille Mallonee, City Clerk

Dated _____

APPROVED AS TO FORM:

William A. Vaughn
City Attorney

Dated _____

LESSEE:
PENTAGON COMPANY dba Delta Farms,
a California General Partnership

By: _____
Pat Gallichio, General Partner

Dated _____

[SIGNATURES MUST BE NOTARIZED]

EXHIBIT A
PROPERTY DESCRIPTION

[TO BE INSERTED BY STAFF]

EXHIBIT "A"

Parcel 1:

Beginning at a point which bears South 0 deg 03 ½' East, 1282.30 feet from the Northwest corner of Section 17, Township 10 South, Range 11 East, Mount Diablo Base and Meridian, thence South 88 deg 55' East, 5277.30 feet, to a point on the East line of Section 17, which point bears South 0 deg 04 ½' East, 1281.00 feet from the Northeast corner of said Section 17; thence along the East line of Section 17 and the center line of a sixty foot road easement, South 0 deg 04 ½' East, 1750.20 feet; thence leaving road North 88 deg 55 ½' West, 3880.10 feet; thence along the center line of the "Old Santa Fe Grade", a sixty foot road easement, North 38 deg 13' West, 2262.31 feet to the point of beginning.

Parcel 2:

Also, beginning at the Northwest corner of Section 17, Township 10 South, Range 11 East, Mount Diablo Base and Meridian, thence along the North line of Section 17, South 88 deg 54 ½' East, 1504.75 feet, thence leaving Section line South 0 deg 04' East, 1282.12 feet, thence North 88 deg 55' West, 1504.54 feet; thence along the center line of the Old Santa Fe Grade, a sixty foot road easement, North 38 deg 13' West, 1662.20 feet; thence along the North line of Section 18, South 88 deg 40' East, 1027.20 feet to the point of beginning.

Assessors Parcel No.: ~~084-010-009~~ Old
454-020-001 New

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Merced)

On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Merced)

On _____, before me, _____,
(insert name of notary)

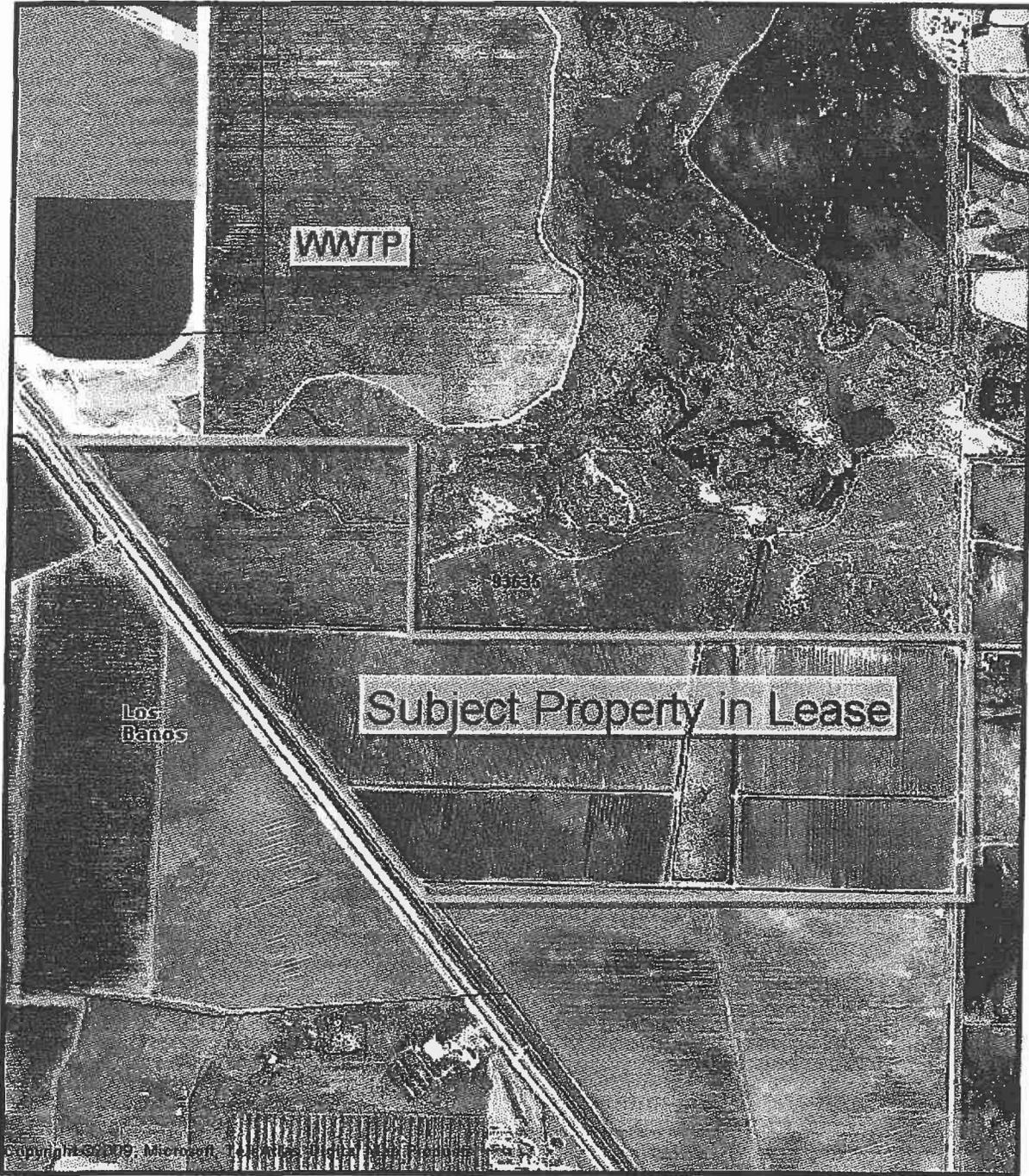
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



Property Exhibit



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City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: December 18, 2019

TYPE OF REPORT: Consent Item

SUBJECT: Final Tract Map No. 2016-02 East Center Phase 2B

Recommendation:

That the City Council adopts the Resolution approving Final Tract Map No. 2016-02 East Center Phase 2B, and accompanying Subdivision Improvement Agreement.

Background:

The Tentative Tract Map No. 2016-02 was approved by the City of Los Banos Community Development Department on August 10, 2016 by Resolution No. 2016-40. In March 2018, the Public Works staff was contacted by the developer, Pioneer Development Company, Inc., for Final Map approval for Phase 2. In April 2019, the developer split Phase 2 into Phase 2A and Phase 2B. The developer has requested Final Map approval for Phase 2B.

Discussion:

The subject site is generally located within the area bounded by Center Ave to the west, future East Center Phase 2A to the south, East Center Phase 1 subdivision to the east, more specifically identified as APN. 431-270-005. The applicant is Pioneer Development Company, Inc. The map consists of 65 single family lots on 11.40± acres. This Final Tract Map is in substantial compliance with Tentative Subdivision Map No. 2016-02.

Fiscal Impact:

Financial security as required by the Subdivision Improvement Agreement, the Subdivision Map Act and Los Banos Municipal Code has been deposited with the City.

All required processing, development, plan check and inspection fees have been paid.
All bonds have been paid to Merced County.

Reviewed by:



Alex Terrazas, City Manager



Sonya Williams, Finance Director

Attachments:

Resolution

Exhibit A Legal Description

Exhibit B Final Map

Site Map

Subdivision Improvement Agreement

Exhibit A Original Engineers Estimate

Exhibit B Conditions of Approval

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING AND ADOPTING FINAL TRACT MAP NO. 2016-02 EAST CENTER PHASE 2B AND ACCOMPANYING SUBDIVISION IMPROVEMENT AGREEMENT

WHEREAS, there has been submitted to the City Council of the City of Los Banos Tract Map No. 2016-02 East Center Phase 2B and accompanying Subdivision Improvement Agreement; and,

WHEREAS, the single-family residential subdivision consists of 65 single family lots on 11.40± acres; and

WHEREAS, the Public Works Director/City Engineer has approved the Final Map, the plan check and inspection fees have been paid in full, the City has received all necessary bonds and financial security, and said Final Tract Map has been submitted to the City Council of the City of Los Banos for approval.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Los Banos that it does hereby approve and adopt Final Tract Map No. 2016-02 East Center Phase 2B and accompanying Subdivision Improvement Agreement for the real property described in Exhibit "A", shown in Exhibit "B" and authorize recording based upon the following findings:

1. Final Map is in substantial compliance with Tentative Map No. 2016-02.
2. Financial security as required by the Subdivision Improvement Agreement, Subdivision Map Act, and Los Banos Municipal Code has been deposited with the City.
3. All required processing, development, plan check, and inspection fees have been paid.
4. All bonds have been paid to Merced County.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the _____ day of _____, 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

EXHIBIT "A"
Legal Description

For APN/Parcel ID: 431-270-005

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

Lot A of Tract No. 2016-02, East Center, Phase 2A, in the City of Los Banos, County of Merced, State of California, according to the map thereof recorded November 7, 2019, in Book 82 at Page 5 of Official Plats.

Containing 11.401 acres, more or less.

OWNER'S STATEMENT

WE THE UNDERSIGNED, DO HEREBY STATE THAT WE ARE THE OWNERS OR HAVE SOME RIGHT, TITLE OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS MAP AND WE CONSENT TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP.

WE ALSO HEREBY OFFER AN IRREVOCABLE DEDICATION TO THE CITY OF LOS BANOS IN FEE FOR PUBLIC USE THE FOLLOWING STREET RIGHTS-OF-WAY AND LOTS AS SHOWN ON THIS FINAL MAP:
SANSONI STREET, SANSONI COURT, GIANNONE COURT AND PALAZZO COURT, LOT A AND LOT B.

WE ALSO HEREBY OFFER AS AN IRREVOCABLE DEDICATION TO THE CITY OF LOS BANOS AS AN EASEMENT FOR PUBLIC USE, ALL PUBLIC UTILITY EASEMENTS (P.U.E.) AND THE 1 FOOT WIDE WALL EASEMENT (W.E.) AS SHOWN ON THIS FINAL MAP.

WE ALSO RELINQUISH TO THE CITY OF LOS BANOS ALL ACCESS RIGHTS OF LOTS 197 THROUGH 204 TO AND FROM CENTER STREET SHOWN THUS ////// ON THIS FINAL MAP.

OWNER: PIONEER DEVELOPMENT COMPANY, INC., A CALIFORNIA CORPORATION

BY: _____ DATE _____

NAME: _____ (PRINT NAME)

TITLE: _____ (TITLE)

NOTARY STATEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF _____
COUNTY OF _____ }
ON _____ BEFORE ME, _____ A NOTARY PUBLIC,
(DATE)
PERSONALLY APPEARED _____
(NAME OF SIGNER(S))

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

_____, NOTARY PUBLIC

PRINT NAME: _____

COMMISSION NUMBER: _____

COMMISSION EXPIRES: _____ (DO NOT STAMP)

PRINCIPAL OFFICE LOCATION (COUNTY): _____

NOTARY STATEMENT (TRUSTEE)

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF _____
COUNTY OF _____ }
ON _____ BEFORE ME, _____ A NOTARY PUBLIC,
(DATE)
PERSONALLY APPEARED _____
(NAME OF SIGNER(S))

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

_____, NOTARY PUBLIC

PRINT NAME: _____

COMMISSION NUMBER: _____

COMMISSION EXPIRES: _____ (DO NOT STAMP)

PRINCIPAL OFFICE LOCATION (COUNTY): _____

**TRACT NO: 2016-02
EAST CENTER, PHASE 2B**

BEING A SUBDIVISION OF LOT A, TRACT NO. 2016-02, EAST CENTER, PHASE 2A, VOLUME 82 OF OFFICIAL PLATS, PAGES 5-9, MERCED COUNTY RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN
CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

NOVEMBER 2019
O'DELL
ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
Ph 209.571.1765 odelengineering.com



VICINITY MAP

N.T.S.

PLANNING COMMISSION STATEMENT:

I, STACY SOUZA ELMS, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR FOR THE CITY OF LOS BANOS, DO HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER, PHASE 2B, AND THAT THE SUBDIVISION IS SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE VESTING TENTATIVE MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 1ST DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER, PHASE 2B, COMPLIES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS _____ DAY OF _____, 2019.

BY: STACY SOUZA ELMS, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR
CITY OF LOS BANOS

TRUSTEE STATEMENT

WE, FIDELITY NATIONAL TITLE COMPANY, AS TRUSTEE UNDER THE CERTAIN DEED OF TRUST RECORDED FEBRUARY 7, 2018, AS DOCUMENT NOS. 2018-003778 AND 2018-003779, OFFICIAL RECORDS OF MERCED COUNTY, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP, TRACT NO. 2016-02, EAST CENTER, PHASE 2B, AND JOIN IN ALL DEDICATIONS THEREON.

TRUSTEE: FIDELITY NATIONAL TITLE COMPANY

BY: _____ DATE _____

NAME: _____ (PRINT NAME)

TITLE: _____ (TITLE)

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF PIONEER DEVELOPMENT COMPANY IN MAY OF 2018. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. I FURTHER STATE THAT ALL THE MONUMENTS SHOWN HEREON WILL BE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED BEFORE DECEMBER 31ST, 2020, AND THAT SAID MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED THIS _____ DAY OF _____, 2019

BY: DYLAN CRAWFORD, P.L.S. 7788



CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER, PHASE 2B, AND STATE THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF REQUIRED, HAVE BEEN COMPLIED WITH.

DATED THIS _____ DAY OF _____, 2019

BY: MARK FACHIN, R.C.E. 34814
CITY ENGINEER

CITY SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND IT COMPLIES WITH ALL THE PROVISIONS OF CHAPTER 2 OF THE CALIFORNIA SUBDIVISION MAP ACT, AS AMENDED, AND THAT I AM SATISFIED THAT THIS FINAL MAP IS TECHNICALLY CORRECT.

DATED THIS _____ DAY OF _____, 2019.

BY: RYAN J. SCHIESS, PLS 8366
REVIEWING CITY SURVEYOR

CITY CLERK'S STATEMENT:

I, LUCILLE L. MALLONEE, CITY OF LOS BANOS, STATE OF CALIFORNIA, DO HEREBY STATE THAT AT THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, STATE OF CALIFORNIA, HELD ON THIS _____ DAY OF _____, 2019, THE ACCOMPANYING FINAL MAP OF TRACT NO. 2016-02, EAST CENTER, PHASE 2B, WAS APPROVED AND ACCEPTED ON BEHALF OF THE PUBLIC FOR PUBLIC USE, THE OFFER OF DEDICATION IN EASEMENT OF ALL PUBLIC UTILITY EASEMENTS (P.U.E.) AND THE 1 FOOT WALL EASEMENTS (W.E.), ALL AS SHOWN ON THIS FINAL MAP; ACCEPTED THE OFFER OF DEDICATION IN FEE OF LOT A AND LOT B, SANSONI STREET, SANSONI COURT, GIANNONE COURT AND PALAZZO COURT, AS SHOWN ON THIS FINAL MAP; AND ACCEPTED THE RELINQUISHMENT OF ACCESS RIGHTS OF LOTS 197 THROUGH 204 TO AND FROM CENTER STREET AS SHOWN ON THIS FINAL MAP, SAID ACCEPTANCE IS SUBJECT TO IMPROVEMENTS.

DATED THIS _____ DAY OF _____, 2019

BY: LUCILLE L. MALLONEE, CITY CLERK
CITY OF LOS BANOS

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2019, AT _____ O'CLOCK, _____ M. IN VOL _____ OF

OFFICIAL PLATS, AT PAGES _____, AT THE REQUEST OF DYLAN CRAWFORD.

FEE \$ _____

BARBARA LEVEY, RECORDER
MERCED COUNTY, CALIFORNIA

BY: _____
ASSISTANT/DEPUTY RECORDER

Exhibit B

LEGEND

- RESOLVED BOUNDARY LINE
- CENTERLINE
- RESTRICTED ACCESS
- CITY LIMITS LINE

NOTES

1. THIS SUBDIVISION CONTAINS A TOTAL OF 11.401 ACRES, MORE OR LESS.
2. ALL DISTANCES SHOWN HEREON ARE GROUND DISTANCES, MULTIPLY DISTANCES SHOWN BY 0.999898004 TO GET GRID DISTANCES (AVERAGE COMBINED FACTOR FOR GPS MONUMENTS 1024 AND 1025 PER (R-3)).
3. ALL DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED.
4. DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.

BASIS OF BEARINGS

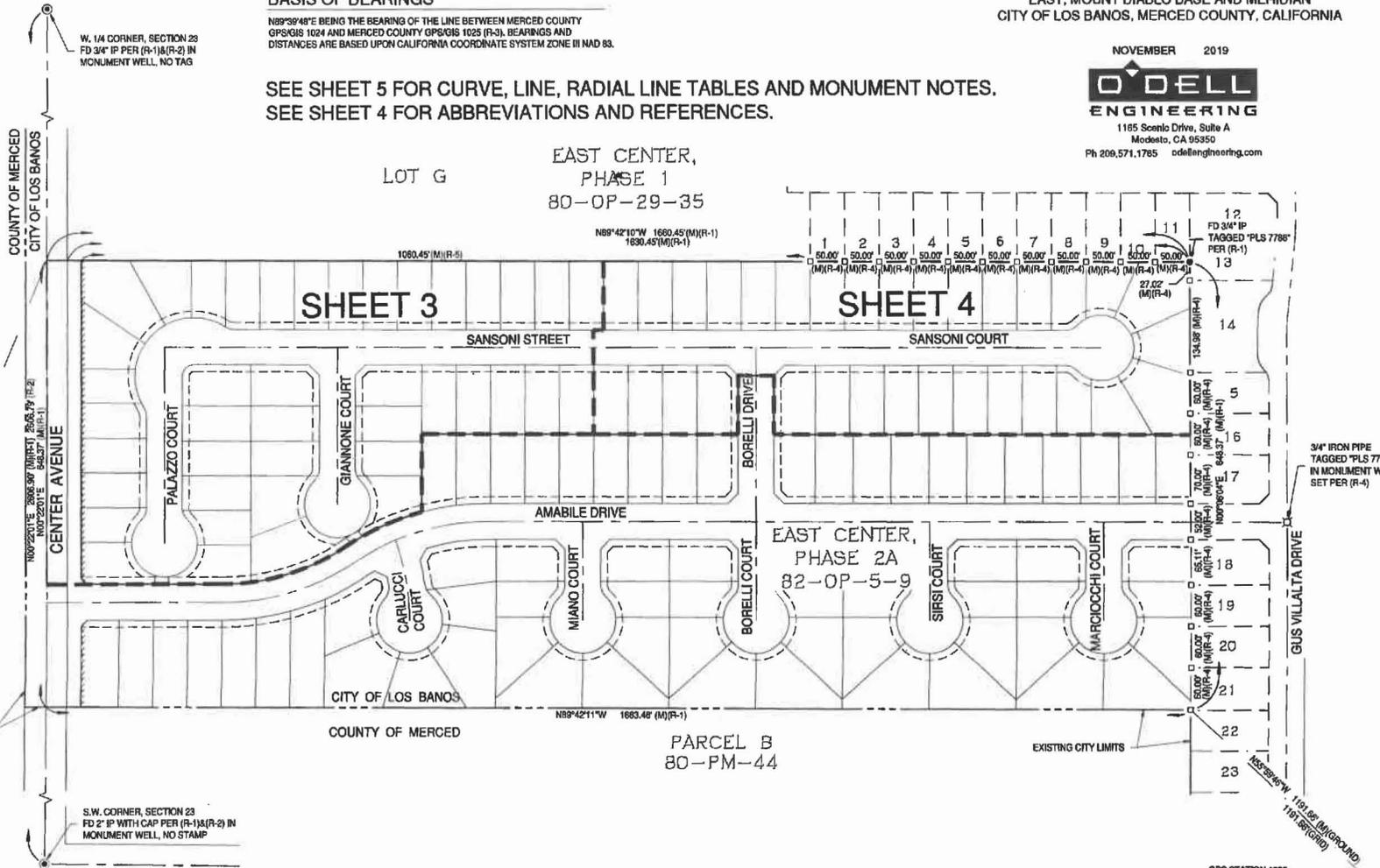
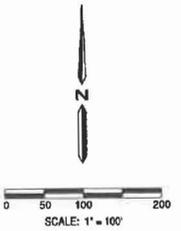
N89°39'48"E BEING THE BEARING OF THE LINE BETWEEN MERCED COUNTY GPS/GIS 1024 AND MERCED COUNTY GPS/GIS 1025 (R-3). BEARINGS AND DISTANCES ARE BASED UPON CALIFORNIA COORDINATE SYSTEM ZONE III NAD 83.

SEE SHEET 5 FOR CURVE, LINE, RADIAL LINE TABLES AND MONUMENT NOTES.
SEE SHEET 4 FOR ABBREVIATIONS AND REFERENCES.

**TRACT NO: 2016-02
EAST CENTER, PHASE 2B**

BEING A SUBDIVISION OF LOT A, TRACT NO. 2016-02, EAST CENTER, PHASE 2A, VOLUME 82 OF OFFICIAL PLATS, PAGES 5-9, MERCED COUNTY RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

NOVEMBER 2019
O'DELL
 ENGINEERING
 1185 Scenic Drive, Suite A
 Modesto, CA 95350
 Ph 209.571.1785 odellengineering.com



GPS STATION 1024
FD 2" DISK, RCE 15310
PER (R-3)

GRID COORDINATES (R-3)
N = 1,838,047.845
E = 6,453,911.666

(BASIS OF BEARINGS)

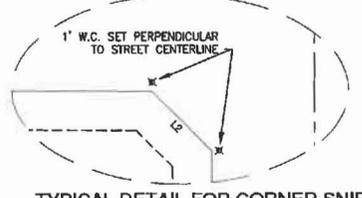
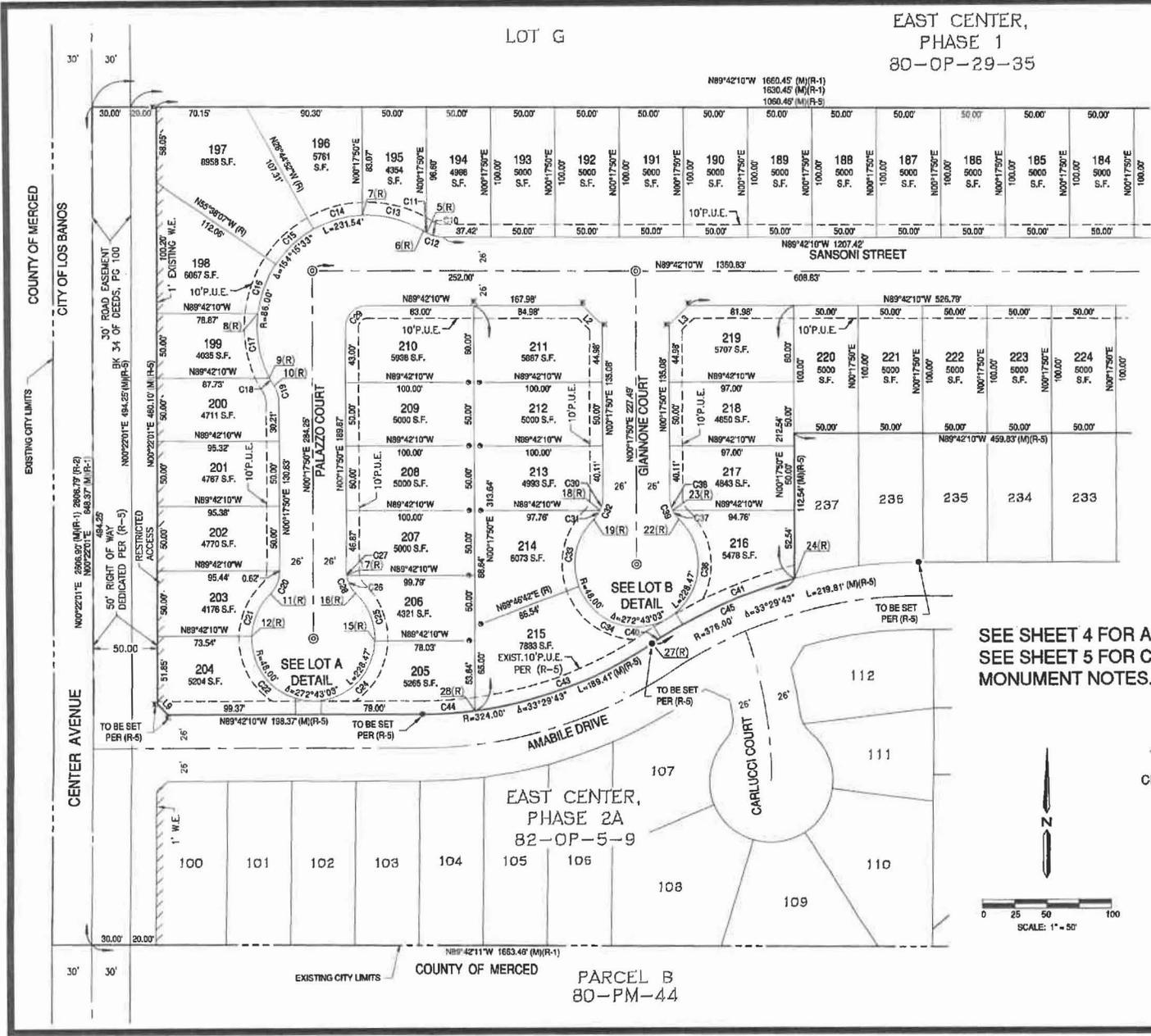
S 89°39'48" W 7149.96'(GRID) [7149.97'(M)(R-1) 7149.93'(R-2)](GROUND)

GPS STATION 1025
FD 2" DISK, RCE 15310 PER (R-3)

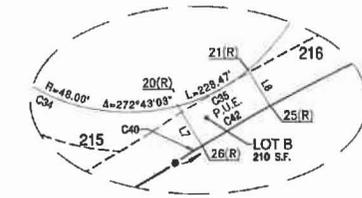
N = 1,838,089.872
E = 6,461,061.495

LOT G

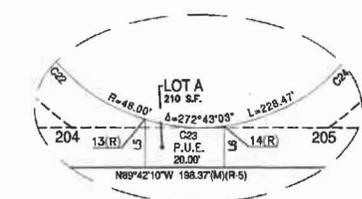
EAST CENTER,
PHASE 1
80-OP-29-35



TYPICAL DETAIL FOR CORNER SNIPE



LOT B DETAIL



LOT A DETAIL

SEE SHEET 4 FOR ABBREVIATIONS, NOTES AND REFERENCES.
SEE SHEET 5 FOR CURVE, LINE RADIAL LINE TABLES AND MONUMENT NOTES.

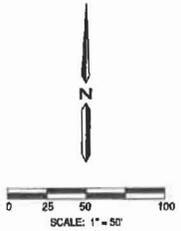
TRACT NO: 2016-02
EAST CENTER, PHASE 2B

BEING A SUBDIVISION OF LOT A, TRACT NO. 2016-02, EAST CENTER, PHASE 2A, VOLUME 82 OF OFFICIAL PLATS, PAGES 5-9, MERCED COUNTY RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

NOVEMBER 2019



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Ph 209.571.1785 odellengr.com



SEE SHEET 5 FOR CURVE, LINE RADIAL LINE TABLES AND MONUMENT NOTES.

EAST CENTER,
PHASE 1
80-OP-29-35

REFERENCED RECORD DOCUMENTS
MERCED COUNTY RECORDS

- (R-1) VOLUME 44 OF SURVEYS, PAGES 3-4, M.C.R.
- (R-2) VOLUME 113 OF PARCEL MAPS, PAGES 12-13, M.C.R.
- (R-3) VOLUME 28 OF SURVEYS, PAGES 9-12, M.C.R.
- (R-4) VOLUME 80 OF OFFICIAL PLATS, PAGES 29-35, M.C.R.
- (R-5) VOLUME 82 OF OFFICIAL PLATS, PAGES 5-8, M.C.R.

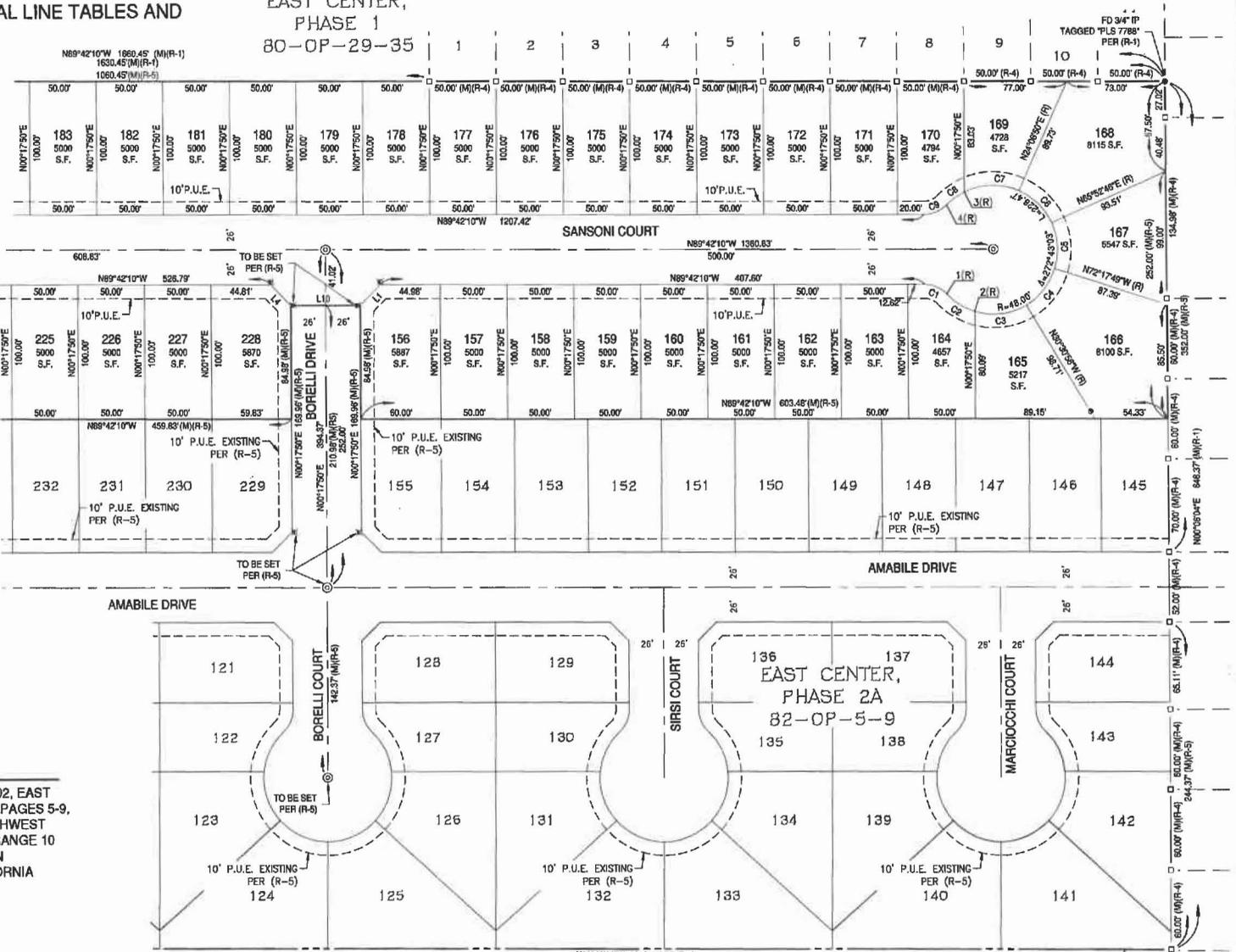
ABBREVIATIONS

- CALC. CALCULATED FROM RECORD DOCUMENT
- FD. FOUND
- IP. IRON PIPE-DIAMETER NOTED
- (M) MEASURED DISTANCE
- OP. OFFICIAL PLATS
- PM. PARCEL MAP
- P.U.E. PUBLIC UTILITY EASEMENT
- REF. REFERENCED RECORD DOCUMENT
- RB. RADIAL BEARING
- MCR. MERCED COUNTY RECORDS
- SPN. SEARCHED, FOUND NOTHING
- S.F. SQUARE FEET
- W.C. WITNESS CORNER

NOTES

1. THIS SUBDIVISION CONTAINS A TOTAL OF 11,401 ACRES, MORE OR LESS.
2. ALL DISTANCES SHOWN HEREON ARE GROUND DISTANCES, MULTIPLY DISTANCES SHOWN BY 0.986999004 TO GET GRID DISTANCES (AVERAGE COMBINED FACTOR FOR GPS MONUMENTS 1004 AND 1025 PER (R-3)).
3. ALL DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED.
4. DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.

SEE SHEET 3



TRACT NO: 2016-02
EAST CENTER, PHASE 2B

BEING A SUBDIVISION OF LOT A, TRACT NO. 2016-02, EAST CENTER, PHASE 2A, VOLUME 82 OF OFFICIAL PLATS, PAGES 5-9, MERCED COUNTY RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

NOVEMBER 2019
O'DELL
ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
Ph 209.571.1765 odellengineering.com

COUNTY OF MERCED
PARCEL B
80-PM-44

TRACT NO: 2016-02
EAST CENTER, PHASE 2B

BEING A SUBDIVISION OF LOT A, TRACT NO. 2016-02, EAST CENTER, PHASE 2A, VOLUME 82 OF OFFICIAL PLATS, PAGES 5-9, MERCED COUNTY RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

NOVEMBER 2019



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 Modesto, CA 95350
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LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N45°17'50"E	21.24'
L2	N44°42'10"W	21.24'
L3	N45°17'50"E	21.24'
L4	N44°42'10"W	21.24'
L5	N0°17'50"E	12.09'
L6	N0°17'50"E	10.38'
L7	N31°18'47"W	11.91'
L8	N31°18'47"W	10.65'
L9	N44°50'55"W	11.55'
L10	N89°42'10"W	52.00'

RADIAL BEARINGS	
LINE #	DIRECTION
1(R)	N46°39'21"E
2(R)	N17°15'18"E
3(R)	S26°09'18"E
4(R)	S46°03'42"E
5(R)	N30°31'10"E
6(R)	S32°25'36"W
7(R)	S2°04'07"E
8(R)	S82°31'13"E
9(R)	N63°08'40"E
10(R)	N58°10'03"E

RADIAL BEARINGS	
LINE #	DIRECTION
11(R)	S43°20'38"E
12(R)	S87°18'53"E
13(R)	N17°15'18"E
14(R)	N6°53'01"W
15(R)	N87°36'37"W
16(R)	S43°56'18"W
17(R)	N82°28'00"E
18(R)	N64°13'20"W
19(R)	S43°20'38"E
20(R)	N14°45'40"W

RADIAL BEARINGS	
LINE #	DIRECTION
21(F)	N38°53'09"W
22(R)	S43°56'18"W
23(F)	N64°48'59"E
24(F)	S14°32'37"E
25(F)	S28°53'48"E
26(F)	S31°56'42"E
27(F)	N33°11'53"W
28(F)	N6°56'22"W

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	23.00'	46°21'31"	18.61'
C2	48.00'	29°24'04"	24.63'
C3	48.00'	47°46'16"	40.02'
C4	48.00'	41°46'51"	35.00'
C5	48.00'	41°49'24"	35.04'
C6	48.00'	41°45'57"	34.99'
C7	48.00'	50°16'08"	42.11'
C8	48.00'	19°54'23"	16.68'
C9	23.00'	46°21'31"	18.61'
C10	25.00'	30°13'20"	13.19'
C11	25.00'	1°54'28"	0.83'
C12	25.00'	32°07'47"	14.02'
C13	86.00'	34°29'44"	51.78'
C14	86.00'	26°40'45"	40.04'
C15	86.00'	26°53'15"	40.36'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C16	86.00'	26°53'06"	40.35'
C17	86.00'	34°20'07"	51.54'
C18	86.00'	4°56'37"	7.47'
C19	25.00'	32°07'47"	14.02'
C20	23.00'	46°21'31"	18.61'
C21	48.00'	43°58'15"	36.84'
C22	48.00'	75°25'49"	63.19'
C23	48.00'	24°08'19"	20.22'
C24	48.00'	80°43'05"	67.63'
C25	48.00'	48°27'05"	40.58'
C26	23.00'	38°31'41"	15.47'
C27	23.00'	7°48'50"	3.14'
C28	23.00'	48°21'31"	18.61'
C29	17.00'	90°00'00"	26.70'
C30	23.00'	25°28'51"	10.23'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C31	23.00'	20°52'41"	8.38'
C32	23.00'	46°21'31"	18.61'
C33	48.00'	66°52'39"	55.03'
C34	48.00'	84°32'23"	70.82'
C35	48.00'	24°07'28"	20.21'
C36	48.00'	97°10'33"	81.41'
C37	23.00'	20°52'41"	8.38'
C38	23.00'	25°28'51"	10.23'
C39	23.00'	46°21'31"	18.61'
C40	376.00'	1°15'11"	8.22'
C41	376.00'	14°21'10"	94.19'
C42	376.00'	3°02'54"	20.00'
C43	324.00'	26°13'31"	148.30'
C44	324.00'	7°16'12"	41.11'
C45	376.00'	18°39'16"	122.42'

MONUMENT NOTES

- SET 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" FOR UNPAVED AREAS OR 1.17" BRASS DISK STAMPED "PLS 7788" FOR CONCRETE AREAS.
- ⊙ SET 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" IN MONUMENT WELL.
- ⊕ SET 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" FOR ALL FRONT AND REAR LOT CORNERS.
- SET 5.00' WITNESS CORNER, UNLESS OTHERWISE NOTED, MEASURED ALONG LOT LINE, RADIAL LINE OR PERPENDICULAR TO STREET CENTERLINE AS NOTED. 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788".
- ✕ SET 1.00' WITNESS CORNER IN SIDEWALK, MEASURED ALONG RADIAL LINE OR PERPENDICULAR TO STREET CENTERLINE AS NOTED. 1.17" BRASS DISK STAMPED "PLS 7788".
- 3/4" IRON PIPE TAGGED "PLS 7788" SET PER (R-4).
- ⊗ 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" IN MONUMENT WELL SET PER (R-4).
- ⊙ FOUND MONUMENT AS NOTED IN MONUMENT WELL.
- FOUND MONUMENT AS NOTED.

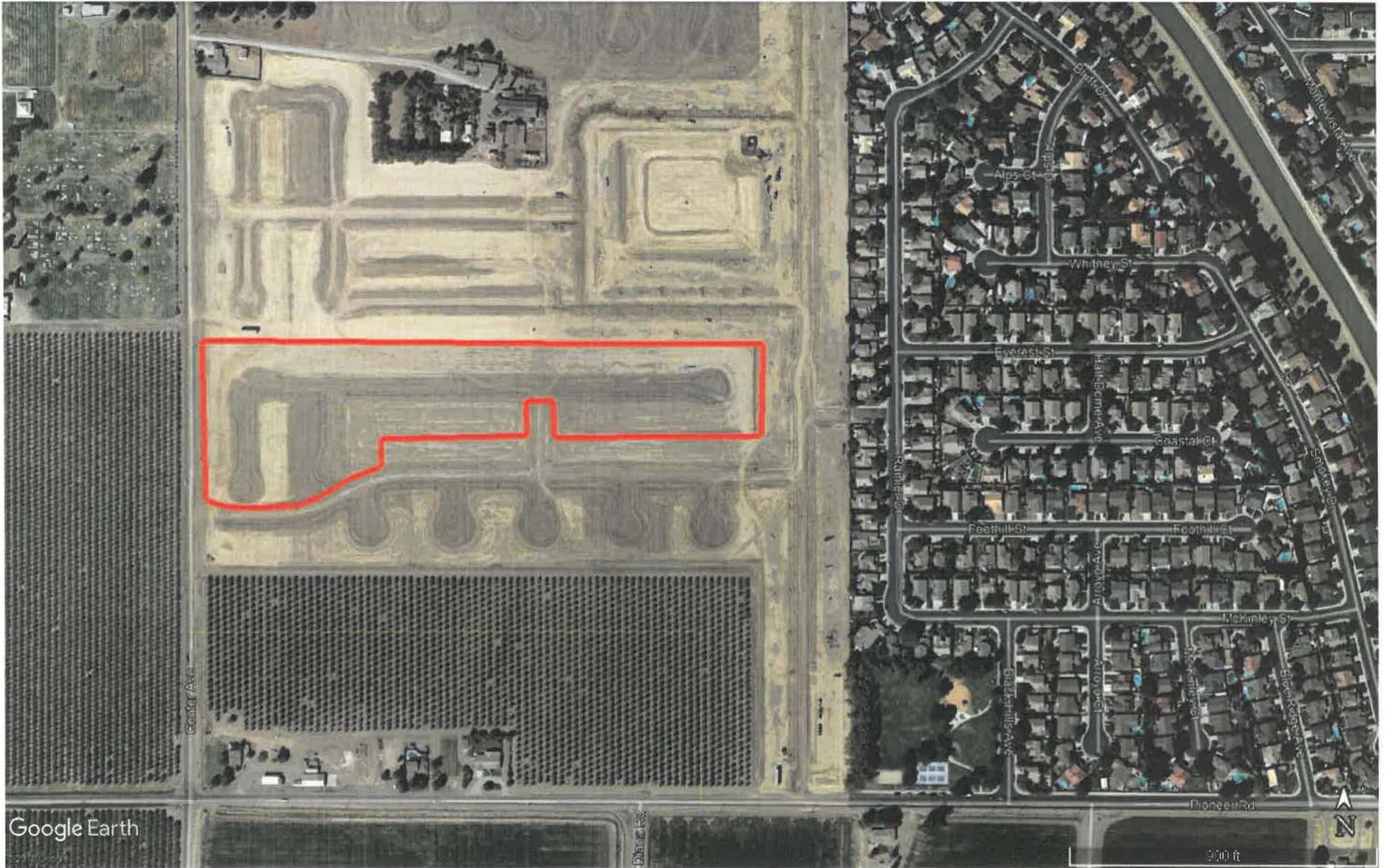
RIGHT TO FARM STATEMENT

PER MERCED COUNTY ORDINANCE NO. 1213

THE PROPERTY DESCRIBED ON THE HEREON SHOWN MAP IS IN THE VICINITY OF LAND UTILIZED FOR AGRICULTURAL PURPOSES AND RESIDENTS OF THIS PROPERTY MAY BE SUBJECT TO INCONVENIENCE OR DISCOMFORT ARISING FROM THE USE OF AGRICULTURAL CHEMICALS, INCLUDING BUT NOT LIMITED TO, PESTICIDES AND FERTILIZERS, AND FROM THE PURSUIT OF AGRICULTURAL OPERATIONS INCLUDING BUT NOT LIMITED TO, FLOWING, SPRAYING AND BURNING WHICH OCCASIONALLY MAY GENERATE DUST, SMOKE, NOISE, AND ODOR.

THE COUNTY OF MERCED HAS ESTABLISHED AGRICULTURE AS A PRIORITY USE IN AGRICULTURAL ZONES WHICH ARE OUTSIDE OF AN ESTABLISHED SPECIFIC URBAN DEVELOPMENT PLAN (SDP) BOUNDARY, RURAL RESIDENTIAL CENTER (RRC) BOUNDARY, HIGHWAY INTERCHANGE CENTER (HIC) BOUNDARY, OR AGRICULTURAL SERVICE CENTER (ASC) BOUNDARY, AND RESIDENTS OF PROPERTY IN THE VICINITY OF SUCH AGRICULTURAL ZONES SHOULD BE PREPARED TO ACCEPT INCONVENIENCE OR DISCOMFORT FROM NORMAL, NECESSARY AGRICULTURAL OPERATIONS.

SITE MAP
East Center Phase 2B



Recording Requested By:

City of Los Banos

And When Recorded Mail to:

Lucille L. Mallonee, City Clerk
City of Los Banos
520 J Street
Los Banos CA 93635

Space above this line for Recorder's use.

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2019, between PIONEER DEVELOPMENT COMPANY, INC., a California Corporation, Parties of the First Part, hereinafter designated and called "DEVELOPER(S)", and the CITY OF LOS BANOS, a municipal corporation, the Parties of the Second Part, hereinafter designated and called "CITY".

WHEREAS, the DEVELOPER(S) have presented to the CITY a certain Final Map located within the corporate limits of the CITY, and known and described as Tract No 2016-02, East Center, Phase 2B, comprised of 73 single family residential lots on 11.4± acres, a copy of which is on file at the City of Los Banos Planning Department and made a part of this AGREEMENT by reference, and said DEVELOPER(S) have requested the CITY to accept the dedications delineated and shown on said Final Map in order that the same may be recorded as required by law; and,

WHEREAS, the CITY requires a condition precedent to the acceptance and approval of said Final Map, the dedication of said easements as are delineated and shown on said Final Map, and deems the same as necessary for public use, and requires and deems as necessary for the public use that any and all street improvements delineated and shown thereon shall be improved by the construction thereon and the installation therein of the improvements hereinafter specified in Paragraph One herein; and,

WHEREAS, certain sections of the Los Banos Municipal Code require the DEVELOPER(S) to enter into this AGREEMENT with the CITY whereby DEVELOPER(S) agree to do, perform, and complete the works and matters hereinafter in this AGREEMENT mentioned and set forth in details, within the time hereinafter mentioned, in consideration of the acceptance of the offers of dedication by the CITY; and,

WHEREAS, the City Council of the City of Los Banos has found said Final Map by Resolution No. _____ to be in substantial compliance with the designs and Conditions of Approval of Vesting Tentative Tract Map No. 2016-02.

NOW, THEREFORE, in consideration of the acceptance of the offers of dedication of easements, and facilities as shown and delineated on said Final Map, and the approval of said Final Map for filing and recording as provided and required by law, it is mutually agreed and understood by and between DEVELOPER(S) and CITY as follows:

SUBDIVISION AGREEMENT

1. That the CITY has fixed and does fix the time within which DEVELOPER(S) shall do and perform the work and improvements hereinafter specified and at such time during this period as designated by the Public Works Director/City Engineer of the CITY, but no later than the 30th day of January 2021, with the said provision that this time may be extended by consent of the City Council, and that the DEVELOPER(S) will, within the period of time stated herein above in this paragraph stated and fixed, do or cause to be done and performed, the following described work and improvements,(as detailed in attached Exhibit A) all at their own cost and expense, to the satisfaction of the Public Works Director/City Engineer in accord with the approved subdivision improvement plans and existing City Policies and adopted Standards, including all costs of inspection, to-wit;

IMPROVEMENTS:

1. SITE PREPARATION	\$	5,000.00
2. WATER	\$	73,090.00
3. SANITARY SEWER	\$	66,767.00
4. STORM DRAINAGE	\$	41,029.00
5. CONCRETE	\$	113,244.00
6. PAVING	\$	120,747.65
7. ELECTROLIERS	\$	22,500.00
8. MISCELLANEOUS	\$	<u>4,350.00</u>
TOTAL	\$	446,727.65

2. The DEVELOPER(S) shall furnish bonding or other forms of security for the estimated cost of the remaining improvements, agreed to by the CITY for Performance at 100%, \$446,727.65 and

Labor and Materials at 50%, **\$223,363.83** and prior to the release of other security, for Warranty and Guarantee at 10% in the amount of **\$44,672.76**. In addition, the DEVELOPER(S) shall provide a bond or other form of security in the amount of **\$3,500.00** for survey monuments, per §66496 of the Government Code.

4. The DEVELOPER(S) agrees to pay the following fees at the time of signing the AGREEMENT less any amount previously paid.

FINAL MAP REVIEW

Charges for Phase 2B Review	\$	1,823.46	
Less: Deposit for Phase 2B Map Review (Rec#1324523)	\$	(1,000.00)	
Less: Payment	\$	(823.46)	
SUB-TOTAL			\$ 0.00
	TOTAL	\$	0.00

5. In accordance with adopted City Policy, security funds may be released for each category of improvements, as per Engineer’s cost estimates for **\$446,727.65** (attached as Exhibit “A”), as approved by Public Works Director/City Engineer and accepted by the City Council.

6. The DEVELOPER(S) shall install improvements in accordance with the requirements of the City of Los Banos Municipal Code, the Standard Specifications of the City of Los Banos, the approved Subdivision Improvements and Grading Plans and the Conditions of Approval of Vesting Tentative Tract Map 2016-02. All public improvements and utilities must be installed prior to occupancy of units.

7. In the event that the DEVELOPER(S) shall damage, destroy, or tear up any existing improvements, DEVELOPER(S) agree to repair or replace such destroyed or damaged improvements at their cost whenever such damage shall occur.

8. Street lights shall be furnished and installed by the DEVELOPER(S). It is solely the DEVELOPER(S) responsibility to coordinate the installation of street lights with the Pacific Gas and Electric Company and pay any and all fees necessary for their installation. At the time of acceptance, the street lights, including conductors to utility owner splice boxes, shall become the property of the CITY.

9. Any improvements not shown on the approved Improvement Plans which are to be dedicated to the CITY or which are to be placed within the proposed City right-of-way, including mailboxes, private and utility works, shall not be constructed without written approval from the CITY. It shall be the DEVELOPER(S) responsibility to ensure that mailboxes for use by the U.S. Postal Service are available for residents at the time of occupancy; installation to be per plans approved by the Postmaster and the CITY.

10. All earthwork and construction shall meet the requirements and recommendations of the Soils Report, the Amended Soils Report for the Project and the adopted Improvement Standards and Specifications of the City. The DEVELOPER(S) shall, at their expense, provide a Soils Engineer whose responsibility includes the professional inspection and approval concerning the preparation of ground to receive fills, excavation and backfill operations, stability of all finished slopes, and testing for required compaction. Prior to the issuance of structural permits and prior to occupancy release, the Soils Engineer shall certify, in writing, that all earthwork including trench backfill meets the requirements and recommendations of the Soils Report and the adopted Improvement Standards and Specifications of the City.

11. Neither the CITY nor any of its officers or agents shall be liable to DEVELOPER(S) or their contractors for any error or omission arising out of or in connection with any work to be performed under this AGREEMENT. During the progress of the work, if it becomes necessary to modify the design because of errors or omissions on the plans or unforeseen conditions which render a portion of the project inoperable, unsafe, or prohibits a part of the project from performing satisfactorily in the opinion of the CITY, the plans shall be modified in accordance with the recommendations of the CITY. The DEVELOPER(S) shall be responsible for all costs incurred in revising the plans and performing the work in accordance with the modified plans.

12. The Improvement Plans may be modified upon approval by the CITY at no cost to the CITY.

13. The CITY shall not be liable to the DEVELOPER(S) or to any other person, firm, or corporation whatsoever, for any injury or damage that may result to any person or property by or

from any cause whatsoever in, on, or about the subdivision of said land covered by this AGREEMENT, or any part thereof.

14. The DEVELOPER(S) hereby release and agree to indemnify and hold the CITY harmless from and against any and all injuries to and deaths of persons and injuries to property, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and whensoever the same may appear, resulting directly or indirectly from the performance or nonperformance of any or all work to be done in and upon the street rights-of-way in said subdivision and upon the premises adjacent thereto pursuant to this AGREEMENT, and also from any and all injuries to and deaths of persons and injuries to property or other interests, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and whensoever the same may appear, either directly or indirectly made or suffered by the DEVELOPER(S), the DEVELOPER(S) agents, employees, and subcontractors, while engaged in the performance of said work.

15. The DEVELOPER(S) agree that the use for any purpose and by any persons of any and all of the improvements herein before specified, shall be at the sole and exclusive risk of the DEVELOPER(S) at all times prior to final acceptance by the CITY of the completed improvements. Thereon and therein; provided, that acceptance by the CITY shall in no way eliminate or lessen any of DEVELOPER(S) obligations and undertakings contained in this AGREEMENT. The issuance of any occupancy permits by the CITY for dwellings located within said subdivision shall not be construed in any manner to constitute an acceptance and approval of any or all of the improvements in said subdivision.

16. It is mutually agreed by the parties hereto that the Public Works Director/City Engineer shall have the right to reject any or all of the work to be performed under this AGREEMENT if such work does not conform with the plans and specifications mentioned herein or the ordinances of the CITY. Reinspection of corrected work shall be at the expense of the DEVELOPER(S). The cost of such reinspection is not included in the Engineering and Inspection Fee described in Paragraph 4 of this AGREEMENT. Any damage to the sewer system, utilities, concrete work, or

street paving that occurs after installation shall be repaired by the DEVELOPER(S) to the satisfaction of the Public Works Director/City Engineer by the DEVELOPER(S) before release of bond or final acceptance of completed work.

17. DEVELOPER(S) shall provide for adequate erosion control as determined by the Public Works Director/City Engineer on individual lots and from exterior property draining into the area of the subdivision, to protect the public rights-of-way and improvements. Erosion control on individual lots shall continue until such a time as front and street side yard landscaping is installed.

18. Without limiting the foregoing, DEVELOPER(S) warrant and guarantee materials used and workmanship performed on said work for a period of one (1) year after completion and acceptance thereof by the City Council, or the Public Works Director/City Engineer.

19. Upon completion of the improvements, specified herein the DEVELOPER(S) shall file a Notice of Completion with Merced County and submit to the City "As Built" drawings on mylar, of the improvements. The Notice of Completion shall be filed no later than thirty-five (35) days prior to consideration for acceptance of the improvements by the City Council. As part of the request for acceptance of improvements, the DEVELOPER(S) shall submit a title report encompassing each of the parcels within the Subdivision which discloses all liens or claims which may have been recorded in or prior to thirty-one (31) days following the date of recordation of the Notice of Completion. If any liens or claims are thus revealed, the DEVELOPER(S) shall either remove the liens and claims and submit an updated title report prior to acceptance of the Subdivision by the CITY, or shall enter into an agreement with the CITY that provides to the satisfaction of the CITY a method for the removal of such liens and claims at no cost to the CITY.

20. It is hereby mutually covenanted and agreed by the parties hereto that DEVELOPER(S) contractors are not agents of the CITY and that the contractors' relations to CITY, if any, are those of independent contractors.

21. That the applicant furnish the CITY with a reproducible 8 1/2" x 11" map of the Final Map of this development prior to issuance of permits.

22. DEVELOPER(S) shall comply with all applicable original or amended Conditions of Approval of Vesting Tentative Tract Map 2016-02 prior to acceptance of public improvements or final of any housing units.

23. No work shall commence under the terms of this AGREEMENT prior to all of the following being completed: deposit of improvement security per City Council resolution; issuance of a Subdivision Improvements grading permit other than rough grading and site preparation; and payment of all required development fees.

24. All costs for engineering and inspection services which exceed the 5% fee specified above will be invoiced to the DEVELOPER(S) and must be paid in full prior to acceptance of the subject improvements by the CITY.

25. If construction of improvements has not begun within one (1) year from the date of this AGREEMENT, then prior to commencement of work the Public Works Director/City Engineer shall review the improvement plans and determine if revisions are required. In any case, a new engineer's cost estimate shall be submitted by the applicant to the Public Works Director/City Engineer. The applicant shall be responsible for any modification to the plans required by the Public Works Director/City Engineer and shall pay all plan check fees plus the difference in inspection fees due based on the new cost estimate.

26. The DEVELOPER(S) acknowledge the requirement to comply with the environmental mitigation measures for Vesting Tentative Tract Map 2016-02, and the conditions of approval for said tentative map, (attached herein as Exhibit 'B'), in the development of this Subdivision.

27. The terms of this AGREEMENT are not intended to, nor do they, relieve the DEVELOPER(S) of any conditions of approval, compliance with City Standards or compliance with mitigation measures of adopted environmental documents, the compliance with which may be placed as a condition of permit issuance or occupancy.

28. Time is of the essence of this AGREEMENT. It is agreed that the provisions of this AGREEMENT shall apply to and bind the heirs, executors, administrators, successors, devisees, and assignees of the respective parties hereto.

IN WITNESS WHEREOF, the parties have executed these presents or caused the same to be executed by the officers thereunto duly authorized on the date and year in this AGREEMENT first above written.

Pioneer Development Company, Inc.,
A California Corporation

Greg Hostetler
President

PARTIES OF THE FIRST PART

CITY OF LOS BANOS
A Municipal Corporation

Michael Villalta
Mayor

PARTIES OF THE SECOND PART

ATTEST:

Lucille L. Mallonee
City Clerk
City of Los Banos

**Signatures need to be notarized.
Attach a Notary Acknowledgement.**

Exhibit A



OPINION OF PROBABLE COST

Project name: East Center - Phase 2 / 29044
LOS BANOS, CA
Phasing: Option 2B - 73 Lots
3/4/2019

ITEM DESCRIPTION	UNIT	QUANT.	UNIT COST	AMOUNT
A. SITE PREPARATION				
1 EROSION CONTROL	LS	1	\$5,000.00	\$5,000.00
SUB-TOTAL				\$5,000.00
B. WATER				
1 8" WATER	LF	1,525	\$16.00	\$24,400.00
2 10" WATER	LF	502	\$20.00	\$10,040.00
3 8" WATER VALVE	EA	4	\$1,000.00	\$4,000.00
4 HYDRANT, BURY & GATE VALVE	EA	7	\$2,000.00	\$14,000.00
5 CONNECT TO EX. WATER	EA	2	\$1,200.00	\$2,400.00
6 HOUSE SERVICE INCLUDING METER BOX	EA	73	\$250.00	\$18,250.00
SUB-TOTAL				\$73,090.00
C. SANITARY SEWER				
1 8" SEWER MAIN	LF	751	\$15.00	\$11,265.00
2 10" SEWER MAIN	LF	1,197	\$16.00	\$19,152.00
3 STD. SEWER MANHOLE	EA	8	\$2,000.00	\$16,000.00
4 4" STD. LATERAL	EA	73	\$250.00	\$18,250.00
5 CONNECT TO EX. SEWER	EA	3	\$700.00	\$2,100.00
SUB-TOTAL				\$66,767.00
D. STORM DRAINAGE				
1 12" STORM DRAIN	LF	90	\$18.00	\$1,620.00
2 15" STORM DRAIN	LF	879	\$21.00	\$18,459.00
3 STD. MANHOLE	EA	5	\$2,000.00	\$10,000.00
4 CATCH BASIN	EA	7	\$1,450.00	\$10,150.00
5 CONNECT INTO EX. STORM DRAIN	EA	1	\$800.00	\$800.00
SUB-TOTAL				\$41,029.00
E. CONCRETE				
1 6" VERTICAL CURB & GUTTER (INCL. RETURNS & DRIVEWAYS)	LF	3,012	\$10.00	\$30,120.00
2 ROLLED CURB & GUTTER	LF	1,032	\$14.00	\$14,448.00
3 SIDEWALK (INCL. RAMPS, RETURNS & DRIVEWAYS)	SF	21,892	\$3.00	\$65,676.00
4 WHEEL CHAIR RAMP (LABOR ONLY)	EA	5	\$600.00	\$3,000.00
SUB-TOTAL				\$113,244.00

F. PAVING

1	2.5" A.C. OVER 10.5" A.B.	SF	65,269	\$1.85	\$120,747.65
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SUB-TOTAL					\$120,747.65
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G. ELECTROLIERS

1	ELECTROLIERS	EA	9	\$2,500.00	\$22,500.00
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SUB-TOTAL					\$22,500.00
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H. MISCELLANEOUS

1	R-1 STOP SIGN AND STREET NAME SIGN W/ LEGEND	EA	3	\$350.00	\$1,050.00
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2	STRIPING	LS	1	\$1,500.00	\$1,500.00
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3	MONUMENT WELLS	EA	6	\$300.00	\$1,800.00
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SUB-TOTAL					\$4,350.00
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Construction Total					\$446,727.65
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Notes:

1. This estimate does not include surveying, engineering, landscaping, street trees, joint trench, or irrigation.
2. This estimate does not include cost for removal and/or replacement of existing utility poles and the utilities associated with the utility poles.
3. This estimate does not include cost for irrigation ditch removal, relocation, or pipe lining.
4. Estimate grading cost can vary due to shrinkage, stripping, site consolidation and other variable factors associated with earthwork.
5. Items not included as part of this estimate:

A. Good Neighbor Fencing	J. Easement acquisitions
B. Permits	K. Retaining Walls
C. Utility Fees	L. Landscape Design Improvements
D. City Fees, bond fees	M. Street Trees
E. Engineering/design fees	N. Tree Removal
F. Soils engineering cost	O. Mail Boxes
G. Power Pole Relocation	P. Existing Irrigation Facility Demolition
H. Construction Surveying	
I. Landscaping Fees	
6. This estimate is not intended for bidding purposes.

CONDITIONS OF APPROVAL FOR VESTING TENTATIVE TRACT MAP #2016-02 – HILL PROPERTY

General

1. The applicant shall submit a revised Vesting Tentative Tract Map to the Community and Economic Development Department reflecting any modifications, additions, and/or conditions of approval, within 30 days from Planning Commission approval. If necessary, the revised Vesting Tentative Tract Map shall be reviewed by the City Engineer and the Community and Economic Development Director and signed by the Community and Economic Development Director for purposes of providing a clear record of the approved Vesting Tentative Tract Map.
2. The Vesting Tentative Tract Maps, Final Maps, and Improvement Plans shall be consistent with the Final Development Plan, as conditioned.
3. Approval and life of the Vesting Tentative Tract Maps shall be as set forth in the Los Banos Municipal Code.
4. All development shall be consistent with the Vesting Tentative Tract Map #2016-02 and approved Final Development Plan #2016-02, reflecting any amendments added during approval.
5. The Final Map(s) shall be in substantial compliance with the approved Vesting Tentative Tract Map, including any changes set forth in the conditions of approval.
6. A Final Map shall be prepared by a professional land surveyor licensed in California or a professional engineer licensed in California and qualified to practice land surveying, according to the Subdivision Map Act, and local ordinances.
7. At least two points on the Final Map shall be tied to the California State Plane Coordinate System (NAD 83) with ties shown and closure calculations depicting the tie bearings and distances.
8. A letter from the Tax Collector shall be submitted prior to the recording of the Final Map which indicates that taxes have been paid or a bond has been posted.
9. A Final Map Guarantee shall be prepared and provided to the County Recorder.

10. When the submittal has been technically approved, the original mylars and a conforming mylar will be signed and notarized (notary shall not be stamped on the map) and delivered to the Public Works Department.
11. Developer shall include a Public Utility Easement of ten (10) feet along all road frontages.
12. For all properties within 1,000 feet of agricultural operations, deed notices shall be recorded with the final map. The deed notice shall require property purchasers to acknowledge the existing and ongoing commercial and/or agricultural uses on adjacent and nearby properties, and the Merced County Right-to-farm Ordinance.
13. Building Master Plans shall be approved by the Community and Economic Development Department and Building Department prior to issuance of the first building permit and shall be consistent with Final Development Plan #2016-02.
14. Improvement Plans shall be submitted to the City for approval prior to/or concurrent with the application for each final map and the following note shall be required: "The Contractor is responsible for protecting and preserving survey monuments and other survey markers. Any survey monuments damaged as a direct or indirect result of construction activities shall be re-established by a duly licensed land surveyor at the Contractor's sole expense. A corner record shall be filed in accordance with State law for any reset monuments at the Contractor's sole expense."
15. Improvement Plans shall include a street signage and striping plan to be approved by the Public Works Director.
16. On-site improvements may be constructed prior to the recording of the final map subject to City approval of Improvement Plans and payment of applicable plan check and inspection fees, and satisfaction of all construction conditions of approval.
17. Off-site public improvement plan(s) shall be submitted to the Public Works Department for approval prior to/or concurrent with the application for the Final Map. The developer shall not commence off-site improvements until approval is received by the Public Works Department. The developer shall enter into a subdivision improvement agreement with the City and provide labor and maintenance bonds in an amount of 100% of the Engineer's Estimate for public improvements to be completed following recordation of the Final Map.
18. The project is subject to the appropriate Development Impact Fees as established by the City.

19. Private property owners shall be responsible for the maintenance of sound walls and decorative masonry walls located on private property. A maintenance easement shall be provided as required by the Public Works Director.
20. The applicant shall obtain City approval in advance for permanent and temporary on-site and off-site signs through separate sign reviews and bonding consistent with the development criteria of the Los Banos Municipal Code – Sign Ordinance.
21. It is the applicant's responsibility to ensure that the development complies with the Americans with Disabilities Act requirements.
22. It shall be the responsibility of the applicant to convey copies of the conditions of approval to all contractors and sub-contractors.
23. Building permits will be issued in accordance with the City Subdivision Policy that identifies the improvements required in order for a building permit to be issued.
24. All structures, foundations, and footings for future buildings on the project site shall be designed and constructed to conform to the current Uniform Building Code for Seismic Zone 4 to minimize structural damage resulting from potential seismic activity.
25. An engineering soils report shall be prepared for all projects in order to identify soil characteristics requiring special structural design. On-site and off-site structural design shall conform to the findings and recommendation of the engineering soils report. The report shall be prepared prior to issuance of a grading permit, subject to review and approval of the Los Banos City Engineer.
26. Prior to issuance of building permits for development of sensitive residential land uses (e.g. houses, schools, parks, day care), or other uses in which persons may contact soils), a Phase 1 environmental assessment shall be prepared to determine if soils contain hazardous materials. If necessary, a remediation plan shall be created and implemented. The assessment and any necessary remediation plans shall be subject to the approval of the Community and Economic Development Department.
27. Improvement Plans and Grading Plans shall delineate the location and design of all required walls including retaining walls.
28. Improvement Plans shall include mailbox locations, which must be approved by the US Postmaster and the City of Los Banos.
29. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any

permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Los Banos Community and Economic Development Department:

If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

30. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Los Banos Police Department contacts the coroner of Merced County to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Pre-Construction and Construction

32. A minimum 200-foot separation shall be maintained between residences and material stockpiles, debris piles or containers and equipment storage during the construction process. If such storage must be located within 200 feet of a residence, a six-foot high opaque fence shall shield the storage area from view when the storage area is inactive for more than

eight hours. This requirement shall be incorporated into the specifications for all construction plans, subject to review and approval by the City of Los Banos Community and Economic Development Department.

33. Two points of all-weather access shall be provided to all areas of the development during all phases of construction to the satisfaction of the Fire Department in areas where residential units are under construction.
34. Temporary construction trailers shall be permitted only in areas immediately adjacent to or within that portion of the subdivision where active subdivision construction is taking place. Placement of said construction trailer is subject to the Community and Economic Development Director approval in accordance with Title 9, Chapter 3, Article 38, Temporary Use Ordinance of the Los Banos Municipal Code.
35. During construction, and for safety purposes, the developer and assigned contractors shall keep the public right-of-way clear of obstructions, and provide for clean up on a daily basis.
36. Prior to acceptance of public improvements, all entries to the subdivision shall be barricaded to prevent the public from entering the construction site.
37. Undeveloped portions of development sites shall be controlled of weeds and free of debris and litter. The applicant shall provide protection against wind and water soil erosion on undeveloped portions of the project site. Temporary vegetation on undeveloped portions of the project site shall not be allowed to grow taller than eighteen inches.
38. All contractors and subcontractors performing work relative to this project shall obtain City of Los Banos Business Licenses, prior to start of work on the project. All work performed on the project shall comply with the requirements of the State Business and Professions Code.
39. Construction shall be limited to those times allowed by City Ordinance: Monday through Friday from 7:00 am to 7:00 pm; Saturday from 8:00 am to 7:00 pm; and Sunday from 9:00 am to 7:00 pm. Properly muffled equipment shall be used.
40. The developer shall incorporate soil erosion control measures into grading and drainage plans that comply with NPDES storm water regulations. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
 - a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-

way of designated access roads;

- c. Silt fencing installed in accordance with the American Society for Testing and Materials standard D6462.
 - d. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;
 - e. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
 - f. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
 - g. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
 - h. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.
41. Where standard corner lot side yards abut a street, a minimum three-foot landscaping area shall be provided between the back of sidewalk and the fence.
42. Restricted access rights shall be irrevocably offered for dedication to the City along the rear edge of private property where properties back onto streets, and shall be shown on final maps.
43. Masonry walls shall be decorative and in conformance with the Final Development Plan. A minimum 3 foot landscape area shall be provided between the back of the sidewalk and any masonry walls.
- 43.44. Where the project boundary abuts existing good-neighbor residential fences, the Developer shall replace with new fences in accordance with the requirements of the Los Banos Municipal Code.

Air Quality:

- 44.45. All residences shall exceed Title 24 energy requirements. As many energy conserving features as possible shall be included in the design and construction of new buildings. Examples include, but are not limited to, increased wall and ceiling insulation, energy efficient lighting, high efficiency appliances, and solar assisted water heating.

- 45-46. Housing units shall be oriented to maximize passive solar cooling and heating when practicable.
- 46-47. Gas fired appliances shall be low NOx emitting appliances complying with California NOx Emission Rule #1121.
- 47-48. Natural gas line and electrical outlets shall be included in the backyard or patio areas of residences to encourage the use of gas and/or electric barbecues.
- 48-49. Electrical outlets shall be installed around the exterior of residences to encourage use of electrical landscape maintenance equipment.
- 49-50. Only low emitting, EPA approved fireplace inserts and/or wood stoves or natural gas fireplaces shall be installed. No open hearth fireplaces shall be allowed.
- 50-51. The developer shall comply with all applicable Indirect Source Rule requirements of the San Joaquin Valley Air Pollution Control District. Developer shall prepare an air emissions reduction if required.

Access and Circulation:

52. Prior to occupancy of the first residence, the developer shall construct Center Avenue for the full length of the Vesting Tentative Map. Frontage improvements shall be provided for the full width of right-of-way including curb/gutter improvements fronting the cemetery. The improvements shall include median, travel lanes, bike lane as applicable, sidewalk, 5' landscape lot, and decorative masonry in accordance with the East Center Area Plan.
- 51-53. Street G shall be designed and constructed in accordance with the East Center Area Plan approved January 18, 2006, which consists of 60 foot right-of-way and separated sidewalk with street trees.
- 52-54. The developer shall design and install traffic calming along Street G, provide a street stub at Court L for future development to the south, and open Court G or Court I to Street G as approved by the City Engineer.
- 53-55. Traffic calming may include, but is not limited to the following: raised intersections, speed cushions, stop signs, varied cross sections, and round-bouts as approved by the City Engineer.
- 54-56. The Class I and II bicycle paths shall be designed in conformance with Caltrans design standards, and shall specifically be designed to reduce intersection conflicts between cyclists and automobiles, using signage, lighting, and/or special street pavement treatments at and near points of intersection.

~~55-57.~~ The developer shall be responsible for constructing public streets per the Vesting Tentative Tract Map including, but not limited to curb, gutter and sidewalk, decorative masonry wall, and landscaping where noted. Improvements to arterials and collector streets shall be completed prior to occupancy of any use within the project boundaries, and improvements to neighborhood streets shall be complete prior to occupancy of any house that requires the street for access.

~~56-58.~~ The developer shall construct at least a half-section of any adjacent street on which the project borders, regardless of whether project access is taken from that street. The half-section shall be constructed in accordance with City standards, or as otherwise approved in the Vesting Tentative Tract Map, including, but not limited to curb, gutter, sidewalk, one-half of the planned travel lanes, median, decorative masonry wall, and landscaping.

~~57-59.~~ All street signage and striping within the project area shall be approved by the Public Works Department and shall meet all line-of-sight requirements.

~~58-60.~~ Prior to acceptance of subdivision improvements, the developer shall install all street and traffic control signs, pavement striping, and street name signs in accordance with the public improvement plans and City standards.

~~59-61.~~ Prior to approval of Final Improvement Plans, street sections for all streets shall be approved by the City Engineer.

~~60-62.~~ Final Map(s) shall show a non-access strip 12 inches in width on private property along the frontage of arterial and collector streets, except at driveways, for the purpose of constructing sound walls and decorative masonry walls.

~~61-63.~~ Prior to approval of the Final Improvement Plan(s), all curb return radii less than 40 feet shall be reviewed for adequacy for turning movements of moving vans, fire apparatus, and other large vehicles, and adjusted accordingly.

~~62-64.~~ The developer shall be responsible for obtaining encroachment permits from the City of Los Banos prior to performing any work within the City's right-of-way.

~~63-65.~~ Traffic calming measures throughout the project area shall be provided by the developer and approved by the Public Works Director.

Landscape and Lighting District:

~~64-66.~~ Prior to approval of any final or parcel map, the developer shall form or annex the subject property to a Lighting and Landscaping District created

for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the subject property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the developer.

Utilities:

| ~~65-67.~~ The applicant shall construct water, sewer, and storm drainage facilities as noted on the Vesting Tentative Tract Map, in accordance with City standards. The project shall comply with the current City Plans, Standards, and Specifications, all Master Plan requirements, and the applicant shall work with the Public Works Department in regards to needed infrastructure and development during the Improvement Plan Review stage.

| ~~66-68.~~ In conformance with the Subdivision Map Act, the developer shall permit installation of underground cable television delivery systems within public utility easements. All dwellings shall be made cable ready.

| ~~67-69.~~ Prior to approval of Improvement Plans or Final Maps, the developer shall obtain any necessary easements for utilities across adjoining properties.

| ~~68-70.~~ Easements shall be provided across public property for the purpose of providing access for maintenance of public infrastructure.

| ~~69-71.~~ All existing overhead utilities shall be placed underground with the exception of high voltage power lines. No new overhead utility lines and equipment shall be shown on Improvement Plans and Grading Plans.

| ~~70-72.~~ Where the invert is six feet or greater below finish grade, a minimum clearance of five feet from lip of gutter to the edge of pipe shall be provided for underground utility lines.

| ~~71-73.~~ All street lighting shall be hooded and/or fitted with prismatic directional lenses to prevent illumination onto adjoining properties and glare into on-coming traffic. Streetlight locations shall be shown on Improvement Plans. Developer shall utilize decorative streetlights meeting the illumination standards required in the City street light standards, except that cobra-head streetlights shall be used on arterial streets.

Water:

~~72-74.~~ The proposed project shall conform to the requirements of the Los Banos Water Master Plan, including payment of the water connection impact fee.

~~73-75.~~ Approved backflow devices shall be installed as required.

~~74-76.~~ Domestic water services shall not be placed in driveways.

~~75-77.~~ Final Improvement Plans shall indicate the locations of water line elbows and manholes.

~~78.~~ No building permit shall be issued prior to certification by the Central California Irrigation District that the property has been detached from CCID, or that remaining CCID lines will be intact or rerouted to the satisfaction of CCID.

~~76.~~

Sewer:

~~77-79.~~ The existing Bluff Drive Sewer Pump Station capacity shall be upgraded to 1,900 gpm as identified in the Area Plan.

~~78-80.~~ The existing force main in Page Avenue may need upgrades as determined by the Public Works Director as identified in the Area Plan.

~~79-81.~~ The developer shall construct all on-site and off-site sewer facilities necessary to serve the project, subject to reimbursement for over-sizing, as determined by the City.

~~80-82.~~ Prior to submission of improvement plans for the first phase of development, a Master Sewer Plan for the development shall be submitted, reviewed, and approved by the City Engineer.

~~81-83.~~ Final Improvement Plans shall indicate the locations of sewer line elbows and manholes.

~~82-84.~~ All sewer lines within the private property or common lots shall be privately owned and maintained, except that mains within private property may be publicly owned if an easement is provided for maintenance.

Storm Drainage:

~~83-85.~~ The development shall provide storm drainage to the new basin, and then discharge directly to CCID Canal, as described in the Storm Drain Conveyance and Pump Station Analysis dated January 14, 2005, subject to the review of and as may be modified by the City Engineer. All

improvements to conform to the City's Storm Drainage System Master Plan. All deviations to be approved by the City Engineer.

~~84-86.~~ Final Improvement Plans for the storm drainage system shall utilize the TR-55 analysis method.

~~85-87.~~ Prior to acceptance of Final Improvement Plans, the applicant shall submit verification from the manufacturer that the pump station capacity is adequate for full basin to shut-off operational conditions.

~~86-88.~~ All development shall comply with the Phase II storm water regulations.

~~87-89.~~ Final Improvement Plans for the storm drainage system shall be submitted to the City and reviewed and approved by the City Engineer prior to issuance of a grading permit.

~~88-90.~~ The Developer shall generate a Storm Water Pollution Prevention Plan (SWPPP) for pre and post construction best management practices (BMPs). A Notice of Intent (NOI) shall be submitted and approved prior to construction by the State Department of Water Resources.

~~89-91.~~ The storm drainage basin within The Villas Subdivision shall be complete to the satisfaction of the Public Works Director prior to occupancy of the first house (except model homes) within VTTM #2016-02.

~~90-92.~~ The applicant shall pay reimbursements as applicable for the Gardens storm drainage improvements; and shall be entitled to reimbursement for future development elsewhere within the plan area.

~~91-93.~~ The applicant and City shall revise the drainage agreement with CCID as necessary to accommodate drainage flow into the Main Canal.

~~92-94.~~ All storm drain lines within the private property or common lots shall be privately owned and maintained.

Public Safety:

95. Prior to recordation of a Final Map, the developer shall form or annex the subject property to a Community Facilities District created for the purposes of funding public safety, as authorized by Government Code Section 53313(a) and (b). The form, terms and conditions, and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.

~~93-96.~~ On-street parking shall be prohibited in locations where a minimum 20-foot travel lane will not be maintained.

~~94-97.~~ Emergency access to private property/ common areas shall be assured.

~~95-98.~~ Fire department requirements for the placement of fire hydrants shall be complete prior to approval of development permits.

~~96-99.~~ Fire hydrants shall be installed at locations approved during the Improvement Plan stage and shall be installed based upon City standards.

~~97-100.~~ The developer, as specified by City development standards, shall install "Blue Dot" fire hydrant locators.

~~98-101.~~ Each residence shall have a 6-inch lighted address numbers of contrasting color installed on the front elevations or alternative size as agreed to by developer and Fire Chief.

~~99-102.~~ The developer shall comply with the City Fire Codes and regulations subject to Fire Department approval in regards to building requirements, fire hydrant placement, and sprinkler requirements.

~~100-103.~~ Street names shall be approved by the Fire Department.

~~101-104.~~ Driveways, parking lots, water lines, fire hydrants, and underground utilities shall be completed prior to issuance of building permits.

~~102-105.~~ Upon completion and approval of the project plans, a CD shall be submitted to the Fire Department providing information on street layout, hydrant locations, water mains, storm drain inlets (i.e. Fire Department pre-planning).

Landscaping:

~~103-106.~~ All residential lots shall have fully landscaped front yards prior to occupancy of each dwelling. Front yard landscape plans shall be submitted with the development Master Plans prior to building permit issuance and shall be approved by the City Engineer and Community and Economic Development Director.

~~104-107.~~ The developer shall comply with the adopted street tree ordinance.

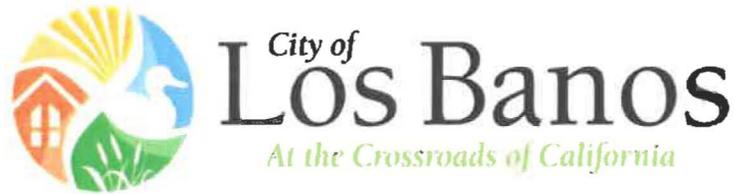
~~105-108.~~ Masonry walls shall be landscaped with vines to discourage graffiti.

~~106-109.~~ The applicant shall submit landscape and irrigation plans with each phase of the improvement plans for City review and approval of streetscape landscaping.

407.110. Landscape plans for single-family residences shall utilize drought tolerant plantings for no less than 75 percent of front yards. Turf varieties shall be chosen for drought tolerance. Irrigation systems shall be set to minimize water use and spillage onto paved areas.

111. Landscape plans shall be designed in accordance with Title 10, Chapter 2, Water Efficient Landscape Ordinance of the Los Banos Municipal Code.

~~408.~~ Notice: This approval may contain fees, dedications, reservations or other exactions as defined by the Mitigation Fee Act (Government code sections 66000 et seq.) This notice triggers the 90 day protest period as provided for by the Mitigation Fee Act.



Agenda Staff Report

TO: Mayor & City Council Members
FROM: Alex Terrazas, City Manager *AT*
DATE: December 18, 2019
SUBJECT: Policy Regarding Use of City Council Chambers and Conference Rooms
TYPE OF REPORT: Consent Agenda

Recommendation:

Adopt Resolution amending the previous policy regarding use of City Council Chambers to include the use of Conference Rooms at City Hall.

Background:

The City has experienced an increase in requests for the use of the Conference Rooms located at City Hall. Up to now, each request has been dealt with informally by administration on a case by case basis. On occasion, requests are made by outside groups and organizations.

Discussion:

Administration has no specific guidelines to manage the use of the City Hall Conference Rooms, and is requesting to include these rooms in the current Council Chamber use policy in order to specifically set forth the allowable uses, priority of uses, conditions of use, and reasonable regulations for scheduling.

Fiscal Impact:

Minimal fiscal impact to the City.

Reviewed by:


Sonya Williams Finance Director

Attachment:

Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF LOS BANOS AMENDING RESOLUTION NO. 5604
REGARDING USE OF CITY COUNCIL CHAMBERS TO
INCLUDE CITY HALL CONFERENCE ROOMS**

WHEREAS, the City Council of the City of Los Banos wishes to amend its formal written policy setting forth procedures and guidelines regarding the use of the City Council Chambers to include City Hall Conference Rooms.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Los Banos, California, as follows:

SECTION 1. That the Policy attached hereto as Exhibit A, and incorporated herein by this reference, entitled "Policy Regarding Use of City Hall Council Chambers and Conference Rooms" is approved.

SECTION 2. This Resolution shall be effective immediately upon adoption.

The foregoing Resolution was introduced at a regular meeting of the City Council of the city of Los Banos held on this 18th day of December 2019, by Council Member _____, who moved its adoption, which motion was duly seconded by Council Member _____, and the Resolution was adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

Exhibit "A" to City Council Resolution No. _____
Policy Regarding Use of
City Hall Council Chambers and Conference Rooms

**POLICY REGARDING USE OF
CITY HALL COUNCIL CHAMBERS AND CONFERENCE ROOMS**

CITY OF LOS BANOS

I. PURPOSE

The purpose of this Policy is to set forth the conditions governing the use of the City Hall Council Chambers and Conference Rooms.

II. POLICY

A. Objectives

The primary objective in the use of the City Hall Council Chambers and its Conference Rooms is to conduct the legislative and other official business of the City of Los Banos. The City Hall Council Chambers and Conference Rooms are dedicated for use by officially constituted bodies of the City, City departments, governmental agencies, and City-sponsored and co-sponsored programs and events.

B. Allowable Uses and Priority

The allowable uses for the City Hall Council Chambers and its Conference Rooms in the following order of priority are as follows:

1. City Council Meetings and other City Council functions;
2. City Commission and Committee Meetings;
3. Polling Place for Elections;
4. Los Banos Unified School District Board Meetings;
5. City Department Meetings, Trainings, and Programs;
6. Other Governmental Agency Meetings;
7. City-sponsored and co-sponsored programs;

8. Town meetings by local, state, and federal representatives.
9. During the sixty (60) days prior to a municipal election, the City Hall Council Chambers may be used for a candidate forum if all candidates are invited to participate equally and the forum is structured to provide each candidate with an equal opportunity to address issues presented. During such an event, electioneering as defined in the California Elections Code Section 319.5 must be limited to a display of individual candidate's printed electioneering information in the lobby area only.

The sponsoring organization for a candidate forum must meet the following criteria:

- a. The sponsoring organization must be non-partisan;
 - b. The sponsoring organization may not be a political action committee;
 - c. The sponsoring organization may not support or oppose a candidate or ballot measure;
 - d. The sponsoring organization may not monetarily support or oppose a candidate or ballot measure.
10. No other uses shall be allowed.

C. Scheduling of the City Hall Council Chambers or Conference Rooms

1. All requests to use the City Council Chambers or Conference Rooms must be submitted in writing to the City Clerk Manager's Office, City of Los Banos, 520 J Street, Los Banos, California 93635.
2. Requests for use must be received by the City Clerk Manager's Office at least fifteen (15) calendar days before the requested date of use. The City Council Chambers may be reserved up to six (6) months in advance.
3. The request must be signed by an officer of the organization entrusted with the authority to bind his/her organization to the rules and guidelines of this policy and/or a City department head co-sponsoring the activity.
4. The City will review the request and reserves the right to disapprove the use if the criteria set forth in this policy are not met.

D. Rules for Use of the City Hall Council Chambers or Conference Rooms

1. The City Council Chambers will be generally available for use Monday – Friday between the hours of 8:00 a.m. – 11:00 p.m. It is not generally available for use on recognized City holidays and weekends.
2. Conference Rooms will be generally available for use Monday – Friday between the hours of 8:00 a.m. – 5:00 p.m. These rooms are not generally available for use on recognized City holidays and weekends.
3. Requests to use the City Council Chambers after regular business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) will require a City staff member to be present. The facility user may be charged for this City staff member's time and other associated costs.
4. The City reserves the right to require insurance coverage indemnifying the City of Los Banos against claims.
5. Access to the audio visual equipment and/or audio visual technical support is limited to persons authorized by the City. Requests for video assistance must be made at least fifteen (15) calendar days before the requested date of use to allow sufficient time to schedule a City technician. This technical support is not guaranteed. Costs for technical support may be charged to the facility user that has requested use of the City Council Chambers.
6. The facility user will be responsible for complying with the occupancy limit and other safety code requirements such as keeping ingress/egress routes clear. Sitting in the aisles is not allowed. Maximum total occupancy in the City Council Chambers is 116 persons.
7. Food and beverages are not generally allowed in the City Council Chambers. A request to offer food and beverages can be submitted to the City Clerk Manager's Office for consideration. All persons who use the City Council Chambers, the entrance lobby, must make sure that floors, tables, and chairs are left in a clean condition when the facilities are vacated. If special cleaning is required because of spillage, etc., that must be reported to the City Clerk Manager's Office.
8. Alcohol is not allowed in City Hall, which includes the City Council Chambers and adjacent areas such as the entrance lobby and Conference Rooms.
9. Smoking is not allowed in City Hall, which includes the City Council Chambers and adjacent areas such as the entrance lobby and Conference Rooms.

10. No displays or set up of any kind are allowed in the entrance lobby, unless approved in advance by the City Clerk Manager's Office.
11. The facility user shall be responsible for any damage or loss to equipment or property or special cleaning associated with the use of the City Council Chambers or Conference Rooms.
12. The City of Los Banos reserves the right to charge a facility user for equipment, staff time, and/or damages associated with the use of the City Council Chambers or Conference Rooms.
13. The City Clerk's Manager's Office must be notified as soon as possible of any cancellation and not later than twenty-four (24) hours prior to the reserved time so that staff support may be cancelled and the room made available.
14. No uses of a commercial nature shall be allowed. No admission shall be charged to participants. No donations shall be solicited of attendees.
15. The City Manager may waive any City-related fees associated with the use of the City Hall Council Chambers or its Conference Rooms.



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta and City Council Members

FROM: Stacy Souza Elms, Community and Economic Development Director *SSE*

DATE: December 18, 2019

TYPE OF REPORT: Public Hearing

SUBJECT: Conditional Use Permit #2019-04 to allow the sale of alcohol under a Type 41 on-sale beer and wine license for Aju! Restaurant located at 1041 E. Pacheco Boulevard

Recommendation:

Staff recommends that the City Council adopt a resolution finding the proposed project to be categorically exempt from the California Environmental Quality Act pursuant to Section 15301, Existing Facilities and approves Conditional Use Permit #2019-04 to allow for the sale of alcohol under a Type 41 on-sale beer and wine license for Aju! Restaurant located at 1041 E. Pacheco Blvd.; more specifically identified as Assessor's Parcel Number: 026-182-003.

Background:

The applicant, Bertha Carrillo, dba: Aju! Restaurant, has requested a Conditional Use Permit for a Type 41 alcohol license to allow the on-sale of beer and wine in conjunction with a bona fide public eating place (casual restaurant) to be located at 1041 East Pacheco Boulevard. The site was occupied previously by Taqueria 152, which also held a Type 41 beer and wine license. The ABC license use has been discontinued for over a year (cancelled on July 3, 2018) in which the Conditional Use Permit becomes null and void, and a new Conditional Use Permit must be granted to re-activate the ability for the use of a Type 41 ABC License.

On December 2, 2019, the Los Banos Planning Commission held a public hearing to review a request for a Conditional Use Permit for the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with an eating establishment. At the public hearing, the Planning Commission considered the application, including the staff report, presentation by staff, and public comment. As the recommending body, the Planning Commission recommended approval of Conditional Use Permit #2019-04 to the Los Banos City Council.

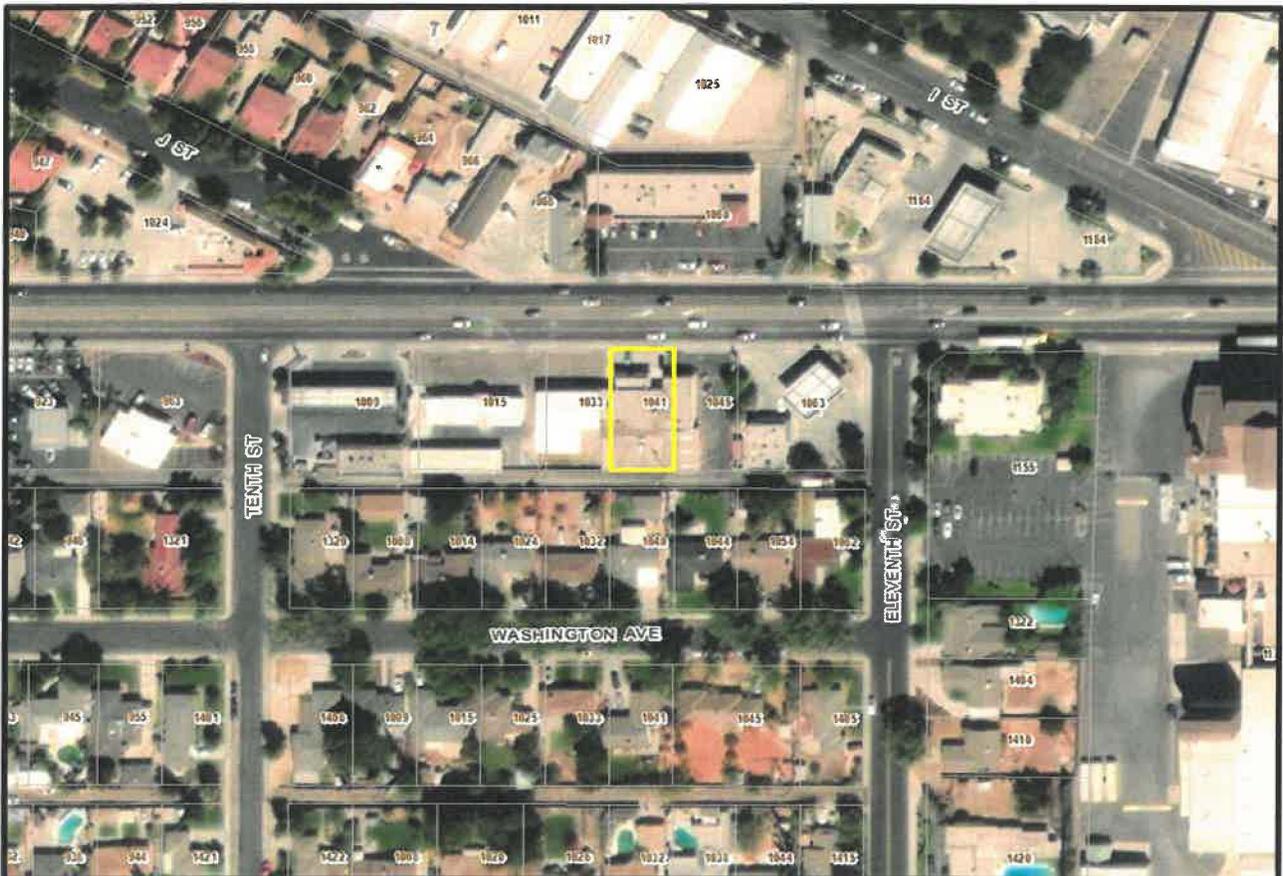
Discussion:

The proposed restaurant/ eating establishment will conduct business seven (7) days a week, Monday through Sunday from 7:00 a.m. until 8:00 p.m. The on-site beer and wine consumption will cease when the restaurant closes at 8:00 p.m.

The property is located within the Highway Commercial Zoning District. The intended eating establishment/ restaurant use, is an allowed use and is consistent with the Los Banos Municipal Code Title 9 Chapter 3 Article 13 Highway Commercial Zoning District (H-C).

LOCATION AND ACCESS:

The project site is located at 1041 East Pacheco Blvd. The project site can be accessed from Pacheco Boulevard.



LAND USE:

Property	Land Use	Zone	General Plan
Project site	Commercial	H-C	C
North	Commercial	H-C	C
South	Low Density Residential	R-1	LDR
East	Commercial	H-C	C
West	Commercial	H-C	C

H-C =Highway Commercial
 R-1=Low Density Residential

C=Commercial
 LDR=Low Density Residential

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is found to be categorically exempt from the provisions of CEQA – Article 19, Section 15301 Existing Facilities. The applicant’s request for the on-sale of beer and wine for a bona fide public eating place involves the permitting and licensing of a proposed structure to be located at 1041 East Pacheco Boulevard.

USE PERMIT ANALYSIS

Code Requirements

Pursuant to the Los Banos Municipal Code Section 9-3.2326 (b), a Conditional Use Permit is required for any establishment dispensing for sale or other consideration alcoholic beverages, including beer and wine, for on-sale or off-sale. The Planning Commission is the recommending body and the City Council is the decision making body for Conditional Use Permits regarding the on-sale and off-sale of alcoholic beverages pursuant to Los Banos Municipal Code Section 9-3.2314 (c). A Conditional Use Permit may be granted if the proposed use is conforming to the following criteria:

General Use Permit Criteria:

1. That the proposed use and project is consistent with the City of Los Banos General Plan, and Los Banos Municipal Code;
2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use;
3. That the proposed use is compatible with the adjacent uses, the properties, and neighborhoods and will not be detrimental or injurious to property and improvement in the neighborhood or to the general welfare of the City.

Specific On-Sale and Off-Sale Alcoholic Beverages Criteria:

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the

area's function and character, problems of crime and loitering, and traffic problems and capacity;

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
3. That the proposal will not interfere with the movement of people along an important pedestrian street; and
4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 P.M. and 7:00 A.M.

Staff has evaluated the proposal pursuant to the above criteria set forth in the Municipal Code and offers the following observations:

1. The primary use will be a casual family eating establishment/ restaurant (dine-in).
2. The surrounding area, adjacent uses, and function are primarily Commercial uses. A restaurant providing for the on-sale and serving of beer and wine in this location is consistent with the commercial uses of the Highway Commercial Zoning District.
3. Staff is unaware of any significant problems related to crime and loitering, in the surrounding area which would be exacerbated by the on-sale of beer and wine at this location.
4. The approval of the on-sale of beer and wine will not contribute to the undue proliferation of alcohol sales in the area where that use would be undesirable taking into account the characteristics of the area. The entitlement will include conditions of approval which will regulate the operational characteristics of allowing the serving of beer and wine and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering.
5. The proposed use is not located within the immediate vicinity to any churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.
6. The project is located on Pacheco Boulevard which is primarily occupied by commercial uses. Conditions of approval will regulate loitering and operational characteristics to insure that the proposal will not interfere with the movement of people along the public right-of-way.
7. There are residential units located to the south of the project site. The applicant will serve beer and wine for on-site consumption Monday through Sunday from 7:00 a.m. until 8:00 p.m., when the restaurant closes. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The

applicant will be conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, The City of Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

All sales and consumption of alcohol will be conducted inside the premises and in conjunction with the serving of food. In addition, the project will be subject to conditions which will mitigate any adverse effects on the surrounding neighborhood and are intended to preserve the public health, safety, and welfare of persons and property in the vicinity. The restaurant will also be subject to the Los Banos Municipal Code Noise Ordinance.

Alcoholic Beverage Control

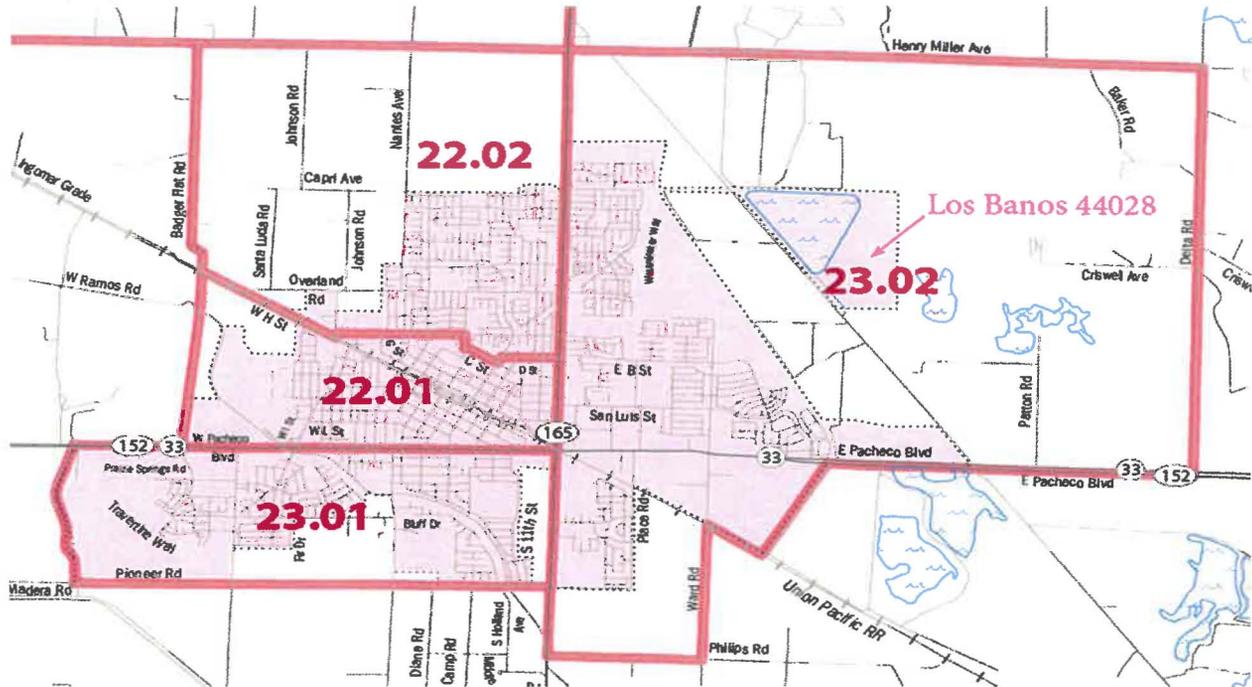
The California Department of Alcoholic Beverage Control (ABC) is the issuing authority for a Type 41 alcohol license. ABC has the authority pursuant to Section 23801 of the California Business and Professions Code to exercise certain conditions under the license, the personal qualifications of the licensee, the conduct of the business or the condition of the premises, which will protect the public welfare and morals, including, but not limited to, the following:

- a) Restrictions as to hours of sale
- b) Display of signs
- c) Employment of designated persons
- d) Types and strengths of alcoholic beverages to be served where such types or strengths are otherwise limited by law
- e) The portion of the privileges to be exercised under the license
- f) The personal conduct of the licensee

ABC may also refuse to issue a license to any person who has violated the Alcoholic Beverage Control Act, has a disqualifying criminal record, or is otherwise disqualified.

Census Tract

The project site is located in census tract 23.01.



As of the date of this report, there are twelve (12) on-sale licenses currently active in this specific census tract. The nearest active on-sale alcohol license to the project site within the same census tract is Taqueria El Rodeo located at about a block east of the project site, approximately 1,200 feet away. Approval of this on-sale license would make the thirteenth (13) on-sale license.

License Type	Business Name	Address
41	China Garden	829 W. Pacheco Blvd.
41	Mountain Mike's Pizza	509 Pacheco Blvd.
41	Hot City BBQ & Bistro	1313 S. Sixth St.
41	Eddie Famous Cafe	401 W. Pacheco Blvd.
41	Pizza Hut	419 Pacheco Blvd.
41	Black Bear Diner	955 W. Pacheco Blvd.
41	Taqueria El Rodeo	1313 E. Pacheco Blvd., Ste D
41	Sugoi Sushi	1254 E. Pacheco Blvd.
41	China No. 1 Buffet	1313 E. Pacheco Blvd., Ste E
40	Aqua Entertainment Center	923 W. Pacheco Blvd., Ste B
41	Courthouse Diner	245 W. Pacheco Blvd, STE A&B
41	Blaze Fast Fire'd Pizza	1335 W. Pacheco Blvd.,Ste B

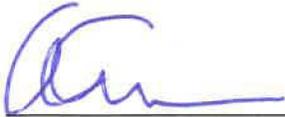
Type 41 license = On-sale Beer and Wine for Bona Fide Public Eating Place

Type 40 license = On-sale Beer

PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise and notices were provided to adjacent property owners within a 300 foot radius of the subject property on Friday, November 22, 2019. As of the date of this staff report, no comments have been received.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Resolution
 - Exhibit A CEQA Findings
 - Exhibit B Project Findings
 - Exhibit C Conditions of Approval
2. Floor Plan
3. Site Photos
4. Public Hearing Notice – December 6, 2019

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS FINDING THE PROPOSED PROJECT TO BE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15301, EXISTING FACILITIES AND APPROVING CONDITIONAL USE PERMIT #2019-04 TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE AT 1041 EAST PACHECO BOULEVARD; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 026-182-003

WHEREAS, the applicant, Bertha Carrillo, has requested that the City of Los Banos consider a Conditional Use Permit to allow the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with a bona-fide public eating place to be located at 1041 East Pacheco Boulevard, Assessor's Parcel Number: 026-182-003; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-04 for Ajua! Restaurant was determined to be categorically exempt from the provisions of CEQA per Article 19, Section 15301 Existing Facilities as the project site has not been developed; and

WHEREAS, the Los Banos Planning Commission has held a duly noticed public hearing on Monday, December 2, 2019, reviewed said Conditional Use Permit request and staff report, has studied the compatibility of the applicant's request with adjacent land uses and has considered this request in conformance with the Conditional Use Permit criteria established in Section 9-3.2322 of the Los Banos Municipal Code; and

WHEREAS, a public hearing notice was published in the Los Banos Enterprise on December 6, 2019, and notices were mailed to property owners within a 300 foot radius of the project site as required by the Los Banos Municipal Code and California Government Code Section 65091; and

WHEREAS, the Los Banos City Council has held a duly noticed public hearing on December 18, 2019, reviewed said Conditional Use Permit request and staff report, has studied the compatibility of the applicant's request with adjacent land uses and has considered this request in conformance with the Conditional Use Permit criteria established in Section 9-3.2322 of the Los Banos Municipal Code; and

WHEREAS, the request/proposed use satisfies the criteria of the Los Banos Municipal Code.

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings for Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby affirm the determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332, In-Fill Development Projects and approves Conditional Use Permit #2019-04 to allow a Type 41 alcohol license for the on-sale of beer and wine in conjunction with a bona-fide public eating place, located at 1041 East Pacheco Boulevard, APN: 026-182-003, subject to the Conditions of Approval set forth in Exhibit C, attached hereto and incorporated herein by this reference

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 18th day of December 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR CONDITIONAL USE PERMIT #2019-04 – AJUA! RESTAURANT

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. (“CEQA”) and Title 14, California Code of Regulations Section 15000 et seq. (the “CEQA Guidelines”), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos City Council hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-04 was evaluated and determined to be categorically exempt per Article 19, Section 15301 Existing Facilities as the request for the on-sale of beer and wine involves the permitting and licensing of a proposed commercial structure to be located at 1041 East Pacheco Blvd, APN: 026-182-003.
2. Conditional Use Permit #2019-04 was adequately noticed on, December 6, 2019, for consideration at a special public meeting on December 18, 2019.
3. No further environmental documentation is required as the Conditional Use Permit was contemplated and adequately analyzed in the initial review.
4. Prior to considering the proposed Project, the City Council considered the Categorical Exemption.

EXHIBIT B

FINDINGS FOR APPROVAL FOR CONDITIONAL USE PERMIT #2019-04 – AJUA! RESTAURANT

The City of Los Banos City Council hereby finds as follows:

1. General Findings:

- a. The project is consistent with the City of Los Banos General Plan.

The existing General Plan land use designation for the project site is Commercial, which allows large-scale commercial developments that serve both residents, visitors, and the surrounding region. Examples of this land use include: shopping centers, large format retail, auto sales and travel-related services such as hotels, gas stations, and restaurants. These uses typically require excellent access to freeway interchange.

The following specific General Plan Goals, Objectives, and Policies are applicable to the proposed project:

ECONOMIC DEVELOPMENT POLICY ED-G-7:

Seek and promote particular businesses or economic opportunities that provide needed local goods, services, employment, or those that enhance the City's physical and social well-being.

LAND USE POLICY LU-G-10:

Foster viable, pedestrian-oriented neighborhood centers and strong, visually attractive regional commercial centers with a mix of tenants to serve both local and regional needs.

Evidence/Analysis: Bertha Carrillo will have the ability to provide a wider range of service for customers and allows the restaurant to compete with similar type businesses. The proposed use would create a commercial use that is compatible with and complementary of existing commercial uses to the project site. In addition, the project would also be consistent with the General Plan land use policies as set forth above.

- b. The zoning designation for the project site is Highway Commercial (H-C). The purpose of the Highway Commercial Zoning District is to provide a district for the sale of goods and services which meet the needs of a broad trade area.

Evidence/Analysis: The proposed use complies with the Los Banos Municipal Code Title 9, Chapter 3, Article 13, Highway Commercial Zoning District, as the use will be consistent with the surrounding area, adjacent

uses, and function are primarily commercial in nature. A restaurant providing for the on-sale and serving of beer and wine is permitted in this zone.

2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use.

Evidence/Analysis: The on-sale of beer and wine will be conducted in accordance with ABC regulations and therefore, will not be a nuisance or detrimental to the neighborhood in which the store is located. The project contains conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity.

3. That the proposed use is compatible with the adjacent uses, properties, and neighborhoods and will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

Evidence/Analysis: The proposed use will be conducted within a commercial structure located at 1041 East Pacheco Boulevard. The project site is zoned Highway Commercial, which includes uses that serve alcohol. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, The City of Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

2. Specific Findings

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the area's function and character, problems of crime and loitering, and traffic problems and capacity.

Evidence/Analysis: The primary use in conjunction with the serving of beer and wine will be a restaurant. As reflected in the staff report, the number of on-sale licenses in the Census Tract is currently twelve (12). The project site will function primarily as commercial in nature, and is entirely consistent with a restaurant and

the on-sale and serving of beer and wine. The proposed on-sale of beer and wine is complementary to the proposed restaurant use that is compatible with and complementary of existing commercial uses in the area. The project would include conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering. Staff is unaware of any significant problems in the area related to crime and loitering, which would be negatively affected by the on-sale of beer and wine at this location.

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.

Evidence/Analysis: Conditions of Approval have been incorporated into the project which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity. The project is not located within the immediate proximity of any sensitive uses.

3. That the proposal will not interfere with the movement of people along an important pedestrian street.

Evidence/Analysis: Alcohol will not be allowed to be consumed beyond the premises of the restaurant at any time and it is not anticipated that persons will congregate on sidewalks or streets as a result of the proposed use. Signage will also be provided on the property and building which prohibit loitering. It is not anticipated that the on-sale of beer and wine at this location will adversely affect any important pedestrian right of ways.

4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.

Evidence/Analysis: There are single family residential units located to the south and east of the project site. The applicant will serve beer and wine for on-site consumption Monday through Sunday from 7:00 a.m. until 8:00 p.m., when the restaurant closes. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and

maintained to comply with State Laws, The City of Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

EXHIBIT C

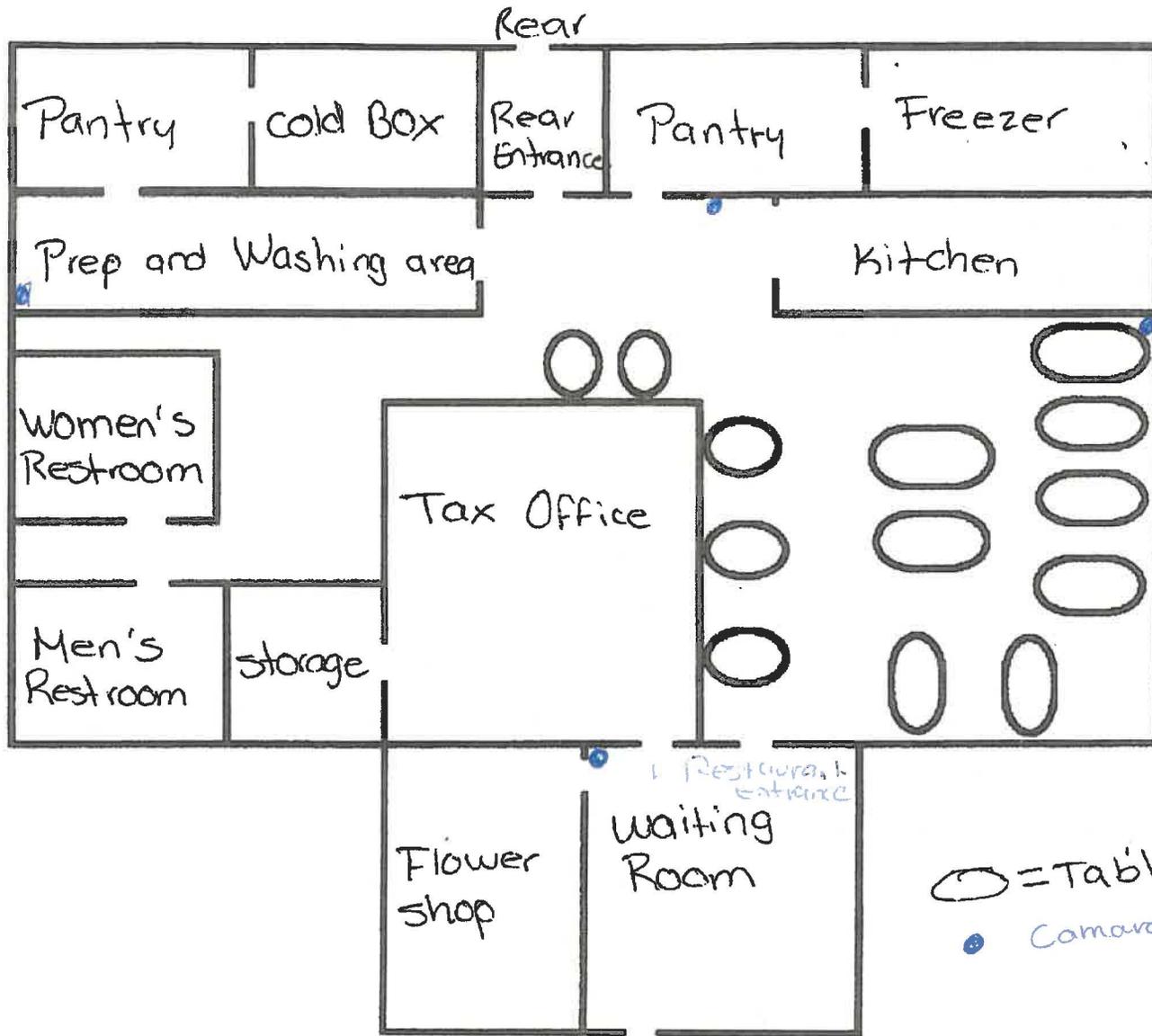
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #2019-04 – AJUA! RESTAURANT

1. The following conditions of approval shall apply to and be applicable to the applicant, property owner, and/or operator. Reference to applicant, property owner, and/or operator shall be interpreted to include all.
2. Conditional Use Permit 2019-04 is for Bertha Carrillo, for a proposed restaurant to be located at 1041 East Pacheco Boulevard, Assessor's Parcel Number: 026-182-003 and the requested use shall automatically and without notice expire after one (1) year from date of approval by the Los Banos City Council unless commenced. The City for cause may revoke this Conditional Use Permit. Any expansion, intensification, or significant change to the primary use and the uses approved under this Conditional Use Permit shall be permitted only upon modification of this Conditional Use Permit or approval of a separate Conditional Use Permit application. The Conditional Use Permit shall automatically and without notice expire one year after discontinuance of the primary use and/or the uses approved under the Conditional Use Permit.
3. The applicant/operator shall comply with all other requirements, laws and policies of other governmental agencies in the conduct and operation of said business.
4. The applicant/operator shall obtain and maintain an active Type 41 "on-sale of beer and wine for a bona-fide public eating place" license as defined by the Department of Alcoholic Beverage Control and shall provide a copy of said license upon issuance by the California Department of Alcoholic Beverage Control to the city of Los Banos Community and Economic Development Department prior to the sale of alcohol on the premises.
5. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
6. The applicant/operator shall be responsible for maintaining the exterior of the premises free of litter and trash at all times including the parking lot areas in front of the premises. No storage of equipment, supplies, or merchandise of any kind shall be allowed in the front or rear exterior of the building. All deliveries shall be made from the rear of the building.
7. The City Council reserves the right to review and/or revoke this permit should the applicant not adhere to the Conditions of Approval. The City may amend or impose new conditions to mitigate adverse effects in the neighborhood resulting from the use of alcohol on the premises.

8. The applicant/operator agrees to indemnify, hold harmless, and defend the City of Los Banos, its officers, agents and employees from any and all liability or claims that may be brought against the City of Los Banos arising out of its approval of this permit, or the environmental determination rendered in connection with the permit approval, or arising out of the operation of the use or uses allowed under the permit, save and except that caused solely by the City's active negligence.
9. The exterior of the premises, including parking lot areas (front and rear), shall be sufficiently illuminated, to the satisfaction of the Police Chief, during all hours of darkness when the premises are open for business in a manner so that persons accessing those areas at night are identifiable by law enforcement personnel.
10. The premises shall be operated primarily as a restaurant/ eating establishment as described in the application prepared by the applicant and filed with the Community and Economic Development Department. Any substantial or significant changes in use or operation of the premises from the Operational Statement may cause a review, amendment or revocation of the Conditional Use Permit. The applicant shall notify the Community and Economic Development Department of any substantial or significant changes in use or operation of the premises from the Operational Statement. The onsite consumption and sale of beer and wine shall be ancillary to the primary use as a restaurant/ eating establishment.
11. The use of the premises of the subject site shall be consistent with the Conditions of Approval and shall not be operated in a manner that deviates from the approved Conditional Use Permit filed application and operational statement, which shall constitute a violation and may result in the revocation or modification of the permit upon written notice to the owner of the subject site.
12. Authorization of a Conditional Use Permit granted pursuant to the provisions of Section 9-3.2322 of the Los Banos Municipal Code continue to be valid upon change of ownership of the site or structure which was the subject of the Conditional Use Permit application provided the use shall be subject to all provisions of the Municipal Code and all conditions placed on approval of the Conditional Use Permit are continually met. The applicant shall immediately notify the Community and Economic Development Department of any changes in ownership.
13. This Conditional Use Permit shall be subject to revocation by the Community and Economic Development Director or the Planning Commission upon a finding that:
 - a. Conditions of approval have not been fulfilled;
 - b. A significant change or intensification of the approved use;
 - c. The use has resulted in a nuisance or detriment to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the

neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

14. Consumption of alcohol shall only be allowed on the premises of the restaurant. If the applicant would like to pursue outside patio consumption of alcohol, where permissible, shall only be permitted with a barrier between the public right-of-way and restaurant patrons to be approved by the Community and Economic Development Director.
15. No loud amplification of music or voice shall be allowed outside.
16. The applicant/operator shall have monitoring cameras in the exterior and interior of the restaurant at all times to the satisfaction and approval of the Police Chief. The applicant shall always maintain the surveillance equipment in working order and keep the video recordings for 30 days to be made available to law enforcement upon request.
17. The premises shall be operated in accordance with the Los Banos Municipal Code Noise Ordinance.
18. The applicant shall acknowledge and execute receipt of a copy of the foregoing Conditions of Approval.
19. The applicant/operator shall provide signs prohibiting loitering on the property and/or building subject to the approval of the Community and Economic Development Director.
20. **This approval is conditioned upon and shall be effective upon payment in full of all outstanding invoices pursuant to the Cost Recovery Contract.**



Entrance







City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: December 6, 2019

Regarding: Notice of Public Hearing

Proposal: Conditional Use Permit #2019-04 – Type 41 Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act pursuant to Section 15301 Existing Facilities to allow the use of a Type 41 Alcohol License for the on-sale of beer and wine in conjunction with a bona-fide eating establishment. The requested Conditional Use Permit is for Bertha Carrillo dba Ajua! Restaurant to be located at 1041 E. Pacheco Blvd., more specifically identified as Assessor's Parcel Number 026-182-003.

The Los Banos Planning Commission held a public hearing on December 2, 2019, for the purpose of considering the above mentioned project. At the completion of the public hearing, the Planning Commission duly considered all evidence presented and recommended approval of Conditional Use Permit #2019-04 to the Los Banos City Council.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council meeting on Wednesday, December 18, 2019, at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Community & Economic Development Director, at City Hall or at (209) 827-2433.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.

Additional information may be obtained from Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Community & Economic Development Director



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta and City Council Members

FROM: Stacy Souza Elms, Community and Economic Development Director 

DATE: December 18, 2019

TYPE OF REPORT: Public Hearing

SUBJECT: Conditional Use Permit #2019-06 to allow the sale of alcohol under a Type 41 on-sale beer and wine license for Mountain Mike's Pizza Located at 2260 E. Pacheco Blvd., Suites A & B

Recommendation:

Staff recommends that the City Council adopt a resolution finding the proposed project to be categorically exempt from the California Environmental Quality Act pursuant to Section 15301, Existing Facilities and approves Conditional Use Permit #2019-06 to allow for the sale of alcohol under a Type 41 on-sale beer and wine license for Mountain Mike's Pizza located at 2260 East Pacheco Boulevard, Suites A and B; more specifically identified as APN: 428-160-027.

Background:

The applicant, Tariq Abedi, dba: Mountain Mike's Pizza, has requested a Conditional Use Permit for a Type 41 alcohol license to allow the on-sale of beer and wine in conjunction with a bona fide public eating place (casual restaurant) to be located at 2260 East Pacheco Boulevard, Suites A and B. The site was previously occupied by Village Liquor, which held a Type 21 alcohol license for off-sale of general alcohol. Being that the requested Type 41 on-sale ABC license is a modification in use, the applicant must obtain a Conditional Use Permit for the on-site sale and consumption of beer and wine.

On December 2, 2019, the Los Banos Planning Commission held a public hearing to review a request for a Conditional Use Permit for the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with an eating establishment. At the public hearing, the Planning Commission considered the application, including the staff report, presentation by staff, and public comment. As the recommending body, the Planning Commission recommended approval of Conditional Use Permit #2019-06 to the Los Banos City Council.

Discussion:

The proposed restaurant/ eating establishment will conduct business seven (7) days a week, Sunday through Thursday from 10:00 a.m. until 10:00 p.m., and on Fridays and Saturdays from 10:00 a.m. until 11:00 p.m. The on-site sale of beer and wine will cease when the restaurant closes. This will be the second Mountain Mike's Pizza restaurant located in Los Banos. The existing Mountain Mike's Pizza located at 503 West Pacheco Boulevard, is in good standing and to staffs knowledge there has been no incidents that have provoked the good standing of the present ABC license at the location.

The property is located within the Highway Commercial Zoning District. The intended eating establishment/ restaurant use, is an allowed use and is consistent with the Los Banos Municipal Code Title 9, Chapter 3, Article 13 Highway Commercial Zoning District (H-C).

LOCATION AND ACCESS:

The project site is located at 2260 East Pacheco Blvd, Suites A and B. The project site can be accessed from Pacheco Boulevard.



LAND USE:

Property	Land Use	Zone	General Plan
Project site	Commercial	H-C	C
North	Low Density Residential	R-1	LDR
South	Commercial	H-C	C
East	Commercial	H-C	C
West	Commercial	H-C	C

H-C =Highway Commercial
R-1=Low Density Residential

C=Commercial
LDR=Low Density Residential

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is found to be categorically exempt from the provisions of CEQA – Article 19, Section 15301 Existing Facilities. The applicant’s request for the on-sale of beer and wine for a bona fide public eating place involves the permitting and licensing of a proposed structure to be located at 2260 East Pacheco Boulevard, Suites A and B.

USE PERMIT ANALYSIS

Code Requirements

Pursuant to the Los Banos Municipal Code Section 9-3.2326 (b), a Conditional Use Permit is required for any establishment dispensing for sale or other consideration alcoholic beverages, including beer and wine, for on-sale or off-sale. The Planning Commission is the recommending body and the City Council is the decision making body for Conditional Use Permits regarding the on-sale and off-sale of alcoholic beverages pursuant to Los Banos Municipal Code Section 9-3.2314 (c). A Conditional Use Permit may be granted if the proposed use is conforming to the following criteria:

General Use Permit Criteria:

1. That the proposed use and project is consistent with the City of Los Banos General Plan, and Los Banos Municipal Code;
2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use;
3. That the proposed use is compatible with the adjacent uses, the properties, and neighborhoods and will not be detrimental or injurious to property and improvement in the neighborhood or to the general welfare of the City.

Specific On-Sale and Off-Sale Alcoholic Beverages Criteria:

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the

area's function and character, problems of crime and loitering, and traffic problems and capacity;

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
3. That the proposal will not interfere with the movement of people along an important pedestrian street; and
4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 P.M. and 7:00 A.M.

Staff has evaluated the proposal pursuant to the above criteria set forth in the Municipal Code and offers the following observations:

1. The primary use will be a casual family eating establishment/ restaurant (dine-in).
2. The surrounding area, adjacent uses, and function are primarily Commercial uses. A restaurant providing for the on-sale and serving of beer and wine in this location is consistent with the commercial uses of the Highway Commercial Zoning District.
3. Staff is unaware of any significant problems related to crime and loitering, in the surrounding area which would be exacerbated by the on-sale of beer and wine at this location.
4. The approval of the on-sale of beer and wine will not contribute to the undue proliferation of alcohol sales in the area where that use would be undesirable taking into account the characteristics of the area. The entitlement will include conditions of approval which will regulate the operational characteristics of allowing the serving of beer and wine and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering.
5. The proposed use is not located within the immediate vicinity to any churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.
6. The project is located on Pacheco Boulevard which is primarily occupied by commercial uses. Conditions of approval will regulate loitering and operational characteristics to insure that the proposal will not interfere with the movement of people along the public right-of-way.
7. There are residential units located to the north of the project site. The applicant will serve beer and wine for on-site consumption Sunday through Thursday from 10:00 a.m. until 10:00 p.m. and will be open on Friday and Saturday from 10:00 a.m. until 11:00 p.m., when the restaurant closes. It is not anticipated that the

proposed use would have a negative impact on the surrounding area. The applicant will be conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, The City of Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

All sales and consumption of alcohol will be conducted inside the premises and in conjunction with the serving of food. In addition, the project will be subject to conditions which will mitigate any adverse effects on the surrounding neighborhood and are intended to preserve the public health, safety, and welfare of persons and property in the vicinity. The restaurant will also be subject to the Los Banos Municipal Code Noise Ordinance.

Alcoholic Beverage Control

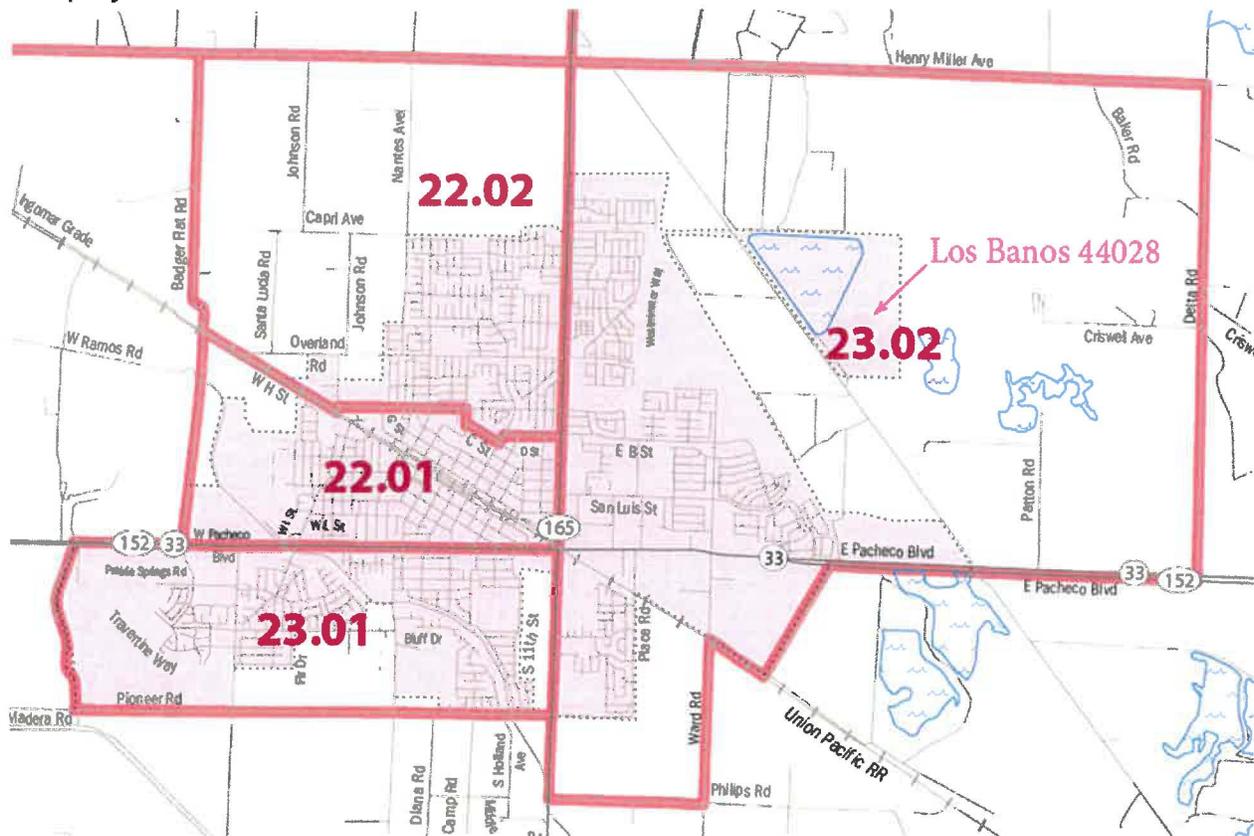
The California Department of Alcoholic Beverage Control (ABC) is the issuing authority for a Type 41 alcohol license. ABC has the authority pursuant to Section 23801 of the California Business and Professions Code to exercise certain conditions under the license, the personal qualifications of the licensee, the conduct of the business or the condition of the premises, which will protect the public welfare and morals, including, but not limited to, the following:

- a) Restrictions as to hours of sale
- b) Display of signs
- c) Employment of designated persons
- d) Types and strengths of alcoholic beverages to be served where such types or strengths are otherwise limited by law
- e) The portion of the privileges to be exercised under the license
- f) The personal conduct of the licensee

ABC may also refuse to issue a license to any person who has violated the Alcoholic Beverage Control Act, has a disqualifying criminal record, or is otherwise disqualified.

Census Tract

The project site is located in census tract 23.02.



PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise and notices were provided to adjacent property owners within a 300 foot radius of the subject property on December 6, 2019. As of the date of this staff report, no comments have been received.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Resolution
 - Exhibit A CEQA Findings
 - Exhibit B Project Findings
 - Exhibit C Conditions of Approval
2. Floor Plan
3. Site Photos
4. Public Hearing Notice – December 6, 2019

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS FINDING THE PROPOSED PROJECT TO BE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15301, EXISTING FACILITIES AND APPROVING CONDITIONAL USE PERMIT #2019-06 TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE AT 2260 EAST PACHECO BOULEVARD, SUITES A AND B; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 428-160-027.

WHEREAS, the applicant, Tariq Abedi, dba Mountain Mike's Pizza, has requested that the City of Los Banos consider a Conditional Use Permit to allow the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with a bona-fide public eating place to be located at 2260 East Pacheco Boulevard, Suites A and B, Assessor's Parcel Number: 428-160-027; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-06 for Mountain Mike's Pizza was determined to be categorically exempt from the provisions of CEQA per Article 19, Section 15301 Existing Facilities as the project site has not been developed; and

WHEREAS, the Los Banos Planning Commission held a public hearing on December 2, 2019, for the purpose of considering Conditional Use Permit #2019-06 and at the completion of the public hearing, duly considered the evidence presented and recommended approval of Conditional Use Permit #2019-06 to the Los Banos City Council; and

WHEREAS, a public hearing notice was published in the Los Banos Enterprise on December 6, 2019, and notices were mailed to property owners within a 300 foot radius of the project site as required by the Los Banos Municipal Code and California Government Code Section 65091; and

WHEREAS, the Los Banos City Council has held a duly noticed public hearing on Wednesday, December 18, 2019, reviewed said Conditional Use Permit request and staff report, has studied the compatibility of the applicant's request with adjacent land uses and has considered this request in conformance with the Conditional Use Permit criteria established in Section 9-3.2322 of the Los Banos Municipal Code; and

WHEREAS, the request/proposed use satisfies the criteria of the Los Banos Municipal Code.

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings for Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby affirm the determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 Existing Facilities and approves Conditional Use Permit #2019-06 to allow the on-sale of beer and wine in conjunction with a bona-fide public eating place, Type 41, located at 2260 East Pacheco Boulevard, Suites A and B; more specifically identified as Assessor's Parcel Number: 428-160-027, subject to the Conditions of Approval set forth in Exhibit C, attached hereto and incorporated herein by this reference.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 18th day of December 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR CONDITIONAL USE PERMIT #2019-06 – MOUNTAIN MIKE’S PIZZA

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. (“CEQA”) and Title 14, California Code of Regulations Section 15000 et seq. (the “CEQA Guidelines”), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos City Council hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-06 was evaluated and determined to be categorically exempt per Article 19, Section 15301 Existing Facilities as the request for the on-sale of beer and wine involves the permitting and licensing of an existing structure located at 2260 East Pacheco Blvd, Suites A and B; more specifically identified as Assessor’s Parcel Number: 428-160-027.

2. Conditional Use Permit #2019-06 was adequately noticed on December 6, 2019, for consideration at a public meeting on December 18, 2019.

3. No further environmental documentation is required as the Conditional Use Permit was contemplated and adequately analyzed in the initial review.

4. Prior to considering the proposed Project, the City Council considered the Categorical Exemption.

EXHIBIT B

FINDINGS FOR APPROVAL FOR CONDITIONAL USE PERMIT #2019-06 – MOUNTAIN MIKE'S PIZZA

The City of Los Banos City Council hereby finds as follows:

1. General Findings:

- a. The project is consistent with the City of Los Banos General Plan.

The existing General Plan land use designation for the project site is Commercial, which allows large-scale commercial developments that serve both residents, visitors, and the surrounding region. Examples of this land use include: shopping centers, large format retail, auto sales and travel-related services such as hotels, gas stations, and restaurants. These uses typically require excellent access to freeway interchange.

The following specific General Plan Goals, Objectives, and Policies are applicable to the proposed project:

ECONOMIC DEVELOPMENT POLICY ED-G-7:

Seek and promote particular businesses or economic opportunities that provide needed local goods, services, employment, or those that enhance the City's physical and social well-being.

LAND USE POLICY LU-G-10:

Foster viable, pedestrian-oriented neighborhood centers and strong, visually attractive regional commercial centers with a mix of tenants to serve both local and regional needs.

Evidence/Analysis: Tariq Abedi, dba Mountain Mike's Pizza, will have the ability to provide a wider range of service for customers and allows the restaurant to compete with similar type businesses. The proposed use would create a commercial use that is compatible with and complementary of existing commercial uses to the project site. In addition, the project would also be consistent with the General Plan land use policies as set forth above.

- b. The zoning designation for the project site is Highway Commercial (H-C). The purpose of the Highway Commercial Zoning District is to provide a district for the sale of goods and services which meet the needs of a broad trade area.

Evidence/Analysis: The proposed use complies with the Los Banos Municipal Code Title 9, Chapter 3, Article 13, Highway Commercial Zoning District, as the use will be consistent with the surrounding area, adjacent uses, and function are primarily commercial in nature. A restaurant providing for the on-sale and serving of beer and wine is permitted in this zone.

2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use.

Evidence/Analysis: The on-sale of beer and wine will be conducted in accordance with ABC regulations and therefore, will not be a nuisance or detrimental to the neighborhood in which the store is located. The project contains conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity.

3. That the proposed use is compatible with the adjacent uses, properties, and neighborhoods and will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

Evidence/Analysis: The proposed use will be conducted in the within a proposed commercial structure to be located at 2260 East Pacheco Boulevard, Suites A and B. The project site is zoned Highway Commercial, which includes uses that serve alcohol. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, The City of Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

2. Specific Findings

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the area's function and character, problems of crime and loitering, and traffic problems and capacity.

Evidence/Analysis: The primary use in conjunction with the serving of beer and wine will be a restaurant. As reflected in the staff report, the number of on-sale licenses in the Census Tract is currently seven (7). The project site will function primarily as commercial in nature, and is entirely consistent with a restaurant and the on-sale and serving of beer and wine. The proposed on-sale of beer and wine is complementary to the proposed restaurant use that is compatible with and complementary of existing commercial uses in the area. The project would include conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering. Staff is unaware of any significant problems in the area related to crime and loitering, which would be negatively affected by the on-sale of beer and wine at this location.

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.

Evidence/Analysis: Conditions of Approval have been incorporated into the project which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity. The project is not located within the immediate proximity of any sensitive uses.

3. That the proposal will not interfere with the movement of people along an important pedestrian street.

Evidence/Analysis: Alcohol will not be allowed to be consumed beyond the premises of the restaurant at any time and it is not anticipated that persons will congregate on sidewalks or streets as a result of the proposed use. Signage will also be provided on the property and building which prohibit loitering. It is not anticipated that the on-sale of beer and wine at this location will adversely affect any important pedestrian right of ways.

4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.

Evidence/Analysis: There are single family residential units located to the north of the project site. The applicant will serve beer and wine for on-site consumption Sunday through Thursday from 10:00 a.m. until 10:00 p.m., and on Friday and Saturday from 10:00 a.m. until 11:00 p.m., when the restaurant closes. It is not anticipated that the proposed use would have a negative impact on the

surrounding area. The applicant will be conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, The City of Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

EXHIBIT C

CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #2019-06 - MOUNTAIN MIKE'S PIZZA

1. The following conditions of approval shall apply to and be applicable to the applicant, property owner, and/or operator. Reference to applicant, property owner, and/or operator shall be interpreted to include all.

2. Conditional Use Permit 2019-06 is for Tariq Abedi, dba Mountain Mike's Pizza, located at 2260 East Pacheco Boulevard, Suites A and B, Assessor's Parcel Number: 428-160-027 and the requested use shall automatically and without notice expire after one (1) year from date of approval by the Los Banos City Council unless commenced. The City for cause may revoke this Conditional Use Permit. Any expansion, intensification, or significant change to the primary use and the uses approved under this Conditional Use Permit shall be permitted only upon modification of this Conditional Use Permit or approval of a separate Conditional Use Permit application. The Conditional Use Permit shall automatically and without notice expire one year after discontinuance of the primary use and/or the uses approved under the Conditional Use Permit.

3. The applicant/operator shall comply with all other requirements, laws and policies of other governmental agencies in the conduct and operation of said business.

4. The applicant/operator shall obtain and maintain an active Type 41 "on-sale of beer and wine for a bona-fide public eating place" license as defined by the Department of Alcoholic Beverage Control and shall provide a copy of said license upon issuance by the California Department of Alcoholic Beverage Control to the city of Los Banos Community and Economic Development Department prior to the sale of alcohol on the premises.

5. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.

6. The applicant/operator shall be responsible for maintaining the exterior of the premises free of litter and trash at all times including the parking lot areas in front of the premises. No storage of equipment, supplies, or merchandise of any kind shall be allowed in the front or rear exterior of the building. All deliveries shall be made from the rear of the building.

7. The City Council reserves the right to review and/or revoke this permit should the applicant not adhere to the Conditions of Approval. The City may amend or impose new conditions to mitigate adverse effects in the neighborhood resulting from the use of alcohol on the premises.

8. The applicant/operator agrees to indemnify, hold harmless, and defend the City of Los Banos, its officers, agents and employees from any and all liability or claims that may be brought against the City of Los Banos arising out of its approval of this permit, or the environmental determination rendered in connection with the permit approval, or arising out of the operation of the use or uses allowed under the permit, save and except that caused solely by the City's active negligence.

9. The exterior of the premises, including parking lot areas (front and rear), shall be sufficiently illuminated, to the satisfaction of the Police Chief, during all hours of darkness when the premises are open for business in a manner so that persons accessing those areas at night are identifiable by law enforcement personnel.

10. The premises shall be operated primarily as a restaurant/ eating establishment as described in the application prepared by the applicant and filed with the Community and Economic Development Department. Any substantial or significant changes in use or operation of the premises from the Operational Statement may cause a review, amendment or revocation of the Conditional Use Permit. The applicant shall notify the Community and Economic Development Department of any substantial or significant changes in use or operation of the premises from the Operational Statement. The onsite consumption and sale of beer and wine shall be ancillary to the primary use as a restaurant/ eating establishment.

11. The use of the premises of the subject site shall be consistent with the Conditions of Approval and shall not be operated in a manner that deviates from the approved Conditional Use Permit filed application and operational statement, which shall constitute a violation and may result in the revocation or modification of the permit upon written notice to the owner of the subject site.

12. Authorization of a Conditional Use Permit granted pursuant to the provisions of Section 9-3.2322 of the Los Banos Municipal Code continue to be valid upon change of ownership of the site or structure which was the subject of the Conditional Use Permit application provided the use shall be subject to all provisions of the Municipal Code and all conditions placed on approval of the Conditional Use Permit are continually met. The applicant shall immediately notify the Community and Economic Development Department of any changes in ownership.

13. This Conditional Use Permit shall be subject to revocation by the Community and Economic Development Director or the Planning Commission upon a finding that:

- a. Conditions of approval have not been fulfilled;
- b. A significant change or intensification of the approved use;

c. The use has resulted in a nuisance or detriment to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

14. Consumption of alcohol shall only be allowed on the premises of the restaurant. If the applicant would like to pursue outside patio consumption of alcohol, where permissible, shall only be permitted with a barrier between the public right-of-way and restaurant patrons to be approved by the Community and Economic Development Director.

15. No loud amplification of music or voice shall be allowed outside.

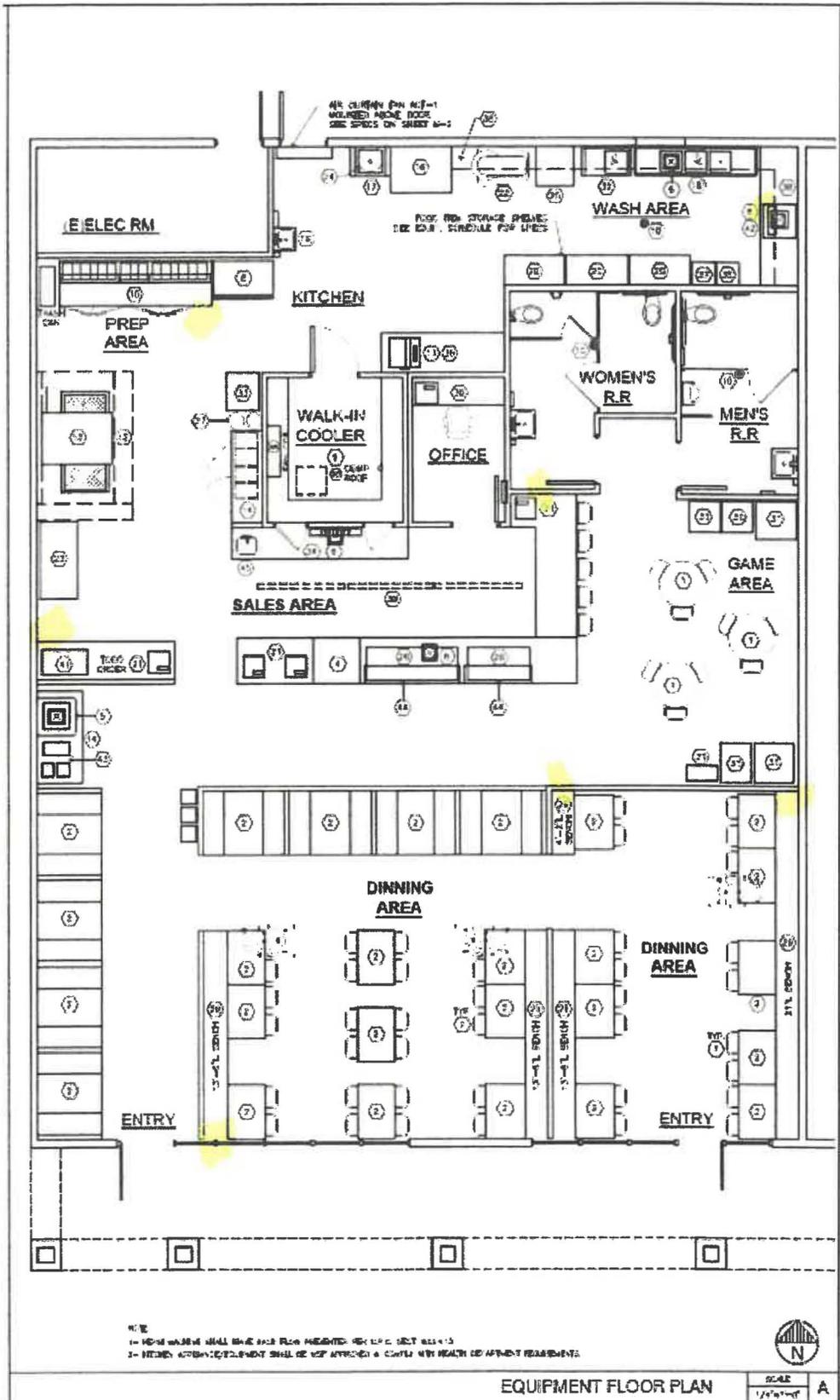
16. The applicant/operator shall have monitoring cameras in the exterior and interior of the restaurant at all times to the satisfaction and approval of the Police Chief. The applicant shall always maintain the surveillance equipment in working order and keep the video recordings for 30 days to be made available to law enforcement upon request.

17. The premises shall be operated in accordance with the Los Banos Municipal Code Noise Ordinance.

18. The applicant shall acknowledge and execute receipt of a copy of the foregoing Conditions of Approval.

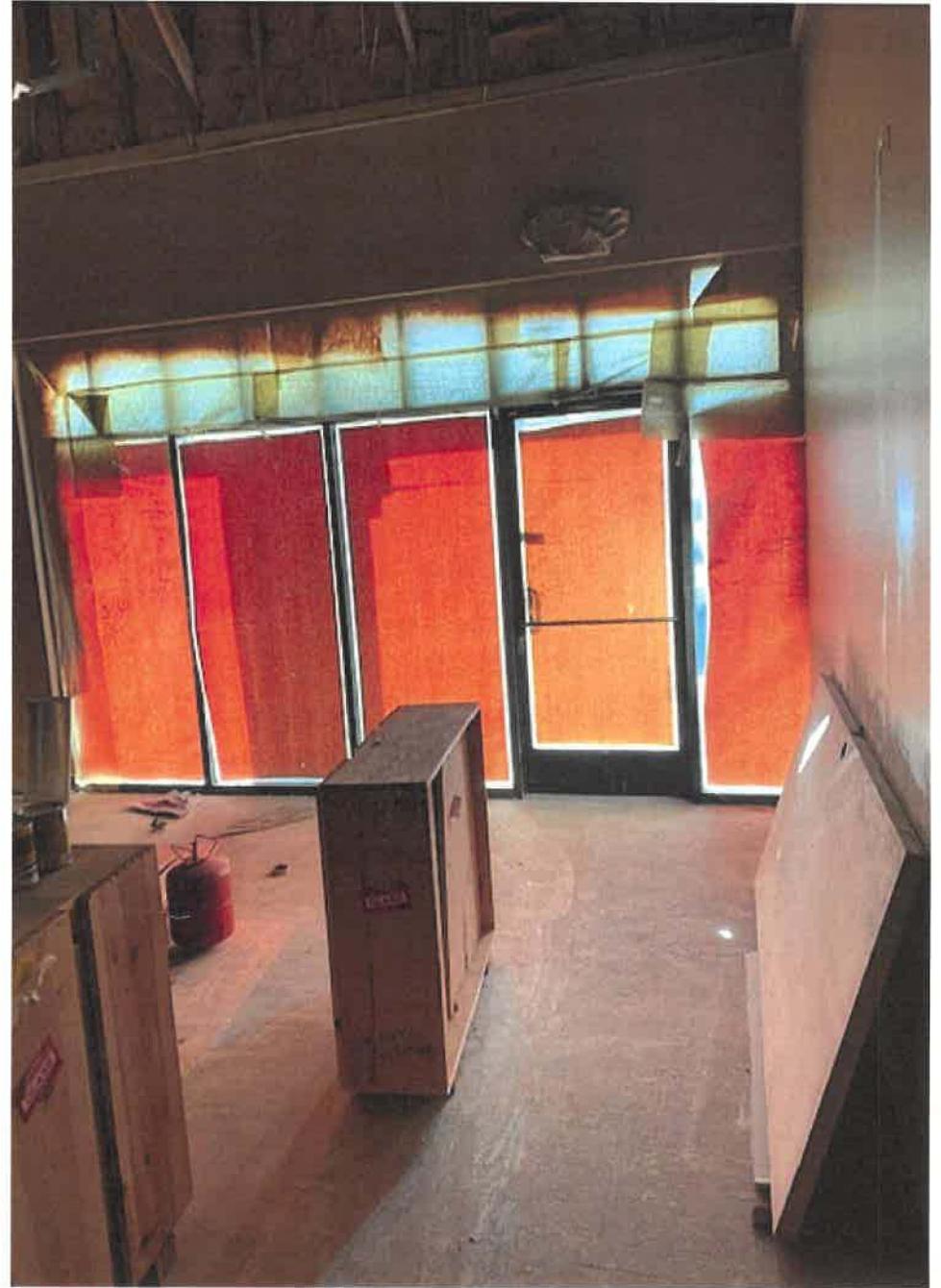
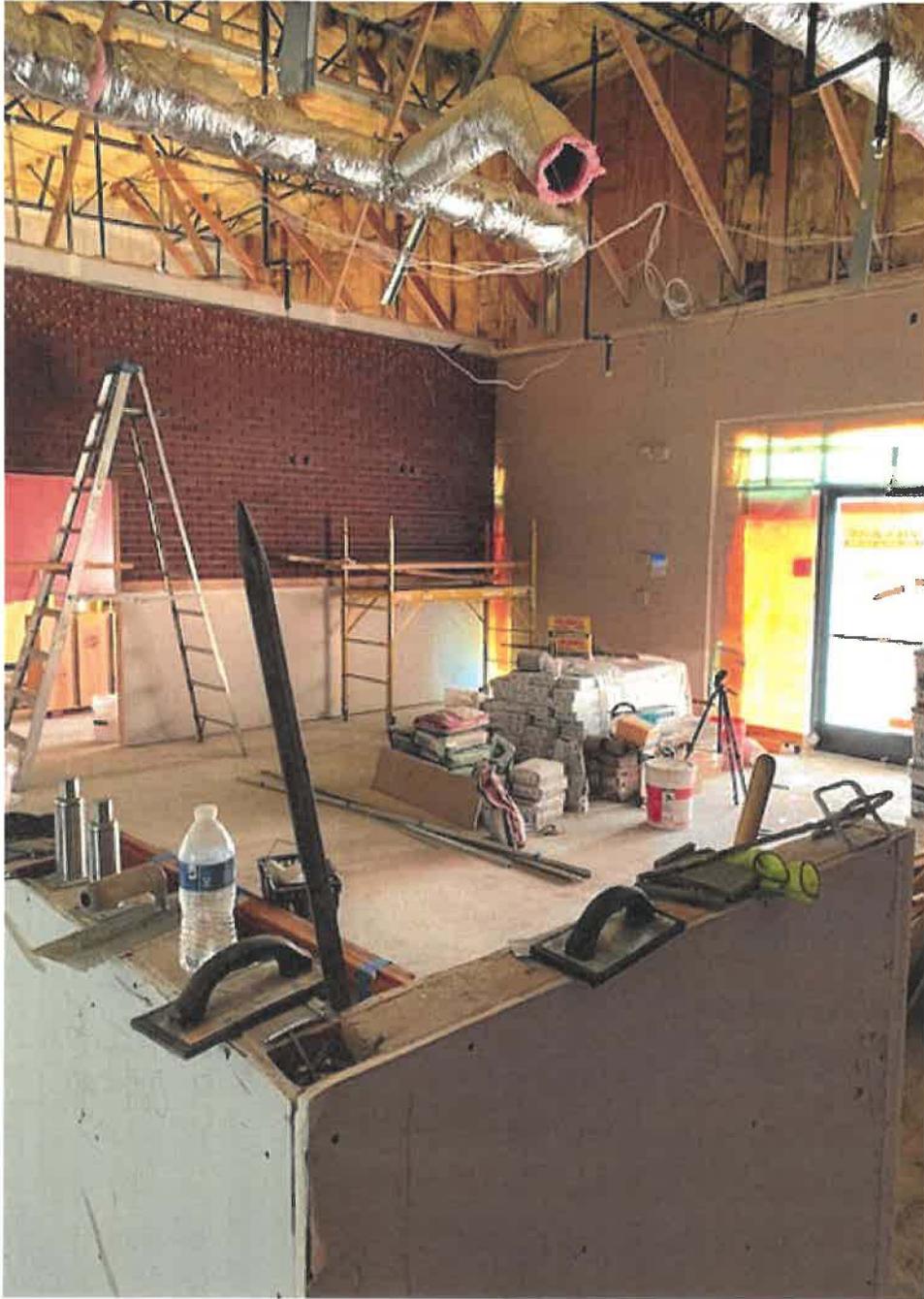
19. The applicant/operator shall provide signs prohibiting loitering on the property and/or building subject to the approval of the Community and Economic Development Director.

20. This approval is conditioned upon and shall be effective upon payment in full of all outstanding invoices pursuant to the Cost Recovery Contract.



- CAMERAS









City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: December 6, 2019

Regarding: Notice of Public Hearing

Proposal: Conditional Use Permit #2019-06 – Type 41 Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act pursuant to Section 15301 Existing Facilities to allow the use of a Type 41 Alcohol License for the on-sale of beer and wine in conjunction with a bona-fide eating establishment. The requested Conditional Use Permit is for Tariq Abedi dba Mountain Mike's Pizza to be located at 2260 E. Pacheco Blvd., Ste A & B, more specifically identified as Assessor's Parcel Number 428-160-027.

The Los Banos Planning Commission held a public hearing on December 2, 2019, for the purpose of considering the above mentioned project. At the completion of the public hearing, the Planning Commission duly considered all evidence presented and recommended approval of Conditional Use Permit #2019-06 to the Los Banos City Council.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council meeting on Wednesday, December 18, 2019, at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Community & Economic Development Director, at City Hall or at (209) 827-2433.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.

Additional information may be obtained from Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Community & Economic Development Director



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor and City Council Members

FROM: Mason Hurley, Assistant Fire Chief



DATE: December 18, 2019

SUBJECT: Introduction of an Ordinance Adopting the 2019 California Building Standards Code

TYPE OF REPORT: Public Hearing

Recommendation:

Waiving of the first reading and introduction of an ordinance to the City Council of the City of Los Banos, adopting by reference the 2019 Edition of the California Building Standards Code

Discussion:

The California Building Standards Code (California Code of Regulations, Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12) is published in its entirety every three years and is applicable to all buildings that submit an application for a building permit during its effective period. The Building Standards Code incorporates all of the regulations applicable to all disciplines of the construction industry including the Building, Electrical, Mechanical, and Plumbing Codes.

The California Building Standard Codes are based on model codes written by the International Code Council, the National Fire Protection Association, and the International Association of Plumbing and Mechanical Officials. The publication of code updates by these organizations triggers State consideration, amendment, and adoption of an updated set of codes to be used by jurisdictions within the state. Each triennial

edition of the California Building Standards Code becomes effective 180 days after its publication date of July 1. Therefore, the 2019 Building Standards Codes go into effect on January 1, 2020 and all building permit submittals after January 1, 2020 will be subject to the Codes.

Local Amendment

The California Health and Safety Code enables local jurisdictions to modify the California Building Standards Code and adopt different or more restrictive requirements with the caveat that:

- The local modifications must be substantially equivalent to, or more stringent than, building standards published in the California Building Standards Code; and
- The local jurisdiction is required to make specific or express findings that such changes are reasonably necessary because of local geological, climatic, or topographic conditions.

Staff is not recommending the adoption of any new local amendments to the Building Code.

Synopsis

Title 8, Building Codes, of the City of Los Banos Municipal Code, incorporates the Building Standards Code plus locally adopted amendments to the codes and is known as the Building Codes of the City of Los Banos. The Building Code of the City of Los Banos applies to the construction of any building or structure in the city on public or private land except for structures constructed in the public right of way. The proposed ordinance adopts all parts of the 2109 California Standards Building Code with the exception of Part 9. Part 9 is the California Fire Code that is adopted by separate ordinance.

Fiscal Impact:

There will be no fiscal impact on the City of Los Banos for adopting the proposed Ordinance.

Reviewed by:



Alex Terrazas,
City Manager

Attachments:

Proposed Ordinance
Public Hearing Notice

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, ADOPTING BY REFERENCE THE 2019 EDITION OF THE CALIFORNIA BUILDING CODE, THE 2019 EDITION OF THE CALIFORNIA ENERGY CODE, THE 2019 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE, THE 2019 EDITION OF THE CALIFORNIA REFERENCED STANDARDS CODE, THE 2019 EDITION OF THE CALIFORNIA ELECTRICAL CODE, THE 2019 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2019 EDITION OF THE CALIFORNIA ADMINISTRATIVE CODE, THE 2019 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE, THE 2019 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 2019 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, THE 2019 EDITION OF THE CALIFORNIA PLUMBING CODE; BY AMENDMENT TO TITLE 8 CHAPTER 1 OF THE LOS BANOS MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF LOS BANOS MAKES THE FOLLOWING FINDINGS:

WHEREAS, California Health & Safety Code Section 18938 provides that the building standards contained in the California Building Code, 2019 Edition, and incorporates, by adoption, the 2018 Edition of the International Building Code of the International Code Council with the California amendments, shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Buildings Standards Code by the California Building Standards Commission; and

WHEREAS, the City Council of the City of Los Banos has previously adopted the “Uniform Building Code, 2016 Edition,” including the appendix, which was prepared by the International Conference of Building Officials and Western Fire Chief’s Association, with certain amendments as the Building Code of the City; and

WHEREAS, after due consideration, the City Council of the City of Los Banos hereby finds that it desires to adopt the most recent version of the California Building Code as the City’s Building Code, with certain amendments to provide further safety protections to the citizens of the City of Los Banos; and

WHEREAS, California Health & Safety Code Section 18941.5 provides that if a city makes an express finding that building standards that are more restrictive than those standards provided in the international codes are reasonably necessary because of local climatic, geological, or topographical conditions, a city may establish more restrictive building standards; and

WHEREAS, the City Council of the City of Los Banos hereby finds the amendments to the “California Building Code, 2019 Edition,” are reasonably necessary to provide sufficient and effective protection of life, health, and property in consideration of the local climatic, geologic and topographic conditions as stated below; and

A. During winter months, the San Joaquin Valley experiences thick fog, heavy rains and extreme wind conditions that in past experience has caused structural damage within the City.

B. Merced County is located within an area with potential seismic activity. The proposed amendments will increase the ability of the structural components to sustain their functionality.

C. The City of Los Banos to a great extent lies on a level plain, as a result, heavy rains have historically threatened flooding throughout the City, which can cause delays for emergency response, or in some situations, make it impossible for responders to get to certain areas of the City. Flooding is both a climatic and topographic problem.

D. The City of Los Banos is located in an area subject to a climatic condition of high winds. This environment is conducive to rapidly spreading fires; control of such fires requires rapid response. Obstacles generated by a strong wind, such as fallen trees, streetlights and utility poles, may greatly impact the response time to reach an incident scene; and

E. Due to the topographical conditions of sprawling development separated by two congested state highways, it is prudent to rely on measures to allow for rapid access and entry to an incident scene.

THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Section 8-1.01 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.01 Adoption of the California Building Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Building Code, 2019 Edition, Volumes 1 & 2 (Part 2 of Title 24 of the California Code of Regulations), based on the 2018 International Building Code as published by the International Code Council, together with Appendices Chapter G – Flood-Resistant Construction, Chapter H – Signs, Chapter I – Patio Covers, Chapter J – Grading, and Chapter K – Central Valley Flood Protection Plan, and Chapter O – Emergency Housing, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full,

subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Building Code of the City of Los Banos.

Section 2. Section 8-1.04 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.04 Adoption of the California Energy Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Energy Code, 2019 Edition (Part 6 of Title 24 of the California Code of Regulations), published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Energy Code of the City of Los Banos.

Section 3. Section 8-1.05 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.05 Adoption of California Historical Building Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Historical Building Code, 2019 Edition (Part 8 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Historical Building Code of the City of Los Banos.

Section 4. Section 8-1.06 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.06 Adoption of California Referenced Standards Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Referenced Standards Code, 2019 Edition (Part 12 of Title 24 of the California Code of Regulations, published by the International Code Council together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as

though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Referenced Standards Code of the City of Los Banos.

Section 5. Section 8-1.07 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.07 Adoption of California Electrical Code 2019 Edition.

For the purpose of prescribing regulations governing the installation, erection, construction, enlargement, alteration, repair, maintenance and inspection of electrical facilities within the City, the California Electrical Code, 2019 Edition (Part 3 of Title 24 of the California Code of Regulations), including appendix, based on the 2018 National Electrical Code as published by the National Fire Protection Association, together with its Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter, and said Code shall be known as the Electrical Code of the City of Los Banos.

Section 6. Section 8-1.09 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.09 Adoption of California Mechanical Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Mechanical Code, 2019 Edition (Part 4 of Title 24 of the California Code of Regulations), including appendix, based on the 2018 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Mechanical Code of the City of Los Banos.

Section 7. Section 8-1.10 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.10 Adoption of the California Administrative Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Administrative Code, 2019 Edition (Part 1 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as

though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Administrative Code of the City of Los Banos.

Section 8. Section 8-1.11 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.11 Adoption of the California Existing Building Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Existing Building Code, 2019 Edition (Part 10 of Title 24 of the California Code of Regulations), based on the 2018 International Existing Building Codes published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Existing Building Code of the City of Los Banos.

Section 9. Section 8-1.12 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.12 Adoption of the California Green Building Standards Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Green Building Standards Code, 2019 Edition (Part 11 of the Title 24 of the California Code of Regulations), as published by the California Buildings Standards Commission, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Green Building Standards Code of the City of Los Banos.

Section 10. Section 8-1.13 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.13 Adoption of the California Residential Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, that certain Code designated as the "California Residential Code, 2019 Edition (Part 2.5 of Title 24 of the California Code of Regulations), based on the 2018 International Residential Code and as published by the

International Code Council, together with all Appendices with the exception of Appendix L-Permit Fees, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Residential Code of the City of Los Banos.

Section 11. Section 8-1.15 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.15 Adoption of the California Plumbing Code 2019 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Plumbing Code, 2019 Edition (Part 5 of Title 24 of the California Code of Regulations), including appendix, based on the 2018 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials, , one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Plumbing Code of the City of Los Banos.

Section 12. Section 8-1.18 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.18 Amendments to the California Plumbing Code 2019 Edition.

The following amendments, additions, and deletions are made to the California Plumbing Code 2019 Edition, as adopted by this Chapter.

A. Amendment: Section 504 Water Heater Locations

Section 504.1 of the California Plumbing Code is hereby amended to add Section 504.1(3) to read as follows:

(3) Prohibited Locations: No water heater which depends on the combustion of fuel for heat shall be installed in any room designed to be used for sleeping purposes, or in any garage, bathroom, or clothes closet, or in any closet or other confined space opening in any bath or bathroom.

B. Amendment: Section 507 Water Heater Protection From Damage

Section 507.13 (1) of the California Plumbing Code is hereby amended to read as follows:

Section 507.13 (1) Protection from Damage:

- (a) Water heaters generating a glow, spark, or flame capable of igniting flammable vapors may be installed in a residential garage constructed on or before August 4, 1973, provided the pilots and burners, or heating elements and switches, are at least eighteen (18") inches above the floor level.
- (b) Where such water heaters installed within a garage are enclosed in a separate, approved compartment having access only from outside of the garage, such water heaters may be installed at floor level provided the required combustion air is also taken from the exterior of the garage. Fuel burning water heaters having sealed combustion chambers need not be elevated.
- (c) All water heaters installed in areas where they may be subjected to mechanical damage shall be suitably guarded against such damage by being installed behind adequate barriers or by being elevated or located out of the normal path of a vehicle using and such garage."

Section 13 The City Council finds that the changes made to the uniform codes are enacted to mitigate the threats posed to public peace, health and safety from earthquakes and fire. In this regard, the recitals set forth in this Ordinance are incorporated herein by reference a findings.

Section 14. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with the respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 15. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 16. California Environmental Quality Act (CEQA) Guidelines section 15060(c)(2) states that a project is not subject to CEQA review where the activity will not result in a direct or reasonably foreseeable indirect physical change to the environment. CEQA Guidelines Section 15061(b)(3) states that a project is exempt from CEQA "where it can be seen with certainty that environment." The approval of the code amendments and adoptions set forth in this Ordinance does not approve any physical development project, and it would not result in a direct or indirect physical change in the environment. Therefore, these code amendments would not have the potential to result in individually or cumulatively significant effects on the environment and these code amendments are exempt from review under CEQA.

Section 17. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of

care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 18. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in this Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, and aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council _____ and seconded by Council _____
on the 18th day of December, 2019.

Passed on the _____ day of _____, 201____, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

APPROVED:

MAYOR – City of Los Banos

ATTEST:

CITY CLERK – City of Los Banos

**CITY OF LOS BANOS
NOTICE OF PUBLIC HEARING**

TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTION BY
REFERENCE THE 2019 EDITION OF THE CALIFORNIA BUILDING STANDARDS
CODE AND RELATED 2019 EDITION CODES TO THE CITY OF LOS BANOS'
BUILDING CODE ORDINANCE

WHERE: City Council Chambers
520 J Street
Los Banos, California

WHEN: December 18, 2019
7:00 PM

Notice is hereby given that the City of Los Banos will conduct a Public Hearing to receive public comment and consider amendments to the City Building Code Ordinance by adoption by reference the California Building Code 2019 Edition and related 2019 Edition Codes.

Title 8, Chapter 1, Building Codes, of the City of Los Banos Municipal Code, incorporates the California Building Code plus locally adopted amendments to the codes and is known as the Building Codes of the City of Los Banos. The Los Banos City Council will consider an ordinance, which if adopted will substantially revise Title 8 chapter 1 of the Los Banos Municipal Code as it relates to the California Building Code by adoption by reference the California Building Standards Code 2019 Edition; the California Building Code 2019 Edition; the California Energy Code 2019 Edition; the California Historical Building Code 2019 Edition; the California Referenced Standards Code 2019 Edition; the California Electrical Code 2019 Edition; the California Mechanical Code 2019 Edition; the California Administrative Code 2019 Edition; the California Existing Building Code 2019 Edition; the California Green Building Standards Code 2019 Edition; and the California Residential Code 2019 Edition; California Plumbing Code 2019 Edition.

The Public Hearing will be held at the regular meeting of the Los Banos City Council on Wednesday, December 18, 2019 at 7:00 p.m. in the Council Chambers at Los Banos City Hall located at 520 J Street, or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon. Questions regarding the above-referenced item may be directed to Mason Hurley, Fire Chief, Main Fire Station, 333 7th Street or at (209) 827-7025. Copies of the primary code and also copies of the secondary codes, if any, being considered for adoption, are on file with the City Clerk, and are open for public inspection.

All interested persons will be given an opportunity to comment on this item at the Public Hearing. In addition, written comments may be submitted to the City Council at or prior to the hearing, mailed to 333 7th Street, Los Banos, CA 93635, Attention: Mason Hurley, Fire Chief. Please reference hearing title and date of hearing in any correspondence. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. Please note that if you challenge the City's final decision on the above matter in court, you may be limited to raising only those factual and legal issues you or someone else raised at the public hearing described in this notice, or in

written correspondence delivered to the City Council at, or prior to, the public hearing. In light of the foregoing, all interested members of the public are encouraged to voice their concerns regarding the above matter either in person at the hearing or in writing through correspondence addressed to the City Council and submitted to the City Council at or prior to the date of the above hearing.

It is the intention of the City to comply with the Americans with Disabilities Act (ADA). If you require special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the City Clerk's Office at (209) 827-7000 at least 48 hours prior to the meeting to inform us of your particular needs.

THE CITY OF LOS BANOS
MASON HURLEY
FIRE CHIEF



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor and City Council Members

FROM: Mason Hurley, Fire Chief 

DATE: December 18, 2019

SUBJECT: Introduction of an Ordinance Adopting the 2019 California Fire Code

TYPE OF REPORT: Public Hearing

Recommendation:

Waiving of the first reading and introduction of an ordinance to the City Council of the City of Los Banos, adopting by reference the 2019 Edition of part 9 (California Fire Code) of the California Building Standards Code.

Discussion:

The request is to adopt the 2019 edition of the California Code of Regulations, Title 24, Part 9, also referred to as the California Fire Code, with local amendments. The 2019 California Fire Code incorporates, by adoption, the 2018 edition of the International Fire Code of the International Code Council, with California amendments. A local City or County may make more restrictive standards necessary for local conditions.

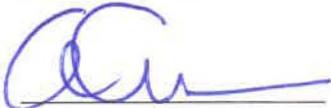
Part 9 (The California Fire Code) is the official triennial compilation and publication of the adoptions, amendments, and repeal of administrative regulations to the California Code of Regulations, Title 24, also referred to as the California Building Standards Code. The California Building Standards Code is published every three years by order of the California legislature, with supplements published in intervening years. The California legislature delegated authority to various state agencies, boards, commissions and departments to create building regulations to implement the state statutes. These building regulations or standards have the same force of law, and take effect 180 days after their publication.

Attached is the proposed Ordinance that identifies the language and numbering necessary for adoption of the 2019 California Fire Code and the local amendments that have been identified as enhancements desirable for the safety of the citizens and preservation of property.

Fiscal Impact:

There will be no fiscal impact on the City of Los Banos for adopting the proposed Ordinance.

Reviewed by:



Alex Terrazas,
City Manager

Attachments:

Proposed Ordinance

Public Hearing Notice

ORDINANCE NO. _____
AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF LOS BANOS ADOPTING BY REFERENCE THE 2019 EDITION OF
THE CALIFORNIA FIRE CODE BY AMENDMENT TO TITLE 4 CHAPTER 3 OF THE
LOS BANOS MUNICIPAL CODE AND ADOPTION OF LOCAL AMENDMENTS
THERE TO.

THE CITY COUNCIL OF THE CITY OF LOS BANOS MAKES THE
FOLLOWING FINDINGS:

WHEREAS, the California Building Standards Code, Title 24, which incorporates the California Fire Code, is adopted every three years by order of the California Legislature with supplements published in intervening years; and

WHEREAS, pursuant to California Government Code Section 50022.1 et seq. the City of Los Banos (“City”) may adopt by reference the 2019 California Fire Code, based on the International Fire Code, 2018 Edition, with errata, published by International Code Council (ICC), as adopted by the State of California pursuant to Title 24, Part 9 of the California Code of Regulations; and

WHEREAS, the City Council of the City of Los Banos has previously adopted the “California Fire Code, 2016 Edition,” including the appendix, which was prepared by the International Conference of Building Officials and Western Fire Chiefs Association, with certain amendments as the Fire Code of the City; and

WHEREAS, after due consideration, the City Council of the City of Los Banos hereby finds that it desires to adopt the most recent version of the California Fire Code as the City’s Fire Prevention Code, with certain amendments to provide further safety protections to the citizens of the City of Los Banos; and

WHEREAS, California Health & Safety Code Section 18941.5 provides that if a city makes an express finding that building standards that are more restrictive than those standards provided in the international codes are reasonably necessary because of local climatic, geological, or topographical conditions, a city may establish more restrictive building standards; and

WHEREAS, the City Council of the City of Los Banos hereby finds the amendments to the “California Fire Code, 2019 Edition,” are reasonably necessary to provide sufficient and effective protection of life, health, and property in consideration of the local climatic, geologic and topographic conditions as stated below; and

A. During winter months, the San Joaquin Valley experiences thick fog that is a danger to emergency personnel responding to fires and other emergencies and delays response time of emergency vehicles by two to three minutes the normal response time. Fire engines and

trucks must greatly reduce their speed in the fog to compensate for appropriate braking distances because of the weight of the vehicles; and

B. Merced County is located within an area with potential seismic activity. After a large seismic event, the potential for multiple fires occurring simultaneously will tax available firefighting resources. Built-in fire protection will assist in extinguishing or controlling fires in larger structures, which will increase the availability of firefighting resources after seismic activity; and

C. The City of Los Banos to a great extent lies on a level plain, as a result, heavy rains have historically threatened flooding throughout the City, which can cause delays for emergency response, or in some situations, make it impossible for responders to get to certain areas of the City. Flooding is both a climatic and topographic problem; and

D. The City of Los Banos is located in an area subject to a climatic condition of high winds. This environment is conducive to rapidly spreading fires; control of such fires requires rapid response. Obstacles generated by a strong wind, such as fallen trees, streetlights and utility poles, may greatly impact the response time to reach an incident scene; and

E. Due to the topographical conditions of sprawling development separated by two congested state highways, it is prudent to rely on measures to allow for rapid access and entry to an incident scene.

THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Section 4-3.01 of Title 4, Chapter 3 of the Los Banos Municipal Code is hereby retitled and amended to read as follows:

Sec. 4-3.01 Adoption of the California Fire Code 2019 Edition.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code known as the 2019 California Fire Code (Part 9 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Fire Prevention Code of the City of Los Banos.

Section 2. Section 4-3.07 of Title 4, Chapter 3 of the Los Banos Municipal Code is hereby retitled and amended to read as follows:

Sec. 4-3.07 Amendments to the California Fire Code 2019 Edition.

The California Fire Code is hereby amended as follows:

Amendment No. 1

Chapter 1: Section [A] 102.8 Subjects not regulated by this code.

Section [A] 102.8, Chapter 1 of the California Fire Code, 2019 Edition is amended to read as follows:

Section [A] 102.8. **Subjects not regulated by this code.** Where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this Code. Nothing herein shall derogate from the power of the Fire Chief to determine compliance with codes or standards for those activities or installations within the Fire Chief's jurisdiction or responsibility.

EXCEPTION: Recognized standards shall not include any standard which attempts to regulate local authority as to minimum daily staffing levels and incident response levels. These standards include, but are not limited to NFPA 1710 & 1720.

Amendment No. 2

Chapter 1: [A] Section 104.1 General.

Section [A] 104.1 of the 2019 Edition of the California Fire Code is hereby amended to add Section 104.1.1 as follows:

Section 104.1.1 **Permits, Fire Suppression, and Inspection Recovery of Costs.** The Fire Department shall recover cost that reasonably constitute the cost of fire suppression, inspections, clean-up of chemical spills, the cost of suppression chemicals, material and/or equipment used to mitigate the hazard. Cost recovery against a property owner and/or other responsible person when the act is a result of that person's willful negligence and/or negligence, violation of federal or state statute, or local ordinance.

Amendment No. 3

Chapter 1: [A] Section 104.10.1 Assistance from other agencies.

Section [A] 104.10.1, Chapter 1 of the California Fire Code, 2019 Edition, is amended to read as follows:

Section 104.10.1. **Assistance from other agencies.** The Fire Chief, Fire Chief Officers and the fire investigation team who have been designated by the Fire Chief shall have the powers of a police officer in performing their duties under this code.

Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires when requested to do so.

Amendment No. 4

Chapter 1: [A] Section 105 Permits

Section [A] 105.6 of the 2019 Edition of the California Fire Code is hereby amended to read as follows:

Section 105.6. The requirements of this section shall be subject to the permits specified in the California Fire Code as adopted and amended. Permits, Inspections, and Plan review fees may be provided by resolution by the City Council or as provided by the California Building Code and/or California Fire Code and/or Reference to the Building Standards. All required plans and permits shall be submitted to the Fire Department for review and approval prior to issuance of any permits required by this section and/or required by the City.

Amendment No. 5

Chapter 5: Section 506

Section 506.1 of the 2019 Edition of the California Fire Code is hereby amended to add Section 506.1(a) to read as follows:

When access to or within a structure or an area is unduly difficult because of secure openings, where immediate access is necessary for life saving or fire fighting purposes, or where an automatic fire suppression and/or standpipe system is installed, or where an automatic alarm system is installed, or where a gate or cross arm impedes ingress through a fire lane, or where the area or building is protected by a locked gate, a key box or a security padlock shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department key box shall be a "Knox Box." The Knox Box and security padlock shall be obtained through the City of Los Banos Fire Department. The key boxes shall contain, but not be limited to the following items as designated by the Chief: (i) labeled keys to locked points of egress, whether interior or exterior; (ii) labeled keys to locked mechanical rooms; (iii) labeled keys to any gate or secured areas not installed with a Knox Box or Security Padlock; (iv) labeled keys to any other areas that may be required by the Chief; (v) a list with the names and telephone numbers for the emergency contact persons; (vi) floor plan of the interior building showing locations of shut offs; decals shall be installed/displayed as required by the Chief.

When hazardous materials as defined in Chapter 27 of the California Fire Code are stored or dispensed or other conditions exist on the premises where information is necessary for life saving or fire fighting purposes as determined by the Fire Chief, a Document Storage Box shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department document storage box shall be a "Knox

Document Storage Cabinet”. The “Knox Document Storage Cabinet” shall be obtained through the City of Los Banos Fire Department. The box shall contain, but not be limited to the following items as designated by the Chief: (i) blueprints; (ii) floor plans; (iii) MSDS hazardous materials information; (iv) any other emergency response related items as required by the Chief.

Amendment No. 6

Chapter 9: Section 903 AUTOMATIC SPRINKLER SYSTEMS Automatic Fire Extinguishing Systems

Section 903.2 of the 2019 Edition of the California Fire Code is hereby amended to add Sections 903.2(a) through (m) to read as follows:

(a) Notwithstanding any less restrictive provision of Section 903, an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply.

(b) (i) In the case of a remodel of an existing building or structure an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet, unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply, and the total construction cost for the remodel exceeds \$100,000 as determined by the City.

(ii) In the case of an addition to an existing building or structure an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet or the addition causes the fire area to exceed 5,000 square feet, unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet, which in that case the more restrictive provision shall apply.

(iii) In the case of a change in the type of use or occupancy an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply.

(c) Fire Control Room. An approved fire control room shall be provided for all buildings protected by an automatic fire extinguishing system. Said room shall contain all system control valves, fire alarm control panels, HVAC duct detector test and reset switches and other fire equipment required by the chief. Fire control rooms shall be located within the building at a location approved by the chief, and shall be provided with a means to access

the room directly from the exterior. Durable signage shall be provided on the exterior side of the access door to identify the "Fire Control Room".

(d) When residential units require the installation of a NFPA 13D system, the systems water supply will be configured in accordance with the City of Los Banos Improvement Standards.

(e) When residential units require the installation of a NFPA 13D system, the system will be a "Stand Alone" wet pipe system.

(f) When residential units require the installation of a NFPA 13D system, the system riser must be located within an exterior wall, with access to the system riser through an exterior access panel door.

(g) When residential units require the installation of a NFPA 13D system, a waterflow alarm is required to be installed on the exterior of the dwelling in the area of the Master Bedroom window. This waterflow alarm will activate anytime the water flow switch is activated.

(h) When residential units require the installation of a NFPA 13D system, all pendent sprinkler heads within the living areas will be Concealed pendent sprinklers, flat plate 4.9 K-factor heads.

(i) When residential units require the installation of a NFPA 13D system, an inspector test/drain valve must be located on the system at the furthest point of the system from the riser. The inspector's test connections shall contain an orifice equal to or smaller than the smallest sprinkler installed in the system. This valve must be accessible to the home occupant and located behind a metal door cover. A sign attached to the front of the door must state "Fire Sprinkler Test/Drain.

(j) When residential units require the installation of a NFPA 13D system, a single upright "pilot" head will be installed at the highest point within the attic area. These heads shall be Intermediate-rated sprinklers. Multiple high peaked roof assemblies and/or area separation walls may require additional pilot heads.

(k) When residential units require the installation of a NFPA 13D system, fire sprinkler piping located in unheated attic spaces shall be completely covered with insulation per the NFPA 13D ANNEX A recommendations.

(l) When residential units require the installation of a NFPA 13D system, complete coverage must be provided within the enclosed garage area.

(m) Locking Devices Fire Department Connections. Every building equipped with a fire sprinkler system shall be required to install lockable type devices on Fire Department Connection. Said device shall be approved by the Fire Department (Knox Fire Department Connection).

EXCEPTIONS:

1. Where the California Fire Code and/or California Building are more restrictive, the most restrictive occupancy requirements will be followed.
2. Area separation walls, the extent and location of such wall shall provide a complete separation or division to limit the floor area to 5,000 square feet. Separation shall be of Four-hour fire-resistive construction. Four-hour separation walls shall be constructed in accordance with the current California Building Code.

Amendment No. 7

Chapter 9: Section 904 ALTERNATIVE AUTOMATIC FIRE EXTINGUISHING SYSTEMS Installation of fixed Fire Protection Systems

Section 904 of the 2019 Edition of the California Fire Code is hereby amended to add Section 904(a) to read as follows:

- (a) All fire extinguishing system required in this code and/or the California Building code shall be installed in accordance with the requirements of this Section, and the National Fire Protection Association standards and/or Factory Mutual Engineering.

Amendment No. 8

Chapter 9: Section 906 PORTABLE FIRE EXTINGUISHERS

Section 906.1 of the 2019 Edition of the California Fire Code is hereby amended to add Section 906.1(a) as follows:

- (a) The minimum approved portable fire extinguisher size for all occupancies shall be, 2-A: 10-B: C rated. Unless more restrictive by code.

Amendment No. 9

Chapter 9: Section 907 FIRE ALARM AND DETECTION SYSTEMS Sprinkler System Supervision

Section 907.1 of the 2019 Edition of the California Fire Code is hereby amended to add Sections 907.1(a) through (f) to read as follows.

- (a) All automatic sprinkler systems shall be supervised by an approved central station, proprietary or remote station service or a local alarm which will give an audible signal at a constantly attended location. All automatic fire sprinkler systems installed in Group R Division 1 occupancies as outlined in the 2019 California Building Code are required to be monitored by an approved central alarm monitoring station.

(b) Supervisory signal service alarms. Flow switches and/or tamper switches shall be installed on all fire sprinkler system to include gate valves, post indicator valves.

(c) Annunciator Panel. Annunciator panel means any arrangement of luminaries that indicate a fire condition by location or zone and is activated by a water flow or detection of the products of combustion.

(d) Equipment. Every building equipped with a fire alarm system activated by smoke detectors, rate of heat rise detection, water flow alarms, tamper switches, or pull station shall be equipped with an annunciator panel located within the Fire Control Room.

(e) When required in Section 907.1 (a) the fire alarm systems will meet the following occupancy requirements:

1. Strip malls & structures with multiple occupancies – All suites located within a structure equipped with a fire sprinkler system will be required to have a minimum of one (1) audio/visual notification device and one (1) manual pull station located in the area designated by the Los Banos Fire Department.

2. Suites or areas 5000 square feet or greater – All suites or areas 5000 square feet or greater, located within a building equipped with a fire sprinkler system are required to install a full occupant notification fire alarm system. This system will include an approved manual, combination automatic and manual or automatic fire alarm system in accordance with the provisions of this code and NFPA 72.

(f) Anytime an HVAC is required to be equipped with an automatic smoke detector as per the Uniform Mechanical Code, said smoke detector is required to have a remote test/reset switch located within the Fire Control Room.

Amendment No. 10

Chapter 28: Section 2803 LUMBER YARDS AND WOOD WORKING FACILITIES Wood Products, Pallet Storage and Use.

Section 2803.1 of the 2019 Edition of the California Fire Code is hereby amended to add Sections 2803.1.1 through 2803.1.5 to read as follows.

2803.1.1 Pallets and Palletized Packing boxes. Required permit to store pallets and or palletized items in excess of 30,000 board feet.

2803.1.2 Piles. Pallets shall be piled with due regard to the stability of piles and in no case higher than 12 feet in height. Where pallets are piled next to a property line the distance from the property line shall not be less than one half of the height of the pile and in no case less than five feet.

2803.1.3 Driveways. Driveways between and around storage piles shall be a minimum of 20 feet wide. And maintained free from accumulation of rubbish, weeds, equipment and materials. Driveways shall be so spaced that a maximum grid system unit of 50 feet by 50 feet is produced. Note exception: Modification of the driveways, clearance or widths required by this section shall be increased or decreased when, in the opinion of the Fire Chief, Clearances of widths are not adequate to provide fire apparatus access.

2803.1.4 Storage. Pallet storage, operating under permit, shall be surrounded with a suitable chain link fence of at least 6 feet in height.

2803.1.5 Fire Protection. An approved water supply and fire hydrants capable of supplying the required fire flows shall be provided to within 150 feet of all portions of the storage piles.

Amendment No. 11

Chapter 56: Section 5608 EXPLOSIVES AND FIREWORKS Fireworks and Pyrotechnic Special Effects Material (Definitions)

Section 5608 of the 2019 Edition of the California Fire Code is hereby amended to add Sub Section 5608.2 through 5608.5 to read as follows.

5608.2 Fireworks - Purpose. It is the intent of the City to reasonably regulate the sale, use, display, and discharge of dangerous and safe and sane fireworks within the City to protect the public health, safety, and general welfare.

5608.2.1. Definitions. For the purposes of this section, unless otherwise apparent from the context, certain words and phrases used in this section are defined as follows.

A. "Dangerous fireworks" means any fireworks specified as such in the State Fireworks Law, Section 12505 and 12561 of the Health and Safety Code of the State Of California, and such other fireworks as may be determined to be dangerous by the state fire marshal.

B. "Safe and Sane Fireworks" as defined in Section 12529 of the Health and Safety Code the State of California, means any fireworks, which do not come within the definition of "dangerous fireworks" or "exempt fireworks".

C. "Eligible Organization" means an organization which has met all of the following criteria for a continuous period of not less than two full years preceding submittal of an application for permit required by this section 16 (and which continues to do so thereafter).

1. The organization must be qualified pursuant to Internal Revenue Code Sections 501 (c) 3, 4, 6, 7, 8, 10, 19, 23, or 26, Section 501 (d), Section 501 (e);

2. The organization must be headquartered within and clearly affiliated or identified with the City of Los Banos;
3. The organization must be one which provides direct and regular community services and benefits to the citizens of the City of Los Banos;
4. The organization must hold its regularly scheduled meeting within the City of Los Banos; and
5. Has a minimum membership of ten (10) members continuously.

D. "Fireworks Stand" means any building, counter, or other structure of a temporary nature used in the sale or offering for sale of Safe and Sane fireworks pursuant to a permit duly issued.

5608.2.2. Possession, Sale, Use, Display, Discharge of Dangerous Fireworks.

A. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

B. It shall be unlawful for any person having lawful possession or control of private property, including but not limited to an owner, renter, lessee, to permit any person to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

5608.2.3. Possession, Sale, Or Use Of Safe and Sane Fireworks. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "safe and sane fireworks" except as permitted by the provisions of this Section.

5608.2.4. Permit for Sale of Safe and Sane Fireworks. It shall be unlawful for any person to possess, store, to offer for sale, or sell safe and sane fireworks within the City of Los Banos without a valid permit from the fire department. The fire chief shall have the authority to adopt reasonable rules and regulations for the granting of permits for the sale of safe and sane fireworks by eligible organizations. The fire chief shall also have the authority to adopt reasonable rules and regulations for the safe operation of firework stands.

5608.2.5. Application for Permit to Sell Safe and Sane Fireworks. Permits to sell safe and sane fireworks shall be issued by the fire department as follows:

A. All applications for permits shall be in writing and delivered to the fire chief on forms supplied by the fire department, and shall include all documentation and proof required by the rules and regulations established by the state fire marshal and the fire chief. All application materials must be complete to be accepted by the fire department.

B. Applications may be filed beginning the first business day of August of each year up to and including 5 p.m. the last working day in September of the same year or at other dates and times as determined by the fire chief. No application shall be received after 5 p.m.

C. Applications shall be signed by a bona fide officer of the non-profit organization wherein the officer, on behalf of the organization and its agent, shall agree to abide by all state laws, all administrative regulations, all city ordinances, all rules and regulations promulgated by the fire chief and the terms and conditions of the permit.

D. Applications shall identify the name of the organization, the organization charter or mission statement, the address of the principal meeting place and mailing address, number of members, the purpose of the organization and the date it came into existence.

E. Application fees: the applicant shall pay a non-refundable twenty-five \$25.00 dollar fee. The fee is required to be paid at the time application is submitted.

F. Permit Fee: \$250.00 paid prior to permit issuance.

G. Except as provided in subsection (H), the maximum number of permits which may be issues and the maximum number of "safe and sane fireworks" stands that will be permitted pursuant to this section 16 during any one calendar year shall not exceed one permit for each five thousand (5,000) residents of the City of Los Banos, or fraction thereof, based on the State of California Census Estimate. The official Census Estimate shall be the latest estimate published before the end of the filing period.

H. Exempt Permit: in addition to the maximum number of permits set forth in subsection (G) herein, the Fire Chief may at the direction of the City Manager, issue one additional permit ("exempt permit") to an eligible organization, as defined in Section 5608.2.1, for the sale of safe and sane fireworks pursuant to the following provisions:

- 1) The City Manager in his or her sole discretion may waive the requirement that the organization receiving the exempt permit has met the criteria for a continuous period of not less than two years prior to submittal of an application for a permit as set forth in Section 5608.2.1C;
- 2) The organization receiving the exempt permit shall dedicate to the satisfaction of the City Manager all of the proceeds from the sale of safe and sane fireworks to sponsoring or contributing to a public fireworks display in celebration of the Fourth of July in the City of Los Banos;
- 3) The organization receiving the exempt permit shall be subject to and agree to all other conditions of approval deemed necessary by the City as a prerequisite to issuing the permit.

5608.2.6. Issuance of Permits. Only eligible organizations that have submitted a timely and complete application accepted by the fire chief and that have been drawn from a pool of accepted applications will be permitted to sell safe and sane fireworks.

A. If the number of accepted applications exceeds the maximum number of permits which may be issued in a calendar year; accepted applicants for a permit will be selected by lot on the first working day of October at 1 p.m. at Fire Station One or at another time and location as determined by the fire chief. Successful and unsuccessful applicants will be notified by mail.

B. By April 1, each successful applicant shall provide to the fire chief; a site plan with the location of the fireworks stand; a written letter from the property owner indicating permission to sell safe and sane fireworks on the site; the permit fee; proof of insurance, one million dollars public liability, property damage, and product liability insurance policies with riders attached to the policies designating the City of Los Banos as an additional insured. Applicants that do not submit the required information by the April 1 deadline shall not be issued a permit.

C. Permits will be effective only when delivered by the fire department after the final inspection of the fireworks stand shows compliance with all the requirements established by the fire chief or this section for the operation of a fireworks stand.

D. A permit entitles the holder of the permit to one fireworks stand, which shall operate on the location identified on the permit.

E. Two or more qualified applicants may be issued a permit as a joint venture.

F. Permits issued pursuant to this section are valid only during the calendar year issued.

G. Permits issued pursuant to this section are not transferable.

5608.2.7. Fireworks Stands. When all application requirements have been completed, fees have been paid and the stand location has been approved, the fire department shall authorize the erection of the stand. The stand shall be inspected and approved by the fire chief or his/her designee, prior to the sale of any fireworks from said stand. The sale of fireworks from any other building or structure is prohibited. Temporary fireworks stands shall be subject to the following provisions:

A. Fireworks stands shall be located only upon property that is zoned for commercial or industrial uses.

B. Fireworks stands shall be located on improved property, i.e. paved, cement parking lots.

C. Fireworks stands shall be 35 feet from the public right-of-way and 35 feet away from existing structures.

D. No smoking signs shall be posted on all four sides and inside the fireworks stand indicating "No Smoking within 35 feet".

E. Fireworks stands shall not interfere with normal traffic patterns in private parking lots.

F. Fireworks stands shall be constructed of substantial material to provide security and safe sales operation.

G. Permits to sell safe and sane fireworks shall be posted in a conspicuous location within the interior portion of the fireworks stand.

H. A sign shall be affixed to the front of the exterior portion of the fireworks stand in letters at least six inch in height, identifying the name of the nonprofit organization to which the permit to sell safe and sane fireworks was issued.

I. No electrical service shall be allowed in or within 25 feet of the firework stand, to include fuel powered generators or similar equipment.

J. Fireworks stands shall have two working, currently serviced, two and one-half gallon water extinguishers. Extinguishers shall be readily accessible.

K. During hours of non operation fireworks shall be stored in an enclosed locked cargo container on site, in a location approved by the fire chief. The storage container shall have placards on all four sides and have signage posted indicating "No Smoking" within 35 feet.

L. Wholesale storage of safe and sane fireworks importer/distributors is not allowed in the city.

M. The fireworks stand shall be removed from the temporary location and all unsold stock and accompanying litter shall be removed from the location by five p.m., on July 5th. Failure to dismantle and/or remove any fireworks stand may result in the removal of the fireworks stand by the fire department or designee at the sole expense of the holder of the permit.

5608.2.8. Regulations.

A. Fireworks stands may be operated only from the hours of 8 a.m. to 8 p.m.

B. No safe and sane fireworks shall be sold before 12 noon on the twenty-eighth (28th) day of June or later than 8 p.m. on the fourth (4th) day of July.

C. It shall be unlawful to sell fireworks to persons under the age of 18 years old.

D. It shall be unlawful for the permitted organization to permit any person other than the permitted organization to operate the fireworks stand for which the permit is issued or to otherwise participate in the profits of the operation of such stand.

E. It shall be unlawful for the permitted organization to permit any person other than the individuals who are members of the permitted organization, their spouses or adult children, or volunteers whom no compensation is paid, to sell or otherwise participate in the sale of safe and sane fireworks at such stand.

F. No one under the age of 16 years old shall be allowed in the fireworks stand at any time.

G. Each organization which receives a permit must have at least two of its members attend an operator safety seminar provided by the fireworks company.

5608.2.9. Revocation of Permits

A. Any violation of this section or other city ordinances or policies, or the terms and conditions of the permit, or state laws or administrative regulation, or safety rules of the fire department, shall be grounds for the immediate revocation of the permit. All officers and members of the organization shall be responsible for compliance with all of the provisions of this section.

B. The fire chief or his designee shall be authorized to suspend immediately and without notice or formal hearing the permit of any holder of a permit which violates any rule, regulation or ordinance while operating or preparing to operate a fireworks stand during or immediately preceding any period of sale. If the fire chief or his designee establishes that a violation has occurred too late to suspend the permit during the period of sale, he shall have power to suspend the holder of the permit from applying for future permits.

C. The decision of the fire chief or his designee to suspend the permit shall be subject to review by the city manager, forthwith. In view of the limited sales period each year, for suspensions affecting the sale period, such hearing shall be held at the earliest possible time that the holder of the permit, city manager or his designee, and the representative of the fire chief can schedule a meeting for such review. For suspensions after the sale period the hearing shall be within one month after the request for hearing, which request must be made within fifteen days after notice of the suspension. The city manager or his designee is authorized to set aside the suspension, or to modify the suspension by limiting its effect to only one or more days, or by setting aside the forfeiture for future years. The decision of the city manager or his designee shall be final.

5608.2.10. Seizure of Fireworks

The fire chief or the designee thereof, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held in violation of this section.

5608.2.11. Restrictions.

A. It is unlawful for individuals under eighteen years of age to sell, purchase, or possess, "safe and sane fireworks."

B. It is unlawful for individuals under eighteen years of age to discharge, explode, fire, or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

C. It shall be unlawful to discharge any "safe and sane fireworks" except from the first day of July to the fourth day of July during the hours of 9:00 a.m. to 10:00 p.m.

D. It shall be unlawful to ignite or otherwise use any "safe and sane fireworks," or permit the discharge thereof, upon, over, or onto the property of another without his/her consent.

E. It shall be unlawful for any person having the care, custody, or control of a minor (under 18 years old) to permit such minor to discharge, explode, fire, or set off any "dangerous fireworks," at any time, or to permit such minor to discharge or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

F. It shall be unlawful to discharge any "safe and sane fireworks" except on private property and as otherwise provided in this section. No fireworks shall be discharged on public, semipublic, or private open areas such as parking lots, vacant properties, or in a public street or right-of-way, or in public parks.

Exception: It shall be lawful to discharge Safe and Sane Fireworks in the public street only if street closure has been approved by the City Council for a block party. The applicant shall provide a site plan with the Street Closure application indicating the location in the street where Safe and Sane Fireworks are to be discharged. Said location shall be approved by the Fire Department.

G. Person or persons in violation of this section will be caused for immediate seizure of fireworks and citation. Improper use of fireworks or unsafe use of fireworks or use of fireworks in an area considered hazardous by the fire chief or designee shall cause immediate seizure of fireworks and citation.

5608.2.12. Permit for Public Displays of Fireworks. Public Display of fireworks, as defined in the State Fireworks Law, Section 12500 et seq of the Health and Safety Code, may be conducted subject to all the terms and provisions therein contained provided that a permit therefore has been granted by the fire chief. Such public displays, in addition, shall be subject to all rules and regulations contained in the Fire Code.

The fire chief shall have authority to adopt reasonable rules and regulations for the granting of permits for those activities contained in Section 12640 of the Health and Safety Code of the state of California, including supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organization, or for the use of fireworks by artisans in pursuit of their trade. Each such use or display shall be handled by a licensed pyrotechnic operator as defined by Section 12527 of the Health and Safety Code of the state of California, and shall be of such character and so located, discharged or fired as in the opinion of the fire chief or his designee, after proper investigation, will not be hazardous or endanger any person.

5608.2.13. Penalties for Violations. Any person violating any provision of this section shall be guilty of a misdemeanor and shall be subject to criminal prosecution, civil remedies, administrative fines and penalties, and any other remedies available to the city for enforcement of this code.

5608.2.14. Concurrent Authorities. This section is not the exclusive regulation for the fireworks within the City of Los Banos. This section shall supplement and be in addition to the other regulatory codes, statutes, regulations, and ordinances heretofore and hereinafter enacted by the City of Los Banos, the State of California, or any other legal entity or agency having jurisdiction.

Any provisions of the City of Los Banos in conflict herewith are hereby repealed. This section supersedes any conflicting provisions of the Uniform Fire Code and Uniform Building Code.

5608.3. Administrative Enforcement for Fireworks - Purpose and Scope

A. This Section provides for the imposition, enforcement, collection, and administrative review of all administrative fines, related to: (1) the possession, use, storage, sale and/or display of those fireworks classified as “dangerous fireworks” in California Health and Safety Code Sections 12500, *et seq.*, with the exception of a pyrotechnic licensee when operating pursuant to that license; and (2) the sale, use, and/or display of “safe and sane fireworks” as defined in California Health and Safety Code Sections 12500 *et seq.* on or at dates, times and/or locations other than those permitted by this Section.

B. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder; and the issuance of a citation to any person constitutes but one remedy to redress violations of this code by any person. By adopting this Section, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code or state law by any person.

C. The imposition of fines related to “dangerous fireworks” under this Section shall be limited to persons who possess, sell, use and/or display, or the seizure of, 25 pounds or less (gross weight) of such dangerous fireworks.

D. Fines collected pursuant to this Section related to “dangerous fireworks” shall not be subject to Health and Safety Code Section 12706. However, the city shall provide cost reimbursement to the State Fire Marshal for the transportation and disposal of “dangerous fireworks” seized by the city where applicable. These costs will be included in any administrative fines imposed under this Section.

5608.4. Enforcement Procedures and Fines

Administrative enforcement including the amount of administrative fine for this Section shall be pursuant to the procedures set forth in Chapter 11 of Title 4 of the Los Banos Municipal Code.

5608.5. Manufacturing of Fireworks

The manufacturing of fireworks within the City is prohibited, except under special permit as required by local and state regulations.

Amendment No. 12

Chapter 57: Section 5704 STORAGE

Section 5704.1 of the 2019 Edition of the California Fire Code is hereby amended to add Sections 5704.2.9.6(a) through (b) to read as follows.

(a) Restricted Location and Fire Protection. The storage of flammable or combustible liquids in above ground tanks shall be restricted to those areas of the City as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permits in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming tanks, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

(b) Location of Bulk Plants or Terminals. The construction of new bulk plants and/or terminals for the storage of flammable, combustible, or hazardous liquids shall be restricted to those areas of the City in the Planned Industrial District (PM) and General Industrial District (M). All existing nonconforming bulk plants for the storage of flammable or combustible liquids, which substantially comply, with the requirements of this code may continue use.

Amendment No. 13

Chapter 61: Section 6101 LIQUEFIED PETROLEUM GASES

Section 6101.1 of the 2019 Edition of the California Fire Code is hereby amended to add Section 6101.1(a) to read as follows.

(a) Restricted Location and Installation. The storage of Liquefied Petroleum gas in above ground storage tanks shall be restricted to those areas of the city as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permit in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming facility, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

Section 3. The City Council finds that the changes made to the uniform codes are enacted to mitigate the threats posed to public peace, health and safety from earthquakes and fire. In this regard, the recitals set forth in this Ordinance are incorporated herein by reference a findings.

Section 4. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with the respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 5. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 6. California Environmental Quality Act (CEQA) Guidelines section 15060(c)(2) states that a project is not subject to CEQA review where the activity will not result in a direct or reasonably foreseeable indirect physical change to the environment. CEQA Guidelines Section 15061(b)(3) states that a project is exempt from CEQA “where it can be seen with certainty that environment.” The approval of the code amendments and adoptions set forth in this Ordinance does not approve any physical development project, and it would not result in a direct or indirect physical change in the environment. Therefore, these code amendments would not have the potential to result in individually or cumulatively significant effects on the environment and these code amendments are exempt from review under CEQA.

Section 7. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 8. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage

and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in this Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, and aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by _____ and seconded by _____ on the 18th day of December, 2019.

Passed on the _____ day of _____, 201____, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

APPROVED:

MAYOR – City of Los Banos

ATTEST:

CITY CLERK – City of Los Banos

**CITY OF LOS BANOS
NOTICE OF PUBLIC HEARING**

TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTION BY
REFERENCE THE 2019 EDITION OF THE CALIFORNIA FIRE CODE AND LOCAL
AMENDMENTS TO THE CITY OF LOS BANOS' FIRE PREVENTION CODE
ORDINANCE

WHERE: City Council Chambers
520 J Street
Los Banos, California

WHEN: December 18, 2019
7:00 PM

Notice is hereby given that the City of Los Banos will conduct a Public Hearing to receive public comment and consider amendments to the City Fire Prevention Code Ordinance by adoption by reference the California Fire Code 2019 Edition and local amendments thereto.

Title 4, Chapter 3 Fire Prevention Code, of the City of Los Banos Municipal Code, incorporates the California Fire Code plus locally adopted amendments to the code and is known as the Fire Prevention Code of the City of Los Banos. The Los Banos City Council will consider an ordinance adopting the 2019 California Fire Code with local amendments.

The Public Hearing will be held at the regular meeting of the Los Banos City Council on Wednesday, December 18, 2019 at 7:00 p.m. in the Council Chambers at Los Banos City Hall located at 520 J Street, or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon. Questions regarding the above-referenced item may be directed to Mason Hurley, Fire Chief, Main Fire Station, 333 7th Street or at (209) 827-7025. Copies of the primary code and also copies of the secondary codes, if any, being considered for adoption, are on file with the City Clerk, and are open for public inspection.

All interested persons will be given an opportunity to comment on this item at the Public Hearing. In addition, written comments may be submitted to the City Council at or prior to the hearing, mailed to 333 7th Street, Los Banos, CA 93635, Attention: Mason Hurley, Fire Chief. Please reference hearing title and date of hearing in any correspondence. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. Please note that if you challenge the City's final decision on the above matter in court, you may be limited to raising only those factual and legal issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. In light of the foregoing, all interested members of the public are encouraged to voice their concerns regarding the above matter either in person at the hearing or in writing through correspondence addressed to the City Council and submitted to the City Council at or prior to the date of the above hearing.

It is the intention of the City to comply with the Americans with Disabilities Act (ADA). If you require special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the City Clerk's Office at (209) 827-7000 at least 48 hours prior to the meeting to inform us of your particular needs.

THE CITY OF LOS BANOS
MASON HURLEY
FIRE CHIEF



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Lucy Mallonee, MMC
City Clerk/Human Resources Director

DATE: December 18, 2019 *LM*

SUBJECT: Announcement of City Commission Vacancy

TYPE OF REPORT: Agenda

Recommendation:

None.

Discussion:

The City Clerk must report to the City Council any unscheduled vacancies on City Commissions. A recent vacancy has occurred on the Planning Commission in District 2, which has been advertised as attached.

Fiscal Impact:

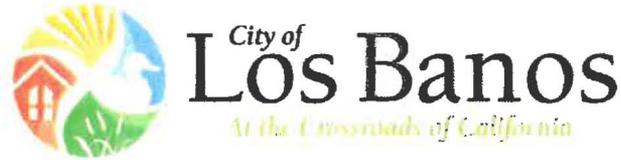
None.

Reviewed by:

Alex Terrazas, City Manager

Attachment:

Notice of Vacancy



NOTICE OF VACANCY ON CITY PLANNING COMMISSION – DISTRICT 2

Notice is hereby given that the City of Los Banos is now accepting applications from persons 18 years of age or older residing within the City limits of Los Banos – District 2 with an interest in serving on the Planning Commission

Planning Commission – One (1) Vacancy – District 2 *
One (1) Unexpired Term – Expiring December 31, 2020

The Los Banos Planning Commission meets on the 2nd and 4th Wednesday of each month at 7:00 p.m. and its role is to review and act on matters related to planning and development within the City. Commissioners receive no compensation for their time, although they may be requested to attend training workshops or seminars at the City's expense. If you are interested in volunteering to serve on the Planning Commission, are 18 years of age or older and a resident of the City of Los Banos within District 2, please contact the City Clerk's Office at City Hall, 520 J Street, 827-7000 ext 2424 to request an application or access an application on the City's website: www.losbanos.org. The **deadline** to submit an application to the City Clerk is **Friday, December 20, 2019 before 5:00 p.m.**, and the appointment is tentatively scheduled for the City Council meeting of Wednesday, January 15, 2020.

* A District 2 Electoral Map is included with this notice for reference.



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: December 18, 2019

TYPE OF REPORT: Informational Item

SUBJECT: City of Los Banos Improvement Standards and Specifications Update,
in regards to Council Member Jones Council Member Request

Discussion:

Currently, the City of Los Banos has City Council approved Improvement Standards and Specifications.

The current Improvement Standards and Specifications were approved by the Los Banos City Council by Resolution No. 4539, dated October 6, 2004. The current Landscape Standard Specifications were approved by the Los Banos City Council by Resolution No. 4928, dated November 7, 2007.

These Improvement Standards can be accessed on the City's website by using the following links: <http://www.losbanos.org/wp-content/uploads/2013/09/los-banos-california-improvement-standards-civil.pdf> and <http://www.losbanos.org/wp-content/uploads/2013/09/los-banos-california-improvement-standards-landscape.pdf>

Developers, Engineers, Architects and City staff use the City of Los Banos Improvement Standards and Specifications as a guide to design and build infrastructure within the City limits. The Improvement Standards and Specifications provide a base level of design requirements that need to be adhered to for building City of Los Banos infrastructure.

The Improvement Standards, including the Landscape Standard Specifications, consist of the following sections:

- Part I Introduction
(A-J) Written standards for improvement plan review, including record drawings.
- Part II Design Standards
Section 1- Streets
Section 2- Lighting
Section 3- Drainage Facilities
Section 4- Sanitary Sewers
Section 5- Water Service
Section 6- Landscape
Section 7- Miscellaneous
- Part III Construction Standard Specifications
Division 1- General Conditions and Construction
Division 2- Site Work
Division 3- Structural Concrete
Division 5- Pipelines
Division 7- Street Lighting
- Part VI Standard Details
- Street Improvements
- Storm Drainage
- Sanitary Sewer
- Water Improvements
- Backfill and Bedding
- Landscape
- Miscellaneous

The Landscape Standard Specifications consist of:

- Part II Design Standards
Section 6- Landscape

Standard Details:

Currently, the Public Works Department is executing Task Order No. LB-2019-010 with Precision Engineering, one of the five City Council approved On-call Civil Engineering Firms to provide City engineering services, to revise and update the City's Improvement Standards and Specifications.

This Task Order includes up to 4 review/coordination meetings with City staff, 4 stakeholder meetings, and 3 City Council/Planning Commission meetings. The Task Order shall be completed on or before June 30, 2021.

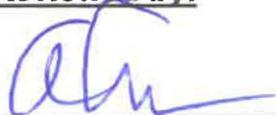
The Notice to Proceed (NTP) for this Task Order is estimated to be executed in February 2020.

Fiscal Impact:

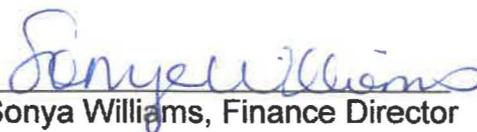
The cost of completion for this Task Order shall not exceed \$78,000. The revision and updating of the City of Los Banos Improvement Standards and Specifications was approved in the 2019/2020 City of Los Banos Adopted Budget in the following Professional Services accounts for the following amounts:

Streets	100-431-210-231	\$20,000
Water	501-461-100-231	\$30,000
Wastewater Collection	502-432-100-231	\$30,000
Solid Waste	510-490-100-231	<u>\$20,000</u>
	Total	\$100,000

Reviewed by:



Alex Terrazas, City Manager



Sonya Williams, Finance Director

Attachments:

City of Los Banos Improvement Standards Table of Contents
Task Order No. LB-2019-010
Budget Sheets

CITY OF LOS BANOS IMPROVEMENT STANDARDS

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RESOLUTION 4840

ORDINANCE NO. 10559

TASK ORDER

NO. LB-2019-010

CONSULTANT: Precision Engineering

PROJECT: Update City Improvement Standards and Specifications

THIS TASK ORDER dated _____, 2019, is an addendum to the Professional Services Agreement (“Agreement”) for On-Call Engineering Services for Capital Improvement Projects dated July 3, 2019, between the City of Los Banos (“City”) and Precision Civil Engineering, Inc. (“Consultant”).

WHEREAS, upon execution, this Task Order shall be considered a part of the Agreement; and

WHEREAS, this Task Order establishes the Scope of Work and compensation amounts for specific engineering and surveying services and authorizes Consultant to proceed with the project.

NOW, THEREFORE, the parties mutually agree as follows:

- Update the City’s Improvement Standards and Specifications (Standards) to establish minimum design requirements for the construction of improvements in the public rights-of-way, residential subdivisions, commercial developments, industrial developments, landscape/parks, and other types of development projects that are subject to the approval of the Public Works Department or are to be dedicated to the City for maintenance and/or operations.

Standards shall be brought into compliance with various California requirements including, but not limited to, Model Efficient Landscape Ordinance, Department of Transportation Standards, MUTCD, OSHA, CCR Title 22, CCR Title 24, Department of Health Service Regulations, Waterworks Standards, Professional Land Surveyors Act, Building Code, ADA, the National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4), etc.

- Preparation of an initial draft for City review and comment.
- Following receipt of City comments on the initial draft, produce an Administrative Draft for submittal to the public and stakeholders for comments.
- Provide 10 bound copies of the Administrative Draft for final review by City Departments and Council.
- Incorporating approved comments, suggestions and recommendations, produce a final set of Standards for Council adoption.
- Includes 4 review/coordination meetings with City Staff, 4 stakeholder meetings, and 3 City Council/Planning Commission meetings.
- Deliverables:
 - Initial PDF draft;
 - 10 bound Administrative Drafts and a PDF copy;

- o 10 bound copies of Council approved Standards. Provide an electronic version of Standards in AutoCAD dwg and pdf formats.

City agrees to compensate Consultant for the required services in accordance with the terms of payment stipulated in the Agreement and this Task Order. *The cost for completion of the items of service shall not exceed Seventy-eight Thousand Five Hundred Dollars and no/100ths Dollars (\$78,500.00).*

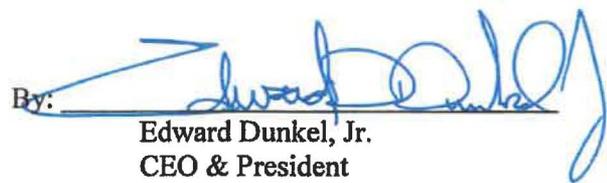
All services associated with this Service Request shall conform to the requirements of the Agreement and this Task Order. This Task Order shall be completed to the satisfaction of City on or before June 30, 2021.

Except as herein modified, all terms and conditions in the AGREEMENT remain unchanged and are in full force and effect.

CITY OF LOS BANOS

PRECISION CIVIL ENGINEERING, INC.

By: _____
Mark Fachin, P.E.
Public Works Director/City Engineer

By: 
Edward Dunkel, Jr.
CEO & President

Date: _____

Date: 12/5/19

City of Los Banos
Streets
2019-2020

Account Number	Description	2016-2017	2017-2018	2018-2019	2019-2020
		Actual	Actual	Estimated	Adopted
100-431-210-101	Salaries	436,883	513,164	532,009	567,801
100-431-210-102	Part Time	23,747	0	0	0
100-431-210-103	Overtime	15,336	29,959	35,000	35,000
100-431-210-120	Benefits	355,313	466,817	427,674	444,758
100-431-210-121	Benefits-PERS	103,084	118,205	129,862	134,323
	Personnel Services	934,364	1,128,145	1,124,545	1,181,882
100-431-210-201	Grounds Maintenance	473	500	500	500
100-431-210-202	Fleet Repair & Maintenance	50,100	47,535	47,311	46,311
100-431-210-203	Equipment Repair & Maintena	5,649	6,053	6,000	6,000
100-431-210-204	Fleet Services	41,705	31,782	45,987	43,050
100-431-210-205	Facility Maintenance	3,363	4,615	6,000	5,000
100-431-210-208	Rental - Vehicles & Equipmen	54,783	40,810	42,305	32,300
100-431-210-210	Sidewalk Gutter Curb Mnt.	23,333	19,501	15,000	35,000
100-431-210-211	Street Repair	137,576	156,909	240,000	240,000
* 100-431-210-231	Professional Services	19,966	62,282	20,000	50,000 *
100-431-210-236	Medical Services	2,194	1,198	1,500	2,000
100-431-210-237	Recruitment	2,899	28	600	1,500
100-431-210-238	Technical Services	242	355	500	500
100-431-210-240	I.T. Services	6,661	8,747	8,010	9,785
100-431-210-250	Insurance	25,892	31,614	36,240	36,113
100-431-210-251	Memberships & Dues	449	464	500	500
100-431-210-252	Communications	2,897	2,778	3,000	3,000
100-431-210-256	Permits, Fees & Charges	486	4,323	500	500
100-431-210-257	Travel & Training	1,893	2,427	5,000	5,000
100-431-210-260	Office Supplies	1,660	2,848	7,000	5,000
100-431-210-262	Uniform Expenses	8,627	8,687	8,000	9,000
100-431-210-263	Street Light Maintenance	170,504	129,783	160,000	160,000
100-431-210-264	Electricity & Gas	6,811	7,168	7,000	7,500
100-431-210-265	Gasoline & Oil	27,861	29,263	36,763	39,336
100-431-210-267	General Materials & Supplies	55,180	56,494	56,500	85,000
100-431-210-273	Special Departmental Exp.	29,780	29,798	30,000	5,000
	Supplies & Services	680,983	685,962	784,216	827,895
100-431-210-715	Street & Road Imp-Overlay	0	0	0	50,000
100-431-210-716	Street Improvement	0	0	242,000	0
100-431-210-750	Vehicles	0	45,303	0	0
100-431-210-752	Communication Equipment	0	37	1,676	1,932
100-431-210-753	Specialized Equipment	220,063	303,750	228,661	355,000
	Capital Outlay	220,063	349,091	472,337	406,932
100-431-210-821	Principal - Lease/Loans	0	13,865	14,495	15,153
100-431-210-881	Interest - Leases/Loans	0	1,829	1,200	541
	Interest - Debt Service	0	15,694	15,695	15,694
100-431-210-825	Street Charge-Out	(1,835,409)	(2,178,891)	(2,396,793)	(2,432,403)
	Charge Ins - Outs	(1,835,409)	(2,178,891)	(2,396,793)	(2,432,403)
	Total Streets	\$0	\$0	\$0	\$0

SERVICES & SUPPLIES

208-RENTAL VEHICLES & EQUIPMENT: Lease charges for pickups in the fleet lease program. Additionally, charges for use of equipment and tools needed for various projects that require a special tool or piece of equipment. Charges may be incurred when additional equipment or tools are needed to complete job tasks efficiently or when the item is not currently in the City's inventory.

210-SIDEWALK CURB & GUTTER REPAIR: Costs having to do with the repair and/or replacement of sidewalks, curbs & gutters. The costs include concrete materials, form lumber, surface patch materials and adhesives.

211-STREET REPAIR: For purchase of materials used for minor repair, rehabilitation, and replacement of existing streets. Materials include fabric matting, asphalt mix, sub base mixes, crack filling, emulsions, and sand.

231-PROFESSIONAL SERVICES: Charges for services to outside engineering firms to complete street related projects and \$20,000 to provide updated revisions to the City's Improvement Standards. Services may include design, drawings, and project management. The annual support services agreement with Carte-Graph and PAVER. Costs associated with the proper disposal of hazardous waste materials. Costs include all other miscellaneous professional services which may be required.

238-TECHNICAL SERVICES: Expenditures for the electrical, plumbing, A/C, and other trade services that may be required to complete scheduled projects during the year.

256-PERMIT FEES & CHARGES: Annual fees charged by the State and County for the Public Works Department's Spill Prevention Plan review at the "F" Street operations yard.

263-STREET LIGHT MAINTENANCE: Expenditures for the repair, maintenance, and replacement of street lights throughout the city. The costs for utility billing are for street lights not in the Landscaping & Lighting Districts. Additional costs for the maintenance and repair of the City's signalized lights and controllers.

273-SPECIAL DEPARTMENTAL EXPENSES: Expenditures for miscellaneous safety gear and costs associated with providing employee longevity awards.

CAPITAL OUTLAY

715-STREET & ROAD IMP-OVERLAY: Construction of the 2019 Street Rehabilitation Work estimated at \$1,550,000 (\$1,500,000 from TEP and \$50,000 from RSTP).

752-COMMUNICATION EQUIPMENT: Expenses related to Telephone System Replacement.

City of Los Banos
Water
2019-2020

Account Number	Description	2016-2017 Actual	2017-2018 Actual	2018-2019 Estimated	2019-2020 Adopted
501-461-100-101	Salaries	579,281	640,729	611,378	681,136
501-461-100-102	Part Time	31,472	24,713	26,500	37,730
501-461-100-103	Overtime	18,849	22,211	21,000	23,500
501-461-100-120	Benefits	437,791	512,500	506,000	565,996
501-461-100-121	Benefits-PERS	164,253	182,363	173,500	178,466
	Personnel Services	1,231,646	1,382,515	1,338,378	1,486,828
501-461-100-201	Grounds Maintenance	2,662	2,748	3,000	3,000
501-461-100-202	Fleet Repair & Maintenance	27,200	25,896	25,896	15,896
501-461-100-203	Equipment Repair & Maintenance	4,973	6,818	10,500	7,500
501-461-100-204	Fleet Services	60,761	46,305	67,000	56,966
501-461-100-205	Facility Maintenance	11,127	16,920	4,000	11,000
501-461-100-206	Property Lease	256,311	256,311	256,311	256,311
501-461-100-208	Rental - Vehicles & Equipment	18,194	14,975	18,000	18,000
501-461-100-212	Well Repair & Maintenance	151,406	60,206	77,000	100,000
501-461-100-231	Professional Services	4,667	18,017	24,000	32,000
501-461-100-236	Medical Services	2,389	1,111	1,500	1,500
501-461-100-237	Recruitment	1,026	1,508	2,000	2,000
501-461-100-238	Technical Services	39,943	50,711	85,000	80,000
501-461-100-240	I.T. Services	6,661	8,747	8,010	9,471
501-461-100-250	Insurance	40,157	42,903	49,340	47,125
501-461-100-251	Memberships & Dues	5,313	6,066	6,500	7,000
501-461-100-252	Communications	6,834	6,672	7,000	7,000
501-461-100-253	Advertising	305	0	0	0
501-461-100-256	Permits, Fees & Charges	44,743	39,027	44,000	44,000
501-461-100-257	Travel & Training	2,139	4,300	4,000	5,000
501-461-100-259	Community Promotion	13,680	7,107	6,000	7,000
501-461-100-260	Office Supplies	6,633	6,729	7,000	7,000
501-461-100-262	Uniform Expenses	10,773	10,540	12,000	12,000
501-461-100-264	Electricity & Gas	613,422	688,879	698,000	730,000
501-461-100-265	Gasoline & Oil	20,308	21,327	28,827	30,845
501-461-100-267	General Materials & Supplies	131,535	150,775	152,000	160,000
501-461-100-273	Special Departmental Exp.	805	1,222	3,000	3,000
501-461-100-274	Books & Periodicals	143	69	100	200
501-461-100-275	Bad Debt Expense	746	(105)	0	0
	Supplies & Services	1,484,853	1,495,783	1,599,984	1,653,814
501-461-100-737	Meters	158,662	97,806	130,000	150,000
501-461-100-738	Wells	48,158	2,924	24,000	125,000

SERVICES & SUPPLIES

203-EQUIPMENT REPAIR & MAINTENANCE: Repair and maintenance of equipment performed by the City forces or outside sources, including parts and labor. Maintenance includes natural gas and diesel auxiliary engines in the wells sites.

205-FACILITY REPAIR & MAINTENANCE: Materials, parts, and services for the maintenance of all water production facilities and areas. This includes repairs or improvements that are completed by either city maintenance staff or outside vendors.

206-PROPERTY LEASE: Expenditures for leasing buildings, facilities, and maintenance yards to support the Water Production services to the City.

212-WELL REPAIR & MAINTENANCE: Preventive well maintenance program whereby one well a year receives major maintenance. This program would seek to minimize the likelihood of well operational failures and correct loss of efficiency. Generally, major maintenance may include any or all of the following steps: identification of well which would benefit most, removal of pump and motor for routine service, correction of any problems identified, reinstallation of the pump/motor, and well redevelopment. In addition to forestalling potential failures, such maintenance may reduce electrical costs through increased overall efficiency.

231-PROFESSIONAL SERVICES: Charges for services to outside engineering firms to complete water production related projects. Costs associated with revising Improvement Standards estimated at \$30,000 and development impact studies. Services may include design, drawings, and project management; as well as other miscellaneous professional services, which may be required.

238-TECHNICAL SERVICES: Charges for drinking water quality testing provided by commercial certified laboratories, including routine, repeat replacement, and special analyses. Costs associated with electrician's services for the maintenance and repair of well and water system equipment. Includes Cross-Connection Control repairs/fees. Additional testing required by EPA/SWRCB for lead & copper, and the Title 22 requirements (tested every 3 years). Charges for the periodic cleaning of the surface water storage tank and the elevated water storage tank. Sensus meter reading technical support and service. Monitoring of Chromium 6 Maximum Contaminate Level.

256-PERMIT FEES & CHARGES: Estimated amount of AB 2158 Large Water System Fees payable to the State Water Resources Control Board, Office of Drinking Water. Fees are based on the actual time employees of the Office of Drinking Water spend in the regulation of the City's water system. Cost of permits for new well installations. Cost of HMBP permits.

259-COMMUNITY PROMOTION: Public education and promotion expenditures in support of water quality, health, and conservation issues. Cost includes mailing of annual water quality report, elementary school water awareness programs, promotional literature, and other promotional items.

267-GENERAL MATERIALS & SUPPLIES: Materials and supplies utilized by Operations personnel for the general water distribution materials and supplies including pipes, valves, fittings, service lines, meters, meter boxes, etc. Water production materials and supplies including chemicals (fluoride and chlorine), field water quality analysis supplies, materials used at the City

City of Los Banos
Wastewater Collections
2019-2020

Account Number	Description	2016-2017 Actual	2017-2018 Actual	2018-2019 Estimated	2019-2020 Adopted
502-432-100-101	Salaries	361,784	376,001	401,728	414,165
502-432-100-102	Part Time	2,114	0	0	0
502-432-100-103	Overtime	12,906	9,073	18,000	18,000
502-432-100-120	Benefits	237,095	266,917	291,402	326,240
502-432-100-121	Benefits-PERS	97,208	97,467	109,324	105,867
	Personnel Services	711,106	749,458	820,454	864,272
502-432-100-201	Grounds Maintenance	0	0	0	2,000
502-432-100-202	Fleet Repair & Maintenance	31,200	29,677	29,677	28,177
502-432-100-203	Equipment Repair & Maintenance	18,964	18,519	23,000	20,000
502-432-100-204	Fleet Services	39,211	29,881	43,237	25,331
502-432-100-205	Facility Maintenance	1,167	1,095	1,500	1,500
502-432-100-206	Property Lease	2,946	2,946	3,000	3,000
502-432-100-208	Rental - Vehicles & Equipment	24,673	24,673	22,000	17,000
* 502-432-100-231	Professional Services	91,305	119,269	85,000	90,000 *
502-432-100-236	Medical Services	1,177	1,144	1,500	1,500
502-432-100-237	Recruitment	434	362	2,000	2,000
502-432-100-238	Technical Services	3,491	2,435	3,000	3,000
502-432-100-240	I.T.Services	6,661	8,747	8,010	9,470
502-432-100-250	Insurance	17,864	18,909	21,646	21,224
502-432-100-251	Memberships & Dues	249	993	1,000	1,700
502-432-100-252	Communications	1,094	1,052	1,200	1,400
502-432-100-253	Advertising	0	0	100	200
502-432-100-256	Permits, Fees & Charges	128,592	127,021	130,000	135,000
502-432-100-257	Travel & Training	995	2,084	2,000	2,600
502-432-100-259	Community Promotion	391	0	500	500
502-432-100-260	Office Supplies	953	1,200	1,000	1,300
502-432-100-262	Uniform Expenses	1,794	2,404	3,550	5,000
502-432-100-264	Electricity & Gas	62,975	66,837	70,000	74,900
502-432-100-265	Gasoline & Oil	11,508	12,085	12,085	14,502
502-432-100-267	General Materials & Supplies	33,994	32,653	35,000	35,000
502-432-100-273	Special Departmental Exp.	0	594	1,100	1,100
	Supplies & Services	481,639	504,581	501,105	497,404
502-432-100-710	Land Purchase	0	1,436	0	1,300,000
502-432-100-714	Storm Drain Improvement	0	0	5,500	104,000
502-432-100-739	Master Plan Improvements	2,045,841	1,528,516	249,000	35,000
502-432-100-750	Vehicles	0	0	43,357	116,039
502-432-100-752	Communication Equipment	1,133	39	1,776	2,047
502-432-100-753	Specialized Equipment	58,026	0	221,943	47,500
502-432-100-770	Computer Equipment	407	0	0	0
	Capital Outlay	2,105,407	1,529,991	521,576	1,604,586
	Total Wastewater Collections	\$3,298,152	\$2,784,030	\$1,843,135	\$2,966,262

Wastewater Collections

SERVICES & SUPPLIES

201-GROUNDS MAINTENANCE: Costs of purchasing and applying weed killer and ground sterilent around storm drain pump.

205-FACILITY MAINTENANCE: Maintenance of buildings, structures and enclosures within the sewer collection and storm water collection system. Payment of maintenance agreements PMA 39 and Grasslands Water District.

206-PROPERTY LEASE: Expenditures for leasing buildings, facilities, and maintenance yards to support the Wastewater Collection services to the City.

231-PROFESSIONAL SERVICES: Charges for services to outside engineering firms to complete wastewater collection related projects including: MS4 estimated at \$50,000; City Improvement Standards estimated at \$30,000; services may include design, drawings, and project management; as well as other miscellaneous professional services, which may be required.

238-TECHNICAL SERVICES: Services of electricians and other technical services related to lift station maintenance and repair.

251-MEMBERSHIP & DUES: Wastewater Collection Certificate renewals; annual dues to the CVCWA (Central Valley Clean Water Association).

256-PERMIT FEES & CHARGES: Expenses associated with the collection of storm water and wastewater. Costs related directly to CCID, SJVAPCD, SWRCB, and CVCWA; Grasslands maintenance agreement and MS4 permit.

259-COMMUNITY PROMOTION: Public education and promotion expenditures in support of storm water and wastewater collection, health, and safety. Expenses include mailing of reports, elementary school programs, promotional literature, and other promotional items.

273-SPECIAL DEPARTMENTAL EXPENSES: For miscellaneous safety equipment and employee longevity awards.

CAPITAL OUTLAY

710-LAND PURCHASE: Nantes Storm Basin land purchase estimated at \$1,300,000 (1/2 restricted funds).

714-STORM DRAIN IMPROVEMENTS: Rehabilitate West I Street storm lift station \$20,000. Storm drain catch basins to be upgraded with the sidewalk improvements, ADA pedestrian ramps, fire hydrants and water meter relocations in the area of US States Streets: Pine Street, Maryland Avenue, Vermont Avenue, Pennsylvania Avenue, and Colorado Avenue between West J Street and Watt Avenue. Construction costs will be shared accordingly with Measure V, Water, and Wastewater Collection funds. Costs are estimated at \$1,030,000 for construction (Measure V-alternative \$820,000, Water 126,000, and Collections \$84,000).

City of Los Banos
Solid Waste
2019-2020

Account Number	Description	2016-2017 Actual	2017-2018 Actual	2018-2019 Estimated	2019-2020 Adopted
510-490-100-101	Salaries	260,056	311,102	318,150	335,917
510-490-100-102	Part Time	34,844	0	0	0
510-490-100-103	Overtime	8,459	7,586	9,500	8,500
510-490-100-120	Benefits	175,380	225,110	232,989	241,265
510-490-100-121	Benefits-PERS	73,989	88,795	90,878	90,896
	Personnel Services	552,727	632,593	651,517	676,578
510-490-100-201	Grounds Maintenance	1,276	398	1,500	1,500
510-490-100-202	Fleet Repair & Maintenance	24,400	23,250	23,250	21,250
510-490-100-203	Equipment Repair & Maintenanar	1,902	1,918	5,000	5,000
510-490-100-204	Fleet Services	21,551	16,423	23,764	31,635
510-490-100-205	Facility Maintenance	7,399	9,962	6,000	6,000
510-490-100-206	Property Lease	56,280	56,280	56,280	56,280
510-490-100-207	Rental - Land & Buildings	0	0	0	0
510-490-100-208	Rental - Vehicles & Equipment	30,784	30,765	25,000	15,000
510-490-100-209	Alley Maintenance/Repair	2,888	2,612	3,000	5,000
# 510-490-100-231	Professional Services	0	264	10,000	120,000 *
510-490-100-236	Medical Services	1,872	1,480	1,400	1,600
510-490-100-237	Recruitment	1,390	194	300	1,500
510-490-100-238	Technical Services	3,061,716	3,414,106	3,600,000	3,750,000
510-490-100-240	I.T. Services	6,661	8,747	8,010	9,470
510-490-100-250	Insurance	10,769	14,552	16,746	18,521
510-490-100-252	Communications	717	707	900	900
510-490-100-253	Advertising	0	0	300	300
510-490-100-255	Solid Waste Dumping Fees	941,444	891,768	962,000	980,000
510-490-100-256	Permits, Fees & Charges	0	250	100	300
510-490-100-257	Travel & Training	0	83	400	2,000
510-490-100-260	Office Supplies	1,347	1,231	1,400	2,400
510-490-100-262	Uniform Expenses	3,039	3,183	3,500	3,500
510-490-100-264	Electricity & Gas	1,061	2,730	2,000	2,200
510-490-100-265	Gasoline & Oil	20,985	22,038	32,038	34,280
510-490-100-267	General Materials & Supplies	9,047	4,830	5,000	5,000
510-490-100-272	Landfill Closure	77,872	41,748	60,000	400,000
510-490-100-273	Special Departmental Exp.	1,966	1,975	2,200	4,000
	Supplies & Services	4,286,365	4,551,494	4,850,088	5,477,636
510-490-100-752	Communication Equipment	1,133	39	1,776	2,047
510-490-100-753	Specialized Equipment	56,900	100,126	133,786	160,000
510-490-100-770	Computer Equipment	407	0	0	0
	Capital Outlay	58,440	100,165	135,562	162,047

Solid Waste

SERVICES & SUPPLIES

201-GROUNDS MAINTENANCE: Charges incurred for maintenance of "F" street operations yard and other Solid Waste facilities. Purchase of materials for the control of weeds, storm drainage, and hazardous spill cleanup at Solid Waste yards.

206-PROPERTY LEASE: Expenditures for leasing buildings, facilities, and maintenance yards to support the Solid Waste services to the City.

209-ALLEY MAINTENANCE/REPAIR: For purchase of materials used to repair the city alleys. Expense includes additional maintenance for cleanup and weed control in alleys throughout the city.

231-PROFESSIONAL SERVICES: Charges for services to outside engineering/consulting firms to complete Solid Waste related projects. Costs associated with revising rates, updating ordinance to include the separation and collection of organic waste, and developing RFP for new Solid Waste contract estimated at \$100,000. Costs associated with updating City Improvement standards estimated at \$20,000. Services may include design, drawings, and project management, as well as other miscellaneous professional services, which may be required.

238-TECHNICAL SERVICES: Costs associated with the solid waste disposal contractor Republic Services. The current contract pricing with Republic Services was effective March 1st 2008. Annual increases will result due to CPI adjustments as per contract. Also additional fees are paid to contractor due to increase in number of residences requiring service.

255-SOLID WASTE DUMPING FEES: Costs associated both with the solid waste disposal contract with Republic Services, and dumping costs incurred through street sweeping and other operations. Costs reflect the dumping fees charged by Merced County Solid Waste Division. Total includes dumping fees for the annual spring and fall cleanup.

256-PERMIT FEES & CHARGES: Annual fees charged by the State and County for the Public Works department's Spill Prevention Plan review at the "F" Street operations yard.

272-LANDFILL CLOSURE: Expenses related to the closure of the City's old landfill site. The Closure Plan will be revised with a design to isolate the top of the waste units with an approved cover. The Closure Plan and its design will be submitted to the CRWQCB (Board) seeking an amendment to the Waste Discharge Requirement (WDR) Order. Construction is tentatively being scheduled for the summer of 2020. Expenses include the annual maintenance and groundwater quality monitoring.

273-SPECIAL DEPARTMENTAL EXPENSES: For miscellaneous safety equipment and employee longevity awards.



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: December 6, 2019

Regarding: Notice of Public Hearing

Proposal: Conditional Use Permit #2019-06 – Type 41 Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act pursuant to Section 15301 Existing Facilities to allow the use of a Type 41 Alcohol License for the on-sale of beer and wine in conjunction with a bona-fide eating establishment. The requested Conditional Use Permit is for Tariq Abedi dba Mountain Mike's Pizza to be located at 2260 E. Pacheco Blvd., Ste A & B, more specifically identified as Assessor's Parcel Number 428-160-027.

The Los Banos Planning Commission held a public hearing on December 2, 2019, for the purpose of considering the above mentioned project. At the completion of the public hearing, the Planning Commission duly considered all evidence presented and recommended approval of Conditional Use Permit #2019-06 to the Los Banos City Council.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council meeting on Wednesday, December 18, 2019, at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Community & Economic Development Director, at City Hall or at (209) 827-2433.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.

Additional information may be obtained from Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Community & Economic Development Director

I RUDY LUQUIN AM SIGNING FOR STACY SOUZA ELMs.



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: December 6, 2019

Regarding: Notice of Public Hearing

Proposal: Conditional Use Permit #2019-04 – Type 41 Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act pursuant to Section 15301 Existing Facilities to allow the use of a Type 41 Alcohol License for the on-sale of beer and wine in conjunction with a bona-fide eating establishment. The requested Conditional Use Permit is for Bertha Carrillo dba Ajua! Restaurant to be located at 1041 E. Pacheco Blvd., more specifically identified as Assessor's Parcel Number 026-182-003.

The Los Banos Planning Commission held a public hearing on December 2, 2019, for the purpose of considering the above mentioned project. At the completion of the public hearing, the Planning Commission duly considered all evidence presented and recommended approval of Conditional Use Permit #2019-04 to the Los Banos City Council.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council meeting on Wednesday, December 18, 2019, at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Community & Economic Development Director, at City Hall or at (209) 827-2433.

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