

Temporary Public Comment Email Established for City of Los Banos City Council Meeting of March 18, 2020 – emails must be received by 7:00 p.m.:

The City has established a temporary email address citizens can use to email comments on any agenda item. Any public comments sent before 7:00 p.m. to this email will be read aloud during the appropriate time and agenda item.

The email address is: cityclerk@losbanos.org

The City is encouraging those who are unable to attend to view the City Council meetings on the City of Los Banos' Website at www.losbanos.org



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

MARCH 18, 2020

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 Desehabilidad (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.

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 #220702 - #220948 in the Amount of \$1,112,594.14.

Recommendation: Approve the check register as submitted.

B. Minutes for the March 4, 2020 City Council Meeting.

Recommendation: Approve the minutes 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 Statutory Exemption from CEQA Pursuant to Section 15061(b)(3) (General Rule) and to Consider Adding Article 46 to Chapter 3 Title 9 of the Los Banos Municipal Code Relating to Reasonable Accommodation.

1) Ordinance No. 1181 – Adding Article 46 to Chapter 3 of Title 9 of the Los Banos Municipal Code Relating to Reasonable Accommodation.

(First Reading & Introduction)

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

B. Public Hearing – To Receive Public Comment and Consideration a Statutory Exemption from CEQA Pursuant to Section 15061(b)(3) (General Rule) and to Amend Chapter 3 of Title 9 of the Municipal Code as it Relates to Removing Barriers for Development of Supportive and Transitional Housing, Emergency Shelters, and Single Room Occupancies in Accordance with State Housing Element Law.

1) Ordinance No. 1182 – Amending Title 9 Chapter 3 of the Los Banos Municipal Code Regarding Emergency Shelters, Supportive and Transitional Housing and Single Room Occupancy Units.

(First Reading & Introduction)

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

C. Public Hearing – To Receive Public Comment and Consideration of a General Plan Amendment that Would Update the Housing Element of Los Banos General Plan Pursuant to State Law.

- 1) City Council Resolution No. 6187 – Adopting the 2019 annual Report on the Status of the Housing Element of the General Plan and Progress Report in Its Implementation.

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

8. CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 6188 – APPROVING A COMPENSATION AGREEMENT BETWEEN THE CITY OF LOS BANOS AND OTHER AFFECTED TAXING ENTITIES PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(f) AS IT PERTAINS TO DESIGNATED LOCAL AUTHORITY (DLA) AND THE FORMER LOS BANOS REDEVELOPMENT AGENCY (RDA) PROPERTY INTERESTS.

Recommendation: Receive the staff report and adopt the resolution as submitted.

9. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS) CONTRACT AMENDMENT AS IT PERTAINS TO LOCAL SAFETY MEMBERS (POLICE & FIRE) AND COST SHARING OF PENSION.

- A. City Council Resolution No. 6189 – Intention to Approve an Amendment to Contract between the Board of Administration CalPERS and the City of Los Banos as it Pertains to Local Safety Members (Police & Fire).

- B. Ordinance No. 1183 – Authorizing an Amendment to the Contract between the City of Los Banos and the Board of Administration of the CalPERS to Implement Section 20516, Employees Sharing Additional Pension Costs for Local Safety Members (Police & Fire). **(First Reading & Introduction)**

Recommendation: Receive the staff report, adopt the resolution and introduce the ordinance as submitted.

10. ADVISEMENT OF PUBLIC NOTICES. (One Report)

11. CITY MANAGER REPORT.

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. Deborah Lewis

- B. Tom Faria

- C. Daronica Johnson-Santos

D. Brett Jones

E. Mayor Mike Villalta

14. CLOSED SESSION.

- A. Conference with Labor Negotiators, Pursuant to Government Code Section 54957.6, Agency Designated Representatives: City Manager Terrazas, City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, Finance Director Williams, Legal Counsel Tuffo; Employee Organizations: Los Banos Police Officers Association (LBPOA), Los Banos Police Sergeants Association (LBPSA), Los Banos Fire Fighters Association (LBFFA), Los Banos Police Dispatchers/Community Services Officers Association (LBPDCSOA), Los Banos Public Employees Union (Public Works) Local 1/AFSCME and Unrepresented Miscellaneous Employees.
- B. Conference with Legal Counsel – Anticipated Litigation; Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Government Code Section 54956.9: One Potential Case.

15. 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.



Lucille L. Mallonee, City Clerk

Dated this 13th day of March 2020

CK # 220702 - # 220948

03/18/2020

\$ 1,112,594.14

Bank Reconciliation

Checks by Date



City of
Los Banos
At the Crossroads of California

User: jcanchola

Printed: 03/10/2020 - 10:14AM

Cleared and Not Cleared Checks

Print Void Checks

Check	Check Date	Name	Module	Void	Amount
220704	2/28/2020	Alhambra	AP		19.50
220705	2/28/2020	Ameripride Services	AP		447.87
220706	2/28/2020	Anthony Gomes	AP		1,776.31
220707	2/28/2020	Aramark Uniform Ser Inc	AP		438.18
220708	2/28/2020	AT&T	AP		718.08
220709	2/28/2020	AT&T	AP		100.20
220710	2/28/2020	Jose Angel Avalos	AP		600.00
220711	2/28/2020	BAE Urban Economics Inc.	AP		3,630.00
220712	2/28/2020	Brenntag Pacific Inc	AP	Void	2,961.47
220713	2/28/2020	BSK Associates	AP		2,773.50
220714	2/28/2020	Bucher Municipal North America Inc.	AP		1,903.19
220715	2/28/2020	Ca Dept of Justice	AP		676.50
220716	2/28/2020	CDTFA California Dept. of Tax & Fee	AP		248.00
220717	2/28/2020	CEP America California	AP		684.00
220718	2/28/2020	Comcast	AP		122.08
220719	2/28/2020	Cook's Communications Corp.	AP		14,131.70
220720	2/28/2020	David Cummins	AP		325.00
220721	2/28/2020	Lamar A. Cummings	AP		240.00
220722	2/28/2020	Custom Locksmith & Alarm Inc.	AP		328.41
220723	2/28/2020	Ducks Unlimited	AP		500.00
220724	2/28/2020	Ernest Packaging Solutions	AP		109.79
220725	2/28/2020	Efrain Yanez Construction, Inc.	AP		913.78
220726	2/28/2020	Farmer Brothers Coffee	AP		79.42
220727	2/28/2020	Federal Express Corporation	AP		24.99
220728	2/28/2020	Ferrellgas, Inc.	AP		179.97
220729	2/28/2020	Foster Bros Security Systems Inc.	AP		60.68
220730	2/28/2020	Fresno City College	AP		993.50
220731	2/28/2020	Fresno Police Department R.T.C.	AP		144.00
220732	2/28/2020	GCS Environmental Equipment Services	AP		79.19
220733	2/28/2020	Gouveia Engineering Inc.	AP		25,739.90
220734	2/28/2020	Cody Griffis	AP		212.50
220735	2/28/2020	Halcyon Creek Inc.	AP		1,097.46
220736	2/28/2020	Helena Chemical Co Inc	AP		2,393.04
220737	2/28/2020	Heppner Precision Machine Shop, Inc.	AP		79.15
220738	2/28/2020	Holt of California	AP		1,391.86
220739	2/28/2020	Ingraham Trophies	AP		564.52
220740	2/28/2020	Phil Jacob	AP		250.00
220741	2/28/2020	Kalmikov Enterprises, Inc	AP		72.63
220742	2/28/2020	Kings View Corporation	AP		400.00
220743	2/28/2020	Krazan & Associates	AP		3,555.00
220744	2/28/2020	Lehigh Hanson Heidelberg Cement Group	AP		415.20
220745	2/28/2020	Los Banos Medical Group A Medical Corp.	AP		100.00
220746	2/28/2020	Steve Macillas	AP		122.50
220747	2/28/2020	Marfab Inc	AP		520.24

220748	2/28/2020	Matson Alarm Co Inc	AP	181.00
220749	2/28/2020	McNamara Sports Inc	AP	1,246.52
220750	2/28/2020	MOO, Inc.	AP	732.90
220751	2/28/2020	Napa Auto Parts of Los Banos	AP	129.17
220752	2/28/2020	NDN International LLC	AP	1,168.93
220753	2/28/2020	OSE	AP	109.79
220754	2/28/2020	O'Reilly Auto Parts	AP	1,754.20
220755	2/28/2020	PG&E Company	AP	89,991.51
220756	2/28/2020	PG&E Company	AP	5,638.81
220757	2/28/2020	Irma Isabel Padilla	AP	20.00
220758	2/28/2020	Pete Grove	AP	30.00
220759	2/28/2020	PG Tools & Equipment, LLC	AP	126.90
220760	2/28/2020	The Phone Connection Inc	AP	369.60
220761	2/28/2020	PlaceWorks, Inc.	AP	36,664.82
220762	2/28/2020	Provost and Pritchard Engineering, Inc.	AP	6,273.00
220763	2/28/2020	Protech Security & Electronics, Inc.	AP	189.00
220764	2/28/2020	PG&E	AP	913.78
220765	2/28/2020	R3 Consulting Group	AP	15,541.25
220766	2/28/2020	Jason Reyes	AP	70.00
220767	2/28/2020	Riggs Ambulance Service	AP	215.00
220768	2/28/2020	Save Mart Supermarkets	AP	159.71
220769	2/28/2020	Henry Schein Inc.	AP	310.82
220770	2/28/2020	Sherwin Williams Co	AP	800.40
220771	2/28/2020	Sorensens True Value	AP	518.22
220772	2/28/2020	Sorensens True Value	AP	104.33
220773	2/28/2020	Sprint Solutions, Inc.	AP	1,671.56
220774	2/28/2020	Stantec Consulting Services, Inc.	AP	7,261.00
220775	2/28/2020	Jessica Snyder	AP	600.00
220776	2/28/2020	Terryberry Company LLC	AP	111.18
220777	2/28/2020	Terminix Processing Center	AP	164.00
220778	2/28/2020	Thomson Reuters (Tax & Accounting) Inc.	AP	359.77
220779	2/28/2020	Top Dog Police K9 Training and Consulting, LLC	AP	225.00
220780	2/28/2020	United Site Services, Inc.	AP	116.09
220781	2/28/2020	Lupe Vallejo	AP	140.31
220782	2/28/2020	Jose Cruz	AP	110.46
220783	2/28/2020	Capital Equity Management Group	AP	107.47
220784	2/28/2020	Simon Pina	AP	34.34
220785	2/28/2020	Lucille Pacheco	AP	104.48
220786	2/28/2020	EWP Investment Trust	AP	92.56
220787	2/28/2020	EWP Investment Trust	AP	125.39
220788	2/28/2020	Jose Barrera	AP	111.86
220789	2/28/2020	Alfred Regalado	AP	19.26
220790	2/28/2020	Sidney Rayonez	AP	7.47
220791	2/28/2020	MRO Investments, Inc.	AP	149.26
220792	2/28/2020	Blossom Valley Realty	AP	83.59
220793	2/28/2020	Janice Baffunno	AP	25.39
220794	2/28/2020	Vincent & Cheryl Agbalog	AP	197.01
220795	2/28/2020	Tai Tran	AP	46.28
220796	2/28/2020	Nicolas Roselli	AP	46.28
220797	2/28/2020	D.R. Horton	AP	168.32
220798	2/28/2020	Shivraj Sandhu	AP	65.68
220799	2/28/2020	Home Sweet Home Property Management	AP	179.11
220800	2/28/2020	Enzo Gomez	AP	10.46
220801	2/28/2020	D.R. Horton	AP	181.31

220802	2/28/2020	Valley Critter Care , Inc.	AP	15.00
220803	2/28/2020	Verizon Wireless	AP	5.35
220804	2/28/2020	Vortex Industries, Inc.	AP	578.75
220805	2/28/2020	Windecker Inc	AP	2,333.93
220806	2/28/2020	Zee Medical Service Co	AP	303.86
220807	2/28/2020	Allied Waste Services #917	AP	289,703.60
220808	2/28/2020	Apex Annex Health Center, Inc.	AP	200.00
220809	2/28/2020	Aurora Lopez Family Childcare	AP	30.71
220810	2/28/2020	Sandra Benetti	AP	78.00
220811	2/28/2020	Richard A Blak Phd	AP	400.00
220812	2/28/2020	John Cates	AP	78.00
220813	2/28/2020	Girl Scouts	AP	50.00
220814	2/28/2020	Thomas Higby III	AP	78.00
220815	2/28/2020	Home Depot	AP	7,485.13
220816	2/28/2020	KD Medical Group, Inc.	AP	65.00
220817	2/28/2020	Liebert Cassidy Whitmore	AP	2,507.95
220818	2/28/2020	Los Banos Volunteer	AP	2,416.67
220819	2/28/2020	Gerald "Obie" O'Brien	AP	77.14
220820	2/28/2020	Premier Access Insurance Co.	AP	20,073.33
220821	2/28/2020	Ronny's Inc.	AP	9,852.00
220822	2/28/2020	Stacy Souza Elms	AP	78.00
220823	2/28/2020	Sun Life Financial	AP	6,631.86
220824	2/28/2020	Katherine Uhley	AP	78.00
220825	2/28/2020	US Bank Corp Pymt System	AP	20,957.98
220826	2/28/2020	Law Offices of William A Vaughn	AP	12,600.00
220827	2/28/2020	Walmart	AP	841.54
220840	3/5/2020	Aflac-Customer Service	AP	494.24
220841	3/5/2020	In Shape Health Clubs Inc	AP	689.65
220842	3/5/2020	Los Banos Police Assn	AP	385.00
220843	3/5/2020	Los Banos Police Assn	AP	175.00
220844	3/5/2020	Los Banos Police Assn	AP	840.00
220845	3/5/2020	MassMutual	AP	1,349.04
220846	3/5/2020	MassMutual	AP	3,692.50
220847	3/5/2020	Merced County Sheriff	AP	150.00
220848	3/5/2020	Nationwide Retirement Solutions	AP	3,257.50
220849	3/5/2020	Professional Fire Fighter	AP	720.00
220850	3/5/2020	Public Employees Union, Local One	AP	1,000.31
220851	3/5/2020	State Disbursement Unit	AP	2,078.00
220852	3/5/2020	Vantagepont Transfer Agents - 306797	AP	884.45
220853	3/5/2020	Vantagepoint Transfer Agents - 801838	AP	3,175.00
220854	3/6/2020	Apex Annex Health Center, Inc.	AP	660.00
220855	3/6/2020	Robert Baker	AP	128.00
220856	3/6/2020	CEP America California	AP	684.00
220857	3/6/2020	Amanda Cobos	AP	128.00
220858	3/6/2020	City of Los Banos Escrow Account	AP	1,286.93
220859	3/6/2020	City of Los Banos Utility	AP	4,687.82
220860	3/6/2020	Foamdaddy	AP	2,315.00
220861	3/6/2020	Matthew Hernandez	AP	40.00
220862	3/6/2020	Max Hostetler	AP	40.00
220863	3/6/2020	KD Medical Group, Inc.	AP	138.00
220864	3/6/2020	Gregory J Lever	AP	60.00
220865	3/6/2020	Los Banos Medical Group A Medical Corp.	AP	100.00
220866	3/6/2020	Silvia Morfin	AP	30.71
220867	3/6/2020	Pinnacle Healthcare Medical Group	AP	1,491.00

220868	3/6/2020	Regina Reynolds	AP	1,825.00
220869	3/6/2020	Sinclair General Engineering Construction, Inc.	AP	116,917.45
220870	3/6/2020	The Public Restroom Company	AP	21,248.00
220871	3/6/2020	The Webstaurant Store, Inc.	AP	799.07
220872	3/6/2020	Wex Bank	AP	325.45
220873	3/6/2020	Xerox Financial Services	AP	2,464.46
220874	3/6/2020	All American Plumbing	AP	267.74
220875	3/6/2020	Ameripride Services	AP	305.58
220876	3/6/2020	Animal Damage Management, Inc.	AP	3,840.00
220877	3/6/2020	Anthony Gomes	AP	1,354.79
220878	3/6/2020	Aramark Uniform Ser Inc	AP	1,110.80
220879	3/6/2020	AT&T	AP	406.10
220880	3/6/2020	AT&T	AP	68.10
220881	3/6/2020	Dorothy June Baker	AP	47.85
220882	3/6/2020	Richard A Blak Phd	AP	800.00
220883	3/6/2020	Brenntag Pacific Inc	AP	1,641.47
220884	3/6/2020	Bruce's Tire Inc	AP	1,172.41
220885	3/6/2020	Central Sanitary Supply	AP	236.53
220886	3/6/2020	Coffee Break Service Inc.	AP	41.50
220887	3/6/2020	Comcast	AP	219.75
220888	3/6/2020	Comcast	AP	975.17
220889	3/6/2020	Covanta Holding Corporation	AP	183.76
220890	3/6/2020	LN Curtis & Sons	AP	49.15
220891	3/6/2020	City of Los Banos Escrow Account	AP	2,244.70
220892	3/6/2020	Delta Wireless, Inc.	AP	715.00
220893	3/6/2020	Don's Mobile Glass, Inc.	AP	2,117.76
220894	3/6/2020	Employee Relations, Inc.	AP	50.00
220895	3/6/2020	Fast Track Car Wash	AP	182.00
220896	3/6/2020	Ferguson Enterprises Inc DBA Groeniger & Company	AP	1,275.65
220897	3/6/2020	Golden State Flow Measurement	AP	5,550.60
220898	3/6/2020	Galls Inc	AP	400.03
220899	3/6/2020	Gouveia Engineering Inc.	AP	7,141.52
220900	3/6/2020	Rosa Garnica	AP	600.00
220901	3/6/2020	Halcyon Creek Inc.	AP	1,856.34
220902	3/6/2020	Halo Branded Solutions Inc.	AP	1,237.59
220903	3/6/2020	Holt of California	AP	42,036.67
220904	3/6/2020	David A Jones	AP	2,060.00
220905	3/6/2020	Kully Supply, Inc.	AP	641.80
220906	3/6/2020	Lucas Business Systems	AP	2,208.92
220907	3/6/2020	Maria D. Lopez	AP	500.00
220908	3/6/2020	Marfab Inc	AP	98.26
220909	3/6/2020	McNamara Sports Inc	AP	992.91
220910	3/6/2020	Merced County Health Dept	AP	322.52
220911	3/6/2020	Merced Truck & Trailer Inc	AP	356.39
220912	3/6/2020	Miracle Playsystems, Inc.	AP	3,874.61
220913	3/6/2020	Modesto Janitorial Supply Center, Inc.	AP	176.89
220914	3/6/2020	Monterey Auto Services Inc.	AP	815.09
220915	3/6/2020	MOO, Inc.	AP	148.22
220916	3/6/2020	Municipal Maintenance Equipment, Inc.	AP	37.36
220917	3/6/2020	NDN International LLC	AP	422.15
220918	3/6/2020	Frederic Andy Nichols	AP	2,000.00
220919	3/6/2020	The Office City	AP	1,471.51
220920	3/6/2020	OSE	AP	74.68
220921	3/6/2020	O'Reilly Auto Parts	AP	992.44

220922	3/6/2020	PG&E Company	AP	9.86
220923	3/6/2020	The Phone Connection Inc	AP	101.75
220924	3/6/2020	Pitney Bowes Inc	AP	473.25
220925	3/6/2020	Precision Civil Engineering, Inc	AP	140.00
220926	3/6/2020	Provost and Pritchard Engineering, Inc.	AP	9,186.70
220927	3/6/2020	Purchase Power Inc	AP	4,000.00
220928	3/6/2020	Razzari Ford	AP	940.95
220929	3/6/2020	Riggs Ambulance Service	AP	15.00
220930	3/6/2020	Henry Schein Inc.	AP	33.70
220931	3/6/2020	Sherwin Williams Co	AP	607.95
220932	3/6/2020	Shred-It US JV LLC	AP	282.20
220933	3/6/2020	Robert & Susan Hansen	AP	1,033.13
220934	3/6/2020	Springbrook Software, Inc.	AP	1,741.00
220935	3/6/2020	Sorensens True Value	AP	904.03
220936	3/6/2020	Sorensens True Value	AP	56.53
220937	3/6/2020	Stonefield Homes, Inc.	AP	160.09
220938	3/6/2020	Taylor Backhoe Service, Inc.	AP	162,850.64
220939	3/6/2020	Taylor Backhoe Service, Inc.	AP	17,296.85
220940	3/6/2020	Terryberry Company LLC	AP	223.20
220941	3/6/2020	Top Dog Police K9 Training and Consulting, LLC	AP	225.00
220942	3/6/2020	Tractor Supply Credit Plan	AP	309.92
220943	3/6/2020	Stephanie Pereira	AP	37.83
220944	3/6/2020	Aldo Mendoza	AP	143.29
220945	3/6/2020	Verizon Wireless	AP	665.52
220946	3/6/2020	Windecker Inc	AP	12,123.70
220947	3/6/2020	Woodside Homes	AP	3,500.00
220948	3/6/2020	Young's Air Conditioning	AP	532.50

Break in check sequence due to the following:
Check #220702 - #220703 (Payroll)

Total Void Check Count: 2
Total Void Check Amount: 3,361.47
Total Valid Check Count: 231

Break in check sequence due to the following:
Check #220828 - #220839 (Payroll)

Total Valid Check Amount: 1,109,232.67
Total Check Count: 233
Total Check Amount: 1,112,594.14

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
MARCH 4, 2020**

***ACTION MINUTES** – These minutes are prepared to depict action taken for agenda items presented to the City Council. For 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 7:02 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.

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, Public Works Director/City Engineer Fachin.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Johnson-Santos, seconded by Faria 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. Mayor Villalta opened the Public Forum. No one came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Lewis, seconded by Jones to approve the consent agenda as follows: Check Register for #220548 - #220701 in the Amount of \$506,650.15; Minutes for the February 19, 2020 City Council Meeting. The motion carried by the affirmative action of all Council Members present.

NEW EMPLOYEE INTRODUCTIONS. Public Works Director/City Engineer Fachin introduced the City's new Assistant Public Works Director, Fred Pezeshk, P.E. He gave a brief background for Mr. Pezeshk. Mr. Pezeshk thanked him for the opportunity to be at the City Council Meeting tonight and spoke regarding his experience so far, which

has been fantastic, and he looks forward to working on future projects alongside everyone.

Informational item only, no action taken.

CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 6186 – ADOPTING A REVISED BUDGET FOR THE 2019-2020 FISCAL YEAR AS IT PERTAINS TO EXPENDITURES AND REVENUES AND AMENDING DIVISION 4 - SALARY SCHEDULE EMPLOYEE CLASSIFICATION RELATING TO CHANGES TO SECTION G – POLICE, ADJUSTING THE SALARY FOR THE POLICE OFFICER TRAINEE POSITION. Finance Director Williams presented the staff report, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding the revisions to be made to the 2019-2020 fiscal year budget. The Police Officer Trainee salary increase was spoken to and how this salary increase will close the gap from the Police Officer Trainee position to the Police Officer position and is in line with other agencies.

Motion by Faria, seconded by Lewis to approve City Council Resolution No. 6186 – Adopting a Revised Budget for the 2019-2020 Fiscal Year as it pertains to Expenditures and Revenues and Amending Division 4 – Salary Schedule/Employee Classifications Relating to Changes to Section G – Police, Adjusting the Salary for the Police Officer Trainee Position. The motion carried by the affirmative action of all City Council Members present.

UPDATE REGARDING EFFORTS TO SUPPORT THOSE AFFECTED BY HOMELESSNESS IN LOS BANOS AND MERCED COUNTY. Police Chief Brizzee presented the staff report and introduced representatives from the Merced County Rescue Mission, New Direction Outreach and Engagement Center, and the County of Merced Executive Office.

John Ceccoli, Management Analyst with the Merced County Executive Office spoke in more detail to the efforts underway to support those affected by homelessness in Los Banos and the greater Merced County and included a PowerPoint presentation.

There was Council Member and staff discussion regarding the number of homeless in the Merced County cities, the amount of money that is available to provide mental health services for them, and how continuous engagement with that community is essential in order to keep a good relationship.

The representatives were thanked for all the work they put in for these people and how their efforts greatly help Los Banos and the other cities in Merced County.

Informational item only, no action taken.

Mayor Villalta called for a short break.

After the City Council reconvened, it was noted that Council Member Johnson-Santos left the meeting during the break at 8:50 p.m. due to her not feeling well.

APPOINTMENT OF COMMISSIONERS TO THE FOLLOWING CITY COMMISSIONS: AIRPORT ADVISORY COMMISSION – THREE (3) VACANCIES, TWO (2) UNEXPIRED TERMS – EXPIRING DECEMBER 31, 2021 2020*, ONE (1) UNEXPIRED TERMS – EXPIRING DECEMBER 31, 2020; PARKS & RECREATION COMMISSION – ONE (1) VACANCY, ONE (1) UNEXPIRED TERMS – EXPIRING DECEMBER 31, 2021. Motion by Villalta, seconded by Faria to appoint Larry Leonardo and Robert Calhoun to the Airport Advisory Commission to two unexpired terms expiring December 31, 2021 2020*. The motion carried by the affirmative action of all City Council Members present, Johnson-Santos absent.

*After further review of the carried motion above, it was found that there was a typo on the agenda and the two Airport Advisory Commission terms spoken above are to expire on December 31, 2020 instead of December 31, 2021.

Motion by Villalta, seconded by Faria to appoint Jesus Rosales to the Parks & Recreation Commission to an unexpired term expiring December 31, 2021. The motion carried by the affirmative action of all City Council Members present, Johnson-Santos absent.

It was noted that the City will be re-advertising for the following vacancies: Airport Commission, one (1) vacancy, unexpired term ending December 31, 2021; Economic Development Advisory Commission, three (3) vacancies, two (2) unexpired terms ending December 31, 2020 and one (1) unexpired term ending December 31, 2021; Tree Commission, one (1) vacancy, unexpired term ending December 31, 2021.

ADVISEMENT OF PUBLIC NOTICES (One Report). City Manager Terrazas stated that a public hearing will be held by the Planning Commission meeting at 7:00 p.m. on March 11, 2020 to consider a categorical exemption for a mobile food vendor permit for Rosa Fabian dba Tacos La Patrona to be located at 520 West I Street.

CITY MANAGER REPORT. City Manager Terrazas stated that the new recreation guide is out and how there are a lot of great programs upcoming in the spring and summer for both adults and children. The Arbor Day Event will be held this Friday, March 6 from 4:00 p.m. – 5:00 p.m. at Skylark Park. He spoke to how he and Fire Chief Hurley had a meeting with the Merced County Health Department regarding the Coronavirus and what the County's efforts have been relating to surveillance and prevention. There are currently no confirmed cases of the virus in Merced County. The Merced County Public Health Department is working closely with other state agencies to stay informed. The most proactive ways to stay healthy are to frequently wash your hands, avoid touching your face, avoid close contact with others that are sick, and to stay home from work or school if you become sick.

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

Mayor Villalta stated that the committee is still working on the Billy Wright dumpsite expansion project. In relation to that, organic and grease waste are going to become part of the 2020 disposal update. By 2022, all cities in Merced County will be following the recycling/disposal rules that Los Banos already follows regarding the different trash/recycling bins. He spoke to the CalTrans Safety Task Force and some of the possible means of decreasing the traffic safety issues that surround Highway 152.

BRETT JONES: No report.

DEBORAH LEWIS: Council Member Lewis stated that she would like to make a Council Member request for an updated report on the opening of the dog park.

TOM FARIA: No report.

DARONICA JOHNSON-SANTOS: No report, as she left the City Council Meeting early at the break.

MAYOR MICHAEL VILLALTA: Mayor Villalta spoke to how he went to Mercey Springs Elementary School to read Dr. Seuss books to the students. He thanked the school for inviting him to participate in the event. An Arbor Day Breakfast will be held at the Community Center this Friday from approximately 7:00 a.m. – 10:00 a.m. and the actual Arbor Day celebration event will be held from 4:00 p.m. – 5:00 p.m. this Friday at Skylark Park.

ADJOURNMENT. Motion by Villalta, seconded by Jones to adjourn the City Council Meeting at 9:07 p.m. to 10:00 a.m., Friday, March 13, 2020 at College Greens Building located at 1815 Scripps Drive, Los Banos, California to Conduct a City Council Goals & Objectives Workshop. The motion carried by the affirmative action of all City Council Members present, Johnson-Santos absent.

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



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: March 18, 2020

TYPE OF REPORT: Public Hearing

SUBJECT: Proposed Reasonable Accommodation Ordinance

Recommendation:

Staff recommends that the City Council waive the first reading and introduce an Ordinance to add Article 46 to Chapter 3 of Title 9 of the Los Banos Municipal Code relating to reasonable accommodation.

Background:

Both Federal and State Fair Housing laws prohibit discrimination in housing against individuals with disabilities. These laws require that cities take affirmative action to eliminate regulations and practices that deny housing opportunities to disabled individuals. This includes requiring flexibility in the application of land use and zoning regulations.

Furthermore, California's Fair Employment and Housing Act, the State's Housing Element law, and HUD require that cities utilizing Community Development Block Grant (CDBG) funds prepare an "Analysis of Impediments to Fair Housing Choice." Taken together, these pieces of legislation require that Cities and Counties take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities, and more specifically, require that Cities and Counties provide individuals with disabilities, or developers of housing for people with disabilities, flexibility in the application of land use and zoning regulations, practices and procedures.

The law also recognizes that individuals with disabilities may need extra tools to achieve equality. Providing reasonable accommodation is one way for the City of Los Banos to provide relief from land use and zoning and building regulations and procedures that have the effect of discriminating against the development, siting, and use of housing for individuals with disabilities. Furthermore, California Government Code Section 65583(c)(3) states:

Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

On February 26, 2020, the Los Banos Planning Commission held a public hearing for the purpose of considering the proposed Reasonable Accommodation Ordinance. At completion of the public hearing, the Planning Commission considered all evidence presented and recommended approval of the proposed Ordinance to the Los Banos City Council.

Discussion:

The 2014-2023 Housing Element of the City of Los Banos General Plan sets forth Policy 5B, which requires the establishment and implementation of a Reasonable Accommodation Ordinance. With this program implemented, the City will be demonstrating to the California Department of Housing and Community Development (HCD) implementation of the goals, policies, and programs of the Housing Element, which is necessary for compliance. It is important for the City to be in compliance with its Housing Element as it a necessary requirement to access any State and some Federal funds.

The intent of the proposed Ordinance is to establish a formal procedure for persons with disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's land use regulations and to establish criteria to be used which considering such requests. The proposed Reasonable Accommodation Ordinance provides the City with procedures and criteria to provide persons with disabilities the relief in zoning, permit procedures, and building laws that may prohibit opportunities for housing.

An applicant requesting an accommodation must have a disability that is defined and protected under Federal and State Housing Law. According to the State's Fair Employment and Housing Act (FEHA), there are two categories of disabilities: physical and mental. The applicant is not required to identify the nature or severity of the disability and it is unlawful for the City to make such an inquiry of a person with a disability or one associated with him or her (24 C.F.R. § 100.202; Cal. Gov't Code § 12955(b)). In most

instances, the establishment of a protected disability can be met by describing generally the use of the dwelling, such as licensed residential care facility, home for transitional age youth with disabilities, or sober living home for those in recovery.

Furthermore, the application and procedures are approved by the Community and Economic Development Director, reducing the timing of the review process, resulting in a more streamlined process. This is consistent with the intent of the Ordinance of reducing constraints and barriers to housing for persons with disabilities.

PROPOSED ORDINANCE:

The proposed Ordinance establishes the Reasonable Accommodation Ordinance in the City's Zoning Code. In summary, the proposed Ordinance implements the following:

- Establishes criteria and procedures for the request for Reasonable Accommodation that will be used by an individual with a disability protected under fair housing laws;
- Establishes submittal requirements that are applicable to reasonable accommodation, such as documentation of disability, specific exception or modification to the Zoning Code, other information that the Community and Economic Development Director requires to make a determination;
- Appeal procedures for Reasonable Accommodation decisions; and
- Establishes certain findings that the Community and Economic Development Director must make to make a determination whether to grant or deny requested accommodations. These findings are consistent with the Fair Housing Laws.

Examples of the types of request that may be made are provided below:

- **Relief from Setback Requirements:** Wheelchair ramps are required to comply with applicable setback requirements. Under the proposed regulations, an applicant may seek changes related to yard setback requirements to accommodate the installation of ramps to meet the needs of persons with disabilities who use wheelchairs.
- **Fence Height Restrictions:** A housing provider or developer seeks exception to fence height restrictions when greater privacy is necessary for a person with a disability to use and enjoy the outdoors at a residence.
- **Parking:** An applicant may seek special parking exceptions for the use of a vehicle where the height of the vehicle is prohibiting them from using the garage or space at the home.

ENVIRONMENTAL DETERMINATION:

The proposed Ordinance is not a project for CEQA purposes and is exempt under State CEQA Guidelines Section 15061(b)(3), General Rule, because it can be seen with certainty that there is not a possibility that the proposal would result in a significant effect on the environment. The proposal is implementing existing State Law and is considered

an administrative activity and would not, itself, allow any construction or propose any projects. CEQA will be applied on a project-by-project basis if and when such projects are proposed.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Proposed Ordinance
2. Public Hearing Notice

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS
ADDING ARTICLE 46 TO CHAPTER 3 OF TITLE 9 OF THE LOS BANOS
MUNICIPAL CODE RELATING TO REASONABLE ACCOMMODATION**

WHEREAS, the State legislature has found and declared that, among other things, Cities and Counties shall make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities and equal opportunity to housing;

WHEREAS, the City of Los Banos ("City") seeks to ensure that the City's zoning laws are consistent with the goals, policies and standards set forth in the City's General Plan, federal law, and state law as it relates to the reasonable accommodation to individuals with disabilities within the City;

WHEREAS, the Los Banos 2030 General Plan, and 2014-2023 Housing Element policy 5B requires the City of Los Banos to establish and implement a Reasonable Accommodation Ordinance;

WHEREAS, the proposed ordinance is attached hereto and incorporated herein by this reference as Attachment A;

WHEREAS, the proposed ordinance does not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that the proposed ordinance is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines Section 15061 (b)(3) and is not subject to environmental review;

WHEREAS, the Planning Commission held a public hearing on February 26, 2020 and recommended approval of the proposed Ordinance with findings of General Plan consistency, and

WHEREAS, the City Council conducted a duly noticed public hearing on March 18, 2020 and April 1, 2020 at which time all individuals desiring to comment on the proposed Ordinance were heard; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES
ORDAIN AS FOLLOWS:**

Section 1: Article 46 of Chapter 3 of Title 9 of the Los Banos Municipal Code shall be added to read as follows:

**TITLE 9 PLANNING AND ZONING
CHAPTER 3 ZONING**

ARTICLE 46. REASONABLE ACCOMMODATION

Sec. 9-3.4601 Purpose and Intent.

It is the policy of the City of Los Banos, pursuant to the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This ordinance establishes a procedure for making request for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the jurisdiction to comply fully with the intent and purpose of fair housing laws.

Sec. 9-3.4602 Applicability.

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.

A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as barrier to fair housing opportunities.

Sec. 9-3.4603 Notice to the Public of Availability of Accommodation Process.

Notice of the availability of reasonable accommodation shall be prominently displayed at the public information counter in the Community and Economic Development Department, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the Community and Economic Development Department.

Sec. 9-3.4604 Requesting Reasonable Accommodation.

- (a) In order to make housing available to an individual with a disability, any eligible person as defined in Section 9-3.4602 may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.

- (b) Requests for reasonable accommodation shall be in writing and provide the following information:
- 1) Name and address of the individual(s) requesting reasonable accommodation;
 - 2) Name and address of the property owner(s);
 - 3) Address of the property for which accommodation is requested;
 - 4) Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought; and
 - 5) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- (c) Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- (d) A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.
- (e) If an individual needs assistance in making the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible.

Sec. 9-3.4605 Reviewing Authority.

- (a) Requests for reasonable accommodation shall be reviewed by the "reviewing authority," using the criteria set forth in Section 9-3.4606.
- (b) The reviewing authority shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant modifications, or deny a request for reasonable accommodation in accordance with the required findings set for in Section 9-3.4606.
- (c) If necessary to reach a determination on the request for reasonable accommodation, the Community and Economic Development Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request

for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

Sec 9-3.4606 Required Findings.

The written decision to grant, grant modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

- (a) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
- (b) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
- (c) Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction; and
- (d) Whether the requested accommodation would require a fundamental alteration in the nature of the jurisdiction's land use and zoning or building program.

Sec 9-3.4607 Written Decision on the Request for Reasonable Accommodation.

- (a) The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings on the criteria set forth in Section 9-3.4606. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.
- (b) The written decision of the Community and Economic Development Director shall be final unless an applicant appeals it to the Planning Commission.
- (c) If the reviewing authority fails to render a written decision on the request for reasonable accommodation with the thirty (30) day time period allotted by Section 9-3.4606 the request shall be deemed granted.
- (d) While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain the full force and effect.

Sec. 9-3.4608 Appeals.

The decision of the Community and Economic Development Director may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this Chapter.

Section 2. 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 respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 3. 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 4. The proposed amendments to the Los Banos Municipal Code do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines section 15601(b)(3) and is not subject to environmental review.

Section 5. 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 the 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, the 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 Member _____ and seconded by Council Member _____ on the ____ day of _____, 2020.

Passed on the ____ day of _____, 2020 by the following vote:

AYES: Council Members

NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: March 6, 2020

Regarding: Notice of Public Hearing

Proposal: Proposed Ordinance – Reasonable Accommodation

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider a Statutory Exemption from CEQA pursuant to Section 15061(b)(3) (General Rule) and to consider adding Article 46 to Chapter 3 of Title 9 of the Los Banos Municipal Code relating to reasonable accommodation.

The Los Banos Planning Commission held a public hearing on February 26, 2020 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 adoption of the ordinance as specified above.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council on Wednesday, March 18, 2020 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 and 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 Ordinance 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 Planning Commission at, or prior to, the public hearing per Government Code Section 65009.

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 and 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 *SE*

DATE: March 18, 2020

TYPE OF REPORT: Public Hearing

SUBJECT: SB2/ Housing Element Compliance

Recommendation:

Staff recommends that the City Council waive the first reading and introduce an Ordinance to amend Chapter 3 of Title 9 of the Los Banos Municipal Code regarding emergency shelters, supportive and transitional housing, and single room occupancy units.

Background:

On January 1, 2008, the Governor of the State of California signed into law Senate Bill 2 (SB2), a bill amending Sections 65583 and 65589.5 of the Government Code mandating certain approaches to local regulation of emergency shelters and transitional and supportive housing. Namely, Senate Bill 2 requires that cities:

- 1) Permit transitional and supportive housing as a residential use which is subject to only those restrictions that apply to other dwellings of the same type in the same zone, and
- 2) Identify at least one zone, with sufficient capacity, to permit emergency shelters without a conditional use permit or other discretionary action.

In addition to SB 2 the Governor of the State of California signed into law AB 2634 requiring local jurisdictions to make provisions for Single Room Occupancy (SRO) Facilities.

In addition to the foregoing, on January 1, 2014, SB 745 went into effect, modifying the definitions of supportive housing, target populations, and transitional housing as defined in SB 2. SB 745 generally amends Section 65582 of the Government Code to replace prior Health and Safety Code definitions for these uses with definitions that specifically relate to housing element law.

Since 1969, Housing Elements have been mandatory portions of local general plans in California because providing housing for all Californians is considered by the state legislature to be of vital statewide importance. A Housing Element provides an analysis of a community's housing needs for all income levels, and strategies to respond to provide for those housing needs. It is a key part of the City's overall General Plan. State Law establishes that each city accommodate its fair share of affordable housing as an approach to distributing housing needs throughout the state. State Housing Element law also recognizes that in order for the private sector to address housing needs and demand, local governments must adopt land-use plans and implementing regulations that provide opportunities for, and do not unduly constrain, housing development by the private sector.

Rules regarding Housing Elements are found in the California Government Code Sections 65580-65589. Unlike the other mandatory general plan elements, the housing element is required to be updated every five years. It is also subject to detailed statutory requirements and mandatory review and approval by the Department of Housing and Community Development.

As evidenced by the multitude of legislation passed starting with and since SB 2 a primary housing goal for the State is ensuring every resident has a decent home and suitable living environment. This includes requirements for municipalities to amend their zoning code to define, permit, and provide accommodations for a variety of housing types including supportive housing, transitional housing, single room occupancy units and address and remove constraints to the maintenance, improvement, and development of housing for the homeless.

On July 25, 2016 the City Council approved the 2014-2023 Housing Element which was subsequently certified by the State Department of Housing and Community Development (HCD).

Accordingly, the Housing Element 2014-2023 outlined several necessary implementation steps to address State and Federal requirements and to improve access to various housing types throughout the City of Los Banos.

Below are excerpts of the language from Housing Element 2014-2023 Program 8F and 8H which discuss the need for updates:

“8F. The City will amend Title 9, Chapter 3 to allow for the location of Single Room Occupancy (SRO) uses as a conditional use in the High Density Residential District (R-3) and adopt development standards that allow and accommodate the inclusion of new SRO’s.”

“8H. The City will review and amend if necessary, Title 9, Chapter 3 to ensure that Transitional and Supportive Housing complies with Senate Bill 2. If necessary, the City shall amend the Zoning Ordinance to permit Transitional and Supportive Housing as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. In addition, the City shall amend Article 2: Definitions to include Transitional and Supportive Housing and Target Population, per Senate Bill 745.”

On February 26, 2020, the Los Banos Planning Commission held a public hearing for the purpose of considering the proposed amendment to the Zoning Code. At completion of the public hearing, the Planning Commission considered all evidence presented and recommended approval of the proposed Ordinance to the Los Banos City Council.

ANALYSIS:

Emergency Shelters

Senate Bill 2, passed in 2007, amended State housing law (California Government Code Sections 65582, 65583, and 65589.5) regarding shelter for homeless persons. This legislation required local jurisdictions to strengthen provisions for addressing the housing needs of homeless persons, including the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit.

Currently, emergency shelters are permitted by right in the Medium Density Residential (R-2) and High Density Residential (R-3) Districts and by conditional use permit in the Low Density Residential District (R-1). The City has approximately 54.18 acres of vacant land within its R-2 zone district. This amount of vacant land should be sufficient enough to accommodate the existing and anticipated homeless in the City of Los Banos. The parcels within the R- 2 zone district range in size from less than one (1) acre to as large as thirteen (13) acres, and are suitable for the development of an emergency shelter based on size needed for structures, parking, etc. Staff believes that the Industrial District (I) might actually be a more suitable location for emergency shelters as a conditional use. The Industrial District is generally located at both ends of the rail trail.

The City has not established development criteria for emergency shelters. SB2 allows for the establishment of emergency shelter development criteria with certain parameters established by the State. The regulations for emergency shelters are being incorporated as Article 47 of Chapter 9, Title 3 of the Municipal Code. The regulations include:

- (1) No individual shall be denied emergency shelter because of an inability to pay.

(2) Emergency shelters shall be operated under the authority of a governing agency or private organization that provides, or that contracts to provide, emergency shelters and which, when required by law, is properly registered and licensed.

(3) Emergency shelters shall comply with applicable California Health and Safety Codes.

(4) Emergency shelters shall comply with all property development standards of the zone in which they are located, and in addition, no emergency shelter shall be located within three hundred feet of another such facility, said measurement being defined as the shortest distance between the outside walls of the structures housing such facilities.

(5) Parking shall be as required by Title 9, Article 3, Chapter 20 "Off-Street Parking" unless the applicant provides substantial evidence demonstrating that the actual parking need is lower, subject to the approval of the Community and Economic Development Director or designee.

(6) Each emergency shelter shall include, at a minimum, the following:

a. Interior and exterior lighting necessary for security, safety, and operational purposes shall conform to the California Code of Regulations Title 24, Parts 2, 2.5 and 6 or any successor provisions as applicable in effect at the time the application is deemed complete. Exterior lighting shall be stationary, directed away from adjacent properties and public right-of-ways;

b. If client intake is to occur on-site, there shall be an indoor client intake/waiting area equal to a minimum of ten square feet per bed provided at the facility. If an exterior waiting area is also provided, it shall be enclosed or screened from public view and adequate to prevent obstructing of the public right-of-way and required parking and access;

c. Clean, sanitary beds and sanitation facilities, including showers and toiletries; and

d. Segregated sleeping, lavatory and bathing areas if the emergency shelter accommodates both men and women in the same building. Reasonable accommodation shall be made to provide segregated sleeping, lavatory and bathing areas for families.

(7) At least one facility manager shall be on-site at all hours the facility is open and one hour prior to and after facility operating hours. At least one full-time equivalent employee shall be required to be on-site during facility operating hours for every 20 beds in the facility.

(8) Emergency shelters may provide one or more of the following types of supportive facilities or services for the exclusive use or benefit of the shelter clients:

- a. Central cooking and dining room(s);
- b. Recreation areas, indoor and/or outdoors;
- c. Laundry facilities for clients to wash their clothes;
- d. Intake and administrative offices;
- e. Counseling and other supportive services; or
- f. Secure storage areas for bicycles and other personal possessions.

(9) The agency or organization operating the shelter shall have a written Facility Management Plan consisting of, as applicable, provisions for staff training; neighborhood outreach; security; screening of residents to ensure compatibility with services provided at the facility; training, counseling, and treatment programs for residents, and facility information, including the number of persons who can be served nightly, the location of onsite waiting and intake areas, the provision of onsite management, and onsite security during hours of operation, as established in Government Code Section 65583 (a)(4)(A).

The City has not received an application for development of an emergency shelter since the adoption of the Housing Element.

The proposed Ordinance does the following: adds emergency shelters as an allowed use in the Industrial District (I) subject to a conditional use permit; establishes development criteria for emergency shelters; and adds a definition for “emergency shelters” and eliminates the definition of “homeless shelters”.

Supportive and Transitional Housing

Supportive housing combines non-time-limited affordable housing assistance with wrap-around supportive services for people experiencing homelessness, as well as other people with disabilities. Supportive housing is permanent housing with a lease where the tenant pays affordable rent. Health and social services (medical care, mental health and addiction therapy, employment training, and case management) are offered on-site or in close proximity to supportive housing. Housing affordability is ensured either through a rent subsidy or by setting rents at affordable levels.

Transitional housing serves as a short-term stay when an individual or household is either waiting to secure permanent housing, or has secured permanent housing that is not immediately available. Transitional housing is also known as “bridge” or “interim housing.” Services are typically provided to prepare residents to transition to permanent housing. The stay is usually limited for a limited time period. Stays can be from two weeks to twenty four months. Transitional housing provides people with help after a crisis such as homelessness or domestic violence.

Government Code § 65583(c)(3) states that supportive and transitional housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same types in the same zone.

To implement the State law and Housing Element Program 8H, the proposed Ordinance includes proposed amendments to the Zoning Code to allow supportive and transitional housing throughout the City where other residential uses of the same type (single family or multifamily) are permitted. Specifically allowed in Low Density Residential (R-1); Medium Density Residential (R-2); High Density Residential (R-3); Mixed Use District (M-X); and Rail Corridor District (R-C).

The proposed Ordinance also includes new definitions for supportive and transitional housing, consistent with state law definitions in California Government Code Sections 65582(g) and 65582(i), respectively. The existing definition for transitional and supportive housing would be replaced with a definition based on State law.

Single Room Occupancy Housing

The Governor of the State of California signed into law AB2634 requiring local jurisdictions to make provisions for Single Room Occupancy (SRO) Facilities.

Single Room Occupancy Housing (SRO) is identified in Housing Element Program 8F as a specialized housing type to be accommodated. State law requires that the City accommodate this housing type, to provide smaller, less expensive housing units in order to meet our regional housing needs for lower incomes. To implement the State law and Housing Element Program 8F, the proposed Ordinance includes amendments to the Zoning Code to include a new definition for single residential occupancy housing consistent with state law and to include the use as a conditional use in the High Density Residential District (R-3).

The proposed Ordinance also provides regulations for single room occupancy housing units and facilities that would be applied in addition to the regulations of the underlying zoning district where SRO development would be permitted.

The regulations for SRO Housing are being incorporated as Article 48 of Chapter 9, Title 3 of the Municipal Code. The regulations include:

(1) Tenancy of each SRO unit shall not be for less than 30 days. No transient occupancy is allowed; SRO units shall be occupied as the primary residence of the tenant.

(2) Excluding the bathroom area and closet(s), the SRO unit must be a minimum of two hundred fifty (250) square feet in floor area and the maximum size shall be not more than three hundred (300) square feet. Each SRO unit shall be designed to accommodate a maximum of two people.

(3) Each SRO unit must include a closet.

(4) An SRO unit is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator and a stove, range top or oven. A partial kitchen is missing at least one of these appliances. If a full kitchen is not provided, common

kitchen facilities shall be provided with at least one full kitchen for every twenty (20) SRO units or portion thereof that do not have full kitchens, or have one kitchen on any floor where SRO units without kitchens are located.

(5) An SRO unit is not required to but may contain partial or full bathroom facilities. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink and bathtub, shower or bathtub/shower combination. Common bathrooms must be located on any floor with any unit that does not have a full bathroom. Common bathrooms shall be either single occupant use with provisions for privacy or multi-occupant use with separate provisions for men and women. Common bathrooms shall have shower or bathtub facilities at a ratio of one for every seven units or fraction thereof. Each shared shower or bathtub facility shall be provided with an interior lockable door.

(6) Each SRO facility shall have at least ten (10) square feet of common usable area per unit; however no SRO facility shall provide less than two hundred (200) square feet of common outdoor area and two hundred (200) square feet of common indoor area. Maintenance areas, laundry facilities, storage (including bicycle storage), and common hallways shall not be included as usable indoor common space. Landscape areas that are less than eight (8) feet wide shall not be included as outdoor common space.

(7) A SRO facility with eight (8) or more units shall provide twenty-four (24) hour on-site management, and include a dwelling unit designated for the manager. All SRO facilities must have a management plan approved prior to occupation by the Los Banos Community and Economic Development Director or designee. The management plan shall contain management policies, maintenance plans, rental procedures, tenant rules, and security procedures.

(8) Laundry facilities must be provided in a separate room at the ratio of one washer and one dryer for every ten (10) SRO units or fractional number thereof, with at least one (1) washer and dryer per floor.

(9) A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold running water must be provided on each floor of the SRO facility.

(10) Parking ratio of one space per unit and bicycle rack storage of one rack per 5 units.

(11) SRO facilities and SRO units shall comply with all requirements of the California Building Code and all other codes. All units shall comply with all applicable accessibility and adaptability requirements. All common areas shall be fully accessible. An existing structure may be converted to an SRO facility, consistent with the provisions of this section. Any such conversion must bring the entire structure up to current building code standards, including accessibility and adaptability standards, unless otherwise exempted by the Building Official.

(12) Interior and exterior lighting necessary for security, safety, and operational purposes shall conform to the California Code of Regulations Title 24, Parts 2, 2.5 and 6 or any successor provisions as applicable in effect at the time the application is deemed complete. Exterior lighting shall be stationary, directed away from adjacent properties and public right-of-ways.

ENVIRONMENTAL REVIEW:

The adoption of the proposed ordinance is covered by the “general rule” that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. Staff’s determination is that it can be seen with certainty that there is no possibility that the proposed regulations contained in the ordinance will have a significant effect on the environment. Therefore, the adoption of the ordinance is not subject to CEQA.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Proposed Ordinance
2. Text of SB2
3. Public Hearing Notice – March 6, 2020

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AMENDING TITLE 9 CHAPTER 3 OF THE LOS BANOS MUNICIPAL CODE REGARDING EMERGENCY SHELTERS, SUPPORTIVE AND TRANSITIONAL HOUSING AND SINGLE ROOM OCCUPANCY UNITS

WHEREAS, Government Code Section 65583 (Senate Bill 2 (SB2)) obligates cities and counties to establish a zoning district that allows emergency shelters as a land use which does not require a conditional use permit or other discretionary approval, and allows for the opportunity to create written standards for the development and operation of emergency shelters;

WHEREAS, the currently Emergency Shelters are permitted by right only in the Medium Density Residential (R-2) and High Density Residential (R-3) Districts and by conditional use permit in the Low Density Residential (R-1);

WHEREAS, SB2 stipulates that supportive housing and transitional housing shall be considered residential uses, only subject to those restrictions that apply to other residential uses of the same type in the same zone;

WHEREAS, AB 2634 local jurisdictions are now required to make provisions for Single Room Occupancy (SRO) Facilities;

WHEREAS, Housing Element Objectives and Policies adopted by the City Council on July 25, 2016 calls for amending the Zoning Code regarding emergency shelters and supportive and transitional housing to be in compliance with SB2;

“Implementation Program 8H. The City will review and amend if necessary, Title 9, Chapter 3 to ensure that Transitional and Supportive Housing complies with Senate Bill 2. If necessary, the City shall amend the Zoning Ordinance to permit Transitional and Supportive Housing as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. In addition, the City shall amend Article 2: Definitions to include Transitional and Supportive Housing and Target Population, per Senate Bill 745.”

WHEREAS, Housing Element Objectives and Policies adopted by the City Council on July 25, 2016 calls for amending the Zoning Code regarding single room occupancy units to be in compliance with AB 2634:

“Implementation Program 8F. The City will amend Title 9, Chapter 3 to allow for the location of Single Room Occupancy (SRO) uses as a conditional use in the High Density Residential District (R-3) and adopt

development standards that allow and accommodate the inclusion of new SRO's."

WHEREAS, the proposed amendments to the Los Banos Municipal Code are intended to ensure the City's procedural and substantive requirements for regarding emergency shelters, supportive and transitional housing and single room occupancy units are consistent with State law and the adopted Objectives and Policies of the 2014-2023 Housing Element;

WHEREAS, the subject Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA;

WHEREAS, the Planning Commission held a public hearing on February 26, 2020 and recommended approval of the proposed Ordinance with a finding of General Plan consistency; and

WHEREAS, the City Council conducted a duly noticed public hearing on the on March __, 2020 and April __, 2020 at which time all individuals desiring to comment on the proposed amendments were heard.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1: The above recitals and findings are true and correct and incorporated herein by this reference.

Section 2: The following definitions are hereby deleted from Section 9-3.201 of the Los Banos Municipal Code:

~~"Homeless shelter" means any structure designed, constructed, intended, or occupied for temporary occupancy by homeless persons for dwelling, lodging, or sleeping purposes. Medical assistance, training, counseling, and personal services essential to enable homeless persons to make the transition to permanent shelter may be provided, with or without meals, as part of the operation of a homeless shelter.~~

~~"Transitional and/or supportive housing" means housing with supportive services that is limited to occupancy of up to twenty-four (24) months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently~~

~~homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons.~~

Section 3: The following definitions are hereby added to Section 9-3.201 of the Los Banos Municipal Code to read as follows:

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay (as defined by California Health and Safety Code Section 50801(e)).

"Single-Room Occupancy (SRO) Facility" means any building containing five or more guest rooms or units intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by residents, which is also the primary residence of those residents. The individual units shall lack either kitchen facilities or individual bathrooms, or both. If full kitchen and bathroom facilities are provided in any living unit, then that unit shall not be considered a Single-Room Occupancy (SRO) unit for purposes of this section; it shall be considered a single family or multi-family residential unit, as the case may be. A Single-Room Occupancy Facility does not include residential care homes, senior housing projects, rooming and boarding houses, hotels and motels, bed and breakfast lodging, extended care facilities, hospitals, or similar use or other transient lodging facilities.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community (as defined by Government Code Section 65582). Supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

"Target population" means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people (as defined by Government Code Section 65582).

"Transitional housing" means a building or buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible

program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance (as defined by Section 50675.2 of the Health and Safety Code). Transitional housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Transitional housing does not include state licensed residential care facilities.

Section 4: Section 9-3.502 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.502 Uses permitted (R-C).

The following uses shall be permitted in the Rail Corridor District:

- (a) Mixed use development;
- (b) Commercial;
- (c) Live-work facilities;
- (d) Stacked flats;
- (e) Courtyard flats;
- (f) Townhouses;
- (g) Public/civic buildings and public spaces;
- (h) Cottage houses;
- (i) Accessory buildings;
- (j) Supportive housing; and
- (k) Transitional housing.

Section 5: Section 9-3.602 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.602 Uses permitted (R-1).

The following uses shall be permitted in the Low Density Residential District:

- (a) Single-family dwellings;
- (b) Public schools;
- (c) Public parks and playgrounds;
- (d) One secondary dwelling unit subject to the provisions of this chapter;
- (e) Employee needs housing for up to six (6) unrelated persons;
- (f) Group home;
- (g) Residential care facility for up to six (6) unrelated persons;
- (h) Special needs housing for up to six (6) unrelated persons;
- (i) Accessory buildings if secondary to primary use;
- (j) Home occupations;
- (k) Small family daycare;
- (l) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity;

- (m) Supportive housing; and
- (n) Transitional housing.

Section 6: Section 9-3.603 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.603 Uses permitted subject to securing use permits (R-1).

The following uses shall be permitted in the Low Density Residential District subject to securing a use permit:

- (a) Parochial schools;
- (b) Private academic schools when teaching an approved academic curriculum;
- (c) Churches and public uses;
- (d) Home occupations involving an employee or employees, advertising of the residence and/or customers on site;
- (e) Crop and tree farming;
- (f) Public utility uses, but not including storage or corporation yards;
- (g) Ducks, pigeons, geese, and chickens serving as household pets or 4H or FFA animal projects, in a number deemed appropriate;
- (h) Large family day care homes and day care centers;
- (i) Employee needs housing for more than six (6) unrelated persons;
- (j) Residential care facility for more than six (6) unrelated persons;
- (k) Special needs housing for more than six (6) unrelated persons; and
- (l) Emergency shelter.

Section 7: Section 9-3.702 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.702 Uses permitted (R-2).

The following uses shall be permitted in the Medium Density Residential District:

- (a) Triplexes, duplexes, attached or detached single-family dwellings;
- (b) Public schools;
- (c) Public parks and playgrounds;
- (d) Employee needs housing for up to six (6) unrelated persons;
- (e) Group home;
- (f) Residential care facility for up to six (6) unrelated persons;
- (g) Special needs housing for up to six (6) unrelated persons;
- (h) Accessory buildings if secondary to primary use;
- (i) Home occupations;
- (j) Small family daycare;

- (k) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity;
- (l) Emergency shelter;
- (l) Supportive housing; and
- (m) Transitional housing.

Section 8: Section 9-3.703 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.703 Uses permitted subject to securing use permits (R-2).

The following uses shall be permitted in the Medium Density Residential District subject to securing a use permit:

- (a) Parochial schools;
- (b) Private academic schools when teaching an approved academic curriculum;
- (c) Home occupations involving an employee or employees, advertising of the residence and/or customers on site;
- (d) Churches and public uses;
- (e) Public utility uses, but not including storage or corporation yards;
- (f) Ducks, pigeons, geese, and chickens serving as household pets or 4H or FFA animal projects, in a number deemed appropriate;
- (g) Large family day care homes and day care centers;
- (h) Employee needs housing for more than six (6) unrelated persons;
- (i) Residential care facility for more than six (6) unrelated persons;
- (j) Special needs housing for more than six (6) unrelated persons; and
- (k) Mobile home parks (subject to requirements of Article 17 of this chapter).

Section 9: Section 9-3.802 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.802 Uses permitted (R-3).

The following uses shall be permitted in the High Density Residential District:

- (a) Multifamily uses;
- (b) Apartments;
- (c) Triplexes;
- (d) Group dwellings with more than six (6) residents;
- (e) Public schools;
- (f) Public parks and playgrounds;
- (g) Employee needs housing for more than six (6) unrelated persons;
- (h) Residential care facility for more than six (6) unrelated persons;
- (i) Special needs housing for more than six (6) unrelated persons;

- (j) Accessory buildings;
- (k) Small family daycare;
- (l) Home occupations;
- (m) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity;
- (n) Emergency housing;
- (o) Supportive housing; and
- (p) Transitional housing.

Section 10: Section 9-3.803 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.803 Uses permitted subject to securing use permits (R-3).

The following uses shall be permitted in the High Density Residential District subject to securing a use permit:

- (a) Parochial schools;
- (b) Private academic schools when teaching an approved academic curriculum;
- (c) Churches and public uses;
- (d) Public utility uses;
- (e) Mobile home parks (subject to requirements of Article 17 of this chapter);
- (f) Ducks, pigeons, geese, and chickens serving as household pets or 4H or FFA animal projects, in a number deemed appropriate;
- (g) Large family day care homes and day care centers;
- (h) Home occupations involving an employee or employees, advertising of the residence and/or customers on site;
- (i) A not for profit membership or charitable organization provided the chief activity is not customarily carried on as a business; and
- (j) Single Room Occupancy Facility.

Section 11: Section 9-3.902 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.902 Uses permitted (M-X).

The following uses shall be permitted in the Mixed Use District:

- (a) Art, craft and photography galleries/studios;
- (b) Music and dance studios;
- (c) Banks, savings and loan facilities;
- (d) Eating and/or drinking establishments;
- (e) Communication facilities;
- (f) Food service;

- (g) Specialty food or drink shops;
- (h) Health clubs or exercise studios;
- (i) Maintenance and repair service, small equipment;
- (j) Offices, business, professional or medical;
- (k) Personal services;
- (l) Recreation and entertainment;
- (m) Bed and breakfast inn, hotel or motel;
- (n) Cultural and/or historical institutions;
- (o) Government offices;
- (p) Public parking facilities;
- (q) Retail sales;
- (r) Residential
- (s) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity; and
- (t) Churches.
- (u) Supportive housing; and
- (v) Transitional housing.

Section 12: Section 9-3.1503 of the Los Banos Municipal Code is hereby amended to read as follows:

Sec. 9-3.1503 Uses permitted subject to obtaining use permits (I).

The following uses shall be permitted in the General Industrial District subject to securing a use permit:

- (a) Material storage yards (auto wrecking and salvage yards) when conducted within a solid fence at least seven (7') feet in height and when all material is stacked below the top of the fence;
- (b) Meat packing, stockyards, and the slaughter of animals and fowl;
- (c) Storage and handling of explosive materials;
- (d) Outdoor advertising structures not appurtenant to any permitted use;
- (e) Adult entertainment businesses subject to the provisions starting in Section 11-15.1.01;
- (f) Emergency shelters; and
- (g) Other uses as deemed appropriate by the Planning Commission.

Section 13: Article 47 of Chapter 3 of Title 9 is hereby added to the Los Banos Municipal Code to read as follows:

Article 47. Emergency Shelters.

Sec. 9-3.4701

(a) Consistent with Government Code Sections 65582, 65583(a), and 65589.5, all California cities are required to identify a minimum of one zone that permits emergency shelters by right. The purpose of this Article is to establish standards to ensure that the development of emergency shelters does not adversely impact adjacent parcels or the surrounding neighborhood, and that they are developed in a manner that protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Los Banos.

(b) Emergency shelters may be allowed in the Medium Density Residential District; High Density Residential District; and General Industrial District, as a permitted use, subject to a non-discretionary Zoning Clearance issued by the Community and Economic Development Director pursuant to Government Code Section 65583 (a)(4).

(c) Emergency shelters are subject to the following standards.

(1) No individual shall be denied emergency shelter because of an inability to pay.

(2) Emergency shelters shall be operated under the authority of a governing agency or private organization that provides, or that contracts to provide, emergency shelters and which, when required by law, is properly registered and licensed.

(3) Emergency shelters shall comply with applicable California Health and Safety Codes.

(4) Emergency shelters shall comply with all property development standards of the zone in which they are located, and in addition, no emergency shelter shall be located within three hundred feet of another such facility, said measurement being defined as the shortest distance between the outside walls of the structures housing such facilities.

(5) Parking shall be as required by Title 9, Article 3, Chapter 20 "Off-Street Parking" unless the applicant provides substantial evidence demonstrating that the actual parking need is lower, subject to the approval of the Community and Economic Development Director or designee.

(6) Each emergency shelter shall include, at a minimum, the following:

a. Interior and exterior lighting necessary for security, safety, and operational purposes shall conform to the California Code of Regulations Title 24, Parts 2, 2.5 and 6 or any successor provisions as applicable in effect at the time the application is deemed complete. Exterior lighting shall be stationary, directed away from adjacent properties and public right-of-ways;

b. If client intake is to occur on-site, there shall be an indoor client intake/waiting area equal to a minimum of ten square feet per bed provided at the facility. If an exterior

waiting area is also provided, it shall be enclosed or screened from public view and adequate to prevent obstructing of the public right-of-way and required parking and access;

c. Clean, sanitary beds and sanitation facilities, including showers and toiletries; and

d. Segregated sleeping, lavatory and bathing areas if the emergency shelter accommodates both men and women in the same building. Reasonable accommodation shall be made to provide segregated sleeping, lavatory and bathing areas for families.

(7) At least one facility manager shall be on-site at all hours the facility is open and one hour prior to and after facility operating hours. At least one full-time equivalent employee shall be required to be on-site during facility operating hours for every 20 beds in the facility.

(8) Emergency shelters may provide one or more of the following types of supportive facilities or services for the exclusive use or benefit of the shelter clients:

- a. Central cooking and dining room(s);
- b. Recreation areas, indoor and/or outdoors;
- c. Laundry facilities for clients to wash their clothes;
- d. Intake and administrative offices;
- e. Counseling and other supportive services; or
- f. Secure storage areas for bicycles and other personal possessions.

(9) The agency or organization operating the shelter shall have a written Facility Management Plan consisting of, as applicable, provisions for staff training; neighborhood outreach; security; screening of residents to ensure compatibility with services provided at the facility; training, counseling, and treatment programs for residents, and facility information, including the number of persons who can be served nightly, the location of onsite waiting and intake areas, the provision of onsite management, and onsite security during hours of operation, as established in Government Code Section 65583 (a)(4)(A).

Section 14: Article 48 of Chapter 3 of Title 9 is hereby added to the Los Banos Municipal Code to read as follows:

Article 48. Single Room Occupancy (SRO) Facilities.

Sec. 9-3.4801

(a) The purpose of this Article is to establish standards to ensure that the development of single room occupancy (SRO) facilities does not adversely impact adjacent parcels or the surrounding neighborhood, and that they are developed in a

manner that protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Los Banos.

(b) Single Room Occupancy (SRO) Facilities may be allowed in the (R-3) High Density Residential zone, subject to design review and a conditional use permit. An SRO facility is not required to conform to the density standards of the General Plan or the Zoning Code. Except as set forth herein, SRO facilities shall comply with all property development standards of the zone in which they are located

(c) Single Room Occupancy (SRO) facilities are subject to the following standards:

(1) Tenancy of each SRO unit shall not be for less than 30 days. No transient occupancy is allowed; SRO units shall be occupied as the primary residence of the tenant.

(2) Excluding the bathroom area and closet(s), the SRO unit must be a minimum of two hundred fifty (250) square feet in floor area and the maximum size shall be not more than three hundred (300) square feet. Each SRO unit shall be designed to accommodate a maximum of two people.

(3) Each SRO unit must include a closet.

(4) An SRO unit is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator and a stove, range top or oven. A partial kitchen is missing at least one of these appliances. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one full kitchen for every twenty (20) SRO units or portion thereof that do not have full kitchens, or have one kitchen on any floor where SRO units without kitchens are located.

(5) An SRO unit is not required to but may contain partial or full bathroom facilities. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink and bathtub, shower or bathtub/shower combination. Common bathrooms must be located on any floor with any unit that does not have a full bathroom. Common bathrooms shall be either single occupant use with provisions for privacy or multi-occupant use with separate provisions for men and women. Common bathrooms shall have shower or bathtub facilities at a ratio of one for every seven units or fraction thereof. Each shared shower or bathtub facility shall be provided with an interior lockable door.

(6) Each SRO facility shall have at least ten (10) square feet of common usable area per unit; however no SRO facility shall provide less than two hundred (200) square feet of common outdoor area and two hundred (200) square feet of common indoor area. Maintenance areas, laundry facilities, storage (including bicycle storage), and common hallways shall not be included as usable indoor common space.

Landscape areas that are less than eight (8) feet wide shall not be included as outdoor common space.

(7) A SRO facility with eight (8) or more units shall provide twenty-four (24) hour on-site management, and include a dwelling unit designated for the manager. All SRO facilities must have a management plan approved prior to occupation by the Los Banos Community and Economic Development Director or designee. The management plan shall contain management policies, maintenance plans, rental procedures, tenant rules, and security procedures.

(8) Laundry facilities must be provided in a separate room at the ratio of one washer and one dryer for every ten (10) SRO units or fractional number thereof, with at least one (1) washer and dryer per floor.

(9) A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold running water must be provided on each floor of the SRO facility.

(10) Parking ratio of one space per unit and bicycle rack storage of one rack per 5 units.

(11) SRO facilities and SRO units shall comply with all requirements of the California Building Code and all other codes. All units shall comply with all applicable accessibility and adaptability requirements. All common areas shall be fully accessible. An existing structure may be converted to an SRO facility, consistent with the provisions of this section. Any such conversion must bring the entire structure up to current building code standards, including accessibility and adaptability standards, unless otherwise exempted by the Building Official.

(12) Interior and exterior lighting necessary for security, safety, and operational purposes shall conform to the California Code of Regulations Title 24, Parts 2, 2.5 and 6 or any successor provisions as applicable in effect at the time the application is deemed complete. Exterior lighting shall be stationary, directed away from adjacent properties and public right-of-ways.

Section 15. 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 respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 16. 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 17. The proposed amendments to the Los Banos Municipal Code do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines section 15601(b)(3) and is not subject to environmental review.

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 the 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, the 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 Member _____ and seconded by Council Member _____ on the ____ day of _____, 2020.

Passed on the ____ day of _____, 2020 by the following vote:

AYES: Council Members
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

Senate Bill No. 2**CHAPTER 633**

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

[Approved by Governor October 13, 2007. Filed with Secretary of State October 13, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters to these provisions, as specified, and would add provisions to the housing element that would require a local government to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The bill would also authorize a local government to satisfy all or part of this requirement by adopting and implementing a multijurisdictional agreement, as specified, and would delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add supportive housing, transitional housing, and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define supportive housing and transitional housing. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing

need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

SEC. 3. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (6). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the

cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with

appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 4. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with

applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the

petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: March 6, 2020

Regarding: Notice of Public Hearing

Proposal: Proposed Ordinance – SB 2 Compliance

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider a Statutory Exemption from CEQA pursuant to Section 15061(b)(3) (General Rule) and to amend Chapter 3 of Title 9 of the Municipal Code as it relates to removing barriers for development of supportive and transitional housing, emergency shelters, and single room occupancies in accordance with State Housing Element Law.

The Los Banos Planning Commission held a public hearing on February 26, 2020 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 adoption of the ordinance as specified above.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council on Wednesday, March 18, 2020 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 and 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 Ordinance 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 Planning Commission at, or prior to, the public hearing per Government Code Section 65009.

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 and Economic Development Director



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta and Council Members

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

DATE: March 18, 2020

TYPE OF REPORT: Public Hearing

SUBJECT: 2019 Housing Element Annual Progress Report

Recommendation:

That the City Council adopt a resolution approving the 2019 Annual Report on the status of the Housing Element of the General Plan and progress in its implementation.

Discussion:

Section 65400(a)(2) of the Government Code requires each jurisdiction to prepare and submit an annual progress report on its General Plan by April 1 of each year. The annual report is required to contain the following:

- Status of the City's General Plan and progress in its implementation;
- Progress in meeting the City's regional housing need; and
- Any actions taken by the City toward completion of Programs identified in the City's Housing Element.

This report is required to be reviewed and considered by the City's legislative body (City Council), and subsequently submitted to the California Office of Planning and Research, and the California Department of Housing and Community Development. The annual report does not require approval by these State Agencies.

The 2018 Housing Element Annual Progress Report is attached to this Staff Report as Attachment 2. The purpose of the annual progress report is to:

- 1) Remain compliant with Government Code Section 65400(a)(2) and Housing Element Law;
- 2) To update City Council on housing development and implementation of the Housing Element; and
- 3) Ensure eligibility for State grant funding.

For the City to be eligible for State funding for a variety of Housing and Parks Grants, the State requires the City's Housing Element to be in compliance with State Housing Law (certified) and for the City to make Annual Progress Reports to the Office of Planning and Research and the Department of Housing and Community Development annually (by April 1 of each year). The City's 2014-2023 Housing Element was adopted on July 25, 2016, and received State certification in September 2016. The proposed Annual Progress Report ensures that the City will remain up-to-date in regards to the requirements imposed for future grant opportunities.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Resolution
2. City of Los Banos 2019 Housing Element Annual Progress Report
3. Public Hearing Notice – March 6, 2020

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS ADOPTING THE 2019
ANNUAL REPORT ON THE STATUS OF THE
HOUSING ELEMENT OF THE GENERAL PLAN
AND PROGRESS IN ITS IMPLEMENTATION**

WHEREAS, the City of Los Banos is required by Government Code Section 65400 to provide an Annual Progress Report on the General Plan for the preceding year; and

WHEREAS, the Annual Progress Report must be provided to the City Council, the California Office of Planning and Research, and the California Department of Housing and Community Development; and

WHEREAS, the Annual Progress Report must include all of the following: a) the status of the Housing Element and progress in its implementation, b) the progress in meeting Los Banos' share of the regional housing needs and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing, the degree which its approved General Plan complies with the guidelines adopted pursuant to Section 65040.2.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby adopt the 2019 Annual Housing Element Progress Report and authorizes staff to submit said report to the California Office of Planning and Research and California Department of Housing and Community Development.

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 March 2020, 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

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
FOR THE YEAR 2017

Date of report submission: 10/10/2017

Element ID	Element Name	Priority	Category	Sub-Category	Start Date	End Date	Progress	Notes
18-0001
18-0002
18-0003
18-0004
18-0005
18-0006
18-0007
18-0008
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18-0097
18-0098
18-0099
18-0100

ANNUAL ELEMENT PROGRESS REPORT
Monthly Element Implementation

Notes: * Indicates not achieved in year
** Indicates implementation started

Element ID	Element Name	Start Date	End Date	Frequency	Priority	Responsible Party	Progress	Notes
001	Element 1	01/01/2024	12/31/2024	Monthly	High	John Doe	Completed	
002	Element 2	01/01/2024	12/31/2024	Monthly	Medium	Jane Smith	In Progress	
003	Element 3	01/01/2024	12/31/2024	Monthly	Low	Bob Johnson	Not Started	
004	Element 4	01/01/2024	12/31/2024	Monthly	High	Alice Brown	Completed	
005	Element 5	01/01/2024	12/31/2024	Monthly	Medium	Charlie White	In Progress	
006	Element 6	01/01/2024	12/31/2024	Monthly	Low	Diana Green	Not Started	
007	Element 7	01/01/2024	12/31/2024	Monthly	High	Eve Black	Completed	
008	Element 8	01/01/2024	12/31/2024	Monthly	Medium	Frank Blue	In Progress	
009	Element 9	01/01/2024	12/31/2024	Monthly	Low	Grace Yellow	Not Started	
010	Element 10	01/01/2024	12/31/2024	Monthly	High	Henry Purple	Completed	
011	Element 11	01/01/2024	12/31/2024	Monthly	Medium	Ivy Pink	In Progress	
012	Element 12	01/01/2024	12/31/2024	Monthly	Low	Jack Orange	Not Started	
013	Element 13	01/01/2024	12/31/2024	Monthly	High	Karen Silver	Completed	
014	Element 14	01/01/2024	12/31/2024	Monthly	Medium	Liam Gold	In Progress	
015	Element 15	01/01/2024	12/31/2024	Monthly	Low	Mia Bronze	Not Started	
016	Element 16	01/01/2024	12/31/2024	Monthly	High	Noah Copper	Completed	
017	Element 17	01/01/2024	12/31/2024	Monthly	Medium	Olivia Iron	In Progress	
018	Element 18	01/01/2024	12/31/2024	Monthly	Low	Peter Steel	Not Started	
019	Element 19	01/01/2024	12/31/2024	Monthly	High	Quinn Aluminum	Completed	
020	Element 20	01/01/2024	12/31/2024	Monthly	Medium	Rachel Zinc	In Progress	
021	Element 21	01/01/2024	12/31/2024	Monthly	Low	Sam Tin	Not Started	
022	Element 22	01/01/2024	12/31/2024	Monthly	High	Tina Lead	Completed	
023	Element 23	01/01/2024	12/31/2024	Monthly	Medium	Uma Cadmium	In Progress	
024	Element 24	01/01/2024	12/31/2024	Monthly	Low	Victor Mercury	Not Started	
025	Element 25	01/01/2024	12/31/2024	Monthly	High	Wendy Silver	Completed	
026	Element 26	01/01/2024	12/31/2024	Monthly	Medium	Xavier Gold	In Progress	
027	Element 27	01/01/2024	12/31/2024	Monthly	Low	Yara Bronze	Not Started	
028	Element 28	01/01/2024	12/31/2024	Monthly	High	Zoe Copper	Completed	
029	Element 29	01/01/2024	12/31/2024	Monthly	Medium	Adam Zinc	In Progress	
030	Element 30	01/01/2024	12/31/2024	Monthly	Low	Bella Tin	Not Started	
031	Element 31	01/01/2024	12/31/2024	Monthly	High	Carl Lead	Completed	
032	Element 32	01/01/2024	12/31/2024	Monthly	Medium	Dora Cadmium	In Progress	
033	Element 33	01/01/2024	12/31/2024	Monthly	Low	Ethan Mercury	Not Started	
034	Element 34	01/01/2024	12/31/2024	Monthly	High	Fiona Silver	Completed	
035	Element 35	01/01/2024	12/31/2024	Monthly	Medium	George Gold	In Progress	
036	Element 36	01/01/2024	12/31/2024	Monthly	Low	Hannah Bronze	Not Started	
037	Element 37	01/01/2024	12/31/2024	Monthly	High	Ian Copper	Completed	
038	Element 38	01/01/2024	12/31/2024	Monthly	Medium	Jessica Zinc	In Progress	
039	Element 39	01/01/2024	12/31/2024	Monthly	Low	Kyle Tin	Not Started	
040	Element 40	01/01/2024	12/31/2024	Monthly	High	Laura Lead	Completed	
041	Element 41	01/01/2024	12/31/2024	Monthly	Medium	Mason Cadmium	In Progress	
042	Element 42	01/01/2024	12/31/2024	Monthly	Low	Natalie Mercury	Not Started	
043	Element 43	01/01/2024	12/31/2024	Monthly	High	Oscar Silver	Completed	
044	Element 44	01/01/2024	12/31/2024	Monthly	Medium	Pamela Gold	In Progress	
045	Element 45	01/01/2024	12/31/2024	Monthly	Low	Quinn Bronze	Not Started	
046	Element 46	01/01/2024	12/31/2024	Monthly	High	Ryan Copper	Completed	
047	Element 47	01/01/2024	12/31/2024	Monthly	Medium	Sarah Zinc	In Progress	
048	Element 48	01/01/2024	12/31/2024	Monthly	Low	Timothy Tin	Not Started	
049	Element 49	01/01/2024	12/31/2024	Monthly	High	Uma Lead	Completed	
050	Element 50	01/01/2024	12/31/2024	Monthly	Medium	Victor Cadmium	In Progress	
051	Element 51	01/01/2024	12/31/2024	Monthly	Low	Wendy Mercury	Not Started	
052	Element 52	01/01/2024	12/31/2024	Monthly	High	Xavier Silver	Completed	
053	Element 53	01/01/2024	12/31/2024	Monthly	Medium	Yara Gold	In Progress	
054	Element 54	01/01/2024	12/31/2024	Monthly	Low	Zoe Bronze	Not Started	
055	Element 55	01/01/2024	12/31/2024	Monthly	High	Adam Copper	Completed	
056	Element 56	01/01/2024	12/31/2024	Monthly	Medium	Bella Zinc	In Progress	
057	Element 57	01/01/2024	12/31/2024	Monthly	Low	Carl Tin	Not Started	
058	Element 58	01/01/2024	12/31/2024	Monthly	High	Dora Lead	Completed	
059	Element 59	01/01/2024	12/31/2024	Monthly	Medium	Ethan Cadmium	In Progress	
060	Element 60	01/01/2024	12/31/2024	Monthly	Low	Fiona Mercury	Not Started	
061	Element 61	01/01/2024	12/31/2024	Monthly	High	George Silver	Completed	
062	Element 62	01/01/2024	12/31/2024	Monthly	Medium	Hannah Gold	In Progress	
063	Element 63	01/01/2024	12/31/2024	Monthly	Low	Ian Bronze	Not Started	
064	Element 64	01/01/2024	12/31/2024	Monthly	High	Jessica Copper	Completed	
065	Element 65	01/01/2024	12/31/2024	Monthly	Medium	Kyle Zinc	In Progress	
066	Element 66	01/01/2024	12/31/2024	Monthly	Low	Laura Tin	Not Started	
067	Element 67	01/01/2024	12/31/2024	Monthly	High	Mason Lead	Completed	
068	Element 68	01/01/2024	12/31/2024	Monthly	Medium	Natalie Cadmium	In Progress	
069	Element 69	01/01/2024	12/31/2024	Monthly	Low	Oscar Mercury	Not Started	
070	Element 70	01/01/2024	12/31/2024	Monthly	High	Pamela Silver	Completed	
071	Element 71	01/01/2024	12/31/2024	Monthly	Medium	Quinn Gold	In Progress	
072	Element 72	01/01/2024	12/31/2024	Monthly	Low	Ryan Bronze	Not Started	
073	Element 73	01/01/2024	12/31/2024	Monthly	High	Sarah Copper	Completed	
074	Element 74	01/01/2024	12/31/2024	Monthly	Medium	Timothy Zinc	In Progress	
075	Element 75	01/01/2024	12/31/2024	Monthly	Low	Uma Tin	Not Started	
076	Element 76	01/01/2024	12/31/2024	Monthly	High	Victor Lead	Completed	
077	Element 77	01/01/2024	12/31/2024	Monthly	Medium	Wendy Cadmium	In Progress	
078	Element 78	01/01/2024	12/31/2024	Monthly	Low	Xavier Mercury	Not Started	
079	Element 79	01/01/2024	12/31/2024	Monthly	High	Yara Silver	Completed	
080	Element 80	01/01/2024	12/31/2024	Monthly	Medium	Zoe Gold	In Progress	
081	Element 81	01/01/2024	12/31/2024	Monthly	Low	Adam Bronze	Not Started	
082	Element 82	01/01/2024	12/31/2024	Monthly	High	Bella Copper	Completed	
083	Element 83	01/01/2024	12/31/2024	Monthly	Medium	Carl Zinc	In Progress	
084	Element 84	01/01/2024	12/31/2024	Monthly	Low	Dora Tin	Not Started	
085	Element 85	01/01/2024	12/31/2024	Monthly	High	Ethan Lead	Completed	
086	Element 86	01/01/2024	12/31/2024	Monthly	Medium	Fiona Cadmium	In Progress	
087	Element 87	01/01/2024	12/31/2024	Monthly	Low	George Mercury	Not Started	
088	Element 88	01/01/2024	12/31/2024	Monthly	High	Hannah Silver	Completed	
089	Element 89	01/01/2024	12/31/2024	Monthly	Medium	Ian Gold	In Progress	
090	Element 90	01/01/2024	12/31/2024	Monthly	Low	Jessica Bronze	Not Started	
091	Element 91	01/01/2024	12/31/2024	Monthly	High	Kyle Copper	Completed	
092	Element 92	01/01/2024	12/31/2024	Monthly	Medium	Laura Zinc	In Progress	
093	Element 93	01/01/2024	12/31/2024	Monthly	Low	Mason Tin	Not Started	
094	Element 94	01/01/2024	12/31/2024	Monthly	High	Natalie Lead	Completed	
095	Element 95	01/01/2024	12/31/2024	Monthly	Medium	Oscar Cadmium	In Progress	
096	Element 96	01/01/2024	12/31/2024	Monthly	Low	Pamela Mercury	Not Started	
097	Element 97	01/01/2024	12/31/2024	Monthly	High	Quinn Silver	Completed	
098	Element 98	01/01/2024	12/31/2024	Monthly	Medium	Ryan Gold	In Progress	
099	Element 99	01/01/2024	12/31/2024	Monthly	Low	Sarah Bronze	Not Started	
100	Element 100	01/01/2024	12/31/2024	Monthly	High	Timothy Copper	Completed	

Jurisdiction	Los Banos	
Reporting Year	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
 Please contact HCD if your data is different than the material supplied here

Table B													
Regional Housing Needs Allocation Progress													
Permitted Units Issued by Affordability													
		1	2								3	4	
Income Level		RHNA Allocation by Income Level	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	604	41									41	563
	Non-Deed Restricted												
Low	Deed Restricted	431	21									22	409
	Non-Deed Restricted			1									
Moderate	Deed Restricted	396										13	383
	Non-Deed Restricted		7		4	2							
Above Moderate		1049		217	258	192						667	382
Total RHNA		2480											
Total Units			69	217	263	194						743	1737

Note: units serving extremely low-income households are included in the very low-income permitted units totals
 Cells in grey contain auto-calculation formulas

Jurisdiction	Los Banos	
Reporting Year	2019	(Jan. 1 - Dec. 31)

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	2
Above Moderate		192
Total Units		194

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Housing Applications Summary	
Total Housing Applications Submitted:	1
Number of Proposed Units in All Applications Received:	10
Total Housing Units Approved:	0
Total Housing Units Disapproved:	10

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	Los Banos	
Reporting Year	2019	(Jan. 1 - Dec. 31)

Table D

Program Implementation Status pursuant to GC Section 65583

Housing Programs Progress Report

Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
<p>1. The City shall designate sufficient land at various densities to allow for the construction of sufficient housing to meet its legally adopted HCD Regional Housing Needs (RHNA) between 2014 and 2023. The City shall review, as needed, the amount of land designated for various residential uses in conjunction with the amount of and types of housing produced in the previous year to determine if any changes in the General Plan or Zoning Ordinance may be needed to meet the City's housing needs. A review of the supply of vacant land and development patterns over the proceeding year will be incorporated into each annual evaluation of the City's implementation of the Housing Element programs.</p>	<p>Goal 1. Provide adequate sites for residential development and alternate housing choices at affordable costs for all segments of the City</p>	<p>Ongoing</p>	<p>The Community and Economic Development Department has reviewed the supply of vacant land and development patterns over 2018 and will be working to redesignate land to meet the RHNA requirements.</p>

<p>1A. Create and maintain an up to date site inventory detailing the amount, type and size of vacant and underused parcels, and assist developers in identifying land suitable for residential development.</p>	<p>Goal 1</p>	<p>Ongoing</p>	<p>The Community and Economic Development Department updates and maintains the residential site inventory and will continue to assist developers in identifying land suitable for residential development.</p>
<p>1B. Continue to seek grant funding from State and Federal sources to assist in the development of affordable housing.</p>	<p>Goal 1</p>	<p>Ongoing</p>	<p>The Community and Economic Development Department is working with land owners to redesignate land.</p>
<p>1C. To facilitate the development of multifamily housing affordable to lower-income households, the City will identify and rezone approximately 25 acres of vacant land currently zoned R-1 to the R-3 zoning district, allowing exclusively residential uses by right (not requiring a conditional use permit, planned development or any other discretionary approval), containing a minimum of 16 units per site and a minimum density of 20 units per acre by March 2017. The rezoned sites will be selected from the list of identified sites within the R-1 zone in Appendix E of this element and will include only sites that are no less than one acre and no larger than 10 acres in size.</p>	<p>Goal 1</p>	<p>2017/2018</p>	<p>The Community and Economic Development Department is working with land owners to redesignate land.</p>

<p>1D. To meet the Unaccommodated Need from the 4th Cycle identified in Program 1C of the 2009-2014 Housing Element and AB1233 Analysis located in Section 5, the City will rezone the site(s) listed in Table V-6 and adopt a General Plan Amendment (if necessary) to meet the unaccommodated need of 81 units. The site(s) will meet the following criteria: Can meet a minimum of 16 units; Can meet a minimum density of twenty (20) dwelling units per acre; Rezone to a district that permits residential uses (by right).</p>	<p>Goal 1</p>	<p>Complete</p>	<p>Completed on March 20, 2019</p>
<p>2. Staff will periodically review the development standards for the residential zones to identify standards that may constrain the development of affordable housing and housing for special groups, such as disabled individuals.</p>	<p>Goal 2. Remove governmental constraints</p>	<p>Ongoing</p>	<p>The Community and Economic Development Department is constantly reviewing the City's standards and policies to identify constraints on affordable housing and housing for special groups.</p>

<p>2A. Affordable housing developers often face constraints in developing affordable housing projects. One way the City can assist such developers is by providing fast-track/priority processing for low-income and special needs housing projects. This service can encourage affordable housing development by allowing developers to go through the approval and permitting process quicker keeping costs down and unit affordable. Options include:</p> <ul style="list-style-type: none"> • Assign a primary contact for priority housing developments to assist with all necessary entitlement and assist navigating various local departments. • Hold pre-application development conferences. • Provide information about permit streamlining at the planning counter, on the City's website and in other public places to increase awareness. 	<p>Goal 2</p>	<p>Ongoing</p>	<p>The Community and Economic Development Department has developed a streamlined permitting process and will be working with affordable housing developments as projects are received to navigate them through the local development process.</p>
<p>2.B. Continue to utilize State funding for first time homebuyers program.</p>	<p>Goal 2</p>	<p>Ongoing</p>	<p>This is an ongoing program and the City is actively pursuing future opportunities for additional State funding for the first time homebuyer program. The City completed the 2018 CDBG program and requested \$215,000 in first time homebuyer assistance funds.</p>
<p>2.C. Actively enforce Nuisance Ordinance with regard to abandoned or vacant homes.</p>	<p>Goal 2</p>	<p>Ongoing</p>	<p>This City of Los Banos was awarded CDBG funding in 2015 for Code Enforcement services to help addresses enforcement of the Nuisance Ordinance regarding abandoned or vacant homes amongst other issues regarding blight in the community. The City has BEEN AWARDED for additional funding under the 2018 CDBG NOFA for \$500,000 to continue addressing enforcement of the Nuisance Ordinance.</p>

<p>2D. In accordance with Government Code Section 65589.7, immediately following City Council adoption, the City must deliver to all public agencies or private entities that provide water and sewer services to properties within Los Banos a copy of the 2014-2023 Housing Element. The City of Los Banos provides water and sewer services to all residents and businesses within the City. As such, a copy of the adopted 2014-2023 Housing Element will be provided to the applicable Department(s) within 30-days. The City will also establish a written procedure by the end of 2017 pursuant to Government Code Section 65589.7 to provide water and sewer service to developments with units affordable to lower income households.</p>	<p>Goal 2</p>	<p>Complete</p>	<p>The City of Los Banos is the only water and sewer provider within the city limits. The City already has a policy in place to provide water and sewer service to developments with units affordable to lower income households. Completed in 2016.</p>
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<p>2E. To promote continued opportunity for public engagement, the City shall conduct an annual Housing Element review and provide opportunities for public engagement and discussion in conjunction with the State requirement of written review of the General Plan by April 1 of each year (per Government Code Section 65400). Use the Planning Commission and City Council as an avenue for public input on housing issues and housing element.</p>	<p>Goal 2</p>	<p>Complete</p>	<p>The Community and Economic Development Department each year will be meeting the requirements of Govt Code Sec. 65400 with a public hearing process to engage the input of the community. Completed annually.</p>
<p>3. Continue programs for rehabilitation and encourage the county-wide CDBG consortium to apply to the State for funds for housing rehabilitation on behalf of Los Banos.</p>	<p>Goal 3. Encourage the maintenance, improvement and rehabilitation of the City's existing housing stock and encourage the maintenance and upkeep of existing affordable housing.</p>	<p>Ongoing</p>	<p>The City will continue to pursue CDBG funding for housing rehabilitation.</p>
<p>3A. Provide information to homeowners and nonprofit groups regarding funding and assistance programs.</p>	<p>Goal 3</p>	<p>Ongoing</p>	<p>The City will continue to provide information to homeowners and nonprofit groups via social media, the City's website, and utility bills regarding any funding assistance programs.</p>
<p>3B. Monitor at risk units by establishing and maintaining close contact with property owners regarding their long term plan for projects on an annual basis. Seek funds to purchase and preserve the affordability of the units and establish and implement a proactive tenant noticing and education strategy.</p>	<p>Goal 3</p>	<p>Ongoing</p>	<p>A database has been established and staff is working on a tenant noticing strategy.</p>

<p>3C. Establish and implement a program to reduce, waive or subsidize local development fees associated with preservation or replacement of at-risk units.</p>	<p>Goal 3</p>	<p>Ongoing</p>	<p>City staff works with the City Council to reduce, waive or subsidize local development fees on a cases by case basis. A reduction in senior housing Development Impact Fees was approved by the City Council on January 15, 2020.</p>
<p>3D. The City shall conduct a Housing Condition Survey. This Housing Condition Survey will follow HCD Guidelines. Results of the survey are to be published on the City's website and the City will assist the Housing Authority of the County of Merced in rehabilitation and targeted efforts. Actions to be taken following the results of the Survey include but are not limited to:</p> <ul style="list-style-type: none"> • Apply for HOME and CDBG grant funds for rehabilitation projects identified as part of the Survey; and • Contact homeowners identified in the Survey as having a home qualifying for the rehabilitation program. 	<p>Goal 3</p>	<p>Complete</p>	<p>Completed on March 27, 2019.</p>
<p>3E. Discourage land division of sites currently zoned high density residential. • The City shall evaluate and make a written determination on the site constraints as a result of a proposed subdivided site currently zoned high density residential.</p>	<p>Goal 3</p>	<p>Ongoing</p>	<p>The Community and Economic Development Department discourages the land division of sites zoned high density residential and will provide an evaluation on the site constraints as a result of any proposed subdivided high density sites.</p>

<p>4. Continue to enforce State energy conservation requirements such as Title 24 of the Building Energy Efficiency Standards for new residential projects and encourage residential developers to employ additional energy conservation measures with respect to: subdivision design, siting of homes on the lot, landscaping and solar access.</p>	<p>Goal 4. Achieve energy efficiency in housing activities</p>	<p>Ongoing</p>	<p>Standard Conditions of Approval have been incorporated into each residential entitlement requiring these requirements.</p>
<p>4A. Promote standards that promote passive solar heating, overhangs on south facing windows, planting of deciduous trees on the west and south.</p>	<p>Goal 4</p>	<p>Ongoing</p>	<p>Standard Conditions of Approval have been incorporated into each residential entitlement requiring these requirements.</p>
<p>5. Evaluate Zoning Map to ensure that higher density zoning is adjacent to services and transit and make changes if necessary, also work with developers on future developments to ensure close proximity of services to higher density residential uses.</p>	<p>Goal 5. Ensure that all residents have access to housing</p>	<p>Ongoing</p>	<p>The Community and Economic Development Department continually evaluates existing higher density residential uses in relation to the proximity of services and transit and makes changes as necessary.</p>

<p>5A. Extremely Low-Income Housing Development Funding. Coordinate with developers, non-profit housing agencies, and County, State, and Federal Agencies to obtain available sources of funding for the development of affordable housing units. The City's Community and Economic Development Department shall coordinate with the Housing Authority of the County of Merced to research and pursue potential funding opportunities, process applications, and manage funds received for the development of affordable housing. Specific emphasis shall be placed on the development of extremely low-income housing through a variety of activities, including annual outreach to affordable housing developers, providing technical and/or financial assistance through identifying grant and/or loan</p>	<p>Goal 5</p>	<p>Ongoing</p>	<p>The City is continuously pursuing funding sources for the development of affordable housing units and coordinates with nonprofit housing agencies and government agencies to obtain any sources of funding.</p>
<p>5B. Establish and implement a Reasonable Accommodation Ordinance.</p>	<p>Goal 5</p>	<p>March 2017</p>	<p>Completed March 18, 2020</p>

<p>5C. The City will work with the Merced County Housing Authority to provide fair housing services to its residents and property owners by distributing educational materials to property owners, apartment managers, and tenants, making public service announcements via different media (e.g., newspaper ads and public service announcements at local radio and television channels), responding to complaints of discrimination (i.e., in-taking, investigation of complaints, and resolution) and Referring services to appropriate agencies.</p>	<p>Goal 5</p>	<p>Ongoing</p>	<p>The City will assist the Merced County Housing Authority as stated in Program 5C.</p>
<p>5D. The City shall refer residents to the Central Valley Regional Center for housing and services available for persons with developmental disabilities. Provide information on services on the City's website. As available, the City will pursue State and federal monies for direct support for housing construction and rehabilitation specifically targeted for housing for persons with developmental disabilities.</p>	<p>Goal 5</p>	<p>Ongoing</p>	<p>The City will continue to refer residents and provide information on services for persons with developmental disabilities.</p>

6. Continue to maintain programs providing assistance for first time homebuyers.	Goal 6. Increase the percentage of homeowners in the City and provide adequate information on all possible housing assistance programs and distribute to homeowners, developers and other residents.	Ongoing	The City will continue to maintain programs providing assistance for first time homebuyers. The City applied for 2018 CDBG NOFA for first time homebuyer assistance and will continue to apply for various funding sources to assist first time homebuyers.
7. Maintain contact with owners of affordable rental properties and provide information relating to maintenance and rehabilitation.	Goal 7. Maintain an adequate percentage of affordable rental units within the City to accommodate all income groups and family types.	Ongoing	This in an ongoing effort, contact with owners of affordable rental properties is maintained and information in regard to maintenance and rehabilitation is available.
7A. Continue with funding programs established for rehabilitation targeting affordable rental units.	Goal 7	Ongoing	The City has maintained programs for this purpose and is active in doing so.
8. In cooperation with private developers, non-profit housing corporations, Merced County, and other interested entities to apply for and utilize State and Federal funding to assist with projects for special needs housing. In addition, the City shall review and update if necessary the Los Banos Municipal Code to ensure the definition of special needs housing to ensure the definition is consistent with the United States Department of Housing and Urban Development and the California Department of Housing and Community Development.	Goal 8. Encourage new development projects for special need groups.	Ongoing	The City continues to cooperate with developers and encourage special needs housing in the City of Los Banos. The Community and Economic Development Department has completed the update of housing definitions on March 18, 2020.

<p>8A. Work with community based organizations and developers with regard to special needs housing and information on emergency shelters. The City shall contact community based organizations on a semi-annual basis regarding opportunities for special needs housing and information on emergency shelters</p>	<p>Goal 8</p>	<p>Ongoing</p>	<p>The City of Los Banos is actively working with the Merced County Continuum of Care on a 10 year plan to end homelessness and special needs housing alternatives.</p>
<p>8B. To ensure the needs of aging residents are met, the City will permit the development of senior housing in specific areas of the community, including residential and commercial zones at higher densities than are traditionally allowed. Zoning Incentives will be given for senior housing development such as reduced parking standards, reduced unit sizes, increased heights, and increased maximum lot coverage. As senior housing projects are received, the City will hold pre-application meetings to discuss opportunities for higher densities and zoning incentives to maximize the potential for each project. This program will be completed on a case-by-case basis.</p>	<p>Goal 8</p>	<p>Ongoing</p>	<p>The program is implemented on a case-by-case basis as senior projects are received.</p>

<p>8C. Assist in the development of housing for farm workers. Actions will include assistance with site identification and support of applications for funding. The City shall provide technical assistance when needed, and continue to conduct pre-application conferences and meet with farm worker housing developers on an ongoing basis. Actions include:</p> <ul style="list-style-type: none"> • Post information on the Community and Economic Development Department website within 1-year of Housing Element adoption. Information includes a site inventory and available land, housing resources and grant information. • Contact farm worker housing developers to determine interest and identify constraints to farm worker housing development within the City. 	<p>Goal 8</p>	<p>Ongoing</p>	<p>The City continues to assist in the development of housing for farm workers. Information will be posted on the City's website to include information for farm worker housing developers.</p>
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8D. The City will work with the agricultural community, housing providers and agricultural groups to develop and build year-round and seasonal agricultural worker housing. This will require an analysis of prime agricultural areas in the City to identify suitable locations for at least 20 units of farm worker housing. Information gathered from this analysis shall be provided, in conjunction with Program 8C, to agricultural and affordable housing developers in a manner conducive to their use for developing the actual units. In addition, the City shall invite developers and local farm worker organizations to be involved in the Housing Element update and other housing related activities.

Goal 8

Ongoing

The City continues to assist in the development of housing for farm workers and will invite developers and local farm worker organizations to be involved in future Housing Element Updates and related housing activities.

<p>8E. The City will encourage and support State and Federal funding applications for farm worker housing and supportive infrastructure by providing technical assistance when needed, and continue to conduct pre-application conferences and meet with farm worker housing developers on an ongoing basis. Technical assistance can include but is not limited to information gathering, peer review of State and Federal funding applications and assistance in finding suitable sites for farm worker housing. Additionally, the City will provide information on County farm worker housing through the Housing Authority of Merced County.</p>	<p>Goal 8</p>	<p>Ongoing</p>	<p>The City continues to encourage and support funding applications for farmworker housing and supportive infrastructure as needed.</p>
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<p>8F. The City will amend Title 9, Chapter 3 to allow for the location of Single Room Occupancy (SRO) uses as a conditional use in the High Density Residential District (R-3) and adopt development standards that allow and accommodate the inclusion of new SRO's. Development standards may include:</p> <ul style="list-style-type: none"> • Ensure development standards that do not constrain the development of SROs, the City will adopt development standards that include: • Requirements for a management plan outlining policies and procedures; • 24- hour on-site management; • Room limitation to single occupancy, with allowance for overnight guests; • Units must be 250-300 square feet in size and include kitchen or bathroom; and • Parking ratio of one space per unit and bicycle rack 	<p>Goal 8</p>	<p>2014-2023</p>	<p>The City will implement a SRO use with a Conditional Use Permit by the end of the Housing Element 2014-2023 cycle. This policy was completed on March 18, 2020.</p>
<p>8G. The City will review and amend if necessary, Title 9, Chapter 3, Article 23: Site Plan Review to ensure the Planning Commission criteria for approval and findings are not a constraint to the development of housing requiring Site Plan Review.</p>	<p>Goal 8</p>	<p>Ongoing</p>	<p>The City continues to review and amend if necessary any constraints on the development requiring Site Plan Review.</p>

<p>8H. The City will review and amend if necessary, Title 9, Chapter 3 to ensure that Transitional and Supportive Housing complies with Senate Bill 2. If necessary, the City shall amend the Zoning Ordinance to permit Transitional and Supportive Housing as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. In addition, the City shall amend Article 2: Definitions to include Transitional and Supportive Housing and Target Population, per Senate Bill 745.</p>	<p>Goal 8</p>	<p>Ongoing</p>	<p>Completed on March 18, 2020.</p>
<p>8I. The City will review and amend if necessary, Title 9, Chapter 3 to ensure Housing for Farm workers is consistent with the Employee Housing Act (Health and Safety Code Section 1700 et. seq.), specifically, Sections 17021.5 and 17021.6.</p>	<p>Goal 8</p>	<p>2016/2017</p>	<p>The City is in the process of implementation.</p>



City of
Los Banos
At the Crossroads of California

**COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT**

Date: March 6, 2020

Regarding: Notice of Public Hearing

Proposal: City of Los Banos Housing Element 2014-2023

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider a General Plan Amendment that would update the Housing Element of the Los Banos General Plan pursuant to State law. The purpose of the Housing Element is to establish specific goals, policies and objectives relative to the provision of housing and to adopt an action plan toward this end. In addition, the Housing Element identifies and analyzes housing needs and resources and constraints to meeting those needs. A copy of the City of Los Banos Housing Element 2014-2023 is available for public review at: www.losbanos.org.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council on Wednesday, March 18, 2020, 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 and 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 Planning Commission 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 and Economic Development Director

Law Offices of

WILLIAM A. VAUGHN

Telephone
209-826-3531

525 J Street, Suite A
Los Banos, CA 93635

Facsimile
209-826-2431

DATE: March 18, 2020
TO: Mayor and City Council Members
FROM: William A. Vaughn, City Attorney
RE: Proposed Compensation Agreement Between The City of Los Banos, and
Other Affected Taxing Entities

RECOMMENDATION

Adopt Resolution No _____:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING A COMPENSATION AGREEMENT BETWEEN THE CITY OF LOS BANOS, AND OTHER AFFECTED TAXING ENTITIES PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(f)

BACKGROUND

The former redevelopment agency of the City of Los Banos (former RDA) was dissolved on June 28, 2011 after the Governor signed into law ABx1 26 which dissolved redevelopment agencies (over 400 statewide), and after a California Supreme Court ruling, all redevelopment agencies (RDAs) in California were dissolved on February 1, 2012 (Redevelopment Dissolution Law).

According to Redevelopment Dissolution Law, a successor agency is required to dispose of all formerly agency-owned property and distribute the proceeds to the taxing entities. In this case there are eight Taxing Entities including the City entitled to a share of the proceeds. The Taxing Entities and their pro rata shares are identified in Exhibit B to the proposed compensation agreement.

One way the successor agency can dispose of property is to transfer the property to the city or county that formed the RDA for future development. In that case, a

compensation agreement with the taxing entities is required to provide payments to them in proportion to their shares of the base property tax.

Health and Safety Code Section 34180 (f)(1) "If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained."

In addition, pursuant to the Health and Safety Code 34181(a) the successor agency may transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, parking facilities and lots dedicated solely to public parking, and local agency administrative buildings, from the successor agency to the city or an appropriate public jurisdiction. Examples of government purpose assets under Code 34181(a) include roads school buildings parks police and fire stations libraries and local agency administrative buildings

State law provides other examples of government purpose facilities including:

- community and recreation centers (Education Code 10902) "The governing body of every public authority may do all of the following: Acquire construct improve maintain and operate recreation centers within or without the territorial limits of the public authority" and
- public parking lots (Streets Highways Code 32501) "The supplying of additional parking facilities within and the performance of all undertakings incidental or advantageous thereto are public uses and purposes for which public moneys may be spent and private property acquired and are governmental functions"

DISCUSSION

The Successor Agency to the Los Banos Redevelopment Agency and the Successor Agency's Oversight Board and the Department of Finance have approved the transfer of five properties to be transferred from the Successor Agency to the City for governmental use. The five (5) properties are described in Exhibit A-1 of the proposed compensation agreement included with this staff report. Pursuant to the proposed compensation agreement the governmental use properties must remain dedicated for governmental use for a period of twenty (20) years. Should the City within twenty (20) years from the Effective Date of the proposed compensation agreement sell any of the properties for a non-governmental use, the net proceeds are to be divided proportionately with the other taxing entities. After said twenty (20) year period, City may sell or use the properties, for any lawful purpose free and clear from all conditions set forth in the proposed compensation Agreement.

The Successor Agency to the Los Banos Redevelopment Agency and the Successor Agency's Oversight Board and the Department of Finance have approved the transfer of eleven (11) properties to be transferred from the Successor Agency to the City for future redevelopment activity subject to a compensation agreement with the other taxing entities. The eleven properties are described in Exhibit A-2 of the proposed compensation agreement included with this staff report. The future development properties are to be disposed of by the City and developed consistent with the Redevelopment Plans adopted by the Redevelopment Agency. When sold the net proceeds are to be divided proportionately with the other taxing entities.

Three (3) of the of the eleven (11) properties to be transferred for future redevelopment activity are located along the rail trail are already partially developed with a public walking trail with one of the three parcels also developed with the Henry Miller Plaza. The proposed compensation agreement provides that separate parcels be created for the walking trail and the Henry Miller Plaza for continued governmental use with the remainder designated for future development. See, Section 7.1 of the proposed compensation agreement.

Two (2) of the eleven (11) properties to be transferred for future development are located in the general area of Ward Road and Gilbert Gonzalez Drive ("Ward Road Property"). The Ward Road Property was originally acquired in 2002. The original acquisition was a total of 31.37 acres for a total purchase price of \$1,096,537.00. The City of Los Banos contributed \$636,000.00 or 58% towards the purchase price from City Water Enterprise Funds. The balance of the purchase price in the amount of \$460,537.00 or 42% was contributed by the Former RDA from Low and Moderate Income Housing Funds.

The property was subsequently subdivided into four parcels: APN 083-100-081 – 11.79 acres; APN 083-100-082 – 6.2 acres; APN 083-100-083 – 5.17 acres; and APN 083-100-084 – 8.21 acres.

The Former RDA developed APN 083-100-82 – 6.2 acres and 083-100-083 - 5.17 acres into Low and Moderate Income Housing which are the current site of the Ward Road Apartment Complex. Those two properties have been transferred to the Merced County Housing Authority and represent 36.3% of the total original purchased property.

One of the remaining parcels, APN 083-100-081 – 11.79 acres, is the site of the City of Los Banos Water Tank and Storm Drainage Facilities and the City's future corporation yard. The City of Los Banos spent \$3,305,475.67 for construction of the City Water Tank on a portion of the Property. That property represents 37.6% of the total original purchased property.

The proposed compensation agreement attempts to reconcile the different funding sources as described below.

The proposed compensation agreement provides that the City retain APN 083-100-081 for governmental use. Pursuant to the proposed compensation agreement the governmental use properties must remain dedicated for governmental use for a period of twenty years. Should the City within twenty (20) years from the Effective Date of the proposed compensation agreement sell the property for a non-governmental use, the net proceeds are to be divided proportionately with the other taxing entities. After said twenty (20) year period, City may sell or use the property, for any lawful purpose free and clear from all conditions set forth in the proposed compensation Agreement. See, Section 7.2(a) of the proposed compensation agreement.

Regarding APN 083-100-084 the proposed compensation agreement provides that two (2) separate parcels be created one 6.4 acre parcel and one 1.81 acre parcel. The larger parcel will be retained for governmental use and the smaller parcel for future development. See, Section 7.2(b) of the proposed compensation agreement.

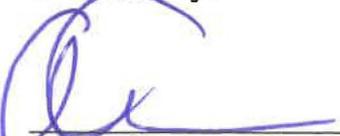
FINANCIAL IMPACT

Upon disposition of the future development properties the City will receive 18.7598% of the net proceeds as its distributive share.

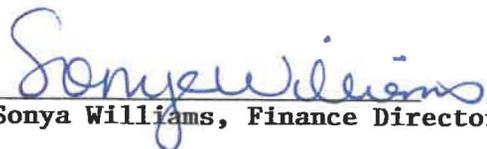
CONCLUSION

Assuming the City Council approves the proposed compensation agreement, staff will prepare a letter of explanation and forward to each of the taxing entities for their consideration and approval. Staff expects this process to take up to sixty (60) days.

Reviewed By:



Alex Terrazas, City Manager



Sonya Williams, Finance Director

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF the CITY OF LOS BANOS
APPROVING A COMPENSATION AGREEMENT BETWEEN THE
CITY OF LOS BANOS, AND OTHER AFFECTED TAXING ENTITIES
PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(f)**

WHEREAS, pursuant to ABx1 26 enacted in June 2011 (as amended by AB 1484 enacted in June 2012, collectively the "Dissolution Acts"), the Redevelopment Agency of the City of Los Banos (the "Former RDA") was dissolved as of February 1, 2012, and

WHEREAS, the Designated Local Authority, known as the Successor Agency to the Redevelopment Agency of the City of Los Banos, was formed to serve as the successor agency (the "Successor Agency") to the Former RDA; and

WHEREAS, pursuant to Health and Safety Code Section 34173(g), the Successor Agency is a separate legal entity from the City of Los Banos (the "City"); and

WHEREAS, the Successor Agency is charged with paying the enforceable obligations, disposing of the properties and other assets, and unwinding the affairs of the Former RDA; and

WHEREAS, an oversight board for the Successor Agency (the "Oversight Board") has been formed and is functioning in accordance with Health and Safety Code Section 34179; and

WHEREAS, the real property and specified other assets of the Former RDA were transferred to the ownership and control of the Successor Agency as of February 1, 2012, pursuant to Health and Safety Code Section 34175(b); and

WHEREAS, the Successor Agency received a "Finding of Completion" from the California Department of Finance (the "DOF") on April 29, 2014, confirming that the Successor Agency had made specified required payments under the Redevelopment Dissolution Statutes; and

WHEREAS, the Successor Agency, the Oversight Board, and DOF have approved the transfer of each of the properties described herein to the City either for continued governmental use or for future development.

WHEREAS, for properties to be transferred to the City for future development, DOF and Health and Safety Code Section Code 34180(f) requires execution of a compensation agreement among the City and the Taxing Entities providing for specified proceeds of the City's subsequent disposition of the properties to be distributed to the Taxing Entities in accordance with their proportional shares of the base property tax revenues; and

WHEREAS, the City of Los Banos is one of the Affected Taxing Entities; and

WHEREAS, the City of Los Banos has prepared the Compensation Agreement for consideration of approval as required by Health and Safety Code Section Code 34180(f); and

WHEREAS, the City is proceeding to obtain execution of the Compensation Agreement by the other Affected Taxing Entities; and

WHEREAS, the staff report (the "Staff Report") for this Resolution contains additional information and analysis upon which the findings and actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos hereby finds, resolves, approves, determines, and directs as follows:

SECTION 1. The above Recitals are true and correct, and together with the Staff Report and other information provided by the staff and the public, form the basis for the findings and actions set forth in this Resolution.

SECTION 2. Pursuant to Health and Safety Code Section 34180(f), the City Council of the City of Los Banos hereby approves the Compensation Agreement in the form presented herewith, and authorizes execution of the Compensation Agreement by the City Manager of the City of Los Banos, with only such non-substantive modifications as may be approved in writing by the City Attorney.

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 March 2020, by City Council Member _____, who moved its adoption, which motion was duly seconded by City Council Member _____, and the Resolution was adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**COMPENSATION AGREEMENT PURSUANT TO HEALTH AND
SAFETY CODE SECTION 34180(f)² FOR LOS BANOS
SUCCESSOR AGENCY TRANSFER OF PROPERTIES TO CITY
OF LOS BANOS FOR GOVERNMENTAL USE AND FUTURE
REDEVELOPMENT ACTIVITY**

This Agreement, dated for reference purposes as of _____, 2020 is entered into by and among the City of Los Banos (“City”) and the County of Merced, the Merced County Office of Education, the Merced Community College District, the Los Banos Unified School District, the Merced County Mosquito Abatement District, the Los Banos Cemetery District, and the Central California Irrigation District (collectively “Parties” and “Taxing Entities”), on the basis of the following facts, understandings, and intentions of the Parties:

RECITALS

A. Pursuant to the Redevelopment Dissolution Statutes, the former City of Los Banos Redevelopment Agency (“Former RDA”) was dissolved as of February 1, 2012, and the Los Banos Designated Local Authority, as Successor Agency to the Los Banos Redevelopment Agency (“Successor Agency”) became responsible for paying its enforceable obligations, disposing of its properties and other assets, and unwinding the affairs of the Former RDA.

B. Accordingly, ownership of the Former RDA’s Properties that had been acquired to implement the Redevelopment Plans of the Former RDA transferred to the Successor Agency for disposition in accordance with the Redevelopment Dissolution Statutes.

C. The Successor Agency received a “Finding of Completion” from the California Department of Finance (the “DOF”) on April 29, 2014, confirming that the Successor Agency had made specified required payments under the Redevelopment Dissolution Statutes, and entitling the Successor Agency to prepare and submit a Long-Range Property Management Plan (the “LRPMP”) to the Oversight Board to the Los Banos Designated Local Authority (the “Oversight Board”) and the DOF for approval.

D. Pursuant to Health and Safety Code section 34191.5(b)¹, successor agencies shall submit an oversight board approved LRPMP that addresses the disposition and use of the real properties of the former redevelopment agency to the California Department of Finance for approval no later than six months following the issuance of a Finding of Completion.

E. The Successor Agency did not submit an Oversight Board approved LRPMP to the DOF for approval.

F. An Oversight Board approved LRPMP was not approved by DOF by December 31, 2015, the statutory deadline for approval of a LRPMP. Accordingly, on December 31, 2015, DOF notified the Successor Agency that it no longer had the ability to dispose of real property assets through the LRPMP process.

G. The Successor Agency, the Oversight Board, and DOF have approved transfer of each of the properties described herein to the City either for continued governmental use or for future development.

H. For properties to be transferred to the City for future development, DOF and Health & Safety Code Section Code 34180(f)² requires execution of a compensation agreement among the City and the Taxing Entities providing for specified proceeds of the City's subsequent disposition of the properties to be distributed to the Taxing Entities in accordance with their proportional shares of the base property tax revenues.

I. The Parties desire to enter into this Agreement to provide for the execution of an appropriate compensation agreement in accordance with Health and Safety Code Section 34180(f)².

NOW, THEREFORE, the Parties agree as follows:

Section 1. Purpose. This Agreement is executed with reference to the facts set forth in the foregoing Recitals which are incorporated into this Agreement by this reference. The purpose of this Agreement is to address the allocation of certain prospective revenues among the Taxing Entities that share in the property tax base (the "**Tax Base**") for property located within the Redevelopment Project Areas (the "**Project Areas**") formerly administered by the Former RDA and designated for governmental use and future development.

Section 2. Definitions. The following definitions shall apply in this Agreement:

(a) "Agreement" means this Compensation Agreement Pursuant To Health and Safety Code Section 34180(f)⁴ Regarding Los Banos Successor Agency Transfer of Properties to City of Los Banos For Governmental Use and Future Redevelopment Activity, as may be amended from time to time.

(b) "Applicable Fiscal Year" means each Fiscal Year of the City in which the City receives Interim Municipal Use Annual Operating Proceeds from an Interim Municipal Use of one or more of the future development Properties, as more fully described in Section 9.

(c) "Auditor-Controller" means the Merced County Auditor- Controller.

(d) "DDA" means, with respect to each applicable Property, the disposition and development agreement between the City and a Developer for that Property.

(e) "Disposition Proceeds Receipt Date" means, if applicable, with respect to any Property, the date on which the City receives the proceeds from the disposition of that Property to a Developer pursuant to a DDA.

(f) "Effective Date" has the meaning given in Section 3.

(g) “Fiscal Year” means the fiscal year of the City in effect from time to time. The current Fiscal Year period of the City commences on July 1 of each calendar year and ends on the following June 30.

(h) “Interim Municipal Use” means an interim use by the City of a Property, for municipal uses including but not limited to pocket parks, landscape features, bus shelters, parking lots available for community events, and other similar uses.

(i) “Interim Municipal Use Annual Operating Proceeds” means, for each Applicable Fiscal Year, the gross revenue actually received by the City from Interim Municipal Use of the Properties, as documented in reasonable detail in the Operating Proceeds Statement for the Applicable Fiscal Year.

(j) “Properties” mean collectively, the parcels identified in Exhibit A-1 and Exhibit A-2 that are subject to the terms of this Agreement. Each of the above Properties is referred to individually as a “Property”.

(k) “Redevelopment Dissolution Statutes” means collectively ABxl 26 enacted on June 28, 2011, as amended to date.

(l) “Redevelopment Plans” means the Redevelopment Plan adopted by the Los Banos City Council by Ordinance No. 900 on July 17, 1996, providing the framework to implement redevelopment activities in the Project Area and the subsequent Implementation Plans adopted in connection with the Redevelopment Plan (all of the foregoing, collectively the “Plans”). The most recent Five Year Implementation Plan was adopted on October 21, 2009 by City Council Resolution No. 5185 and Redevelopment resolution No. 2009-12.

(m) “Taxing Entities” means, collectively, the following entities that comprise affected taxing entities for purposes of the Redevelopment Dissolution Statutes: the County of Merced, the Merced County Office of Education, the Merced Community College District, the Los Banos Unified School District, the Merced County Mosquito Abatement District, the Los Banos Cemetery District, the Central California Irrigation District, and such other entities as may be identified as of the date hereof by the County of Merced in accordance with Health & Safety Code Section 34188..

Section 3. Effectiveness of Agreement. This Agreement shall become effective only upon satisfaction of the following conditions:

(a) Approval of this Agreement by the City and direction by the City Council to execute and implement this Agreement pursuant to Health and Safety Code Section 34180(f)²;

(b) Approval by the Oversight Board of transfer of the Properties to the City for governmental use and future development upon execution of this Agreement (satisfied as of the date of this Agreement); and

(c) Signature of this Agreement by each of the parties hereto. Promptly following the effectiveness of this Agreement, the City and the Successor Agency shall transmit notice to all the other Parties that the Agreement is effective and specifying the date the Agreement became effective (the “Effective Date”).

Section 4. Signatories With Respect To Certain Funds. The governing boards of certain of the Taxing Entities administer certain special districts and funds that receive allocations of property taxes from the Tax Base, and represent that they are authorized to execute this Agreement on behalf of such special districts and funds as identified in **Exhibit B**.

Section 5. Properties to be Conveyed to City for Governmental Use. Promptly following the later to occur of the Effective Date or such date as remediation of the Property, if any, is completed to the satisfaction of the City, five (5) parcels (APN 026-171-011, 025-114-010, 026-161-001, 026-141-002, and 083-100-067) formerly owned by the Former RDA shall be conveyed by the Successor Agency to the City for continued governmental uses (“Governmental Use Properties”) described in **Exhibit A-1**. No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing transfers. In accordance with Health and Safety Code section 34181(a)(1)³ the Governmental Use Properties described herein and their uses as a Rail Trail/Park and their transfer to the City was approved by the DOF on June 21, 2018. The Successor Agency shall convey the Governmental Use Properties by grant deed in a form reasonably acceptable to the Successor Agency and the City. However, should the City within twenty (20) years from the Effective Date sell a Governmental Use Property for a non-governmental use, the provisions set forth in Sections 7 and 8 below shall apply to any such sale. After said twenty (20) year period, City may sell or use said Properties for any lawful purpose free and clear from all conditions set forth in this Agreement.

Section 6. Properties to be Conveyed to City for Future Development. Promptly following the later to occur of the Effective Date, or such date as remediation of the Property, if any, is completed to the satisfaction of the City, and in consideration for the distributions to the Taxing Entities by the City through the Auditor Controller as set forth in Sections 7 through 8 herein, the Successor Agency shall convey, and the City shall accept, all of the interest in and to the Properties described in **Exhibit A-2**. Subject to the terms of Sections 7.1 and 7.2 herein, the City shall retain the Properties (“future development Property”) for future development in accordance with this Agreement, the applicable Redevelopment Plans, and the Los Banos General Plan. The Successor Agency shall convey the Properties by grant deed in a form reasonably acceptable to the Successor Agency and the City.

Section 7. Disposition of Future Development Properties By City. Within a time frame determined by the City to yield a financially feasible and marketable development, the City shall use diligent good faith efforts to select a Developer for each future development Property, negotiate and obtain approval and execution of a DDA for each future development Property, and dispose of each future development Property to the Developer in accordance with the applicable DDA. City shall remit the Disposition Proceeds for distribution through the Auditor-Controller to the Taxing Entities pursuant to Section 8. Each DDA shall enable development of each future development Property in accordance with the Redevelopment Plans.

The Parties acknowledge that City is obligated to convey the future development Properties for development consistent with the Redevelopment Plans. The Parties further acknowledge that consistent with California Government Code Section 52200, et seq., prior to the disposition of a future development Property or any part thereof, the City may be obligated to hold a noticed public hearing and prepare a report that includes, among other things (i) an explanation of why the disposition will assist in the creation of an economic opportunity, with reference to all supporting facts and materials relied upon in making this explanation and (ii) an explanation of the difference between the highest and best use value and the disposition price taking into consideration development constraints and requirements, and the covenants, conditions and development costs required by the sale or lease. The Parties agree that the sale of the future development Properties pursuant to the Redevelopment Plan for development will benefit each of the Taxing Entities in the form of increased property tax revenue and other revenue generated by successful development and other social and economic benefits.

By not later than the date of first published notice of the City Council public hearing for consideration of the disposition of the future development Property, the City shall provide each Taxing Entity with a copy of the Public Hearing Notice including the date, time and location of the public hearing and the location at which the proposed disposition documents including, if applicable, a report pursuant to Government Code 52201, may be inspected and copied.

Upon the execution of the DDA for each future development Property, the City shall transmit a copy of the executed DDA to the other Parties.

Section 7.1 Special Terms and Conditions for Three Rail Trail Properties (APN 025-054-005; APN 025-054-007; and APN 025-072-036).

(a) APN 025-054-005; a 3.2 acre parcel located between 2nd Street and 4th Streets and between G Street and H Street; currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.

In regard to this property, upon which the public walking trail is located, the City will subdivide the Property by Deed and create two parcels as depicted in **Exhibit D-1**. New Parcel A shall be retained by the City for governmental use (walking trail and neighborhood park). No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing disposition of New Parcel A. New Parcel B shall be retained by the City for future development in accordance with the terms of this Agreement. However, should the City within twenty (20) years from the Effective Date sell New Parcel A for a non-governmental use, the provisions set forth in Sections 7 and 8 herein shall apply to any such sale. After said twenty (20) year period, City may sell or use said New Parcel A for any lawful purpose free and clear from all conditions set forth in this Agreement.

(b) APN 025-054-007; a 1.15 acre parcel located on 2nd and G Street; currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.

In regard to this property, upon which the public walking trail is located, the City will subdivide the Property by Deed and create two parcels as depicted in **Exhibit D-2**. New Parcel A shall be retained by the City for governmental use (walking trail and neighborhood park). No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing disposition of New Parcel A. New Parcel B shall be retained by the City for future development in accordance with the terms of this Agreement. However, should the City within twenty (20) years from the Effective Date sell New Parcel A for a non-governmental use, the provisions set forth in Sections 7 and 8 herein shall apply to any such sale. After said twenty (20) year period, City may sell or use said New Parcel A for any lawful purpose free and clear from all conditions set forth in this Agreement.

(c) APN 025-072-036; a 7.85 acre parcel located on H Street between 6th and 7th Street; currently zoned Rail Corridor (RC); partially developed with a public walking trail and a park known as the Henry Miller Plaza.

In regard to this property, upon which the public walking trail and the City's Henry Miller Plaza facilities are located, the City contributed \$726,376.00 from the City Park fund and \$222,809.66 from the City General fund for development of these facilities. In consideration of the foregoing, the City will subdivide the Property by deed and create three parcels as depicted in **Exhibit D-3**. New Parcels A and B shall be retained by the City for governmental use (walking trail and Henry Miller Plaza). No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing disposition of New Parcels A and B. New Parcel C shall be retained by the City for future development in accordance with the terms of this Agreement. However, should the City within twenty (20) years from the Effective Date sell New Parcels A and B for a non-governmental use, the provisions set forth in Sections 7 and 8 herein shall apply to any such sale. After said twenty (20) year period, City may sell or use said New Parcels A and B for any lawful purpose free and clear from all conditions set forth in this Agreement.

Section 7.2 Special Terms and Conditions for Two Ward Road Properties
(APN 083-100-081 and APN 083-100-084).

The parties acknowledge and agree to the following:

The Ward Road Property was originally acquired in 2002. The original acquisition was a total of 31.37 acres for a total purchase price of \$1,096,537. The City of Los Banos contributed \$636,000.00 or 58% towards the purchase price from City Water Enterprise Funds. The balance of the purchase price in the amount of \$460,537.00 or 42% was contributed by the Former RDA from Low and Moderate Income Housing Funds.

The property was subsequently subdivided into four parcels: APN 083-100-081 – 11.79 acres; APN 083-100-082 – 6.2 acres; APN 083-100-083 – 5.17 acres; and APN 083-100-084 – 8.21 acres.

The Former RDA developed APN 083-100-82 – 6.2 acres and 083-100-083 - 5.17 acres into Low and Moderate Income Housing which are the current site of the Ward Road

Apartment Complex. The two properties have been transferred to the Merced County Housing Authority and represent 36.3% of the total original purchased property.

One of the remaining parcels, APN 083-100-081 – 11.79 acres, is the site of the City of Los Banos Water Tank and Storm Drainage Facilities and the City's future corporation yard. The City of Los Banos spent \$3,305,475.67 for construction of the City Water Tank on a portion of the Property. The property represents 37.6% of the total original purchased property.

The final remaining parcel, APN 083-100-084 – 8.21 acres, is currently undeveloped vacant land. That property represents 26.1% of the total original purchased property.

In consideration of the foregoing, including the funds for the purchase of the property (City water enterprise funds and RDA low and moderate income housing funds) and the development of 11.37 acres for low and moderate income housing transferred to the Merced County Housing Authority:

(a) APN 083-100-081; an 11.79 acre parcel located on Ward Road and Gilbert Gonzalez Jr Drive; currently zoned Public Facility (P-F) and Neighborhood Commercial (C-N); partially developed with a public water storage tank facility and storm drainage system shall be retained by the City for governmental use, as depicted in **Exhibit D-4**. No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing disposition. However, should the City within twenty (20) years from the Effective Date sell this Property for a non-governmental use, the provisions set forth in Sections 7 and 8 herein shall apply to any such sale. After said twenty (20) year period, City may sell or use said Property for any lawful purpose free and clear from all conditions set forth in this Agreement.

(b) APN 083-100-084; an 8.21 acre parcel located on Gilbert Gonzalez Jr Drive; currently zoned High Density Residential (R-3); currently undeveloped. The City will subdivide the Property by deed and create two parcels as depicted in **Exhibit D-5**. New Parcel A (6.4 acres) shall be retained by the City for governmental use. No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing disposition of New Parcel A. New Parcel B (1.81 acres) shall be retained by the City for future development in accordance with the terms of this Agreement. However, should the City within twenty (20) years from the Effective Date sell New Parcel A for a non-governmental use, the provisions set forth in Sections 7 and 8 herein shall apply to any such sale. After said twenty (20) year period, City may sell or use said New Parcel A for any lawful purpose free and clear from all conditions set forth in this Agreement.

Section 8. Compensation To Taxing Entities Related To Disposition Proceeds.

(a) Distribution of Disposition Proceeds. Within fifteen (15) days after the Disposition Proceeds Receipt Date with respect to any Property, the City shall remit the Disposition Proceeds for that Property to the Auditor-Controller for subsequent distribution by the Auditor-Controller among the Taxing Entities in proportion to their shares of the base property tax (the "Applicable Shares"), as determined by the Auditor- Controller pursuant to

Health and Safety Code Section 34188⁴. The attached **Exhibit B** shows, for illustrative purposes only, the Applicable Shares of the Taxing Entities that would have applied to a distribution under this Section 8 had the distribution been made on the Effective Date of this Agreement as provided by the Auditor-Controller. The Parties acknowledge that the City is a Taxing Entity for purposes of receiving funds pursuant to this Agreement.

(b) For purposes of this Agreement, “Disposition Proceeds” means, with respect to any Property, the gross purchase price and other compensation, if any, actually received by the City from a Developer in consideration for the disposition of the Property pursuant to a DDA, less the sum of the City’s actual costs for the following items (but only to the extent paid from City funds and not from funds provided by the Successor Agency, a Developer, or another separate entity), each to be documented in reasonable detail in the Disposition Proceeds Statement (as hereinafter defined) for the Property:

(1) the City’s actual, reasonable costs for normal maintenance, including applicable lighting and landscaping district assessments, management and insurance of the applicable Property from the date the Property is transferred by the Successor Agency to the City pursuant to Section 6 to the date the Property is disposed of by the City to the Developer pursuant to the DDA; plus

(2) the City’s actual costs of any capital improvements or repairs to maintain the Property in a safe and lawful condition incurred from the date the Property is transferred by the Successor Agency to the City pursuant to Section 6 to the date the Property is disposed of by the City to the Developer pursuant to the DDA; plus

(3) the City’s actual costs of site preparation, including hazardous materials remediation and pollution legal liability insurance premiums, if any, required to be paid by the City under the DDA for the applicable Property to prepare the Property for disposition; plus

(4) the City’s actual, reasonable costs to pay third party vendors for appraisal, legal, real estate consultant and marketing, title company, title insurance and other costs related to Developer selection, DDA preparation and approval, and closing costs for disposition of the Property; plus

(5) any broker’s commissions payable by the City pursuant to the DDA for the Property.

(c) Accounting Requirements. At the time of each distribution pursuant to subsection (a), the City shall provide to the Taxing Entities and the Auditor- Controller a statement prepared in accordance with sound accounting practice that provides the City’s calculation of the Disposition Proceeds (the “Disposition Proceeds Statement”). The City shall keep complete, accurate and appropriate books and records of its calculation of the Disposition Proceeds with respect to each distribution. The Auditor- Controller shall have the right, on behalf of the Taxing Entities and upon reasonable written notice to City, to audit and examine such

books, records and documents and other relevant items in the possession of City, but only to the extent necessary for a proper determination of Disposition Proceeds.

Section 9. Compensation To Taxing Entities Related To Interim Municipal Use Annual Operating Proceeds.

(a) Applicability. The provisions of this Section 9 shall apply for each Fiscal Year in which one or more of the future development Properties is used for an Interim Municipal Use and generates Interim Municipal Use Annual Operating Proceeds to the City (each, an “Applicable Fiscal Year”). Nothing in this Agreement shall obligate the City to charge any fees or other amounts or to collect any revenues with respect to an Interim Municipal Use of any of the future development Properties.

(b) Distribution of Interim Municipal Use Annual Operating Proceeds. Within ninety (90) days after the end of each Applicable Fiscal Year, the City shall remit the Interim Municipal Use Annual Operating Proceeds for that Applicable Fiscal Year to the Auditor-Controller for subsequent distribution by the Auditor-Controller among the Taxing Entities in proportion to their Applicable Shares, as determined by the Auditor-Controller pursuant to Health and Safety Code Section 34188⁴. The attached **Exhibit B** shows, for illustrative purposes only, the Applicable Shares of the Taxing Entities that would have applied to a distribution under this Section 9 had the distribution been made on the effective Date of this Agreement, as provided by the Auditor-Controller. The Parties acknowledge that the City is a Taxing Entity for purposes of receiving funds pursuant to this Agreement.

(c) Accounting Requirements. At the time of each distribution pursuant to subsection (a), the City shall provide to the Taxing Entities and the Auditor-Controller a statement prepared in accordance with sound accounting practice that provides the City’s calculation of the Interim Municipal Use Annual Operating Proceeds (the “Operating Proceeds Statement”). The City shall keep complete, accurate and appropriate books and records of its calculation of the Interim Municipal Use Annual Operating Proceeds with respect to each distribution. The Auditor-Controller shall have the right, on behalf of the Taxing Entities and upon reasonable written notice to City, to audit and examine such books, records and documents and other relevant items in the possession of City, but only to the extent necessary for a proper determination of the Interim Municipal Use Annual Operating Proceeds.

Section 10. Term of Agreement: Early Termination.

(a) Term. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated as otherwise provided in this Agreement, shall expire upon the distribution by the City of all amounts owed to the Taxing Entities under this Agreement.

(b) Early Termination. Notwithstanding any other provision of this Agreement, a Party may terminate this Agreement upon written notice to the other Parties if a court order, legislation, or DOF policy reverses DOF’s directive regarding the need for this Agreement and the payment of compensation by the City pursuant to Health and Safety Code Section 34180(f)² (an “Early Termination”). An Early Termination shall become effective five

(5) days after the terminating Party delivers the required notice to the other Parties in accordance with Section 11(a). Upon effectiveness of an Early Termination, no Party shall have any further rights or obligations under this Agreement, and the City may retain the Disposition Proceeds from the disposition of any Property for which the City has not yet received the Disposition Proceeds as of the effective date of the Early Termination, and may retain any Interim Municipal Use Annual Operating Proceeds for which the City was not required to make the distribution to the Taxing Entities as of the effective date of the Early Termination; provided, however, that the City shall have no right to recover any Disposition Proceeds or any Interim Municipal Use Annual Operating Proceeds from any Taxing Entity that were distributed by the City prior to the effective date of the Early Termination.

Section 11. Miscellaneous Provisions.

(a) Notices. All notices, statements, or other communications made pursuant to this Agreement to another Party or Parties shall be in writing, and shall be served: (1) by personal delivery, in which case notice is effective upon delivery; (2) by certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; or (3) by nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service; and addressed to the applicable Party in the manner specified in the attached Exhibit C. Any Party may change its address for notice purposes by written notice to the other Parties prepared and delivered in accordance with the provisions of this Section 11(a).

(b) No Third Party Beneficiaries. No person or entity other than the Parties and their permitted successors and assigns, shall have any right of action under this Agreement.

(c) Litigation Regarding Agreement. In the event litigation is initiated attacking the validity of this Agreement, each Party shall in good faith defend and seek to uphold the Agreement.

(d) State Law; Venue. This Agreement, and the rights and obligations of the Parties hereto, shall be construed and enforced in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Merced County, California or in the Federal District Court for the Eastern District of California.

(e) Attorneys' Fees. In any action which a Party brings to enforce its rights hereunder, the unsuccessful Party or Parties shall pay all costs incurred by the prevailing party, including reasonable attorneys' fees.

(f) Entire Agreement. This Agreement constitutes the entire and integrated agreement of the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral.

(g) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Agreement may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

(h) Non-Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by the waiving Parties.

(i) No Partnership. Nothing contained in this Agreement shall be construed to constitute any Party as a partner, employee, joint venturer, or agent of any other Party.

(j) Ambiguities. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

(k) Exhibits. The following exhibits are incorporated in this Agreement by reference:

Exhibit A 1: Parcels Conveyed For Governmental Use

Exhibit A 2: Parcels Conveyed For Future Development

Exhibit B: Taxing Entities Applicable Shares of Property Taxes

Exhibit C: List of Addresses for Notice Purposes

Exhibit D-1: Map

Exhibit D-2: Map

Exhibit D-3: Map

Exhibit D-4: Map

Exhibit D-5: Map

(l) Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

(m) Action or Approval. Whenever action and/or approval by the City is required under this Agreement, the City Manager or his or her designee may act on and/or

approve such matter unless specifically provided otherwise, or unless the City Manager determines in his or her discretion that such action or approval requires referral to the City Council for consideration.

SIGNATURE PAGES FOLLOW:

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth in the opening paragraph of this Agreement.

CITY OF LOS BANOS

Dated: _____

By: _____
Its: _____

APPROVED AS TO FORM:

By: _____
City Attorney

COUNTY OF MERCED

Dated: _____

By: _____

Its: _____

APPROVED AS TO FORM:

By: _____
County Counsel

**MERCED COMMUNITY
COLLEGE DISTRICT**

Dated: _____

By: _____

Its: _____

**LOS BANOS UNIFIED SCHOOL
DISTRICT**

Dated: _____

By: _____

Its: _____

**MERCED COUNTY MOSQUITO
ABATEMENT DISTRICT**

Dated: _____

By: _____

Its: _____

LOS BANOS CEMETERY DISTRICT

Dated: _____

By: _____

Its: _____

**CENTRAL CALIFORNIA
IRRIGATION DISTRICT**

Dated: _____

By: _____

Its: _____

EXHIBIT A-1

PARCELS CONVEYED FOR GOVERNMENTAL USE

<u>DESCRIPTION/LOCATION</u>	<u>APN</u>	<u>DISPOSITION</u>
1. Rail Trail Properties Abandoned rail corridor from purchased from Union Pacific Railroad in 2001.		
a. 1.3 acre parcel located between Mercey Springs Road and the future 10th Street extension; currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.	026-171-011	Governmental Use
b. 2.20 acre parcel located between Mercey Springs Road and the future 10th Street extension; currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.	026-161-001	Governmental Use
c. .68 acre parcel located between Mercey Springs Road and the future 10th Street extension; currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.	026-141-002	Governmental Use
d. 5.63 acre parcel located between the future 10 th Street extension and 7 th Street currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.	025-114-010	Governmental Use
e. 6.5 acre parcel located between Ward Road and Place Road currently zoned Rail Corridor (RC); developed with a public walking trail.	083-100-067	Governmental Use
2. Properties Designated for Governmental Use Pursuant to Sections 7.1 and 7.2 of this Agreement		
a. New Parcel A located between 2 nd Street and 4 th Streets and between G Street and H Street; currently zoned Rail Corridor (RC); developed with a public walking trail and neighborhood park.	A portion of 025-054-005	Governmental Use per Section 7.1(a) as depicted in Exhibit D-1
b. New Parcel A located on 2 nd and G Street; currently zoned Rail Corridor (RC); developed with a public walking trail and neighborhood park.	A portion of 025-054-007	Governmental Use per Section 7.1(b) as depicted in Exhibit D-2

<p>c. New Parcel A located on H Street between 6th and 7th Street; currently zoned Rail Corridor (RC); developed with a public walking trail.</p>	<p>A portion of 025-072-036</p>	<p>Governmental Use per Section 7.1(c) as depicted in Exhibit D-3</p>
<p>d. New Parcel B located on H Street between 6th and 7th Street; currently zoned Rail Corridor (RC); developed with a public park known as the Henry Miller Plaza.</p>	<p>A portion of 025-072-036</p>	<p>Governmental Use per Section 7.1(c) as depicted in Exhibit D-3a</p>
<p>e. 11.79 acre parcel located on Ward Road and Gilbert Gonzalez Jr Drive; currently zoned Public Facility (P-F) and Neighborhood Commercial (C-N); partially developed with a public water storage tank facility and storm drainage system.</p>	<p>083-100-081</p>	<p>Governmental Use per Section 7.2(a) as Depicted in Exhibit D-4</p>
<p>f. New Parcel A located on Gilbert Gonzalez Jr Drive; currently zoned High Density Residential (R-3); currently undeveloped.</p>	<p>A portion of 083-100-084</p>	<p>Governmental Use per Section 7.2(b) as depicted in Exhibit D-5</p>

EXHIBIT A-2

PARCELS CONVEYED FOR FUTURE DEVELOPMENT

<u>DESCRIPTION/LOCATION</u>	<u>APN</u>	<u>DISPOSITION</u>
1. Rail Trail Properties Abandoned rail corridor purchased from Union Pacific Railroad in 2001.		
a. 3.2 acre parcel located between 2 nd Street and 4 th Streets and between G Street and H Street; currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.	025-054-005	Future development subject to Section 7.1(a) as depicted in Exhibit D-1
b. 1.15 acre parcel located on 2 nd and G Street; currently zoned Rail Corridor (RC); partially developed with a public walking trail and neighborhood park.	025-054-007	Future development subject to section 7.1(b) as depicted in Exhibit D-2
c. 7.85 acre parcel located on H Street between 6 th and 7 th Street; currently zoned Rail Corridor (RC); partially developed with a public walking trail and a park known as the Henry Miller Plaza.	025-072-036	Future development subject to section 7.1(c) as depicted in Exhibit D-3
d. 0.92 acres parcel located on 7 th and G Street; currently zoned Rail Corridor (RC); undeveloped.	025-114-011	Future development
e. 1.1 acre parcel located on G Street between 9 th Street (future) and 10 th Streets (future); currently zoned Rail Corridor (RC); undeveloped.	025-114-013	Future development
f. 0.86 acre parcel located on 10 th Street (future) and G Street; currently zoned Rail Corridor (RC); undeveloped.	026-141-001	Future development
g. 0.18 acre parcel located on G Street and 9 th Street (future); currently zoned Rail Corridor (RC); undeveloped.	025-114-005	Future development
h. 6200 sf right of way located on H Street and 9 th Street (future); currently zoned Rail Corridor (RC); undeveloped.	025-114-019 (a portion of)	Future development
2. Downtown Property		
a. 0.13 acre parcel located at 644/646 I Street; currently zoned Mixed (M-X); undeveloped.	025-201-010	Future development

3. Ward Road Properties		
a. 11.79 acre parcel located on Ward Road and Gilbert Gonzalez Jr Drive; currently zoned Public Facility (P-F) and Neighborhood Commercial (C-N); partially developed with a public water storage tank facility and storm drainage system.	083-100-081	Future development subject to Section 7.2(a) as depicted in Exhibit D-4
b. 8.21 acre parcel located on Gilbert Gonzalez Jr Drive; currently zoned High Density Residential (R-3); currently undeveloped.	083-100-084	Future development subject to Section 7.2(b) as depicted in Exhibit B-5

EXHIBIT B

**TAXING ENTITIES APPLICABLE SHARES OF
PROPERTY TAXES [ILLUSTRATIVE]**

<u>Taxing Entity/Fund</u>	<u>Property Tax Share</u>
County of Merced	
a) Merced County General Fund	0.324876
b) Merced County Fire Fund	0.083142
City of Los Banos	0.187598
Los Banos Unified School District	0.289937
Merced Community College District	0.050366
Merced County Office of Education	
a) School Equalization	0.014176
b) School Service	0.028403
c) School Capital Outlay	0.003494
d) Regional Occupation Program	0.002146
Merced County Mosquito Abatement District	0.012004
Los Banos Cemetery District	0.003594
Central California Irrigation District	0.000264
TOTAL	<u><u>1.000000</u></u>

EXHIBIT C

ADDRESSES FOR NOTICES

County of Merced:

County of Merced
2222 M Street
Merced, CA 95340
Attention: James Brown

City of Los Banos:

City of Los Banos
520 J Street
Los Banos, CA 93635
Attention; Alex Terrazas

Los Banos Unified School District

Los Banos Unified School District
1717 S. 11th Street
Los Banos, CA 93635
Attention: Dr. Mark Marshall

Merced County Office of Education:

Merced County Office of Education
632 W. 13th Street
Merced, CA 95341
Attention: Steve Tietjen

Merced Community College District:

Merced Community College District
3600 M Street
Merced, CA 95348
Attention: Chris Vitelli

Merced County Mosquito Abatement District:

Merced County Mosquito Abatement District
3478 Beachwood Drive
Merced, CA 95348
Attention: Rhiannon Jones

Los Banos Cemetery District:

Los Banos Cemetery District
16575 S. Center Avenue
Los Banos, CA 93635
Attention: Brenda Scott

Central California Irrigation District:

Central California Irrigation District
1335 West I Street
P.O. Box 1231
Los Banos, CA 93635
Attention: Jarrett Martin

EXHIBIT D-1

MAP



025-054-005
Rail Trail – Park

A – Proposed Government Use
B – Proposed Future
Development

EXHIBIT D-2

MAP



025-054-007

A – Proposed Government Use
B – Proposed Future Development

EXHIBIT D-3

MAP

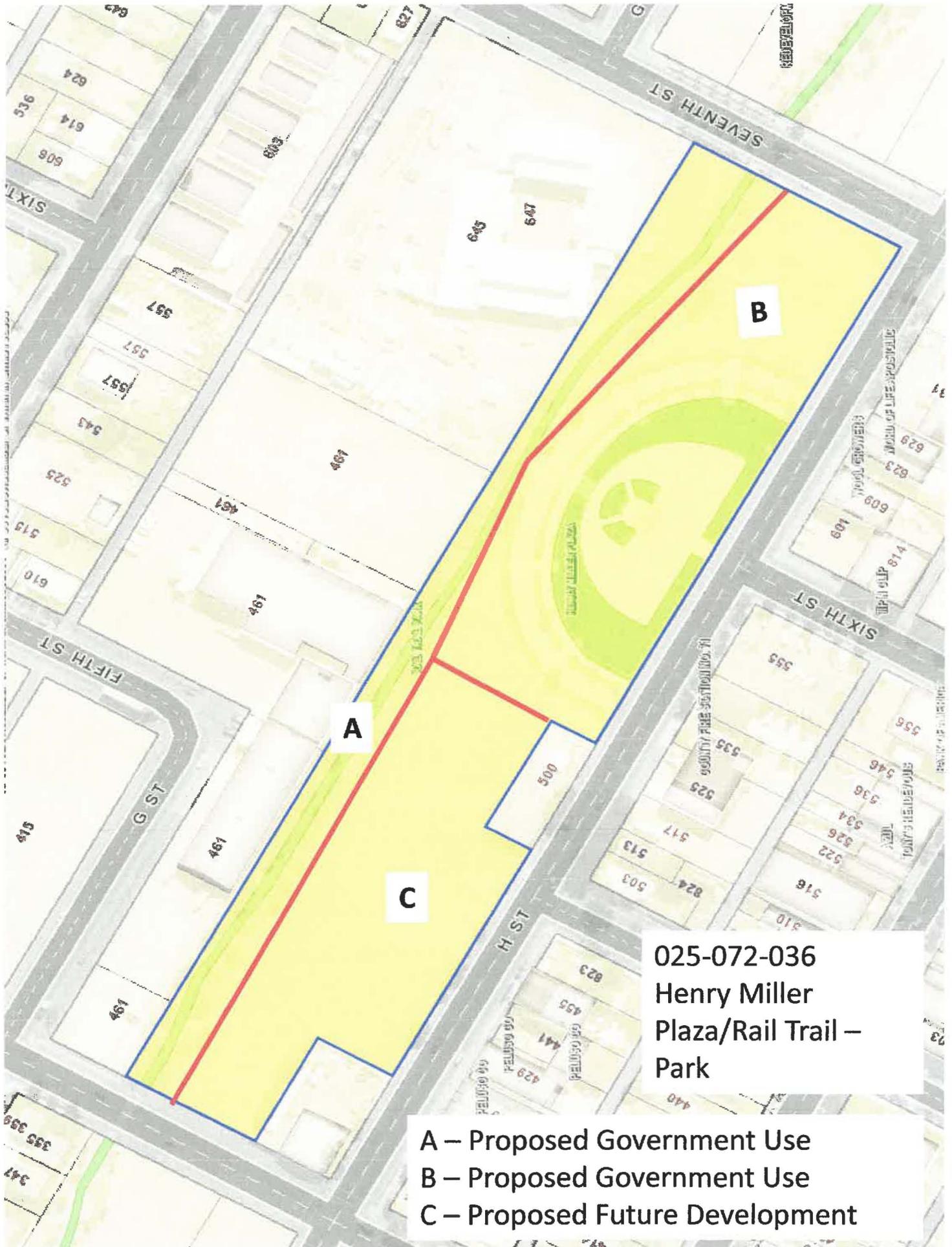
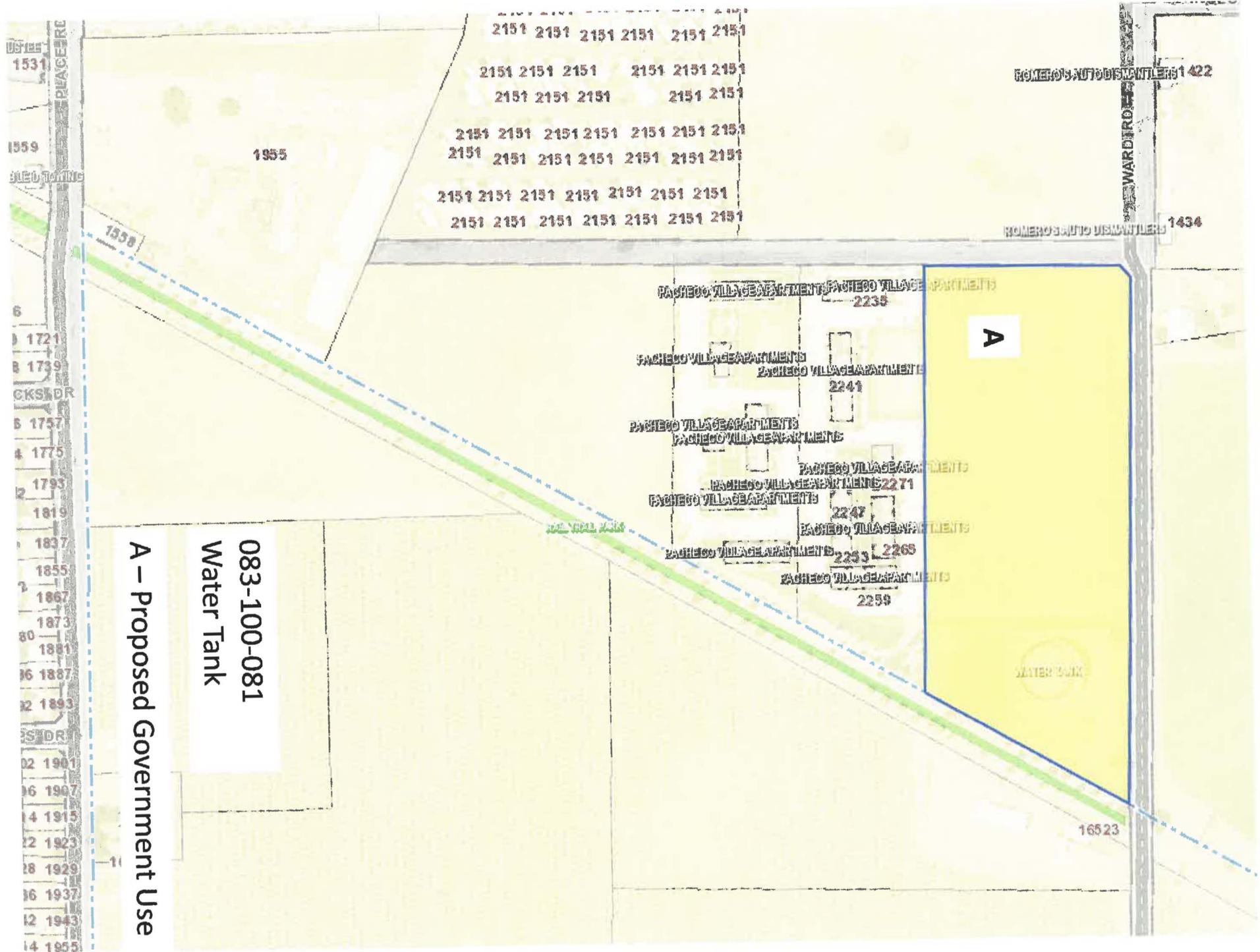


EXHIBIT D-4

MAP



A – Proposed Government Use
083-100-081
Water Tank

- 1531
- 1559
- 1538
- 6
- 1721
- 1739
- 1757
- 4 1775
- 2 1793
- 1819
- 1837
- 1855
- 1867
- 1873
- 80 1881
- 16 1887
- 22 1893
- 02 1901
- 16 1907
- 14 1915
- 22 1923
- 18 1929
- 16 1937
- 12 1943
- 14 1955

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ROMERO'S AUTO DEWASHERS 1422
 ROMERO'S AUTO DEWASHERS 1434

PACHECO VILLAGE APARTMENTS 2235
 PACHECO VILLAGE APARTMENTS 2241
 PACHECO VILLAGE APARTMENTS
 PACHECO VILLAGE APARTMENTS
 PACHECO VILLAGE APARTMENTS 2271
 PACHECO VILLAGE APARTMENTS 2247
 PACHECO VILLAGE APARTMENTS 2263
 PACHECO VILLAGE APARTMENTS 2268
 PACHECO VILLAGE APARTMENTS 2259

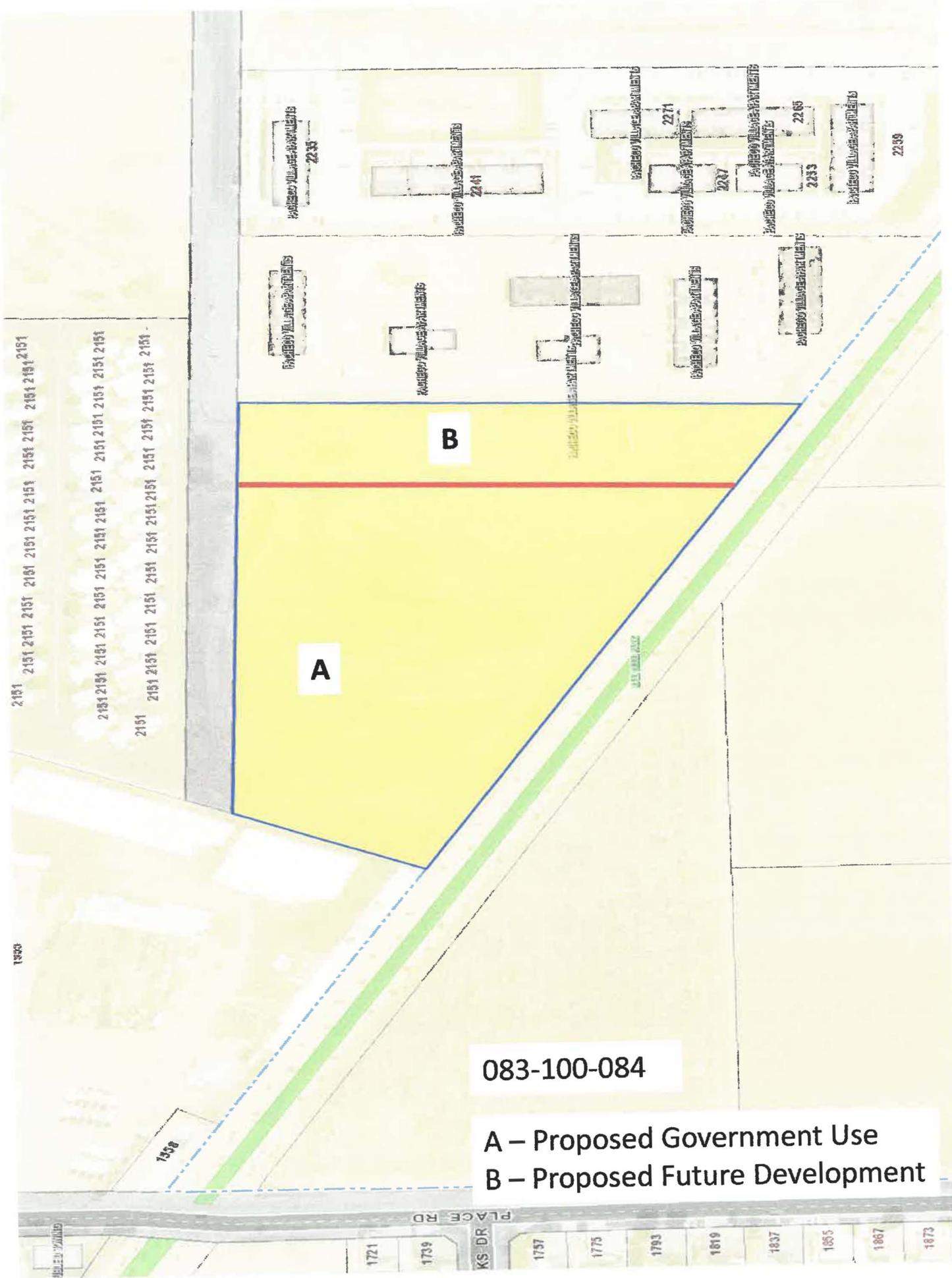
A

WATER TANK

16523

EXHIBIT D-5

MAP



083-100-084

A – Proposed Government Use
B – Proposed Future Development

FOOTNOTES

¹ H&S 34191.5

(b) The successor agency shall prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. If the former redevelopment agency did not have real properties, the successor agency shall prepare a long-range property management plan certifying that the successor agency does not have real properties of the former redevelopment agency for disposition or use. The plan shall be submitted to the oversight board and the Department of Finance for approval no later than six months following the issuance to the successor agency of the finding of completion.

² H&S 34180

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

(2) If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by an independent appraiser approved by the oversight board.

³ H&S 34181 The oversight board shall direct the successor agency to do all of the following:

(a) (1) Dispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, parking facilities and lots dedicated solely to public parking, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value. Asset disposition may be accomplished by a distribution of income to taxing entities proportionate to their property tax share from one or more properties that may be transferred to a public or private agency for management pursuant to the direction of the oversight board.

⁴H&S 34188.

For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

(a)(1) For distributions from the Redevelopment Property Tax Trust Fund, the share of each taxing entity shall be applied to the amount of property tax available in the Redevelopment Property Tax Trust Fund after deducting the amount of any distributions under paragraphs (2) and (3) of subdivision (a) of Section 34183.

(2) For each taxing entity that receives passthrough payments, that agency shall receive the amount of any passthrough payments identified under paragraph (1) of subdivision (a) of Section 34183, in an amount not to exceed the amount that it would receive pursuant to this section in the

absence of the passthrough agreement. However, to the extent that the passthrough payments received by the taxing entity are less than the amount that the taxing entity would receive pursuant to this section in the absence of a passthrough agreement, the taxing entity shall receive an additional payment that is equivalent to the difference between those amounts.

(b) Property tax shares of local agencies shall be determined based on property tax allocation laws in effect on the date of distribution, without the revenue exchange amounts allocated pursuant to Section 97.68 of the Revenue and Taxation Code, and without the property taxes allocated pursuant to Section 97.70 of the Revenue and Taxation Code.

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in Sections 97.68 and 97.70 of the Revenue and Taxation Code.

(d) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1, of the Revenue and Taxation Code, had this section not been enacted.

⁵H&S 52201.

(a)(1) A city, county, or city and county may acquire property in furtherance of the creation of an economic opportunity. A city, county, or city and county may sell or lease property to create an economic opportunity. The acquisition, sale, or lease shall first be approved by the legislative body by resolution after a public hearing. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks, as specified in Section 6066, prior to the hearing.

(2) The city, county, or city and county shall make available, for public inspection and copying at a cost not to exceed the cost of duplication, a report no later than the time of publication of the first notice of the hearing mandated by this section. This report shall contain both of the following:

(A) A copy of the proposed acquisition, sale, or lease.

(B) A summary that describes and specifies all of the following:

(i) The cost of the agreement to the city, county, or city and county, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the city, county, or city and county, plus the expected interest on any loans or bonds to finance the agreements.

(ii) For the sale or lease of property, the estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the general plan or zoning.

(iii) For the sale or lease of property, the estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use, then the city, county, or city and county shall provide as part of the summary an explanation of the reasons for the difference.

(iv) An explanation of why the acquisition, sale, or lease of the property will assist in the creation of economic opportunity, with reference to all supporting facts and materials relied upon in making this explanation.

(b) The resolution approving the acquisition, sale, or lease shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for that purpose and shall contain a finding that the acquisition, sale, or lease of the property will assist in the creation of economic opportunity. For the sale or lease of property, the resolution shall also contain one of the following findings:

(1) The consideration is not less than the fair market value at its highest and best use.

(2) The consideration is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale or lease.

(c) The provisions of this section are an alternative to any other authority granted by law to cities to dispose of city-owned property.



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Lucy Mallonee, MMC *LM*
City Clerk/Human Resources Director

DATE: March 18, 2020

TYPE OF REPORT: Agenda Item

SUBJECT: Approval of a Resolution of Intention and Introduction of an Ordinance Amending the California Public Employees' Retirement System (CalPERS) Contract as it Pertains to Local Safety Members (Police & Fire) and Cost Sharing of Pension

Recommendation:

Staff recommends City Council approve the Resolution of Intention to provide notification of an amendment to the contract between the Board of Administration of the CalPERS and the City of Los Banos, and introduce by title only the Ordinance to approve the contract amendment as it Pertains to Local Safety Members (Police & Fire) and Cost Sharing of Pension.

Discussion:

The current Local Safety Members (Police & Fire) collective bargaining agreements with the Los Banos Police Officers Association, Los Banos Police Sergeants Association and the Los Banos Fire Fighters Association contain negotiated provisions which require 1st and 2nd Tier pension bargaining unit members to pay an additional three percent (3%) of the employer's contribution towards CalPERS in addition to the employee. Local Public Safety Member (Police & Fire) PEPRA (Public Employees' Pension Reform Act) employees are already paying a higher than twelve percent (12%) employer contribution so they are not affected by this increase.

CalPERS requires adoption of a Resolution of Intention followed by an election of members, and the adoption of an Ordinance to amend member retirement contributions for Local Safety Members (Police & Fire).

This staff report, Resolution of Intention, and introduction of an Ordinance by title only to share the costs of the employer contribution is in accordance with California Government Code Section 20516. The exact percentage of member contributions was specified in all ratified City of Los Banos collective bargaining agreements with Local Safety Members (Police & Fire Safety).

Attached is a Resolution of Intention which officially notifies the City Council's intent to amend the City's existing CalPERS contract pursuant to the current Local Safety Members (Police & Fire) collective bargaining agreements. California Government Code Section 20516 authorizes a contracting agency (City) and its employees to agree, in writing, to share the costs of the employer contribution. The cost sharing also applies to non-represented Local Safety Members (Police & Fire), i.e. Police Chief, Police Commanders, Fire Chief, Assistant Fire Chief. Many cities over the years across California have amended their contracts with CalPERS in the same manner.

The chart below reflects the members' current retirement contribution and amended retirement contribution:

Member	Hired	Current Contribution	Amended Contribution
Public Safety 1 st Tier 3% @ 50	Before Jan. 1, 2011	9%	12%
Public Safety 2 nd Tier 3% @ 55	After Jan. 1, 2011	9%	12%

Before the final adoption of the Ordinance, Government Code Section 20474 requires an election of member employees by secret ballot. At least twenty (20) days must pass between the approval of the Resolution of Intention and adoption of the final Ordinance. The contract cannot be amended if a majority of the affected members vote to disapprove the amendment.

California law also requires that future annual costs or benefit change of the proposed contract amendment be made public at a public meeting at least two (2) weeks prior to the adoption of the final Ordinance.

Following the approval of the Resolution of Intention, employees will be notified of this Resolution which includes a summary of the changes in retirement contributions. This notification will include an announcement of the election. Staff anticipates the election to take place by April, and final adoption of the Ordinance on April 15, 2020.

Certification of the approval of this Resolution, election results, and adoption of the Ordinance will be provided to CalPERS.

Fiscal Impact:

The employer retirement contribution percentage will decrease by three percent (3%) and this decrease has already been reflected in the Fiscal Year Budgets since 2016/2017. This is just a formality in accordance with CalPERS requirements in order to amend the contract.

Reviewed by:



Alex Terrazas, City Manager



Sonya Williams, Finance Director

Attachments:

Resolution
Ordinance / Contract Amendment

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA EMPLOYEES' RETIREMENT SYSTEM AND THE CITY OF LOS BANOS AS IT PERTAINS TO LOCAL SAFETY MEMBERS (POLICE & FIRE)

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System (CalPERS) by execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a Resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employee Sharing Additional Cost) of three percent (3%) for 1st and 2nd Tier Classic Local Safety Members (Police & Fire).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby give notice of intention to approve an amendment of the contract between the City of Los Banos and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as a "Exhibit A" and by this reference made a part hereof.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the ____ day of March 2020, 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
Public Employees' Retirement System



AMENDMENT TO CONTRACT

**Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Los Banos**



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective November 1, 1957, and witnessed October 16, 1957, and as amended effective July 1, 1959, June 1, 1973, October 1, 1977, April 1, 1981, December 1, 1988, July 1, 1990, August 1, 1997, July 1, 1998, May 1, 2002, June 16, 2002 and January 1, 2011 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective January 1, 2011, and hereby replaced by the following paragraphs numbered 1 through 18 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members entering membership in the miscellaneous classification on or prior to January 1, 2011, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after January 1, 2011, age 62 for new local miscellaneous members, age 50 for classic local safety members entering membership in the safety classification on or prior to January 1, 2011, age 55 for classic local safety members entering membership for the first time in the safety classification after January 1, 2011 and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after November 1, 1957 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

NO ADDITIONAL EXCLUSIONS

6. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after June 16, 2002 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after June 16, 2002 and not entering membership for the first time in the miscellaneous classification after January 1, 2011 shall be determined in accordance with Section 21354.5 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.7% at age 55 Modified and Full).
8. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after January 1, 2011 shall be determined in accordance with Section 21353 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 60 Modified and Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Supplemental to Federal Social Security).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member entering membership in the safety classification on or prior to January 1, 2011 shall be determined in accordance with Section 21362.2 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 50 Modified).
11. The percentage of final compensation to be provided for each year of credited current service as a classic local safety member entering membership for the first time in the safety classification after January 1, 2011 shall be determined in accordance with Section 21363.1 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 55 Modified).

12. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Supplemental to Federal Social Security).
13. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - b. Section 20042 (One-Year Final Compensation) for classic local miscellaneous members and classic local safety members entering membership on or prior to January 1, 2011.
 - c. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
 - d. Section 20965 (Credit for Unused Sick Leave).
 - e. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
 - f. Section 21024 (Military Service Credit as Public Service) for local safety members only.
 - g. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Modified and Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after January 1, 2011.

Section 21363.1 (3% @ 55 Modified formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local safety members entering membership for the first time with this agency in the safety classification after January 1, 2011.
 - h. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 3% for classic local safety members.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

14. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on April 1, 1981. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
15. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
16. Public Agency shall also contribute to said Retirement System as follows:
 - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
17. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

18. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF LOAS BANOS

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF LOS BANOS AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO IMPLEMENT SECTION 20516 (EMPLOYEES SHARING ADDITIONAL PENSION COSTS) FOR LOCAL SAFETY MEMBERS (POLICE & FIRE)

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

Section 1. Purpose: That an amendment of the contract between the City of Los Banos and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked "Exhibit A," and by such reference made a part hereof as though herein set out in full.

Section 2. Execution: The Mayor of the City of Los Banos is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3. Effective Date: 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 the 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, the 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 Member __ and seconded by Council Member __ on the ____ day of March, 2020.

Passed on the ____ day of April, 2020 by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



Exhibit A

California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Los Banos



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective November 1, 1957, and witnessed October 16, 1957, and as amended effective July 1, 1959, June 1, 1973, October 1, 1977, April 1, 1981, December 1, 1988, July 1, 1990, August 1, 1997, July 1, 1998, May 1, 2002, June 16, 2002 and January 1, 2011 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective January 1, 2011, and hereby replaced by the following paragraphs numbered 1 through 18 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members entering membership in the miscellaneous classification on or prior to January 1, 2011, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after January 1, 2011, age 62 for new local miscellaneous members, age 50 for classic local safety members entering membership in the safety classification on or prior to January 1, 2011, age 55 for classic local safety members entering membership for the first time in the safety classification after January 1, 2011 and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after November 1, 1957 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

NO ADDITIONAL EXCLUSIONS

6. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after June 16, 2002 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after June 16, 2002 and not entering membership for the first time in the miscellaneous classification after January 1, 2011 shall be determined in accordance with Section 21354.5 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.7% at age 55 Modified and Full).
8. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after January 1, 2011 shall be determined in accordance with Section 21353 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 60 Modified and Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Supplemental to Federal Social Security).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member entering membership in the safety classification on or prior to January 1, 2011 shall be determined in accordance with Section 21362.2 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 50 Modified).
11. The percentage of final compensation to be provided for each year of credited current service as a classic local safety member entering membership for the first time in the safety classification after January 1, 2011 shall be determined in accordance with Section 21363.1 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 55 Modified).

12. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Supplemental to Federal Social Security).

13. Public Agency elected and elects to be subject to the following optional provisions:

a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.

b. Section 20042 (One-Year Final Compensation) for classic local miscellaneous members and classic local safety members entering membership on or prior to January 1, 2011.

c. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).

d. Section 20965 (Credit for Unused Sick Leave).

e. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.

f. Section 21024 (Military Service Credit as Public Service) for local safety members only.

g. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Modified and Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after January 1, 2011.

Section 21363.1 (3% @ 55 Modified formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local safety members entering membership for the first time with this agency in the safety classification after January 1, 2011.

h. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 3% for classic local safety members.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

14. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on April 1, 1981. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
15. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
16. Public Agency shall also contribute to said Retirement System as follows:
 - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
17. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

18. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF LOAS BANOS

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: March 13, 2020

Re: Notice of Public Hearing

Proposal: Negative Declaration (SCH #20200020445), Tentative Parcel Map #2020-01, Site Plan Review #2016-06, & Conditional Use Permit #2020-01

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a Negative Declaration (SCH #2020020445) for OA Holdings No. 1 LLC & MMCG DBR Los Banos LLC, for Tentative Parcel Map #2020-01, Site Plan Review #2016-06, and Conditional Use Permit #2020-01. The proposed project will consist of a Tentative Parcel Map dividing a 1.22 acres parcel into two (2) parcels; Parcel A totaling 0.69 acres and Parcel B totaling 0.53 acres; the development of two (2) commercial retail structures, a 2,500 commercial structure to serve as a quick serve restaurant with a drive through window (Parcel A) and an 800 square foot structure to serve as a quick serve restaurant with a drive through window (Parcel B). The new development will also include a parking lot, landscaping, exterior lighting, and utility improvements to be consistent with the City of Los Banos City Standards. The project will also consist of a Conditional Use Permit for the allowance of the on-sale and on-site consumption of alcohol through a Type 41 Beer and Wine ABC license in conjunction with a bona-fide eating establishment. Also, the requested Conditional Use Permit will allow for a proposed freestanding sign to be twenty-five (25') feet tall which exceeds the twenty (20') foot permitted height criteria. The proposed project is within the Highway Commercial Zoning District (H-C). The project site is located at 1420 E. Pacheco Boulevard, Assessor Parcel Number: 428-140-030.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, March 25, 2020 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 Rudy Luquin, Associate Planner at City Hall or at (209) 827-2432.

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 Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the 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

Rudy Luquin
Associate Planner