



Item No. 10 (A)

REPORT TO THE CITY COUNCIL

DATE: AUGUST 23, 2016

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM: DOREEN LIBERTO BLANCK, COMMUNITY DEVELOPMENT DIRECTOR
MARTIN D. KOCZANOWICZ, CITY ATTORNEY**

BY SCOTT BRUCE, PRINCIPAL PLANNER

**RE: CONSIDERATION OF MEDICAL MARIJUANA REGULATORY
ORDINANCE AND ZONING CODE AMENDMENTS TO ALLOW
MANUFACTURING, NURSERIES AND TESTING**

RECOMMENDATION:

Staff recommends the City Council; 1) receive public comment and comments from the Planning Commission; 2) review and provide comments to staff on the draft medical cannabis regulatory ordinance, Zoning Code amendments and Mitigated Negative Declaration ("MND"); and 3) continue the public hearing to the meeting of September 13, 2016.

BACKGROUND:

Newly adopted State Law created the Medical Marijuana Regulation and Safety Act, which put into effect a State regulatory scheme for cultivation, distribution, manufacturing and transportation of medical cannabis. On January 26, 2016 the City Council ("*Council*") adopted revisions to Municipal Code which allowed indoor Medical Cannabis Cultivation under artificial light. The Council also considered and adopted the MND related to the project.

Since then, the Council has directed staff to prepare revisions that will allow indoor cultivation under artificial light, manufacturing, nurseries and testing. The proposed repeal and replacement of Title 17, Section 17.03 would guide and direct the review, oversight and approval of these uses and would provide specific definition and regulation of Medical Cannabis related operations.

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Amendment to Title 17, Section 17.03 defines and regulates the Medical Cannabis related uses that are to be allowed in the City; it does not specifically delineate those additional uses and / or the areas of the City where those uses can be located. Currently, the ERBP and the M-1, M-2 Districts allow indoor cultivation under artificial light.

On September 6, 2016 the Regulatory Ordinance repeal / replace Section 17.03., an Ordinance to amend the ERBP and an Ordinance to amend Sections 17.30.020 and 17.30.021 (the M-1 / M-2 Districts) will be presented to the Planning Commission for action by the Commission / Recommendation to the City Council. The Ordinances and related Environmental Document will be presented to City Council on September 13, 2016 with anticipated action (2nd reading) on September 27, 2016.

Since the items under consideration are still in draft form, the purpose at this point is to get Council direction on any changes. Therefore, potential modifications can be made before the ordinances are presented in their final form at the next meeting for formal consideration.

DISCUSSION:

As noted above, the Ordinance repealing and replacing Section 17.03 (Regulatory Ordinance) will define, regulate and direct the establishment, approval and monitoring of allowed Medical Cannabis uses in the City. The Ordinance does not identify specifically allowed uses / Types in the City or identify their allowed locations.

The State of California as part of AB 243, AB 266 and SB 643 has defined certain Types of "Licenses". The City's Municipal Code currently allows:

- Type 2A: Indoor cultivation with all artificial light from 0 to 10,000 square feet of plant canopy
- Type 3A: Indoor cultivation with all artificial light from 10,001 to 22,000 square feet of plant canopy

Ultimately, the proposed Amendments to the City Code will expand allowed uses in the ERBP and the M-1, M-2 Districts to add / include:

- Type 2B: Indoor cultivation with all artificial light from 0 to 10,000 square feet of plant canopy
- Type 3B: Indoor cultivation with all artificial light from 10,001 to 22,000 square feet of plant canopy
- Type 4: Nurseries (the City anticipates limiting this use to a maximum 25,000 sf of plant growth area).

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- Type 6: Manufacturing
- Type 8: Testing

An Initial Study (IS) is complete. It has been prepared based upon the potential impacts of the proposed additional uses. To prepare the IS, the scope of the potential Medical Cannabis related development was estimated based on staff research and comment by potential applicants. Based on the findings of the IS, an MND was prepared. During the preparation of the MND, PG&E, CalWater, Mott MacDonald Traffic Engineers and the City's Public Works Department were consulted.

Staff offers the following specific items for Council discussion and comment:

1. ***Proximity to Sensitive Uses:*** State law requires 600' separation from schools for any commercial cannabis business that includes storefront operations. No separation is required for commercial cannabis businesses that do not include walk-in public interaction / sales. Therefore, staff is recommending no restrictions be included to avoid potential limitations in the future of those uses wanting to locate within an area that may be within a certain proximity of a marijuana related establishment. However, direction is requested regarding this issue.
2. ***Limits on Number of Cannabis Product Manufacturing Licenses:*** As noted above, Cannabis related Manufacturing uses require a Type 6 License. Many cultivators prefer to also engage in manufacturing. Independent manufacturers may also wish to locate in the ERBP or in the M-1 or M-2 Districts. Refer to "Definitions" Section 17.03.020, (r),(s) and (t). Many jurisdictions place a limit on the number of manufacturing facilities. Since there are impacts from these facilities that must be monitored, absence of any limits may results in more such facilities than desired. On the other hand, since many cultivation operations may want to have manufacturing associated with their business, limits may serve as a disincentive for cultivation operations once the limit is reached. Staff is recommending establishing a limit of six, but staff is looking for direction from the City Council. Input from the Planning Commission and industry representatives both supported a limit of six to eight when discussed at the Planning Commission meeting.
3. ***Cannabis Extraction and Manufacturing:*** The City of King will allow Type 6 Licenses (non-volatile manufacturing). Some processes use food grade ethyl alcohol to process plant extracts and ethyl alcohol / isopropyl alcohol for cleaning purposes. Since alcohol is flammable, staff has concerns regarding its safe use and is researching to determine whether it is allowed by the State under a Level 1 manufacturing permit, which appears yet to be established. If it is allowed by the State, staff is seeking discussion and direction whether it should be allowed

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under the City's local regulations and/or whether quantities and use should be restricted in some manner. At this point, staff has included draft language in the Ordinance that does not allow the use of these solvents for extraction in Level 1 manufacturing until the State defines what solvents are allowable for extraction purposes. Some of the feedback received from the industry representatives is that they use them only as cleaners, which would not be in violation of the ordinance.

4. **Compressed Gas (CO₂):** *Section 17.03.280 limits the size and amount of CO₂ canisters based on discussions with industry participants. In this Section, a maximum of eight (8) one hundred and fifty (150) lb canisters are allowed on site at any one time. In our research, it has come to our attention that very large CO₂ tanks (particularly in Colorado) have been known to be involved in explosions. Staff is seeking discussion and direction regarding the size and number of CO₂ tanks to be allowed on-site.*

The anticipated schedule for introduction and adoption of the Ordinances is as follows:

August 23- City Council:

Public Hearing regarding proposed Ordinances to receive information from staff and the public and to provide comment.

September 06 – Planning Commission:

Planning Commission Public Hearing to review Ordinances amending Sections 17.03, 17.30.020, 17.31.020 and the East Ranch Business Park Specific Plan; review the IS /MND; and, provide Recommendation(s) to the City Council.

September 13 - City Council:

First Reading of Ordinances and presentation of IS / MND

September 27 – City Council:

Second Reading of Ordinances / Action regarding IS / MND.

COST ANALYSIS:

A number of costs have been incurred for contract services related to preparing the ordinances and environmental document. Staff projects the need for a potential supplemental mid-year appropriation of approximately \$25,000. However, staff will assess that at the mid-year budget review when the overall status of the Community Development Department's expenses are reviewed.

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ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Direct staff to proceed with the documents as recommended;
2. Provide staff direction for changes;
3. Do not proceed with the ordinances; or
4. Provide other direction to staff.

Exhibits:

1. Draft Ordinance (Final Draft) No. 2016 - 728 (Regulatory Ordinance Section 17.03)
2. IS / MND
3. Draft Ordinance (Working Draft) No. 2016 – 729 (Sections 17.30 and 17.31 (M-1 and M-2 Districts))
4. Draft Ordinance (Working Draft) No. 2016 – 730 (East Ranch Business Park Specific Plan Amendment).
5. Comments from Planning Commission August 16, 2016
6. Note from Brandon Gesicki Re: "How Alcohol is Used in Cannabis Manufacturing"

Submitted by: *Doreen Liberto-Blanch*
Doreen Liberto-Blanch, AICP, Community Development Director

Approved by: *Steven Adams*
Steven Adams, City Manager

ORDINANCE No. 2016-728**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING REPEALING CHAPTER 17.03, TITLE 17, ZONING, AND REPLACING CHAPTER 17.03, TITLE 17 OF THE CITY OF KING MUNICIPAL CODE TO ALLOW THE ESTABLISHMENT, OPERATION AND REGULATIONS OF COMMERCIAL CANNABIS BUSINESSES FOR THE CULTIVATION, MANUFACTURING, AND TESTING OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS**

WHEREAS, the City of King is a charter city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals or public safety; and

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

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Sections 801 et seq. classifies marijuana as a Schedule I Drug and makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess with intent to manufacture, distribute or dispense, marijuana; and

WHEREAS, the Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation or possession of marijuana for medicinal purposes; and

WHEREAS, notwithstanding federal law, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and titled the "Compassionate Use Act of 1996"), the intent of Proposition 215 being to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code Section 11362.7 et seq. and titled the "Medical Marijuana Program Act" to clarify the scope of the Compassionate Use Act of 1996 ("CUA"); and

WHEREAS, the Medical Marijuana Program Act ("MMPA") promulgates rules wherein counties and cities can adopt and enforce rules and regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code Section 11362.768) affirming that counties and cities can under state law adopt

ordinances that control and restrict the location and establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 753 (“*Inland Empire*”) that the objectives of the CUA and MMPA were modest and that those acts did not create a broad right to access medical marijuana, and *Inland Empire* goes on to provide that neither the CUA nor the MMPA “expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude” the distribution of medical marijuana. (Id. At p. 762.); and

WHEREAS, the Court of Appeal, Third Appellate District, held in *James Maral, et al. v. City of Live Oak* (2013) 221 Cal.App.4th 975, that the reasoning of *Inland Empire* applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and the MMPA; and

WHEREAS, on October 9, 2015, Governor Jerry Brown signed the “Medical Marijuana Regulation And Safety Act” (“MMRSA”) into law; and

WHEREAS, the MMRSA, which is comprised of three separate pieces of legislation, establishes, among other matters, a dual licensing structure requiring both a state license and a local license or permit for medical marijuana activities, a regulatory structure imposing health, safety and testing standards for cultivation and dispensary facilities, and the criteria for licensing medical marijuana businesses; and

WHEREAS, neither the Compassionate Use Act, the Medical Marijuana Program, nor the Medical Marijuana Regulation and Safety Act require or impose an affirmative duty or mandate upon local governments to allow, authorize or sanction the establishment and the operation of facilities for distribution, cultivation, manufacturing or processing medical marijuana within its jurisdiction, and

WHEREAS, notwithstanding the comprehensive nature of the MMRSA, the Act under state law protects the ability of local entities to maintain control over medical marijuana activities; and

WHEREAS, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of medical marijuana-related businesses which are intended to operate in conjunction with the City of King Zoning Code’s land use regulation and which are intended to address the negative impacts and nuisance impacts of marijuana-related businesses; and

WHEREAS, medical marijuana-related businesses will be subject to the zoning and land use regulations of the zoning district in which such business establish and operate, as set forth in Title 17 of the City of King Municipal Code (the King City Zoning Code); and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the Council’s intention that nothing in this ordinance shall be construed, in any way, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, distribution, or consumption of marijuana that is otherwise illegal. It is further the intent of the City Council of City of King to maintain local control over these matters to the fullest extent permitted by law.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF KING AS FOLLOWS:

SECTION 1. Title 17 (Zoning), Chapter 17.03 (Medical Marijuana Dispensaries) is repealed in its entirety and replaced with the following:

Chapter 17.03 Medical Cannabis Activity

- 17.03.010 Purpose and Intent.
- 17.03.020 Definitions
- 17.03.030 Non-commercial Cannabis Activity prohibited in any zone.
- 17.03.040 Licenses and Permits
- 17.03.050 Existing Commercial Cannabis Businesses
- 17.03.060 Security Measures
- 17.03.070 Employees; Employee Work Permits; Identification
- 17.03.080 Right to Occupy and to Use Property
- 17.03.090 Location of Commercial Cannabis Business; Proximity to Sensitive Uses
- 17.03.100 Restriction on Alcohol Sales
- 17.03.110 Concurrent Regulation with State
- 17.03.120 Compliance with Laws
- 17.03.130 Inspection and Enforcement
- 17.03.140 Fees and Charges
- 17.03.150 Violation and Enforcement
- 17.03.160 Limitations on City’s Liability
- 17.03.170 Application Procedures and Application Requirements
- 17.03.180 Records and Reporting
- 17.03.190 Prohibition on Transfer of Commercial Cannabis Permits
- 17.03.200 Packaging and Labelling
- 17.03.210 Operating Requirements
- 17.03.220 Cultivation, Manufacturing, Waste, and Storage Requirements
- 17.03.230 Limitation on the Number of Cultivation and Nursery Facilities
- 17.03.240 Periodic Review by the City Council
- 17.03.250 Operating Requirements for Cultivation and Nurseries
- 17.03.260 Cannabis Manufacturing; Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products
- 17.03.270 Cannabis Manufacturing; Extraction, etc.
- 17.03.280 Promulgation of Regulations and Standards
- 17.03.290 Community Relations

- 17.03.300 Fees Deemed Debt to City of King
- 17.03.310 Permit Holder Responsible for Violations

17.03.010 **Purpose and Intent.**

(a) It is the purpose and intent of this Chapter to accommodate the needs of medically-ill persons in need of marijuana for medical purposes while imposing regulations on the use of land to protect City of King’s neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the, cultivation, manufacturing and testing of cannabis and cannabis-related products in a manner which is responsible and which protects the health, safety, and welfare of the residents of the City of King; to enforce rules and regulations consistent with State law including, but not limited to, the Compassionate Use Act, the Medical Marijuana Program Act, and the Medical Marijuana Regulation and Safety Act. In part to meet these objectives, an annual permit shall be required in order to own and to operate a commercial cannabis business within the City of King as authorized under this ordinance or within the City of King Zoning Ordinances. Nothing in this Chapter is intended to authorize the cultivation, possession or use of marijuana for non-medical purposes in violation of State or Federal law. The provisions of this Chapter are in addition to the business license otherwise required to conduct business in the City of King and in addition to permits and approvals otherwise required.

(b) Pursuant to Section 7 of Article XI of the California Constitution, the City of King is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, laboratory operations and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of King to commercial cannabis activity.

17.03.020 **Definitions**

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

- (a) “Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

For the purpose of this Chapter, “cannabis” does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

- (b) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.
- (c) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (d) “Commercial cannabis activity” includes cultivation, nursery, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, or sale of medical cannabis or a medical cannabis product, except as set forth in California Business and Professions Code Section 19319, related to qualifying patients and primary caregivers.
- (e) “Commercial cannabis business” means any business or operation which engages in commercial cannabis activity.
- (f) “Commercial cannabis permit” means a permit issued by the City of King pursuant to this Chapter to a commercial cannabis business.
- (g) “Cultivation” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (h) “Cultivation site” means a facility where medical cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to the Medical Marijuana Regulation and Safety Act and that holds a permit issued by the City of King.
- (i) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the State of California, or any of its departments or divisions, to a primary caregiver or qualified patient, or a testing laboratory. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed by the State of California under Medical Marijuana Regulation and Safety Act (as the same may be amended from time-to-time), that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

- (j) “Dispensary” means a facility where cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, medical cannabis and medical cannabis products as part of a retail sale.
- (k) “Dispensing” means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (l) “Distribution” means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to the Medical Marijuana Regulation and Safety Act and any subsequent State of California legislation regarding the same.
- (m) “Distributor” means a person licensed under the Medical Marijuana Regulation and Safety Act and any subsequent State of California legislation to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a license manufacturer, for sale to a licensed dispensary.
- (n) “Dried flower” means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (o) “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- (p) “License” means the issuing of a license by the State of California, or one of its departments or divisions, under the Medical Marijuana Regulation and Safety Act to engage in commercial cannabis activity.
- (q) “Live plants” means living medical cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (r) “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as defined in this section, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license pursuant to the Medical Marijuana Regulation and Safety Act and that holds a permit issued by the City of King.

- (s) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.
- (t) “Manufacturing site” means a location that produces, prepares, propagates, or compounds medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a license by the State of California, or one of its departments or divisions, for these activities.
- (u) “Medical cannabis”, “medical cannabis product,” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time). For purposes of this Chapter, “medical cannabis” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (v) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.
- (w) “Patient” or “qualified patient” shall have the meaning given that term by California Health and Safety Code Section 11362.7, but who does not have an identification card issued by the State Department of Health Services.
- (x) “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- (y) “Topical cannabis” means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (z) “Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by the Medical Marijuana Regulation and Safety Act.

- (aa) "Transporter" means a person issued a state license by the State of California, or one of its departments or divisions, to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the State of California, or one of its departments or divisions, that have been issued a State license pursuant to the Medical Marijuana Regulation and Safety Act.

17.03.030 Non-commercial Cannabis Activity prohibited in any zone.

Notwithstanding anything to the contrary contained in the King City Municipal Code, activity other than Commercial Cannabis activity shall not be a permitted use in any zone of the city, and no conditional use permit shall be issued permitting such use. Further notwithstanding anything contrary contained in the King City Municipal Code, a violation of this chapter and or any provision thereof shall not be subject to criminal penalties but may only be enforced by civil and or administrative proceedings.

17.03.040 Licenses and Permits

- (a) In addition to those other requirements which may be imposed pursuant to this Chapter, no person shall engage in commercial cannabis activity or open or operate a commercial cannabis business without possessing both a commercial cannabis permit issued by the City Manager or his/her designee and within one (1) year of the ability to obtain a license from the State of California upon implementation of the Medical Marijuana Regulation and Safety Act, a license issued by the State of California or one of its departments or divisions. Commercial cannabis activity shall be permitted in the City of King only as expressly provided in this Chapter and if not expressly permitted by this Chapter shall be prohibited.
 - (1) Each commercial cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance.
 - (2) An application for renewal of a commercial cannabis permit shall be filed at least sixty (60) calendar days prior to the expiration date of the permit with the City Manager or his/her designee.
 - (3) An application for renewal of a commercial cannabis permit shall be rejected if any of the following exists:
 - a. The application is filed less than sixty (60) days before its expiration.
 - b. The commercial cannabis permit is suspended or revoked at the time of the application.
 - c. The commercial cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
 - d. The commercial cannabis business fails to conform to the requirements of this Chapter, any regulations adopted pursuant to this Chapter or the

conditions imposed as part of any conditional use permit or zoning requirements.

e. The permittee fails to renew its State of California license.

(4) If a renewal application is rejected, a person may file a new application pursuant to this Chapter.

(5) Applicants seeking multiple licenses for different types of cannabis activity shall be required to comply with multiple licensing restrictions contained within Business and Professions Code §19328.

(b) Prior to commencing operation, a commercial cannabis business shall obtain a City of King business license and comply with all applicable provisions and requirements of that license.

(c) Prior to commencing operation, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits or approvals which would otherwise be required including, but not limited to, a building permit(s), King Fire Department permit(s), and planning-level permit(s) required by Title 17 Zoning of the City of King Municipal Code.

(d) Revocation, termination, non-issuance or suspension of a license issued by the State of California, or any of its departments or divisions, shall immediately terminate the ability of a medical cannabis business to operate within the City of King until the State of California, or its respective department or division, reinstates or issues the State license.

17.03.050 Existing Commercial Cannabis Businesses.

A commercial cannabis business operating in compliance with existing Municipal Code provisions at the time this Chapter becomes effective may continue its current operations; provided, however, that in order to continue operating such commercial cannabis business must apply for a commercial cannabis permit pursuant to this Chapter and otherwise meet all other conditions and requirements of this Chapter imposed on newly established commercial cannabis businesses. Any facility or entity that can demonstrate to the City's satisfaction prior to the adoption of the ordinance establishing this Chapter that it was in operation, in good standing, and otherwise in compliance with all applicable local and state laws and regulations promulgated thereunder may be permitted to continue its current operations pursuant to this section.

17.03.060 Security Measures.

The City Manager or his/her designee is authorized to promulgate all regulations necessary to implement the requirements and fulfill the policies of this Chapter related to commercial cannabis businesses including, but not limited to, the following subjects:

- (a) A permitted commercial cannabis business shall implement sufficient security measures to both deter and to prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the commercial cannabis business. Except as may otherwise be determined by the City Manager or his/her designee, these security measures shall include, but shall not be limited to, all of the following:
- (1) Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in the activity expressly related to the operations of the commercial cannabis business.
 - (2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
 - (3) Except for live growing plants which are being cultivated at a cultivation facility, all medical cannabis and medical cannabis products shall be stored in a secured and locked room, safe, or vault. All medical cannabis and medical cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or immediate sale at a dispensary.
 - (4) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises and to monitor all interior spaces within the commercial cannabis business which are open and accessible to the public. The security surveillance cameras shall be remotely accessible to the King Police Department and shall be compatible with the King Police Department's software and hardware and remote real-time, live access to the video footage from the cameras shall be provided to the King Police Department. Video recordings shall be maintained for a minimum of forty-five (45) days.
 - (5) Sensors shall be installed to detect entry and exit from all secure areas.
 - (6) Panic buttons shall be installed in all commercial cannabis businesses.
 - (7) Having a professionally installed, maintained, and monitored alarm system.
 - (8) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
 - (9) Security personnel hired by the commercial cannabis business shall be subject to the prior review and approval of the Chief of Police or his/her designee.

- (10) Each commercial cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (b) Each commercial cannabis business shall identify a liaison to the King Police Department who shall be reasonably available to meet with the Chief of Police or his designees regarding security measures and operational issues.
- (c) As part of the application and permitting process, each commercial cannabis business shall have a transportation plan describing the procedures for safely and securely transporting cannabis and cannabis products and currency.
- (d) A commercial cannabis business shall notify the Chief of Police within twenty-four (24) hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee.
 - (2) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
 - (3) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.
 - (4) Any other breach of security.

17.03.070 **Employees; Employee Work Permits; Identification**

- (a) Work permit required. Any person who is an employee or who otherwise works or volunteers within a commercial cannabis business must obtain a work permit from the City Manager or his/her designee. The City Manager or his/her designee is hereby authorized to promulgate all regulations necessary to implement the work permit process contemplated in this section including, but not limited to, the reasons for denial of a work permit to any person. A work permit shall be valid for a twelve (12) month period and must be renewed on an annual basis. Applications for work permits shall be submitted under oath and shall contain a statement of the past criminal record, if any, of the applicant and such information as may be deemed necessary by the City Manager or his/her designee to determine whether the applicant is a proper person to be issued a work permit. The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the City Manager or his/her designee. In the event a person changes employment from one commercial cannabis business within the city to

another, the work permit holder shall notify the City Manager or his/her designee in writing of the change of employment within ten (10) days of such change or the work permit shall be suspended or revoked and such person shall not be permitted to work within any commercial cannabis business within the city.

- (b) Identification. Each person to whom a work permit is issued shall wear his or her personal identification card, issued by the City of King, at a prominent and readily-visible location on the outermost garment and approximately chest-high. Such identification card shall at all times be in good and readable condition.
- (c) Employee Records. Each owner or operator of a commercial cannabis business shall maintain on-site a current register of all the employees currently employed by the commercial cannabis business and shall produce such register to the City Manager or his/her designee or any other City of King official authorized to enforce the King City Code for purposes of determining compliance with this Chapter.
- (d) Fees. Each application for a work permit and renewal of an existing work permit shall be accompanied by a fee set by resolution of the City Council and shall be valid for a period of twelve (12) months from the date of issuance, unless terminated, suspended, or revoked sooner. The fee is non-refundable and shall not be returned in the event the work permit is denied, revoked, or suspended.

17.03.080 Right to Occupy and to Use Property.

As a condition precedent to the City's issuance of a commercial cannabis permit pursuant to this Chapter, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location is leased from another person, the applicant for a permit under this Chapter shall provide a signed and notarized statement from the owner of the property to demonstrate the property owner has acknowledged and has consented to the operation of a commercial cannabis business on the property.

17.03.090 Location of Commercial Cannabis Business; Proximity to Sensitive Uses.

- (a) No commercial cannabis business may operate within any wholly residential area or district of the city or adjacent to a residential area or district if, in the opinion of City Manager or his/her designee, the operation of a commercial cannabis business in such location would tend to cause a public nuisance or a situation which may result in repeated Police Department response or a negative impact on the adjacent residential units.
- (b) Commercial cannabis businesses shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in Title 17 of the City of King Municipal Code.

- (c) Any commercial cannabis business which has been determined by the City Manager or his/her designee to be an existing commercial cannabis business on the effective date of this Chapter shall be exempt from compliance with the limitations proscribed in this section, unless such location is otherwise determined to constitute a public nuisance or otherwise a disturbance to the adjacent or neighboring uses as determined by the provisions of this Chapter.

17.03.100 Restriction on Alcohol Sales.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of any commercial cannabis business. No commercial cannabis business may operate at the same location as an alcohol-related use as that term is defined in the City of King Municipal Code.

17.03.110 Concurrent Regulation with State.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of King concurrently with the state of California.

17.03.120 Compliance with Laws.

It is the responsibility of the owners and operators of the commercial cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and the operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis permit. Nothing in this Chapter shall be construed as authorizing any actions which violate State law with regard to the operation of a commercial cannabis business.

17.03.130 Inspection and Enforcement.

- (a) The City Manager or his/her designee and any other City of King official charged with enforcing the provisions of the City of King Municipal Code, or any provision thereof, may enter the location of a commercial cannabis business at any time during the hours of operation without notice and inspect the location of any commercial cannabis business as well as the recordings and records maintained pursuant to this Chapter or the applicable provisions of State law.
- (b) It is unlawful for any person having any responsibility over the operation of a commercial cannabis business to refuse to allow, impede, obstruct, or interfere with an inspection, or

the review of the copying of records and monitoring (including recordings) including, but not limited to, the concealment, destruction, and falsification of any recordings or records.

- (c) The City Manager or his/her designee or any other person charged with enforcing the provisions of this Chapter may enter the location of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for law enforcement and/or public safety purposes. Any samples obtained by the City of King shall be logged, recorded, and maintained in accordance with City of King Police Department standards for evidence. At all other times, the City Manager or his/her designee may enter the location of a commercial cannabis business to obtain samples of cannabis upon reasonable notice.

17.03.140 Fees and Charges.

- (a) No person may commence or continue any commercial cannabis activity in the City of King without timely paying in full all fees and charges associated with the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution of the City Council.
- (b) All commercial cannabis businesses operating pursuant to this Chapter shall pay any and all applicable sales, use, business or other taxes, and all license, registration, or other fees pursuant to federal, state, and local law.

17.03.150 Violation and Enforcement.

- (a) Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.
- (b) Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of King Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of King may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis activity or persons related thereto, or associated with, the commercial cannabis activity. Additionally, when the City Manager or his/her designee determines there is an imminent threat to public health, safety or welfare, the commercial cannabis permit, issued by the City of King pursuant to this Chapter, shall immediately become suspended, pending a hearing before the City of King Planning Commission.

- (c) Notwithstanding an initial verification of compliance by the commercial cannabis activity with the provisions of this Chapter, any commercial cannabis business later found to be in violation of any of the requirements of this Chapter at any time is subject to the enforcement provisions provided in this section.
- (d) The remedies provided herein are not to be construed as exclusive remedies and in the event of a violation the City may pursue any proceedings or remedies otherwise provided by law.

17.03.160 Limitations on City's Liability.

To the fullest extent permitted by law, the City of King shall not assume any liability whatsoever with respect to having issued a commercial cannabis permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business pursuant to this Chapter. As a condition of approval of any commercial cannabis permit issued pursuant to this Chapter, the person to which a commercial cannabis permit is issued shall be required to meet all of the following conditions:

- (a) Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the City of King and its officers, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries or liabilities associated with the permitting or approving the operation of a commercial cannabis activity or the operation thereof or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
- (b) Maintain insurance at coverages, limits, and with conditions thereon determined necessary by the City Attorney.
- (c) Reimburse the City of King for any and all costs and expenses, including attorney fees and costs and court costs that the City of King may be required to pay as a result of any legal challenge related to the City's approval of a commercial cannabis permit pursuant to this Chapter or the City of King's approval of the operation of a commercial cannabis activity. The City of King may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this section.

17.03.170 Application Procedures and Application Requirements

Permittee Selection Process; Criteria for Review; Renewal, Suspension or Revocation of a Permit; Appeals. In addition to those requirements set forth in this section and elsewhere in this Chapter, the City Council shall by resolution or ordinance adopt such forms, fees, and procedures as are necessary to implement this Chapter with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of commercial cannabis business permits and appeals for the revocation or suspension of a commercial cannabis permit.

(a) At a minimum, the application shall contain the following requirements:

- (1) The printed full name, signature, date of birth, social security number, and present address and telephone number of all persons and entities responsible for the operation of the commercial cannabis business including managers, corporate officers, investors, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision-making body for the commercial cannabis business.
- (2) The address to which correspondence from the City of King is to be sent.
- (3) The names and addresses of all businesses operated by and the employment of the applicant(s) for the five (5) years immediately preceding the date of the application.
- (4) Any litigation in which the applicant(s) has been involved within the five (5) years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the five (5) years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the five (5) years immediately preceding the date of the application.
- (5) The address of any commercial cannabis business currently being operated by the applicant(s), or any of them, or which have been previously operated by them.
- (6) The supply sources for all cannabis and cannabis products sold at the commercial cannabis business. Product supply chain including the site(s) where cultivation occurs, the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labelling criteria.
- (7) The names and telephone numbers of the person(s) to be regularly engaged in the operation of the proposed commercial cannabis business, whether an employee, volunteer or contractor. The application shall also have the names and telephone numbers of those persons having management and supervisory responsibilities for the proposed commercial cannabis business.
- (8) Odor control devices and techniques to prevent odors from marijuana from being detectable off-site.
- (9) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical cannabis product.

- (10) Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures.
 - (11) A detail of the procedures to be utilized at the facility including a description of how chemicals and fertilizers will be stored, handled, used and disposed of; manufacturing methods, the transportation process, inventory procedures, and quality control procedures.
 - (12) A site plan and floor plan of the commercial cannabis business denoting the property lines and the layout of all areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception/waiting, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.
 - (13) Size, height, colors, and design of any proposed signage at the site. A City of King sign permit issued pursuant to the King Municipal Code shall be required.
 - (14) An operations and security plan.
 - (15) Standard operating procedures detailing how operations will comply with state and local regulations, how safety and quality of products will be ensured, record-keeping procedures for financing, testing, and adverse event recording, and product recall procedures.
 - (16) Proposed hours of operation.
 - (17) Recycling and Waste disposal information.
 - (18) Medical recommendation verification and youth access restriction procedures.
 - (19) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
 - (20) Detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources.
- (b) No person who has been convicted of a felony or crime of moral turpitude within the past ten (10) years may be engaged (actively or passively) in the operation of any commercial cannabis business. A conviction within the meaning of this sections means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

- (c) The City Manager or his/her designee shall review each application to determine whether it contains all of the required information. If the application does not contain all of the required information, it shall be returned to the applicant for completion. The City Manager or his/her designee shall endeavor to conclude their review within ninety (90) days of the filing of the application. If additional time is necessary, the City Manager or his/her designee will advise the applicant of an estimated review time.
- (d) In reviewing an application for a permit pursuant to this Chapter or in reviewing the proposed commercial cannabis business, the City Manager or his/her designee may request whatever additional information is deemed necessary to carry out the purposes of this Chapter.
- (e) The City Manager or his/her designee shall have the authority to either grant or deny the application for a commercial cannabis permit. Notwithstanding what is otherwise provided in this Chapter, the City Manager or his/her designees, when approving a commercial cannabis permit, may place any additional limitations and conditions on the operation of a commercial cannabis business as he or she deems necessary, consistent with the public interest and with this Chapter.
- (f) When an application is denied, the City Manager or his/her designee shall prepare and file a statement of decision giving the reasons for the denial and the findings of fact upon which the decision is based. Any person denied a commercial cannabis permit shall have the right to appeal such denial in accordance with this section.
- (g) In addition to whatever additional findings may be made by the City Manager or his/her designee, or the Planning Commission or the City Council in the event of an appeal initiated pursuant to this section, an application for a commercial cannabis permit may be denied upon making any of the following findings:
 - (1) The applicant made one or more false or misleading statements or omissions on the registration application or during the application process.
 - (2) The commercial cannabis business is not organized in strict compliance with all applicable laws and regulations.
 - (3) The applicant fails to meet the requirements of this Chapter or any regulation adopted pursuant to this Chapter.
 - (4) The operation of the proposed commercial cannabis business at the proposed location is prohibited by any state or local law or regulation.

- (5) Any person who is listed on the application has been convicted of a felony within the past ten (10) years. A conviction within the meaning of this section means a plea or a guilty verdict or a conviction following a plea of nolo contendere.
 - (6) Any person who is listed on the application is a licensed physician making patient recommendations for medical cannabis pursuant to State law.
 - (7) The applicant or the operator listed in the application is less than eighteen (18) years of age.
- (h) Whenever an appeal is provided for in this Chapter, such appeal shall be filed and conducted as prescribed in this subsection.
- (1) Within ten (10) calendar days after the date of any denial of an application or the suspension or the revocation of a permit by the City Manager or his/her designee, an aggrieved party may appeal such action by filing with the City Clerk a written appeal setting forth the reasons why such denial, suspension or revocation is not proper.
 - (2) Upon receipt of such written appeal, the City Clerk shall set the matter for a hearing before the Planning Commission. The hearing shall be conducted pursuant to the procedures set forth by the City and shall be held within a reasonable time after the date of filing the appeal with the City, but in no event later than ninety (90) days from the date of such filing. At least ten (10) days prior to the date of the hearing on the appeal, the City of King shall notify the appellant of the time and the place of the hearing. At such hearing, the City Manager or his/her designee and the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to such hearing.
 - (3) At the conclusion of the hearing, the Planning Commission may affirm, reverse or modify the decision appealed.
 - (4) The decision of the Planning Commission may be appealed to the City Council in accordance with this section. At the conclusion of the hearing, the City Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter.

17.03.180 Records and Reporting.

- (a) Subject to the Health Insurance Portability and Accountability Act (HIPPA) regulations, each commercial cannabis business shall allow City of King officials to have access to the

commercial cannabis business's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than twenty-four (24) hours after receipt of the City's request.

- (b) Each commercial cannabis business shall file with the City Manager or his/her designee an audit of its financial operations for the previous fiscal year, complete and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the audit shall be made available in standard electronic format which shall be compatible with Microsoft Office programs and software and which can easily be imported into either Excel, Access or any other contemporary software designed by the City Manager.
- (c) All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until sold or distributed.
- (d) Each owner and/or operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of all employees currently employed by the commercial cannabis business and shall disclose such register to any City of King official upon request.

All records required by this Chapter shall be maintained by the commercial cannabis business for a period of not less than three (3) years and shall otherwise keep accurate records of all commercial cannabis business activity and provide such records for inspection consistent with California Business and Professions Code section 19327 and any additional rules promulgated by the licensing authority pursuant to that section or the City Council by resolution or ordinance.

17.03.190 Prohibition on Transfer of Commercial Cannabis Permits.

- (a) No person shall operate a commercial cannabis business under a commercial cannabis permit issued pursuant to this Chapter at any place or location other than that identified on the permit.
- (b) No person shall transfer ownership or control of a commercial cannabis business or transfer a permit issued pursuant to this Chapter unless and until that person first obtains the consent of the City Manager or his/her designee and the proposed transferee submits all required application materials and pays all applicable fees and charges and independently meets the requirements of this Chapter such as to be entitled to the issuance of an original commercial cannabis permit pursuant to this Chapter.

- (c) Any attempt to transfer or any transfer of a commercial cannabis permit issued pursuant to this Chapter is hereby declared void and the commercial cannabis permit deemed immediately revoked and no longer of any force or effect.

17.03.200 Packaging and Labelling.

Prior to the sale or the delivery of any edible cannabis or edible cannabis product the same shall be labelled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 19347, as the same may be amended from time-to-time or superseded or replaced by subsequent State legislation or by any department or division of the State of California. The City Council may impose additional packaging and labelling requirements on cannabis or cannabis products by resolution.

17.03.210 Operating Requirements.

In addition to those operating requirements specifically set forth elsewhere in this Chapter and except as may otherwise be expressly set forth in this Chapter, the following operating requirements shall apply to all commercial cannabis businesses operating in the City of King.

- (a) Hours of Operation. Commercial cannabis businesses may be open for access to the public only between the hours of 8:00 A.M. and 7:00 P.M. Monday through Sunday.
- (b) Restriction on Consumption. Cannabis shall not be consumed on the premises of any commercial cannabis businesses or elsewhere in the City of King other than within private residences.
- (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of the property. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (d) Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale tracking system to track and to report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale) and shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City of King. All information provided to the City pursuant to this subsection shall be confidential and shall not be disclosed, except as may otherwise be required under law.
- (e) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.

(f) **Emergency Contact.** Each commercial cannabis business shall provide the City Manager or his/her designee with the name, telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided.

(g) **Signage and Notices.**

(1) In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the City of King Municipal Code, including, but not limited to, a issuance of a City of King sign permit.

(2) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.

(3) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.

(4) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.

(5) Signage shall not be directly illuminated, internally or externally. No banners, flags or other prohibited signs may be used at any time.

(h) **Minors.** Persons under the age of eighteen (18) years shall not be allowed on the premises of a commercial cannabis business.

It shall be unlawful and a violation of this Chapter for any person to employ any other person at a commercial cannabis business who is not at least eighteen (18) years of age.

The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) years of age is permitted to enter upon the premises of the commercial cannabis business.

(i) **Odor Control.** Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from marijuana are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical marijuana facility that is

distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment or any other equipment which the City Manager or his designee determines has the same or better effectiveness:

- (1) an exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- (j) Display of Permit and City Business License. The original copy of the permit issued by the City of King pursuant to this Chapter and the business license issued by the City of King pursuant to the King Municipal Code shall be posted inside the commercial cannabis business in a location readily-visible to the public.
- (k) Background Check. Every person listed as an owner, manager, supervisor or employee of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police or his designee for a background check by the City of King Police Department. No person shall be issued a permit to operate a commercial cannabis business unless they have first cleared the background check, as determined by the Chief of Police, as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of King to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis permit is submitted. The applicant(s) shall provide an initial deposit in an amount the Chief of Police or his designee estimates will cover the cost of the background investigation, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If this amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event the applicant withdraws their application, any unused amount will be refunded to the applicant within thirty (30) days.
- (l) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.

(m) Permits and other Approvals. Prior to the establishment of any commercial cannabis business or the operation of any such business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

17.03.220 Cultivation, manufacture, waste, and storage requirements.

(a). Any person issued a permit pursuant to this chapter must follow all pesticide use requirements of local, state and federal law. The Monterey County Agricultural Commissioner may inspect the commercial cannabis business at any time during business hours to ensure compliance with this Section.

(b). All weighing devices must be maintained in compliance with local, state or federal law and comply with applicable regulations regarding device registration with the Agricultural Commissioner.

(c). Any person issued a permit pursuant to this chapter must follow all local, state and federal requirements for solid waste and hazardous waste disposal. The Monterey County Environmental Health Bureau may inspect the commercial cannabis business at any time during business hours to ensure compliance with this Section.

(d). In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site. The City of King and Monterey County Environmental Health Bureau may inspect the commercial cannabis business at any time during business hours to ensure compliance with this Section.

(e). All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance to the provisions of the California Retail Food Code, California Health and Safety Code sections 113700 – 114437. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases. The Monterey County Environmental Health Bureau may inspect the commercial cannabis at any time during business hours to ensure compliance with this Section.

(f). Stacking shall be allowed in a given structure but only to the point that measuring the total canopy of each level of stacking is cumulatively no greater than the maximum canopy size allowed under state licensing. For purposes of this section, Stacking is defined as the practice of growing marijuana plants on platforms or tables and stacking them in multiple layers on top of each other.

17.03.230 Limitation on the Number of Cultivation and Nursery Facilities.

No more than one million, three hundred fifty thousand (1,350,000) square feet of total canopy whether under cultivation or nursery activity will be allowed within the City of King at any one time and commercial cannabis permits shall be issued by the City of King for cultivation and nursery activity up to a maximum one million three hundred fifty thousand (1,350,000) square feet of total canopy within the City of King. Nurseries shall be limited to a total of 25,000 square feet in size per Type 4 “Nursery” license issued by the City.

17.03.240 Periodic Review by the City Council.

In the sole discretion of the City Manager; the City Attorney, the Chief of Police, and the Community Development Director shall report to the City Council findings on the operation of any cultivation facilities permitted pursuant to this article and shall make a recommendation whether the cultivation facilities should be permitted to continue in operation for the remaining period of the term of their license (in addition to whatever other recommendations may be made) and whether the City should renew one or more of the permits for an additional period. Any termination or revocation of a license or permit, shall be in accordance with the City of King Municipal Code.

17.03.250 Operating Requirements for Cultivation and Nurseries.

- (a) Outdoor Cultivation and Nursery activity Prohibited. All outdoor cultivation and nursery activity is prohibited.
- (b) In no case shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- (c) If a parcel or lot includes nursery activities as defined in Business and Professions Code §19332, the parcel or lot may have only one nursery located on the parcel or lot and the nursery activity must be permitted pursuant to this Chapter and state law. The nursery shall be limited to a maximum size of twenty-five thousand square feet of canopy for each parcel or lot,
- (d) Cannabis cultivation and nursery activity shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (e) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- (f) In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site.
- (g) The cultivation of cannabis and any nursery activity shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, visitors to the area, neighboring properties, and the end

users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis for non-medical purposes.

- (h) All applicants for a cannabis cultivation or nursery permit shall submit the following in addition to the information generally otherwise required for a commercial cannabis business:
 - (1) An operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the nursery or cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.
 - (2) A description of a legal water source, irrigation plan, and projected water use.
 - (3) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
 - (4) Plan for addressing odor and other public nuisances which may derive from the nursery or cultivation site.

17.03.260 Cannabis Manufacturing; Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products.

The manufacturing of food or other products infused with or which otherwise contain cannabis may be manufactured within the appropriate zoning districts as defined in Title 17, Zoning, of the City of King Municipal Code, subject to the regulations set forth in this section and subject to whatever additional regulations may be promulgated hereunder by an ordinance or resolution of the City Council or otherwise pursuant to this Chapter.

- (a) No edible cannabis products shall be sold or distributed on a retail basis at a commercial cannabis business operating under a permit issued pursuant to this Chapter. Edible Cannabis products may be sold wholesale for retail sale outside of the City boundaries.
- (b) All items to be sold or distributed wholesale shall be individually wrapped at the original point of preparation. Labeling must include a warning if nuts or other known allergens are used, and must include the total weight (in ounces or grams) of cannabis in the package. A warning that the item is a medication and not a food must be clearly legible on the front

of the package. The package must have a label warning that the product is to be kept away from children. The label must also state that the product contains cannabis and must specify the date of manufacture.

- (c) Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled opaque (non-see-through) package before it leaves the commercial cannabis business. Deliveries must be in a properly labeled opaque package when delivered.

17.03.270 Cannabis Manufacturing: Extraction, etc.

- (a) Cannabis manufacturing facilities requiring a Type-6 state license (non-volatile manufacturing) as defined in Business and Professions Code §19341, may be permitted to operate within the appropriate industrial districts as defined in Title 17 of the City of King Municipal Code. Cannabis manufacturing facilities requiring a Type-7 state license, Manufacturing Level 2, as defined in Business and Professions Code §19341 is prohibited in all zone districts in the City of King. No volatile fluid or material, including alcohol or ethanol, shall be used in Type-6 licensed manufacturing facilities unless otherwise authorized and approved by the State of California in accordance with MMRSA.
- (b) Any compressed gases used in the manufacturing process shall not be stored on any property within the City of King in containers that exceed 150 pound tanks in size. Each site or parcel subject to a Cannabis permit shall be limited to a total of eight tanks on the property at any time.
- (c) No more than six commercial cannabis manufacturing businesses may operate within the City of King at any one time and no more than six commercial cannabis manufacturing permits shall be issued by the City of King for commercial cannabis manufacturing businesses to operate within the City of King.

17.03.280 Promulgation of Regulations and Standards.

- (a) The City Manager or his/her designee is authorized to promulgate all regulations necessary to implement the requirements and fulfill the policies of this Chapter related to cannabis and cannabis products.
- (b) Regulations shall be published on the City's website.
- (c) Regulations promulgated by the City Manager or his/her designee shall have the same force and effect of law and become effective upon date of publication.

17.03.290 **Community Relations.**

- (a) Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.
- (b) During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Chapter shall attend a quarterly meeting with the City Manager or his designee to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the City Manager or his/her designee when and as requested by the City Manager or his/her designee.
- (c) Commercial cannabis businesses to which a permit is issued pursuant to this Chapter shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth addiction to marijuana and that identifies resources available to youth related to drugs and drug addiction.

17.03.300 **Fees Deemed Debt to City of King.**

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of King that is recoverable in any court of competent jurisdiction.

17.03.310 **Permit Holder Responsible for Violations.**

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and the ordinances of the City of King, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 3. All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

SECTION 4. Effective Date. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty first day after its final passage.

This Ordinance was introduced and read by title only on the ____ day of _____ 2016 and was passed and adopted on this ____ day of _____ 2016.

PASSED AND ADOPTED this ____ day of _____ 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mayor Robert Cullen, City of King

ATTEST:

City Clerk of the Council of the City of King

CITY OF KING
ZONING CODE AMENDMENTS
INITIAL STUDY/MITIGATED NEGATIVE
DECLARATION

Prepared for:

CITY OF KING
Community Development Department
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Prepared by:

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August 15, 2016

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I. INTRODUCTION AND PURPOSE

This Initial Study/Mitigated Negative Declaration assesses the potential environmental impacts and identifies appropriate mitigation measures associated with the proposed commercial cultivation, manufacturing and testing of medical cannabis (to be referred to herein as the “proposed project”). The City of King (to be referred to herein as “the City”) as Lead Agency for this environmental document, has the responsibility for determining whether or not to approve the proposed project.

As part of their decision-making process, the City is required to review and consider the potential environmental effects that could result from the proposed project. Together with the technical analyses applicable to this project and any other documents incorporated by reference, this analysis will serve as the initial environmental review for the proposed project. This review is required by the California Environmental Quality Act of 1970 (CEQA) as amended (Public Resources Code Section 21000 et. seq.) and the State CEQA Guidelines as well as Guidelines for the Implementation of CEQA adopted by the City.

The City is preparing this Initial Study to assist in their consideration as to whether to prepare a Negative Declaration, a Mitigated Negative Declaration or an Environmental Impact Report (EIR) for this proposed project.

Section 15070 of the State CEQA Guidelines states that “a public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when the Initial Study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment.” Section 15064 (a) (1) states “if there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a Draft EIR.” The determination as to which document is appropriate in this situation will be based upon the information and analyses contained in this Initial Study in combination with any other documents incorporated by reference.

This Initial Study/Mitigated Negative Declaration has been prepared in a manner which provides complete and adequate California Environmental Quality Act (CEQA) coverage for all actions and approvals associated with the proposed project as currently described herein (See Section III. Project Description). However, this Initial Study/Mitigated Negative Declaration may not be the final environmental document for the proposed project. In the event that future development applications for the commercial cultivation of medical cannabis contain specific design or operational elements not addressed by this Initial Study, additional, more detailed environmental documentation may be necessary at that time. When applications for individual projects are submitted, they will be subject to additional environmental review by the City in order to 1) determine the nature and extent of

any potentially significant impacts not addressed in this document and 2) ensure that the individual project does not exceed the maximum development levels and cumulative impacts identified in this analysis. These individual projects will be approved by the City through the approval and issuance of Conditional Use Permits (“CUP’s”).

This approach, known as “tiering”, is addressed in Sections 15152 and 15385 of the State CEQA Guidelines. These sections state that tiering refers to the use of an analysis of general issues contained in a broad environmental document within a later, more detailed environmental document. These guidelines further state that tiering is appropriate when the sequence of analyses for a proposed project is from an environmental document prepared for a general plan, policy or program to a document for another, more detailed plan, policy or program of lesser scope or to a site specific project. In this case, the previously approved (January, 2016) modifications to various zoning designations represents the “broader” program and environmental document while the current project proposal reflected in this document is considered a more detailed analysis of potential impacts associated with the proposed commercial cultivation, manufacturing and testing of medical cannabis. This analysis also provides an indication of the maximum probable “worst case” impacts of full development of medical cannabis cultivation facilities throughout the City. Subsequent environmental documents may also be required for future development applications in order to address environmental issues with specific design or operational elements associated with these more detailed proposals.

This Initial Study/Mitigated Negative Declaration begins with Section I. Introduction and Purpose, which provides an introductory discussion of the purpose and scope of the document. Section II. Summary/Mitigation Monitoring Program summarizes the potential impacts and proposed mitigation measures. This section also contains the State-mandated Mitigation Monitoring Program (pursuant to AB3180). Section III. Project Description provides a detailed description of the proposed commercial cultivation of medical cannabis. Section IV. Environmental Setting provides an overview description of existing environmental conditions within and in the vicinity of the project site.

Section V. Environmental Evaluation contains the environmental checklist required by Section 15063(d)(3) of the State CEQA Guidelines. This checklist is intended to determine the nature and extent of various environmental effects of the proposed project followed by an explanation to justify the determination. In many instances, project impacts are identified as “not significant” The summary discussion following the checklist item provides the basis for this determination. Checklist items identified as “potentially significant and mitigated”, “unknown potential significant” or “significant” are discussed within Section V. Environmental Evaluation. Section VI. provides the required Mandatory Findings of Significance pursuant to CEQA Section 15065. Section VII. Environmental Determination makes the final determination as to whether an EIR, Negative Declaration or Mitigated

Negative Declaration is appropriate. Section VIII. Certification provides the required Lead Agency Certification Statement.

Section 15150 of the State CEQA Guidelines permits an environmental document to incorporate by reference other documents that provide relevant data to the proposal currently being considered. The City General Plan, and Zoning Code as well as any other long-range planning documents prepared by the City as well as engineering and other technical studies as noted within this Initial Study are hereby incorporated by reference.

Section 15151 of the State CEQA Guidelines states that :

“An EIR [or any other environmental document] should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR [or any other environmental document] is to be reviewed in the light of what is reasonably feasible. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.”

This Initial Study/Mitigated Negative Declaration provides a full and objective discussion of the potential environmental impacts of the proposed commercial cultivation of medical cannabis. In preparing this document, the City decision-makers, staff and members of the public will be fully informed as to the potential impacts and required mitigation measures associated with the proposed project. In accordance with Section 15021 of the State CEQA Guidelines, this document is intended to enable the City, as Lead Agency, to fully evaluate these environmental impacts and mitigation measures in their consideration of the proposed project. The Lead Agency has an obligation to balance potential adverse effects of the project against a variety of public objectives, including economic, environmental and social factors, in determining whether the project is acceptable and approved for construction and operation.

Pursuant to California Public Resources Code 21082.1, the City has independently reviewed and analyzed the information contained in this Initial Study/Mitigated Negative Declaration prior to its consideration and certification. The conclusions and discussions contained herein reflect the independent judgment of the City of King relative to that information at the time of publication.

II. SUMMARY/MITIGATION MONITORING PROGRAM

1. Aesthetics

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will involve the construction of greenhouse structures which will range in size from approximately 13,000 to 30,000 square feet. The greenhouse buildings will have glass roofs and sidewalls consisting of solid materials (i.e., brick, metal, wood, etc.).

In addition, other structures necessary to house manufacturing facilities, security offices, storage facilities and administrative offices will also be constructed.

All structures and other project facilities will be subject to the City's design standards applicable to the M-1 and M-2 zoning or the East Ranch Business Park. These proposed facilities will also be visually compatible with the existing industrial and commercial uses in adjacent areas.

None of the proposed structures or other project facilities will have a substantial adverse effect upon any scenic vistas or scenic resources nor will they degrade the visual character or quality of the site or its surroundings.

Lighting within the greenhouses will be provided by natural sunlight and/or artificial lighting systems. All lighting shall be directed downward and oriented in a manner to mitigate potential light and glare impacts upon surrounding areas.

Mitigation Measures:

1-1 – All proposed project structures and facilities shall be subject to the City's design standards applicable to the M-1 and M-2 zoning or the East Ranch Business Park.

1-2 –As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval a Lighting Plan which describes all proposed interior and exterior lighting and provides feasible methods by which all light is directed downward which prevents substantial light and glare impacts to adjacent areas.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to the issuance of Conditional Use Permit

2. Agricultural Resources

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are either developed or highly disturbed and do not contain existing agricultural operations nor any areas designated as prime farmland, unique farmland, or farmland of statewide importance. These proposed future uses will, therefore, not conflict with any areas zoned for agricultural use or covered by a Williamson Act contract nor will they result in any conversion of existing farmland to non-agricultural use.

Mitigation Measures: Given the lack of potentially significant impacts to agricultural resources, no mitigation measures are required.

3. Air Quality

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will generate additional motor vehicle trips associated with employee travel to and from the facilities as well as occasional truck trips associated with facility operations. This generation of additional motor vehicle trips is not expected to conflict with any applicable air quality plans or regulations or violate any established air quality standards or substantially contribute to a projected air quality violation. These proposed future uses will not result in any cumulative net increase of any pollutant for which the region is in non-attainment.

The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment nor will they conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

Medical cannabis cultivation, manufacturing and testing facilities have the potential to generate odors that can become a source of complaints from local residents adjacent to the facility. The high degree of humidity and moisture required for the cultivation and production of medical cannabis can result in the generation of mold.

Mitigation Measures:

3-1 – All proposed project structures and facilities shall be subject to permit conditions that monitor and prevent the production of odors outside of the building as well as the monitoring and prevention of mold within and near the buildings by the inclusion of air filters, recirculation of internal air or other appropriate means of filtering odors that may otherwise escape from the subject facilities.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to the issuance of Conditional Use Permit

4. Biological Resources

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are either developed or highly disturbed and do not include areas containing any rare or endangered plant or animal species. These proposed future uses will, therefore, not result in any modification to sensitive biological habitats nor will they impact any species identified as a candidate, sensitive or special status species. No significant impacts to existing riparian habitats or other sensitive natural communities, Federally protected wetlands, or established migratory wildlife corridors are anticipated. Future project facilities will not conflict with any local policies or ordinances protecting biological resources or provisions of any approved local, regional or state habitat conservation plan.

Mitigation Measures: Given the lack of potentially significant impacts to biological resources, no mitigation measures are required.

5. Cultural Resources

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are either highly developed or highly disturbed and do not contain any known archaeological sites, paleontological resources or historical structures. However, significant archaeological, paleontological or historic resources may be discovered during project grading or construction. In that event, these resources will either be excavated or protected in a manner consistent with all applicable State and local laws, and all work will be halted and the resources will be evaluated by a qualified professional.

Mitigation Measures:

5-1 - In the event of an accidental discovery or recognition of any human remains, archaeological resources, paleontological resources or historical resources on the project site, if said resources are found during excavation or construction, work will be halted at a minimum of 30 feet from the find and the area will be staked off. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie cultural resources, paleontological resources, historical resources or, in the case of adjacent human remains until the coroner of Monterey County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. A qualified professional (to be hired by the applicant and accepted by the City) in cultural resources, paleontological resources or historical resources shall evaluate the resources discovered at the site and provide recommendations for disposition of

those resources. In the case of human remains, the Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent ("MLD") from the deceased Native American. The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or its authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or its authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

5-2 - Pursuant to CEQA requirements, mitigation measures shall be required in the event that unique archaeological resources are not preserved in place or not left in an undisturbed state. The project applicant shall provide a guarantee to the City, as Lead Agency, to pay one half the estimated cost of mitigating the significant effects of the project on any unique archaeological resources. In determining payment, the City shall give due consideration to the in-kind value of project design or expenditures that are intended to permit any or all archaeological resources or California Native American culturally significant sites to be preserved in place or left in an undisturbed state. When a final decision is made to carry out or approve the project, the City shall, if necessary, reduce the specified mitigation measures to those which can be funded with the money guaranteed by the project applicant plus the money voluntarily guaranteed by any other person or persons for those mitigation purposes. In order to allow time for interested persons to provide funding, a final decision to carry out or approve a project shall not occur sooner than sixty (60) days after completion of any required environmental documentation pursuant to applicable CEQA requirements.

5-3 - Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the City determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource.

Implementation Responsibility: Applicant/Owner/Developer of future individual project

Monitoring Agency: City of King

Timing: During grading or construction of future individual projects

6. Geology/Soils

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities is not expected to significantly affect the geologic and soils conditions found in areas designated for these proposed future uses. Future project facilities are not expected to expose people or structures to substantial geologic risks due to rupture of a known earthquake fault, strong seismic ground shaking or seismic related ground failure. Given the relatively flat topography of areas designated for these future uses, little in the way of substantial erosion or exposure to unstable or expansive soils are expected to occur.

Mitigation Measures:

6-1 - All future structures will be required to meet the requirements of the applicable criteria contained in the City Building Code.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to or during grading or construction of future individual projects

7. Hazards/Hazardous Materials

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities currently contain nine identified subsurface sites that are contaminated. These known contaminated sites as well as any unknown contaminated locations will require subsurface investigations in order to determine the need for remediation measures.

The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not utilize or transport any hazardous materials which are capable of creating a significant hazard to the public or the environment. These proposed future uses will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan and will not expose people or structures to significant risk of loss, injury or death involving wildfires.

Mitigation Measures:

7-1 - In the event that subsurface contamination is discovered in the review or construction phase of a project, work shall cease and the contamination shall be remediated in a manner acceptable to California Environmental Protection Agency and the California State Water Resources Control Board.

The Environstor Geotracker system can identify sites and determine what measures, if any, are required to mitigate subsurface contamination.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to or during grading or construction of future individual projects

8. Hydrology/Water Quality

Impacts:

The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will involve grading and construction of greenhouse structures which will range in size from approximately 13,000 to 30,000 square feet. In addition, other structures necessary to house manufacturing facilities, security offices, storage facilities and administrative offices will also be constructed

Project grading and construction may potentially impact surface stormwater quality. Developers are required to meet all measures for stormwater pollution control, waste management, and provide public utility connections that comply with the City and other service providers pursuant to the requirements of Municipal Code Section 17.56.100 Stormwater Pollution Prevention. These standards protect against stormwater pollution during grading and construction. No discharge runoff from areas devoted to cultivation will be allowed during post construction stages of each project. Given adherence to these requirements as noted below, proposed future uses will not violate any water quality standards or waste discharge requirements or substantially alter existing drainage patterns or create or contribute runoff water which would exceed the capacity of existing or planned stormwater discharge systems or otherwise degrade water quality. In addition, future project development will not place any housing within a 100-year floodplain hazard area or expose people or structures to significant loss, injury or death involving flooding. Future project facilities will not be exposed to inundation due to a seiche, tsunami or mudflow.

Mitigation Measures:

8-1 - Development shall minimize stormwater runoff by implementing one or more of the following site design measures identified by the Regional Water Quality Control Board:

- (1) Direct roof runoff into cisterns or rain barrels for reuse:

- (2) Direct roof runoff onto vegetated areas safely away from building foundations and footings, consistent with California Building Code;
- (3) Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas safely away from building foundations and footings, consistent with the City Building Code;
- (4) Direct runoff from driveways and/or uncovered parking lots onto vegetated areas safely away from building foundations and footings, consistent with City Building Code;
- (5) Construct bike lanes, driveways, uncovered parking lots, sidewalks, walkways, and patios with permeable surfaces;
- (6) The directing of runoff to bioretention basins and
- (7) Other similar measures as identified by the City Engineer.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to the issuance of Conditional Use Permit

9. Land Use/Planning

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not divide an established community. As a result of the previously-approved (January, 2016) modifications to the City Zoning Code (see Section III. Project Description) and the currently proposed Zoning Code Additional Amendments, these proposed future uses will not conflict with any applicable land use plans, policies or regulations adopted by the City or any other agency that has jurisdiction over the areas designated for future project facilities nor will they conflict with any applicable habitat conservation plan or natural community conservation plan.

Mitigation Measures: Given the lack of potentially significant land use and planning impacts, no mitigation measures are required.

10. Noise

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will generate construction noise which would impact surrounding areas. Construction noise represents a short-term impact on ambient noise levels. The primary source of construction noise is heavy equipment,

including trenching equipment, trucks, graders, bulldozers, concrete mixers and portable generators that can reach high levels. The peak noise level for most of the heavy equipment that will be used during project construction is 70 to 95 dBA at a distance of 50 feet. At 200 feet, the peak construction noise levels range from 58 to 83 dBA. At 400 feet, the peak noise levels range from 52 to 77 dBA. These noise levels are based upon worst-case conditions. Typically, construction-related noise levels near the construction site will be less.

Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are currently developed with industrial and commercial facilities and with one exception do not contain any noise sensitive uses. The sole exception is the 20-acre parcel located at the northeast intersection of First Street and Lonoak Road. Existing residential uses are located within one-quarter mile of this parcel. Any potential noise impacts upon these noise-sensitive uses can be mitigated through compliance with the City Noise Ordinance.

Mitigation Measures:

10-1 - All project construction activities shall comply with the City Noise Ordinance which limits the hours of noise-generating construction activities.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: During grading or construction of future individual projects

11. Population and Housing

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities is estimated to require a total of 1,860 employees. This employee generation will likely generate demand for housing within or adjacent to the King City area. The extent of this additional demand is difficult to accurately estimate without knowing the number of future employees that currently reside in the area and the number of employees that will be new residents. Employees from outside the area are expected to create additional housing demand. However, this potential impact is offset by the benefits of providing employment for a significant number of local residents. Future development of proposed project facilities is not expected to result in any displacement of population or existing housing in the area.

Mitigation Measures: Given the lack of potentially significant population and housing impacts, no mitigation measures are required.

12. Public Services

Impacts: The proposed future development of medical cannabis cultivation manufacturing and testing facilities is estimated to require a total of 1,860 employees. As previously noted, this employee generation will likely generate demand for housing within or adjacent to King City. This additional housing demand, the extent of which is difficult to accurately estimate, will likely result in an incremental increase in demand for fire and police protection services as well as an indirect increase in demand for schools, parks, or other governmental facilities.

According to FEMA and the U.S. Fire Administration, indoor medical cannabis growing facilities pose safety risks for fire and emergency personnel due to the potential for inhalation of chemical fumes or the ignition of flammable materials in the event of a fire.

The cultivation of medical cannabis within buildings will require a significant amount of electrical power in order to support the cultivation operations. The two primary sources of energy demand are lighting and air conditioning. Greenhouses will either utilize mixed lighting (a combination of sunlight and artificial lighting) or all artificial lighting. It is estimated that the total maximum electrical load for lighting the entire proposed future development of medical cannabis growing facilities is 53,760 amperes. The total maximum electrical load for air conditioning the entire proposed future development of medical cannabis growing facilities is 81,468 amperes. This results in a total maximum electrical load for the entire proposed future development of medical cannabis growing facilities of 135,228 amperes. According to their representatives, Pacific Gas & Electric has recently completed major upgrade work on the transmission lines into King City and has upgraded the King City substation. They have further indicated that with these improvements, P.G. & E should have available capacity to accommodate future growth in the area.

Mitigation Measures:

12-1 – As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval site plans that address and reduce where feasible safety risks for fire and emergency personnel.

12-2 – As part of the Conditional Use Permit application process, the project applicant shall submit to the City of review and approval a Lighting Plan which includes the use of low energy lighting systems and other energy conserving methods.

12-3 - As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval a Power Plan which indicates projected power demands of the project, identifies the source of power and provides evidence of adequate availability of power supply and sufficient infrastructure to supply the project.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to the issuance of Conditional Use Permit

13. Recreation

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not directly generate any additional demand for recreation facilities or services. However, these proposed future uses will likely generate additional new employees (an estimated total of 1,860 employees) that will require housing and an indirect demand for additional recreation facilities within or adjacent to the King City area. The extent of this additional demand is difficult to accurately estimate without knowing the number of future employees that currently reside in the area and the number of employees that will be new residents. Employees from outside the area are expected to indirectly generate demand for recreation facilities and services. However, this potential impact is offset by the benefits of providing employment for a significant number of local residents. Future development of the proposed project facilities is not expected to result in the substantial physical deterioration of any existing recreational facilities nor generate enough demand that would require the construction or expansion of existing recreation facilities and the provision of additional recreation services.

Mitigation Measures: Given the lack of potentially significant impacts to recreation facilities, no mitigation measures are required.

14. Transportation/Circulation

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will generate additional motor vehicle trips associated with employee travel to and from the facilities as well as occasional truck trips associated with facility operations.

It is estimated that future project development will generate a total of 3,720 vehicle trips per day. Vehicle trip generation is estimated to total 1,114 vehicle trips per day

within the first year (2017) of operations and 2,316 vehicle trips per day by the year 2020.

According to the project Traffic Engineer, based on a comparison of the “per acre” trip generation rates, the proposed future development of medical cannabis growing facilities could generate daily trips in the range of 40 to 60 daily trips per acre while the uses or combination of uses permitted under the current zoning would generate trips in the range of 51.8 to 61.17 daily trips per acre for lands designated for industrial uses and as high as 149.79 daily trips per acre for parcels designated for business park uses. Based on this comparative analysis, the proposed project use types would involve daily trip generation rates within the approximate anticipated range for uses permitted under the City’s current zoning for the subject lands. As such, traffic generation totals associated the proposed future development of medical cannabis growing facilities would not generate any additional traffic - related impacts upon adjacent roadways or other street and roads in the King City area.

Future project development will be required to meet all access and parking requirements of the City.

Mitigation Measures:

14-1 - As part of the Conditional Use Permit application process, the project applicant shall submit project plans to the City for review and approval site plans which insure compliance with all access and parking requirements of the City.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to the issuance of Conditional Use Permit

15. Utility/Service Systems

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities at full development in the year 2025 will generate demand for water as well as additional demand for wastewater treatment services. It is estimated that future project development will require a total of 193,890 gallons of water per day or 70,769,920 gallons (or 217 acre-feet) per year. This water will be used for cultivation in greenhouses and propagation in nursery facilities. Water demand is estimated to total approximately 20 million gallons (or 62 acre-feet) per year within the first year (2017) of operations and approximately 44 million gallons (or 135.5 acre-feet) per year by the year 2020. This use of irrigation water is similar to other indoor nursery crops. In addition, a minor amount of water will be needed for exterior landscaping. The California Water Service (or Cal Water) prepared an Urban Water Management Plan (UWMP) in

2015. Within the UWMP, Cal Water provided estimates of projected future water use by land use/zoning categories. The projected estimate for water demand within areas zoned Industrial (without the proposed project) totaled 72 acre-feet in the year 2020 and 76 acre-feet in the year 2025. Projected project water demands for proposed future development of medical cannabis growing facilities, therefore, represent a 188% increase in industrial water demand in 2020 and a 285% increase in 2025. According to well level records, the groundwater level in the King City area has been relatively consistent over time.

It is estimated that future project development will generate a total of 16,393 gallons (or 16.4 MGD) of wastewater per day or 5,983,528 gallons (or 5.98 MGD) of wastewater per year. This wastewater will contain a variety of nutrients typically found in commercial nursery facilities. Wastewater generation is estimated to total approximately 1.80 million gallons per year within the first year (2017) of operations and approximately 3.78 million gallons per year by the year 2020.

The City Public Works Department has indicated that the chemicals and nutrients contained in the wastewater generated by individual projects are common to wastewater released from other typical wastewater sources. It should also be noted that the City Public Works Department samples wastewater on a daily basis, provides samples to a testing laboratory weekly and performs a wastewater audit twice a year. Given this level of monitoring coupled with the anticipated dilution of wastewater generated by these projects, the City does not anticipate any major issues with wastewater treatment.

Individual projects will also be required to submit project plans to the City in order to assess individual project water demands in relation to the available water supplies and infrastructure and individual project wastewater generation in relation to the existing wastewater transmission and treatment facilities at that time. In addition, individual projects will also be responsible for the extension of public water system lines to their project facilities.

Mitigation Measures:

15-1 - As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval a Water Plan which indicates projected water demands of the project, identifies the source of water and provides evidence of adequate availability of water supply and sufficient infrastructure to supply the project.

15-2 - As part of the Conditional Use Permit application process, the project applicant shall submit site plans to the City for review and approval which indicate projected wastewater generation of the project, identifies the existing wastewater transmission and treatment facilities and provides evidence of sufficient wastewater transmission facilities and treatment capacity to serve the project.

15-3 - The proposed future development of medical cannabis growing facilities shall be required to extend public water system lines to the project facilities as needed.

Implementation Responsibility: Applicant/Owner/Developer of future individual projects

Monitoring Agency: City of King

Timing: Prior to the issuance of Conditional Use Permit

III. PROJECT DESCRIPTION

In January, 2016, the City of King (or “City”) approved several modifications to : 1) the General Industrial (“M-1” and “M-2”) zoning designations; 2) the East Ranch Business Park Specific Plan (“ERBP-SP”), and 3) changed the M-1 zoning in the ERBP-SP to Planned Development District (“PD”). These zoning changes allowed, through the approval and issuance of Conditional Use Permits (“CUP’s”), the cultivation of medical cannabis. At that time, the City also prepared an Initial Study (“IS”) and Mitigated Negative Declaration (“MND”) which examined the potential environmental impacts of these proposed actions. The areas zoned M-1 and the ERBP-SP are located in the northeast corner of the City near the Mesa del Rey Airport. The areas zoned M-2 are located east of the airport and near the corner of First Street and Lonoak Road.

Table 1, Zoning Breakdowns, provides a listing of the various zoned parcels noted above.

**TABLE 1
ZONING BREAKDOWNS**

<u>Parcel</u>	<u>Zoning</u>	<u>Acres</u>	<u>Location</u>
East Ranch Business Park Specific Plan (ERBP-SP)	Specific Plan	107	Northeast corner of the City
Areas Adjacent to ERBP	M-1	20	Adjacent to and northeast Of ERBP
Adjacent to Mesa del Rey Airport	M-2	40	Adjacent to Mesa del Rey Airport
First Street and Lonoak Road	M-2	20	Northeast of the Intersection of First Street And Lonoak Road

These approved zoning modifications establish a mechanism for local level regulation allowing the cultivation of medical cannabis within buildings and/or greenhouse structures at locations approved by the City with a Conditional Use Permit. These approved zoning modifications, which became effective in February 2016, allow the commercial cultivation of medical cannabis on a large scale basis. All other commercial cannabis activity, including but not limited to cultivation (other than cultivation allowed by these zoning regulations) delivery, dispensaries, distribution, manufacturing or transporting (other than to transport cultivated product outside of the jurisdictional boundaries of the City) are strictly prohibited.

These approved zoning regulations do not apply to nor allow the personal cultivation and/or use of cannabis nor the sale of such products within the City.

B. Project Characteristics

1. Zoning Code Amendments

Since the approval of the zoning modifications noted above, the City has proposed amendments to various zoning ordinances, including City Ordinance Section 17.03 (general cannabis discussions), Sections 17.30.020 and 17.31.020 governing the M-1 and M-2 zoning designations and the ordinance governing the East Ranch Business Park. These additional zoning code amendments are intended to more specifically design and regulate any proposed facilities associated with medical cannabis cultivation, manufacturing and testing. Listed below are the various categories (or types) of facilities that will require permits from the City.

Type 2A	All Artificial Light Structures, maximum 10,000 s.f.
Type 2B	Mixed Light Structure, maximum 10,000 s.f.
Type 3A	All Artificial Light Structure, maximum 22,000 s.f.
Type 3B	Mixed Light Structure, maximum 22,000 s.f.
Type 4	Nursery
Type 6	Manufacturing
Type 8	Testing

2. Future Development of Medical Cannabis Growing Facilities

The City has not received any development applications at this time for medical cannabis growing facilities. In order to fully assess the potential environmental impacts associated with the proposed zoning code additions/amendments, the City has estimated the nature and extent of additional medical cannabis growing facilities. This estimate of future medical cannabis growing facilities within the City, as listed below, is intended to provide the basis for the maximum probable (“worst-case”) assessments of potential impacts of the cumulative development of these facilities within this document.

- 4 Type 2A (all artificial light) greenhouse buildings (10,000 square foot plant canopy within a 13,000 square foot structure)
- 13 Type 2B (mixed light) greenhouse buildings (10,000 square foot plant canopy within a 13,000 square foot structure)
- 8 Type 3A (all artificial light) greenhouse buildings (22,000 square foot plant canopy within a 28,000 to 30,000 square foot structure)
- 34 Type 3B (mixed light) greenhouse buildings (22,000 square foot plant canopy within a 28,000 to 30,000 square foot structure)
- 6 Manufacturing Facilities

- 4 Nurseries (25,000 s.f.)
- 4 Security Offices
- 6 Plantonics Stores and Storage Facilities
- 4 Executive and Administrative Offices

(Note: The Type 2A and 3A greenhouse buildings are allowed pursuant to the previously approved (January, 2016) zoning modifications discussed above but are included in order to provide the maximum probable (“worst-case”) assessments of potential project impacts).

Type 2 greenhouse structures will cover a total of 13,000 square feet. Of this total, 10,000 square feet will be devoted to cannabis growing areas. Type 3 greenhouse structures will cover a total of 28,000 to 30,000 square feet. Of this total, 22,000 square feet will be devoted to cannabis growing areas. An additional 3,000 square feet in Type 2 greenhouses and an additional 6,000 to 8,000 square feet in Type 3 structures which will be devoted to the following functions: 1) trimming room, 2) drying room, 3) watering and mixing station, and 4) office space, bathrooms and employee break area. In addition, Type 2 greenhouses will have approximately 9,000 square feet devoted to exterior landscaping and parking while Type 3 greenhouses will have approximately 12,000 to 15,000 square feet devoted to exterior landscaping and parking. The greenhouse buildings will have glass roofs and side walls consisting of solid materials (i.e. brick, metal, wood, etc.) in order to provide security and eliminate a potential attractive nuisance.

Lighting will be provided by natural sunlight and/or artificial lighting. Artificial lighting will utilize energy efficient lighting systems with a finely tuned light spectrum which promotes the highest possible plant production rates. Type 2 greenhouses will have approximately 400 lights while Type 3 greenhouses will have 880 lights and Type 4 nurseries will have 1,000 lights.

Power use is primarily associated with lighting and cooling of the greenhouse structures. It is estimated that the total maximum electrical load for lighting the entire proposed future development of medical cannabis facilities is 53,760 amperes. The total maximum electrical load for air conditioning the entire proposed future development of medical cannabis facilities is 81,468 amperes. This results in a total maximum electrical load for the entire proposed future development of medical cannabis facilities of 135,228 amperes.

It is estimated that future project development will require a total of 193,890 gallons of water per day or 70,769,920 gallons (or 217 acre-feet) per year. This water will be used for cultivation in greenhouses and propagation in nursery facilities. Water demand is estimated to total approximately 20 million gallons (or 62 acre-feet) per year within the first year (2017) of operations and approximately 44 million gallons (or 135.5 acre-feet) by the year 2020. It is estimated that future

project development will generate a total of 16,393 gallons (or 16.4 MGD) of wastewater per day or 5,983,528 gallons (or 5.98 MGD) of wastewater per year. This wastewater will contain a variety of nutrients typically found in commercial nursery facilities. Wastewater generation is estimated to total approximately 1.80 million gallons per year within the first year (2017) of operations and approximately 3.78 million gallons per year by the year 2020.

It is estimated that the development of all future medical cannabis growing facilities will generate a total 3,720 vehicle trips per day. Vehicle trip generation is estimated to total 1,114 vehicle trips per day within the first year (2017) of operations and 2,316 vehicle trips per day the year 2020.

This Initial Study/Mitigated Negative Declaration has been prepared in a manner which provides complete and adequate California Environmental Quality Act (CEQA) coverage for all actions and approvals associated with the proposed project as currently described herein. However, this Initial Study/Mitigated Negative Declaration may not be the final environmental document for the proposed project. In the event that future development applications for the commercial cultivation of medical cannabis contain specific design or operational elements not addressed by this Initial Study, additional, more detailed environmental documentation may be necessary at that time. When applications for individual projects are submitted, they will be subject to additional environmental review by the City in order to 1) determine the nature and extent of any potentially significant impacts not addressed in this document and 2) insure that the individual project does not exceed the maximum development levels and cumulative impacts identified in this analysis. These individual projects will be approved by the City through the approval and issuance of Conditional Use Permits (“CUP’s”),

IV. EXISTING CONDITIONS

The City of King is located in the southern end of Salinas Valley along the US Highway 101 approximately in the center of Monterey County. King City is the hub of the southern part of the agricultural industry of the Salinas Valley. The Salinas Valley is one of the most productive agricultural valleys in the world, producing many of the fruits and vegetables consumed throughout the United States. It is also at the northern edge of the Paso Robles Wine Region. The Highway 101 corridor connects the San Francisco Bay Area and the Central Coast.

The City is approximately 50 miles south of the City of Salinas, 150 miles south of San Francisco, 105 miles south of San Jose, 50 miles north of Paso Robles and 300 miles north of Los Angeles. The City of King is important for its proximity to Pinnacles National Park and as the hub of the south Salinas Valley agricultural center. It is a relatively small agriculture-based community located south of the small towns of Greenfield, Soledad, and Gonzales, other agricultural communities in the Salinas Valley.

The topography of the City and surrounding valley is flat alluvial plane between mountain ranges to the east and west of the City. San Lorenzo Creek and Salinas River floodplains are a potential hazard, bordering the southwestern portion of the City and traversing the City in a northeasterly direction to intersect the Salinas River. The City is located near the border of the Pacific and Continental Plates and is within an area known to have frequent seismic movement.

The properties covered impacted by the proposed cultivation of medical cannabis are located in the northeastern and eastern parts of the City. The area affected is partially developed with industrial and commercial uses, with numerous interspersed vacant properties. Approximately 75 percent of the area is developed. Surrounding land uses generally include agricultural uses to the north and east and commercial, industrial and residential uses to the south and west. The area has an existing street system providing access to major transportation corridors such as Highway 101. Products from the cultivated medical cannabis facilities would likely be shipped to processing facilities located in other areas of the State.

V. ENVIRONMENTAL EVALUATION

The environmental factors checked below would be potentially affected by the proposed project, involving at least one impact that is a "Significant", "Unknown Potential Significant" or "Potential Significant and Mitigated" Impact as indicated by the Environmental Checklist:

X	1. Aesthetics		9. Land Use/Planning
	2. Agricultural Resources	X	10. Noise
X	3. Air Quality/Greenhouse Gas Emissions		11. Population/Housing
	4. Biological Resources	X	12. Public Services
X	5. Cultural Resources		13. Recreation
X	6. Geology/Soils	X	14. Transportation/Circulation
X	7. Hazards/Hazardous Materials	X	15. Utility/Service Systems
X	8. Hydrology/Water Quality		16. Mandatory Findings of Significance

The following checklist indicates the potential level of impact and based upon the following categories:

Known Significant: Known significant environmental impacts.

Unknown Potentially Significant: Unknown potentially significant impacts, which require further review to determine significance level.

Potentially Significant and Mitigable: Potentially significant impacts which can be mitigated to less than significant levels.

Not Significant: Impacts which are not considered significant.

Impact Reviewed in Previous Document: Adequate previous analysis exists regarding the issue; further analysis is not required due to tiering process (Section 21094 of CEQA and Section 15162 of the State CEQA Guidelines). Discussion should include reference to the previous documents and identification of mitigation measures incorporated from those previous documents. Where applicable, this box should be checked in addition to one indicating significance of the potential environmental impact.

1.	AESTHETICS:	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
	Would the project:					
a.	Have a substantial adverse effect on a scenic vista?				X	
b.	Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within view of a state scenic highway?				X	
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?			X		

d.	Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?			X		
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Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will involve the construction of greenhouse structures which will range in size from approximately 13,000 to 30,000 square feet. The greenhouse buildings will have glass roofs and sidewalls consisting of solid materials (i.e., brick, metal, wood, etc.).

In addition, other structures necessary to house manufacturing facilities, security offices, storage facilities and administrative offices will also be constructed.

All structures and other project facilities will be subject to the City’s design standards applicable to the M-1 and M-2 zoning or the East Ranch Business Park. These proposed facilities will also be visually compatible with the existing industrial and commercial uses in adjacent areas.

None of the proposed structures or other project facilities will have a substantial adverse effect upon any scenic vistas or scenic resources nor will they degrade the visual character or quality of the site or its surroundings.

Lighting within the greenhouses will be provided by natural sunlight and/or artificial lighting systems. All lighting shall be directed downward and oriented in a manner to mitigate potential light and glare impacts upon surrounding areas.

Mitigation Measures:

1-1 - All proposed project structures and facilities shall be subject to the City’s design standards applicable to the M-1 and M-2 zoning or the East Ranch Business Park.

1-2 -As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval a Lighting Plan which describes all proposed interior and exterior lighting and provides feasible methods by which all light is directed downward which prevents substantial light and glare impacts to adjacent areas.

2.	AGRICULTURAL RESOURCES:	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
	<p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.</p> <p>Would the project:</p>					
a.	Convert prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X	
b.	Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X	
c.	Involve other changes in the existing environment, which, due to their location or nature could result in conversion of farmland, to non-agricultural use?				X	

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are either developed or highly disturbed and do not contain existing agricultural operations nor any areas designated as prime farmland, unique farmland, or farmland of statewide importance. These proposed future uses will, therefore, not conflict with any areas zoned for agricultural use or covered by a Williamson Act contract nor will they result in any conversion of existing farmland to non-agricultural use.

Mitigation Measures: Given the lack of potentially significant impacts to agricultural resources, no mitigation measures are required.

3.	AIR QUALITY/GREENHOUSE GAS EMISSIONS	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
	Would the project:					
a.	Conflict with or obstruct implementation of the applicable air quality plan?				X	
b.	Exposure of sensitive receptors to substantial pollution concentrations (emissions from direct, indirect, mobile and stationary sources)?				X	
c.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X	
d.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?				X	
e.	Create objectionable smoke, ash, dust or odors affecting a substantial number of people?			X		

f.	Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				X	
g.	Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will generate additional motor vehicle trips associated with employee travel to and from the facilities as well as occasional truck trips associated with facility operations. This generation of additional motor vehicle trips is not expected to conflict with any applicable air quality plans or regulations or violate any established air quality standards or substantially contribute to a projected air quality violation. These proposed future uses will not result in any cumulative net increase of any pollutant for which the region is in non-attainment.

The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment nor will they conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

Medical cannabis cultivation, manufacturing and testing facilities have the potential to generate odors that can become a source of complaints from local residents adjacent to the facility. The high degree of humidity and moisture required for the cultivation and production of medical cannabis can result in the generation of mold.

Mitigation Measures:

3-1 - All proposed project structures and facilities shall be subject to permit conditions that monitor and prevent the production of odors outside of the building as well as the monitoring and prevention of mold within and near the buildings by the inclusion of air filters, recirculation of internal air or other appropriate means of filtering odors that may otherwise escape from the subject facilities.

4.	BIOLOGICAL RESOURCES	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
	Would the project:					
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X	

b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife service?				X	
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc) through direct removal, filling, hydrological interruption, or other means?				X	
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X	
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X	
f.	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?				X	

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are either developed or highly disturbed and do not include areas containing any rare or endangered plant or animal species. These proposed future uses will, therefore, not result in any modification to sensitive biological habitats nor will they impact any species identified as a candidate, sensitive or special status species. No significant impacts to existing riparian habitats or other sensitive natural communities, Federally protected wetlands, or established migratory wildlife corridors are anticipated. Future project facilities will not conflict with any local policies or ordinances protecting biological resources or provisions of any approved local, regional or state habitat conservation plan.

Mitigation Measures: Given the lack of potentially significant impacts to biological resources, no mitigation measures are required.

5. CULTURAL RESOURCES		Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Would the project:						
a.	Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5?			X		
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?			X		
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X		
d.	Disturb any human remains, including those interred outside of formal cemeteries?			X		

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are either highly developed or highly disturbed and do not contain any known archaeological sites, paleontological resources or historical structures.

However, significant archaeological, paleontological or historic resources may be discovered during project grading or construction. In that event, these resources will either be excavated or protected in a manner consistent with all applicable State and local laws, and all work will be halted and the resources will be evaluated by a qualified professional.

Mitigation Measures:

5-1 - In the event of an accidental discovery or recognition of any human remains, archaeological resources, paleontological resources or historical resources on the project site, if said resources are found during excavation or construction, work will be halted at a minimum of 30 feet from the find and the area will be staked off. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie cultural resources, paleontological resources, historical resources or, in the case of adjacent human remains until the coroner of Monterey County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. A qualified professional (to be hired by the applicant and accepted by the City) in cultural resources, paleontological resources or historical resources shall evaluate the resources discovered at the site and provide recommendations for disposition of those resources. In the case of human remains, the Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent ("MLD") from the deceased Native American. The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or it's authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or it's authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

5-2 - Pursuant to CEQA requirements, mitigation measures shall be required in the event that unique archaeological resources are not preserved in place or not left in an undisturbed state. The project applicant shall provide a guarantee to the City, as Lead Agency, to pay one half the estimated cost of mitigating the significant effects of the project on any unique archaeological resources. In determining payment, the City shall give due consideration to the in-kind value of project design or expenditures that are intended to permit any or all archaeological resources or California Native American culturally significant sites to be preserved in place or left

in an undisturbed state. When a final decision is made to carry out or approve the project, the City shall, if necessary, reduce the specified mitigation measures to those which can be funded with the money guaranteed by the project applicant plus the money voluntarily guaranteed by any other person or persons for those mitigation purposes. In order to allow time for interested persons to provide funding, a final decision to carry out or approve a project shall not occur sooner than sixty (60) days after completion of any required environmental documentation pursuant to applicable CEQA requirements.

5-3 - Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the City determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource.

6.	GEOLOGY /SOILS	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant or Not Applicable	Impact Reviewed in Previous Document
	Would the project:					
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			X		
i)	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist or based on other substantial evidence of a known fault (Refer to Division of Mines and Geology Publication 42)				X	
ii)	Strong seismic ground shaking?			X		
iii)	Seismic-related ground failure, including liquefaction?				X	
iv)	Landslides?				X	
b.	Result in substantial erosion or the loss of topsoil?				X	
c.	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X	
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X	
e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities is not expected to significantly affect the geologic and soils conditions found in areas designated for these proposed future uses. Future project facilities are not expected to expose people or structures to substantial geologic risks due to rupture of a known earthquake fault, strong seismic ground shaking or seismic related ground failure. Given the relatively flat topography of areas designated for these future uses, little in the way of substantial erosion or exposure to unstable or expansive soils are expected to occur.

Mitigation Measures:

6-1 - All future structures will be required to meet the requirements of the applicable criteria contained in the City Building Code.

7. HAZARDS/HAZARDOUS MATERIALS		Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Would the project:						
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X	
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X	
c.	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X	
d.	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?			X		
e.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X	
f.	Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X	

Impacts: Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities currently contain nine identified subsurface sites that are contaminated. These known contaminated sites as well as any unknown contaminated locations will require subsurface investigations in order to determine the need for remediation measures.

The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not utilize or transport any hazardous materials which are capable of creating a significant hazard to the public or the environment. These proposed future uses will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan and will not expose people or structures to significant risk of loss, injury or death involving wildfires.

Mitigation Measures:

7-1 - In the event that subsurface contamination is discovered in the review or construction phase of a project, work shall cease and the contamination shall be

remediated in a manner acceptable to California Environmental Protection Agency and the California State Water Resources Control Board. The Environstor Geotracker system can identify sites and determine what measures, if any, are required to mitigate subsurface contamination.

8.	HYDROLOGY/WATER QUALITY	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
	Would the project:					
a.	Violate any water quality standards or waste discharge requirements?				X	
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X	
c.	Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?				X	
d.	Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?			X		
e.	Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff or fail to meet the new CCRWQCB standards for stormwater control?			X		
f.	Otherwise substantially degrade water quality?				X	
g.	Place housing within a 100-year flood hazard area as mapped on a federal flood hazard boundary or flood insurance rate map or other flood hazard delineation map?				X	
h.	Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X	
i.	Inundation by seiche, tsunami, or mudflow?				X	

Impacts:

The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will involve grading and construction for greenhouse structures which will range in size from approximately 13,000 to 30,000 square feet. In addition, other structures necessary to house manufacturing facilities, security offices, storage facilities and administrative offices will also be constructed

Project grading and construction may potentially impact surface stormwater quality. Developers are required to meet all measures for stormwater pollution control, waste management, and provide public utility connections that comply with

the City and other service providers pursuant to the requirements of Municipal Code Section 17.56.100 Stormwater Pollution Prevention. These standards protect against stormwater pollution during the grading and construction. No discharge runoff from areas devoted to cultivation will be allowed during post construction stages of each project. Given adherence to these requirements as noted below, proposed future uses will not violate any water quality standards or waste discharge requirements or substantially alter existing drainage patterns or create or contribute runoff water which would exceed the capacity of existing or planned stormwater discharge systems or otherwise degrade water quality. In addition, future project development will not place any housing within a 100-year floodplain hazard area or expose people or structures to significant loss, injury or death involving flooding. Future project facilities will not be exposed to inundation due to a seiche, tsunami or mudflow.

Mitigation Measures:

8-1 - Development shall minimize stormwater runoff by implementing one or more of the following site design measures identified by the Regional Water Quality Control Board:

- (1) Direct roof runoff into cisterns or rain barrels for reuse;
- (2) Direct roof runoff onto vegetated areas safely away from building foundations and footings, consistent with California Building Code;
- (3) Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas safely away from building foundations and footings, consistent with the City Building Code;
- (4) Direct runoff from driveways and/or uncovered parking lots onto vegetated areas safely away from building foundations and footings, consistent with City Building Code;
- (5) Construct bike lanes, driveways, uncovered parking lots, sidewalks, walkways, and patios with permeable surfaces;
- (6) The directing of runoff to bioretention basins and
- (7) Other similar measures as identified by the City Engineer.

9.	LAND USE AND PLANNING	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
a.	Physically divide an established community?				X	

b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?					X	
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?					X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not divide an established community. As a result of the previously-approved (January, 2016) modifications to the City Zoning Code (see Section III. Project Description) and the currently proposed Zoning Code Additional Amendments, these proposed future uses will not conflict with any applicable land use plans, policies or regulations adopted by the City or any other agency that has jurisdiction over the areas designated for future project facilities nor will they conflict with any applicable habitat conservation plan or natural community conservation plan.

Mitigation Measures: Given the lack of potentially significant land use and planning impacts, no mitigation measures are required.

10.	NOISE	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
	Would the project:					
a.	Expose people to, or generate, noise levels exceeding established standards in the local general plan, coastal plan, noise ordinance or other applicable standards of other agencies?			X		
b.	Expose persons to or generate excessive ground borne vibration or ground borne noise levels?			X		
c.	Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X	
d.	Cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will generate construction noise which would impact surrounding areas. Construction noise represents a short-term impact on ambient noise levels. The primary source of construction noise is heavy equipment, including trenching equipment, trucks, graders, bulldozers, concrete mixers and portable generators that can reach high levels. The peak noise level for most of the heavy equipment that will be used during project construction is 70 to 95 dBA at a distance of 50 feet. At 200 feet, the peak construction noise levels range from 58 to 83 dBA. At 400 feet, the peak noise levels range from 52 to 77 dBA. These noise levels are based upon worst-case conditions. Typically, construction-related noise levels near the construction site will be less.

Areas designated for future development of medical cannabis cultivation, manufacturing and testing facilities are currently developed with industrial and commercial facilities and with one exception do not contain any noise sensitive uses. The sole exception is the 20-acre parcel located at the northeast intersection of First Street and Lonoak Road. Existing residential uses are located within one-quarter mile of this parcel. Any potential noise impacts upon these noise-sensitive uses can be mitigated through compliance with the City Noise Ordinance.

Mitigation Measures:

10-1 - All project construction activities shall comply with the City Noise Ordinance which limits the hours of noise-generating construction activities.

11. POPULATION AND HOUSING		Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Would the project:						
a.	Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X	
b.	Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X	
c.	Induce substantial growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure)?				X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities is estimated to require a total of 1,860 employees. This employee generation will likely generate demand for housing within or adjacent to the King City area. The extent of this additional demand is difficult to accurately estimate without knowing the number of future employees that currently reside in the area and the number of employees that will be new residents. Employees from outside the area are expected to create additional housing demand. However, this potential impact is offset by the benefits of providing employment for a significant number of local residents. Future development of proposed project facilities is not expected to result in any displacement of population or existing housing in the area.

Mitigation Measures: Given the lack of potentially significant population and housing impacts, no mitigation measures are required.

12. PUBLIC SERVICES		Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Would the project result in a substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:						
a.	Fire protection?			X		
b.	Police protection?				X	
c.	Schools?				X	
d.	Parks or other recreational facilities?				X	
e.	Other governmental services? (Power)			X		

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities is estimated to require a total of 1,860 employees. As previously noted, this employee generation will likely generate demand for housing within or adjacent to King City. This additional housing demand, the extent of which is difficult to accurately estimate, will likely result in an incremental increase in demand for fire and police protection services as well as an indirect increase in demand for schools, parks, or other governmental facilities.

According to FEMA and the U.S. Fire Administration, indoor medical cannabis growing facilities pose safety risks for fire and emergency personnel due to the potential for inhalation of chemical fumes or the ignition of flammable materials in the event of a fire.

The cultivation of medical cannabis within buildings will require a significant amount of electrical power in order to support the cultivation operations. The two primary sources of energy demand are lighting and air conditioning. Greenhouses will either utilize mixed lighting (a combination of sunlight and artificial lighting) or all artificial lighting. It is estimated that the total maximum electrical load for lighting the entire proposed future development of medical cannabis growing facilities is 53,760 amperes. The total maximum electrical load for air conditioning the entire proposed future development of medical cannabis growing facilities is 81,468 amperes. This results in a total maximum electrical load for the entire proposed future development of medical cannabis growing facilities of 135,228 amperes. According to their representatives, Pacific Gas & Electric has recently completed major upgrade work on the transmission lines into King City and has upgraded the King City substation. They have further indicated that with these improvements, P.G. & E should have available capacity to accommodate future growth in the area.

Mitigation Measures:

12-1 - As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval site plans that address and reduce where feasible safety risks for fire and emergency personnel.

12-2 - As part of the Conditional Use Permit application process, the project applicant shall submit to the City of review and approval a Lighting Plan which includes the use of low energy lighting systems and other energy conserving methods.

12-3 - As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval a Power Plan which indicates projected power demands of the project, identifies the source of power and provides evidence of adequate availability of power supply and sufficient infrastructure to supply the project.

13. RECREATION		Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Would the project:						
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X	
b.	Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?				X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will not directly generate any additional demand for recreation facilities or services. However, these proposed future uses will likely generate additional new employees (an estimated total of 1,860 employees) that will require housing and an indirect demand for additional recreation facilities within or adjacent to the King City area. The extent of this additional demand is difficult to accurately estimate without knowing the number of future employees that currently reside in the area and the number of employees that will be new residents. Employees from outside the area are expected to indirectly generate demand for recreation facilities and services. However, this potential impact is offset by the benefits of providing employment for a significant number of local residents. Future development of the proposed project facilities is not expected to result in the substantial physical deterioration of any existing recreational facilities nor generate enough demand that would require the construction or expansion of existing recreation facilities and the provision of additional recreation services.

Mitigation Measures: Given the lack of potentially significant impacts to recreation facilities, no mitigation measures are required.

14. TRANSPORTATION/CIRCULATION		Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Would the project:						
a.	Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e. result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X	
b.	Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X	
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X		
d.	Substantially increase hazards due to a design feature (e.g. limited sight visibility, sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X	
e.	Result in inadequate emergency access?			X		
f.	Result in inadequate parking capacity?			X		
g.	Conflicts with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)?				X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities will generate additional motor vehicle trips associated with employee travel to and from the facilities as well as occasional truck trips associated with facility operations.

It is estimated that future project development will generate a total of 3,720 vehicle trips per day. Vehicle trip generation is estimated to total 1,114 vehicle trips per day within the first year (2017) of operations and 2,316 vehicle trips per day by the year 2020.

According to the project Traffic Engineer, based on a comparison of the “per acre” trip generation rates, the proposed future development of medical cannabis growing facilities could generate daily trips in the range of 40 to 60 daily trips per acre while the uses or combination of uses permitted under the current zoning would generate trips in the range of 51.8 to 61.17 daily trips per acre for lands designated for industrial uses and as high as 149.79 daily trips per acre for parcels designated for business park uses. Based on this comparative analysis, the proposed project use types would involve daily trip generation rates within the approximate anticipated range for uses permitted under the City’s current zoning for the subject lands. As such, traffic generation totals associated the proposed future development of medical cannabis growing facilities would not generate any additional traffic - related impacts upon adjacent roadways or other street and roads in the King City area.

Future project development will be required to meet all access and parking requirements of the City.

Mitigation Measures:

14-1 - As part of the Conditional Use Permit application process, the project applicant shall submit project plans to the City for review and approval site plans which insure compliance with all access and parking requirements of the City.

15. UTILITIES & SERVICE SYSTEMS		Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Would the project:					
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?		X		
b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c.	Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?		X		
e.	Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?		X		
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X	
g.	Comply with federal, state, and local statutes and regulations related to solid waste?			X	

Impacts: The proposed future development of medical cannabis cultivation, manufacturing and testing facilities at full development in the year 2025 will generate demand for water as well as additional demand for wastewater treatment services. It is estimated that future project development will require a total of 193,890 gallons of water per day or 70,769,920 gallons (or 217 acre-feet) per year. This water will be used for cultivation in greenhouses and propagation in nursery facilities. Water demand is estimated to total approximately 20 million gallons (or 62 acre-feet) per year within the first year (2017) of operations and approximately 44 million gallons (or 135.5 acre-feet) per year by the year 2020. This use of irrigation water is similar to other indoor nursery crops. In addition, a minor amount of water will be needed for exterior landscaping. The California Water Service (or Cal Water) prepared an Urban Water Management Plan (UWMP) in 2015. Within the UWMP, Cal Water provided estimates of projected future water use by land use/zoning categories. The projected estimate for water demand within areas zoned Industrial (without the proposed project) totaled 72 acre-feet in the

year 2020 and 76 acre-feet in the year 2025. Projected project water demands for proposed future development of medical cannabis growing facilities, therefore, represent a 188% increase in industrial water demand in 2020 and a 285% increase in 2025. According to well level records, the groundwater level in the King City area has been relatively consistent over time.

It is estimated that future project development will generate a total of 16,393 gallons (or 16.4 MGD) of wastewater per day or 5,983,528 gallons (or 5.98 MGD) of wastewater per year. This wastewater will contain a variety of nutrients typically found in commercial nursery facilities. Wastewater generation is estimated to total approximately 1.80 million gallons per year within the first year (2017) of operations and approximately 3.78 million gallons per year by the year 2020.

The City Public Works Department has indicated that the chemicals and nutrients contained in the wastewater generated by individual projects are common to wastewater released from other typical wastewater sources. It should also be noted that the City Public Works Department samples wastewater on a daily basis, provides samples to a testing laboratory weekly and performs a wastewater audit twice a year. Given this level of monitoring coupled with the anticipated dilution of wastewater generated by these projects, the City does not anticipate any major issues with wastewater treatment.

Individual projects will also be required to submit project plans to the City in order to assess individual project water demands in relation to the available water supplies and infrastructure and individual project wastewater generation in relation to the existing wastewater transmission and treatment facilities at that time. In addition, individual projects will also be responsible for the extension of public water system lines to their project facilities.

Mitigation Measures:

15-1 - As part of the Conditional Use Permit application process, the project applicant shall submit to the City for review and approval a Water Plan which indicates projected water demands of the project, identifies the source of water and provides evidence of adequate availability of water supply and sufficient infrastructure to supply the project.

15-2 - As part of the Conditional Use Permit application process, the project applicant shall submit site plans to the City for review and approval which indicate projected wastewater generation of the project, identifies the existing wastewater transmission and treatment facilities and provides evidence of sufficient wastewater transmission facilities and treatment capacity to serve the project.

15-3 - The proposed future development of medical cannabis growing facilities shall be required to extend public water system lines to the project facilities as needed.

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VI. MANDATORY FINDINGS OF SIGNIFICANCE

A project may have a significant effect on the environment and thereby require an focused or full environmental impact report to be prepared for the project where any of the following conditions occur (CEQA §15065):

	Significant	Unknown Potential Significant	Potential Significant And Mitigated	Not Significant	Impact Reviewed in Previous Document
Potential to degrade: Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X	
Cumulative: Does the project have impacts that are individually limited but cumulatively considerable? (Cumulatively considerable means that incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X	
Substantial adverse: Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?				X	

a. The proposed future development of medical cannabis growing facilities does not have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare, or threatened species. It is possible during grading and construction activities that unknown cultural resources may be unearthed, which may result in a potentially significant impact. Implementation of the mitigation measures for Cultural Resources would ensure the proposed project would not eliminate important examples of the major periods of California history or prehistory.

b. Construction-related activities of the proposed future medical cannabis growing facilities have the potential to generate storm-related runoff pollutants. These future projects will be required to prepare a plan that addresses all potential pollutants, including but not limited to soil erosion and sediment which shall be followed during grading and construction as well as maintained for the entire term of their

use. Other measures to address the protection against all subsurface and surface pollution shall also be implemented during construction and for the full duration of the use of the properties.

c. The proposed future development of medical cannabis growing facilities could potentially result in the generation of construction dust and equipment exhaust emissions and noise will be required to reduce air quality and noise impacts to less than significant levels.

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VII. ENVIRONMENTAL DETERMINATION

On the basis of the facts contained within this Initial Study:

I find that the proposed project COULD NOT have a significant effect on the environment and a NEGATIVE DECLARATION will be prepared.	<input type="checkbox"/>
I find that although the project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in this document have been added to the project. A NEGATIVE DECLARATION will be prepared.	<input checked="" type="checkbox"/>
I find that the project MAY have a significant effect on the environment and an ENVIRONMENTAL IMPACT REPORT is required.	<input type="checkbox"/>
I find that the project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards and 2) has been addressed by mitigation measures based on an earlier analysis. If the effect is a potentially significant impact or potentially significant unless mitigated, an ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that need to be addressed.	<input type="checkbox"/>
I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR, including project revisions or mitigation measures that are imposed upon the proposed project.	<input type="checkbox"/>



Steven Adams
City Manager
City of King

8/17/16

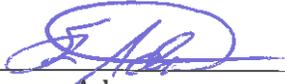
Date

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VIII. CERTIFICATION

I hereby affirm to the best of my knowledge, based on available information provided to me through specialist's technical reports, public documents and original research, analysis and assessments, the statements and information contained

within this environmental document are true and correct to the degree of accuracy necessary for public disclosure purposes in accordance with Public Resources Code Section 21003, 21061 and 21100.



Steven Adams
City Manager
City of King



Date

ORDINANCE NO.2016-729

**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF KING
AMENDING SUBSECTIONS (1) AND (14) OF SECTIONS 17.30.020, SUBSECTION (2)
OF 17.30.140, SUBSECTON (18) OF SECTION 17.31.020, AND SUBSECTION (4) OF
SECTION 17.31.140 AND REPEALING SUBSECTION (15) OF SECTION 17.30.020,
SECTION 17.30.150, AND SECTION 17.31.150 AND REPLACING SUBSECTION (15)
OF SECTION 17.30.020, AND ADDING SUBSECTION (16) OF SECTION 17.30.020
AND SUBSECTION (19) OF SECTION 17.31.020 OF THE CITY OF KING MUNICIPAL
CODE ADDING ADDITIONAL COMMERCIAL CANNABIS CULTIVATION
LICENSING, NURSERIES AND TESTING LABORATORIES IN THE CITY**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as “The Compassionate Use Act of 1996,” at California Health and Safety Code, section 11362.5 (“CUA”) which had the stated intent to ensure that seriously ill individuals have the right to obtain and use marijuana for medical purposes when recommended by a physician. The Proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes, and

WHEREAS, the ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere”, and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 *et seq.* and referred to as the “Medical Marijuana Program” or “MMP” to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “adopt local ordinances that regulate the location, operation, or establishment of a medical, and

WHEREAS, in the *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013), the California Supreme Court upheld the right of local public agencies to regulate medical marijuana operations through their land use powers, and

WHEREAS, on November 26, 2013, the Third District Court of Appeal issued its opinion in *Maral v. City of Live Oak* 221 Cal.App.4th 975, which held cities have the authority to ban marijuana cultivation within their boundaries consistent with their local regulations; and

WHEREAS, on October 9, 2015, California Governor Brown approved the Medical Marijuana Regulation and Safety Act (“MMRSA”), which goes into effect on January 1, 2016, and establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana, also known as cannabis, through Assembly Bills 243 and 266 and Senate Bill 643, and

WHEREAS, MMRSA will become the governing regulation giving the State full control over the cultivation of marijuana in any city where local regulations were not adopted to regulate cultivation of medical cannabis and in effect on March 1st 2016; and

WHEREAS, the City intends to regulate and maintain local control over the dispensing, delivery and cultivation of medical cannabis in accordance with this ordinance; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the Council’s intention that nothing in this ordinance shall be construed, in any way, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, distribution, or consumption of marijuana that is otherwise illegal. It is further the intent of the City Council of City of King to maintain local control over these matters to the fullest extent permitted by law.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF KING AS FOLLOWS:

Section 1: Subsection (1) of Section 17.30.020 of Chapter 17.30 of the City of King Municipal Code is hereby amended as follows:

(1) Manufacture, processing and packing of beverages (except distilleries), food or food products [(except Commercial Cannabis Activity as defined within subsection (14) this section)] completely within a structure or processing and packing of food products when the major operation takes place in unenclosed structures and where products, materials and equipment are stored in the open;

Section 2: Subsection (14) of Section 17.30.020 of Chapter 17.30 of the City of King Municipal Code is hereby amended as follows:

(14) Commercial cannabis cultivation [and nurseries] consistent with those activities authorized under the state cultivator [and nursery] license types issued by the Department of Food and Agriculture under Business and Professions Code Section 19332(g)(5) Type 2A “small indoor”[, 19332 (g)(6) Type 2B “small mixed-light”], and [19332 (g)](8) Type 3A “indoor-” [19332 (g)(9) Type 3B “mixed-light” and 19332 (g)(10) Type 4 “nursery”.] Cultivation for purposes of this provision shall be limited to those activities defined within California Business and Professions Code Section 19300.5(l) and the delivery or transport of the harvested cannabis outside of the

city. No deliveries or distribution of any cannabis product shall be allowed within the jurisdictional boundaries of the city;

Section 3: Subsection (15) of Section 17.30.020 of Chapter 17.30 of the City of King Municipal Code is hereby repealed in its entirety and replaced with the following:

(15) Commercial cannabis level one manufacturing and testing consistent with those activities authorized under the state manufacturing and testing laboratories license types issued by the State Department of Health under Business and Professions Code Sections 19300.7 and 19341 (a) Type 6 “Manufacturer 1” and 19341 (c) Type 8 “testing”;

Section 4: Subsection (16) of Section 17.30.020 of Chapter 17.30 of the City of King Municipal Code is added as follows:

(16) Any other use which the planning commission finds not to be inconsistent with the uses set out herein.

Section 5: Subsection (2) of Section 17.30.140 of Chapter 17.30 of the City of King Municipal Code is hereby amended as follows:

(2) Warehousing and wholesaling; and commercial cannabis cultivation [level one manufacturing and testing];

Minimum of 2 spaces for every 3 employees on largest shift but non less than 1 per 3000 square feet of gross floor area.

Section 6: Section 17.30.150 of Chapter 17.30 of the City of King Municipal Code is hereby repealed in its entirety as follows:

~~17.30.150 Commercial Cannabis Cultivation Property Development Standards~~

~~a) Indoor Medical Marijuana Cultivation may not occur in multi-use buildings. All uses in the structure must be related to the Cultivation of Medical Marijuana.~~

~~b) Caretakers quarters are not allowed.~~

~~e) Indoor Medical Marijuana Cultivation is allowed only within fully enclosed and secure structures that are inaccessible to minors.~~

~~d) Indoor Medical Marijuana Cultivation shall not exceed the square footage authorized by the Conditional Use Permit and consistent with State licensing.~~

~~e) There shall be no exterior evidence of indoor Medical Marijuana Cultivation from a public right of way. Signage for the business shall be consistent with state law and local sign regulations.~~

~~f) The building entrance to a Medical Marijuana Cultivation facility shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming marijuana on the premises or in the vicinity of the facility is prohibited.~~

~~g) Marijuana shall be kept in a secured manner during business and nonbusiness hours. A security plan shall be implemented as part of the conditions of the CUP that shall include security cameras, an alarm system, locked facilities and appropriate illumination as determined by the Police Chief to assure adequate preservation of health and safety to the public.~~

Section 7: Subsection (18) of Section 17.31.020 of Chapter 17.31 of the City of King Municipal Code is hereby amended as follows:

(18) Commercial cannabis cultivation [~~and nurseries~~] consistent with those activities authorized under the State cultivator [~~and nursery~~] license types issued by the Department of Food and Agriculture under Business and Professions Code section 19332 (g) (5) Type 2A “small indoor”[, 19332 (g)(6) Type 2B “small mixed-light”], and [19332 (g)] (8) Type 3A “indoor”, [19332 (g) (9) Type 3B “mixed light” and 19332 (g) (10) Type 4 “nursery”.] Cultivation for purposes of this provision shall be limited to those activities defined within California Business and Professions Code section 19300.5 (l) and the delivery or transport of the harvested cannabis outside of the City. No deliveries or distribution of any cannabis product shall be allowed within the jurisdictional boundaries of the City. All cultivation shall be conducted indoors.

Section 8: Subsection (19) of Section 17.31.020 of Chapter 17.31 of the City of King Municipal Code is hereby added as follows:

(19) Commercial cannabis level one manufacturing and testing consistent with those activities authorized under the state manufacturing and testing laboratories license types issued by the State Department of Health under Business and Professions Code Sections 19300.7 and 19341 (a) Type 6 “Manufacturer 1” and 19341 (c) Type 8 “testing”;

Section 9: Subsection (4) of Section 17.31.140 of Chapter 17.31 of the City of King Municipal Code is hereby amended as follows:

(4) Warehousing and wholesaling; and Commercial Cannabis Cultivation [level one manufacturing and testing;”

Minimum of 2 spaces for every 3 employees on largest shift but not less than 1 space per 3000 square feet of gross floor area. Parking may be off-site within 300 feet upon approval of the planning commission.

Section 10: Section 17.31.150 of Chapter 17.31 of the City of King Municipal Code is hereby repealed in its entirety as follows:

17.31.150 Commercial Cannabis Cultivation Property Development Standards

a) Indoor Medical Marijuana Cultivation may not occur in multi-use buildings. All uses in the structure must be related to the Cultivation of Medical Marijuana.

b) Caretakers quarters are not allowed.

c) Indoor Medical Marijuana Cultivation is allowed only within fully enclosed and secure structures that are inaccessible to minors.

d) Indoor Medical Marijuana Cultivation shall not exceed the square footage authorized by the Conditional Use Permit and consistent with State licensing.

e) There shall be no exterior evidence of indoor Medical Marijuana Cultivation from a public right-of-way. Signage for the business shall be consistent with state law and local sign regulations.

f) The building entrance to a Medical Marijuana Cultivation facility shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming marijuana on the premises or in the vicinity of the facility is prohibited.

g) Marijuana shall be kept in a secured manner during business and nonbusiness hours. A security plan shall be implemented as part of the conditions of the CUP that shall include security cameras, an alarm system, locked facilities and appropriate illumination as determined by the Police Chief to assure adequate preservation of health and safety to the public.

Section 11: All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

Section 12: This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

PASSED ADOPTED AND APPROVED THIS _____ day of
_____, 2016.

Mayor Robert Cullen, City of King

ATTEST:

City Clerk of the Council of the
City of King

ORDINANCE NO. 2016-730**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF KING
AMENDING SECTION B. 1.c.ii, SUBSECTION (I), AMENDING SECTION D. 3,
SUBSECTION (g), AND AMENDING G. 5 OF CHAPTER 4 (DEVELOPMENT
STANDARDS) OF THE EAST RANCH BUSINESS PARK SPECIFIC PLAN FOR THE
PURPOSE OF ADDING ADDITIONAL COMMERCIAL CULTIVATION USES,
NURSERIES, MANUFACTURING AND TESTING OF CANNABIS IN THE CITY**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as “The Compassionate Use Act of 1996,” at California Health and Safety Code, section 11362.5 (“CUA”) which had the stated intent to ensure that seriously ill individuals have the right to obtain and use marijuana for medical purposes when recommended by a physician. The Proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes, and

WHEREAS, the ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere”, and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 *et seq.* and referred to as the “Medical Marijuana Program” or “MMP” to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “adopt local ordinances that regulate the location, operation, or establishment of a medical, and

WHEREAS, in the *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013), the California Supreme Court upheld the right of local public agencies to regulate medical marijuana operations through their land use powers, and

WHEREAS, on November 26, 2013, the Third District Court of Appeal issued its opinion in *Maral v. City of Live Oak* 221 Cal.App.4th 975, which held cities have the authority to ban marijuana cultivation within their boundaries consistent with their local regulations; and

WHEREAS, on October 9, 2015, California Governor Brown approved the Medical Marijuana Regulation and Safety Act (“MMRSA”), which goes into effect on January 1, 2016, and establishes a comprehensive State licensing and regulatory framework for the cultivation,

manufacture, transportation, storage, distribution, and sale of medical marijuana, also known as cannabis, through Assembly Bills 243 and 266 and Senate Bill 643, and

WHEREAS, MMRSA will become the governing regulation giving the State full control over the cultivation of marijuana in any city where local regulations were not adopted to regulate cultivation of medical cannabis and in effect on March 1st 2016; and

WHEREAS, the City intends to regulate and maintain local control over the dispensing, delivery and cultivation of medical cannabis in accordance with this ordinance; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the Council’s intention that nothing in this ordinance shall be construed, in any way, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, manufacturing, testing, or consumption of marijuana that is otherwise illegal. It is further the intent of the City Council of City of King to maintain local control over these matters to the fullest extent permitted by law.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF KING AS FOLLOWS:

Section 1: Section B.1.C.ii, subsection (I) of Chapter 4, “Development Standards” of the East Ranch Business Park Specific Plan is hereby amended as follows:

- (I). for Commercial Cannabis [Activity]~~Cultivation~~:
 - a) An indoor and outdoor lighting plan with estimated amount of electrical use.
 - b). The location and dimensions of areas for storage fertilizers and wastes
 - c). A fire suppression plan.
 - d). An irrigation and drainage plan with estimate amount of water use.
 - [e.). Compliance with all provisions of King City Municipal Code Chapter 17.03.]

Section 2: Section D.3., subsection (g) of Chapter 4, “Development Standards” of the East Ranch Business Park Specific Plan is hereby amended as follows:

- (g). Commercial Cannabis [Activity]~~Cultivation~~ consistent with those activities authorized under the ~~State cultivator license types issued by the Department of Food and Agriculture under Business and Professions Code section 19332~~ [19300.7, (e) Type 2A

Cultivation, Indoor; Small, (f) Type 2B Cultivation; Mixed-light; Small, (h) Type 3A Cultivation; Indoor; Medium, (i) Type 3B Cultivation; Mixed-light; Medium, (j) Type 4 Cultivation; Nursery, (k) Type 6 Manufacturing 1, and (m) Type 8 Testing(g) (5) Type 2A “small indoor” and (8) Type 3A “indoor”. [Commercial Cannabis Activity shall be subject to and comply with all provisions of the King City Municipal Codes Chapter 17.03.]Cultivation for purposes of this provision shall be limited to those activities defined within California Business and Professions Code section 19300.5 (l) and the delivery or transport of the harvested cannabis outside of the City. No deliveries or distribution of any cannabis product shall be allowed within the jurisdictional boundaries of the City.

Section 3: Section G.5. of Chapter 4, “Development Standards” of the East Ranch Business Park Specific Plan is hereby repealed and replaced as follows:

5. Commercial Cannabis Activity

a) All Commercial Cannabis Activity shall be subject to and comply with all provisions of the King City Municipal Code Chapter 17.03.

Section 4: All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

Section 5: This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

PASSED ADOPTED AND APPROVED THIS _____ **day of**
_____, 2016.

Mayor Robert Cullen, City of King

ATTEST:

City Clerk of the Council of the
City of King

PLANNING COMMISSION QUESTIONS / COMMENTS**AUGUST 16, 2016****(From Staff Notes)**

Commissioner Barbree asked if the County has provided any indication regarding Medical Cannabis use in areas adjacent to the City Limits. Staff answered that there had been no such discussion to the present.

Commissioner Barbree commented regarding Federal law and Medical Cannabis cultivation, manufacture, etc. (related to Ordinance 2016-728) Staff indicated that California State Law and Federal law were not consistent at this time as was indicated by legal staff in the Ordinance. There were no comments from the Public.

Proximity to Sensitive Uses:

Staff noted that Staff interpretation of State Law was that there is a requirement for 600' separation from schools if there is a "storefront" or opportunity for sales to the public. The proposed Code Amendments do not allow sales to the public in conjunction with any one of the proposed uses. The concern with requiring separation is that it may impact the location of churches, schools or similar uses after the time that a Medical Cannabis use locates.

Brandon Gesicki, commented on the 600ft. and felt that it would not be an issue. Chair Nuck thought there was or had been a church out in the industrial zone.

Limits on Manufacturing Licenses

The Staff presentation indicated that six (6) manufacturing facilities were estimated for environmental review purposes. Staff commented that the Draft Ordinance did not set a limit. Staff noted that small cultivators might prefer to use an independent manufacturer while larger scale cultivators may prefer to have their own "in-house" manufacturing.

Mr. Gesicki felt that the limit of 6 on manufacturing is more than enough.

Commissioner Barbree commented on the limit of 6. He wanted to know about the ability for License holders to have multiple permits. Mr. Bruce stated that they can have multiple permits.

Cannabis Manufacturing and the Use of Alcohol

Staff indicated that the issue was regarding the "volatility" of alcohol. Explosions related to the use of Propane, Butane and similar have occurred in Colorado.

Staff indicated that alcohol use appeared to be primarily for cleaning. **(See Exhibit F)**

Mr. Gesicki explained that they use food grade alcohol for cleaning and taking wax off

Commissioner Barbree asked about the temperature. Mr. Gesicki stated that water temperature was typically about 50 degrees Celsius (122 degrees Fahrenheit).

Compressed Gas (Co2)

Staff indicated that the concern is that larger size Co2 tanks have exploded in Colorado. Staff also indicated that, in discussion with industry representatives it appears that 150 lb tanks coming eight (8) to a pallet would be sufficient and, appear to be safe.

Mr. Gesicki indicated that eight (8) compressed gas (Co2) tanks at 150 pounds each works well for the manufacturers.

Chair Nuck asked about the need for this Co2 amount. Mr. Gesicki stated that it is used to extract oils in place of Butane or Propane.

Other:

Commissioner Barbree asked about the use of wells. Mr Bruce stated that, at the present, all water was anticipated to be delivered through the City system. Wells were a possibility but had not been explored. Continual communication with CalWater is important.

Commissioner Barbree asked about the type and number of vehicles involved in transporting. Mr. Gesicki stated that it is about the size of a Chevy Tahoe, driven by a security person. Staff indicated that the numbers of trips used in the environmental analysis were two (2) trips per cultivating facility, every other month.

Chair Nuck asked about the waste product. Mr. Gesicki stated that it is used in the manufacturing process with very little left over.

Commissioner Lee is a concern that the people in the community will want to raise marijuana in their back yard. He feels there is going to be a need for a real policing. Mr. Gesick feels that having standards in place gives the police more teeth to police it.

Commissioner Barbree wanted to know if there has been a thought of branding for King City. Mr. Gesicki stated that the science community has indicated a desire to establish testing here in King City. King City could be positioned to be a prototype for best practices in this industry.

Scott,

Just getting this information to you as fast as I can. Straight from the scientist and you can even write this into the code or ordinance if you like.

--Brandon
831-206-6460

How Alcohol is used in Cannabis Manufacturing:

Alcohol is used for two purposes. (a) To eliminate contaminations from batch to batch the extractor must be cleaned between use. The extracts are NOT soluble in water. We must use a solvent to clean the machine. The most benign solvent possible to use is alcohol. So we use about 1-2 cups of alcohol for cleaning the lines in the extractor. Alcohol is just flushed through under low pressure and with no heating to accomplish this.

The second (and larger) use is for "winterization." Here we dissolve the wax in alcohol and then freeze it. After freezing we centrifuge it and pour the alcohol off the remaining wax. The alcohol is then removed using rotary evaporation which employs a warm water bath and reduced pressure to recover the alcohol. This has no exposure to anything other than a warm water bath in the system designed. And this is under reduced pressure (a partial vacuum) so that we don't need more than warm water temperatures.

CO2 Tanks

The CO2 tanks come as a set 6 to 8-- all strapped together from the supplier.



Item No. **11 (A)**

REPORT TO THE CITY COUNCIL

DATE: AUGUST 23, 2016

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

**RE: CONSIDERATION OF PRESENTATION ON MONTEREY BAY
COMMUNITY POWER PROJECT**

RECOMMENDATION:

It is recommended the City Council: 1) receive a presentation on the Monterey Bay Community Power proposal; 2) direct staff to work on steps necessary for King City to participate; and 3) provide staff direction on issues related to the governance structure.

BACKGROUND:

The Monterey Bay Community Power project is a region-wide collaborative partnership comprised of all 21 local governments within the greater Monterey Bay area, including the Counties of Santa Cruz, Monterey, San Benito and all 18 cities located within the three counties. The purpose of the project is to investigate the viability of establishing a local community choice energy (CCE) agency. Enabled by California legislation (AB117), CCE allows cities and counties to pool their residential, business and municipal electricity loads and purchase and/or generate electricity on their behalf.

In 2013, the counties and cities involved in the project established a Project Development Advisory Committee (PDAC) with appropriate regional representation and appointed the County of Santa Cruz as the lead agency on behalf of the partnership to conduct the investigation. The PDAC has met regularly for the past three years to oversee and inform project work. This work has included raising \$404,097 to conduct a Phase 1 Technical Study and analyze the benefits and risks of creating a local CCE agency and compare that information with the current rates and services provided by PG&E.

Attached is a Summary Report and Recommendations from the PDAC. Patrick Mathews, General Manager of the Salinas Valley Solid Waste Authority, was a

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CONSIDERATION OF PRESENTATION ON MONTEREY BAY COMMUNITY
POWER PROJECT
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member of the PDAC and will make an informational presentation to the City Council.

DISCUSSION:

The findings of the study have shown that the project can provide energy cost savings to residents in the three counties and provide funding to invest in cleaner energy sources. They are pursuing formation of a Monterey Bay Community Power Authority with a goal of providing power under the new structure by October 2016. A copy of a draft Joint Powers Agreement is attached.

Under the proposal, each city will be asked to make a determination on whether to participate. Customers in participating cities would be enrolled to receive their energy from the Authority, but would also be provided the opportunity to opt out and continue as a direct customer of PG&E. Under the Authority, PG&E would continue to transmit the power and provide the billing to each customer.

The City Manager recently attended a meeting with other jurisdictions to discuss a governance structure. One similar to the Monterey Bay Air Resources District has been proposed. Some of the issues discussed have included:

- How to better inform government officials and the public;
- Whether to include all three counties or to pursue separate operations;
- The makeup of the Board and whether to provide super majority voting requirements, etc.;
- How to allocate savings to rate reductions and investments in clean energy sources; and
- How to fund start-up costs.

The City Manager will be attending a meeting with Monterey County city managers to coordinate an overall approach to the proposal and then another meeting on governance on August 31st to reach consensus on how to proceed. The City Manager will communicate any direction received by the City Council at those meetings. If the project proceeds on schedule, it will likely be placed on a City Council agenda for consideration in September.

COST ANALYSIS:

No costs to the City have been identified at this point. The project may be seeking funds from participating agencies to pay for up front costs in the form of a loan to be repaid when operations commence.

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ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Provide direction to proceed with efforts to participate and provide direction on issues of governance;
2. Direct staff to not pursue participation in the project; or
3. Provide staff other direction.

Exhibits:

1. Regional Project Development Advisory Committee Summary Report and Recommendations
2. Draft Joint Powers Agreement

Approved by:



Steven Adams, City Manager

**SECTION I
REGIONAL PROJECT DEVELOPMENT ADVISORY COMMITTEE
Summary Report & Recommendations**

Background

Formed in 2013, the Monterey Bay Community Power project is a region-wide collaborative partnership comprised of all 21 local governments within the greater Monterey Bay area, including the Counties of Santa Cruz, Monterey, San Benito and all 18 cities located within. The partnership also includes Monterey Bay Unified Air Pollution Control District, Salinas Valley Solid Waste Authority, and Monterey Regional Waste Management District. The purpose of the project has been to investigate the viability of establishing a local community choice energy (CCE) joint powers agency (JPA) within the region. Authorized by California legislation (AB 117 in 2001, amended by SB 790 in 2011), CCE allows counties and cities to pool their electricity load in order to purchase electricity or invest in energy projects and programs for local residents and businesses as an alternative to the existing utility provider, (PG&E.) Formal resolutions to participate in the project were passed by every jurisdiction during 2013, with each given the option of appointing a representative to the Project Development Advisory Committee overseeing the investigation.

Regional Project Development Advisory Committee (PDAC) Work and Process

After initial formation, the PDAC approved the County of Santa Cruz as the lead agency on behalf of the partnership to raise the funds and provide staffing. The 15-member PDAC hosted 26 public meetings from December 2012 through June 2016, providing guidance and making key decisions with input from the Project Team and consultants. To ensure that the entire region had access to PDAC deliberations, the meetings have been rotated between the Monterey Regional Waste Management District Board Chambers in Marina and the Santa Cruz County Board of Supervisors Chambers in Santa Cruz, with one special session in San Benito County. A project website was established in early 2013 to provide information, answers to frequently asked questions and post PDAC meeting materials and updates, MBCommunityPower.org.

By the middle of 2014, \$404,846 had been raised to conduct a Phase 1 Technical Feasibility Study, an analysis of the benefits and risks associated with creating a local CCE agency and a comparison of that information with the current rates and services provided by PGE. The study and an independent peer review were completed by April, 2016 and are included here in Section III and Appendix 4 of this information packet. The study reveals several favorable environmental and economic outcomes. These include local control over electricity rates and complimentary programs, a significant increase in procuring and generating renewable electricity for the region and the potential value of redirected revenue to benefit the local economy and create green jobs.

It is worth noting that the project funds raised were from private community and state resources, not from local government general budgets. The project's non-profit partner, the Community Foundation of Santa Cruz County (CFSCC), graciously accepted private donations for the project totaling \$25,607. The PDAC worked collaboratively with the CFSCC to provide oversight and accountability regarding how these funds have been spent. The remaining funds came from grants procured and managed by Santa Cruz County as the lead project partner. The grants awarded were from the California Strategic Growth Council (\$344,239), the World Wildlife Fund (\$30,000), and the UC Santa Cruz Carbon Fund (\$5,000).

The PDAC has collaborated with the Project Team on all elements of Phase 1 investigative work as outlined below. Members of the PDAC and Project Team and their affiliations are listed under "Acknowledgements" at the end of this report.

- Provided regular public meeting opportunities for community members to learn about CCE and have input into PDAC discussions and decisions;
- Developed a Phase 1 work and Project Team plan with goals and objectives;
- Assisted with the development of grant proposals and oversaw the CFSCC budget and expenditures;
- Tracked State legislative and regulatory activities affecting CCE investigation;
- Created the content, goals and objectives of the project website, community group educational presentations and regular update reports to county and city partners;
- Developed the scope and assumptions of the Technical Feasibility Study, the independent peer review and the qualifications and criteria for hiring the appropriate consultants;
- Gathered expert information, options and best practices regarding the phased formation work tasks, governance, executive staffing, and start-up financing;

- Scoped the qualifications and criteria for a professional consultant to develop a region-wide outreach communications program and designed the plan with the firm hired;
- Reviewed the contents of the Technical Feasibility Study and all other information and recommendations contained in this packet; and
- Guided the next steps to complete Phase 1 work and assisted the MBCP county and city partners in their deliberations regarding CCE-JPA formation.

This comprehensive information packet has been assembled as a culmination of the PDAC's work over the past few years, providing each county and city partner the information needed to decide whether to participate with partners in the next steps toward forming a regional CCE-JPA. The PDAC has assembled a complete public record of all committee deliberations, which are posted on the website, MBCommunityPower.org. The PDAC will continue to meet during 2016 until Phase 1 work is concluded and a CCE ordinance has been considered or approved by interested county and city partners.

Phase 1 Project Status, Next Steps and Phase 2 Formation Work

Phase 1 Project Status and Next Steps:

To recap, in this first phase, the PDAC has conducted an initial exploration of CCE program viability and has overseen the development of a technical study and assembled related resource information. Community engagement strategies have been implemented, and will continue, to educate the affected energy customers and lay the foundation for Phase 2 formation work. Over the next 6 months, the PDAC will steer completion of Phase 1 that will include hosting a series of public workshops and special study sessions to be attended by PDAC representatives, elected officials, county and city executive staff, project staff and CCE experts from around the State. The PDAC has also formed two subcommittees that will meet on an ad hoc basis to discuss governance, executive staff and start-up financing options. The end result of Phase 1 will be the decision to form a CCE-JPA governing Board after start-up financing has been determined and recruitment has begun to hire a chief executive to manage Phase 2 work. The next steps and timeframe to complete Phase 1 work are:

- **May 13, 2016:** All MBCP county and city partners will receive this information packet with PDAC recommendations regarding best practices and next steps.
- **May 24 and June 9th:** The PDAC will host three special public study sessions for county and city electeds and executive staff to review and discuss the technical study with the consultants as well as options regarding governance, start-up financing, and formation:
 - **May 24- 9:30 am to noon – Monterey County Board Chambers- Salinas**
 - **June 9- 9:30am to noon – Santa Cruz County Board Chambers – Santa Cruz**
 - **June 9- 3:00 pm to 5:30pm- San Benito County Board Chambers- Hollister**
- **County and cities interested in forming a CCE-JPA may join an ad hoc subcommittee comprised of executive staff who will develop a formation proposal for Board of**

Supervisors and City Councils' consideration on or before September 15, 2016, (target date.) Professionals who have experience in retail electricity services, program design, finance, wholesale purchasing and renewable resource development will assist this work.

- **May through October:** A comprehensive regional outreach and communications program to engage and educate the community at large will be implemented by a professional consulting firm.
- **August through October:** County and city governing Boards will consider the ad hoc subcommittee formation proposal and adopt ordinances and agreements with other early adoptive partners.
- **October 31, 2016:** A regional CCE agency joint powers governing Board will be seated and a final selection for the CEO position is made. The CEO hires staff and Phase 2 begins.

Phase 2 Formation Work:

This phase involves program design, soliciting energy procurement services, seeking CPUC approval of an implementation plan, executing a service agreement with PG&E, and expanding community engagement. Agency staff will also complete all remaining legal requirements, enroll customers and prepare to launch an independent operation. Appendix 5 has a more detailed proposed formation work plan for the Monterey Bay Community Power partnership. The end result of Phase 2 work will be to launch (i.e., provide power to customers) no later than September/October, 2017. Note that all start-up costs are reimbursable with interest after program launch through ratepayer revenues.

PDAC Recommendations- Feasibility, Formation and CCE Best Practices

Feasibility Recommendation:

The prospects for CCE programs in California have improved significantly in recent years as a result of many factors:

- The success of Marin Clean Energy and Sonoma Clean Power in providing their communities with greener power at prices competitive with PG&E while investing considerable surplus funds into local renewable energy and energy efficiency projects that created local jobs;
- Favorable wholesale energy market conditions, resulting in relatively low cost power;

- Recognition that a CCE program can be self-supporting for meeting climate action plan objectives and other local public policy goals;
- The reduced market costs of renewable power and improvements in renewable technologies; and
- The development of expertise, best practices and an expanded vendor base to serve CCE programs.

The Monterey Bay Community Power (MBCP) partnership formed in 2013 as the first tri-county/18 city effort in the State. Since then, two CCE agencies have launched (Sonoma Clean Power and the City of Lancaster) and many more communities are actively pursuing CCE formation, including the counties of Alameda, Butte, Contra Costa, Humboldt, Lake, Los Angeles, Mendocino, San Bernardino, San Diego, San Luis Obispo, San Francisco, San Mateo, Santa Barbara, Santa Clara, Venture and Yolo, as well as the cities of Davis and San Diego.

The analysis and outcomes from the technical feasibility study as well as all of the Phase 1 investigative work undertaken for the past three years indicate that establishing a successful CCE agency within the Monterey Bay Region is highly feasible with a wide range of options.

Formation Recommendations:

(1) Next Steps – All MBCP counties and cities are strongly encouraged to participate in one or more of these next steps to determine their interest in becoming an early adoptive partner in forming a regional CCE-JPA agency:

- Attend the public special study sessions hosted by the PDAC starting in May and continuing through June that will focus on the technical study results, governance, executive staffing and start-up financing options and best practices. At these meetings, executive staff from successful CCE agencies and other experts will be in attendance to assist interested county and city representatives. (See page 3 of this report for the schedule.)
- Request a Board or Council general presentation to determine further interest. For more information or to schedule a meeting, contact Gine Johnson, Office of Santa Cruz Supervisor Bruce McPherson, at (831) 454-2200, gine.johnson@santacruzcounty.us.
- Send a Board representative and/or executive staff member to the PDAC's ad hoc subcommittee meetings. Two subcommittees, Governance and Finance, will meet in parallel with the public special study sessions to develop a formation proposal. Recommendations to the governing Boards of early adoptive county and city partners will be forwarded on or before September 15. To attend these meetings, contact the PDAC Chair, Nancy Gordon at (831) 454-2714, nancy.gordon@santacruzcounty.us.

(2) Decision Deadline: Once a formation determination has been made, the PDAC recommends that the CCE-JPA agency be established on or before October 31, 2016 for several important reasons:

- **The best window of opportunity to launch a CCE agency (i.e., actually provide power to customers) has proven to be between April and October as a “best practice.”** Even after a CCE-JPA is established, additional formation tasks must ensue which may take up to 12 months, so to make the recommended “launch window”, interested partners should form no later than one year in advance.
- **Efforts to undermine the ability of local governments to justify forming CCE agencies are continual through the legislative and regulatory processes. Even though these efforts have not succeeded so far, it may just be a matter of time. If these efforts are eventually successful, CCE agencies that have already been formed will be able to continue unimpeded.**
- **In order to form a CCE agency, county and city partners must first agree on governance, start-up financing and executive staff recruitment. This process typically took California’s established CCE agencies three to four months to accomplish. The deadline of October 31 gives early adoptive partners up to six months to make a final decision. County and city partners that do not make a decision by October will still have the option to join the CCE-JPA at a later date.**

CCE Best Practices Recommendations: New CCEs can mitigate risk and ensure best practices by learning from the experiences of operational CCE agencies. In addition to the technical study, Section III of this information packet includes an overview of regulations as well as information and lessons learned from other multi-jurisdictional CCE agencies regarding structure, governance, financing and program phasing. The PDAC spent countless hours reviewing and discussing this information with statewide CCE experts and recommends the following best practices be considered by MBCP county and city partners as they contemplate formation:

- **Structure – The PDAC recommends a regional agency that includes as many of the MBCP county and city partners as possible. The economy of scale relative to procurement buying power, start-up and long-term financing and other operational considerations makes a compelling case for a regional agency. Given the nature and technical complexity of running the business of a CCE program, the PDAC also recommends that the agency not be embedded in an existing government entity, but be formed as a stand-alone joint powers agency. Further, the PDAC does not recommended that an existing CCE-JPA be joined for a fee as the economic and job creation benefits to the Monterey region would be considerably diminished. However, “back-end” turn-key administrative services that have a proven operational track record are readily available to newly formed CCEs and should be accessed to streamline start-up and operational tasks and costs.**

- **Governance** – To meet the diverse needs of the Monterey Bay region, the PDAC recommends a governance structure that aligns with these principles:
 - Consistent with the best practices learned from the success and challenges of established CCE governing boards as outlined in Section III of the information packet.
 - Equitably representative and aligned with population density and electricity usage within the region;
 - A manageable number of board members with the ability to scale to accommodate later members;
 - Primary members and alternates should be elected officials;
 - Industry technical experts without a conflict of interest should be advisory to the Board;
 - Structured similarly to an existing and well-accepted Monterey regional JPA board that has been serving the same partner counties and cities successfully for many years, the Monterey Bay Air Resources District.
 - Section III, page 20 of the information packet outlines the specific governance board and technical expert advisory committee structure recommendation.

- **Start-up Financing & Payback Period** – There are many options to providing the capital for Phase 2 formation work, but the most straight forward path is for one of the main partners to provide all of the funding, or guarantee a private loan, which can be paid back with interest once the CCE agency begins to generate revenue from ratepayers. Although a cost-share strategy is often used in starting a joint powers agency, this requires additional time and contractual work in what is already a complex formation process. However the start-up is financed, the CCE governing Board should aim to pay it back as soon as it is financially feasible.

- **Guiding Principles**– The PDAC recommends strategic and operational alignment with these principles:
 - Serve community goals and local policy objectives, including greenhouse gas reductions and increased statewide and local renewable energy supply.
 - Control and safeguard customer revenues to ensure long-term financial viability and local government ownership, even when power supply costs fluctuate.

- Offer competitive rates and choice in customer electricity services that does not include the use of unbundled renewable energy credits, coal or nuclear resources and prioritizes in-state renewable contracts as is financially viable and available.
- Support the rapid investment in local renewable energy generation to the maximum extent feasible while ensuring fiscal stability, rate parity and carbon reduction goals are met.
- Pursue long-term power procurement strategies and local power ownerships that hedge future market risk and incorporate diversity of energy suppliers, technologies and products.
- Plan for long-term financial viability through integrated resource planning, in-house fiscal management, transparent rate setting and policies that build program reserves. Building robust reserves enhances the agency's credit rating, lowers the cost of procurement and increases the viability of issuing future bonds for projects.
- Maintain a firewall between the assets and liabilities of the CCE agency and those of municipal general funds.
- Adhere to applicable statutory and regulatory compliance requirements.
- Implement effective risk management practices and ensure transparency and accountability to the local community and oversight agencies.
- Offer complementary programs that serve community interests such as feed and tariff, net-metering, comprehensive energy efficiency retrofits, demand response, community solar, electric vehicle charging, battery storage, as well as support for local training programs in both the private and public sectors and research/development of emerging technologies.
- Establish criteria for the use of surplus revenues that ensures geographic equity and adheres to economic justice principles.
- Define criteria for selecting energy procurement vendor(s) that aligns with the region's sustainability and economic vitality goals.
- Develop a long-term strategic goal of regional energy self-sufficiency by building out local renewable generation projects using local workers making prevailing wages with benefits. Establish a definition of "the use of local workers" and adhere to established local government definitions of "prevailing wages."

ACKNOWLEDGEMENTS

The Project Development Advisory Committee would like express tremendous gratitude to the respective County Boards, City Councils and Joint Powers Agencies within the Monterey tri-county region for participating in this project and embracing regional collaboration on an initiative that holds such significant potential for meeting economic and environmental goals.

Thank you to the PDAC members, lead partner Santa Cruz County, the Project Team and Ambassadors as well as the professional consultants who worked tirelessly for more than three years to investigate community choice energy and provide education to stakeholder groups. We express our thanks and appreciation as well to the two working groups of local volunteer experts and stakeholders who assisted the Project Team (see Appendix 1.)

This project would not have been possible without the fiscal sponsorship of the Community Foundation of Santa Cruz County (CFSCC) accepting donations from generous members of the community. Our sincere thanks to the CFSCC Board and executive staff, and especially to all of the *Monterey Bay CCA Fund* donors (see Appendix 1.)

Grant support from the California Strategic Growth Council, the World Wildlife Fund, and the UC Santa Cruz Carbon Fund was critical to completing this project, for which the committee is sincerely appreciative.

Finally, to the staff of Marin Clean Energy and Sonoma Clean Power, thank you for your technical assistance, generosity and for paving the way for the rest of the California to follow in your footsteps.

Project Development Advisory Committee Members

Nancy Gordon, Chair, Santa Cruz County

Richard Stedman, Vice-Chair, Monterey Bay Unified Air Pollution Control District

Daniel Bertoldi, Monterey County

Ross Clark, City of Santa Cruz

Tim Flanagan, Monterey Regional Waste Management District

Rich Grunow, City of Capitola

Chris Khan, City of Salinas

Nancy Lockwood, City of Watsonville

Patrick Mathews, Salinas Valley Solid Waste Authority

Larry Pearson, Pacific Cookie Company, Business Sector Representative

Adam Goldstone, San Benito County

Taylor Bateman, City of Scotts Valley

Ray Friend, City of Hollister

Roger Grimsley, City of San Juan Bautista

Project Team Members and Ambassadors

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Consultants

Local Energy Aggregation Network (LEAN) – General Strategy & Assistance
Miller Maxfield – Communications and Outreach
Pacific Energy Advisors - Technical Feasibility Study
MRW Associates - Independent Peer Reviewer

JOINT EXERCISE OF POWERS AGREEMENT RELATING TO AND CREATING THE

Monterey Bay Community Power Authority

OF

Monterey, Santa Cruz, and San Benito Counties

This Joint Exercise of Powers Agreement, effective on the date determined by Section 2.1, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the Parties set forth in Exhibit B, establishes the Monterey Bay Community Power Authority ("Authority"), and is by and between the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement ("Counties") and those cities and towns within the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement, and relates to the joint exercise of powers among the signatories hereto.

RECITALS

- A. The Parties share various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions.
- B. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local governments to develop programs to reduce greenhouse gas emissions.
- C. The purposes for entering into this Agreement include:
 - a. Reducing greenhouse gas emissions related to the use of power in Monterey, Santa Cruz, and San Benito Counties and neighboring regions;

- b. Providing electric power and other forms of energy to customers at a competitive cost;
 - c. Carrying out programs to reduce energy consumption;
 - d. Stimulating and sustaining the local economy by developing local jobs in renewable energy; and
 - e. Promoting long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources.
- D. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar, wind, and biomass energy production. The purchase of renewable power and greenhouse gas-free energy sources will be the desired approach to decrease regional greenhouse gas emissions and accelerate the State's transition to clean power resources to the extent feasible. The Agency will also add increasing levels of locally generated renewable resources as these projects are developed and customer energy needs expand.
- E. The Parties desire to establish a separate public agency, known as the Monterey Bay Community Power Authority, under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
- F. The Parties anticipate adopting an ordinance electing to implement through the Authority a common Community Choice Aggregation (CCA) program, an electric service enterprise available to cities and counties pursuant to California Public Utilities Code Sections 331.1(c) and 366.2. The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1: DEFINITIONS AND EXHIBITS

1.1 Definitions. Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2 Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

- Exhibit A: Definitions
- Exhibit B: List of the Parties
- Exhibit C: Annual Energy Use
- Exhibit D: Voting Shares
- Exhibit E: Signatures

ARTICLE 2: FORMATION OF MONTEREY BAY COMMUNITY POWER AUTHORITY

2.1 Effective Date and Term. This Agreement shall become effective and "Monterey Bay Community Power Authority" shall exist as a separate public agency on TBD or when TBD of the Counties of Monterey, Santa Cruz, and San Benito and at least TBD municipalities execute this Agreement, whichever occurs later. The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 6.4, subject to the rights of the Parties to withdraw from the Authority.

2.2 Formation There is formed as of the Effective Date a public agency named the Monterey Bay Community Power Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A

Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 7.4 of this Agreement, this Section 2.2 may not be amended unless such amendment is approved by the governing board of each Party.

2.3 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to study, promote, develop, conduct, operate, and manage energy, energy efficiency and conservation, and other energy-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate in the CCA Program, as further described in Section 4.1. The Parties intend that other agreements shall define the terms and conditions associated with the implementation of the CCA Program and any other energy programs approved by the Authority.

2.4 Powers. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following powers, subject to the voting requirements set forth in Section 3.7 through 3.7.5:

- 2.4.1 to make and enter into contracts;
- 2.4.2 to employ agents and employees, including but not limited to a Chief Executive Officer;
- 2.4.3 to acquire, contract, manage, maintain, and operate any buildings, infrastructure, works, or improvements;
- 2.4.4 to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property; however, the Authority shall not exercise the power of eminent domain within the jurisdiction of a Party over its objection without first meeting and conferring in good faith.

- 2.4.5 to lease any property;
 - 2.4.6 to sue and be sued in its own name;
 - 2.4.7 to incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Sections 53850 et seq. and authority under the Act;
 - 2.4.8 to form subsidiary or independent corporations or entities if necessary, to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;
 - 2.4.9 to issue revenue bonds and other forms of indebtedness;
 - 2.4.10 to apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;
 - 2.4.11 to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
 - 2.4.12 to adopt Operating Rules and Regulations;
 - 2.4.13 to make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services; and
 - 2.4.14 to permit additional Parties to enter into this Agreement after the Effective Date and to permit another entity authorized to be a community choice aggregator to designate the Authority to act as the community choice aggregator on its behalf.
- 2.5 Limitation on Powers. As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the Counties of Monterey, Santa Cruz and San Benito.

2.6 Compliance with Local Zoning and Building Laws and CEQA. Unless state or federal law provides otherwise, any facilities, buildings or structures located, constructed, or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act ("CEQA").

ARTICLE 3: GOVERNANCE AND INTERNAL ORGANIZATION

3.1 Board of Directors. The governing body of the Authority shall be a Board of Directors ("Board"). The Board shall consist of TBD directors appointed by the respective Boards of Supervisors of any of the three Counties of Monterey, Santa Cruz, or San Benito that become a signatory to the Agreement and TBD directors appointed by each City or Town that becomes a signatory to the Agreement ("Directors"). Each Director shall serve at the pleasure of the governing board of the Party who appointed such Director, and may be removed as Director by such governing board at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director within 90 days of the date that such position becomes vacant. Directors must be members of the Board of Supervisors or members of the governing board of the municipality that is the signatory to this Agreement. Each Party may appoint an alternate(s) to serve in the absence of its Director(s). Alternates may be either (1) members of the Board of Supervisors or members of the governing board of the municipality that is the signatory to this Agreement, or (2) staff members of the County or any such municipality.

3.2 Quorum. A majority of the appointed Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.

3.3 Powers and Functions of the Board. The Board shall exercise general governance and oversight over the business and activities of the Authority, consistent with this Agreement and applicable law. The Board shall provide general policy guidance to the CCA Program. Board approval shall be required for any of the following actions:

- 3.3.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing;
- 3.3.2 The hiring or termination of the Chief Executive Officer and General Counsel;
- 3.3.3 The appointment or removal of officers described in Section 3.9, subject to Section 3.9.3;
- 3.3.4 The adoption of the Annual Budget;
- 3.3.5 The adoption of an ordinance;
- 3.3.6 The approval of agreements, except as provided by Section 3.4;
- 3.3.7 The initiation or resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Chief Executive Officer or General Counsel, on behalf of the Authority, may intervene in, become a party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, without approval of the Board as long as such action is consistent with any adopted Board policies;
- 3.3.8 The setting of rates for power sold by the Authority and the setting of charges for any other category of service provided by the Authority; and
- 3.3.9 Termination of the CCA Program.

3.4 Chief Executive Officer. The Board of Directors shall appoint a Chief Executive Officer for the Authority (“CEO”), who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Chief Executive Officer may exercise all powers of the Authority, including the power to hire, discipline and terminate employees as well as the power to approve any agreement if the total amount payable under the agreement is less than \$100,000 in any fiscal year, except the powers specifically set forth in Section 3.3 or those powers which by law must be exercised by the Board of Directors. The CEO shall be an employee of the Authority.

3.5 Commissions, Boards, and Committees. The Board may establish any advisory commissions, boards, and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement which shall comply with the requirements of the Ralph M. Brown Act. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees if the Board deems appropriate to appoint such commissions, boards or committees, and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

3.6 Director Compensation. Directors shall serve without compensation from the Authority. However, Directors may be compensated by their respective appointing authorities. The Board, however, may adopt by resolution a policy relating to the reimbursement by the Authority of expenses incurred by Directors.

3.7 Voting In general, as described below in Section 3.7.3, action by the Authority Board will be taken solely by a majority vote of the Directors present. However, as described below in Section 3.7.4, upon request of a Director, a weighted vote by shares will also be conducted. When such a request is made, an action must be approved by both a majority vote of Directors present and a majority of the weighted vote by shares present. No action may be approved solely by a vote by shares. The voting shares of Directors and approval requirements for actions of the Board shall be as follows:

3.7.1. Voting Shares.

Each Director shall have a voting share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 100, where

(a) "Annual Energy Use" means, (i) with respect to the first year following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWh"), within the Party's respective jurisdiction and (ii) with respect to the period after the anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within a Party's respective jurisdiction that are served by the Authority; and

(b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy Use will be designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year. These adjustments shall be approved by the Board.

(c) The combined voting share of all Directors individually representing the Counties of Monterey, Santa Cruz, and San Benito shall be based upon the annual electricity usage within the unincorporated areas of their respective counties.

For the purposes of Weighted Voting, if a Party has more than one director, then the voting shares allocated to the entity shall be equally divided amongst its Directors.

3.7.2. Exhibit Showing Voting Shares. The initial voting shares will be set forth in Exhibit D. Exhibit D shall be revised no less than annually as necessary to account for changes in the number of Parties and changes in the Parties' Annual Energy Use. Exhibit D and adjustments shall be approved by the Board.

3.7.3. Approval Requirements Relating to CCA Program. Except as provided in Sections 3.7.4 and 3.7.5 below, action of the Board shall require the affirmative vote of a majority of Directors present at the meeting.

3.7.4. Option for Approval by Voting Shares. Notwithstanding Section 3.7.3, any Director present at a meeting may demand that approval of any matter related to the CCA Program be determined on the basis of both voting shares and by the affirmative vote of a majority of Directors present at the meeting. If a Director makes such a demand with respect to approval of any such matter, then approval of such matter shall require the affirmative vote of a majority of Directors present at the meeting and the affirmative vote

of Directors having a majority of voting shares present, as determined by Section 3.7.1 except as provided in Section 3.7.5.

3.7.5. Special Voting Requirements for Certain Matters.

(a) Two-Thirds and Weighted Voting Approval Requirements Relating to Sections 6.2 and 7.4. Action of the Board on the matters set forth in Section 6.2 (involuntary termination of a Party), or Section 7.4 (amendment of this Agreement) shall require the affirmative vote of at least two-thirds of Directors present; provided, however, that (i) notwithstanding the foregoing, any Director present at the meeting may demand that the vote be determined on the basis of both voting shares and by the affirmative vote of Directors, and if a Director makes such a demand, then approval shall require the affirmative vote of both at least two-thirds of Directors present and the affirmative vote of Directors having at least two-thirds of the voting shares present, as determined by Section 3.7.1; (ii) but, at least two Parties must vote against a matter for the vote to fail; and (iii) for votes to involuntarily terminate a Party under Section 6.2, the Director(s) for the Party subject to involuntary termination may not vote, and the number of Directors constituting two-thirds of all Directors, and the weighted vote of each Party shall be recalculated as if the Party subject to possible termination were not a Party.

(b) Seventy Five Percent Special Voting Requirements for Eminent Domain and Contributions or Pledge of Assets.

(i) A decision to exercise the power of eminent domain on behalf of the Authority to acquire any property interest other than an easement, right-of-way, or temporary construction easement shall require a vote of at least 75% of all Directors.

(ii) The imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program shall require a vote of at least 75% of all Directors and the approval of the governing boards of the Parties who are being asked to make such contribution or pledge.

(iii) Notwithstanding the foregoing, any Director present at the meeting may demand that a vote under subsections (i) or (ii) be determined on the basis of voting shares and by the affirmative vote of Directors, and if a Director makes such a demand, then approval shall require both the affirmative vote of at least 75% of Directors present and the affirmative vote of Directors having at least 75% of the

voting shares present, as determined by Section 3.7.1, but at least two Parties must vote against a matter for the vote to fail. For purposes of this section, "imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program" does not include any obligations of a withdrawing or terminated party imposed under Section 6.3.

3.8 Meetings and Special Meetings of the Board. The Board shall hold at least TBD regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special and Emergency Meetings of the Board may be called in accordance with the provisions of California Government Code Sections 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.).

3.9 Selection of Board Officers.

3.9.1 Chair and Vice Chair. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if:

- (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or
- (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

3.9.2 Secretary. The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

3.9.3 Treasurer and Auditor. The TBD shall act as the Treasurer for the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent

audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 5.

3.10 Administrative Services Provider. The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. An Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program. The Administrative Services Provider shall be either an employee or a contractor of the Authority unless a member agency is providing the service.

ARTICLE 4: IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

4.1 Preliminary Implementation of the CCA Program.

4.1.1 Enabling Ordinance. To be eligible to participate in the CCA Program, each Party must adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

4.1.2 Implementation Plan. The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective

Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 3.7.3.

4.1.3 Termination of CCA Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

4.2 Authority Documents. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution. The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 6.

ARTICLE 5: FINANCIAL PROVISIONS

5.1 Fiscal Year. The Authority's fiscal year shall be 12 months commencing July 1 or the date selected by the Agency and ending June 30. The fiscal year may be changed by Board resolution.

5.2 Depository.

5.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

5.2.2 All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

5.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments

by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

5.3 Budget and Recovery of Costs.

5.3.1 Budget. The initial budget shall be approved by the Board. The Board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be approved by the Board in accordance with the Operating Rules and Regulations.

5.3.2 Funding of Initial Costs. The TBD has funded certain activities necessary to implement the CCA Program. If the CCA Program becomes operational, these Initial Costs paid by the TBD shall be included in the customer charges for electric services as provided by Section 5.3.3 to the extent permitted by law, and the TBD shall be reimbursed from the payment of such charges by customers of the Authority. Prior to such reimbursement, the TBD shall provide such documentation of costs paid as the Board may request. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the TBD shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.

5.3.3 CCA Program Costs. The Parties desire that all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric, conservation, efficiency, incentives, financing, or other services provided under the CCA Program, including but not limited to the establishment and maintenance of various reserves and performance funds and administrative, accounting, legal, consulting, and other similar costs, shall be recovered through charges to CCA customers receiving such electric services, or from revenues from grants or other third-party sources.

6.1 Withdrawal.

6.1.1 Right to Withdraw. A Party may withdraw its participation in the CCA Program, effective as of the beginning of the Authority's fiscal year, by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.

6.1.2 Right to Withdraw After Amendment. Notwithstanding Section 6.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement

adopted by the Board which the Party's Director(s) voted against provided such notice is given in writing within thirty (30) days following the date of the vote. Withdrawal of a Party shall require an affirmative vote of the Party's governing board and shall not be subject to the six month advance notice provided in Section 6.1.1. In the event of such withdrawal, the Party shall be subject to the provisions of Section 6.3.

6.1.3 The Right to Withdraw Prior to Program Launch. After receiving bids from power suppliers, the Authority must provide to the Parties the report from the electrical utility consultant retained by the Authority that compares the total estimated electrical rates that the Authority will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report provides that the Authority is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than the incumbent utility or to provide power in a manner that has a lower greenhouse gas emissions rate or uses more renewable energy than the incumbent utility, a Party may immediately withdraw its membership in the Authority without any financial obligation, as long as the Party provides written notice of its intent to withdraw to the Authority Board no more than fifteen days after receiving the report.

6.1.4 Continuing Financial Obligation; Further Assurances. Except as provided by Section 6.1.3, a Party that withdraws its participation in the CCA Program may be subject to certain continuing financial obligations, as described in Section 6.3. Each withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from participation in the CCA Program.

6.2 Involuntary Termination of a Party. Participation of a Party in the CCA program may be terminated for material non-compliance with provisions of this Agreement or any other agreement relating to the Party's participation in the CCA Program upon a vote of Board members as provided in Section 3.7.5. Prior to any vote to terminate participation with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or other agreement that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board

meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its participation in the CCA Program terminated may be subject to certain continuing liabilities, as described in Section 6.3.

6.3 Continuing Financial Obligations; Refund. Except as provided by Section 6.1.3, upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or other financial obligations arising from the Party membership or participation in the CCA Program through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any financial obligations arising after the date of the Party's withdrawal or involuntary termination. Claims, demands, damages, or other financial obligations for which a withdrawing or terminated Party may remain liable include, but are not limited to, losses from the resale of power contracted for by the Authority to serve the Party's load. With respect to such financial obligations, upon notice by a Party that it wishes to withdraw from the CCA Program, the Authority shall notify the Party of the minimum waiting period under which the Party would have no costs for withdrawal if the Party agrees to stay in the CCA Program for such period. The waiting period will be set to the minimum duration such that there are no costs transferred to remaining ratepayers. If the Party elects to withdraw before the end of the minimum waiting period, the charge for exiting shall be set at a dollar amount that would offset actual costs to the remaining ratepayers, and may not include punitive charges that exceed actual costs. In addition, such Party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority and approved by a vote of the Board of Directors, to cover the Party's financial obligations for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any financial obligations shall be returned to the Party. The liability of any Party under this section 6.3 is subject and subordinate to the provisions of Section 2.2, and nothing in this section 6.3 shall reduce, impair, or eliminate any immunity from liability provided by Section 2.2.

6.4 Mutual Termination. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the

rights of a Party to withdraw its participation in the CCA Program, as described in Section 6.1.

6.5 Disposition of Property upon Termination of Authority. Upon termination of this Agreement, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1 Dispute Resolution. The Parties and the Authority shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. Should such informal efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be mediated in accordance with policies and procedures established by the Board.

7.2 Liability of Directors, Officers, and Employees. The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Sections 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

7.3 Indemnification of Parties. The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties, and the public. The Authority shall defend, indemnify, and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries, and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

7.4 Amendment of this Agreement. This Agreement may not be amended except by a written amendment approved by a vote of Board members as provided in Section 3.7.5. The Authority shall provide written notice to all Parties of amendments to this Agree-

ment, including the effective date of such amendments, at least 30 days prior to the date upon which the Board votes on such amendments.

7.5 Assignment. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 7.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 7.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

7.6 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

7.7 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

7.8 Execution by Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

7.9 Parties to be Served Notice. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall

be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

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Exhibit A

Definitions

“Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.)

“Administrative Services Agreement” means an agreement or agreements entered into after the Effective Date by the Authority with an entity that will perform tasks necessary for planning, implementing, operating and administering the CCA Program or any other energy programs adopted by the Authority.

“Agreement” means this Joint Powers Agreement.

“Annual Energy Use” has the meaning given in Section 3.7.1. “Authority” means the Monterey Bay Community Power Authority.

“Authority Document(s)” means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions, and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

“Board” means the Board of Directors of the Authority.

“CCA” or “Community Choice Aggregation” means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

“CCA Program” means the Authority’s program relating to CCA that is principally described in Sections 2.3, 2.4, and 4.1.

“Director” means a member of the Board of Directors representing a Party.

“Effective Date” means ~~February 29, 2016~~TBD or when the TBD of the Counties of Monterey, Santa Cruz, and San Benito and at least TBD municipalities execute this Agreement execute this Agreement, whichever occurs later, as further described in Section 2.1.

“Implementation Plan” means the plan generally described in Section 4.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the

California Public Utilities Commission for the purpose of describing a proposed CCA Program.

“Initial Costs” means all costs incurred by the County and/or Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, and any required accounting, administrative, technical, or legal services in support of the Authority’s initial activities or in support of the negotiation, preparation, and approval of one or more Administrative Services Agreements.

“Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

“Parties” means, collectively, any municipality within the Counties of Monterey, Santa Cruz and San Benito which executes this Agreement.

“Party” means a signatory to this Agreement.

“Total Annual Energy” has the meaning given in Section 3.7.1.

Exhibit B

List of Parties

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Exhibit C and D

Annual Energy and Voting Shares (if applicable)

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