

AGENDA
REGULAR MEETING OF THE
CITY OF KING CITY COUNCIL
AND
Sitting as SUCCESSOR AGENCY OF
THE RDA FOR THE CITY OF KING

TUESDAY FEBRUARY 28, 2017
6:00 P.M.

CITY HALL
212 S. VANDERHURST AVENUE
KING CITY, CALIFORNIA 93930

**Spanish interpretation services will be available at meeting*

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a City meeting, Please contact the City Clerk's Office (831-386-5925) at least 48 hours prior to the Meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting.

** Please submit all correspondence for City Council PRIOR to the meeting with a copy to the City Clerk.*

1. **CALL TO ORDER**
2. **ROLL CALL:** Council Members Darlene Acosta, Robert Cullen, Carlos DeLeon, Mayor Pro Tem Carlos Victoria, and Mayor Mike LeBarre
3. **FLAG SALUTE**
4. **CLOSED SESSION ANNOUNCEMENTS**
5. **SPECIAL PRESENTATIONS**

None

6. **PUBLIC COMMENT**

Any member of the public may address the Council for a period not to exceed *three minutes'* total on any item of interest within the jurisdiction of this Council that is not on the agenda. The Council will listen to all communications; however, in compliance with the Brown Act, the Council cannot act on items not on the agenda. Comments should be directed to the Council as a whole and not to any individual Council Member. Slanderous, profane or personal remarks against any Council Member, staff member or member of the audience is not permitted.

7. **COUNCIL COMMUNICATIONS & COMMITTEE REPORTS**

Individual Council Members may comment on Council business, his or her Council activities, City operations, projects or other items of community interest. Council Members may also request staff to report back at a subsequent meeting on any matter or take action to direct staff to prepare a staff report for a future agenda.

8. **STAFF COMMUNICATIONS**

Comments presented by the City Manager, City Attorney or other staff on City business and/or announcements.

9. CONSENT AGENDA

The following items listed below are scheduled for consideration as a group. The recommendations for each item are noted. Members of the audience may speak on any item(s) listed on the Consent Agenda. Any Council Member, the City Manager, or the City Attorney may request that an item be withdrawn from the Consent Agenda to allow for full discussion. The Council may approve the remainder of the Consent Agenda on one motion. Items withdrawn from the Consent Agenda may be considered by separate motions at the conclusion of the discussion of each item.

- A. Meeting Minutes of February 14, 2017 Council Meeting
Recommendation: approve and file.
- B. City Monthly Treasurer's Report- January 2017
Recommendation: approve and file.
- C. Successor Agency Monthly Treasurer's Report- January 2017
Recommendation: approve and file.
- D. Public Financing Authority Monthly Treasurer's Report- January 2017
Recommendation: approve and file.
- E. City Check Register
Recommendation: approve and file.
- F. Successor Agency Check Register
Recommendation: approve and file.
- G. Consideration: Adoption of an Ordinance of the City Council of the City of King Adding Chapter 7.51 to Title 7 of the King City Municipal Code Pertaining to Nuisances
Recommendation: adopt the proposed Ordinance to be read by title only.
- H. Consideration: Adoption of an Ordinance of the City Council of the City of King, California Amending the General Plan Land Use Designation from Public Quasi ("PQ") to Agriculture ("AG") (CASE NO. GPA2017-001) On A Portion of Assessor Parcel No. 245-111-036-000.
Recommendation: adopt the proposed Ordinance to be read by title only.
- I. Consideration: Adoption of an Ordinance of the City Council of the City of King, California Approving a Zone District Change from Light Industrial ("M-1") to Agriculture ("AG") (CASE NO. ZC2017-001) On A Portion of Assessor Parcel No. 245-111-036-000
Recommendation: adopt the proposed Ordinance to be read by title only.
- J. Consideration: Adoption of an Ordinance of the City Council of the City of King Amending Section 4.7 (Allowable Land Uses) of the City of King Historic Corridor Revitalization Plan and Amending the Allowable Uses in the Village Core (VC) Zoning District Allowing Health and Fitness Facilities Greater than 1,500 Square Feet in Area within Existing Buildings.
Recommendation: adopt the proposed Ordinance to be read by title only.

- K. Consideration: Authorization Involving Positions on Legislation and Support for Grant Applications
Recommendation: adopt a Resolution granting the Mayor and City Manager authority to send letters of support or opposition to legislation and grant applications meeting specified criteria.
- L. Consideration: Support for Assembly Bill 1
Recommendation: approve and authorize the Mayor to submit a letter of support for Assembly Bill (AB) 1 regarding transportation funding.

10. PUBLIC HEARINGS

- A. Consideration: Community Choice Energy Program Alternatives and Introduction of an Ordinance Authorizing Implementation of a Community Choice Aggregation Program.
Recommendation: 1) decline membership in the Monterey Bay Community Power Joint Powers Authority; 2) direct staff to proceed with the recommended steps to further assess the feasibility of establishing an independent Community Choice Energy program; and 3) solicit interest from other South County jurisdictions in participation in a joint effort.

11. REGULAR BUSINESS

- A. Consideration: Citywide Police Security Camera Project
Recommendation: 1) authorize the City Manager to execute an agreement in a form approved by the City Attorney with SurveillanceGRID Integration, Inc. for design, equipment and installation of a citywide security camera system; and 2) appropriate \$390,000.

12. CITY COUNCIL CLOSED SESSION

Announcement(s) of any reportable action(s) taken in Closed Session will be made in open session, and repeated at the beginning of the next Regular City Council meeting as this portion of the meeting is not recorded.

1. Conference with Real Property Negotiators
Properties: APN 026-195-010-000, APN 026-195-018-000, 332 Broadway St.;
APN 026-195-012-000, 325 Lynn St.
Agency Negotiator: Steven Adams
Negotiating Party: Cheung Ho Ming
2. Worker's Compensation Claim by Abraham Aguayo
Claims against City of King (Claim Numbers:140100130 and 131000032)
Gov. Code Section: 54956.95
3. Worker's Compensation Claim by Dominic Baldiviez
Claims against City of King (Claim Number: 130500221)
Gov. Code Section: 54956.95

13. ADJOURNMENT

**City Council Meeting
February 14, 2017**

1. CALL TO ORDER:

Meeting was called to order at 6:02 PM by Mayor LeBarre.

2. FLAG SALUTE:

The flag salute was led by Councilmember Acosta.

3. ROLL CALL:

City Manager Adams conducted roll call.

City Council: Darlene Acosta, Robert Cullen, Carlos DeLeon, Mayor Pro Tem Carlos Victoria, Mayor Michael LeBarre.

City Staff: City Manager Steven Adams, Assistant Interim Attorney Roy Santos

4. CLOSED SESSION ANNOUNCEMENTS:

No reportable action.

5. PRESENTATIONS:

None

6. PUBLIC COMMUNICATIONS:

None

7. COUNCIL COMMUNICATIONS:

Council Member Cullen attended the Salinas Valley Fair board meeting reporting the loan on the Orradre building is down to \$469,000. Upcoming items, Heritage members packet pick-up party April 6th, Fair Kick off dinner April 22nd and Golf tournament fundraiser April 29th. Salinas Valley Fair board approved their Master Facilities Plan they will schedule a time to do a presentation to Council. Southern Monterey County Foundation voted in Council member Cullen as chair. Salinas Valley Solid Waste Authority currently doing a tire recycling program. He also left a number of items of information on the table for the public to take. This Thursday is the next Solid Waste Authority meeting. The Hospital is going to do some upgrades to the clinic to help cut down on wait time.

Mayor Pro Tem Victoria attended the Big Event on Saturday. He stated that King City High School is getting ready for their Prom. King City High School is one of 22 high schools in the state that have the Honor roll AB district. TAMC wants to do an orientation March 1st as he is the alternate. Nothing to report on the AMBAG.

Council Member DeLeon had nothing to report however he wanted to speak about the violence in our streets that have been happening. He is discouraged about no one coming forward to help or coming to the meetings. He is also frustrated that no one from the Police department is here. He encourages everyone to come forward and take the streets back from the criminals.

Council Member Acosta is upset about the shootings also she would like to walk the streets with a sign saying Take Back King City. She wished the people who call Council were here to hold the other side of the sign. She was fortunate to be able to attend Monterey Supervisors meeting and spoke on King City losing services when the court house was closed. Four Cities for Peace Meeting tomorrow in Gonzales.

Mayor LeBarre stated that the Trashion show is coming up on the 16th the Orradre Building. On the 21st Fort Hunter Liggett is holding a Community Partners meeting at Hartnell College at 10:30a.m. a He is thankful for working with Council and they are working extremely hard on the community's behalf.

8. CITY STAFF REPORTS AND COMMENTS:

City Manager Adams stated that he wanted to speak on the escalation of the shootings that has been happening. The Chief is speaking to Girls Inc but should be here soon to give an update. He further stated we are implementing the Comprehensive Youth Violence Plan as a proactive way to attack the violence. This is not just a plan it is an action plan. Installation of security cameras is moving forward and the contract is being brought to Council in one of the next two meetings. Probation officer position (both school districts, probation and city) would be cost sharing MOU and that should be brought forward in the next month for Council consideration. The City is looking at grants and community fundraising to move forward with the ProYouth program, with a pilot project of 180 kids starting in the fall. Gang detail officer will be worked into the budget. 100 street lights are still scheduled to be installed in the summer. A diversion program was just started with Sunstreet Centers to get kids back on track. The City is going to accelerate getting our district meetings set up to help all the residence on how they can work together to make their neighborhood safer.

The Chief is working with all the South County cities to add staff to the PD for a few weeks so more stops can be made to monitor activities in the City. The Police Department staffing is almost at full staffing.

Attorney Chaffin stated nothing at this time.

Chief Masterson reported on recent shootings. The Police Department is coordinating with other agencies to have more officers on the streets. After these shootings, no one is coming forward to report the crimes. The feeling is that there is a north and south feud going on. Captain and Sergeant positions still need to be filled. One new officer is starting on Saturday. The Chief stated that they will do what they can with what they have. Police Department wants to keep the crime down and stop the violence.

9. CONSENT AGENDA

- A. Meeting Minutes of January 24, 2017 Council Meeting
- B. Meeting Minutes of January 24, 2017 Public Financing Authority Meeting
- C. City Check Register
- D. Successor Agency Check Register
- E. Consideration: Cancellation of July 25, 2017 Meeting
- F. Consideration: Approve PG&E Safety Improvements to Pocket Park
- G. Consideration: Resolution Retaining Designated Posting Locations for Summaries of Ordinances

Karen Jernigan commented on item G. She would like a sign or special bulletin board stating that this is City business.

RJ Rivera commented on the State of the City in bilingual session at the church. The community appreciated the reach out. Would like to see Spanish speaking public educated on what their options are to come forward and give information.

Action: Motion to approve consent agenda by Acosta and seconded by Cullen.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

10. PUBLIC HEARINGS:

A. Consideration: Adoption of an Ordinance Adding Chapter 7.55 to Title 7 of the King City Municipal Code Regulating Recreational and Medical Marijuana or Cannabis, including a CEQA Finding under CEQA Guidelines Sections 15061(b)(3), 15307, and 15308.

Mayor LeBarre opened the public hearing to allow public testimony, seeing no one come forward, he closed the public hearing.

City Attorney Chaffin introduced this item. He explained the definition of a Greenhouse. Generally, cannot use a greenhouse. No plastic walls, can't see into it, has to be walled, has to comply with the building code. Added language to all ordinances "NOW THEREFORE, the people of the chartered City of King City do ordain as follows:"

Added a "WHEREAS, it is the intent of the City of King that nothing in this ordinance prevent any person from engaging in, or working for a business, that is engaged in Commercial Marijuana Ordinance as Commercial Cultivation."

Action: Motion to adopt an Ordinance Adding Chapter 7.55 to Title 7 of the King City Municipal Code Regulating Recreational and Medical Marijuana or Cannabis, including a CEQA Finding under CEQA Guidelines Sections 15061(b)(3), 15307, and 15308 with the additions noted by the City Attorney, by DeLeon and seconded by Victoria.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

B. Consideration: An Ordinance Amending the General Plan Land Use Designation from Public Quasi-Public ("PQ") to Agriculture ("AG") (Case No. GPA2017-001) and Approving a Zone District Change from Industrial ("M-1") to Agriculture ("A") (Case No. ZC2017-001) on a Portion of Assessor Parcel No. 245-111-036-000.

Community Development Director, Doreen Liberto-Blanck introduced this item showing a Power Point.

Mayor LeBarre opened the public hearing to allow public testimony, seeing no one come forward, he closed the public hearing.

City Attorney Chaffin read into the record that a General Plan Land Use Ordinance was handed out and the other Ordinance was in the packet.

City Attorney Chaffin read the title into the record. "An ordinance of the City Council of the City of King, California amending the general plan land use designation from public quasi (PQ) to agriculture (AG) (Case No. GPA2017-001) on a portion of Assessor Parcel No. 245-111-036-000."

Action: Motion to introduce the Ordinances to be read by title only, waive first reading of Ordinance and approve the introduction of the proposed Ordinance by Victoria and seconded by DeLeon.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

City Attorney Chaffin read the title into the record. "An ordinance of the City Council of the City of King, California approving a zoning district change from industrial (M-1) to agriculture (AG) (Case No. ZC2017-001) on a portion of assessor parcel no. 245-111-036-000."

Action: Motion to introduce the Ordinances to be read by title only, waive first reading of both Ordinances and approve the introduction of the proposed Ordinance by DeLeon and seconded by Acosta.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

Council member Cullen recused himself due to a conflict.

C. Consideration: An Ordinance Amending Section 4.7 (Allowance of Land Uses) of the City of King Historic Corridor Revitalization Plan to Amend the Allowable Uses in the Village Core (VC) Zoning District for the Purpose of Allowing Health and Fitness Facilities Greater Than 1,500 Square Feet in Area Subject to a Conditional Use Permit

Principal Planner, Don Funk introduced this item and showed his Power Point.

Mayor LeBarre opened the public hearing to allow public testimony, seeing no one come forward, he closed the public hearing.

City Attorney Chaffin read into the record that a clarified version of the ordinance was presented to the council and available to the public.

Action: Motion to introduce the Ordinance to be read by title only, waive first reading of the Ordinance and approve the introduction of the proposed Ordinance by Acosta and seconded by Victoria.

AYES: Council Members: Mayor LeBarre, Acosta, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members: Cullen,

ABSTAIN: Council Members:

Council member Cullen returned to the meeting.

D. Consideration: An Ordinance Adding Chapter 7.51 to Title 7 of the King City Municipal Code Pertaining to Nuisances

City Manager Adams introduced this item.

City Attorney Chaffin further introduced this item and read the title into the record.

Mayor LeBarre opened the public hearing to allow public testimony.

Janet Buttgerreit spoke on being on a committee four City Managers ago to address property maintenance and beautification of our City. The Committee recommended ordinances that would help people clean up their front yards but seemed to have been lost. She feels that this nuisance ordinance is a conduit to help get places that are resistant to being cleaned up, cleaned up. King City in Bloom it a beautiful addition for the town. The ordinance before council tonight provides tools to bring absentee landlords to reasonable levels of compliance.

The Mayor closed the public hearing.

Mayor LeBarre would like some wording taken out as he feels it is bordering dictating person's language. City Attorney stated that at after the semi-colon put a period and strike the rest of the sentence.

Action: Motion to introduce the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance and approve the introduction of the proposed Ordinance with the modification that the City Attorney stated by Cullen and seconded by Victoria.

AYES: Council Members: Mayor LeBarre, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members: Acosta,

ABSENT: Council Members:

ABSTAIN: Council Members:

Five-minute recess

Motion for reconsideration of last motion made by Council member Cullen seconded by Council member DeLeon. Unanimous approval to reconsider last motion.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

Action: Motion to approve the Nuisance Ordinance in its entirety, to be read by title only, waive first reading of the Ordinance by Acosta and seconded by DeLeon.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

11. REGULAR BUSINESS:

A. Consideration: Consideration of Mid-Year Financial Report

Finance Director Howard presented this item going over each fund.

Karen Jernigan appreciates the support of the facade improvement program. She notices the expenditure in the city council fund and she wants remind Council what they can do with it. She wants them to simplify the language more for general public to understand better and to stay mindful of the expenditures over \$10,000 to really look at those bills.

Council member Cullen would the like Golf Manager to come and make a report.

Action: Motion to receive the City of King Mid-Year Financial Report and approve the recommended Mid-Year Budget Adjustments by Victoria and seconded by DeLeon.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

B. Consideration: FY 2017-18/ FY 2018-19 Budget Priorities and Goals

City Manager Adams presented this item.

Action: Motion to approve the proposed budget goals for FY 2017-18/FY 2018-19 by Cullen and seconded by DeLeon.

AYES: Council Members: Mayor LeBarre, Acosta, Cullen, DeLeon and Mayor Pro Tem Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

12. CLOSED SESSION:

A. Conference with Real Property Negotiators

Properties: APN #026-381-001

Agency Negotiators: Steven Adams

Negotiating Jerry Rava II

ADJOURNMENT:

There being no further business to come before the City Council, Mayor LeBarre adjourned the meeting at 8:06pm to closed session with the Mayor stating what would be discussed in closed session.

Approved Signatures:

Mayor, Michael LeBarre
City of King

City Clerk, Steven Adams
City of King



KING CITY
C A L I F O R N I A

Item No. 9(B)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

BY: PATRICIA GRAINGER, ACCOUNTANT

RE: MONTHLY TREASURER'S REPORT – JANUARY 2017

RECOMMENDATION:

It is recommended City Council receive and file.

BACKGROUND:

The California Government Code Section 41004 states "Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances."

DISCUSSION:

The California Government Code authorizes and regulates the investment of local agency (city and county) funds. The City currently invests its funds with the Local Agency Investment Fund (LAIF) Program, administered by the State of California Treasurer's office. The City's housing rehab account is held at 1st Capital Bank, and the City's checking and payroll accounts, as well as developer deposits, are held at Well Fargo Bank, located at 506 Broadway, King City, CA 93930. A summary of investments and returns for the City is provided in the attached report.

COST ANALYSIS:

There is no fiscal impact as a result of this action.

**CITY COUNCIL
MONTHLY TREASURER'S REPORT – JANUARY 2017
FEBRUARY 28, 2017
PAGE 2 OF 2**

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Receive and file the report; or
2. Provide other direction to staff regarding requests for additional information.

Exhibits:

1. Investment Report

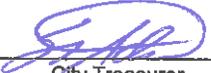
Submitted by: 
Patricia Grainger, Accountant

Approved by: 
Steven Adams, City Manager

City of King
Investment Report
Schedule of Cash and Investments
January 31, 2017

Investment Instrument		Yield	Amount	Maturity	Value
Invested by City Treasurer					
Institution	Investment Type				
State of California LAIF - City	Pooled	0.68%	2,263,192.93	On Demand	N/R
1st Capital Bank	Checking Acct Housing Rehab	-	91,920.07	On Demand	N/R
Wells Fargo Bank	General Checking	-	1,632,286.52	On Demand	N/R
Wells Fargo Bank	Payroll Checking Account	-	3,730.36	On Demand	N/R
Petty Cash-City Hall/Change Fund	Change Cash Drawer	-	500.00	On Demand	N/R
Invested by City Treasurer (Subtotal):			3,991,629.88		
Total Cash and Investments			3,991,629.88		

Pursuant To Government Code 41004, I hereby certify that this report reflects all City's investments. This investment program complies with the City Investment Policy. Anticipated approval by the City Council on 02/28/2017. Cash flow liquidity is still limited.

SIGNED: 

 City Treasurer



Item No. 9(C)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: STEVEN ADAMS, CITY MANAGER

BY: PATRICIA GRAINGER, ACCOUNTANT

**RE: SUCCESSOR AGENCY MONTHLY TREASURER'S REPORT –
JANUARY 2017**

RECOMMENDATION:

It is recommended City Council receive and file.

BACKGROUND:

The California Government Code Section 41004 states "Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances."

DISCUSSION:

The California Government Code authorizes and regulates the investment of local agency (city and county) funds, including successor agencies. The Successor Agency invests its bond proceeds in US Treasury obligations. All bond reserve funds are held by one bond trustee, U.S. Bank, and invested in accordance with the trustee agreement. The Successor Agency has three tax allocation bonds (TABs) issued. Yield, maturity and investment amount (proceeds) are itemized on the Successor Agency Schedule of Cash and Investments for the Agency.

COST ANALYSIS:

There is no fiscal impact as a result of this action.

**CITY COUNCIL/SUCCESSOR AGENCY
SA MONTHLY TREASURER'S REPORT – JANUARY 2017
FEBRUARY 28, 2017
PAGE 2 OF 2**

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Receive and file the report; or
2. Provide other direction to staff regarding requests for additional information.

Exhibits:

1. Investment Report

Submitted by: 

Patricia Grainger, Accountant

Approved by: 

Steven Adams, City Manager

City of King
Investment Report
Schedule of Cash and Investments
January 31, 2017

Investment Instrument		Yield	Amount	Maturity	Value
Invested by City Treasurer					
Institution	Investment Type				
Wells Fargo Bank	SA Checking Account		3,057,201.28	On Demand	N/R
Invested by City Treasurer (Subtotal):			3,057,201.28		
Invested by Trustees (as of January Statements)					
Bond Reserves (1)					
U.S. Bank - 2011 TARB					
US Bank Money Market Ct	Escrow Fund #5050	0.00%	6,050,313.08	8/1/2034	6,050,313.08
U.S. Bank - 2016 A & B TARB					
US Bank Money Market Ct	Debt Service Fund #5000	0.00%	80,157.05	3/31/2025	80,157.05
US Bank Money Market Ct	Interest Account #5001	0.10%	9,223.55	3/31/2025	9,223.55
US Bank Money Market Ct	Cost of Issu Acct. #5009	0.10%	0.00	3/31/2025	0.00
U.S. Bank - 2016 TARB					
US Bank Money Market Ct	Debt Service Fund #6000	0.10%	4.13	3/31/2025	4.13
US Bank Money Market Ct	Interest Account #6001	0.00%	56.48	9/30/2016	56.48
US Bank Money Market Ct	Sinking Account #6003	0.00%	0.00	9/30/2016	0.00
US Bank Money Market Ct	Reserve Account #6005	0.10%	319,633.60	3/31/2025	319,633.60
US Bank Money Market Ct	Cost of Issu Fund #6009	0.10%	0.00	9/30/2016	0.00
US Bank Money Market Ct	Escrow Fund #6050	0.39%	0.00	9/30/2016	0.00
Market Value Provided by U.S. Bank, Trustee					
Invested by Trustees (Subtotal):			6,459,387.89		
Total Cash and Investments			9,516,589.17		

Pursuant To Government Code 41004, I hereby certify that this report reflects all City's investments. This investment program complies with the City Investment Policy. Anticipated approval by the City Council on 02/28/2017. Cash flow liquidity is still limited.

SIGNED:  _____
City Treasurer

Note:
(1) Bonds



Item No. 9(D)

REPORT TO THE PUBLIC FINANCING AUTHORITY

DATE: FEBRUARY 28, 2017

TO: HONORABLE CHAIR AND MEMBERS OF THE AUTHORITY

FROM: STEVEN ADAMS, SECRETARY

BY: PATRICIA GRAINGER, ACCOUNTANT

RE: MONTHLY TREASURER'S REPORT – JANUARY 2017

RECOMMENDATION:

It is recommended City Council receive and file.

BACKGROUND:

The California Government Code Section 41004 states "Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances." The Public Finance Authority was used for the issuance of the Sewer Enterprise Bonds.

DISCUSSION:

The California Government Code authorizes and regulates the investment of local agency (city and county) funds. The Authority currently invests its funds with the Local Agency Investment Fund (LAIF) Program, administered by the State of California Treasurer's office, as well as bank CD's and instruments issued by agencies of the United States Government. A summary of investments and returns for the Financing Authority is provided in the attached report.

COST ANALYSIS:

There is no fiscal impact as a result of this action.

**CITY COUNCIL/PUBLIC FINANCING AUTHORITY
MONTHLY TREASURER'S REPORT – JANUARY 2017
FEBRUARY 28, 2017
PAGE 2 OF 2**

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Receive and file the report; or
2. Provide other direction to staff regarding requests for additional information.

Exhibits:

1. Investment Report

Submitted by: 
Patricia Grainger, Accountant

Approved by: 
Steven Adams, Secretary

City of King
Investment Report
Schedule of Cash and Investments
January 31, 2017

Investment Instrument		Yield	Amount	Maturity	Value
Invested by City Treasurer					
	Investment Type				
Wells Fargo Bank	Fin Auth Checking Account		8,885.07	On Demand	N/R
State of California LAIF- Financing Authority	Pooled	0.68%	5,037.46	On Demand	N/R
Invested by City Treasurer (Subtotal):			13,922.53		
Total Cash and Investments			13,922.53		

Pursuant To Government Code 41004, I hereby certify that this report reflects all City's investments. This investment program complies with the City Investment Policy. Anticipated approval by the City Council on 02/28/2017. Cash flow liquidity is still limited.

SIGNED:  _____
Secretary



KING CITY
C A L I F O R N I A

Item No 9(E)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

BY: PATRICIA GRAINGER, ACCOUNTANT

RE: CITY CHECK REGISTER

RECOMMENDATION:

It is recommended City Council receive and file.

BACKGROUND:

At least once a month, the City Treasurer shall submit to the City Council, a copy of the check register.

DISCUSSION:

The purpose of this item is to provide the Council an opportunity to review and monitor ongoing expenditures. These documents are attached.

COST ANALYSIS:

There is no fiscal impact as a result of this action.

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Receive and file the report; or
2. Provide other direction to staff regarding requests for additional information.

**CITY COUNCIL/CITY
CITY CHECK REGISTER
FEBRUARY 28, 2017
PAGE 2 OF 2**

Exhibit(S)

1. Check Register Report

Submitted by: 
Patricia Grainger, Accountant

Approved by: 
Steven Adams, City Manager

Check Register Report

Date: 02/15/2017

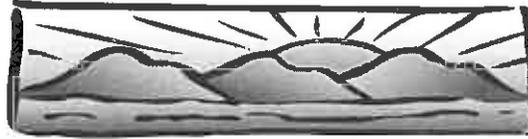
Time: 1:02 pm

Page: 1

KING CITY CITY HALL

BANK: WELLS FARGO BANK

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
WELLS FARGO BANK Checks							
58669	02/10/2017	Printed		A T T	A T & T	Monthly Internet -	154.00
58670	02/10/2017	Printed		APPAREL	A2K LLC	Service Bar Emblems for	82.95
58671	02/10/2017	Printed		ACEHIGH	ACE HIGH DESIGNS INC	BB Uniforms	396.31
58672	02/10/2017	Printed		A & W	ALESHIRE & WYNDER LLP	Legal Services -	24,531.94
58673	02/10/2017	Printed		ALVAREZ	ALVAREZ TECHNOLOGY GROUP INC	Computer Support	14,275.03
58674	02/10/2017	Printed		AMERIGAS	AMERIGAS PROPANE LP	Tank Rental -	109.52
58675	02/10/2017	Printed		AT & T	AT & T	Sentry Alarm Service -	96.38
58676	02/10/2017	Printed		AT&T - C	AT&T	Phone Bill -	696.37
58677	02/10/2017	Printed		BENSON	RICHARD A. BENSON PLUMBING	Snake Bathroom -	81.00
58678	02/10/2017	Printed		BOWEN	HERBERT BOWEN	CIT Training Commuter.	40.00
58679	02/10/2017	Printed		CAL WATER	CALIFORNIA WATER SERVICE CO.	City's Monthly Water -	14,375.80
58680	02/10/2017	Printed		CASEY PRIN	CASEY PRINTING, INC.	Mayor M LeBarre -	1,339.81
58681	02/10/2017	Printed		CASTISM	ISMELDA CASTELLANO	Rec Center Rental	200.00
58682	02/10/2017	Printed		UMSTEAD EL	CLIFTON T. UMSTEAD	Test 1st Lift Station	6,717.58
58683	02/10/2017	Printed		COASTL	COASTLINE MARKETING GROUP INC	Web Monthly Membership	125.00
58684	02/10/2017	Printed		DAVE'S REP	DAVE'S REPAIR SERVICE	Monthly Site Inspection	80.00
58685	02/10/2017	Void	02/10/2017			Void Check	0.00
58686	02/10/2017	Printed		EARTH DESI	EARTH DESIGN, INC.	Moya - 511 Broadway	16,369.35
58687	02/10/2017	Printed		FIRE PROGR	EWERS TECHNOLOGY LLC	Computer Programs	835.00
58688	02/10/2017	Printed		FAVAK	GABRIEL FAVAK	Rec Center Deposit - 1/21/17	200.00
58689	02/10/2017	Printed		FIRST AL	FIRST ALARM, INC	Inspection & Monitor Fee.	354.00
58690	02/10/2017	Printed		GIS	GONZALES IRRIGATION SYSTEMS,	Rain Gear	294.36
58691	02/10/2017	Printed		GUTTREE	GUTIERREZ TREE TRIMMING &	5 Tree Removals	3,200.00
58692	02/10/2017	Printed		GUTYI	YESENIA GUTIERREZ	Soccer Refnd - Fall 2016	80.00
58693	02/10/2017	Printed		HALE	DAVID P HALE	Legal Service - General	4,190.00
58694	02/10/2017	Printed		HDLCO	HDL COREN & CONE	Jan - Mar 2017	1,250.00
58695	02/10/2017	Printed		INTTIRE	INTERNATIONAL TIRES	Flat Repair	20.00
58696	02/10/2017	Printed		JB TIRE	MIGUEL JACOBO	Unit 102 - Redi-Sensor,	3,103.36
58697	02/10/2017	Printed		KEREZSI	ANITA KEREZSI	2015-16 State Mandated	1,000.00
58698	02/10/2017	Printed		KC IND	KING CITY INDUSTRIAL SUPPLY	Binder Chain	514.54
58699	02/10/2017	Printed		KC TRUE	KING CITY TRUE VALUE	Deck Scrub	159.49
58700	02/10/2017	Printed		LINCOLN	LINCOLN AQUATICS	Repair for Pool Parts	1,363.33
58701	02/10/2017	Printed		MASTERSON	ROBERT MASTERSON	Town Watch Meeting	15.00
58702	02/10/2017	Printed		MBAS	MBAS, INC.	Lab Work	1,820.00
58703	02/10/2017	Printed		M BASIA	MBASIA	W/C & Liability Premium.	526,167.26
58704	02/10/2017	Printed		MOCO SHERI	MO CO SHERIFF'S OFFICE	CJIS 10/20/16 - 12/2016	6,696.62
58705	02/10/2017	Printed		MO BAY SYS	MONTEREY BAY OFFICE PRODUCTS	Copier Contracts	664.87
58706	02/10/2017	Void	02/10/2017			Void Check	0.00
58707	02/10/2017	Printed		OFFICE DEP	OFFICE DEPOT	Printer toner	990.72
58708	02/10/2017	Printed		PARTS & SE	PARTS & SERVICE CTR- NAPA, INC	Service Dump Truck	193.01
58709	02/10/2017	Printed		PURE WATEF	PENINSULA PURE WATER INC.	Water Services - Jan 2017	69.45
58710	02/10/2017	Printed		PETTY CASH	PETTY CASH-PATRICIA GRAINGER	Petty Cash - Misc Expenses	72.00
58711	02/10/2017	Printed		PBGFS	PITNEY BOWES GLOBAL	Posting Machine Lease -	630.87
58712	02/10/2017	Printed		PLIC	PLIC - SBD GRAND ISLAND	D McKneely (Ex Employee)	117.28
58713	02/10/2017	Printed		QUILL CORP	QUILL CORPORATION	Supplies	128.34
58714	02/10/2017	Printed		RED SHIFT	RED SHIFT INTERNET SERVICES	City Hall Internet	30.90
58715	02/10/2017	Printed		ELREPA	RENE MARTINEZ JR.	Safety Boots	4,227.92
58716	02/10/2017	Printed		ROBLES	RICARDO ROBLES	CIT Training - Commuter Meals	40.00
58717	02/10/2017	Printed		RRM DESIGN	RRM DESIGN GROUP, INC.	K C Downtown Street Scope	3,920.65
58718	02/10/2017	Printed		SALINAS V	SALINAS VALLEY PRO SQUAD	Uniform Allowance FY 16-17	2,432.20
58719	02/10/2017	Printed		SVSWA	SALINAS VALLEY SOLID WASTE	Recycling Program	5,000.00
58720	02/10/2017	Printed		SO CO NEWS	SO CO NEWSPAPERS	Public Hearing Notification.	240.00
58721	02/10/2017	Printed		SPEAK	SPEAKWRITE BILLING DEPT	Services for Jan 2017	134.92



KING CITY
C A L I F O R N I A

Item No 9(F)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017
TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: STEVEN ADAMS, CITY MANAGER
BY: PATRICIA GRAINGER, ACCOUNTANT
RE: SUCCESSOR AGENCY CHECK REGISTER

RECOMMENDATION:

It is recommended City Council receive and file.

BACKGROUND:

At least once a month, the City Treasurer shall submit to the City Council, a copy of the check register and invoice approval fund list.

DISCUSSION:

The purpose of this item is to provide the Council an opportunity to review and monitor ongoing expenditures. These documents for the Successor Agency are attached.

COST ANALYSIS:

There is no fiscal impact as a result of this action.

ALTERNATIVES:

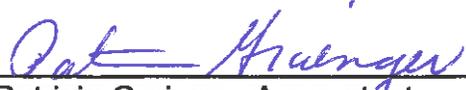
The following alternatives are provided for Council consideration:

1. Receive and file the report; or
2. Provide other direction to staff regarding requests for additional information.

**CITY COUNCIL/SUCCESSOR AGENCY
SUCCESSOR AGENCY CHECK REGISTER
FEBRUARY 28, 2017
PAGE 2 OF 2**

Exhibit(S)

1. Check Register Report

Submitted by: 
Patricia Grainger, Accountant

Approved by: 
Steven Adams, City Manager

Check Register Report

Date: 02/15/2017

Time: 1:04 pm

Page: 1

KING CITY CITY HALL

BANK: SUCCESSOR AGENCY OF

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
SUCCESSOR AGENCY OF Checks							
208	02/10/2017	Printed		A & W	ALESHIRE & WYNDER LLP	Legal Services -	195.00
209	02/10/2017	Printed		M BASIA	MBASIA	W/C & Liability Ins.	488.24

	Total Checks: 2	Checks Total (excluding void checks):	683.24
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	Total Payments: 2	Bank Total (excluding void checks):	683.24
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	Total Payments: 2	Grand Total (excluding void checks):	683.24
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Item No. 9(G)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: SHANNON L. CHAFFIN, CITY ATTORNEY

BY: ROY C. SANTOS, ASSISTANT CITY ATTORNEY

RE: ADOPTION OF AN ORDINANCE ADDING CHAPTER 7.51 TO TITLE 7 OF THE KING CITY MUNICIPAL CODE PERTAINING TO NUISANCES

RECOMMENDATION:

Staff recommends the City Council: 1) adopt the proposed Ordinance pertaining to nuisances to be read by title only; and 2) direct staff to include development and implementation of the nuisance abatement as an additional component of the Comprehensive Plan to End Youth Violence.

BACKGROUND:

The City Council previously introduced the proposed Ordinance at its meeting on February 14, 2017.

The City has a number of property owners that have invested in properties within the community, but do not provide proper ongoing maintenance. This has resulted in blighted properties, deterrents to economic development, vacancies, litter and debris, and substandard living and working conditions for tenants. City staff have pursued addressing problems through code enforcement actions, but success has often been limited in many cases due to items not regulated in the City's current Municipal and/or a lack of enforcement tools. It is particularly important at this time because staff believes focused enforcement can also improve locations that now provide havens for criminal activity due to their neglect. As a result, the City Attorney's Office was requested to proceed in developing new regulations to address these issues.

**CITY COUNCIL
CONSIDERATION OF AN ORDINANCE ADDING CHAPTER 7.51 TO TITLE 7
OF THE KING CITY MUNICIPAL CODE PERTAINING TO NUISANCES
FEBRUARY 28, 2017
PAGE 2 OF 4**

Prior to presenting the proposed Ordinance to the City Council earlier in the month, it was submitted to City staff and the community code enforcement advisory group for review, comment and/or suggested edits. What arose from these meetings and discussions is the comprehensive nuisance ordinance currently being considered.

DISCUSSION:

The City has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City. The City can enact ordinances declaring what constitutes a public nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorney fees to abate the nuisance, providing for the collection of civil penalties. The City can also abate a public nuisance existing at residential properties acquired through foreclosure or a deed of trust and to charge fines for noncompliance.

The current Code does not provide an adequate administrative remedy for addressing public nuisances and/or recovering the costs associated with enforcing the Code. The City has an interest in maintaining an orderly and esthetically pleasing condition, to keep property values in line with neighboring communities and to improve the quality of life for its residents, businesses, and visitors. Adoption of this proposed Ordinance will achieve a more comprehensive code compliance program that will permit City personnel to immediately proceed with code compliance efforts in an expedient, efficient and fair manner for purposes of effectively protecting public health and safety.

An effective code compliance program eliminates and prevents the spread of blight, deterioration and crime, makes neighborhoods safer and more livable, and promotes economic development and pride in the community.

The proposed Ordinance addresses the following areas:

- (1) Unlawful Property Related Nuisances;
- (2) Neighborhood Preservation;
- (3) Weeds, Vegetation, and Rubbish;
- (4) Garbage;
- (5) Vacant Buildings;
- (6) King City Building Code;

**CITY COUNCIL
CONSIDERATION OF AN ORDINANCE ADDING CHAPTER 7.51 TO TITLE 7
OF THE KING CITY MUNICIPAL CODE PERTAINING TO NUISANCES
FEBRUARY 28, 2017
PAGE 3 OF 4**

- (7) Management of Real Property;
- (8) Notice to Property Owner(s) and Code Violator(s);
- (9) Nuisance Related Activities;
- (10) Enforcement:
 - (a) Criminal Penalties; and
 - (b) Administrative Penalties;
- (11) Abatement;
- (12) Appeals;
- (13) Administrative Citations; and
- (14) Cost Recovery.

When the Comprehensive Plan to End Youth Violence was prepared, it was intended to include a goal related to increased code enforcement, which was inadvertently left out. Staff believes the proposed Ordinance will enable the City to more effectively address substandard properties that have become havens for gang activity. The Ordinance includes specific provisions regarding gang activity. Therefore, it is recommended that adoption and implementation of the Ordinance be added to the Comprehensive Plan to End Youth Violence. It is important to identify this objective of the Ordinance since it will then be included in one of the City's major priorities.

COST ANALYSIS:

King City Municipal Code violators will be required to pay administrative citations for each day the violation(s) remain unabated. The proposed Ordinance also has a system to allow for full recovery of costs, including but not limited to abatement costs, enforcement costs and attorney's fees, incurred by the City. For example:

- (a) All Code violations, within a rolling twelve-month period, deemed Misdemeanors shall be as follows: First administrative citation, \$250.00 per violation; Second administrative citation \$500.00 per violation; Third administrative citation \$1,000.00 per violation; and \$1,000.00 per violation for each subsequent administrative citation.

**CITY COUNCIL
CONSIDERATION OF AN ORDINANCE ADDING CHAPTER 7.51 TO TITLE 7
OF THE KING CITY MUNICIPAL CODE PERTAINING TO NUISANCES
FEBRUARY 28, 2017
PAGE 4 OF 4**

- (b) All Code violations, within a rolling twelve-month period, deemed Infractions shall be as follows: First administrative citation \$100.00 per violation; Second administrative citation \$200.00 per violation; Third administrative citation \$500.00 per violation; and \$500.00 per violation for each subsequent administrative citation.

ALTERNATIVES:

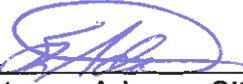
The following alternatives are provided for Council consideration:

1. Adopt the Ordinance;
2. Revise the proposed Ordinance and reintroduce;
3. Do not adopt the proposed Ordinance;
4. Provide other direction to staff.

Exhibit:

1. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING ADDING CHAPTER 7.51 TO TITLE 7 OF THE KING CITY MUNICIPAL CODE PERTAINING TO NUISANCES

Submitted by: _____
Shannon L. Chaffin, City Attorney

Approved by:  _____
Steven Adams, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING ADDING CHAPTER 7.51 TO TITLE 7 OF THE KING CITY MUNICIPAL CODE PERTAINING TO NUISANCES

WHEREAS, the City of King has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the city, Cal. Const. Art. XI, section 7; and

WHEREAS, the City Council of the City of King finds that certain conditions constitute a public nuisance and are a threat to the public peace, safety and welfare of the City; and

WHEREAS, by declaring that violations of the King City Municipal Code constitute a public nuisance, the City Council has determined that by violating the City's laws contained in the King City Municipal Code, a person or entity creates a threat or danger to the public health, safety or welfare as a public nuisance; and

WHEREAS, Sections 36901, 38771 and 38773.5(a) of the California Government Code authorize the City of King to enact ordinances declaring what constitutes a public nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorney fees to abate the nuisance, providing for the collection of civil penalties; and

WHEREAS, Section 2929.3 of the California Civil Code authorizes the City of King to abate a public nuisance existing at residential properties acquired through foreclosure or a deed of trust and to charge fines for noncompliance; and

WHEREAS, Chapter 13 of Part 2 of Division 3 of Title 4 of the California Government Code authorizes local procedures for weed abatement; and

WHEREAS, the City Council finds that ensuring compliance with the King City Municipal Code and other regulations vital to the protection of the public's health, safety and quality of life throughout the City is an important public service; and

WHEREAS, the City Council desires to enhance and promote the maintenance of property and the enhancement of the livability, community appearance, and the social and economic conditions of the community; and

WHEREAS, the City Council finds that an effective code compliance program eliminates and prevents the spread of blight, deterioration and crime, makes neighborhoods safer and more livable, and promotes economic development and pride in the community; and

WHEREAS, the City Council recognizes that an effective code compliance program requires the drafting and adoption of regulations that can be effectively applied by City personnel in a fair and expedient manner; and

WHEREAS, the City Council has determined that it is in the public interest to adopt this ordinance which expressly declares that any and all violations of the King City Municipal Code constitute public nuisances, in order to facilitate the City's ability to protect the health, safety, and general welfare of the public through the use of the nuisance abatement procedures set forth in the King City Municipal Code and in other applicable laws, rules and regulations; and

WHEREAS, the City Council finds that the King City Municipal Code does not provide an adequate administrative remedy for properties harboring conditions that constitute a public nuisance; and

WHEREAS, the City Council has an interest in maintaining the City of King in an orderly and esthetically pleasing condition, to keep property values in line with neighboring communities and to improve the quality of life for its residents, businesses, and visitors; and

WHEREAS, the City Council has determined that the adoption of this ordinance is necessary to achieve a more comprehensive code compliance program that will permit City personnel to immediately proceed with code compliance efforts in an expedient, efficient and fair manner for purposes of effectively protecting public health and safety.

NOW THEREFORE, the people of the chartered City of King City do ordain as follows:

SECTION 1. The above recitals are incorporated are hereby by reference.

SECTION 2. Chapter 7.51, of Title 7, of the King City Municipal Code is added and adopted in its entirety to read as follows:

Chapter 7.51

NUISANCES

Article 1. Unlawful Property Related Nuisances

Section 7.51.101 Neighborhood Preservation.

It shall be unlawful for any person owning, renting, leasing, occupying or having charge or possession of any real property in the City to maintain such property in a manner that any of the following conditions are found to exist thereon, except as may be allowed by the King City Municipal Code. These conditions meet one or more of the following criteria and are considered nuisances subject to abatement and cost recovery as proscribed in this Chapter: substantially detract from the appearance of the immediate neighborhood, reduce the property value in the immediate neighborhood, are an attractive nuisance, are materially detrimental to nearby properties and improvements, are a visual blight, are offensive to the senses, or are otherwise dangerous to public health, safety or welfare.

(a) **Abandoned and Partial Buildings.**

Buildings which are abandoned, vacant, partially destroyed, or left in an unreasonable state of partial construction. "An unreasonable state of partial construction" means any unfinished building or structure where the owner has been given written notice to complete the building or structure by the City's Building Official or designee, but fails to complete construction and obtain final approval from the City in accordance with applicable laws and regulations within the time period provided by the Building Official or designee.

(b) **Broken windows.**

Buildings with windows containing broken glass or no glass at all where the window is of a type which normally contains glass.

(c) Building Materials and Household Fixtures and Equipment.

Used or damaged lumber, junk, trash, debris, concrete, scrap metal, salvage materials and abandoned, broken, discarded or unused furniture, appliances, sinks, toilets, cabinets, or other household fixtures or equipment (i) stored so as to be visible at ground level from a public street, alley or from adjoining property, or (ii) stored in a manner out of view but in an unsecured area accessible to minors, or (iii) stored in a manner as to harbor rodents, insects, or other vermin.

(d) Building Residue.

Residue from a fire or demolition such as concrete or brick foundations and flatwork.

(e) Construction Equipment.

Construction equipment or machinery of any type or description parked or stored on the property when it is readily visible to the general public, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property.

(f) Deteriorated Buildings.

Buildings which have become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping, or termite infestation.

(g) Deteriorated Improvements.

Walls, fences, hedges, driveways, sidewalks, walkways, and similar improvements which have become deteriorated, hazardous, defective, or unsightly.

(h) Encroachment.

The encroachment onto public property for which no encroachment permit has been issued or which is in violation of the provisions of an encroachment permit or any applicable law.

(i) Garbage Containers.

The leaving of any garbage, rubbish, recyclable, or green waste container in a front yard area visible from a public street, except during the times necessary for collection, which provides for containers to be placed at the curb on the day of pickup and removed by noon the following day.

(j) Graffiti.

Graffiti or other defacing words, letters or drawings which remain in excess of forty-eight (48) hours on the exterior of any building or

fence or other structure that has not been removed or covered with paint matching the structure that was defaced.

(k) Hazardous Liquids and Other Substances.

Any property with pooled or flowing hazardous substances, including oil and similar liquids, which are not contained on site in approved storage containers and pursuant to all laws. Any property with excessive accumulations of oil and similar liquids on paved surfaces, buildings, walls, or fences. Any property where a hazardous substance is deposited, stored, released, or discharged in violation of any law.

(l) Hazardous Pools, Ponds, and Excavations.

Pools, spas, hot tubs, ponds, or other artificially confined bodies of water, and excavations, maintained in a hazardous manner which may affect the health or safety of the public, including providing a breeding place for mosquitoes, failing to comply with State and local safety requirements for pools and spas, and failing to take adequate measures to prevent public access to the area.

(m) Landscape Materials.

The keeping, storage, depositing, or accumulation on the premises of dirt, sand, gravel, concrete, or other similar materials for an unreasonable period of time or in a manner as to harbor rodents, insects, or other vermin.

(n) Landscaping.

Front and visible side yards without acceptable landscaping, except for improved surfaces such as walks and driveways. Acceptable landscaping shall include any ground cover, decorative rock, redwood bark, lawn and/or other material determined to be acceptable or required by the City Manager or his or her designee. Landscaping shall also be maintained in accordance with any approved permit, site plan, or landscaping plan.

(o) Land Use Entitlements.

The failure to comply with any condition imposed on an entitlement, permit, contract, or environmental document issued or approved by the City in connection with the property or any improvement located thereon.

(p) Laundry hanging.

The hanging of clothing, laundry or routinely washed articles on porch/stair railings, fences, hedges, or other supporting structures located in front or side yards and visible from a public place.

(q) Occupied Vehicles.

Any vehicle, recreational vehicle, motor home, camper, camper shell, or boat occupied by any person or persons overnight, except as may be permitted in an approved location for such purpose.

(r) Offensive Odors.

Stagnant water, refuse, rubbish, garbage, dead animal carcasses, offal, animal excrement or other waste materials which emit odors that are unreasonably offensive to the physical senses of a reasonable person of normal sensitivity or which may cause or attract rodents, insects, or other vermin.

(s) Personal Property.

The keeping, storage, depositing or accumulation of an excessive amount of personal property visible from a public street or alley and/or adjacent private property.

(t) Safety hazard.

The maintenance of property in a manner that presents an imminent safety hazard and/or creates a present and immediate danger to life, property, health or public safety.

(u) Sewage.

The failure to properly connect any inhabited improvements to a sewage disposal system or sanitary sewer and/or permitting sewage seepage or discharge upon the ground.

(v) Signs.

Improper existence and maintenance of signs relating to uses no longer conducted or products no longer sold on the property.

(w) Storage Containers and Dumpsters.

Storing or keeping boxes, containers, or dumpsters, in excess of seventy-two (72) consecutive hours, except when otherwise permitted by the King City Municipal Code, the City Manager or when engaged in ongoing construction activity.

(x) Tarps and Other Temporary Use Items.

The keeping or using of tarps or other similar items intended to be used as a temporary protective cover or shelter in a state of disrepair or beyond the intended use period, when the item is stored so as to be visible at ground level from a public street, alley or from adjoining property. Temporary use items visible for more than thirty (30) consecutive calendar days or thirty (30) calendar days in any calendar year shall be presumed to be beyond their intended period of use.

(y) Vehicle parts.

The keeping, storage, depositing, or accumulation on the premises of motor vehicle part(s) or scrap, including tires, which is (i) visible at ground level from a public street, alley or from adjoining property, or (ii) contains more than personal use items unless allowed by previous City review or permit in appropriate commercial or industrial zones.

(z) Vehicles, including motor homes, trailers, and boats.

Any vehicle, recreational vehicle, motor home, camper, camper shell, boat, or trailer parked or stored outside of a garage or carport on an unpaved surface or otherwise in violation of the King City Municipal Code.

(aa) Visibility hazards.

The maintenance of property in such a manner as to cause a hazard to the public by obscuring the visibility of any public right-of-way, road intersection, pedestrian walkway, street sign, street light, or traffic signal.

Section 7.51.102 Weeds, Vegetation, and Rubbish.

No person, whether such person is the owner, agent, or person in control of any lot or parcel of land within the City, shall maintain, permit, or allow such premises, or adjoining public way, sidewalk, street and/or alley, to be maintained in any of the following conditions, which are declared to be a public nuisance. It is the duty of the property owner to destroy or remove all such prohibited materials.

(a) Refuge for Vermin.

Dead, decayed, diseased or hazardous trees, weeds, grass, rubbish, refuse, dirt, debris, or any other matter or material which may provide a breeding place or refuge for rodents, insects, or other vermin.

(b) Vegetation Near Chimneys.

Dead vegetative growth overhanging a structure or any tree branch or other vegetative growth which extends within ten feet (10') of the outlet of a chimney.

(c) Pollen.

Weeds which may produce pollen which is injurious to the health, safety, comfort, or welfare of the residents of the City.

(d) Fire Hazard: Fire Hydrants.

Weeds, rubbish, refuse, dirt, debris, or any other matter or material which may become a fire or health hazard, or is within thirty-six inches (36") of a fire hydrant.

(e) Overhanging Vegetation.

Vegetative growth overhanging a public street by less than fourteen feet (14') in height or a public sidewalk by less than eight feet (8') in height.

(f) Other Vegetation.

Any other vegetation or materials which, because of lack of maintenance, create conditions which may become a fire or health hazard, including weeds which are otherwise subject to abatement by law.

Section 7.51.103 Garbage.

(a) Public right-of-way.

No person shall place, or cause to be placed, upon any public way, street, or sidewalk, any refuse matter, garbage, or filth which is hazardous to public health or safety or which obstructs the free passage of such street or sidewalk for more than one hour at a time, except as may be permitted by the King City Municipal Code.

(b) Private Property.

No person in control of any lot or parcel of land within the City, whether such person is the owner, agent, or tenant, shall maintain, permit, or allow any refuse matter, garbage, or filth which is hazardous to public health or safety to exist on such premises. Garbage shall be placed in approved containers.

(c) Summary abatement.

The existence of one or more of these conditions shall be considered public nuisances subject to summary abatement and cost recovery as proscribed in this Chapter.

Section 7.51.104 Vacant Buildings: Nuisance and Abatement.

Vacant residential, commercial and industrial buildings and all yards surrounding the building must be maintained, actively monitored, and secured in accordance with the following standards or the property will be considered blighted and a nuisance subject to abatement pursuant to the procedures set forth in this Chapter, and any other available enforcement mechanisms.

"Vacant building" means real property with one or more structures, whether residential, commercial, or industrial, that is/are unoccupied or occupied by unauthorized persons. In the case of a multi-unit structure or complex, "vacant" shall mean when any one unit is unoccupied or occupied by unauthorized persons.

For commercial and industrial properties, "acceptable landscaping" means that at least fifty percent (50%) of the non-paved portions of the exterior yards (those that are visible to the general public) shall be covered with live trees, shrubs, lawns, or other live plant materials and the remaining portion of the non-paved portions of

the exterior yards shall be covered with live trees, shrubs, lawns, or other live plant materials or shall have decorative landscaping installed, so long as weed block is used where decorative landscaping is installed.

For residential properties, acceptable landscaping shall include any ground cover, decorative rock, redwood bark, lawn and/or other material determined to be acceptable or required by the City Manager or his or her designee.

(a) Yard Maintenance.

Maintain all yards in compliance with any applicable development permits, site plans, and landscape plans. If there are no applicable development permits, site plans, or landscape plans, maintain all interior yards (those that are not visible to the general public) in a safe condition, including keeping all plant materials controlled to avoid overgrowth; maintain all exterior yards (those that are visible to the general public), including park strips, with acceptable landscaping, installed and maintained in a trimmed, live and healthy condition.

“Park strip” means that portion of a street right-of-way which lies between the property line and the outside edge of a gutter or gutter lip, including a driveway approach. Where no curb exists, “park strip” shall mean the area of property from the property line to the edge of the pavement.

(b) Building Exterior.

Maintain the exterior of the building, including, but not limited to, paint and finishes, in good condition.

(c) Broken Windows.

Board up broken windows within twenty-four (24) hours and replace broken windows within seventy-two (72) hours, subject to the provisions of subsection (g) of this section.

(d) Trash and Debris.

Remove all trash and debris within seventy-two (72) hours of their placement or abandonment on the property.

(e) Compliance with Laws.

Maintain the building in continuing compliance with all applicable State and local codes and regulations and any applicable City issued permits.

(f) Prevention of Criminal Activity.

Take all reasonable steps necessary to prevent criminal activity on the premises, including, but not limited to, the use and sale of controlled substances, prostitution and criminal street gang activity.

(g) Secure property.

Secure the property, both structure and grounds, against trespassers, including maintaining all windows and doors with locks, replacing all broken doors or windows, and securing any other openings into the structure which are readily accessible to trespassers by boarding or such other means as shall be accepted by the City Manager. For purposes of securing the building and grounds, boarding up windows and doors and fully fencing the property shall be a disfavored technique and may only be used when it is determined by the City Manager that no other reasonable alternative exists. Properly maintained buildings and grounds should discourage trespassers. Alternative security measures are also available. When a building is boarded or the property fenced, the owner shall comply with standards established by the City Manager.

(h) Graffiti.

Remove all graffiti on the property within forty-eight (48) hours of placement on the property.

Section 7.51.105 Vacant Buildings: Vacant Building Plan.

For vacant properties, the City Manager or his or her designee may issue an Order to Submit a Vacant Building Plan to the property owner and require the payment of a fee as required under this section.

(a) Vacant Building Plan.

The Vacant Building Plan shall include the following information and shall be submitted within thirty (30) calendar days of service of the order:

- (i) Name and address of person submitting the Vacant Building Plan;
- (ii) Name and address of all property owners of the subject property;
- (iii) The name and address of a local agent, if the property owner(s) is/are not local, that the City Manager may contact related to enforcement of this article;
- (iv) The expected period of vacancy;
- (v) A plan to make any buildings ready for occupancy that could not be legally occupied under State and local law at the time of submission of the plan;
- (vi) If required by the City Manager, a plan to either occupy, sell, lease, or demolish the building within

one hundred eighty (180) calendar days or such other time as determined reasonable by the City Manager under the circumstances;

- (vii) A plan for actively monitoring, maintaining and securing the property and otherwise complying with this article;
- (viii) A letter of written consent by the property owner(s) to the City Manager to allow City code enforcement inspectors to enter the property for inspections consistent to enforce the provisions of this article;
- (ix) Any other information required by the City Manager in rules and regulations adopted by the City Manager under this article.

(b) Exception.

If the vacant building will be occupied within thirty (30) calendar days of service of the notice, the owner may notify the City Manager in writing of this fact and the owner will be excused from submitting a Vacant Building Plan.

(c) Vacant Building Plan Fee.

When a property owner is ordered to submit a Vacant Building Plan by the City Manager they shall also be required to pay a fee, not to exceed the costs of the City to monitor or inspect the building and to review and approve the Vacant Building Plan. The City Manager shall have discretion to determine the number of inspections required to monitor the subject building upon submission of the plan, based upon the type and condition of the property, and the history of violations at the subject property. There shall be no charge for the initial Vacant Building Plan. The amount of the fee for subsequent Vacant Building Plans shall be established by City Council Resolution.

(d) Appeal.

An Order to Submit a Vacant Building Plan and/or a decision by the City Manager rejecting a Vacant Building Plan are appealable in accordance with the procedures set forth in this Chapter except that both an Order to Submit a Vacant Building Plan and a rejection of a Vacant Building Plan must be appealed within fifteen (15) calendar days from service of the notice of the order or rejection.

(e) Approved Plan.

A Vacant Building Plan is enforceable immediately upon notice to the property owner of the approval of the Vacant Building Plan until the City Manager releases the property from the approved Vacant Building Plan. An approved plan shall be valid for no more than one

hundred eighty (180) calendar days from the date of its approval. If a plan expires after one hundred eighty (180) calendar days and the City Manager has not yet released the property from the approved Vacant Building Plan, the property owner is automatically required to seek approval of a new Vacant Building Plan and pay a fee for that renewal as set forth in Subsection (c) of this Section.

(f) Noncompliance.

Failure by the property owner to submit a Vacant Building Plan or comply with a Vacant Building Plan that has been approved by the City Manager under this section or pay a fee as required under this section is a violation of the King City Municipal Code, subject to the abatement and cost recovery procedures set forth in this Chapter and any other available enforcement mechanisms.

(g) Transfer of Vacant Building.

The transferee of a vacant building is subject to the requirements of this Chapter. The transferee may apply to the City Manager to be released from the requirements of the Vacant Building Plan. It shall be in the City Manager's discretion to grant such an application. The City Manager's decision shall be final.

(h) Service.

Service of an Order to Submit a Vacant Building Plan, notice of rejection, or approval of a Vacant Building Plan shall be made on the property owner by personal service or first class mail. Where known, a copy may also be provided by email.

Section 7.51.106 Registration of Vacant Foreclosed Properties.

[Reserved]

Article 2. King City Building Code

Section 7.51.201 Building Codes.

The King City Building Code shall mean the current versions of the California Building, Fire, Plumbing, Mechanical, Electrical, Administrative, Energy Code, Green Code and related codes, as well as the Uniform Administrative Code, Uniform Code for the Abatement of Dangerous Buildings, and International Property Maintenance Code, as incorporated by reference in this Code with local amendments, except that the procedures for abatement, conducting appeals, and cost recovery shall be those set forth in this Chapter.

Section 7.51.202 Dangerous Buildings.

The Uniform Code for the Abatement of Dangerous Buildings shall apply to the determination of whether a building is dangerous except that the procedures for abatement, conducting appeals, and cost recovery shall be those set forth in this Chapter.

Section 7.51.203 Nuisances.

Violations of the King City Building, Uniform Administrative Code, Dangerous Building Codes, and International Property Maintenance Code are considered public nuisances subject to abatement and cost recovery as proscribed in this Chapter.

Article 3. Management of Real Property

Section 7.51.301 Title, Findings, and Purpose.

(a) Title.

This Article shall be known as the "Management of Real Property Ordinance."

(b) Findings.

Just as the physical conditions of structures and properties within the City can constitute public nuisances, so too can the behavior of persons on properties within the City constitute public nuisances. The abatement of behavioral nuisances is as important to the City in its fight against blight, decay, deterioration and crime as is the abatement of other nuisances created by physical conditions.

The owners of real properties within the City are responsible for monitoring their properties and for taking appropriate action if a nuisance exists thereon, whether that nuisance be created by existing physical conditions or by nuisance creating behaviors, or the combination of conditions.

Many nuisances can be avoided with active property management. Lack of proper management of real property can create an environment which is conducive to behaviors which become a nuisance with repetition and lack of abatement and corrective measures.

If a property owner does not fulfill his or her responsibilities, it is necessary for the safety, health and welfare of the neighborhoods, and the City as a whole, that the City be able to undertake abatement action. The provisions of this article are necessary to protect the health, property, and integrity of this community.

Nothing in this Article exempts property owners from compliance with Federal, State, or local laws, including, but not limited to, laws on housing, eviction, retaliatory conduct, discriminatory conduct, or invasion of privacy.

(c) Purpose.

The purpose of this Article is to set forth the management of activities conducted and enforce minimum standards relating to or conditions on real property to protect the public health, safety and welfare; and to put in place remedies which will permit the City to take effective, efficient administrative or other legal action against property owners who permit or suffer nuisance

creating behaviors or conditions to occur on their properties on a continuing basis, in order to compel such owners to abate the nuisance creating behaviors or conditions and control the environment, both physical and behavioral, on such real properties.

The provisions of this Article are complimentary, cumulative, supplementary, and additional to any other legal remedies available, whether found in the King City Municipal Code, State or Federal laws, regulations, or case law.

It is not the intent or purpose of this Article to subject owners or managers to any legal liability resulting from a tenant's actions away from the owner's or manager's own property, unless it can be shown that the problem tenant is also creating a nuisance or committing a crime on the owner's or manager's property.

(d) Enforcement Responsibility.

Enforcement of this Article shall fall within the responsibility of the City Manager and his/her designee.

Section 7.51.302 Definitions.

(a) Department.

The King City Police Department, Fire Department, Planning Department, and/or Public Utilities Department.

(b) Response Costs.

All actual and reasonable costs incurred by the Department(s) in responding to a nuisance, including, but not limited to, costs of personnel, including salaries and benefits, administrative overhead, costs of equipment and materials used in the response, and costs related to investigation of the underlying call for service. Response costs do not include costs covered by a user fee.

Section 7.51.303 Dual Responsibility.

(a) Owners.

Every person or entity owning, possessing, or having charge or control of real property within the City is required to manage that property and control the environment thereon in a manner so as not to violate the provisions of this Chapter, and the owner shall be liable for violations of the provisions of this Chapter regardless of any contract or agreement with any third party regarding the property.

(b) Lessees.

Every occupant, lessee, or holder of any possessory interest in real property is required to: (i) comply with all laws applicable to the property; (ii) to supervise anyone utilizing, using, or occupying the property, with or without the consent of the owner, consistent with this Chapter; and (iii) to

maintain the property in a manner so as not to violate the provisions of this Chapter.

Section 7.51.304 Multiple Response Nuisances.

- (a) If a Department of the City is required to respond to a violation(s) of the provisions of this Chapter more than once in any one hundred twenty (120) calendar day period, including a second response during the same day or night as the first response, the person or persons who own the property where the nuisance took place, except as provided below; the person or persons residing on or otherwise in control of the property where the nuisance took place; the person or persons who organized or sponsored the activity or event causing the nuisance; and all persons who engaged in any activity resulting in the public nuisance shall be jointly and severally liable for the violation(s), regardless of whether the City issues an administrative citation or initiates a code enforcement action. The multiple response shall apply to the same or similar nuisances occurring during the applicable time period.
- (b) It is a public nuisance and a violation of this Chapter for the person or persons who own the property, whether through their agent, lessee, sublessor, sublessee, or occupant of any premises in the City to permit, by their own acts or omissions, any of the following activities to repeatedly occur on the real property of the owner. "Repeated" shall mean more than one occurrence upon the real property in any one hundred twenty (120) calendar day period.
 - (i) Use and Sale of Controlled Substances.

The illegal manufacturing, sale, use or possession of controlled substances or other illegal drugs and substances.
 - (ii) Coming and Going for Sales or Use of Controlled Substances.

The gathering, or coming and going, of people who purchase or use controlled substances on the premises.
 - (iii) Prostitution.

The occurrence of prostitution.
 - (iv) Gang Activities.

Unlawful activities of a criminal street gang as defined in Penal Code Section 186.22.
 - (v) Noise and Unruly Behavior.

Noise and unruly behavior as set forth within the King City Municipal Code.
 - (vi) Firearms and Weapons.

The unlawful discharging of a firearm or brandishing of a weapon by any person.

(vii) Graffiti and Trash.

The presence of graffiti or other defacing words, letters, or drawings, or trash and debris on the property for a forty-eight (48) hour period.

(viii) Abandoned and Inoperable Vehicles.

The presence of abandoned vehicles or improperly stored inoperative, wrecked, or dismantled vehicles on the property, occurring on any one or more properties of the same owner within the City of King.

(ix) Animal Disturbances.

Animal disturbances, including but not limited to competitive fighting between animals.

(x) Violent Criminal Acts.

Violent criminal acts, charged or not, including, but not limited to, rapes, assaults, battery, homicides, stabbings, and/or shootings.

(xi) Gaming activities.

Illegal gaming activities.

(xii) Stolen Vehicles.

Maintenance, storage, and/or dismantling of any stolen vehicle upon the property.

Section 7.51.305 Notice to Property Owner.

The City Manager, his/her designee, or the Department(s) shall, within a reasonable period of time from the date of occurrence of any activity listed in Section 7.51.304, and/or any other provision of this Chapter, notify the property owner of the unlawful activity. The notice shall include the location of the property, the name of the person(s) conducting the unlawful activity (if known and appropriate), a description of the illegal activity, suggested remedies and a warning of the enforcement of this Article if the activity described is not abated within the time prescribed in the notice. The notice shall be served on the owner of the property, via regular mail, at the address listed on the latest tax assessment roll or as otherwise actually known to the City Manager.

The Notice shall be in substantially the following form:

[DATE OF NOTICE]

IMPORTANT NOTICE REGARDING PUBLIC NUISANCE

NOTICE IS HEREBY GIVEN THAT, pursuant to King City Municipal Code, on _____, 20__, at _____ a.m./p.m., the _____ Department found that an activity or event occurred at the below-listed premises causing a public nuisance as follows: [short description of the nuisance and the applicable King City Municipal Code section(s) violated].

ADDRESS:

WARNING

IF THE DEPARTMENT RESPONDS TO THE SAME OR SIMILAR TYPE OF NUISANCE WITHIN 120 DAYS OF THIS NOTICE, OR ANY 120 DAY PERIOD AFTER A FURTHER RESPONSE, INCLUDING BUT NOT LIMITED TO A RESPONSE LATER TODAY OR TONIGHT, THE COSTS OF THE RESPONSE WILL BE IMPOSED UPON:

1. ALL GUESTS CAUSING THE NUISANCE
2. ALL SPONSORS OF THE GATHERING
3. ALL RESIDENTS OF THE PREMISES
4. ALL PERSONS IN CONTROL OF THE PREMISES
5. ALL OWNERS OF THE PREMISES THAT RESIDE ON OR ADJACENT TO THE PREMISES, OR ARE PRESENT AT THE PREMISES WHEN THIS NOTICE IS FIRST POSTED

Property owners who do not reside on or adjacent to the above premises, and who are not present when this Notice is first posted, are also jointly and severally liable for the penalties or costs, if the next disturbance occurs after seven (7) calendar days following the mailing of this Notice to said owner.

THIS NOTICE MUST REMAIN POSTED ON THE PREMISES UNTIL ONE HUNDRED TWENTY (120) CONSECUTIVE CALENDAR DAYS HAVE ELAPSED WITH NO CALLS FOR SERVICE FOR THE NUISANCE, UNLESS THE PREMISES ARE REPOSTED. THERE IS A \$100 FINE FOR UNAUTHORIZED REMOVAL OF THIS NOTICE

[Name and Signature of Individual Issuing This Notice]

[Phone Number]

Date:

The notice shall remain posted for the entire one hundred twenty (120) calendar day period and unless the premises are reposted, shall not be removed until one hundred twenty (120) consecutive calendar days have elapsed without a call for service.

Section 7.51.306 Violations.

Violations of this Article are subject to the abatement and cost recovery procedures as set forth in this Chapter and any other available enforcement mechanisms.

Property owners who do not reside on or adjacent to the property, and who are not present when the notice is first posted, are jointly and severally liable for the penalties and/or abatement and enforcement costs, if the next disturbance occurs after seven (7) calendar days following the mailing of the notice.

The residents, owners, and persons in control of such property shall be responsible for ensuring that such notice as provided within Section 7.51.305 is not removed or defaced and shall be liable for a civil penalty of one hundred and no/100ths dollars (\$100.00) in addition to any other penalties and costs which may be due under this Chapter, if such notice is removed or defaced.

Section 7.51.307 Relocation Costs.

If the City incurs any costs or expenses for relocating tenants resulting from the enforcement of this Chapter, the owner shall be required to reimburse the City for all such costs and expenses.

Article 4. Nuisance Related Activities

Section 7.51.401 Obstructing Public Passageways.

It shall be unlawful for a person to stand or sit idly in or upon any street or sidewalk in a manner that hinders or obstructs the passage of persons passing along the same, or stand in or at the entrance of or approach to any church, hall, theater, public place, or public assemblage in any manner to obstruct such entrance or approach.

Section 7.51.402 Breach of Peace.

No person shall make in any public place, or suffer to be made on his/her premises or upon the premises under his/her control, any disorder or tumult to the disturbance of the public peace; and no person shall utter in the presence of two (2) or more persons lewd or obscene words or epithets or address to another any words, language, or expressions having a tendency to create a breach of the peace. "Disturbance" and "breach of the peace" mean causing an annoyance or engaging in disorderly conduct or interfering with the peace and order of a neighborhood, community, or meeting.

Section 7.51.403 Unruly Behavior.

A gathering of five (5) or more persons on any public or private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, as a result of conduct constituting a violation of law shall be considered a nuisance subject to the abatement and cost recovery procedures set forth in this Chapter and any other available enforcement mechanisms. Illustrative of such unlawful conduct is excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace,

litter. In addition to the remedies provided for in this Chapter, a gathering constituting a public nuisance may be abated by the City by all reasonable means including, but not limited to, an order requiring the gathering to be disbanded and citation and/or arrest of any law violators under any applicable local laws and State statutes.

Section 7.51.404 Interference with Right of Assembly.

No person, except with legal authorization or authority, shall disturb or interrupt any school procession, funeral or funeral procession, or any lawful procession, church service, or assembly of people.

Section 7.51.405 Public Urination.

No person shall evacuate their bowels or bladder in any public place, or upon any private property, at a place not provided for that purpose.

Section 7.51.406 Swimming in Ditches, Canals, Streams or Rivers.

No person shall bathe or swim in any ditch, canal, stream or river within the City.

Section 7.51.407 Motor Vehicle Racing.

It is unlawful for any person to operate, conduct, maintain, promote, or participate or engage in any motor vehicle race within the City, unless such race is expressly allowed by City permit or occurs in a facility permitted for such activity. For the purposes of this section, "motor vehicle" shall mean any vehicle which is self-propelled and shall include without limitation any automobile, racing car, motorcycle, or other self-propelled vehicle, whether or not the same is licensed by the State to operate on public streets. "Motor vehicle race" shall mean any race, speed, or other contest involving one or more motor vehicles or in which a motor vehicle is timed for operation over a measured distance.

Section 7.51.408 Criminal Street Gangs.

(a) Prohibited Acts.

It is unlawful for any person who is a member of a criminal street gang, as that term is defined in California Penal Code Section 186.22(f), or who is in the company of or acting in concert with a member of a criminal street gang, to loiter or idle in a public place as defined in this section under any of the following circumstances:

- (i) With the intent to publicize a criminal street gang's control or dominance over certain territory in order to intimidate nonmembers of the gang from entering, remaining in, or using the public place or adjacent area.
- (ii) With the intent to conceal ongoing commerce in illegal drugs or other unlawful activity.
- (iii) In such a manner that would warrant a reasonable person to believe that the purpose or effect of that behavior is to enable the criminal street gang to establish control or

dominance over the public place or adjacent area, to intimidate nonmembers of the gang from entering the public place or adjacent area, or to conceal unlawful activity.

(b) Public Place.

For purposes of this section, a "public place" means the public way and any other location open to the public, whether publicly or privately owned, including but not limited to any street, sidewalk, avenue, highway, road, curb area, alley, park, playground or other public ground or public building, any common area of a school, hospital, apartment, office building, transport facility, shop, or privately owned place of business to which the public is invited, including any place of amusement, entertainment, or eating place.

"Any public place" also includes the front yard area, driveway and walkway of any private residence, business, or apartment.

(c) Powers of Law Enforcement Officers Not Limited.

Nothing in this Section shall be construed in any way to limit the power or right of a law enforcement officer to make any investigation, detention or arrest as such law enforcement officer would be permitted to make in absence of this Section.

(d) Parental Control.

Any parent(s), legal guardian(s), or other adult person(s) authorized by said parent(s) or guardian(s) to have the care and custody of a minor, who knowingly permits or by insufficient control allows a minor to violate the provisions of this Chapter is guilty of a misdemeanor subject to the penalties set forth in the King City Municipal Code, including but not limited to Section 1.04.010.

(e) Penalties: Notice to Disperse.

Any person who violates a provision of this Section is guilty of a misdemeanor subject to the penalties set forth in the King City Municipal Code, including but not limited to Section 1.04.010. Minors shall be dealt with in accordance with the California Welfare and Institutions Code and in accordance with any policies and procedures established by the City for handling juvenile cases.

Prior to arresting any person or issuing a citation for violating the provisions of this Section, the officer shall give the person an opportunity to disperse or remove themselves from the area. If the person does not leave or returns to the area during the following eight (8) hours, the person may be arrested or issued a citation.

The requirement in this Section to provide notice to disperse shall in no way be construed to prohibit law enforcement officers from detaining and questioning persons suspected of violating this Chapter before issuing the notice to disperse.

Section 7.51.409 Camping.

(a) Sleeping and camping in public and certain private places prohibited.

It shall be unlawful for any person to sleep or camp:

- (i) In or on any public right-of-way, including any street, alley, roadway, accessway, median, irrigation canal, stream, river or embankment;
- (ii) In or on any public park or trail or upon the grounds of any public facility or property, whether improved or unimproved;
- (iii) Upon any unimproved private lot unless such use is with the permission of the owner and permissible under the City's zoning ordinance; or
- (iv) Upon the premises of any private, commercial or industrial property unless such use is with the permission of the owner and permissible under the City's zoning ordinance.

(b) Camp defined.

For purposes of this section, "camp" shall mean an outdoor place for eating, cooking or sleeping, and includes, but is not limited to:

- (i) The use of camping facilities such as tents, tarpaulins, or temporary shelters;
- (ii) The use of sleeping bags, cots, beds, or hammocks;
- (iii) The use of park benches, recreation equipment or similar structures; or
- (iv) The use of any parked vehicle, including an automobile, bus, truck, camper, trailer or recreational vehicle.

(c) Exceptions.

The following activities shall not be considered a violation of this section:

- (i) Sleeping or recreational camping in any public park between the hours of 7:00 a.m. and 10:00 p.m.; and
- (ii) Camping in public parks between the hours of 10:00 p.m. and 7:00 a.m. in areas set aside for overnight camping.

For purposes of this Section, the following shall not be considered recreational camping; a camp established with the intent to:

- (i) Lodge or reside at that location;
- (ii) Remain in that location or park overnight; or
- (iii) Remain for a period of more than one consecutive day.

(d) Remedies for Violation.

In addition to any other remedy or enforcement mechanism provided within this Chapter or any other provision of the King City Municipal Code, any camp in violation of this Section is declared to be a public nuisance, and the Chief of Police or his/her designee, upon a determination that such camp constitutes an immediate threat to the health, safety or welfare of persons in the City, including persons using the camp, is authorized to remove the camp. If persons are occupying the camp at the time, then before removing the camp, the Chief of Police or his/her designee shall warn the person or persons occupying the camp that they are in violation of this Section and shall give them the opportunity to remove the camp.

Article 5. Other Nuisances and Enforcement

Section 7.51.501 Nuisances.

It shall be unlawful for any person to keep or maintain a public nuisance in the City. For the purposes of this Section, public nuisances shall include but not be limited to any of the following:

(a) Attractive Nuisance.

An attractive nuisance, defined as any condition, instrumentality or machine which is or may be unsafe or dangerous to children by reason of their inability to appreciate the peril therein, and which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it, whether in a building or on the premises.

(b) Conditions Declared a Nuisance by City Council.

Any condition declared to be a public nuisance by the City Council.

(c) Civil Code Section 3480, Nuisance.

Acts constituting a public nuisance as defined by Civil Code Section 3480.

(d) Depreciation of Property Value.

Maintenance of property in such condition of deterioration or disrepair that the same causes depreciation of the value of surrounding property or is materially detrimental to nearby properties and improvements.

(e) Violation(s) of the King City Municipal Code.

Any violation(s) of the King City Municipal Code shall be a public nuisances subject to provisions of this Chapter.

Section 7.51.502 Enforcement.

Nuisances under this Chapter may be enforced by one or more of the following nonexclusive remedies:

(a) Abatement.

Abatement and cost recovery proscribed in this Chapter.

(b) Administrative Citation.

Administrative citation proscribed in this Chapter.

(c) Criminal Complaint or Citation.

Misdemeanor enforcement pursuant to Chapter 1.04 of Title 1 and/or as proscribed in this Chapter.

(d) Injunction.

Injunctive Relief.

(e) Receivership.

Receiverships pursuant to Health and Safety Code Section 17980.7.

(f) Unlawful Business Practice.

Unlawful business practices pursuant to Business and Professions Code Section 17200.

(g) Red light abatement.

Red Light Abatement Act as set forth in Penal Code Section 11570.

(h) Drug abatement.

California Drug Abatement Act set forth in Health and Safety Code Section 11570.

(i) State Housing Law.

State housing law as set forth in Health and Safety Code Section 17910 et seq.

(j) Other.

Any other available remedy set forth in the King City Municipal Code or State law.

Section 7.51.503 Violations.

In addition to the penalties provided by this Chapter, each such person shall be guilty of a new and separate offense for each and every day during any portion of which any violation of the provisions of this Chapter, or the provisions of any

Chapter adopted by reference within the King City Municipal Code is committed, continued, or permitted by such person and shall be punished accordingly.

In all cases where the same offense is made punishable or is created by different clauses or sections of the King City Municipal Code, the City Attorney may elect under which to proceed.

Section 7.51.504 Criminal Penalties and Enforcement.

Violations of the provisions of this Chapter, or the provisions of any Chapter adopted by reference within the King City Municipal Code for conduct that is not otherwise considered lawful under State law, shall be considered misdemeanors and are punishable in accordance with Chapter 1.04.010 of the King City Municipal Code. Each and every day, or portion thereof, a violation exists is a new and separate offense. The City may also pursue all applicable civil and administrative remedies, including but not limited to injunctive relief and administrative citations.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders the provisions of this Chapter, or the provisions of any Chapter adopted by reference within the King City Municipal Code unlawful, the City intends that the misdemeanor provision be severable from the remaining penalty provisions and the City will only pursue non-criminal remedies for violations of this Chapter.

Section 7.51.505 Administrative Penalties.

- (a) The administrative citation penalty for all violations of this Chapter, within a rolling twelve-month period, deemed Misdemeanors under the King City Municipal Code shall be as follows:
- (1) First administrative citation: two hundred fifty and no/100ths dollars (\$250.00) per violation;
 - (2) Second administrative citation: five hundred and no/100ths dollars (\$500.00) per violation;
 - (3) Third administrative citation: one thousand and no/100ths dollars (\$1,000.00) per violation; and
 - (4) One thousand and no/100ths dollars (\$1,000.00) per violation for each subsequent administrative citation.
- (b) The administrative citation penalty for all violations of this Chapter, within a rolling twelve-month period, deemed Infractions under the King City Municipal Code shall be as follows:
- (1) First administrative citation: one hundred and no/100ths dollars (\$100.00) per violation;
 - (2) Second administrative citation: two hundred and no/100ths dollars (\$200.00) per violation;
 - (3) Third administrative citation: five hundred and no/100ths dollars (\$500.00) per violation; and

- (4) Five hundred and no/100ths dollars (\$500.00) per violation for each subsequent administrative citation.

Article 6. Abatement, Appeals and Administrative Citations

Section 7.51.601 Notification of Abatement.

(a) Notice.

Except when the City elects to enforce through another process, such as through an administrative citation process, whenever the City or such City official having enforcement authority determines that property within the City constitutes a public nuisance in violation of this Chapter and seeks to abate the same, the enforcement official shall give written notice to the owner of the property and/or lessee of the property stating the violations with reference to the applicable code sections.

(b) Time to Correct.

The notice shall set forth a reasonable time limit for correcting the violation(s) and may also set forth suggested methods of correcting the same. Reasonable time to correct shall be dependent on the type and severity of the violation. The reasonable time to correct may, at the sole discretion of the City or such City official having enforcement authority over the violation, be extended or shortened.

(c) Service of Notice.

Notice shall be given either by personal service or by depositing the notice in the United States mail, postage prepaid, addressed to the property address of the residence. A copy may also be provided to the owner of such lot or parcel of land either by personal service or by depositing the notice in the United States mail, postage prepaid, to the name and address as it appears on the last available equalized assessment roll, supplemental roll of the County of Monterey. If no such address appears, then a copy of the notice may be mailed to the property address, and is presumed to be notice to the owner. In order for an absentee owner to be subject to the penalties and costs described in Article 7 of this Chapter, notice must be provided by any method authorized by this subsection.

A copy of the notice may also be posted on the property in a conspicuous place. Where known, a copy may also be provided to the owner or occupant by email in the City's discretion. The failure of any person to receive the notice required by this section shall not affect the validity of any proceedings taken under this Chapter.

The notice shall bear the date of personal service or mailing and shall be in substantially the following form:

NOTICE TO ABATE PROPERTY NUISANCE

Site Address:

Assessor Parcel Number:

Date:

Notice is hereby given that the above-described property is a public nuisance in violation of the following codes: [set forth applicable code(s)]. A nuisance exists because [describe the nuisance]. You must abate the nuisance within [set forth applicable days]. There will be no further notice.

If the nuisance is not removed within the required time, the nuisance may be abated by the City of King or a contractor hired by the City to remove the nuisance. The property owner will be billed for the cost of such abatement plus administrative fees. In addition, the property owner or other responsible party may be issued a citation and/or billed for the City's enforcement costs.

If you receive an invoice from the City for abatement, you will have fifteen (15) days from the issuance to pay the invoice. If you do not to pay the invoice within fifteen (15) days, the unpaid amount will be added to your property taxes as a special assessment against your property.

All persons having any objections to the proposed abatement may file an appeal in accordance with [identify code section]. The appeal must be in writing, filed with the City Clerk at 212 S. Vanderhurst Avenue, King City, California 93930, and received within [specify number of days] from the date of this Notice. The appeal must state the basis for the appeal with sufficient specificity so that the City Manager or Hearing Officer can understand the basis for the appeal and must include the name, address, and telephone number of the person filing the appeal. Failure to file a timely appeal will result in the City proceeding with the work required at your expense in a timely fashion without further notice or hearing.

If the nuisance condition(s) create an imminent danger to the public, the appeal may be considered after abatement of the nuisance.

DATED: this _____ day of _____, 20__.

[ENFORCEMENT OFFICIAL NAME AND TITLE]

CITY OF KING, CALIFORNIA

(d) Calendar Days.

Unless otherwise specified, days as used in this Article shall mean calendar days.

Section 7.51.602 Recording.

At the time the abatement notice is served, the enforcement official may file in the Office of the County Recorder a notice of pending administrative action and include a copy of the abatement notice. After the nuisance is abated and abatement costs

have been paid, the enforcement official shall cause the recorded notice to be removed.

Section 7.51.603 Appeals of Abatement Notices and Actions.

The owner or any other person interested in the property, land, or lots affected by the abatement notice set forth in Section 7.51.601 may file an appeal with the City Clerk subject to the following procedures:

(a) Appeal in Writing.

The appeal shall be in writing. The appeal shall state the basis for the appeal with sufficient specificity so that the hearing officer or City Manager can understand the basis for the appeal and shall include the name, address, and telephone number of the person filing the appeal.

(b) Time to Appeal.

The appeal shall be received by the City Clerk within fifteen (15) calendar days after the date of the notice. The time requirement for filing an appeal shall be deemed jurisdictional and may not be waived.

(c) Dismissal of appeal.

Appeals not timely filed or not setting forth the basis for the appeal are defective and shall be dismissed.

(d) Hearing Officer.

Appeals shall be heard by a hearing officer appointed by the City Manager or the City Manager.

(e) Timing of Appeal and Abatement.

The hearing on an appeal from an abatement notice shall be held prior to the abatement except in those circumstances where the enforcement official has determined that the nuisance condition(s) present an immediate danger to the public, including, but not limited to, hazardous materials, or where the time of year increases the potential for a fire. In those circumstances the appeal hearing may be held after the abatement.

Section 7.51.604 Procedures for Conduct of Appeal.

(a) Scheduling of Hearing.

The City Clerk shall schedule a hearing before the hearing officer or City Manager no sooner than ten (10) calendar days and not more than sixty (60) calendar days from the date the appeal was filed with the City Clerk.

(b) Notice of Hearing.

Written notice of the date, time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to the appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the appellant's address shown on the appeal, or, if no address is provided on the appeal, at the address to which the official's decision was previously sent. Where known, a copy may also be provided by email. The failure of any person to receive such notice shall not affect the validity of any proceedings taken under this Chapter. Service by normal delivery mail in the manner described above shall become effective on the date of mailing.

(c) Scope of Hearing and Burden of Proof.

At the date, time and place stated in the notice, the hearing officer or City Manager shall hear and consider all relevant evidence, objections or protests, and shall receive testimony from the appellant, the enforcement official and his/her designees, and interested persons relative to the issues of the hearing. Except where otherwise provided by the governing code or statute, the burden of proof and production of evidence shall be with the City and the burden of proof shall be preponderance of the evidence.

(d) Hearing Procedures.

The hearing shall be conducted in accordance with the following procedures:

- (i) All hearings shall be recorded. Any party may, at their sole expense, have the hearing transcribed by a certified shorthand reporter.
- (ii) Hearings need not be conducted according to the technical rules of evidence.
- (iii) Any relevant evidence shall be admitted if it is of the type of evidence in which reasonable persons are accustomed to rely on the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State.
- (iv) Oral evidence shall be taken only on oath or affirmation. The hearing officer or the City Manager shall have the power to administer oaths.
- (v) Irrelevant and unduly repetitious evidence shall be excluded.
- (vi) Each party shall have the right to: (1) call and examine witnesses on any matter relevant to the issues of the

hearing; (2) introduce documentary and physical evidence; (3) cross-examine opposing witnesses on any matter relevant to the issues of the hearing, subject to the control of the hearing officer or the City Manager, including the imposition of reasonable alternatives to cross-examination; (4) impeach any witness regardless of which party first called the witness to testify; (5) rebut the evidence; and (6) be represented by anyone who is lawfully permitted to do so.

- (vii) The hearing officer or the City Manager may take official notice, either during the hearing or after submission of the matter for decision, of any fact which may be judicially noticed by the courts of this State or of official records, regulations, rules, and decisions of State and local agencies, boards and departments and of City ordinances. In addition, the hearing officer or the City Manager may take official notice of matters in its own files and of prior proceedings under this chapter involving the same issues. If applicable, the hearing officer or the City Manager may also take official notice of any generally accepted technical or scientific matter within their expertise. The parties present at the hearing shall be informed of the matters to be noticed, and those matters should be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority.

(e) Orders and Subpoenas.

Upon a showing of good cause, relevance to the proceedings, that there is no reasonable alternative means of gathering the information, and that the requesting party is not engaged in a fishing expedition, the hearing officer may do the following:

- (i) At the request of either the City or the appellant, issue orders for attendance of witnesses at the hearing, or production of documents on a date certain. In no event shall the date for the production of documents be less than ten (10) calendar days after the date the order was issued. Failure by a party to comply with an order of attendance or production may be considered a violation of this Code and, at the petition of a party, the hearing officer may impose a civil fine of up to one hundred and no/100ths dollars (\$100.00) at the time of the hearing and may take such failure into consideration in making his or her determination of the hearing.
- (ii) At the request of either the City or the appellant, direct the City Clerk, on behalf of the City, to issue subpoenas for attendance of witnesses at the hearing or production of

documents on a date certain. In no event shall the date for production of documents be less than ten (10) calendar days from the date the subpoena was issued. Disobedience of such subpoena or the refusal to testify, upon other than constitutional grounds, shall constitute a misdemeanor.

(f) Inspections.

Inspect the premises involved in the hearing at any time prior to a decision, to investigate or confirm the existence of the violation(s) or conditions which are on appeal; provided, that: consent is granted by a person with the lawful right to grant consent or an inspection warrant is obtained; reasonable notice of such inspection is given to the owner before the inspection is made; the parties are given an opportunity to be present during the inspection; the hearing officer or the City Manager shall place in the record the material facts and the conclusions drawn from the inspection either orally at the time of the hearing or in writing after the hearing; and each party then shall have a right to rebut or explain the matters so stated by the hearing officer for the record either at the hearing or by filing a written statement within ten (10) calendar days after the hearing.

(g) Continuance of Hearing.

The hearing officer or the City Manager may provide for reasonable continuances of the hearing, on its own initiative or at the request of a party, as necessary to properly conduct the appeal.

(h) Decision.

At the conclusion of the hearing, the hearing officer or the City Manager shall deliberate and reach a decision within fifteen (15) calendar days. The decision and the reason(s) for the decision shall be reduced to writing. The hearing officer or the City Manager may affirm, reverse, modify, or set aside the abatement order, suspension or revocation of a permit or license, citation, decision or order issued pursuant to this Code as the facts and law warrant, subject to the following limitations:

- (i) The hearing officer shall not have authority to waive any requirements of the Code or law.
- (ii) Nothing in these procedures shall be deemed to authorize the hearing officer or the City Manager to deviate from unambiguous provisions of the governing code or statute, or well established interpretations of the same, based upon expert opinions or other reliable evidence.

(i) Service and Filing of Decision.

A copy of the decision shall be sent by mail or otherwise to the appellant. Where known, a copy may also be provided by email.

(j) Finality of Decision.

The decision of the hearing officer or the City Manager shall be final with no further administrative appeals. Unless the governing ordinance or statute provides otherwise, if the appellant seeks further relief, the appellant shall file a petition for writ of mandate in superior court pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.

Section 7.51.605 Abatement.

(a) Abatement with No Appeal.

Where no appeal has been timely filed, and the nuisance condition(s) have not been abated as directed by the abatement notice, the enforcement official shall thereupon cause the same to be removed and may enter upon private property for the purpose of so doing.

(b) Abatement After Appeal.

Where an appeal has been timely filed and the hearing officer or the City Manager has finally determined that removal or abatement shall be required, and the nuisance condition(s) have not been removed as directed by the hearing officer or the City Manager, the enforcement official shall thereupon cause the same to be removed and may enter upon private property for the purpose of so doing.

(c) Property Owner Abatement.

At any time prior to the actual abatement, any property owner may remove nuisance condition(s) at his/her own expense.

Section 7.51.606 Method of Abatement by the City.

City abatement of the nuisance may be performed by contract or by City crews. When the abatement is performed by contract, the contractor shall keep an account of the cost of the abatement on each separate parcel of land where work is performed, including adjoining sidewalk and street/alley areas, and shall submit an itemized written report showing such cost to the enforcement official for verification. When the abatement work is performed by City crews, the City shall keep an account of the cost of the abatement on each separate parcel of land where work is performed, including adjoining sidewalk and street/alley areas, and shall submit an itemized report showing such cost to the enforcement official for verification.

Section 7.51.607 Costs of Abatement.

The City may recover its abatement and enforcement costs in accordance with this Chapter.

Section 7.51.608 Administrative Citation Appeals.

The purpose of this Section is to provide for a uniform and consistent procedure for the conduct of administrative hearings that are not part of a property nuisance

abatement action. This Section is also designed to identify the appeal and hearing procedures to be followed where procedures are not otherwise identified in the governing code, statute, rule, or regulation, or where there is a reference to following the procedures in this Section, whether expressly or by implication.

Section 7.51.609 Filing Notice of Appeal.

(a) Standing.

Only the person issued an administrative citation sought to be appealed from has standing and a right to appeal under this Article. A notice of appeal that fails to allege standing may be rejected as defective.

(b) Notice of Appeal.

A notice of appeal shall be filed in writing with the City Clerk within fifteen (15) calendar days after the service of the administrative citation appealed from. The appeal shall contain the following:

- (i) The name, address, and telephone numbers of the appellant;
- (ii) A brief description of the administrative citation being appealed;
- (iii) A statement of the relief sought;
- (iv) The reasons why such relief should be granted;
- (v) A statement of the appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

(c) Amended Appeal.

Upon a showing of good cause, the City Manager, or his or her designee, may, in his or her discretion, permit the filing of an amended appeal, after fifteen (15) calendar days, in which case the appeal shall be considered in the same manner as if it had been timely filed.

(d) Deficient Appeal.

If, in the opinion of the City Clerk, the appeal or an amended appeal fails to comply substantially with the requirements of this section, the City Clerk may give written notice of such insufficiency to the appellant at any time within fifteen (15) calendar days after the appeal is presented, stating with particularity the defects or omissions therein. Failure of the appellant to file an amended appeal within fifteen (15) calendar days of the date of service of such notice of insufficiency shall constitute a waiver of the appeal. Failure of the City Clerk to give notice of any insufficiency within fifteen (15)

calendar days shall result in the appeal being heard on its merits, without regard to any insufficiency.

Section 7.51.610 Procedures for Conduct of Appeal.

Upon receipt of an appeal, or if notice of insufficiency is given in accordance with this section, upon receipt of an amended appeal within the time specified, the City Manager or his/her designee shall appoint a hearing officer and the procedures set forth in Section 7.51.604 shall apply to the conduct of the appeal.

Section 7.51.611 Supplemental Rules and Regulations.

The City Manager may adopt written rules, regulations, policies and procedures that are consistent with the intent or provisions of this Chapter, as may be necessary or desirable to aid in the administration or enforcement of the provisions of the King City Municipal Code.

Article 7. Cost Recovery and Penalties

Section 7.51.701 Findings and Purpose.

The Council finds that substantial public resources are spent each year to enforce the Municipal Code and State laws, as well as Federal and County laws that may fall within the jurisdiction of the City, enacted to protect the public health, safety and welfare. The Council finds that the responsibility of these costs should be properly placed on those persons responsible for violating the Municipal Code or Federal, State and County laws and/or causing public nuisances. The Council further finds that the recovery of costs incurred by the City to enforce these laws and to collect penalties issued to those persons causing public nuisances and/or violating these laws is important in deterring future violations and maintaining the integrity of the City's code enforcement system. The purpose of this article is to provide a means for King City under its police power authority and other applicable law to recover these costs and penalties from those persons responsible for creating, causing, committing or maintaining a public nuisance or Municipal Code or other law violation.

Section 7.51.702 Definitions.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this article.

(a) Abatement Costs.

The actual and reasonable costs incurred by the City to abate a public nuisance. These costs include all direct and indirect costs to the City that result from the total abatement action, including, but not limited to, investigation costs, costs to enforce the Municipal Code and any applicable Federal, State or County law, clerical and administrative costs to process paperwork, costs incurred to provide notices and prepare for and conduct administrative appeal hearings, and costs to conduct actual abatement of the nuisance. Costs include staff costs, administrative overhead, costs for

equipment, such as cameras and vehicles, staff time to hire a contractor, and reasonable attorneys' fees incurred by the City. Costs also include those incurred in seeking cost recovery. Abatement costs may be established in the Master Administrative Fee Schedule.

At any administrative hearing, judicial action or special proceeding where the City elects to recover attorneys' fees in connection with an abatement action, the prevailing party shall be awarded attorneys' fees not to exceed the amount of reasonable attorneys' fees incurred in the action, hearing or proceeding.

(b) Bona Fide Encumbrancer.

A person who (i) receives a lien or encumbrance on the subject property after the City incurs abatement costs or enforcement costs and (ii) at the time he or she acquired the interest did not have actual or constructive knowledge of the City's interest in the property.

(c) Bona Fide Purchaser.

A person who (i) purchases any portion of the subject property after the City incurs abatement costs or enforcement costs and (ii) at the time he or she acquired his or her portion of the subject property did not have actual or constructive knowledge of the City's interest in the property.

(d) Enforcement Costs.

All actual and reasonable costs incurred by the City to enforce compliance with the Municipal Code and any applicable Federal, State, County or City public health and safety law that are not included within abatement costs. These costs include, but are not limited to, actual cost of the enforcing department services including, but not limited to, costs of personnel, including costs of worker's compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of materials, costs related to investigations pursuant to the Municipal Code or Federal, State or County law, costs related to issuing and defending administrative or court citations, costs incurred investigating and abating violations of the Municipal Code or Federal, State or County law violations, and reasonable attorneys' fees. Enforcement costs include multiple response and similar costs as permitted by this Chapter. Costs also include those incurred in seeking cost recovery.

(e) Enforcing Department.

The departments or divisions of the City that directed and are responsible for the enforcement of the King City Municipal Code or applicable Federal, State or County law or the abatement of a public nuisance.

(f) Noticed Party.

The person or entity that is required to be noticed in the underlying abatement or enforcement action in which costs were incurred, but in all cases must include the record owner(s) of the property for property related violations. A "noticed party" should be notified for purposes of cost or penalty recovery in the same manner as they were required to be noticed, either by the Municipal Code or applicable Federal, State or County law, in the abatement or enforcement action which resulted in the incurring of costs or penalties sought to be recovered under this article.

(g) Penalties.

Fines imposed by administrative citations issued pursuant to the King City Municipal Code or other penalties specifically identified in the King City Municipal Code or permit relating to a specific use. Penalties for purposes of this article do not include criminal fines.

(h) Public Nuisance.

A public nuisance as declared or defined in this Chapter or any other provision of the King City Municipal Code.

(i) Record Owner.

The person to whom land is assessed as shown on the last available equalized assessment roll, supplemental roll of the County of Monterey, or as otherwise known to the enforcement official or his/her designee by virtue of more recent or reliable information.

(j) Responsible Party.

A person or entity identified by the King City Municipal Code or law as responsible for creating, causing, committing, or maintaining the violation(s) of the King City Municipal Code or law and/or responsible for the abatement of a King City Municipal Code or law violation(s), including public nuisance, as defined in this Chapter.

(k) Subject Property.

The real property that is the subject of any enforcement or abatement action by the City for which the City incurred costs sought to be recovered under this article.

Section 7.51.703 Abatement and Enforcement Costs and Penalties.

(a) Special Assessment and Lien or Personal Obligation.

The cost of abating a public nuisance and/or enforcing this Chapter or applicable Federal, State or County law shall either be a special assessment and lien on the subject property or the personal obligation of the owner of the subject property and/or the person responsible for

creating, causing, committing or maintaining the public nuisance or violating this Chapter or Federal, State or County law. If there is more than one responsible party, each responsible party shall be jointly and severally liable for the costs. Costs incurred by the City are recoverable even if a public nuisance, Municipal Code, or other law violation is corrected by the property owner or other responsible party.

(b) Applicability.

This article shall govern the procedures used to recover all abatement and enforcement costs incurred by the City in the abatement of a public nuisance or violation of this Chapter and/or the enforcement of this Chapter or other law pursuant to the procedures and authority found in the Municipal Code. Additionally, this article shall govern the procedures used to recover administrative penalties and costs as well as multiple response costs imposed pursuant to the procedures and authority found in the Municipal Code.

(c) Cumulative Remedies.

The remedies provided in this Article shall be cumulative to any other provided in the King City Municipal Code or by law.

(d) Payment Plan.

Nothing in this Article shall prevent the City at any time from accepting payment for unpaid costs or penalties in whole or by way of a payment plan.

Section 7.51.704 Invoice of Costs.

(a) Invoice.

The invoice shall notify the noticed party of the following:

- (i) A description of the abatement or enforcement action taken by the City, where applicable a description of the property subject to the abatement or enforcement, and the total amount of the costs incurred by the City. The requirements of this subsection may be met by providing the noticed party with a copy of the report required by subsection (a) of this section.
- (ii) That should the noticed party fail to pay the costs within thirty (30) calendar days from the date of service of the invoice the costs may be collected in any or all of the following ways: by a collection agency as a personal obligation, by the City Attorney's Office through judicial action, or as a special assessment and lien attached to the subject property.
- (iii) That the noticed party has a right to administrative review of the accounting of the costs incurred by the City by filing a written request for such review with the City Clerk within fifteen (15) calendar days of the date of the invoice, and that a failure to request

administrative review will be deemed a waiver of a right to review of the amount of the costs.

- (iv) That before a special assessment is placed on the subject property, the costs will be confirmed by the City Council and a notice will be issued at least fifteen (15) calendar days before the Council meeting.
- (v) That the invoice may be recorded as a Notice of Costs or Penalties in the Monterey County Recorder's Office.

(b) Recording.

The enforcing department may record the invoice as a Notice of Costs or Penalties in the Monterey County Recorder's Office. Once payment is received for the outstanding costs and/or penalties, or any reduction of costs following administrative review, and no further action will be taken under this article, the enforcing department shall record a Notice of Satisfaction.

Section 7.51.705 Administrative Review of Costs.

(a) Right to Administrative Review.

A noticed party shall have the right to administrative review of the invoiced costs incurred by the City by filing a written request for such review with the City Clerk within fifteen (15) calendar days of the date of the invoice. A failure to timely request administrative review will be deemed a waiver of a right to review of the amount of the costs.

(b) Procedures for Administrative Review.

If a request for administrative review is timely filed, the City Clerk shall deliver a copy of the invoice of costs incurred by the City and request for administrative review to the City Manager or his/her designee, which may include the appointment of a hearing officer, who shall set a date and time to review the invoice of costs with the requesting party. The administrative review shall be an informal proceeding where the enforcement department and requesting party may present any evidence they deem pertinent to the amount of the costs. The scope of review shall be limited to the amount of the costs..

(c) Decision.

The City Manager or his/her designee may affirm or reduce the costs if he/she determines that they are not supported by the evidence or upon a showing that the costs were unnecessary or unreasonable. The City Manager or his/her designee will not pass upon the validity of the underlying enforcement action or the amount of any penalties.. The decision shall be memorialized in writing. The City Manager or his/her designee may approve a payment plan for the costs.

(d) Time for Payment.

The requesting party shall have thirty (30) calendar days from the date of the decision to pay the costs, unless a payment plan is approved, in which case the costs shall be paid in accordance with the payment plan.

(e) Prior Hearing.

There is no right to administrative review if the costs have already been approved by a court of competent jurisdiction. There is no right to administrative review to confirm costs under this section if they have been previously upheld in an abatement or other administrative hearing held under the King City Municipal Code.

Section 7.51.706 Recovery of Penalties.

Administrative penalties unpaid after the required time set forth in the Municipal Code, or within fifteen (15) calendar days from the final decision after an appeal, may be collected in the manner set forth in this article except the City is not required to send an invoice under Section 7.51.704. Interest shall accrue at a rate of ten percent (10%) per year on unpaid penalties until paid. Penalties and interest may only be made a lien or special assessment upon a subject property when the record owner of the property was issued and properly noticed with the citation or other basis for the penalty.

Section 7.51.707 Recovery of Abatement and Enforcement Costs.

Abatement and enforcement costs unpaid after the required time set forth in this Chapter may be collected in the matter set forth in this article. To collect costs under these procedures, the City must send an invoice under Section 7.51.704. Interest shall accrue at a rate of ten percent (10%) per year on unpaid costs until paid.

Section 7.51.708 Personal Obligation.

Any costs or penalties subject to collection under this Chapter may be recovered as a personal obligation against the responsible party and may be referred to a collection agency or the City Attorney's Office for collection. Upon referral of these costs and obligations, the collection agency and the City Attorney's Office may seek collection through any legal means provided to them, including judicial action. Nothing in this section shall be affected by or affect the City's use of any other procedure provided in this article or by law to collect unpaid costs and penalties. In a judicial action to recover abatement costs, the City Attorney's Office may elect to recover attorneys' fees. In any action in which the City Attorney's Office elects to recover attorneys' fees under this section, attorneys' fees will be recovered by the prevailing party.

Section 7.51.709 Special Assessment and Lien.

(a) Collection.

Unpaid penalties, abatement costs, and enforcement costs that relate to a property related violation may be confirmed by the City

Council as a special assessment and collected with property taxes or as a judgment lien.

(b) Notice.

Notice of a public meeting to confirm the penalties and/or costs shall be provided to all noticed parties by the enforcing department or City Clerk at least fifteen (15) calendar days before the meeting. The notice shall: (i) contain a description of the subject property sufficient to enable the person(s) served to identify it; (ii) shall state that the City intends to collect unpaid costs or penalties by placing a lien or a special assessment on the subject property; (iii) shall specify the day, hour and place where the Council will hear and pass upon the penalties and/or costs; (iv) shall specify that the property may, in some cases, be sold after three (3) years by the Tax Collector pursuant to Revenue and Tax Code Section 3691 for unpaid delinquent assessments or be subject to judicial foreclosure before the three (3) years; and (v) shall specify that any noticed party may appear at the Council meeting and present objections to the lien or assessment.

(c) Service of Notice.

Notice shall be given either by personal service or by depositing the notice in the United States mail, postage prepaid, addressed to the owner of such lot or parcel of land and/or lessee as it appears on the last available equalized assessment roll, supplemental roll of the County of Monterey, or as otherwise known to the City by virtue of more recent or reliable information. If no address appears or is known to the City, then a copy of the notice may be mailed to the property address. A copy of the notice may also be posted on the property in a conspicuous place. Where known, a copy may also be provided by email. The failure of any person to receive the notice required by this section shall not affect the validity of any proceedings taken under this Chapter.

(d) Confirmation by City Council.

During the City Council meeting the Council may adopt a resolution confirming the amount of the penalties and costs, or any lesser amount, based upon staff reports and any public comments received during the meeting. The City Council shall take into consideration whether any noticed party sought administrative review of the costs and shall only reduce the costs if (i) the noticed party sought administrative review, and (ii) the decision of the General Services City Manager is not supported by substantial evidence in the record. The basis for the code enforcement action will not be the subject of the City Council's consideration.

Where the costs have already been approved by a court of competent jurisdiction or the penalties have been previously upheld in an abatement or other administrative hearing held under the King

City Municipal Code, the City Council shall simply confirm the costs or penalties.

The City Council may confirm the costs for more than one property in a single resolution. If the City Council confirms the costs, the procedures set forth in this section may be utilized.

(e) Time to Contest Confirmed Special Assessment or Lien.

The validity of any special assessment or lien levied under the provisions of this section shall not be contested in any action or proceeding unless such action or proceeding is commenced within thirty (30) calendar days after the special assessment is confirmed by the City Council.

(f) Recording.

Immediately upon the City Council's confirmation of costs or penalties, the City Clerk shall record a Notice of Special Assessment and Lien in the Office of the County Recorder, which shall constitute a lien on that property for the amount of the assessment, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes that included the special assessment imposed under this section would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of abatement and enforcement relating to the property shall be transferred to the unsecured roll for collection.

(g) Form of Notice of Special Assessment and Lien.

The Notice of Special Assessment and Lien for recordation shall be in the form substantially as follows:

NOTICE OF SPECIAL ASSESSMENT AND LIEN

(Claim of the City of King)

Under authority vested by provision of Chapter __, Article __, of the King City Municipal Code, the City of King did on or about the ___ day of _____, 20__, assess [describe penalties, abatement costs, enforcement costs] on the real property hereinafter described; and the same has not been paid nor any part thereof and the City of King does hereby claim a lien for such [penalties, abatement costs, and enforcement costs] to wit: the sum of _____ dollars, plus legal rate of interest to be accrued from the date of recording this lien, and any and all administrative costs to file and record the lien. The same shall be a lien upon the real property until it has been paid in full and discharged of record.

The real property hereinafter mentioned, upon which a lien is claimed, is that certain parcel of land in the City of King, County of Monterey, State of California, more particularly described as follows:

DATED: this ___ day of _____, 20___

_____ City of King

(Job Title)

(h) Collection with Taxes.

After confirmation and recordation, a copy may be turned over to the Monterey County Tax Collector. At that point, it will be the duty of the Tax Collector to add the amounts of the respective assessments to the next regular tax bills levied against the lots and parcels of land for municipal purposes. Those amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and procedures and sale in the cases of delinquency as provided for with ordinary municipal taxes.

(i) Foreclosure.

After confirmation and recording, the lien may also be foreclosed by judicial or other sale in the manner and means provided by law. The City may recover from the record property owners any costs incurred regarding a foreclosure action.

(j) Priority.

A special assessment and lien imposed under this Article shall have the priority of a tax lien, unless prohibited by State law, in which case the special assessment and lien shall have the priority of a judgment lien.

(k) Release of Lien.

Once payment in full is received for the special assessment and lien, including applicable penalties, administrative fees and interest charges; or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order; or the City has entered into some other arrangement with the property owner for satisfaction of the assessment; the enforcing department shall either record a Notice of Satisfaction or provide the property owner or financial institution with the Notice of Satisfaction so they can record the Notice with the Monterey County Recorder's Office.

(l) Refund.

The City Council may order a refund of all or part of a tax paid pursuant to this Article if it finds that all or part of the tax has been

erroneously levied. A tax or part thereof shall not be refunded unless a claim is filed with the City Clerk in accordance with the City's claim filing requirements, and in no event later than November 1st after the tax became due and payable. The claim shall be verified by the person who paid the tax, or his/her guardian, executor or administrator.

Article 8. Judicial Review and Severability

Section 7.51.901 Judicial Review.

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) calendar days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions.

Section 7.51.902 Severability.

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

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation.

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____ 2017, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

By: _____
MIKE LEBARRE, Mayor

APPROVED AS TO FORM:

By: _____
SHANNON L. CHAFFIN, Interim City Attorney
Aleshire & Wynder, LLP

I, _____, City Clerk of the City of King, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of King on the date and by the vote indicated herein.



Item No. 9(H)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: DOREEN LIBERTO, AICP, MDR, COMMUNITY DEVELOPMENT DIRECTOR

RE: CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA AMENDING THE GENERAL PLAN LAND USE DESIGNATION FROM PUBLIC QUASI ("PQ") TO AGRICULTURE ("AG") (CASE NO. GPA2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000

RECOMMENDATION:

It is recommended City Council adopt the proposed Ordinance to be read by title only.

BACKGROUND:

On February 14, 2017, City Council conducted the first reading of an Ordinance to amend the General Plan Land Use Designation from Public Quasi ("**PQ**") to Agriculture ("**AG**") (Case No. GPA2017-001) on a portion of Assessor Parcel Number 245-111-036-000.

DISCUSSION:

Analysis

The Ordinance involves amending the General Plan Land Use Map. The property is situated west of the City and adjacent to the wastewater treatment plant ("**WWTP**") and totals 170.5 acres. Approximately 93.92 acres of the property are farmable land and approximately 76.58 acres are of river bottom land. This area of land consists of one (1) legal lot with two assessor parcel numbers (APN: 245-111-035-000 and APN: 245-111-036-000). Of this property, the approximately 93.92 acres of APN 245-111-035 is situated on County of Monterey unincorporated boundary and Zoned F/40 Farmland. The approximate 76.58

CITY COUNCIL

CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA AMENDING THE GENERAL PLAN LAND USE DESIGNATION FROM PUBLIC QUASI ("PQ") TO AGRICULTURE ("AG") (CASE NO. GPA2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000

FEBRUARY 28, 2017

PAGE 2 OF 4

acres situated within City limits is zoned Light Industrial ("**M-1**") within the Public Quasi ("**PQ**") Land Use Designation. The proposed amendment is for property within City limits.

The City is in the process of selling a portion of APN 245-111-036-000 and all of APN 245-111-035-000. The future owner wishes to continue farming the site. To be consistent with the adjacent land use designations and uses, the City has initiated a General Plan Amendment and Zone Change to agricultural uses. (Reference Exhibits 2 and 3.) This portion of land was intended for future expansion of the Waste Water Treatment Plant. However, the plant is now proposed to upgrade to a tertiary treatment plant, and the portion of land is no longer needed. The City will process a land survey to create two lots from 245-111-036-000 in accordance with Subdivision Map Act §66426.5.

The General Plan provides the following goals for open space/Agricultural lands, and for Public Service and Facilities:

5. OPEN SPACE AND AGRICULTURAL LANDS GOALS AND POLICIES

GOAL: TO PROTECT AND PROVIDE OPEN SPACE LANDS TO SATISFY THE NEEDS OF THE COMMUNITY; TO CONSERVE NATURAL RESOURCES FOR FUTURE GENERATIONS; AND TO PRESERVE VIABLE, PRIME AGRICULTURAL LANDS WITHIN THE PLANNING AREA WHICH ARE NOT DESIGNATED FOR FUTURE URBAN GROWTH.

7. PUBLIC SERVICES AND FACILITIES GOALS AND POLICIES

GOAL: TO PROVIDE ADEQUATE LAND AREAS FOR PUBLIC AND QUASI-PUBLIC LAND USES; TO PLAN AND PROVIDE FOR ADEQUATE AND EFFICIENT GOVERNMENT OFFICES AND COMMUNITY FACILITIES TO ACCOMMODATE THE EXISTING AND FUTURE NEEDS OF THE CITY; TO PROVIDE POLICE AND FIRE PROTECTION SERVICES AT LEVELS ADEQUATE FOR THE PROTECTION OF LIFE AND PROPERTY; TO ENSURE AN EFFICIENT SYSTEM OF PUBLIC UTILITIES; TO IMPROVE THE AVAILABILITY AND ACCESSIBILITY OF HEALTH AND MEDICAL SERVICES TO ALL RESIDENTS OF THE PLANNING AREA; AND TO PROVIDE ADEQUATE PARK AND RECREATIONAL FACILITIES TO SERVE THE RECREATIONAL NEEDS OF THE CITY.

To be consistent with the proposed General Plan designation, a zoning change from M-1 to A is also being processed. (Reference Exhibit 4 for permitted uses in the agricultural district.)

CITY COUNCIL

CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA AMENDING THE GENERAL PLAN LAND USE DESIGNATION FROM PUBLIC QUASI ("PQ") TO AGRICULTURE ("AG") (CASE NO. GPA2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000

FEBRUARY 28, 2017

PAGE 3 OF 4

The property use is clearly consistent in preserving agricultural land. There are no plans to expand urban growth in this area. As mentioned above, the surrounding county land is designated for agricultural uses.

Environmental Review

Pursuant to Public Resources Code §15061 (3), and in accordance with the California Environmental Quality Act (CEQA), the project is covered by the general CEQA rule which states if it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment, the activity is not subject to CEQA. Staff believes that changing the land use designations from PQ and M-1 to AG and A will not have a significant effect on the environment, and therefore the project is not subject to CEQA.

Public Notification and Input

A public hearing notice was published in the South County Newspaper The Rustler on February 1, 2017 and notices were mailed to property owners within 300ft radius of the site.

COST ANALYSIS:

The property is being sold to Mission Holdings TLC (or an related entity thereof) for \$2,325,000.

ALTERNATIVES:

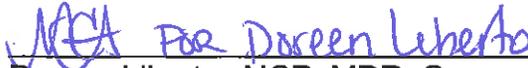
The following alternatives are provided for City Council consideration:

1. Conduct the second reading of the Ordinance, which approves the general plan amendment from PQ to AG; or Direct staff to make modifications and reintroduce the Ordinance;
2. Do not adopt the attached Ordinance; or
3. Provide other direction to staff.

Exhibits:

1. City Council Ordinance
2. General Plan Land Use Map

**CITY COUNCIL
CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF KING, CALIFORNIA AMENDING THE GENERAL PLAN LAND USE
DESIGNATION FROM PUBLIC QUASI ("PQ") TO AGRICULTURE ("AG")
(CASE NO. GPA2017-001) ON A PORTION OF ASSESSOR PARCEL NO.
245-111-036-000
FEBRUARY 28, 2017
PAGE 4 OF 4**

Submitted by: 
Doreen Liberto, AICP, MDR, Community Development Director

Approved by: 
Steven Adams, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA AMENDING THE GENERAL PLAN LAND USE DESIGNATION FROM PUBLIC QUASI (PQ) TO AGRICULTURE (AG) (CASE NO. GPA2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000.

WHEREAS, the Community Development Department (“Department”) of the City of King reviewed an application to amend the General Plan land use designation from Public-Quasi (“PQ”) to Agriculture (“AG”) (Case No. GPA2017-001) and amend the zoning district from Industrial (“I”) to Agriculture (AG) (Case No. RC2017-001) on a portion of Assessor Parcel No. 245-111-036-000, and consisting of approximately 77.30 acres, as shown on Exhibit 1; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), and pursuant to CEQA Guideline section 15061(3), this activity is not a “project” subject to CEQA as it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment; and

WHEREAS, on February 7, 2017, the City of King Planning Commission (“Commission”) conducted a public hearing to consider the applications and after considering public testimony, the staff report and all submitted evidence to support the applications, the Commission recommended the City Council (“Council”) approve Case No. GPA2017-001 and Case No. RC2017-001; and

WHEREAS, on February 14, 2017, the Council conducted a public hearing to consider the Commission’s recommendation, and after considering public testimony, the staff report and all submitted evidence, desires to approved Case No. GPA2017-001.

NOW THEREFORE, the people of the chartered City of King City do ordain as follows:

SECTION 1. The City Council finds and determines that the enactment of this Ordinance is statutorily exempt from environmental review pursuant to the State CEQA Guideline §15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, this includes that the activity does not have a significant effect on the environment as the property is currently being used for agricultural purposes, and the general plan amendment and rezone merely recognize the existing use.

SECTION 2. The City Council of the City of King, does hereby make the following findings of fact:

1. The proposed General Plan amendment from Public Quasi (PQ) to Agriculture (AG) is compatible with adjacent uses and densities. The Agricultural land use designation is consistent with the character of the area, which is predominately agriculture.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 4. All other ordinances of the City of King or provisions of the King City Municipal Code which are in conflict with this Ordinance are hereby superseded to the extent of such conflict.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation by the City Clerk.

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____ 2017, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

By: _____
MIKE LEBARRE, Mayor

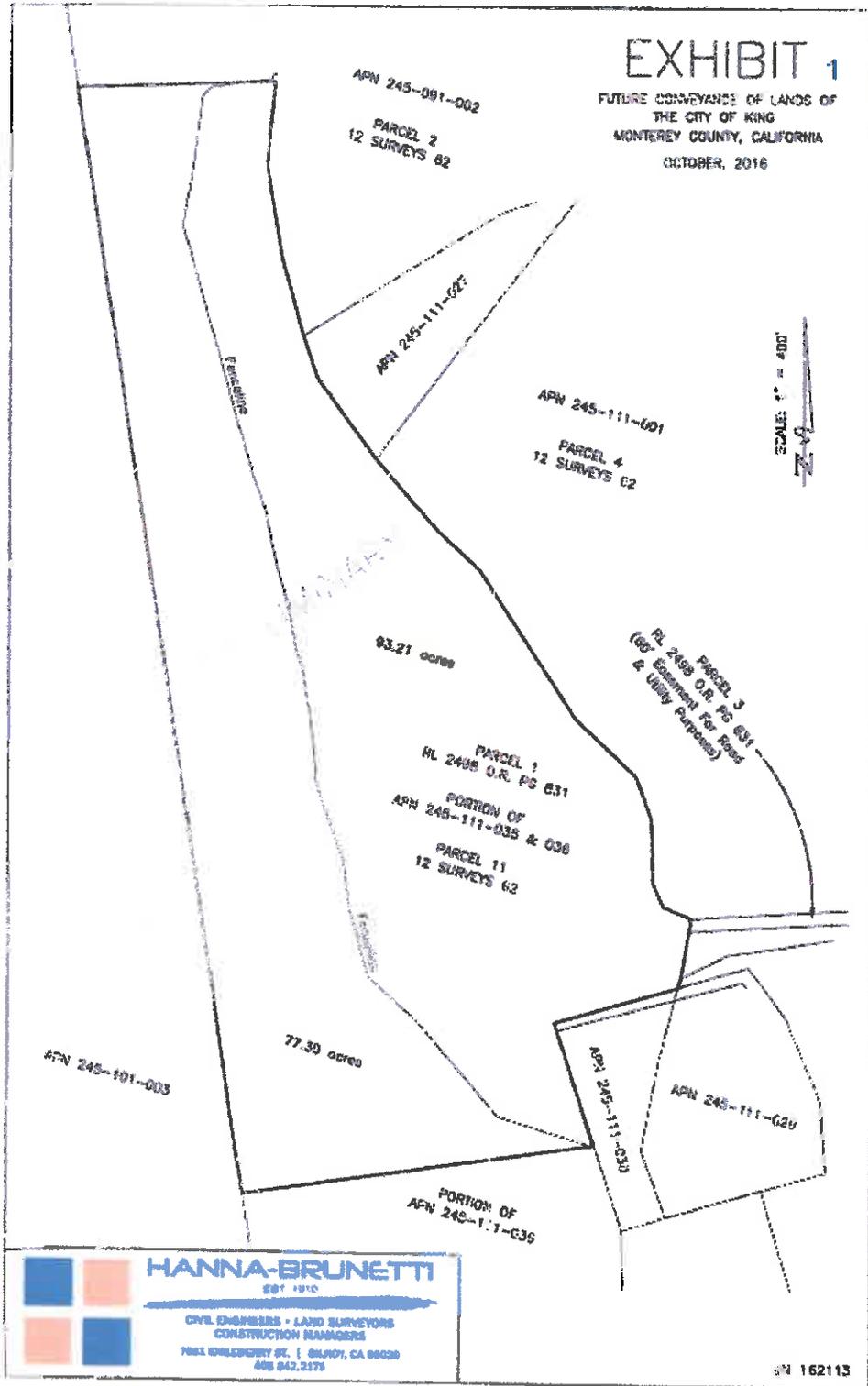
APPROVED AS TO FORM:

By: _____
SHANNON L. CHAFFIN, City Attorney
Aleshire & Wynder, LLP

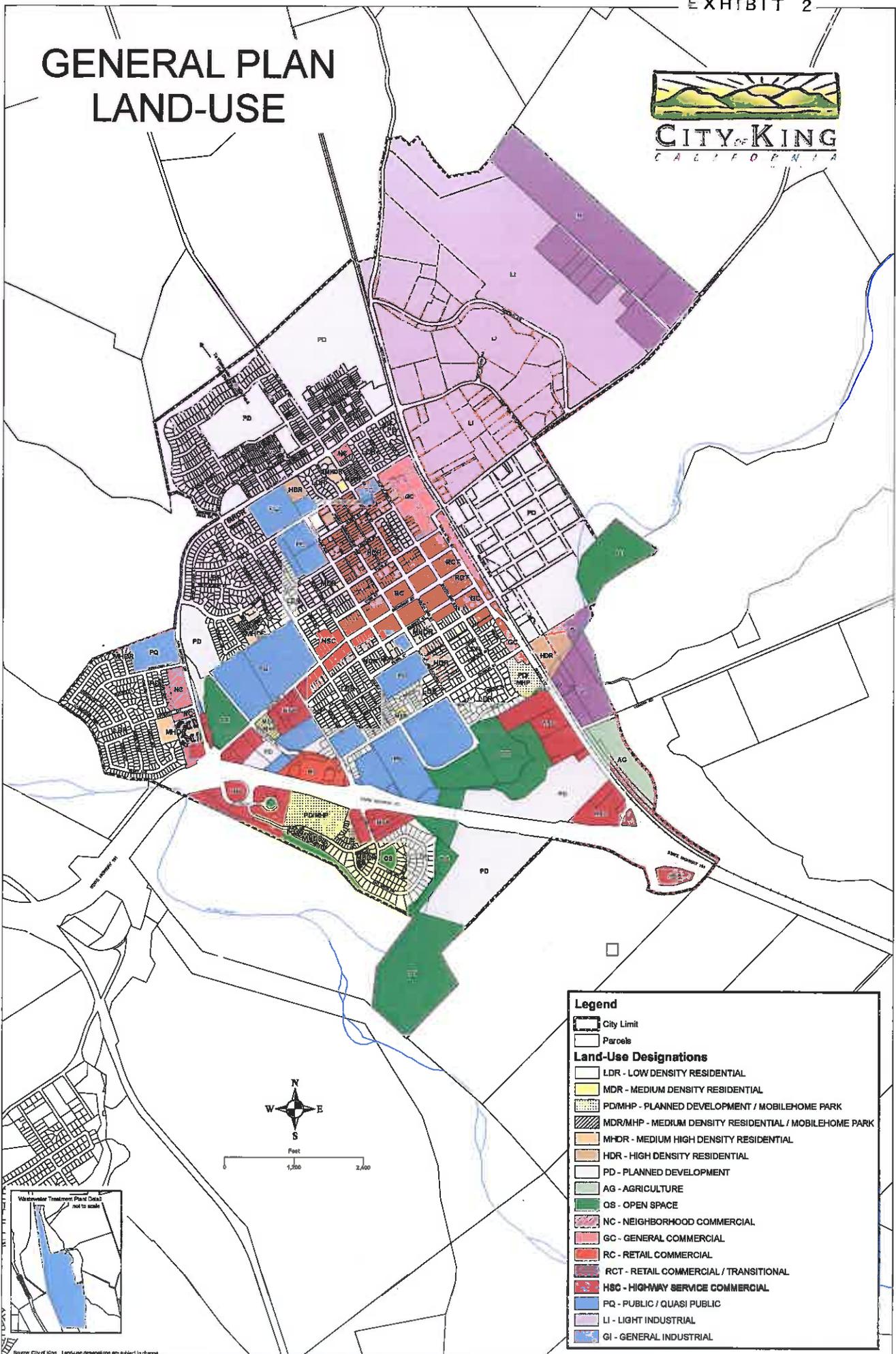
I, _____, City Clerk of the City of King, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of King on the date and by the vote indicated herein.

Exhibit 1

(A portion of Assessor Parcel No. 245-111-036-000 consisting of approximately 77.30 acres)

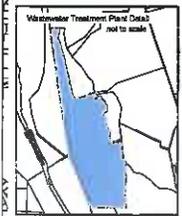


GENERAL PLAN LAND-USE



Legend

- City Limit
- Parcels
- Land-Use Designations**
- LDR - LOW DENSITY RESIDENTIAL
- MDR - MEDIUM DENSITY RESIDENTIAL
- PDMHP - PLANNED DEVELOPMENT / MOBILEHOME PARK
- MDR/MHP - MEDIUM DENSITY RESIDENTIAL / MOBILEHOME PARK
- MHR - MEDIUM HIGH DENSITY RESIDENTIAL
- HDR - HIGH DENSITY RESIDENTIAL
- PD - PLANNED DEVELOPMENT
- AG - AGRICULTURE
- OS - OPEN SPACE
- NC - NEIGHBORHOOD COMMERCIAL
- GC - GENERAL COMMERCIAL
- RC - RETAIL COMMERCIAL
- RCT - RETAIL COMMERCIAL / TRANSITIONAL
- HSC - HIGHWAY SERVICE COMMERCIAL
- PQ - PUBLIC / QUASI PUBLIC
- LI - LIGHT INDUSTRIAL
- GI - GENERAL INDUSTRIAL



Source: City of King. Land-use designations are subject to change.



Item No. 9 (I)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: DOREEN LIBERTO, AICP, MDR, COMMUNITY DEVELOPMENT DIRECTOR

RE: CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA APPROVING A ZONE DISTRICT CHANGE FROM LIGHT INDUSTRIAL ("M-1") TO AGRICULTURE ("AG") (CASE NO. ZC2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000

RECOMMENDATION:

It is recommended City Council adopt the proposed Ordinance to be read by title only.

BACKGROUND:

On February 14, 2017, City Council conducted the first reading of an Ordinance to approve a Zone District Change from Light Industrial ("**M-1**") to Agriculture ("**A**") (Case No. ZC2017-001) on a portion of Assessor Parcel Number 245-111-036-000.

DISCUSSION:

Analysis

The Ordinance involves amending the Zoning Map. The property is situated west of the City and adjacent to the wastewater treatment plant ("**WWTP**") and totals 170.5 acres. Approximately 93.92 acres of the property are farmable land and approximately 76.58 acres are of river bottom land. This area of land consists of one (1) legal lot with two assessor parcel numbers (APN: 245-111-035-000 and APN: 245-111-036-000). Of this property, the approximately 93.92 acres of APN 245-111-035 is situated on County of Monterey unincorporated boundary and Zoned F/40 Farmland. The approximate 76.58 acres situated within City limits is

CITY COUNCIL

CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA APPROVING A ZONE DISTRICT CHANGE FROM LIGHT INDUSTRIAL (“M-1”) TO AGRICULTURE (“AG”) (CASE NO. ZC2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000 FEBRUARY 28, 2017

PAGE 2 OF 3

zoned Light Industrial (“M-1”) and within the Public Quasi (“PQ”) Land Use Designation. The proposed amendment is for property within City limits.

The City is in the process of selling a portion of APN 245-111-036-000 and all of APN 245-111-035-000. The future owner wishes to continue farming the site. To be consistent with the adjacent land use designations and uses, the City has initiated a General Plan Amendment and Zone Change to agricultural uses. (Reference Exhibits 2 and 3.) This portion of land was intended for future expansion of the Waste Water Treatment Plant. However, the plant is now proposed to upgrade to a tertiary treatment plant, and the portion of land is no longer needed. The City will process a land survey to create two lots from 245-111-036-000 in accordance with Subdivision Map Act §66426.5.

To be consistent with the proposed General Plan designation, a zoning change from M-1 to A is also being processed. (Reference Exhibit 4 for permitted uses in the agricultural district.)

The property use is clearly consistent in preserving agricultural land. There are no plans to expand urban growth in this area. As mentioned above, the surrounding county land is designated for agricultural uses.

Environmental Review

Pursuant to Public Resources Code §15061 (3), and in accordance with the California Environmental Quality Act (CEQA), the project is covered by the general CEQA rule which states if it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment, the activity is not subject to CEQA. Staff believes that changing the zoning and land use designations from PQ and M-1 to AG and A will not have a significant effect on the environment, and therefore the project is not subject to CEQA.

Public Notification and Input

A public hearing notice was published in the South County Newspaper The Rustler on February 1, 2017 and notices were mailed to property owners within 300ft radius of the site.

COST ANALYSIS:

The property is being sold to Mission Holdings TLC (or an related entity thereof) for \$2,325,000.**ALTERNATIVES:**

CITY COUNCIL

**CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA APPROVING A ZONE DISTRICT CHANGE FROM LIGHT INDUSTRIAL ("M-1") TO AGRICULTURE ("AG") (CASE NO. ZC2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000
FEBRUARY 28, 2017**

PAGE 3 OF 3

The following alternatives are provided for City Council consideration:

1. Conduct the second reading of the Ordinance, which approves the zone district change M-1 to A; or
2. Do not adopt the attached Ordinance; or
3. Provide other direction to staff.

Exhibits:

1. City Council Ordinance
2. Zoning Map
3. Agriculture Permitted Uses

Submitted by:

MEA FOR Doreen Liberto

Doreen Liberto, AICP, MDR, Community Development Director

Approved by:

Steven Adams

Steven Adams, City Manager

ORDINANCE NO. _____**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA APPROVING A ZONING DISTRICT CHANGE FROM INDUSTRIAL (M-1) TO AGRICULTURE (AG) (CASE NO. ZC2017-001) ON A PORTION OF ASSESSOR PARCEL NO. 245-111-036-000.**

WHEREAS, the Community Development Department (“Department”) of the City of King reviewed applications to amend the General Plan land use designation from Public-Quasi (“PQ”) to Agriculture (“AG”) (Case No. GPA2017-001) and amend the zoning district from Industrial (“I”) to Agriculture (AG) (Case No. RC2017-001) on a portion of Assessor Parcel No. 245-111-036-000, and consisting of approximately 77.30 acres, as shown on Exhibit 1; and

WHEREAS, on February 7, 2017, the Planning Commission (“Commission”) adopted Resolution No.2017-169 recommending the City Council (“Council”) amend the General Plan designation from Public Quasi to Agriculture and amend the zoning district from Industrial to Agriculture; and

WHEREAS, the proposed zoning district change to Agriculture is consistent with the General Plan land use designation amendment to Agriculture, as concurrently being considered and adopted immediately prior to this zoned district change; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), and pursuant to CEQA Guideline section 15061(3), this activity is not a “project” subject to CEQA as it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment; and

WHEREAS, on February 7, 2017, the City of King Planning Commission (“Commission”) conducted a public hearing to consider both the proposed General Plan amendment and the zoning district amendment, and after considering public testimony, the staff report and all submitted evidence to support the applications, the Commission recommended the City Council (“Council”) approve both Case No. GPA2017-001 and Case No. RZ2017-001; and

WHEREAS, on February 14, 2017, the Council conducted a public hearing to consider the Commission’s recommendation, and after considering public testimony, the staff report and all submitted evidence, the Council now desires to approve Case No. RZ2017-001.

NOW THEREFORE, the people of the chartered City of King City do ordain as follows:

SECTION 1. The City Council finds and determines that the enactment of this Ordinance is statutorily exempt from environmental review pursuant to the State CEQA Guideline §15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, this includes that the activity does not have a significant effect on the environment as the property is currently being used for

agricultural purposes, and the general plan amendment and rezone merely recognize the existing use.

SECTION 2. The City Council of the City of King, does hereby make the following findings of fact:

1. The zone change is consistent with the revised General Plan designation. The zoning district change is from Industrial to Agricultural.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 4. All other ordinances of the City of King or provisions of the King City Municipal Code which are in conflict with this Ordinance are hereby superseded to the extent of such conflict.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation by the City Clerk.

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____ 2017, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

By: _____
MIKE LEBARRE, Mayor

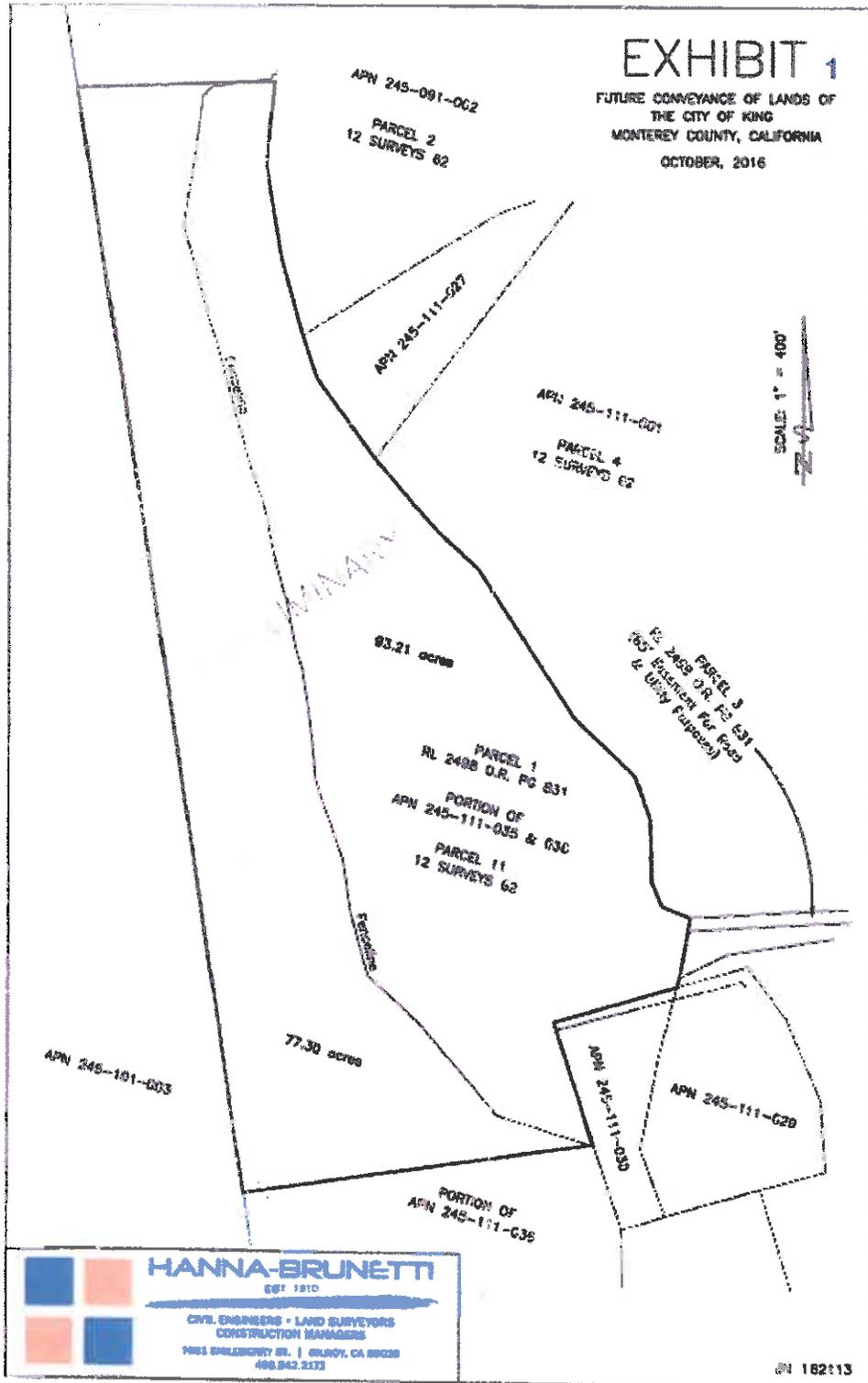
APPROVED AS TO FORM:

By: _____
SHANNON L. CHAFFIN, City Attorney
Aleshire & Wynder, LLP

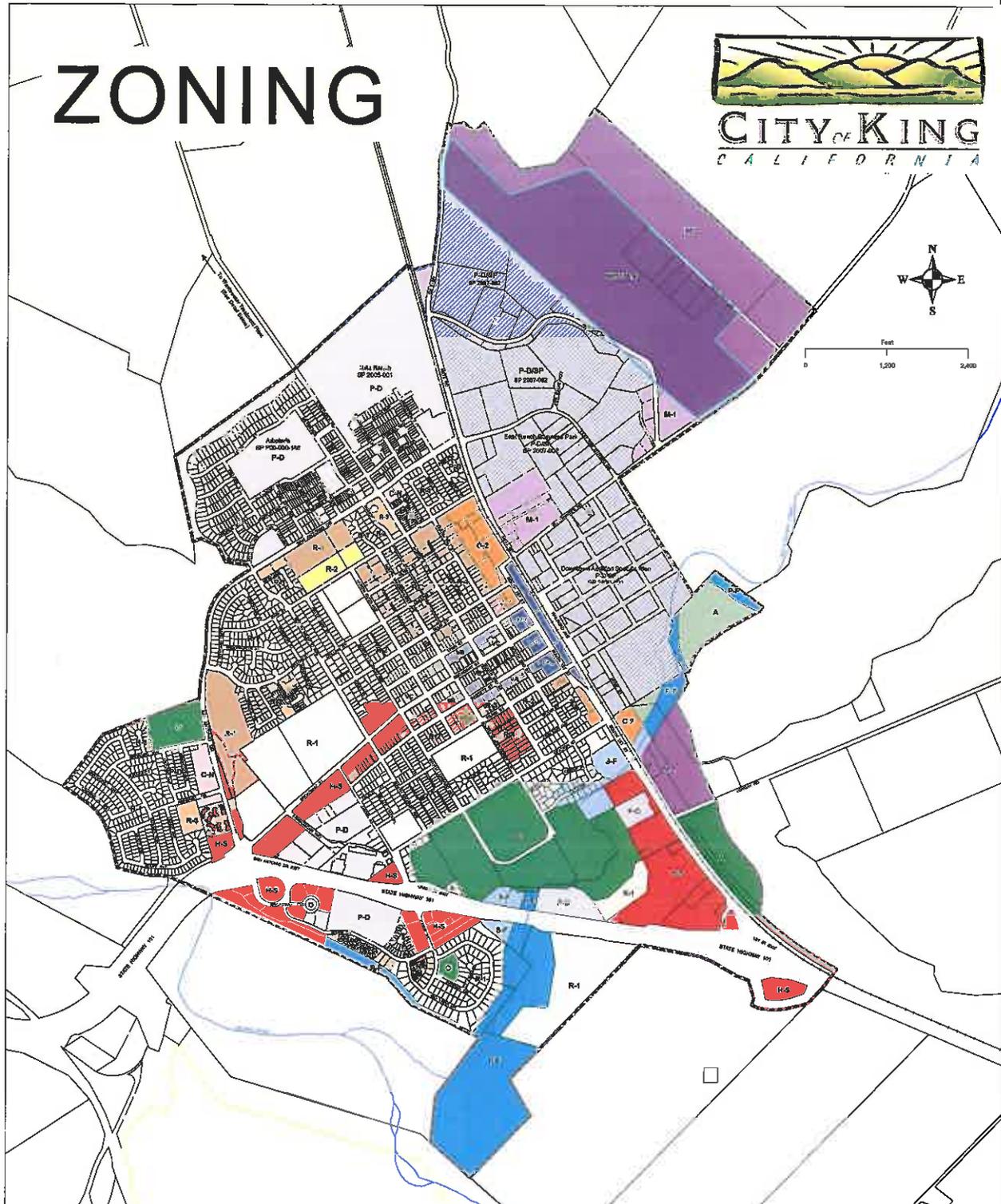
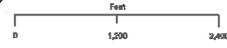
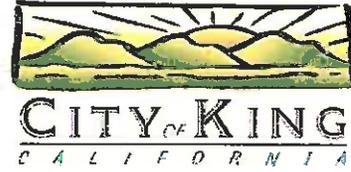
I, _____, City Clerk of the City of King, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of King on the date and by the vote indicated herein.

EXHIBIT 1

(A portion of Assessor Parcel No. 245-111-036-000, consisting of approximately 77.30 acres)



ZONING



Legend

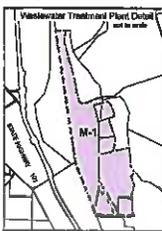
- CITY LIMITS
- PARCELS

Zoning District Classifications

- A-P COMBINING AIRPORT DISTRICT
- A AGRICULTURAL DISTRICT
- PSC FIRST STREET CORRIDOR
- VB VILLAGE BUSINESS
- CCCH CIVIC CENTER AND CITY HALL
- VC VILLAGE CORE
- R-1 SINGLE FAMILY RESIDENTIAL DISTRICT
- R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT
- R-2IN MEDIUM DENSITY RESIDENTIAL NEIGHBORHOOD
- R-3 MEDIUM HIGH DENSITY RESIDENTIAL DISTRICT
- R-3IN MEDIUM HIGH DENSITY RESIDENTIAL - NEIGHBORHOOD
- R-4 MULTIPLE FAMILY RESIDENTIAL AND PROFESSIONAL OFFICES DISTRICT
- R-4IN MULTIPLE FAMILY RESIDENTIAL - NEIGHBORHOOD

- C-N NEIGHBORHOOD COMMERCIAL DISTRICT
- C-1/TD RETAIL-COMMERCIAL TRANSITION DISTRICT
- C-2 GENERAL COMMERCIAL DISTRICT
- H-S HIGHWAY SERVICE DISTRICT
- M-1 INDUSTRIAL DISTRICT
- M-2 INDUSTRIAL DISTRICT
- M-3 HEAVY INDUSTRIAL DISTRICT
- P-D PLANNED DEVELOPMENT DISTRICT
- O OPEN SPACE DISTRICT
- P-F PRIMARY FLOOD PLAIN DISTRICT
- S-F SECONDARY FLOOD PLAIN DISTRICT
- P-DISP PLANNED DEVELOPMENT / SPECIFIC PLAN DISTRICT

* N - denotes 'not regulated by the form base code'



King City Municipal Code							
Up	Previous	Next	Main	Collapse	Search	Print	No Frames
Title 17 ZONING							

Chapter 17.10 A—AGRICULTURAL DISTRICT

17.10.010 Purpose.

The purpose of this chapter is to provide an agricultural district to protect and maintain agricultural land for agricultural purposes.

The following regulations shall apply in all A districts and shall be subject to the provisions of Chapters 17.48 through 17.52. (Ord. 354 § 17.4.21, 1973)

17.10.020 Uses permitted.

(1) All agricultural uses, including crop and tree farming, livestock farming, except hog, dairy or poultry farming, except the uses indicated in subsection 2 shall not be established until a use permit is first obtained.

(2) Stands for sale of products grown on premises; home occupations. (Ord. 354 § 4.21.1, 1973)

17.10.030 Uses subject to obtaining permit.

Uses permitted subject to first securing a use permit in each case shall be as follows:

- (1) Fish and worm farms;
- (2) Cattle feed yards and animal sales yards;
- (3) Storage, rental and sales of irrigation equipment;
- (4) Labor supply and contract labor camps and quarters; construction or trailer park for farm labor;
- (5) Packing and agricultural processing plants and commercial storage of fertilizer, stock auction and stock sales yards;
- (6) Public and quasi-public uses including churches, schools accredited to the state school system, parks and play grounds, nonprofit recreation, airports and heliports, landing strips, animal hospital, commercial kennels, boarding kennels, community centers, lodge, club and organization halls and one noncommercial guest house;
- (7) Golf course with standard length fairways;
- (8) Public utility buildings and uses and service yards. (Ord. 354 § 4.21.2, 1973)

17.10.040 Accessory buildings and uses.

Accessory buildings and uses permitted shall be:

- (1) Accessory buildings and accessory uses, including barns, stables and other farm outbuildings, farm labor quarters (structures or trailers) and quarters for servants employed on the premises, one family dwellings, accessory to an agricultural operation on the same building site;
- (2) One occupied trailer subject to first obtaining a use permit;
- (3) Signs shall be permitted as set out in Article III of Chapter 17.54. (Ord. 354 § 4.21.3, 1973)

17.10.050 Maximum height.

Maximum allowable height shall be thirty feet. (Ord. 354 § 4.21.4, 1973)

17.10.060 Minimum building site.

Minimum building site and lot width required, unless combined with any B district shall be as follows:

(1) Building Site. Single-family dwellings and dwellings for farm labor employed on-premises, twenty thousand square feet; additional building site permitted subject to first obtaining a use permit for each additional twenty thousand square feet of building site. Packing and processing of agricultural products, three acres. Labor camps or labor trailer park, three acres. Schools, three acres. All other uses, twenty thousand square feet or as prescribed in the use permit;

(2) Average building site width shall be one hundred feet. Minimum lot width shall be seventy-five feet. (Ord. 354 § 4.21.5, 1973)

17.10.070 Minimum yard requirements.

Minimum yards required, unless building lines have been established shall be:

- (1) Front yard, thirty feet;
- (2) Side yard, ten feet;
- (3) Rear yard, twenty feet. (Ord. 354 § 4.21.6, 1973)

17.10.080 Development standards.

Development standards are as follows:

Packing houses; processing of agricultural products, commercial processing and storage of fertilizer and mining shall be subject to the provisions of Chapters 17.54 and 17.56 regarding performance standards. (Ord. 354 § 4.21.7, 1973)

17.10.090 Minimum off-street parking.

The provisions of Chapter 17.52 shall apply in determining the amount of space that must be provided for each use. The parking space shall be improved as set forth in said chapter. (Ord. 354 § 4.21.8, 1973)

View the [mobile version](#).



Item No. 9 (J)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: DOREEN LIBERTO, AICP, COMMUNITY DEVELOPMENT DIRECTOR

BY: DON FUNK, PRINCIPAL PLANNER

RE: CONSIDERATION OF ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA AMENDING SECTION 4.7 (ALLOWABLE LAND USES) OF THE CITY OF KING HISTORIC CORRIDOR REVITALIZATION PLAN AND AMENDING THE ALLOWABLE USES IN THE VILLAGE CORE ("VC") ZONING DISTRICT ALLOWING HEALTH AND FITNESS FACILITIES GREATER THAN 1,500 SQUARE FEET IN THE AREA WITHIN EXISTING BUILDINGS

RECOMMENDATION:

It is recommended City Council adopt the proposed Ordinance to be read by title only.

BACKGROUND:

On February 14, 2017, City Council conducted the first reading of an Ordinance to amend the Village Core ("**VC**") Zone District to allow Fitness Facilities subject to a Conditional Use Permit. The Ordinance amends the Zoning Code and Historic Area Revitalization Plan to permit health and fitness facilities larger than 1,500 square feet within existing buildings (including expansions up to 50 percent of the existing floor area) in the VC Zone with a Conditional Use Permit. Currently, health and fitness facilities of less than 1,500 square feet are permitted in the VC Zone, while facilities over 1,500 are not permitted.

CITY COUNCIL

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CONSIDERATION OF SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA AMENDING SECTION 4.7 (ALLOWABLE LAND USES) OF THE CITY OF KING HISTORIC CORRIDOR REVITALIZATION PLAN AND AMENDING THE ALLOWABLE USES IN THE VILLAGE CORE ("VC") ZONING DISTRICT ALLOWING HEALTH AND FITNESS FACILITIES GREATER THAN 1,500 SQUARE FEET IN THE AREA WITHIN EXISTING BUILDINGS

PAGE 2 OF 4

DISCUSSION:

Analysis

The Ordinance amends the Village Core ("**VC**") Zone text to allow fitness facilities greater than 1,500 square feet subject to a Conditional Use Permit ("**CUP**"). In light of businesses being displaced from the East Ranch Business Park, there is an interest in utilizing some of the vacant buildings in the downtown for new uses. One of the uses is Kasey's Fitness Academy, which currently provides a gym, exercise classes, health and wellness professional services, retail, juice bar, etc., and recently lost their lease in the East Ranch Business Park.

Fitness facilities are currently allowed in the Village Core ("**VC**") only under 1,500 square feet in area. The proposed amendment includes modifying the Historic Corridor Revitalization Plan and VC Zoning District to allow the use of a fitness facility over 1,500 square feet within existing buildings subject to a Conditional Use Permit. Expansions of existing buildings up to 50 percent of floor area could be approved by the Planning Commission.

Advantages

If the City Council approves the amendment to the VC Zone, the proposed project will be compatible with zoning, General Plan and environmental issues. The proposed conversion will allow health and fitness clients to continue to use the services of Kasey Fitness Academy. It is anticipated that many of those clients will purchase items in nearby stores, eat in nearby restaurants and use the services of nearby professionals. Kasey's Fitness will be utilizing a shared parking agreement with the neighboring properties.

Disadvantages

Fitness facilities are often excluded from downtown areas because they utilize significant parking and do not generate much sales tax. Staff believes the requirements for a conditional use permit will enable the City to avoid any issues that might be created if there was a future concentration of such facilities in the downtown.

CITY COUNCIL

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**CONSIDERATION OF SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA AMENDING SECTION 4.7 (ALLOWABLE LAND USES) OF THE CITY OF KING HISTORIC CORRIDOR REVITALIZATION PLAN AND AMENDING THE ALLOWABLE USES IN THE VILLAGE CORE ("VC") ZONING DISTRICT ALLOWING HEALTH AND FITNESS FACILITIES GREATER THAN 1,500 SQUARE FEET IN THE AREA WITHIN EXISTING BUILDINGS
PAGE 3 OF 4**

Environmental Review

The project will qualify for Categorical Exemption Class 1, Existing Facilities. Class 1 exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible (up to 50 percent expansion) or no expansion of use beyond that existing at the time of the lead agency's determination.

Public Notification and Input

The proposed amendment was duly noticed in the South County Newspaper The Rustler on February 1, 2017 and notices sent to property owners within 300 feet radius.

COST ANALYSIS:

The City is the applicant for the text amendment because retaining displaced businesses is part of the City's economic development efforts. Therefore, the cost is paid through the General Fund.

ALTERNATIVES:

The following alternatives are provided for City Council consideration:

1. Conduct the Second Reading of the Ordinance, which approves the Zone Text Amendment to the Village Code (VC) Zone District;
2. Request changes and reintroduce the Ordinance;
3. Do not adopt the Ordinance; or
4. Provide other direction to staff.

Exhibits:

1. City Council Ordinance

CITY COUNCIL

FEBRUARY 28, 2017

CONSIDERATION OF SECOND READING AND ADOPTION OF AN
ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA
AMENDING SECTION 4.7 (ALLOWABLE LAND USES) OF THE CITY OF
KING HISTORIC CORRIDOR REVITALIZATION PLAN AND AMENDING THE
ALLOWABLE USES IN THE VILLAGE CORE ("VC") ZONING DISTRICT
ALLOWING HEALTH AND FITNESS FACILITIES GREATER THAN 1,500
SQUARE FEET IN THE AREA WITHIN EXISTING BUILDINGS
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Submitted by: MA FOR Doreen Liberto
Doreen Liberto, Community Development Director

Approved by: 
Steven Adams, City Manager

EXHIBIT 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING AMENDING SECTION 4.7 (ALLOWABLE LAND USES) OF THE CITY OF KING HISTORIC CORRIDOR REVITALIZATION PLAN AND AMENDING THE ALLOWABLE USES IN THE VILLAGE CORE (VC) ZONING DISTRICT FOR THE PURPOSE OF ALLOWING HEALTH AND FITNESS FACILITIES GREATER THAN 1,500 SQUARE FEET IN AREA WITHIN EXISTING BUILDINGS

WHEREAS, there is a request by Kasey's Fitness Academy to relocate from East San Antonio Drive to vacant building space located within the Downtown Village Core (VC) Zoning District; and

WHEREAS, the new health and fitness facility is larger than 1,500 square feet in area, and

WHEREAS, the VC Zone currently prohibits health and fitness facilities larger than 1,500 square feet, and

WHEREAS, health and fitness facilities provide a needed and useful service for City residents and visitors, and

WHEREAS, health and fitness facilities may increase and improve nearby businesses, and

WHEREAS, health and fitness facilities have not created land use issues within the City in the past and are currently permitted within the neighboring Village Business (VB) and First Street Corridor (FSC) Zoning Districts, and

WHEREAS, on February 7, 2017, the Planning Commission ("Commission") adopted Resolution No. 2017-170 recommending the City Council ("Council") approve Case ZC 2016-005 to amend the King Historic Corridor Revitalization Plan, and associated amendment in the zoning uses in the Downtown Village Core (VC) Zoning District to allow for expanded uses, and

WHEREAS, the change to the ordinance, Case ZC 2016-005 as well as the proposed fitness facility within an existing building are exempt pursuant to Section 15301 (Class 1 Categorical Exemption, "Existing Facilities") of the State CEQA Guidelines (Title 14, California Code of Regulations Section 15000, et seq.). 15301. Existing Facilities: Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible (up to 50 percent expansion) or no expansion of use beyond that existing at the time of the lead agency's determination; and

**CITY COUNCIL
 ZONING TEXT AMENDMENT VILLAGE CORE (“VC”) DISTRICT
 ZC2016-005
 FEBRUARY 14, 2017
 PAGE 2 OF 4**

WHEREAS, the VC Zoning District needs to be amended to accommodate health and fitness facilities larger than 1,500 square feet, and

WHEREAS, this amendment may facilitate the refurbishing of Downtown buildings.

NOW THEREFORE the people of the Charter City of King City do ordain as follows:

SECTION 1: The City Council finds and determines that the enactment of this Ordinance is CEQA Guidelines Section 15301 (Class 1 Categorical Exemption, “Existing Facilities”) of the State CEQA Guidelines (Title 14, California Code of Regulations Section 15000, et seq.), because the amendments would provide for only negligible (up to 50 percent expansion) or no expansion of use beyond that existing at the time of the lead agency's determination.

SECTION 2: The City Council of the City of King, does hereby make the following findings of fact:

1. The proposed amendment to the Historic Corridor Revitalization Plan is consistent with the General Plan.
2. The proposed Zoning Amendment is consistent with the General Plan and any other applicable plan.

SECTION 3: The City Council approves the following changes to the Historic Corridor Revitalization Plan and Village Core (VC) Zone:

Amend Table 4.7 (Allowed Land Uses and Permit Requirements) of the Historic Corridor Revitalization Plan and the VC Zoning District is hereby amended by adding Health and Fitness Facilities larger than 1,500 square feet as an acceptable use by Conditional Use Permit within existing buildings as follows:

Land Use Type	FSC	VC	VB
Health/Fitness Facilities			
greater than 1,500 sq. UP	UP	<u>UP⁵</u>	

Reference 5: *Use permitted with a Use Permit only within existing buildings, including expansions up to a maximum 50% floor area of the existing building. Total area may not exceed 10,000 square feet.*

SECTION 4: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

**CITY COUNCIL
ZONING TEXT AMENDMENT VILLAGE CORE ("VC") DISTRICT
ZC2016-005
FEBRUARY 14, 2017
PAGE 3 OF 4**

SECTION 5: All other ordinances of the City of King or provisions of the King City Municipal Code which are in conflict with this Ordinance are hereby superseded to the extent of such conflict.

SECTION 6: The City Council authorizes the amendment of the Municipal Code to incorporate these text amendment changes to the VC Zoning District and further authorizes the staff to prepare the completion of codification text and tables of previously adopted sections of the VC, VB and FSC Zoning Districts within the City's Municipal Code.

SECTION 7. This ordinance shall take effect and be in full force and effect from and after 30 calendar days after its final passage and adoption. Within 15 calendar day after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation by the City Clerk.

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____, 2017, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST:

STEVEN ADAMS, City Clerk

CITY OF KING:

By: _____

MICHAEL LEBARRE, Mayor

APPROVED AS TO FORM

SHANNON CHAFFIN, City Attorney

**CITY COUNCIL
ZONING TEXT AMENDMENT VILLAGE CORE ("VC") DISTRICT
ZC2016-005
FEBRUARY 14, 2017
PAGE 4 OF 4**

I, _____, City Clerk of the City of King, California, DO
HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance
passed and adopted by the City Council of the City of King on the date and by the vote
indicated herein.



Item No. 9 (K)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

**RE: CONSIDERATION OF AUTHORIZATION INVOLVING
POSITIONS ON LEGISLATION AND SUPPORT FOR GRANT
APPLICATIONS**

RECOMMENDATION:

It is recommended the City Council adopt a Resolution granting the Mayor and City Manager authority to send letters of support or opposition to legislation and grant applications meeting specified criteria.

BACKGROUND:

The City receives frequent requests to send letters of support or opposition to State and Federal legislation. In addition, organizations often request letters of support for grant applications. It would be labor intensive to prepare reports for the City Council to formally act on every request. In addition, many of the cases involve items with deadlines or a time sensitive nature. Staff is unaware of any formal policy that has been established in the past on how to handle these situations.

DISCUSSION:

In order to address this, staff recommends the Mayor and City Manager be authorized by the City Council to submit letters of support and opposition to legislation and letters of support for grant applications under agreed upon circumstances. Under the proposal, the Mayor and City Manager would be authorized to submit letters of support and opposition regarding legislation and related legislative or regulatory activities under the following circumstances:

- Requests for positions from the League of California Cities that they have endorsed;

**CITY COUNCIL
CONSIDERATION OF AUTHORIZATION INVOLVING POSITIONS ON
LEGISLATION AND SUPPORT FOR GRANT APPLICATIONS
FEBRUARY 28, 2017
PAGE 2 OF 2**

- Items that involve issues or programs consistent with positions, actions or efforts the City Council has previously approved; and
- Other items important to the interests of the City that involve deadlines which prevent the item from being presented to the City Council for consideration at their next meeting.

The Mayor and City Manager would also be authorized to send letters of support for grant applications by outside organizations that will fund projects and programs that can be shown to benefit King City and do not legally bind the City to any funding commitment.

COST ANALYSIS:

The proposed policy will reduce staff time and increase effectiveness.

ALTERNATIVES:

The following alternatives are provided for City Council consideration:

1. Adopt the Resolution;
2. Modify the criteria in the Resolution and then adopt;
3. Do not adopt the Resolution or grant the recommended authority; or
4. Provide staff other direction.

Prepared and Approved by:



Steven Adams, City Manager

RESOLUTION NO. 2017-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KING
GRANTING AUTHORIZATION INVOLVING POSITIONS ON LEGISLATION
AND SUPPORT FOR GRANT APPLICATIONS**

WHEREAS, the City is frequently requested to take positions on legislation affecting local control and the interests of the City; and

WHEREAS, the City is often requested to provide letters of support for grant applications from outside organizations that will benefit the City through projects, programs and increased services, and

WHEREAS, it is labor intensive and difficult for the City Council to formally act on every request; and

WHEREAS, there is often a time sensitive nature of such requests in order to influence decisions; and

WHEREAS, it is important for the City to be responsive to such requests in order to have maximum influence over decisions that impact the community.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Mayor and City Manager shall be authorized to submit letters of support and opposition regarding legislation and related legislative or regulatory activities in the following circumstances:

1. In response to requests for positions from the League of California Cities that they have endorsed;
2. On items that involve issues or programs consistent with positions, actions or efforts the City Council has previously approved; and
3. On other items important to the interests of the City that involve deadlines which prevent the item from being presented to the City Council for consideration at their next meeting.

BE IT FURTHER RESOLVED that the Mayor and City Manager shall be authorized to send letters of support for grant applications by outside organizations that will fund projects and programs that can be shown to benefit King City and do not legally bind the City to any funding commitment.

This resolution was passed and adopted this **28th** day of **FEBRUARY, 2017** by the following vote:

AYES, Council Members:

NAYS, Council Members:

ABSENT, Council Members:

ABSTAIN, Council Members:

APPROVED:

Michael LeBarre, Mayor

ATTEST:

Steven Adams, City Clerk

APPROVED AS TO FORM:

Shannon Chaffin, City Attorney



Item No. 9(L)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF SUPPORT FOR ASSEMBLY BILL 1

RECOMMENDATION:

It is recommended the City Council approve and authorize the Mayor to submit a letter of support for Assembly Bill (AB) 1 regarding transportation funding.

BACKGROUND:

The City has received a request from the League of California Cities and Senator Cannella to submit a letter of support for AB 1. This legislation would generate an additional \$6 billion annually to provide desperately needed funding for the State and local transportation network. To repair and maintain existing transportation infrastructure, the proposal would generate up to \$2.4 billion and \$2.2 billion annually for the state's highway system and local streets and roads, respectively. The bill also provides nearly \$600 million for freight and the State's trade corridors, over a half billion for transit and intercity rail, and up to \$150 million to support active transportation programs throughout the state.

The proposal takes the approach of raising revenue over a variety of sources, such as a 12 cent increase to the gas tax to restore some of its purchasing power, ending the Board of Equalization's "true up" process on the price based excise tax on gas, a \$38 increase to the vehicle registration fee, a \$100 vehicle registration fee on zero emission vehicles, a 20 cent increase to the diesel excise tax, \$300 million from existing cap and trade funds, and returning \$500 million in vehicle weight fees phased in over five years.

In addition to raising revenue, the proposal includes a series of reforms to improve efficiency, transparency, and accountability, such as restoring independence to the California Transportation Commission, creating the Office of the Transportation Inspection General with audit and investigation authority over the State's transportation spending, and establishing local reporting requirements

**CITY COUNCIL
CONSIDERATION OF SUPPORT FOR ASSEMBLY BILL 1
FEBRUARY 28, 2017
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on local transportation spending. To streamline roadwork, the bill permanently extends and expands on the limited exemptions to California's Environmental Quality Act (CEQA) for repair, maintenance, and minor alteration projects on existing roadways to cities and counties with populations greater than 100,000 and state roadways. The proposal also creates an advanced mitigation program, which authorizes the Natural Resources Agency to establish state and regional transportation mitigation plans and mitigation banks to allow transportation projects to fulfill their environmental requirements in advance.

DISCUSSION:

This bill would provide important revenue to the City to assist in funding ongoing paving projects, the proposed roundabout project, and other transportation and street infrastructure needs. When combined with the passage of the recent TAMC sales tax measure and new City funds programmed for an ongoing pavement management program, additional State funding could be instrumental in achieving the City's goal of addressing serious deficiencies of the City's street system. Improving the City's street, sidewalk and wastewater infrastructure was adopted by the City Council as one of the City's major priorities. In the citywide survey conducted last year, residents gave the quality of the City's streets a score of 3.49 on a scale of 1 to 4, 1 being highest. Improving the City's streets will be particularly important to achieve long-term financial stability by reducing the need for costly reconstruction projects.

COST ANALYSIS:

There is no cost associated with the recommended action. When the program is fully implemented, King City is projected to receive approximately \$460,000 annually if the bill is approved.

ALTERNATIVES:

The following alternatives are provided for City Council consideration:

1. Approve the proposed letter of support;
2. Modify the letter and approve;
3. Do not approve the letter of support; or
4. Provide staff other direction.

Exhibits:

1. Proposed letter of support

Prepared and Approved by:



Steven Adams, City Manager



February 28, 2017

The Honorable Jim Frazier
Chair, Assembly Transportation Committee
California State Capitol, Room 3091
Sacramento, CA 95814
FAX: (916) 319-2111

RE: AB 1 (Frazier). Transportation Funding. (as introduced December 5, 2016)
Notice of Support

Dear Senator Beall:

The City of King is pleased to support your AB 1, which represents a comprehensive transportation proposal inclusive of sensible reforms, modest increases to existing revenue sources, and robust infrastructure investment. The proposal presents an opportunity for the new legislature to advance a comprehensive framework to address the overwhelming backlog of repair and deferred maintenance as well as other transportation needs in the early part of 2017.

It would be an understatement to say the time to act is now to address the \$73 billion unmet funding need for local streets and roads and \$72 billion backlog to the State's Highway System. For local streets and roads alone, the funding need grows by an additional \$20 billion in just ten years. With the expressed commitment of Legislative Leadership and this Administration to getting this done in the early parts of 2017, we urge this legislature's immediate attention to this proposal as the vehicle to deliver this victory for California.

This bill would provide important revenue to King City to assist in funding ongoing paving projects, a proposed roundabout project necessary to address a substantial circulation problem, and other transportation and street infrastructure needs. It could be instrumental in achieving the City's goal of addressing serious deficiencies of the City's street system. Improving the City's street infrastructure has been adopted by the City Council as one of the City's major priorities. In a citywide survey conducted last year, residents gave the quality of the City's streets a score of 3.49 on a scale of 1 to 4, 1 being highest. They also ranked improving the City's streets as one of the highest priorities. It is also particularly important in order to achieve long-term financial stability for King City and other jurisdictions. If an adequate pavement condition can be achieved where only ongoing slurry seal and other preventative maintenance is necessary, a tremendous amount of money will be saved in annual costs by avoiding costly future street reconstruction costs.

When fully phased in, AB 1 would generate an additional \$6 billion annually to provide desperately needed funding for the state and local transportation network. To repair and maintain existing transportation infrastructure, the proposal would generate up to \$2.4 billion and \$2.2 billion annually for the state's highway system and local streets and roads, respectively. The bill also provides nearly \$600 million for freight and the state's trade corridors, over a half billion for transit and intercity rail, and up to \$150 million to support active transportation programs throughout the state.

The proposal takes the approach of raising revenue over a variety of sources, such as a 12 cent increase to the gas tax to restore some of its purchasing power, ending the Board of Equalization's "true up" process on the price based excise tax on gas, a \$38 increase to the vehicle registration fee, a \$100 vehicle registration fee on zero emission vehicles, a 20 cent increase to the diesel excise tax, \$300 million from existing cap and trade funds, and returning \$500 million in vehicle weight fees phased in over five years.

In addition to raising revenue, the proposal includes a series of reforms to improve efficiency, transparency, and accountability, such as restoring independence to the California Transportation Commission, creating the Office of the Transportation Inspection General with audit and investigation authority over the state's transportation spending, and establishing local reporting requirements on local transportation spending. To streamline roadwork, the bill permanently extends and expands on the limited exemptions to California's Environmental Quality Act (CEQA) for repair, maintenance, and minor alteration projects on existing roadways to cities and counties with populations greater than 100,000 and state roadways. The proposal also creates an advanced mitigation program which authorizes the Natural Resources Agency to establish state and regional transportation mitigation plans and mitigation banks to allow transportation projects to fulfill their environmental requirements in advance.

Overall, this proposal provides a comprehensive transportation reform and funding package that picks up where we left off at the end of the special session, while giving this legislature an opportunity for early action. While the legislature has had success in recent years in balancing the state budget, we can no longer afford to ignore our most basic repair and maintenance needs if we wish to avoid systematic failure of the state's entire transportation infrastructure. There may be no better way to put Californians back to work and stimulate our economy than making the roads we and our children rely on everyday safe again.

For these reasons, the City of King strongly **Supports** AB 1 (Frazier).

Sincerely,

Mike LeBarre
Mayor

cc: Senator Cannella
Deanna Sessums, League of California Cities
Meg Desmond, League of California Cities



Item No. 10(A)

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 28, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF COMMUNITY CHOICE ENERGY PROGRAM ALTERNATIVES AND INTRODUCTION OF AN ORDINANCE AUTHORIZING IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

RECOMMENDATION:

It is recommended the City Council 1) decline membership in the Monterey Bay Community Power Joint Powers Authority (JPA) at this time; 2) direct staff to proceed with the recommended steps to further assess the feasibility of establishing an independent Community Choice Energy (CCE) program; and 3) solicit interest from other Salinas Valley jurisdictions in participation in a joint effort.

BACKGROUND:

The Monterey Bay Community Power project is a region-wide collaborative partnership within the greater Monterey Bay area, including the city and county agencies in the Counties of Santa Cruz, Monterey, and San Benito. The purpose of the project was to investigate the viability and then establish a local 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.

**CITY COUNCIL
CONSIDERATION OF COMMUNITY CHOICE ENERGY PROGRAM
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IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM
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The project will establish a JPA to create the local agency to provide local community choice power. PG&E would continue to transmit and bill for the power for all customers. The purposes of the JPA would be as follows:

- Jointly administer a community choice aggregation (CCA) program for jurisdictions in the Monterey, Santa Cruz and San Benito County region;
- Reduce greenhouse gas emissions related to the use of power in the Monterey, Santa Cruz, and San Benito County region;
- Provide electric power and other forms of energy to customers at a competitive cost;
- Carry out programs to reduce energy consumption;
- Stimulate and sustain the local economy by developing local jobs in renewable energy and other energy related initiatives; and
- Promote long-term electric rate stability, energy security, and reliability for residents through local control of electric generation resources.

The findings of the study have shown that the project can provide energy cost savings to residents in the three counties and funding to invest in sustainable energy sources. Staff presented the results of the study and the draft Joint Powers Agreement to the City Council at the August 23rd meeting. At that time, Council expressed concerns regarding provisions of the Joint Powers Agreement and impacts on staffing given higher priorities. Changes were made that addressed some of the concerns and the City Council adopted a Resolution of Intent to participate in governance and financing discussions at the November 22, 2016.

At the request of Mayor LeBarre, and consent of the City Council, the City Council received a presentation from representatives of Pilot Power, Inc. at that January 10, 2017 meeting on services they provide to enable small jurisdictions to form their own CCE. Staff agreed to provide information on alternatives when the final Joint Powers Agreement is presented to the City Council for consideration.

DISCUSSION:

The Joint Powers Agreement to participate in the Monterey Bay Community Power JPA has been finalized. To participate, agencies are requested to complete the second reading and adoption by mid-March. It requires both adoption of a Resolution approving the Joint Powers Agreement and an Ordinance authorizing participation in the JPA. Therefore, in order to participate in the initial formation of the JPA, absent a special meeting the City Council

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CONSIDERATION OF COMMUNITY CHOICE ENERGY PROGRAM
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would need to introduce the Ordinance at this meeting and adopt the Ordinance and Resolution at the March 14th meeting. The Resolution and Joint Powers Agreement is attached as Exhibit 1 for information and discussion, but is not recommended to be acted upon at this meeting. If the Council does not want to make a final decision at this meeting, it is recommended the Ordinance be introduced independent of whether City Council intends to approve it. This would allow for additional deliberation before the final adoption is considered at the next meeting.

The final proposed governance structure will include two boards. A Policy Board of elected officials will meet three times per year to make policy decisions, such as approval of the budget, rate setting, strategic planning, and approval of large projects. An Operations Board will meet more frequently to address ongoing operational decisions. The makeup of the Boards would be based on the following:

- 1 seat for Santa Cruz County
- 1 seat for Monterey County
- 1 seat for San Benito County
- 1 seat for the City of Santa Cruz
- 1 seat for the City of Salinas
- 1 seat for the City of Watsonville
- 1 shared seat for remaining Santa Cruz cities including Capitola and Scotts Valley selected by the City Selection Committee
- 1 shared seat for Monterey Peninsula cities including Monterey, Pacific Grove, and Carmel selected by the City Selection Committee
- 1 shared seat for Monterey Coastal cities including Marina, Seaside, Del Rey Oaks, and Sand City selected by the City Selection Committee
- 1 shared seat for Salinas Valley cities including King City, Greenfield, Soledad, Gonzales selected by the City Selection Committee
- 1 shared seat for San Benito County cities selected by the City Selection Committee

All three counties and 19 cities adopted the Resolution of Intent. It appears all the Santa Cruz County jurisdictions are proceeding. It is yet unclear what the ultimate participation of Monterey County agencies will be. The County of Monterey has expressed concerns regarding the governing structure and has requested a weighted vote for larger jurisdictions be considered. At this point, staff has been unable to confirm whether that will be entertained or whether the County will decline participation if it is not.

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CONSIDERATION OF COMMUNITY CHOICE ENERGY PROGRAM
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The primary advantages of participating in the JPA include:

- A significant amount of funding and work has gone into feasibility studies, which are complete and support the viability of forming the CCE through a JPA.
- There will likely be no direct costs to the City for the program.
- Other CCEs that have been formed through a JPA have been successful. Meanwhile, the only City that has formed a CCE is Lancaster, which is a much larger jurisdiction. Solana Beach, which is comparable in size to King City, is in the process of forming its own CCE.
- The JPA will cumulatively provide a substantial energy load and revenue base, which can support funding much larger sustainable energy projects than an individual effort will be able to.
- Participation in the JPA will require little staff time or involvement by City staff and officials. While the City may have the opportunity to participate on the boards, they will hire staff and operate relatively independently. Any customer complaints or issues would be directed to them. If the City were to form its own CCE, the City would be dependent upon the contracted firm for the quality of customer service and would be responsible for addressing any problems that occur.

Pilot Power has provided an initial technical analysis of the viability of the City establishing its own CCE. A report is provided in Exhibit 2. They have indicated power load is less than they anticipated. In addition, a large percentage of the customers are in the CARE Program, which provides rate reductions for low income households and reduces program revenues. However, their initial findings still demonstrate that if rates comparable to PG&E were charged, there would be excess revenues available and establishing a local program would be viable. A representative from Pilot Power will be attending the Council meeting to present an overview of the findings.

The data provided represents only a preliminary technical analysis, which includes a certain margin of error. Additional studies would be necessary. However, Pilot Power, Inc. (a former business associate of California Clean Power, Inc.) was involved in the feasibility study prepared for the City of Solana Beach, which staff has contacted. The City of Solana Beach has since contracted for a third party review, which has found that the findings of the feasibility study are generally accurate and conservative in many cases. Therefore, this experience provides some evidence of the accuracy of their work. Additionally, in the context of the recent Alameda County/East Bay Community Energy CCE services RFP, Pilot Power, Inc. received "unhesitatingly positive" references from clients and industry associates.

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If the City Council approves pursuing an independent CCE, the following steps are recommended:

- Implement the appropriate consultant selection process, such as issuing a Request for Proposals (RFP) to select the firm to partner with, which would be structured so the City Council would not commit to the program until additional analysis was provided;
- Prepare necessary additional technical analysis;
- Contract for a third party review of the feasibility studies; and
- Consider whether to execute a contract to proceed.

One of the concerns that has been identified by both the City Council and staff regarding formation of an independent CCE is that it may divert staff resources from the major priorities that have been established. According to Solana Beach, a meaningful amount of staff time is required, but it is not a prohibitive amount for a small jurisdiction. Staff believes the staff time required can be justified if the results have a direct connection to accomplishing the City's major priorities. Therefore, staff recommends potential revenues generated by the program be dedicated as follows:

- A portion towards some amount of customer rate reduction when compared to PG&E rates;
- A portion towards local sustainable energy projects, such as installation of solar panels; and
- A portion towards installation and operation of new streetlights and other energy related improvements that enhance public safety.

The advantages of the City establishing its own CCE include:

- The City would maintain control over excess funding. Therefore, the City Council could direct the funding to address local needs. As stated above, staff believes the proposal could provide an ongoing revenue source for an extensive street lighting program, which is a high priority for the community.
- According to the Pilot Power, Inc. analysis, services could be structured so the contractor assumes responsibility for financing all the risk. The City would not have to participate in any financing.
- Pursuing this option would enable the Council to evaluate the success and experience of the JPA. If the Council determined not to move forward at the conclusion of the feasibility analysis, it could still join the JPA at a later date. This is particularly important since it will be difficult to confirm

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membership of Monterey County agencies in the JPA before the deadline to adopt the Ordinance and Resolution.

- City staff costs associated with administering the program could be reimbursed through revenues from the CCE. The City has a need to fund a Public Works Director position. Therefore, the responsibility could be assigned to that position and the CCE could provide a portion of the funding needed.
- While the JPA may provide economies of scale, small agencies are able to maintain smaller and more flexible power purchases. This will enable the agency to adjust to market and regulatory fluctuations. In the worst case scenario, if customers converted back to PG&E service, a smaller organization would be easier to dissolve.

While Pilot Power, Inc. has determined that there are advantages to maintaining a smaller program and the size of the JPA is not necessarily a benefit, they do indicate that the size of King City is smaller than optimal. If the City could partner with another jurisdiction or jurisdictions in the Salinas Valley, it could result in cost savings by economizing on shared services, such as technical analysis, procurement, etc. Therefore, depending upon what other jurisdictions decide regarding participation in the JPA, staff recommends other Salinas Valley cities be contacted regarding a potential partnership. The goal would be to structure a joint effort where services could be shared, but each jurisdiction would maintain control over how excess revenues would be programmed in their city.

COST ANALYSIS:

Total start-up costs for the JPA are estimated to be approximately \$2.5 million to \$3.5 million. This amount will be financed through a loan and repaid through proceeds of the JPA. Therefore, there will be no direct costs to the City, but the loan will need to be secured. It is anticipated that lenders will want the loan to be secured by a small number of the larger agencies. The proposed Joint Powers Agreement sets forth that those agencies would in turn enter into agreements with the smaller agencies to each provide security for their portion of the loan. Depending upon the final number participants and actual costs, the City's portion of the costs is estimated to be approximately \$48,000 to \$68,000.

If the City Council decides to pursue an independent CCE, Pilot Power, Inc. has indicated that it can be structured so the contractor assumes all the up-front costs. However, there would be other legal and consultant costs to provide the City's appropriate due diligence. Staff estimates these costs would be \$25,000 to \$60,000. If the City proceeds, the City could be fully reimbursed from future CCE revenue. If the City Council decides not proceed, those costs would need

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to be paid from the General Fund budget. However, the program could be structured so the majority of costs are not committed to until the City Council has a fairly strong confidence level of moving forward. For example, most of the costs would involve attorney services to develop and review agreements, consultant services to assist the City with the process, and the potential for contracting for a third-party review of the feasibility analysis.

The preliminary technical analysis prepared by Pilot Power, Inc. projects an average excess revenue amount of approximately \$570,000 over the first 7 years of the program. In addition, they estimate that this amount could increase by approximately \$50,000 annually if the City were to partner with other neighboring jurisdictions.

Representatives from both Monterey Bay Community Power JPA and Pilot Power, Inc. plan on attending the meeting to make presentations and be available for questions.

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Approve staff's recommendation;
2. Conduct the first reading and introduce the Ordinance in order to participate in the JPA;
3. Request additional information and conduct the first reading and introduce the Ordinance to allow for further consideration at the next meeting;
4. Do not approve any action at this time and direct staff to take no additional action, but to reevaluate at a later time;
5. Direct staff to cease all work related to CCE options;
6. Provide staff other direction.

Exhibits:

1. Monterey Bay Community Power Resolution and Joint Powers Agreement
2. Pilot Power, Inc. Technical Review off Community Choice Energy

Approved by: _____


Steven Adams, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING AUTHORIZING IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

WHEREAS, Monterey Bay Community Power has investigated options to provide electric services to customers within the tri-county region of Monterey, Santa Cruz and San Benito Counties (Tri-County Region), including incorporated and unincorporated areas, with the intent of achieving greater local control and involvement over the provision of electric services, competitive electric rates, the development of clean, local, renewable energy projects, reduced greenhouse gas emissions, and the wider implementation of energy conservation and efficiency projects and programs.

WHEREAS, Monterey Bay Community Power prepared a Feasibility Study for a community choice aggregation (“CCA”) program in the Tri-County Region with the cooperation of the cities and counties under the provisions of the Public Utilities Code section 366.2. The Feasibility Study shows that implementing a community choice aggregation program would provide multiple benefits, including:

- Providing customers a choice of power providers;
- Increasing local control and involvement in and collaboration on energy rates and other energy-related matters;
- Providing more stable long-term electric rates that are competitive with those provided by the incumbent utility;
- Reducing greenhouse gas emissions arising from electricity use within San Mateo County;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of local renewable and energy conservation and efficiency projects.

WHEREAS, the Joint Powers Agreement creating the Monterey Bay Community Power Authority (“Authority”) will govern and operate the CCA program on behalf of its member jurisdictions. Under the Joint Powers Agreements, cities within the Tri-County Region may participate in the Monterey Bay Community Power CCA program by adopting the resolution and ordinance required by Public Utilities Code section 366.2. Cities choosing to participate in the CCA program

will have membership on the Board of Directors of the Authority as provided in the Joint Powers Agreements.

WHEREAS, the Authority will enter into Agreements with electric power suppliers and other service providers, and based upon those Agreements the Authority will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility (“PG&E”). Once the California Public Utilities Commission approves the implementation plan created by the Authority, the Authority will provide service to customers within the unincorporated areas of the tri-county region of Monterey, Santa Cruz and San Benito Counties and within the jurisdiction of those cities therein who have chosen to participate in the CCA program.

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so.

WHEREAS, on August 23, 2016 and November 22, 2016 the City Council held public presentations at which time interested persons had an opportunity to testify either in support or opposition to implementation of the Monterey Bay Community Power CCA program in the City of King.

NOW THEREFORE, the people of the chartered City of King City do ordain as follows:

SECTION 1. The above recitations are true and correct and material to this Ordinance.

SECTION 2. AUTHORIZATION. Based upon the forgoing, and in order to provide businesses and residents within the City of King with a choice of power providers and with the benefits described above, the City Council of the City of King ordains that it shall implement a community choice aggregation program within its jurisdiction by participating as a group with the other counties and cities as described above in the Community Choice Aggregation program of the Monterey Bay Community Power Authority, as generally described in the Joint Powers Agreement approved by Resolution. Attached to this Ordinance is a copy of the Joint Powers Agreement.

SECTION 3. SEVERABILITY. In the event any section, clause or provision of this Ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect. It is the intent of the City Council that it would have adopted all other portions of this Ordinance irrespective of any such portion declared to be invalid or unconstitutional.

SECTION 4. ENVIRONMENTAL DETERMINATION. This Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”). Pursuant to the CEQA Guidelines, as it is not a “project” as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because energy will be transported through existing infrastructure (14 Cal. Code Regs. § 15378(a)). Further, this Ordinance is exempt from CEQA as there is no possibility that this Ordinance or its implementation would have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)). This Ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment (14 Cal. Code Regs. § 15308).

SECTION 5. PUBLICATION. This Ordinance shall be in full force and effective thirty (30) days after its adoption, and shall be published and posted as required by law.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation by the City Clerk.

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

By: _____
MIKE LEBARRE, Mayor

APPROVED AS TO FORM:

By: _____
SHANNON L. CHAFFIN, City Attorney
Aleshire & Wynder, LLP

CITY OF KING

Resolution No. _____

RESOLUTION APPROVING THE JOINT POWERS AGREEMENT ESTABLISHING THE
MONTEREY BAY COMMUNITY POWER (MBCP) AUTHORITY; AUTHORIZING THE
MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF KING, AND
ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT
(CEQA) EXEMPTION FINDINGS

WHEREAS, AB 117, adopted as California state law in 2002, permits cities, counties, or city and county Joint Power Authorities to aggregate residential, commercial, industrial, municipal and institutional electric loads through Community Choice Aggregation (CCA); and

WHEREAS, there are currently five CCA programs operating in California - MCE Clean Energy, CleanPowerSF, Sonoma Clean Power, Peninsula Clean Energy and Lancaster Choice Energy – with dozens more in formation; and

WHEREAS, the City of King passed a resolution in November, 2016 to explore the creation of a CCA program for the Monterey Bay region and participated, in cooperation with the County of Santa Cruz and other local governments, in a technical study that analyzed the potential for a CCA program in the Monterey Bay region; and

WHEREAS, the technical study shows that there are numerous potential benefits for cities and counties that aggregate their electrical load including: 1) an expectation of stable and competitively priced electric generation rates for residents, businesses and municipal operations compared to the electrical rates of Pacific Gas & Electric Company (PG&E), 2) greater use of renewable energy resources than is planned by PG&E, 3) significant greenhouse gas reductions as a result of a cleaner power supply than is offered by PG&E; and 4) economic development benefits and local jobs resulting in the creation of MBCP, lower electric rates, and the development of local power resources.

WHEREAS, the City wishes to be a community choice aggregator and has introduced the Ordinance as required by Public Utilities Code Section 366.2 in order to do so;

WHEREAS, the City Council has considered the proposed Joint Exercise of Powers Agreement, a draft of which is attached hereto as Exhibit A, under which the City of King and other municipalities in the Monterey Bay tri-county region - consisting of Santa Cruz, Monterey and San Benito Counties and the cities within those counties - will become the initial members of Monterey Bay Community Power Authority; and

WHEREAS, Once the California Public Utilities Commission approves the implementation plan created by MBCP, it will provide service to customers within the cities and counties that choose to join MBCP and to participate in the CCA program; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of the CCE program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so at any time.

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

Section 1. Approves the Joint Exercise of Powers Agreement to form the Monterey Bay Community Power Authority; and

Section 2. This resolution and the establishment of the Monterey Bay Community Power Authority is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, as it is not a “project” since this action involves organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal. Code Regs. § 15378(b)(5)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). A Notice of Exemption shall be filed as authorized by CEQA and the State CEQA guidelines.

Section 3. This resolution shall be effective upon the adoption of Ordinance No. _____, an Ordinance of the City of _____ authorization the implementation of a Community Choice Aggregation (CCA) Program.

BE IT FURTHER RESOLVED that the Mayor and/or City Manager is hereby authorized and directed to execute the Joint Exercise of Powers Agreement on behalf of the City of King, which will establish MBCP with the City as a founding member.

PASSED AND ADOPTED by the King City City Council, State of California, this ___ day of _____, 2017 by the following vote:

AYES:

NOES:

ABSENT/ABSTAIN:

Michael LeBarre, Mayor

ATTEST: _____

Steven Adams
City Clerk

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 among 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 affordable rates that are competitive with the incumbent utility;
 - c. Carrying out programs to reduce energy consumption;
 - d. Stimulating and sustaining the local economy by lowering electric rates and creating local jobs as a result of MBCP's CCE program.
 - 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 geothermal 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.
- a. It is further desired to establish a short term and long-term energy portfolio that prioritizes the use and development of State, local and regional renewable resources and carbon free resources.
 - b. In compliance with State law and in alignment with the Authority's desire to stimulate the development of local renewable power, the Authority shall draft an Integrated Resource Plan that includes a range of local renewable development potential in the Monterey Bay Region and plans to incorporate local power into its energy portfolio as quickly as is possible and economically feasible.
- E. The Parties desire to establish a separate public Authority, 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: Regional Allocations

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 Authority on the date that this Agreement is executed by at least three Initial Participants from the Counties of Monterey, Santa Cruz, and San Benito and the municipalities within those counties, after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). 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 Authority named the Monterey Bay Community Power Authority. Pursuant to Sections 6506 and 6507 of the

Act, the Authority is a public Authority 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 Authority 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 3.7.1:

- 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 without approval of the affected Party's governing board;
 - 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 City of Santa Cruz and any other restrictions on exercising the powers of the authority that may be adopted by the board.

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 Boards of Directors. The governing bodies of the Authority shall consist of a Policy Board of Directors ("Policy Board") and an Operations Board of Directors ("Operations Board").

- 3.1.1 Both Boards shall consist of Directors representing any of the three Counties of Monterey, Santa Cruz, or San Benito that become a signatory to the Agreement and Directors representing any of the Cities or Towns within those counties 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.
- 3.1.2 Policy Board Directors must be elected members of the Board of Supervisors or elected members of the City or Town Council of the municipality that is the signatory to this Agreement. Jurisdictions may appoint an alternate to serve in the absence of its Director on the Policy Board. Alternates for the Policy Board must be members of the Board of Supervisors or members of the governing board of the municipality that is the signatory to this Agreement.
- 3.1.3 Operations Board Directors must be the senior executive/County Administrative Officer of any County that is the signatory to this Agreement, or senior executive/City Manager from any municipality that is the signatory to this Agreement. Jurisdictions may appoint an alternate to serve in the absence of its Director on the Operations Board. Alternates for the Operations

Board must be administrative managers of the County or administrative managers of the governing board of the municipality that is the signatory to this Agreement.

3.1.4 Board seats will be allocated under the following formulas. Policy and Operations Board seats for founding JPA members (i.e. those jurisdictions that pass a CCA ordinance by February 28, 2017) will be allocated on a one jurisdiction, one seat basis until such time as the number of member jurisdictions exceeds eleven. Once the JPA reaches more than eleven member agencies, the Policy and Operations Boards' composition shall shift to a regional allocation based on population size. This allocation shall be one seat for each jurisdiction with a population of 50,000 and above, and shared seats for jurisdictions with populations below 50,000 allocated on a sub-regional basis, as set forth in Exhibit C. Notwithstanding the above, the County of San Benito shall be allotted one seat.

3.1.5 Shared board seats will be determined through the Mayors and Councilmembers' city selection process in their respective counties, with a term of two years. Directors may be reappointed, following the Mayors and Councilmembers' city selection process in their respective counties, and serve multiple terms. In the event of an established board seat transitioning to a shared seat due to the addition of a new party, the sitting Director will automatically be the first representative for that shared seat to ensure continuity and maintain experience.

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

3.3 Powers and Functions of the Boards. The Boards shall exercise general governance and oversight over the business and activities of the Authority, consistent with this Agreement and applicable law. The Boards shall provide general policy guidance to the CCA Program.

3.3.1 The Policy Board will provide guidance/approval in the areas of strategic planning and goal setting, passage of Authority budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service.

3.3.2 The Operations Board will provide oversight and support to the Chief Executive Officer on matters pertaining to the provision of electrical service to

customers in the region, focusing on the routine, day-to-day operations of the Authority.

3.3.3 Policy Board approval shall be required for any of the following actions, including but not limited to:

- (a) The issuance of bonds, major capital expenditures, or any other financing even if program revenues are expected to pay for such financing;
- (b) The appointment or removal of officers described in Section 3.9, subject to Section 3.9.3;
- (c) The appointment and termination of the Chief Executive Officer;
- (d) The adoption of the Annual Budget;
- (e) The adoption of an ordinance;
- (f) 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;
- (g) The adoption of the Implementation Plan;
- (h) The selection of General Counsel, Treasurer and Auditor;
- (i) The amending of this Joint Exercise of Powers Agreement; and
- (j) Termination of the CCA Program.

3.3.4 Operations Board approval shall be required for the following actions, including but not limited to:

- (a) The approval of Authority contracts and agreements, except as provided by Section 3.4.
- (b) Approval of Authority operating policies and other matters necessary to ensure successful program operations.

3.3.5 Joint approval of the Policy and Operations Boards shall be required for 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 authority, without approval of the Boards as long as such action is consistent with any adopted Board policies.

- 3.4 Chief Executive Officer. The Authority shall have a Chief Executive Officer (“CEO”). The Operations Board shall present nomination(s) of qualified candidates to the Policy Board. The Policy Board shall make the selection and appointment of the CEO who will be an employee of the Authority and serve at will and at the pleasure of the Policy Board.

The CEO shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The CEO 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 falls within the Authority’s fiscal policies to be set by the Policy Board, except the powers specifically set forth in Section 3.3 or those powers which by law must be exercised by the Board(s) of Directors. The CEO shall report to the Policy Board on matters related to strategic planning and goal setting, passage of Authority budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service. The CEO shall report to the Operations Board on matters related to Authority policy and the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority. It shall be the responsibility of the CEO to keep both Board(s) appropriately informed and engaged in the discussions and actions of each to ensure cooperation and unity within the Authority.

- 3.5 Commissions, Boards, and Committees. The Boards may establish any advisory committees they deem appropriate to assist in carrying out 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 Boards may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees if

the Board(s) deem it 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 Boards, however, may adopt by resolution a policy relating to the reimbursement by the Authority of expenses incurred by their respective Directors.

3.7 Voting. Except as provided in Section 3.7.1 below, actions of the Boards shall require the affirmative vote of a majority of Directors present at the meeting.

3.7.1. Special Voting Requirements for Certain Matters.

(a) Two-Thirds 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.

(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 present.

(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) 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 Policy Board shall hold up to three regular meetings per year, with the option for additional or special meetings as determined by the Chief Executive Officer or Chair of the Policy Board after consultation with the Chief Executive Officer. The Operations Board shall hold at least eight meetings per year, with the option for additional or special meetings. 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 Boards 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 Policy Board Chair and Vice Chair. The Policy Board shall select, from among themselves, a Chair, who shall be the presiding officer of all Policy Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The Policy Board Chair and Vice Chair shall act as the overall Chair and Vice Chair for Monterey Bay Community Power Authority. 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, is no longer holding a qualifying public office, 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 Operations Board Chair and Vice Chair. The Operations Board shall select, from among themselves, a Chair, who shall be the presiding officer of all Operations 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 is no longer the senior executive of the Party that the person represents or;

(b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

3.9.3 Secretary. Each 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 each Board and all other official records of the Authority. If the Secretary appointed is an employee of the Authority, that employee may serve as Secretary to both Boards.

3.9.4 The Policy Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a member of the Board. If the Board so designates, and in accordance with the provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of 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 report directly to the Policy 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(s) 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 Policy Board 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 Policy Board in the manner provided by Section 3.7.
- . 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(s) through resolution, including but not limited to the MBCP Implementation Plan and Operating Policies. The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board(s), 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 April 1 or the date selected by the Authority. The fiscal year may be changed by Policy 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(s) 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(s) 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(s).

5.3 Budget and Recovery of Costs.

5.3.1 Budget. The initial budget shall be approved by the Policy 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 Policy Board in accordance with the Operating Rules and Regulations.

5.3.2 Funding of Initial Costs. The County of Santa Cruz has funded certain activities necessary to implement the CCA Program. If the CCA Program becomes operational, these Initial Costs paid by the County of Santa Cruz 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 County of Santa Cruz shall be reimbursed from the payment of such charges by customers of the Authority. Prior to such reimbursement, the County of Santa Cruz 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 County of Santa Cruz 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.

5.3.4 Credit Guarantee Requirement. The Parties acknowledge that there will be a shared responsibility to provide some level of credit support (in the form of a letter of credit, cash collateral or interagency agreement) for Authority start-up and initial working capital as may be required by a third party lender. Guarantee requirements shall be released after program launch and as soon as possible under the terms of the third-party credit agreement(s). The credit guarantee will be distributed on a per-seat basis. Shared seat members will divide the credit guarantee among the cities sharing those seats. The term of the credit guarantee shall be the same term as specified in the banking agreement. Once a Party has made a credit guarantee, that guarantee shall remain in place until released, even if that Party withdraws from the Authority.

5.3.5 The County of Santa Cruz has agreed to provide initial administrative support on a cost reimbursement basis to the JPA once formed. This includes, but is not limited to, personnel, payroll, legal, risk management.

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 Policy Board which the Party's Director 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 after an affirmative vote of the Party's governing board, withdraw its membership in the Authority without any financial obligation, except those financial obligations incurred through the Party's share of the credit guarantee described in 5.3.4, as long as the Party provides written notice of its intent to withdraw to the Authority Board no more than fifteen business days after receiving the report. Costs incurred prior to withdrawal will be calculated as a pro-rata share of start-up costs expended to the date of the Party's withdrawal, and it shall be the responsibility of

the withdrawing Party to pay its share of said costs if they have a material/adverse impact on remaining Authority members or ratepayers.

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 the Policy Board as provided in Section 3.7.1. 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 Policy Board, 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 Authority. The costs of any such mediation shall be shared equally among the Parties participating in the mediation.

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 and the Parties. The Authority shall defend, indemnify, and hold harmless the Parties and each of their respective Boards of Supervisors or City Councils, 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 Policy Board members as provided in Section 3.7.1. The Authority shall provide written notice to all Parties of proposed amendments to this Agreement, 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.

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 one or both Boards 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 Policy Board of Directors of the Authority and/or the Operations Board of Directors of the Authority unless one or the other is specified in this Agreement.

“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 this Agreement.

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

“Effective Date” means the date that this Agreement is executed by at least three Initial Participants from the Counties of Monterey, Santa Cruz, and San Benito and the municipalities within those counties, 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 of Santa Cruz 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.

“Initial Participants” means those initial founding JPA members whose jurisdictions pass a CCA ordinance, whose Board seats will be allocated on a one jurisdiction, one seat basis (in addition to one seat for San Benito County) until such time as the number of member jurisdictions exceeds eleven, as described in Section 3.1.4.

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

“Operations Board” means the board composed of City Managers and CAOs representing their respective jurisdictions as provided in section 3.1.4 who will provide oversight and support to the Chief Executive Officer on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority, as further set forth in section 3.3..

“Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.1 or 4.1.1 such that it is considered a member of the Authority.

“Party” means singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.1 or 4.1.1 such that it is considered a member of the Authority.

“Policy Board” means the board composed of elected officials representing their respective jurisdictions as provided in section 3.1.4 who will provide guidance/approval in the areas of strategic planning and goal setting, passage of Authority budget and customer rates, large capital expenditures outside the typical power procurement required to provide electrical service, and such other functions as set forth in section 3.3.

Exhibit B
List of Parties

Exhibit C

Regional Allocation

Board seats in the Monterey Bay Community Power Authority will be allocated as follows:

- i. One seat for Santa Cruz County
- ii. One seat for Monterey County
- iii. One seat for San Benito County
- iv. One seat for the City of Santa Cruz
- v. One seat for the City of Salinas
- vi. One seat for the City of Watsonville
- vii. One shared seat for remaining Santa Cruz cities including Capitola and Scotts Valley selected by the City Selection Committee
- viii. One shared seat for Monterey Peninsula cities including Monterey, Pacific Grove, and Carmel selected by the City Selection Committee
- ix. One shared seat for Monterey Coastal cities including Marina, Seaside, Del Rey Oaks, and Sand City selected by the City Selection Committee
- x. One shared seat for Salinas Valley cities including King City, Greenfield, Soledad, Gonzales selected by the City Selection Committee
- xi. One shared seat for San Benito County cities selected by the City Selection Committee

2017



Abbreviated Technical Review of Community Choice Energy

CITY OF KING, CALIFORNIA

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Modeling Assumptions

This purpose of this abbreviated technical review of the feasibility of a King City Community Choice Energy (CCE) program is to establish a foundational Baseline Scenario. The Baseline Scenario represents CCE service that is essentially equivalent to existing PG&E service. If Baseline Scenario modeling results in a high likelihood of excess CCE revenues, those excess revenues (“Headroom”) could be used to improve upon PG&E service by providing rate stabilization funding, rate reductions, increased renewable energy, decreased GHG or other environmental impacts, special programs such as solar rebates, or any number of other municipal purposes.

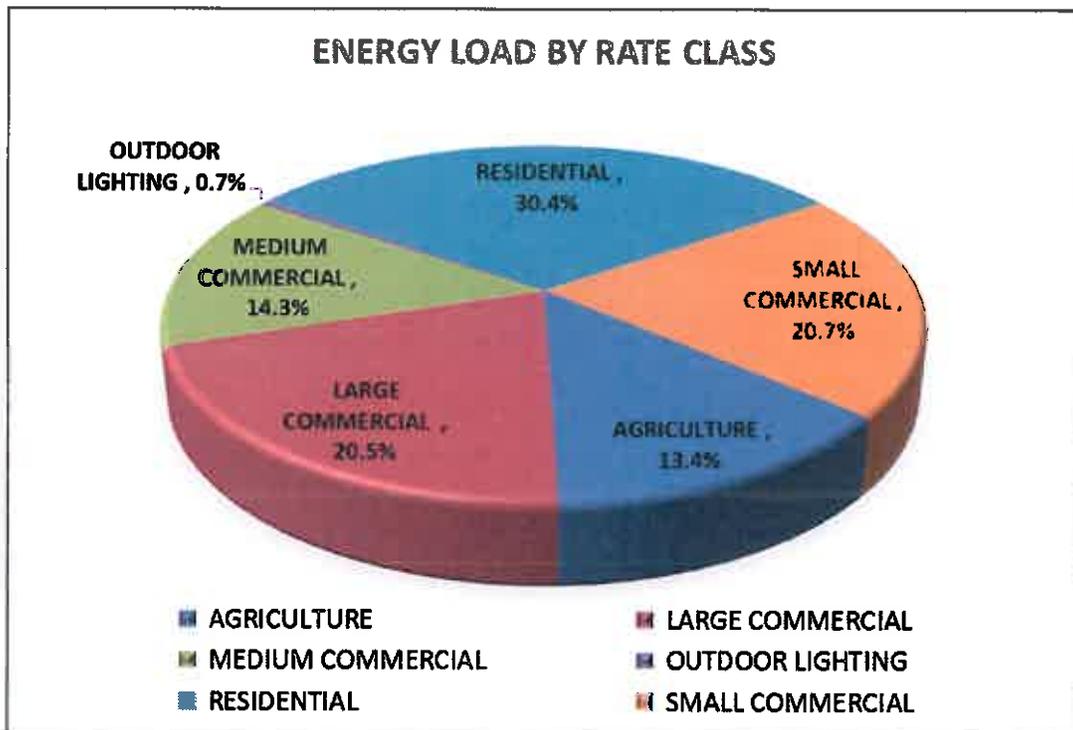
Baseline Scenario modeling resulting in a high likelihood of revenue neutrality or shortfall indicates that a CCE program may not be feasible.

The Baseline assumptions incorporated in the modeling are as follows:

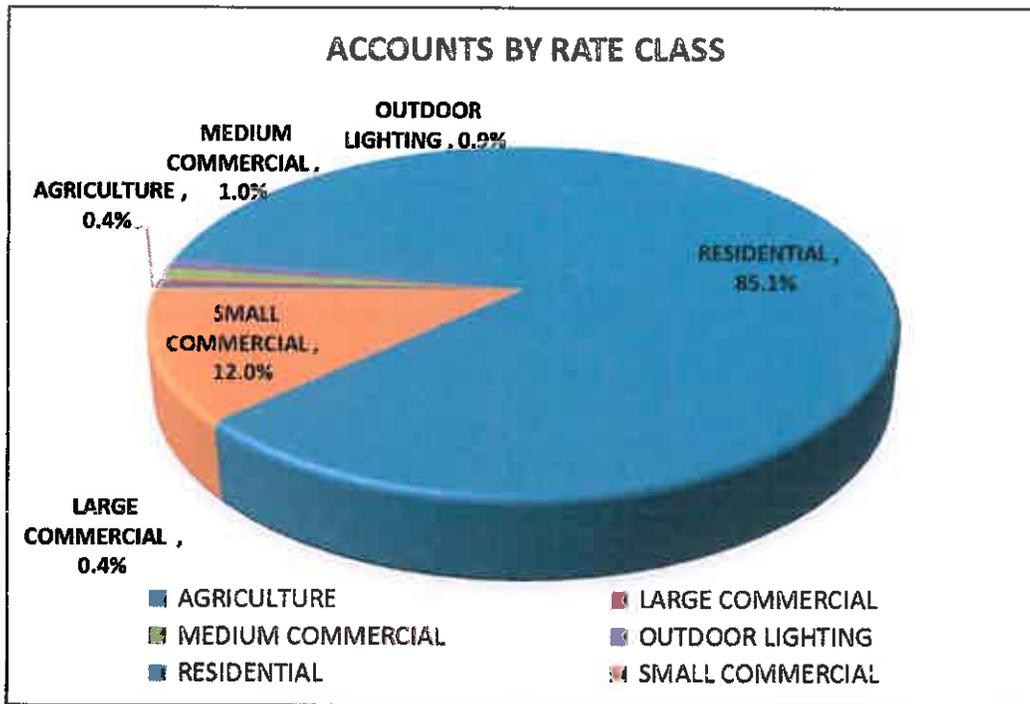
- Rate Reduction – 0%
- Uncollected Factor – 0.25%
- Opt-out Rate – 10%, sensitivity analysis allows the opt-out rate to fluctuate between 5.1% and 20%, using a lognormal distribution with a mean of 10% and a standard deviation of 2.0%.
- Renewable Purchase – standard RPS schedule reflecting compliance level RPS Category 1-3 allocations
- Rate Stabilization Fund – 0%
- Renewable Category 2 Override – No
- Opt up 100% Renewable Program – 0%
- NP15 On Peak – Sensitivity analysis allows on peak prices to fluctuate using a lognormal distribution with parameters: mean \$37.77, standard deviation of \$8.25, and coefficient to NP 15 Off Peak of 0.98. Statistical information based on historical NP 15 On Peak prices between 2009 – 2016.
- NP15 Off Peak - Sensitivity analysis allows off peak prices to fluctuate using a lognormal distribution with parameters: mean \$29.50, standard deviation of \$8.16, and coefficient to NP 15 On Peak of 0.98. Statistical information based on historical NP 15 Off Peak prices between 2009 – 2016.
- Operations and Maintenance Costs – Pilot’s turnkey service pricing.

Load Assumptions

King City's baseline load of 45,457 annual MWh and 4,671 accounts is drawn from 2015 actual load data provided by Pacific Gas & Electric (PG&E). Based on existing CCE experience, Direct Access customers nearly unanimously elect to forego CCE service and are thus not included in the load assumptions. Consumption is relatively evenly distributed between small commercial, medium commercial, large commercial, and residential rate classes, ranging from 6,000 MWh to 14,000 MWh annually. As is usually the case, however, the majority of the accounts are residential at 3,976 or 85.1% of total accounts.



Rate Class	Annual MWh	Rate Class Percentage
AGRICULTURE	6,077	13.4%
LARGE COMMERCIAL	9,313	20.5%
MEDIUM COMMERCIAL	6,487	14.3%
OUTDOOR LIGHTING	326	0.7%
RESIDENTIAL	13,827	30.4%
SMALL COMMERCIAL	9,427	20.7%
Total	45,457	100.0%

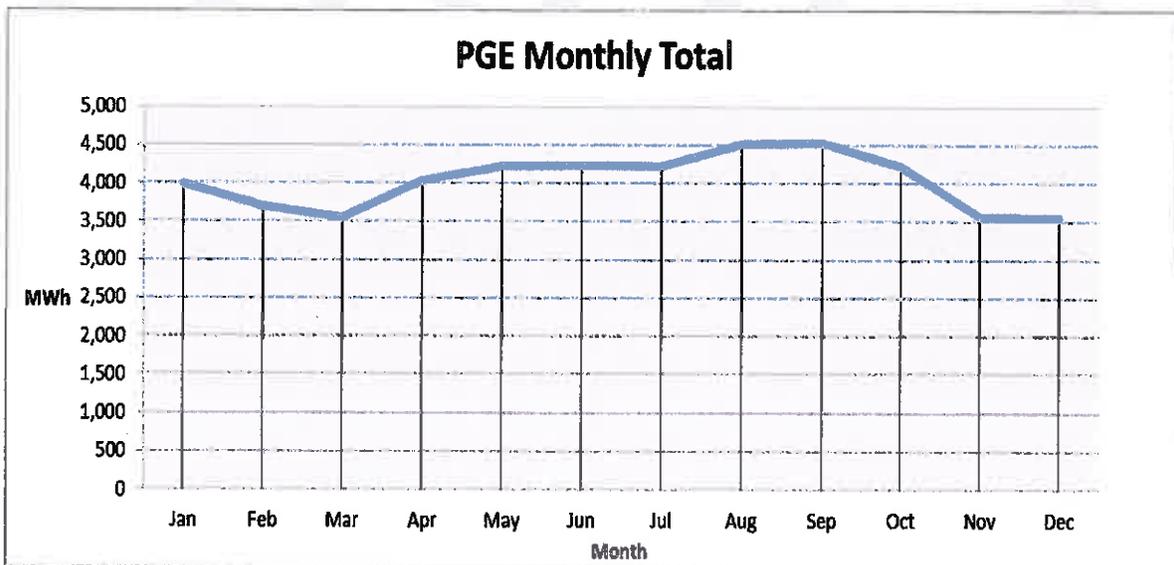
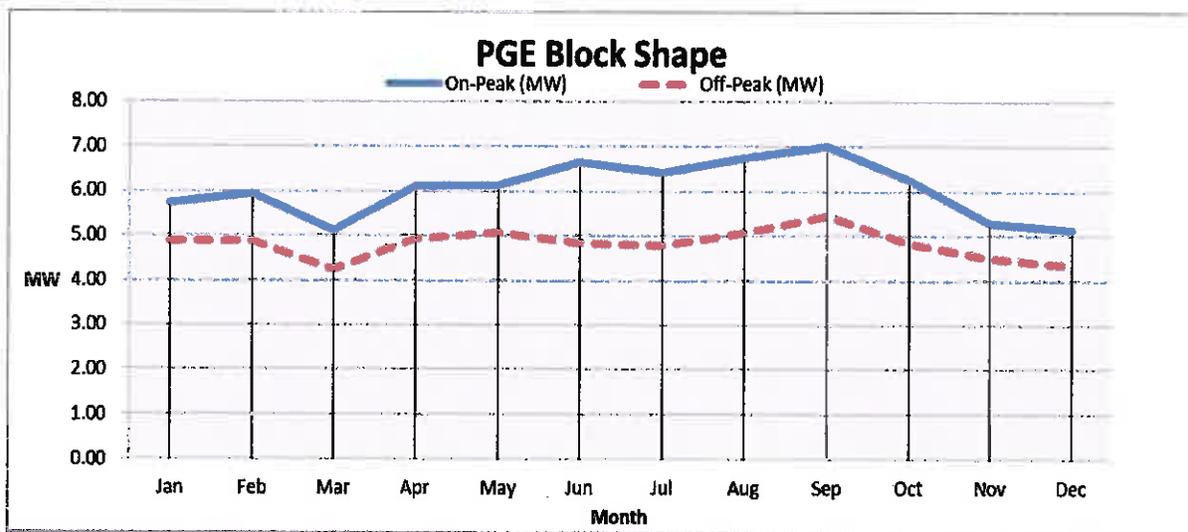


Rate Class	Bundled Accounts	Rate Class Percentage
AGRICULTURE	21	0.4%
LARGE COMMERCIAL	21	0.4%
MEDIUM COMMERCIAL	49	1.0%
OUTDOOR LIGHTING	42	0.9%
RESIDENTIAL	3,976	85.1%
SMALL COMMERCIAL	562	12.0%
Total	4,671	100.0%

The California Energy Commission (CEC) California Energy Demand Forecast for 2016 – 2025 is applied to the 2015 actual data to model year over increases of 0.25% to load and 0.50% to accounts. A baseline opt-out rate of 10% is assumed, resulting in a decrease to the initial load and accounts switched to CCE service. The sensitivity analysis does, however, capture a reasonable and historical CCE opt-out range by allowing the opt-out rate to fluctuate between 5% and 20%. A presumed 2018 CCE launch, incorporating the growth and opt assumptions, results in ~43,896 MWh and ~4,249 accounts in the first full year service. Following the first full year, modest growth forecasts marginally increase expected CCE load and number of accounts.

Load Profile and Shape

The following two charts illustrate the monthly load by on- and off- peak blocks and over the calendar year. The peak and off peak volumes are consistent with hourly statewide consumption patterns. King City's load profiles and shapes are not expected to present extraordinary power procurement concerns.

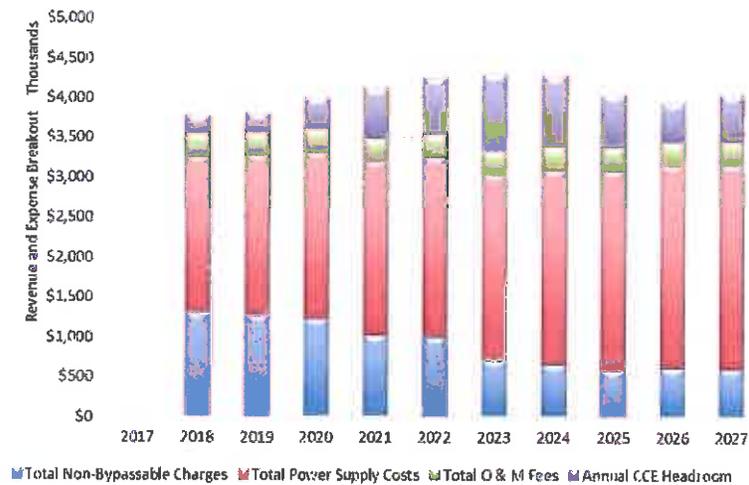


Modeling Results

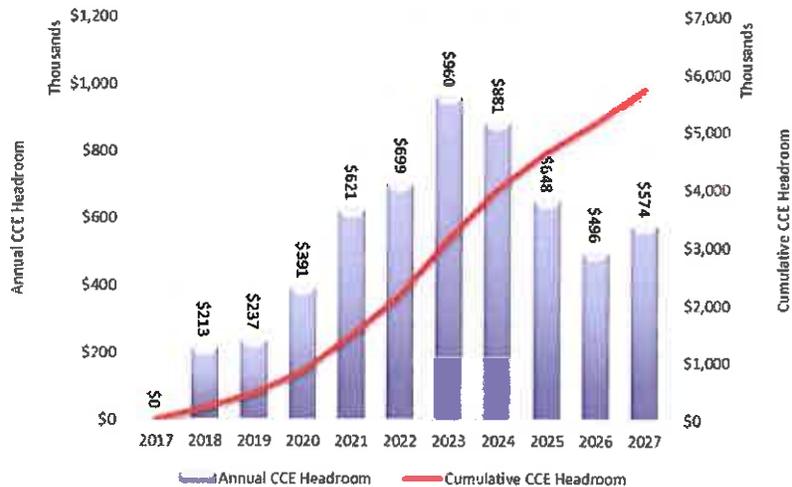
Static forecasting results in positive King City CCE Headroom in all years over a 10 year horizon. In the first chart below, the Headroom is represented by the purple bars. The blue bars capture non-bypassable PG&E charges such as distribution, transmission and the PCIA. The blue bar decreases due to expected changes to PCIA eligible resources and market-based pricing benchmarks occurring beyond 2025, and changes to DWR Bond charges. The green bars represent operations and maintenance fees based on Pilot's turnkey service pricing. The red bars represent power supply costs. Power supply costs represent the bulk of CCE expense. The sum of all of the bars equals total CCE revenues when rates are set equivalent to PG&E rates.

The next chart provides a more granular representation of the Headroom forecast.

CCE REVENUE AND EXPENSES



CCE HEADROOM



Probabilistic forecasting for the King City CCE was derived using 10,000 trials that varied assumptions including power prices, PG&E non-bypassable charges and opt-out rates.

First Year: 65.97% probability of positive Headroom,
with a range between -\$1,066,229 to \$932,106.

Five Years: 49.18% probability of \$2,254,449 in cumulative Headroom,
with a range between -\$645,845 to \$4,671,622.

Ten Years: 78.91% probability of \$5,877,179 in cumulative Headroom,
with a range between \$1,992,139 and \$11,940,882.

A graphical output of the probabilistic forecasting is provided below.

