

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

TUESDAY JUNE 23, 2020

6:00 P.M.

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

**Teleconference and Conference call services will be available for the meeting.*

To join the meeting, select ONE of the options below:

- 1) Click on the following link: [Join Microsoft Teams Meeting](#)
- 2) -OR- Copy and paste the full link highlighted below into your internet browser:
https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTkzMzE5MjAtN2RiMi00ZmYyLWFiMDctMGJhZmFiZGUxZGU1%40thread.v2/0?context=%7b%22Tid%22%3a%22446c5f0b-67e0-4a70-9b14-a5510f9d6ff4%22%2c%22Oid%22%3a%227bd9b36f-8dd8-4f7e-9cd1-c285882c4058%22%7d
- 3) -OR- Call the following number [+1 619-327-9987](tel:+16193279987) and enter the Conference ID: 246 054 533#

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. Consideration: Meeting Minutes of June 9, 2020 Council Meeting
Recommendation: approve and file.
- B. Consideration: City of King Check Register June 1, thru June 15, 2020
Recommendation: receive and file.
- C. Consideration: An Extraterritorial Wastewater Service Agreement with David Gill
Recommendation: 1) approve and authorize the City Manager to execute an extraterritorial wastewater service agreement with David Gill for provision of wastewater service outside the City's boundaries; and 2) authorize the City Manager to make non-substantive changes as necessary in a form approved by the City Attorney.
- D. Consideration: Interpretation Regarding Provisions in the City of King Municipal Code Involving Cannabis Retail Storefront Dispensaries
Recommendation: adopt a Resolution approving an interpretation of Municipal Code provisions pertaining to restrictions on the proximity of cannabis retail storefront dispensaries to residential properties.
- E. Consideration: Agreement with Sun Street Centers for Provision of the Youth Diversion Program
Recommendation: authorize the City Manager to execute an agreement with Sun Street Centers in an amount not to exceed \$30,000 for the Youth Diversion program for the period of July 1, 2020 to September 30, 2020 in a form approved by the City Attorney.

10. PUBLIC HEARINGS

- A. Consideration: Potential Program(s) For Inclusion in the State Community Development Block Grant Coronavirus Aid, Relief, And Economic Security Act (CDBG-CV) Application
Recommendation: 1) open the public hearing and receive public comment regarding the Community Development Block Grant Coronavirus Aid, Relief and Economic Security Act (CDBG-CV) program and possible activities and projects to be considered for funding under the upcoming Notice of Funding Availability (NOFA) process; and 2) provide direction for staff to prepare an application in response to the release of the Notice of Funding Availability (NOFA) for CDBG-CV funds for COVID-19 related activities that benefit low- and moderate-income residents.
- B. Consideration: An Ordinance Amending the Municipal Code Regarding Signs, Bundling Applications, and Time Expiration of Conditional Use Permits
Recommendation: introduce an Ordinance of the King City Municipal Code regarding signs, bundling applications and time expiration of conditional use permits to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, approve the introduction of the Ordinance and set the second reading and adoption for the next regularly scheduled Council meeting of July 14, 2020.
- C. Consideration: Riverview Gardens Landscape Maintenance District Annual Assessment for Fiscal Year 2020/21
Recommendation: open the Public Hearing to accept public testimony regarding the levy and collection of assessments for the Riverview Gardens Landscape Maintenance District and then continue the public hearing to the July 14, 2020 meeting

11. REGULAR BUSINESS

- A. Consideration: FY 2020-21 King City Community Power Annual Budget and Rate Schedule
Recommendation: adopt a Resolution approving the King City Community Power (KCCP) budget and rates for FY 2020-21.
- B. Consideration: A Resolution Placing on the November 3, 2020 Election Ballot an Ordinance Amending Chapter 5.14 of the City of King Municipal Code to Add a Commercial Cannabis Tax on the Retail Sale of Cannabis and Industrial Hemp and Cannabis and Industrial Hemp Products and on Distribution of Cannabis and Cannabis Products
Recommendation: 1) review the draft Resolution placing on the ballot of the election to be held on November 3, 2020 an Ordinance to amend Chapter 5.14 of the City of King Municipal Code to add a commercial cannabis tax on retail sale of cannabis and industrial hemp and cannabis and industrial hemp products and on distribution of cannabis and cannabis products; and 2) direct staff to proceed to place the Resolution on the July 14, 2020 Council meeting agenda for adoption following final legal review and any recommended modifications.

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.

- A. Public Employee Performance Evaluation Pursuant to Government Code Section 54957:
Title: City Manager

13. ADJOURNMENT

**City Council Meeting
June 9, 2020**

1. CALL TO ORDER:

Regular Meeting called to order at 6:01pm by Mayor LeBarre.

2. FLAG SALUTE:

The flag salute was led by Mayor LeBarre.

3. ROLL CALL:

City Manager Adams conducted roll call.

City Council: Mike LeBarre (by video conference), Darlene Acosta (by video conference), Rob Cullen (by video conference), Carlos DeLeon (by video conference), Mayor Pro Tem Carlos Victoria (by video conference).

City Staff: City Manager Steven Adams (by video conference); City Attorney Roy Santos (by video conference); Executive Admin. Asst./Deputy City Clerk, Erica Sonne.

4. CLOSED SESSION ANNOUNCEMENTS:

None

5. PRESENTATIONS:

None

6. PUBLIC COMMUNICATIONS:

None

7. COUNCIL COMMUNICATIONS:

Council Member Cullen stated Salinas Valley Fair is still moving forward with the Fall carnival September 25th-27th and the Chamber would like to partner with them to do aerial fireworks show then. They will be doing the livestock auction virtually June 20th. Improvements for the Expo grant has been applied for. Fairs have been told not to expect funding this year from the State and now lobbying the State for funding is happening. Discussed housing Coronavirus positive individuals and they are not an official Emergency shelter for that at this point. Progress has been made with Salinas and Solid Waste Authority and moving out of Sun Street transfer station to a long-term facility. Friday meetings continue.

Mayor Pro Tem Victoria stated that tomorrow Chalone Peaks is going to have their promotion and they are having a caravan. He said that questions are being asked about defunding the police department.

Council Member DeLeon stated they have heard that schools will open in the fall, but they are not sure the process yet. The question about the police department he feels needs to have a message that we need to have as an answer to the public on that. He doesn't feel we need to defund and improvements could be made.

Council Member Acosta stated nothing to report at this time.

Mayor LeBarre stated that School opening is district by district decision and it is important that the parents let the districts know what they want for their children in the fall.

8. CITY STAFF REPORTS AND COMMENTS:

City Manager Steven Adams stated he wanted to update on the City's response on what is going on in the world currently. He will forward detailed talking points to the council to answer questions. Extra Police staff has been in in the last week because of what is happening in other Cities, that staff was used to get signage and orders out to businesses that are opening up. The Police Department is reviewing its policies and procedures and if there are any new ideas on how to improve. The City is anxious to resume community outreach efforts.

City Attorney Roy Santos stated nothing at this time just continuing to monitor changes in the order from the governor and what is happening.

9. CONSENT AGENDA

- A. Consideration: Meeting Minutes of May 26, 2020 Council Meeting
- B. Consideration: Meeting Minutes of May 22, 2020 Special Council Meeting
- C. Consideration: City of King Check Register May 16, thru May 31, 2020
- D. Consideration: Successor Agency Check Register May 16, thru May 31, 2020
- E. Consideration: Award of a Contract for Annual Tree Trimming Services
- F. Consideration: Approval of Expenditure for Sanitary Sewer Management Plan Update and Fats, Oil and Grease Program Development Services
- G. Consideration: 2020 Local Agency Biennial Notice on Conflict of Interest Code
- H. Consideration: First Amendment to Community Choice Aggregation Full-Service Agreement with Pilot Power Group, Inc.
- I. Consideration: Resolution for the 2020 General Municipal Election
- J. Consideration: Comment Letter on Central Coast Regional Water Quality Control Board Lands Regulatory Program
- K. Consideration: Letter of Support for SB1 Funding for the State Route 156 Castroville Boulevard Interchange Project
- L. Consideration: Local Recovery Coalition
- M. Consideration: Resolution of the City Council of the City of King Establishing the Appropriations Limit from Tax Proceeds for FY 2020-21
- N. Consideration: Adjustment to the FY 2020-21 Budget Wastewater Fund
- O. Consideration: Confirmation of Election and Appointment of King City Volunteer Fire Department Officers and Engineers
confirmation of other following engineer positions:
 - Chief: Russ Nichols
 - First Assistant Chief: Matthew Owens
 - Second Assistant Chief: Michael Hearne
 - Secretary/Treasurer: Tom Nuck
 - Chief Engineer: Steve Rianda
 - First Assistant Engineer: John Nuno
 - Second Assistant Engineer: Carlos Perez, Jr.
 - Third Assistant Engineer: Mark Silveira
 - Fourth Assistant Engineer: Ty Caulk
 - Fifth Assistant Engineer: Jim Stephenson
 - Sixth Assistant Engineer: Cole Lambert
- P. Consideration: Letter of Support for State Funding for Fairgrounds

Action: Motion to approve consent agenda items A- P by Victoria and seconded by Cullen.

AYES: Council Members: LeBarre, Acosta, Cullen, DeLeon and Victoria

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

Mayor LeBarre congratulated all the Fire Department officers and expressed thanks and gratitude for our Fire Department.

Mayor Pro Tem Victoria recognizes how dedicated the Fire Department are.

Council member Acosta stated that she wanted to thank them as they always go above and beyond, always so professional and it is great that they volunteer.

10. PUBLIC HEARINGS:

- A. None

11. REGULAR BUSINESS:

- A. Consideration: USA Waste of California (DBA Waste Management) Garbage and Recycling Collection Service Fees for Fiscal Year 2020-21.

City Manager Adams introduced this item.

Elia Zavala further introduced this item with a Powerpoint.

Council member DeLeon is not in favor of rate increases.

Mayor Pro Tem doesn't like rate increases however it is minimal, and we can live with it.

Council member Cullen wanted to have it clarified on the implications on a no vote on this item.

City Attorney Santos stated that the Council is not approving the rate they are setting the ceiling on the rates which the City is contractually obligated which increase yearly.

Action: Motion to adopt a Resolution approving Waste Management's garbage and recycling collection adjusted rates for Fiscal Year 2020-21 effective July 1, 2020, resulting in a 2.18% increase by Cullen and seconded by Victoria.

AYES: Council Members: LeBarre, Acosta, Cullen, and Victoria

NOES: Council Members: DeLeon

ABSENT: Council Members:

ABSTAIN: Council Members:

- B. Consideration: Expiration of the Enforcement and Appeals Procedures for the Orders of the Monterey County Health Officer Related to the COVID-19 Pandemic Within the City of King and Review of the City of King Proclamation of Local Emergency

City Manager Adams introduced this item.

City Council agrees with staff's recommendation.

12. CITY COUNCIL CLOSED SESSION

None

ADJOURNMENT:

Mayor LeBarre adjourned the meeting at 6:50p.m. to closed session.

Mayor LeBarre went back into open session of the regular meeting and with nothing to report out he adjourned the meeting at 7:09p.m. on a motion by DeLeon and seconded by Victoria, and unanimous vote.

Approved Signatures:

Mayor, Michael LeBarre
City of King

City Clerk, Steven Adams
City of King



Item No. 9(B)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: MIKE HOWARD, FINANCE DIRECTOR

RE: CONSIDERATION OF CITY OF KING CHECK REGISTER JUNE 1 THRU JUNE 15, 2020

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 invoices paid for the previous month.

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.

ENVIRONMENTAL REVIEW:

No Environmental Review required for this item.

ALTERNATIVES:

The following alternatives are provided for Council consideration:

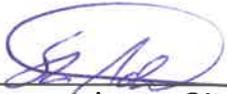
1. Receive and file the report; or
2. Provide other direction to staff regarding requests for additional information.

**CITY COUNCIL/CITY
CONSIDERATION OF CITY OF KING CHECK REGISTER JUNE 1 THRU
JUNE 15, 2020
JUNE 23, 2020
PAGE 2 OF 2**

Exhibits:

1. Check Register Report

Submitted by: 
Mike Howard, Finance Director

Approved by: 
Steven Adams, City Manager

Check Register Report

June 1, 2020 - June 15, 2020

Date: 06/17/2020

Time: 9:16 am

KING CITY CITY HALL

BANK: WELLS FARGO BANK

Page: 1

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
WELLS FARGO BANK Checks							
63946	06/15/2020	Printed		A & G PUMP	A & G PUMPING, INC	Wash Units for Stores	1,148.75
63947	06/15/2020	Printed		A T T	A T & T	Internet - #139650003	89.50
63948	06/15/2020	Printed		ADAMS	ADAMS ASHBY GROUP, LLC	CDBG Administration	840.00
63949	06/15/2020	Void	06/15/2020			Void Check	0.00
63950	06/15/2020	Printed		KCTVHARD	ALCANTAR HARDWARE INC	Janitorial Supplies for	274.13
63951	06/15/2020	Printed		ALLIANT	ALLIANT INSURANCE SERVICES INC	Crime Insurance Premium	1,260.00
63952	06/15/2020	Printed		ALVAREZL	ALVAREZ TECHNOLOGY GROUP -	Computer Lease	1,430.59
63953	06/15/2020	Printed		AM SUPPLY	AMERICAN SUPPLY CO.	Janitorial Supply	683.22
63954	06/15/2020	Void	06/15/2020			Void Check	0.00
63955	06/15/2020	Void	06/15/2020			Void Check	0.00
63956	06/15/2020	Printed		HANNA	ASSOCIATED ENGINEERING-SURVEY	Salinas Valley Fair, Andrus	25,126.00
63957	06/15/2020	Printed		AT & T	AT & T	Telephone -#831 386-9066 718 1	284.41
63958	06/15/2020	Printed		AT&T - C	AT&T	Telephone -	95.75
63959	06/15/2020	Printed		AT&T - C	AT&T	911 Line -#9391036550	19.89
63960	06/15/2020	Printed		BENSON	RICHARD A. BENSON PLUMBING	Ran Camera Through Line.	316.00
63961	06/15/2020	Printed		CARMEL FIR	ART BLACK	Commercial Fire Alarm	4,375.00
63962	06/15/2020	Printed		CAL WATER	CALIFORNIA WATER SERVICE CO.	Water - #4640266666	11,521.42
63963	06/15/2020	Printed		GONZALES	CITY OF GONZALES	Youth Diversion Program	60,000.00
63964	06/15/2020	Printed		COASTAL	COASTAL TRACTOR	Repair on Case Tractor	3,134.81
63965	06/15/2020	Printed		COASTL	COASTLINE MARKETING GROUP INC	Website Maintenance Monthly	125.00
63966	06/15/2020	Printed		CSGCON	CSG CONSULTANTS INC	Code Enforcement Services	37,050.00
63967	06/15/2020	Printed		DAVE'S REP	DAVE'S REPAIR SERVICE	Fuel Pump Inspection.	85.00
63968	06/15/2020	Printed		DEPT CONS	DEPARTMENT OF CONSERVATION	Strong Motion Quarterly	0.97
63969	06/15/2020	Void	06/15/2020			Void Check	0.00
63970	06/15/2020	Printed		EARTH DESI	EARTH DESIGN, INC.	WWTP Initial Study	18,764.75
63971	06/15/2020	Printed		EIKHOF	EIKHOF DESIGN GROUP INC	Public Works Special	3,552.50
63972	06/15/2020	Printed		GIS	GONZALES IRRIGATION SYSTEMS,	C/B Soccer -	120.72
63973	06/15/2020	Printed		HARRIS & A	HARRIS & ASSOCIATES, INC	Prep for Riverview Gardens	4,500.00
63974	06/15/2020	Printed		HINDERLITE	HINDERLITER, DELLAMAS & ASSOC	Cannabis Consultant Services	125.00
63975	06/15/2020	Printed		TIRE KING	JOSE RODRIGUEZ	Vehicle Repair - Unit 110	413.78
63976	06/15/2020	Printed		KC IND	KING CITY INDUSTRIAL SUPPLY	Repairs on Spray Tank.	239.92
63977	06/15/2020	Printed		LA HEARNE	L.A. HEARNE COMPANY	Pool Supply	389.94
63978	06/15/2020	Printed		VRIDIAN	LASER AIMING SYSTEMS CORP	SLESF	4,047.00
63979	06/15/2020	Printed		LINCOLN	LINCOLN AQUATICS	Pool Supply - S/C	5,302.88
63980	06/15/2020	Printed		CYPRESSW	MILES CLIFFORD FARMER	Waste Water Treatment	22,489.40
63981	06/15/2020	Printed		MO CO EMER	MONTEREY COUNTY EMERGENCY	Q4 NGEN O&M	3,971.88
63982	06/15/2020	Printed		NEWSV	NEW SV MEDIA, INC	Planning Commission Vacancy	1,130.50
63983	06/15/2020	Printed		O'REILLY A	O'REILLY AUTOMOTIVE, INC.	Glue for Patrol Camera.	10.86
63984	06/15/2020	Printed		OFFICE DEP	OFFICE DEPOT	Office Equipment	182.45
63985	06/15/2020	Printed		PARTS & SE	PARTS & SERVICE CTR- NAPA, INC	Battery for S10 Pickup	176.70
63986	06/15/2020	Printed		PURE WATER	PENINSULA PURE WATER INC.	Water - Police Dept	69.45
63987	06/15/2020	Printed		PAC	PG&E	Electricity -	171.84
63988	06/15/2020	Printed		PBGFS	PITNEY BOWES GLOBAL	Leasing Charges -	174.73
63989	06/15/2020	Printed		RED SHIFT	RED SHIFT INTERNET SERVICES	Internet	30.90
63990	06/15/2020	Printed		TRITON CON	REMEDIATION RISK MGMT., INC	Fuel Tank Testing Following	2,500.00
63991	06/15/2020	Printed		SALVALP	S & L INVESTMENT	Uniforms - Rodriguez	268.54
63992	06/15/2020	Printed		SSSINC.	SAFETY STRIPING SERVICE, INC	Progress Pmt #004.	3,798.58
63993	06/15/2020	Printed		SALRIVER	SALINAS RIVER STREAM MAINT.	Sediment Removal -	4,471.78
63994	06/15/2020	Printed		SENTRY	SENTRY	Alarm System	150.00
63995	06/15/2020	Printed		SIRCHIE AC	SIRCHIE ACQUISITION CO., LLC	Evidence Supplies	118.43
63996	06/15/2020	Printed		SONNE/ERIC	ERICA SONNE	Mileage - 64 (5/5/20)	36.80

Check Register Report

June 1, 2020 - June 15, 2020

Date: 06/17/2020

Time: 9:16 am

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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							
63997	06/15/2020	Printed		SPEAK	SPEAKWRITE BILLING DEPT	Transcription Services -	556.45
63998	06/15/2020	Printed		TORO	TORO PETROLEUM CORP.	Hydrolic Fluid for Tractor	2,418.50
63999	06/15/2020	Printed		TRANSU	TRANSUNION RISK AND ALTERNATIV	Services	50.00
64000	06/15/2020	Printed		U.S. BANCO	U.S. BANCORP EQUIPMENT FINANCE	Copier Contract	244.08
64001	06/15/2020	Printed		ULINE	ULINE	Evidence Box for Hand Guns.	166.77
64002	06/15/2020	Printed		VENDOME	VENDOME PARTNERS, LLC	Facade Improvements	62,500.00
64003	06/15/2020	Printed		4THOFJULY	SERGIO VILLEGAS	Repair Back Flow -	361.64
64004	06/15/2020	Printed		WASSONA	ANDREA WASSON	Mileage - 94 (5/15/20)	54.05
64005	06/15/2020	Printed		ZETX	ZETX, INC	TraX Web-Based Software.	1,750.00
Total Checks: 60						Checks Total (excluding void checks):	293,171.26
Total Payments: 60						Bank Total (excluding void checks):	293,171.26
Total Payments: 60						Grand Total (excluding void checks):	293,171.26



Item No. 9(C)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF AN EXTRATERRITORIAL WASTEWATER SERVICE AGREEMENT WITH DAVID GILL

RECOMMENDATION:

It is recommended the City Council: 1) approve and authorize the City Manager to execute an extraterritorial wastewater service agreement with David Gill for provision of wastewater service outside the City's boundaries; and 2) authorize the City Manager to make non-substantive changes as necessary in a form approved by the City Attorney.

BACKGROUND:

The 2014 Sanitary Sewer Infrastructure Project installed a 12' inch Sewer main along South First Street and provided a manhole at the intersection of South First Street and Lonoak Road. In January 2017, the City received LAFCO approval to provide wastewater treatment service to the former College Ville complex, which lies in the County adjacent to the City's boundary along Lonoak Road and is now owned by Tom Salcido. Extension of the line from the City's boundary to the site was constructed by Mr. Salcido. Providing wastewater treatment service to College Ville allowed the owner to remove a septic system, significantly improve the conditions of the College Ville site and help address the need for seasonal employee housing.

David Gill has recently proposed to build twelve agricultural employee housing units with up to 96 beds across the street from College Ville, which is also in the County unincorporated area outside the City's boundaries. Mr. Gill has requested the City provide wastewater treatment service to allow construction of agricultural employee housing units similar to the agreement reached with Mr. Salcido. The primary difference is that this project involves new construction rather than rehabilitation of an existing housing complex.

**CITY COUNCIL
CONSIDERATION OF AN EXTRATERRITORIAL WASTEWATER SERVICE
AGREEMENT WITH DAVID GILL
JUNE 23, 2020
PAGE 2 OF 3**

At the April 14th meeting, the City Council approved an application to the Local Agency Formation Commission (LAFCO) for their approval of a Sphere of Influence amendment to include this area and an application for approval to provide sewer services outside the City's boundaries. Both of these applications have been approved. In order for the City to provide sewer service to the project, the last remaining step required is to enter into an extraterritorial wastewater service agreement, which the City Attorney has drafted for City Council consideration.

DISCUSSION:

The project location has been identified as a desirable site for seasonal employee housing. As a result, it was anticipated at the time the sewer line was installed to the Tom Salcido property and Mr. Gill participated financially in the costs of installing that portion of the main line. Therefore, staff is recommending waiving the wastewater collection system fee as was done with Mr. Salcido. It is recommended and incorporated into the agreement that Mr. Gill be required to pay the wastewater treatment facility development impact fee to pay for the impact on the capacity of wastewater treatment plant. In addition, the facility will be responsible for paying to the City normal ongoing wastewater service charges. Staff recommends approval because this project will make another important step toward addressing housing needs of employees of agricultural businesses in the King City area.

COST ANALYSIS:

The agreement is projected to generate up to approximately \$32,000 in wastewater treatment facility development impact fees.

ENVIRONMENTAL REVIEW:

This action is not considered a project for the purposes of CEQA and has no potential for resulting in either a direct or indirect impact to the environment. Therefore, no additional action is necessary.

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Approve the agreement.
2. Modify the terms of the agreement and approve;
3. Do not approve serving the project with wastewater services; or
4. Provide other direction to staff.

**CITY COUNCIL
CONSIDERATION OF AN EXTRATERRITORIAL WASTEWATER SERVICE
AGREEMENT WITH DAVID GILL
JUNE 23, 2020
PAGE 3 OF 3**

Exhibits:

1. Extraterritorial Wastewater Services Agreement

Prepared and Approved by:



Steven Adams, City Manager

Recording Requested by and
When Recorded Return to:

City Clerk
City of King City
212 So. Vanderhurst Ave.
King City, CA 93930

NO FEE-Government Code §6103

(Space Above This Line for Recorder's Office Use Only)

**EXTRATERRITORIAL WASTEWATER SERVICE AGREEMENT
DAVID GILL AND THE CITY OF KING**

This **EXTRATERRITORIAL WASTEWATER SERVICE AGREEMENT BETWEEN DAVID GILL AND THE CITY OF KING CITY** ("Agreement") is made and entered into this _____ day of June, 2020 (the "Commencement Date"), by and between **DAVID GILL** ("Owner"), and the **CITY OF KING, a California municipal corporation** ("City").

RECITALS

A. Owner represents it has acquired lawful title to property identified by Monterey County Assessor's Parcel Number 235-072-023, located in an unincorporated area of King City, CA, (the "Property"), as more particularly described in **Exhibit "A."**

B. The Property is located outside of the incorporated boundaries of City within Monterey County, and neither Monterey County nor any other public agency currently provides wastewater service to the Property. At the time the Owner made the request for City wastewater services the Property was outside both the City's sphere of influence and boundaries; however, the City Council approved the initiating of the process for adding the Property into the City's Sphere of Influence.

C. LAFCO has approved a sphere of influence amendment and the proposed extension of City wastewater service to the Property.

D. City currently owns and operates a wastewater collection and disposal system which conveys, treats and disposes wastewater originating in its service area through the City disposal system. This wastewater collection and disposal system includes a twelve (12) inch sewer main along Lonoak Road to allow for potential service to the properties within this area. The City's wastewater collection and disposal system is referred to herein as "Disposal System."

D. Owner will construct, at Owner's cost, a sewer lateral to the existing twelve (12) inch sewer line to serve the proposed project. If the sewer lateral is required to be greater than

four (4) inch, Owner shall construct a new sewer manhole on Lonoak at the point of tie in. Connections from the Property to the Connection Point, including all road cuts, patching, permits and inspections, to connect the Property to City's Disposal System. Owner shall construct the New Sewer Service after receiving all appropriate County of Monterey and City permits.

E. City has identified the Property as an ideal location for expansion of agricultural employee housing, and also desires to allow the Property to connect to City's Disposal System to promote public health, safety and welfare.

F. Owner has agreed to make payments described herein with respect to wastewater from the Property discharged into the City Disposal System in accordance with the fees and rates set by the City for its users, and to comply with City's Municipal Code as may be amended from time to time, as more fully set forth herein.

H. This Agreement is intended to comply with LAFCO requirements for an extra-territorial water service agreement with City.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto, agree as follows:

ARTICLE I. RIGHTS AND OBLIGATIONS

1. Recitals Incorporated. The recitals set forth above are true and correct and are hereby incorporated into and made a part of this Agreement.

2. Term, Ownership and Effectiveness of Agreement: This Agreement shall become effective when executed by both parties hereto. The Agreement shall continue in perpetuity or until such time as the Property is annexed into the corporate boundaries of City. At such time, the Owner shall have such rights, privileges and duties, including fees and rates, as all other City citizens for the then current wastewater disposal classification.

3. Location for Connection to City Disposal System. Owner and City acknowledge the nearest City municipal sanitary sewer lateral to serve the Property will be at the Connection Point. Connection to City's Disposal System by Owner shall be made at this location.

4. New Sewer Lateral. Owner represents, warrants and covenants to the City that Owner will construct the New Sewer Lateral after receiving all respective County of Monterey and City permits and that the New Sewer Lateral shall be constructed in accordance with all respective laws.

5. Maintenance of New Sewer Lateral. Owner shall, at its sole cost and expense, maintain and repair the New Sewer Lateral.

6. Maintenance of Private Sewer Facilities. All sewer facilities installed by Owner related to the Property not part of the New Sewer Lateral, including the installation of sewer facilities from the point of connection with the New Sewer Line, including the connection itself, upstream to and including facilities in the Property site or within private streets, shall be private (“Private Sewer Facilities”). It is the sole responsibility of Owner to repair, maintain and replace all Private Sewer Facilities, and City shall have no responsibility or liability for these Private Sewer Facilities. Owner shall obtain all necessary permits or other approvals necessary for constructing and connecting Owner’s Private Sewer Facilities to the New Sewer Line.

7. City to Provide Sewer Services. Upon Owner’s full and complete performance of all of Owner’s obligations and responsibilities under this Agreement, City agrees to provide Owner’s Property with sewer services from City’s Disposal System **for no more than twelve (12) agricultural worker residential housing units and/or a maximum of ninety-six (96) individual residents.** City’s obligation to provide Owner’s Property with sanitary sewer services from City’s Disposal System is conditioned upon City and Owner obtaining the consent of all applicable governmental agencies. As a condition to providing sewer service, City shall have the right of access to water meters, including any required irrigation meter(s), whether located on City-owned real property, dedicated New Sewer Line, or the Property. Owner shall promptly repair or replace damaged water meters. Owner relinquishes ownership rights of effluent it discharges into the City’s Disposal System.

8. Obligations and Responsibilities of Owner to Pay for Municipal Utility Services Provided by City. Owner agrees to promptly pay to City any and all statutory and/or customary connection and service fees. City shall not charge Owner wastewater collection system development impact fees in exchange for the cost paid by Owner towards construction of the twelve (12) inch sewer line on Lonoak Road. Prior to the provision of sewer services by City to Owner, Owner shall pay to City the applicable wastewater treatment plant development impact fee for seasonal employee housing at a rate of \$334.98 per bed. The total fee will be based upon the maximum beds allowed by the County of Monterey set forth in the project approvals. Owner agrees to apply to City for a municipal utility sewer account, maintain its sewer municipal utility water service account with City in a current status and comply with – and be subject to – City’s Municipal Code Title 15, Sections 15.04.010 -15.44.130, as subsequently updated or amended. Owner acknowledges and agrees that should its municipal utility sewer service account with City become sixty (60) days delinquent, City shall have the right, at City’s sole option, to discontinue service to the Property.

9. Indemnification of City: To the greatest extent allowed by law, Owner shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Owner or any other person, and from any and all claims, demands, liabilities, damages and actions in law or equity (including attorney’s fees and litigation expenses incurred by City or held to be the liability of the City, including plaintiff’s attorneys’ fees if awarded), arising or alleged to have arisen directly or indirectly out of (a) the making of this Agreement; (b) the performance of this Agreement; (c) the performance of any or all work to be done in and upon the street rights-of-way, upon the Property or premises

adjacent thereto pursuant to this Agreement; (d) arising or alleged to have arisen directly or indirectly in any way related to the design, construction, installation, maintenance and operation of City Disposal System or New Sewer Line by anyone occupying any portion of the Property, including, without limitation, any such claims, causes of action, damages, liabilities, fees, costs, expenses and attorney fees arising from inadequate flow, blockage, backflow, etc. Owner's obligations under the preceding sentence shall apply regardless of whether Owner or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents or volunteers. This section shall survive termination or expiration of this Agreement.

10. Covenants Running with the Land. Owner acknowledges and agrees all of Owner's covenants, agreements, promises, representations and warranties as set forth in this Agreement are covenants running with Owner's Property as defined in the applicable provisions of Sections 1457 et seq. of the California Civil Code, shall be in favor of and for the benefit of City and shall be enforceable by City. Owner's covenants, agreements, promises, representations and warranties as contained in this Agreement, shall run with the Property and shall be binding on Owner and Owner's successors, assigns, lessees and all parties and persons claiming under them. Owner consents to this Agreement being recorded as covenant running with the Property.

11. Successors and Assigns. The covenants and agreements contained in this Agreement shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of the parties hereto. Owner may not assign its rights and/or obligations under this Agreement without the prior written consent of City, which consent shall not be unreasonably withheld. Any such consent by City shall not, in any way, relieve Owner of its obligations and responsibilities under this Agreement.

12. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof. All notices regarding any new or increased fee or rate increases affecting the applicable fees and rates in this Agreement, shall be provided in the same manner provided to all customers subject to the new or increased fees and charges.

13. Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, both parties.

14. Compliance with the Law. In providing the services required under this Agreement, Owner shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be

enacted, issued, or amended during the term of this Agreement. Owner, not City, is responsible for determining applicability of and compliance with all local, State and federal laws including, without limitation, the California Labor Code, Public Contract Code, Public Resources Code, Health & Safety Code, and Government Code; the King City Charter; and the King City Municipal Code. City makes no representations regarding the applicability of any such laws to this Agreement, the project, or the parties' respective rights or obligations hereunder including, without limitation, payment of prevailing wages, competitive bidding, subcontractor listing, or other matters. City shall not be liable or responsible, in law or equity, to any person for Owner's failure to comply with any such laws, whether City knew or should have known of the need for Owner to comply, or whether City failed to notify Owner of the need to comply.

15. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

16. Public Health, Safety and Welfare. Nothing contained in this Agreement shall limit City's authority to exercise its police powers, governmental authority or take other appropriate actions to address issues of public health, safety and welfare as deemed appropriate by City in its sole determination and discretion.

17. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be the California Superior Court, County of Monterey.

18. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

19. Severability. The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

20. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

21. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees, costs and legal expenses.

22. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

23. Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto, which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement shall be null and void.

24. Time of Essence. Time is of the essence in the fulfillment by the parties hereto of their obligations under this Agreement.

25. Amendment. No amendment or waiver of any provisions of this Agreement, or consent to any departure from its terms, shall be effective unless the same shall be in writing and signed by the parties hereto.

26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity, except Owner (i) cannot seek money damages or pursue an action in law; and (ii) is instead limited to bringing a proceeding in the nature of specific performance, injunctive relief or mandamus, or any other action in equity to require good-faith compliance with this Agreement, such as an action to provide Owner's Property with sewer services from City's Disposal System.t.

27. No Third Party Beneficiaries. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both City and Owner.

29. Third Party Approvals. The Parties acknowledge that there are approvals from third parties (such as those involving public utilities, railroad right-of-way, etc.) that are required to allow the City providing Owner's Property with sewer services from the City's Disposal System, The approvals are conditions precedent to performance, and the City shall seek said third-party approvals in good faith.

30. Execution In Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute an original hereof.

******SIGNATURES ON NEXT PAGE******

IN WITNESS WHEREOF, the parties have executed this Agreement at King City, California, the day and year first above written.

CITY:

CITY OF KING,
a California municipal corporation

OWNER:

DAVID GILL

By: _____
Steven Adams, City Manager

By:  _____

Address: 48405 Lonoak Rd
King City, CA 93930

ATTEST:

By: _____
Erica Sonne, Deputy City Clerk

APPROVED AS TO FORM:

By: _____
Roy C. Santos, City Attorney

Exhibits:

- A. Legal Description of Property

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

For APN/Parcel ID(s):

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF THE CITY OF KING, COUNTY OF MONTEREY, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

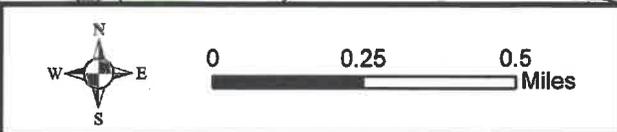
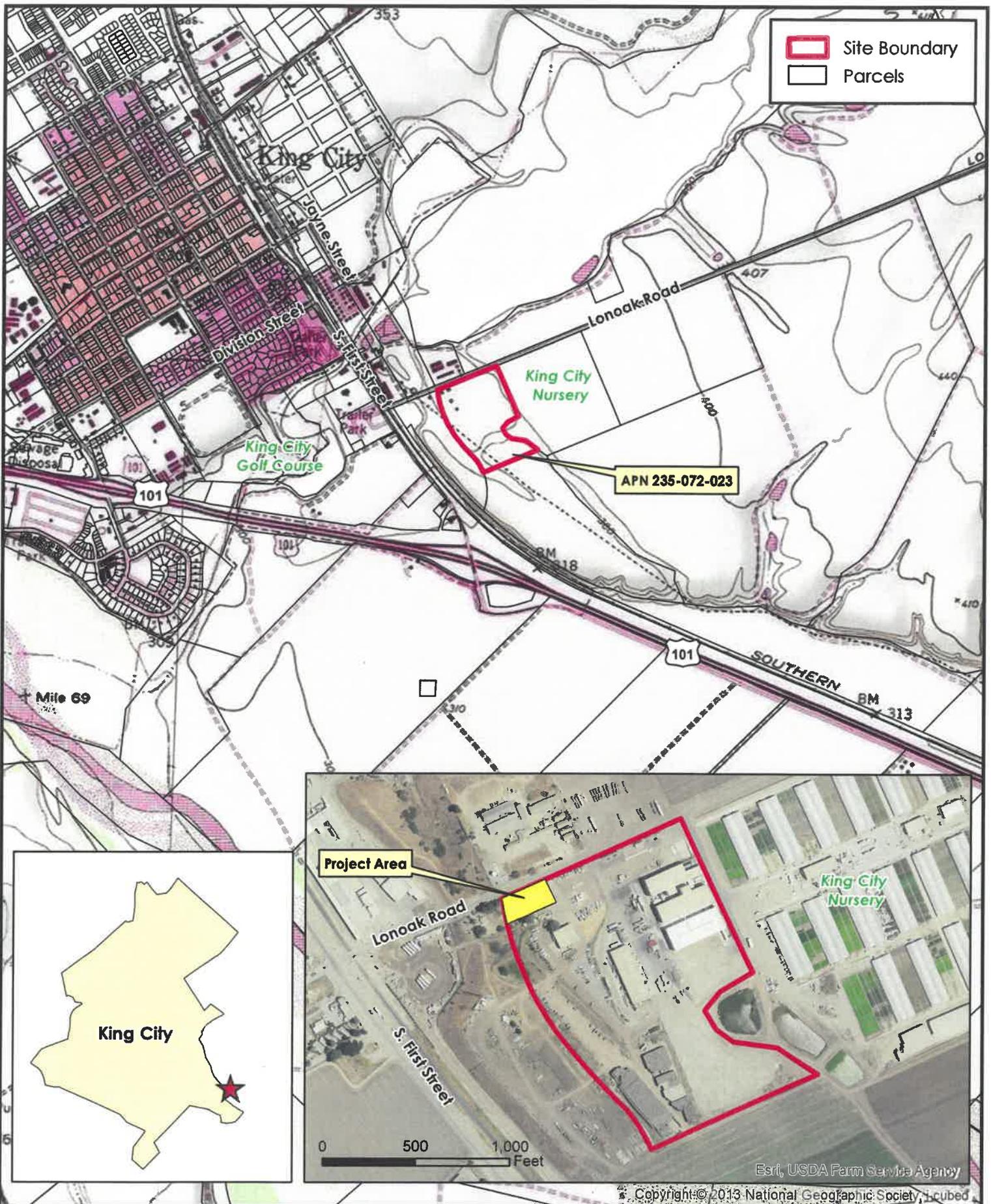


Exhibit 1
Sphere of Influence Amendment

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Item No. 9(D)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF INTERPRETATION REGARDING PROVISIONS IN THE CITY OF KING MUNICIPAL CODE INVOLVING CANNABIS RETAIL STOREFRONT DISPENSARIES

RECOMMENDATION:

It is recommended the City Council adopt a Resolution approving an interpretation of Municipal Code provisions pertaining to restrictions on the proximity of cannabis retail storefront dispensaries to residential properties.

BACKGROUND:

At the February 25, 2020 meeting, the City Council adopted an ordinance allowing cannabis retail storefront dispensaries. The ordinance included a number of restrictions to prevent potential problems. One of the provisions was a restriction on dispensaries adjacent to residential properties in order to avoid neighborhood concerns from property owners that may not want a dispensary located next to their home.

Specifically, the restriction is worded as follows:

Further, storefront dispensaries shall be prohibited from being located directly adjacent to any single-family or multi-family residential property. The terms "directly adjacent" mean sharing a property line border with the proposed storefront dispensary property.

Per the terms of the ordinance and City Council direction, a notice, applications and instructions have been distributed to solicit parties interested in applying for approval to open a cannabis retail storefront dispensary business in King City. Applications are due on July 9th. Direction from City Council on some of the questions received from potential applicants is needed to assist them in determining the eligibility of available properties.

**CITY COUNCIL
CONSIDERATION OF INTERPRETATION REGARDING PROVISIONS IN THE
CITY OF KING MUNICIPAL CODE INVOLVING CANNABIS RETAIL
STOREFRONT DISPENSARIES
JUNE 23, 2020
PAGE 2 OF 3**

DISCUSSION:

The issues identified relate to the prohibition of dispensaries located next to residential properties. Staff's intent was to prevent a dispensary from being proposed adjacent to someone's home. Therefore, the provision intentionally was not worded to read single-family or multi-family zoned properties because some residential structures are located in other types of zones and other types of structures are located in residential zones.

One of the issues involves a commercial building built on a parcel separated from a mobile home park by another parcel, but a portion of the building extends onto the parcel next to the mobile home park. Other questions have been received involving properties adjacent to residential properties that are either vacant or currently contain other types of structures.

Therefore, staff recommends City Council provide the following clarification:

1. A cannabis retail storefront dispensary may be located within a building partially on a parcel sharing a property line border with a single-family or multi-family residential property as long as the cannabis retail storefront dispensary is located entirely on a parcel that does not share a property line border with a single-family or multi-family residential property. This shall include all operations, storage and parking associated with the cannabis retail storefront dispensary business.
2. A cannabis retail storefront dispensary may be located on a property adjacent to a property zoned for residential structures as long as it is not sharing a property line border with a property containing a structure being used for residential purposes at the time the application is submitted. The determination would be made based on whether a structure on the adjacent parcel has been utilized for housing during the past 12-month period and would not be impacted by a vacancy at the time the application is submitted.

COST ANALYSIS:

There is no direct cost impact from this determination, but it may increase opportunities for future tax revenue from cannabis retail storefront dispensaries.

**CITY COUNCIL
CONSIDERATION OF INTERPRETATION REGARDING PROVISIONS IN THE
CITY OF KING MUNICIPAL CODE INVOLVING CANNABIS RETAIL
STOREFRONT DISPENSARIES
JUNE 23, 2020
PAGE 3 OF 3**

ENVIRONMENTAL REVIEW:

This action is not considered a project for the purposes of CEQA and has no potential for resulting in either a direct or indirect impact to the environment. Therefore, no additional action is necessary.

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Adopt the Resolution;
2. Direct staff to modify the Resolution to prohibit cannabis retail storefront dispensaries on properties where any portion of the building is on a parcel sharing a boundary with a residential property and/or sharing a boundary with a property zoned to allow potential residential structures in the future;
3. Direct staff to make other modifications to the Resolution;
4. Do not adopt a Resolution; or
5. Provide other direction to staff.

Prepared and Approved by:



Steven Adams, City Manager

RESOLUTION NO. 2020-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KING
REGARDING CANNABIS RETAIL STOREFRONT DISPENSARY RESTRICTIONS**

WHEREAS, the City Council of the City of King adopted an Ordinance on February 25, 2020 allowing cannabis retail storefront dispensaries; and

WHEREAS, the City has implemented a process to accept applications for applicants pursuing approval to open a cannabis retail storefront dispensary; and

WHEREAS, current regulations prohibit cannabis retail storefront dispensaries from being located directly adjacent to any single-family or multi-family property; and

WHEREAS, questions involving unique circumstances have been received from applicants requiring interpretation of how to apply this restriction in said circumstances; and

WHEREAS, the intent of this restriction was to prevent a cannabis retail storefront dispensary from being located adjacent to the existing home of a resident to address potential neighborhood concerns.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of King hereby approves the following interpretation of provisions Chapter 17.03 of Title 17 of the King City Municipal Code pertaining to cannabis retail storefront dispensaries:

1. A cannabis retail storefront dispensary may be located within a building partially on a parcel sharing a property line border with a single-family or multi-family residential property as long as the cannabis retail storefront dispensary is located entirely on a parcel that does not share a property line border with a single-family or multi-family residential property. This shall include all operations, storage and parking associated with the cannabis retail storefront dispensary business.
2. A cannabis retail storefront dispensary may be located on a property adjacent to a property zoned for residential structures as long as it is not sharing a property line border with a property containing a structure being used for residential purposes at the time the application is submitted. The determination would be made based on whether a structure on the adjacent parcel has been utilized for housing during the past 12-month period and would not be impacted by a vacancy at the time the application is submitted.

This resolution was passed and adopted this **23rd** day of **June, 2020** by the following vote:

AYES, Council Members:

NAYS, Council Members:

ABSENT, Council Members:

ABSTAIN, Council Members:

APPROVED:

Mike LeBarre, Mayor

ATTEST:

Steven Adams, City Clerk

APPROVED AS TO FORM:

Roy Santos, City Attorney



Item No. 9(E)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF AGREEMENT WITH SUN STREET CENTERS FOR PROVISION OF THE YOUTH DIVERSION PROGRAM

RECOMMENDATION:

It is recommended the City Council authorize the City Manager to execute an agreement with Sun Street Centers in an amount not to exceed \$30,000 for the Youth Diversion program for the period of July 1, 2020 to September 30, 2020 in a form approved by the City Attorney.

BACKGROUND:

In coordination with the other South Monterey County cities, King City has contracted with Sun Street Centers to provide a pre-diversion program. It was one of the measures of the Comprehensive Plan to End Youth Violence and diverts youth from entering the juvenile justice system through an individualized diversion plan. The 3 – 6 month plan is developed in collaboration with the student, parents and a case manager to provide a path to success through education, community involvement, life skills training and counseling.

The program was originally funded through a State grant. However, when that grant was completed, the past two years it has been funded primarily on a joint basis by the participating jurisdictions of King City, Greenfield, Soledad and Gonzales. Last year, King City was the lead agency in soliciting additional minor grants to expand the program. These included a Monterey Peninsula Foundation Grant, a Monterey County Community Foundation grant, and a Chevron Corporation grant. The existing contract will expire on June 30, 2020. Therefore, a contract extension is necessary to continue the program.

**CITY COUNCIL
CONSIDERATION OF AGREEMENT WITH SUN STREET CENTERS FOR
PROVISION OF THE YOUTH DIVERSION PROGRAM
JUNE 23, 2020
PAGE 2 OF 2**

DISCUSSION:

The Cities of King City and Greenfield have applied for a CalVIP grant to expand this program in FY 2020-21, which is another major grant similar to the one received when the program was formed. However, the results of the application are not anticipated until September. As a result, an initial contract with Sun Street Centers for 3 months is proposed. Once the results of the grant application are received, it can be determined if the contract can be modified to expand the program. The Cities of Soledad and Gonzales will be entering into a 12-month contract because they did not meet the eligibility criteria for the CalVIP grant application.

Staff believes the youth diversion program continues to be a vital part of the City's efforts to reduce and eliminated youth violence. Therefore, it is recommended the contract be renewed.

COST ANALYSIS:

A total of \$40,000 was included in the FY 2020-21 Budget for this program. The cost of the contract for the first 3 months is \$30,000. However, the actual cost of expenses to King City is proposed to be \$10,000. The remaining \$20,000 are funds remaining from the Chevron Corporation grant received. This amount is charged to King City as the lead agency for the grant on behalf of the four cities.

ENVIRONMENTAL REVIEW:

The appropriation and/or program expansion is not considered a "project" for the purposes of the California Environmental Quality Act (CEQA). Therefore, the change does not have the potential for resulting in either a direct physical change to the environment or a reasonably foreseeable indirect physical change in the environment. No further action is required under CEQA for City Council action.

ALTERNATIVES:

The following alternatives have been identified for City Council consideration:

1. Approve staff's recommendation;
2. Do not approve the appropriation; or
3. Provide other direction to staff.

Prepared and Approved by:



Steven Adams, City Manager



Item No. 10(A)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF POTENTIAL PROGRAMS FOR INCLUSION IN THE STATE COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CDBG-CV) APPLICATION

RECOMMENDATION:

It is recommended the City Council: 1) open the public hearing and receive public comment regarding the Community Development Block Grant Coronavirus Aid, Relief and Economic Security Act (CDBG-CV) program and possible activities and projects to be considered for funding under the upcoming Notice of Funding Availability (NOFA) process; and 2) provide direction for staff to prepare an application in response to the release of the Notice of Funding Availability (NOFA) for CDBG-CV funds for COVID-19 related activities that benefit low- and moderate-income residents.

BACKGROUND:

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act in response to the impacts of the COVID-19 pandemic. The California State Department of Housing and Community Development (HCD) published a Notice of Funding Availability (NOFA) for Community Development Block Grant Coronavirus Aid, Relief, and Economic Security (CDBG-CV1) funds. Eligible cities and counties may submit applications for CDBG-CV funds under the NOFA.

Eligible activities paid for with State CDBG funds must meet one or more of the three national objectives listed in CDBG Federal statutes as follows: 1) benefit to low-income households; 2) benefit to low-income persons; or 3) meeting urgent community development need (a need resulting from a state or federal declared disaster). In addition, eligible activities must be used directly to prevent, prepare

**CITY COUNCIL
CONSIDERATION OF POTENTIAL PROGRAMS FOR INCLUSION IN THE
STATE COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS AID,
RELIEF, AND ECONOMIC SECURITY ACT (CDBG-CV) APPLICATION
JUNE 23, 2020
PAGE 2 OF 3**

for or respond to COVID-19 and meet CDBG requirements as provided and directed by HCD in the published NOFA.

Before submitting an application, the first step required is to hold a public hearing. The purpose of the public hearing is to gather information regarding the needs of the community and business community. Staff will then work with the City's consultant in preparing the final application for City Council to approve at a future meeting prior to submittal. The deadline for the submittal is August 31, 2020.

DISCUSSION:

Eligible activities for the grant funding are limited to the following:

- Increase economic development opportunities
- Public service activities supporting response to COVID-19
- Public facility activities supporting healthcare capacity and housing persons experiencing homelessness (including acquisition)
- General administration costs

The funds can be used to contract with a service provider to provide the desired program or to administer a program by the City. It is important to note that the funding includes extensive requirements for administration and data on both contractors and recipients of the services. Therefore, it is preferable to plan one large project or program rather than dividing it into small subrecipient grants to avoid duplicative administrative work. The work involved in providing small amounts to multiple organizations is often not worth the funding received. In addition, the data that needs to be collected from recipients of the services may limit the types of services the funding can feasibly be used for.

Based on staff's initial analysis of options available, one of the alternatives recommended for consideration would be a utility bill reimbursement program. Such a program could be operated by City staff. Recipients would be eligible to receive payment of up to 3 months of utility bills by providing evidence from a former employer that they were laid off of work due to COVID-19. Bills would be submitted to the City for payment. Eligible utility payments would include electricity, water, sewer, refuse collection and potentially phone and internet. One of the advantages of this program is the amount available could be supplemented with funding from the City's sewer fund, King City Community Power, and California Water Service to expand the program.

**CITY COUNCIL
CONSIDERATION OF POTENTIAL PROGRAMS FOR INCLUSION IN THE
STATE COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS AID,
RELIEF, AND ECONOMIC SECURITY ACT (CDBG-CV) APPLICATION
JUNE 23, 2020
PAGE 3 OF 3**

Additionally, staff is working with a committee of service providers to develop strategies to assist with relocation of individuals residing at the homeless encampment by the Salinas River. The Homeless Coalition has indicated they might be able to provide some seed money. The CDBG-CV1 funds may also be eligible for costs associated with this assistance. Therefore, depending upon the strategies identified, staff recommends the City Council consider directing a portion of the funds to utility bill assistance and a portion to homeless assistance.

Staff reviewed options for economic development assistance to local businesses. However, they must be structured as loans, which will create more administrative requirements than the City or the administrative funds provided will be able to support. Therefore, those options are not recommended.

COST ANALYSIS:

It is estimated that the City of King will be eligible to receive up to \$112,462 based on a formula provided by HCD. Of that amount, 15% can be used towards administration, which will include the consultant's cost for administering the grant and reimbursement of staff time.

ENVIRONMENTAL REVIEW:

This action is not considered a project for the purposes of CEQA and has no potential for resulting in either a direct or indirect impact to the environment. Therefore, no additional action is necessary.

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Receive public input and direct staff to prepare an application for funding for a utility bill reimbursement program and homeless assistance;
2. Receive public input and direct staff to prepare an application for funding for another program or programs;
3. Direct staff to solicit additional public input;
4. Direct staff to not prepare or submit an application for funding; or
5. Provide other direction to staff.

Prepared and Approved by:



Steven Adams, City Manager



10(B)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: DOREEN LIBERTO, AICP, COMMUNITY DEVELOPMENT DIRECTOR

RE: CONSIDERATION OF ORDINANCE AMENDING THE MUNICIPAL CODE REGARDING SIGNS, BUNDLING APPLICATIONS, AND TIME EXPIRATION OF CONDITIONAL USE PERMITS

RECOMMENDATION:

It is recommended the City Council introduce an Ordinance regarding signs, bundling applications and time expiration of conditional use permits to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, approve the introduction of the Ordinance and set the second reading and adoption for the next regularly scheduled Council meeting of July 14, 2020.

BACKGROUND:

On January 14, 2020, the City Council ("Council") adopted a number of changes to the Municipal Code in response to recent long-range planning efforts, code enforcement actions, and upcoming potential development projects. The Planning Commission ("Commission") recommended the changes on December 17, 2019. Staff is bringing forth a second set of Municipal Code changes in response to a number of issues that have been identified.

The attached Ordinance would make the following changes:

- Changes the amortization time period for certain non-conforming signs.
- Prohibits the placement of private signs within the City right-of-way.
- Bundles applications so legislative (e.g., general plan amendment) and administrative (e.g., conditional use permit) applications simultaneous go to the Council for a decision rather than bifurcate decisions.
- Changes the approval period for conditional use permits ("CUP") and applications submitted concurrently with a CUP from one 1-year with no extension of time to 2-year plus a year extension.

CITY COUNCIL

JUNE 23, 2020

**CONSIDERATION OF ORDINANCE AMENDING THE MUNICIPAL CODE
REGARDING SIGNS, BUNDLING APPLICATIONS, AND TIME EXPIRATION OF
CONDITIONAL USE PERMITS PAGE 2 OF 4**

On June 2, 2020, the Commission recommended the Council adopt the Ordinance as written.

DISCUSSION:

The attached Ordinance makes several changes to the Municipal Code, as follows:

Chapter 17.55 Signs

17.55.070 Prohibited Signs and 17.55.080 (d) (B) Signs with Public Right-of-Way

These sections allow temporary local community signs approved by the Community Development Director for a maximum duration of 7 days with certain stipulations. However, private signs within the public right-of-way can create obstacles for vehicles, bicyclists and other legitimate uses and if not installed properly, blow away or fall over. Additionally, too many signs can create a visual distraction. It is important to note that legally it is very difficult to deny some signs and not others without violating freedom of speech issues. As a result, such signs have not historically been approved.

Therefore, eliminating this provision will reduce placing staff in the position of having to deny requests that are received from the community, particularly non-profit and faith-based organizations. As a result, the Council recently directed staff to prepare a Code change prohibiting the community signs outright. Therefore, staff is recommending that private signs not be permitted within the public right-of-way.

Chapter 17.55 - 17.55.110 (b) Non-conforming Signs

A nonconforming sign is a permanent or temporary sign that was legally established at one time but now does not comply with the sign ordinance. The amortization period establishes the time in which non-conforming signs must become compliant. Staff is recommending that the amortization period change from 7 years to 25 years for signs originally valued at more than \$3,000. These signs are typically located along the Highway 101 frontage and West Broadway Street area. As part of the City's economic development approach, larger commercial users are looking to locate along the West Broadway Street corridor and want to initially use existing signs with face changes. This will allow businesses to open with existing signage and give additional time to plan for long-term signage.

Staff has experienced 2 specific issues with regard to signs that have already been amortized. First, prospective commercial tenants have stipulated to property owners that their lease will be contingent upon utilization of an existing pole sign, which are often no longer allowed. Second, these signs are often very expensive to remove. Therefore, removal creates a significant economic burden on the property owner and

CITY COUNCIL

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in many cases will result in an empty unused sign since it is difficult for the City to require removal.

Chapter 17.64 Permits and Variances

CUP and variance permit applications become null and void after 1 year of a Commission decision. This has not been consistently enforced due to conflicting language in the Municipal Code. No extensions can be granted unless specifically authorized by the Commission. For projects, staff is recommending to standardize an approval life of 2 years with an extension of 12 months and may not exceed a total of 3 years from the original date of expiration, unless otherwise permitted by law for CUPs and associated variance permit applications. A variance permit without an associated CUP will expire within 1 year of approval and no extensions of times are allowed. Time limits vary in different jurisdictions, but the recommendations are relatively consistent with other jurisdictions.

Currently, administrative action applications (e.g., CUP) are approved by the Commission subject to appeal to the Council. The Commission only makes recommendations to the Council on legislative action applications (e.g., general plan amendment). The current review process is bifurcated when a legislative action application (e.g., general plan amendment) is processed concurrently with an administrative action application (e.g., CUP) in cases where a project requires multiple applications. The Commission's decision on the administrative action application is contingent upon the Council's approval of the legislative action. Staff recommends that legislative and administrative applications be bundled together with the same review process. This allows the Council to consider and take action on all applications simultaneously. It also simplifies the process if an amendment is later requested.

COST ANALYSIS:

There are no costs associated with this action.

ENVIRONMENT DETERMINATION

An environmental determination the Ordinance is exempt from the California Environmental Quality Act ("CEQA") as it can be seen with certainty that there is no possibility that it will have a significant effect on the environment pursuant to CEQA Guidelines section 15061(b)(3), as well as it is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by allowing certain existing signs to be amortized over a longer period of time, bundling of permits, and changing

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the approval period of conditional use permits and variances, and other minor changes to the Municipal Code, pursuant to CEQA Guidelines sections 15307 and 15308.

ALTERNATIVES:

The following recommendations are provided for Council consideration:

1. Adopt the Ordinance recommended by the Planning Commission;
2. Direct staff to modify the Ordinance;
3. Do not adopt the Ordinance;
4. Request additional information; or
5. Provide staff other direction.

Exhibits:

Exhibit 1: Planning Commission Resolution No. 2020-281

Exhibit 2: City Council Ordinance No. 2020-792

Submitted by: 
Doreen Liberto, AICP, Community Development Director

Approved by: 
Steven Adams, City Manager

RESOLUTION NO. 2020-281**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING
RECOMMENDING THE CITY COUNCIL OF THE CITY OF KING AMEND TITLE 17,
CHAPTER 17.55, SECTIONS 17.55.070, 17.55.080, AND 17.55.110, AND AMEND
CHAPTER 17.64, SECTIONS 17.64.020, 17.64.030, 17.64.040, 17.64.050 AND
17.64.060 OF THE KING CITY MUNICIPAL CODE**

WHEREAS, pursuant to Article XI, Section 7, of the California Constitution, the City of King ("City") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, on June 2, 2020, the Planning Commission ("Commission") considered an ordinance amending Chapter 17.55 and Chapter 17.64 of the Municipal Code, attached as **Exhibit 1**; and

WHEREAS, the Commission finds the proposed ordinance consistent with the General Plan and any applicable Specific Plan(s); and

WHEREAS, the Commission finds this ordinance is reasonable and necessary for the preservation of the public peace, health and safety; and

WHEREAS, the Commission finds that increasing the amortization period from seven (7) years to twenty-five (25) years from January 2009 for the original value of signs of more than \$3,000 is needed to promote economic development; and

WHEREAS, the Commission finds that prohibiting any sign, other than public signs, from being placed within a public-right-of-way minimizes liability for damages arising from said signs; and

WHEREAS, the Commission finds that allowing conditional use permits and associated applications to be valid for two (2) years with one (1) one-year extension is reasonable because it will provide applicants more time to constructed needed projects; and

WHEREAS, the Commission finds that bundling of applications will help ensure the smooth processing and construction of developments; and

WHEREAS, the Commission finds the ordinance is exempt from the California Environmental Quality Act ("CEQA") as it can be seen with certainty that there is no possibility that it will have a significant effect on the environment pursuant to CEQA Guidelines section 15061(b)(3), as well as it is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by allowing certain existing signs to be amortized over a longer period of time, bundling of permits, and changing the approval period of conditional use permits and variances, and other minor changes to the Municipal Code, pursuant to CEQA Guidelines sections 15307 and 15308.

WHEREAS, on June 2, 2020, the City of King Planning Commission ("Commission") conducted a public hearing to consider the proposed ordinance, and after considering public testimony, the staff report and all submitted evidence to the support the ordinance, the Commission recommended the City Council ("Council") approve the proposed ordinance; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Planning Commission of the City of King adopts Resolution No. 2020-281 which recommends the City Council adopt the Ordinance to amended Chapter 17.55 and Chapter 17.64 of the Municipal Code, attached as **Exhibit 1**.

This resolution was passed and adopted this **2nd day of June 2020**, by the following vote:

AYES: *Nuck, Mendez, Saunders*

NAYS:

ABSENT: *Avalos*

ABSTAIN:

David Nuck

DAVID NUCK, CHAIRPERSON

ATTEST: *Erica L. Sonne*

ERICA SONNE, SECRETARY TO THE PLANNING COMMISSION

ORDINANCE NO. 2020-792

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING AMENDING TITLE 17, CHAPTER 17.55, SECTIONS 17.55.070, 17.55.080, AND 17.55.110, AND AMENDING CHAPTER 17.64, SECTIONS 17.64.020, 17.64.030, 17.64.040, 17.64.050 AND 17.64.060 OF THE KING CITY MUNICIPAL CODE

WHEREAS, pursuant to Article XI, Section 7, of the California Constitution, the City of King ("City") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, on June 2, 2020, the City of King Planning Commission ("Commission") conducted a public hearing to consider the proposed ordinance, and after considering public testimony, the staff report and all submitted evidence to the support the ordinance, the Commission recommended the City Council ("Council") [approve/deny] the proposed ordinance; and

WHEREAS, the proposed ordinance is consistent with the General Plan and any applicable Specific Plan(s); and

WHEREAS, the Council finds this ordinance is reasonable and necessary for the preservation of the public peace, health and safety; and

WHEREAS, the Council finds that increasing the amortization period from seven (7) years to twenty-five (25) years from January 2009 for the original value of signs of more than \$3,000 is needed to promote economic development; and

WHEREAS, the Council finds that prohibiting any sign, other than public signs, from being placed within a public-right-of-way minimizes liability for damages arising from said signs; and

WHEREAS, the Council finds that allowing conditional use permits and associated applications to be valid for two (2) years with one (1) one-year extension is reasonable because it will provide applicants more time to constructed needed projects; and

WHEREAS, the Council finds that bundling of applications will help ensure the smooth processing and construction of developments; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA"), and pursuant to CEQA Guideline, sections 15378 and 15061(b)(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 June 23, 2020, 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 the proposed ordinance.

NOW THEREFORE, the City Council of the City of King does hereby ordain as follows:

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

SECTION 2. The City Council has reviewed the proposed ordinance and hereby finds that it is consistent with the General Plan and all applicable Specific Plan(s).

SECTION 3. The City Council, based upon its own independent judgement, finds that the proposed ordinance promotes and protects the health, safety, welfare and quality of life of the City of King residents.

SECTION 4. An environmental determination the Ordinance is exempt from the California Environmental Quality Act ("CEQA") as it can be seen with certainty that there is no possibility that it will have a significant effect on the environment pursuant to CEQA Guidelines section 15061(b)(3), as well as it is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by allowing certain existing signs to be amortized over a longer period of time, bundling of permits, and changing the approval period of conditional use permits and variances, and other minor changes to the Municipal Code, pursuant to CEQA Guidelines sections 15307 and 15308.

SECTION 5. CHAPTER 17.55 SIGNS

17.55.070 Prohibited signs.

All signs not expressly authorized by this chapter shall be prohibited. Prohibited signs include the following:

- (g) Any sign, other than public signs, placed within a public right-of-way, ~~except as provided by Section 17.55.080(d) (Private signs placed within the public right-of-way);~~

17.55.080 General requirements for determining sign area, height, location and sign design.

- (d) Private Signs Placed Within the Public Right-of-Way.

- (1) No private sign shall be allowed in the public right-of-way except for the following:

- (A) Projecting signs that comply with Section 17.55.100(i) (Projecting signs). An encroachment permit shall be required.

~~(B) Temporary local community signs may be approved by the director or designee without a sign permit for events up to a maximum duration of seven (7) days.~~

~~(i) Size. The sizes shall be no larger than twenty (20) square feet.~~

~~(ii) Location. Signs shall be positioned so they do not obstruct visual line of sight or endanger members of the public.~~

~~(iii) Affixed to Ground/Structure. Signs shall be safely installed so they do not blow away, fall over, or create a risk to public safety.~~

(2) Any sign installed or placed within the public right-of-way other than in compliance with this chapter shall be forfeited to the public and be subject to confiscation.

(3) The city shall have the right to recover from the owner, or person placing the sign, the full costs related to the removal and disposal of the sign.

(4) A sign permit shall not be required for public city signs placed within the public right-of-way.

17.55.110 Nonconforming signs.

A nonconforming sign is any permanent or temporary sign that was legally established and maintained in compliance with the provisions of all applicable laws in effect at the time of original installation but that does not now comply with the provisions of this chapter. These sign regulations, Chapter 17.55, are deemed not more restrictive than the previous sign regulations in force at the time of the adoption of these sign regulations. Pursuant to the Business and Professions Code Section 5491.1, any city or county adopting or amending any ordinance or regulation that regulates or prohibits the use of any on-premises advertising display that is more restrictive than existing law, shall include provisions in that ordinance or regulation for the identification and inventorying of all displays within its territorial limits that are determined to be illegal or abandoned pursuant to the law that is in effect prior to the adoption of, or amendment to, the ordinance or regulation. It is the applicant's responsibility to demonstrate that the sign was legally established.

(a) General Requirements. A nonconforming sign shall not be:

- (1) Changed to another nonconforming sign;
- (2) Structurally altered to extend its useful life;
- (3) Enlarged;

- (4) Re-established after a business is discontinued for ninety (90) days;
- (5) Re-established after damage or destruction to fifty (50%) percent or more of the value of the sign, or its components, as determined by the chief building official; or
- (6) Any nonconforming sign shall lose its legal nonconforming status immediately following the expiration of the ninety (90) day period that the business was discontinued and shall be removed and replaced with a conforming sign, requiring a new sign permit approval.

(b) Amortization. Signs that lawfully existed and were maintained and became nonconforming after adoption of this chapter in January of 2009, shall be removed or made to conform based on the following schedule:

If the Original Value of the Sign is	Amortization Period (in years)
Less than \$499	2
\$500 to \$1,499	3
\$1,500 to \$2,999	5
More than \$3,000	25

- (1) The time periods shall commence on the effective date of the ordinance codified in this chapter in January of 2009;
- (2) If more than one sign on a premises is or becomes nonconforming, the cost of all such nonconforming signs shall be aggregated for the purpose of determining the amortization period;
- (3) The owner or user of a nonconforming sign shall, upon written request of the department, furnish acceptable proof of the initial cost in the form of:
 - (A) An original bill of sale,
 - (B) A description schedule from state or federal income tax returns, or
 - (C) A written appraisal by a sign manufacturer.
- (4) The owner or user of a nonconforming sign shall appeal, in writing, for a longer amortization period to the commission within fifteen (15) calendar days of the date of actual service of the director's notice; if served by mail, shall be deemed served three (3) calendar days after the postmarked date on the envelop. The written appeal shall be served upon the city clerk. The commission shall provide the appellant with notice of its decision relating to the appeal. The owner or user of a nonconforming sign shall file an appeal with the city clerk within fifteen (15) calendar

days of the date of actual service. If the commission's decision is served by mail, the date of actual service shall be three calendar days after the postmarked date on the envelop. The city council may consider the appeal de novo. The city council may reverse, affirm wholly or partly, or modify the decision of the commission. The decision of the city council on any such appeal shall be final on adoption of an order containing its determination. If the city council fails to act within seven (7) calendar days following the hearing of the appeal, the action of the commission shall be deemed final, unless this time period is extended by mutual consent of the appellant and the city council. (Ord. 747 § 3, 2017)

SECTION 6: CHAPTER 17.64 PERMITS AND VARIANCES—COUNCIL ACTION

17.64.020 Permits and variances effective when.

No conditional use permit or ~~permits granting a variance~~ permit shall have any force or effect until the applicant has agreed in writing to the conditional of approvals/mitigation measures, if applicable thereof actually receives such permit designating the conditions of its issue thereon and signed by the city clerk. (Ord. 354 § 8.3.1, 1973)

~~17.64.030 Void if not used within specified time.~~

~~Any use permit or variance granted in accordance with the terms of this title shall be null and void if not used within one year from the date of the approval thereof or within any shorter period of time, if so designated by the planning commission. (Ord. 652 § 9, 2004; Ord. 354 § 8.3.2, 1973)~~

17.64.030 Expiration of approvals and extensions of time ~~Void if not used within specified time.~~

Any conditional use permit and or variance associated with the conditional use permit and granted in accordance with the terms of this title shall be null is valid for two years following the date on which the permit(s) or approval(s) is grant. If a building permit has not been issued within this time period, the conditional use permit and associated variance, if applicable, automatically expires. Extensions may be granted in twelve (12) month increments and may not exceed a total of three (3) years from the original date of expiration unless otherwise permitted by law. The request for an extension application must be submitted to the City prior the expiration date.

A variance permit without an associated conditional use permit shall be used within one year following the date on which the permit is granted. No extensions of times are allowed.

An extension of time may be issued for projects described above. Approvals for which the planning commission or city council has the authority to grant may only be extended by the final approving bodies.

and void if not used within one year from the date of the approval thereof or within any shorter period of time, if so designated by the planning commission. (Ord. 652 § 9, 2004; Ord. 354 § 8.3.2, 1973)

17.64.040 Consideration of concurrent applications (new section).

Where approval authority rests with the community development director for projects being processed pursuant to the provisions of this title, and one or more related cases with approval authority vested at the planning commission or city council are being processed concurrently, approval authority for all permits, licenses and approvals shall rest with the planning commission or city council, respectively; and the community development directors review shall be in the form of a recommendation to the planning commission or city council.

Where approval authority rests with the planning commission for projects being processed pursuant to the provisions of this title, and one or more related cases with approval authority vested at the city council are being processed concurrently, approval authority for all permits, licenses and approvals shall rest with the city council; and the planning commission's review shall be in the form of a recommendation to the city council.

17.64.050 Revocation—Grounds (formerly section 17.64.040).

Any conditional use permit or variance granted in accordance with the terms of this title may be revoked by the planning commission in the manner hereinafter set forth, if any of the conditions or terms of such permits are violated, or if the following findings are made:

- (1) In Connection With Conditional Use Permits. The continuance of the use would be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such use, or would be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the city.
- (2) In Connection With Variances. Continued relief from the strict application of the terms of this title would be contrary to the public interest, safety, health and welfare. (Ord. 652 § 9, 2004; Ord. 354 § 8.3.3, 1973)

17.64.060 Revocation—Hearing (formerly section 17.64.050).

Before the revocation of any permit, the planning commission shall hold a hearing thereon after giving written notice thereof to the permittee at least ten (10) calendar days in advance of such hearing. (Ord. 652 § 9, 2004)

SECTION 7. 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 the reading, except by Title, at a regular meeting thereof held on the 23 day of June 2020, and adopted the ordinance after the second reading at a regular meeting held on the 14 day of July 2020, 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: _____
ROY C. SANTOS, 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 indicted herein.



Item No.10(C)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: OCTAVIO HURTADO, CITY ENGINEER

RE: CONSIDERATION OF RIVERVIEW GARDENS LANDSCAPE MAINTENANCE DISTRICT ANNUAL ASSESSMENT FOR FISCAL YEAR 2020-21

RECOMMENDATION:

It is recommended the City Council open the Public Hearing to accept public testimony regarding the levy and collection of assessments for the Riverview Gardens Landscape Maintenance District and then continue the public hearing to the July 14, 2020 meeting.

BACKGROUND:

The Riverview Gardens Landscape Maintenance District was formed in 1998 for the purpose of providing maintenance services to landscaping and appurtenant improvements for the Riverview Gardens development and assessing those properties which benefit from this service. Each year the City Council must, by law, order the preparation of an Engineer's Report describing the existing and proposed maintenance services and conduct a public hearing to establish and order the amount of assessment for the next fiscal year.

At the time the District was formed, the engineer included an annual assessment adjustment equal to the April Consumer Price Index for the San Francisco-Oakland-Hayward areas ("CPI"). Each year since the District was formed, a new maximum assessment was established by applying the April CPI to the Maximum Assessment for the prior year. The City may assess the District parcels any amount up to the established Maximum Assessment for that year, but may not exceed that amount. Included in the Engineer's Report is a table showing the

**CITY COUNCIL
CONSIDERATION OF RIVERVIEW GARDENS LANDSCAPE MAINTENANCE
DISTRICT ANNUAL ASSESSMENT FOR FISCAL YEAR 2020-21
JUNE 23, 2020
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Maximum Assessment and the Actual Assessment for each year since the District was formed.

DISCUSSION:

The Resolutions provide notice to the members of the District and citizens of the City of King of the City's intent to again levy and collect assessment fees for the previously formed landscaping and lighting district. In addition, the Resolutions establish that the City Council: (1) finds that the public interest and convenience requires, and (2) declares its intention, to order the levy of and to collect assessments against the assessable lots and parcels of property within an existing assessment district designated "Landscaping and Lighting Maintenance District "Riverview Gardens Landscape Maintenance District" ("District") pursuant to the provisions of the Act, for the fiscal year commencing July 1, 2020 and ending June 30, 2021, to pay for the costs and expenses of the improvements described in the Resolution. In addition, the Resolution will establish the purpose of the Landscaping and Lighting District No. 2, which is for the operation and maintenance of street lighting, public landscaping, and all related appurtenances located within public right-of-way, dedicated easements, or dedicated public properties of the tracts and public lands in the City of King. Lastly, it establishes the scope of improvements which will be provided within the District.

Staff solicited proposals to prepare the Engineer's Report, which was approved by the City Council at the May 26, 2020 meeting. Harris and Associates was selected, who is a leading firm in performing this type of work. A copy of the Engineer's Report is attached. Unfortunately, after the item was publicly noticed, staff determined that the public hearing date does not meet the State requirement of 45 days following the initiation by the City Council of the proceedings. Therefore, staff is recommending the public hearing be continued to the July 14, 2020 meeting once the public is provided the opportunity to submit comments.

COST ANALYSIS:

The District was established to fund the ongoing maintenance and servicing of the improvement. The properties within the District are assessed annually through the Monterey County tax roll. The cost to maintain the improvements for Fiscal Year 2020-21 has been estimated at \$18,400. This includes contract services for the maintenance and servicing of the improvements, utilities, engineering and administrative costs, Monterey County charges, and reserve collections. Each of the 45 parcels in the District benefits equally from the improvements. As a result, each parcel is assessed the same amount. For Fiscal Year 2020-21, that amount is \$408.88. If the assessments are not

**CITY COUNCIL
CONSIDERATION OF RIVERVIEW GARDENS LANDSCAPE MAINTENANCE
DISTRICT ANNUAL ASSESSMENT FOR FISCAL YEAR 2020-21
JUNE 23, 2020
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charged to the properties within the District, the costs to maintain the improvements will have to be funded in some other way.

ENVIRONMENTAL REVIEW:

The resolution is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, directly or indirectly. Most of the terms and scope of city discretion are guided by existing State and Federal law. The resolution declares the City's intent to levy and collect assessment fees. The resolution does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Alternatively, the resolution is exempt from CEQA because the City Council's adoption of the resolution is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment (State CEQA Guidelines, § 15061(b)(3)).

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Approve staff's recommendations;
2. Modify and approve the cost of the Assessment, which would require the City to subsidize the maintenance if the cost is reduced;
3. Direct staff to eliminate the assessment and maintenance work; or
4. Provide other direction to staff.

Exhibits:

1. Resolution No. 2020-4773
2. Engineer's Report

Submitted by:



Octavio Hurtado, City Engineer

Approved by:



Steven Adams, City Manager

RESOLUTION NO. 2020-4773**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KING AMENDING AND/OR APPROVING THE ANNUAL ASSESSMENT REPORT AND ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE RIVERVIEW GARDENS LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2020/21**

WHEREAS, the City Council of the City of King has, by previous Resolutions, initiated proceedings and declared its intention to levy and collect annual assessments in a special maintenance district created pursuant to the terms of the “Landscaping and Lighting Act of 1972”, being Division 15, Part 2 of the Streets and Highways Code of the State of California (the “1972 Act”). Said special maintenance district is known and designated as Riverview Gardens Landscape Maintenance District, (the “District”);

WHEREAS, at this time all notice and Public Hearing requirements as required by the 1972 Act and Proposition 218 have been met relating to the levy of the annual assessments: and,

WHEREAS, the City Council has received and reviewed the Engineer’s Report (the “Report”) and is now satisfied with the assessments, diagram and all other matters as contained in the Report as it is now submitted for final consideration and approval; and,

WHEREAS, the assessments are in compliance with all laws pertaining to the levy of the District assessments; said assessments are levied without regard to property valuation **and are in compliance with the provisions of Proposition 218 as the District was approved by a 100% vote of the property owners at the time of formation**; and,

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

RECITALS

- Section 1. The above recitals are all true and correct.
- Section 2. This City Council hereby finds and determines that the procedures for the consideration of the levy of the annual assessments have been undertaken in accordance with the 1972 Act and Proposition 218. The proposed assessments for Fiscal Year 2020/21 are not proposed to be increased beyond what was previously authorized at the time of formation of the District.

DETERMINATION AND CONFIRMATION

- Section 3. The final assessments and diagram for the proceedings, as contained in the Report, are hereby approved and confirmed.

Based upon the Report and the testimony and other evidence presented at the Public Hearing, the City Council hereby makes the following determinations regarding the proposed assessments:

- a. The proportionate special benefit derived by each assessed parcel has been determined in relationship to the entirety of the cost of the operations, maintenance and servicing of the improvements.
- b. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
- c. Only special benefits have been assessed.

The assessments for the District contained in the Report for Fiscal Year 2020/21 are hereby confirmed and levied upon the assessable lots or parcels within the District in the amounts set forth in the Report.

ORDERING OF MAINTENANCE

- Section 4. The public interest and convenience requires and this legislative body does hereby order the maintenance work to be performed as said maintenance work is set forth in the Report and as previously declared and set forth in the Resolution of Intention.

FILING WITH SECRETARY

- Section 5. The above referenced Report shall be filed in the Office of the City Clerk and shall remain open for public inspection.

ENTRY UPON THE ASSESSMENT ROLL

- Section 6. The County Auditor shall enter onto the County Assessment roll, opposite each lot or parcel of land, the amount assessed thereupon, as shown in the Report.

COLLECTION AND PAYMENT

- Section 7. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County Taxes shall apply to the collection and enforcement of the assessments.

FISCAL YEAR

- Section 8. The assessments as above authorized and levied for these proceedings will provide revenue and relate to the fiscal year commencing July 1, 2020 and ending June 30, 2021.

This resolution was passed and adopted this 23rd day of **June, 2020** by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Mike Lebarre, Mayor

ATTEST:

Steven Adams, City Clerk

APPROVED AS TO FORM:

Roy Santos, City Attorney



Harris & Associates

**CITY OF KING
ENGINEER'S REPORT
FISCAL YEAR 2020-21
RIVERVIEW GARDENS LANDSCAPE
MAINTENANCE DISTRICT**

June 2020

PREPARED BY

Harris & Associates

22 Executive Park, Suite 200

Irvine, CA 92614

www.weareharris.com

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STATEMENT OF ASSESSMENT ENGINEER

AGENCY: CITY OF KING

PROJECT: RIVERVIEW GARDENS LANDSCAPE MAINTENANCE DISTRICT

TO: THE CITY COUNCIL
CITY OF KING
STATE OF CALIFORNIA

ENGINEER'S REPORT FOR FISCAL YEAR 2020-21

The preparation of this Annual Engineer's Report ("Report") is in conformance with the obligation of the City Council for the Riverview Gardens Landscape Maintenance District of the City of King to provide landscaping services for each lot or parcel of land in the district in proportion to the estimated benefit to be received by each such lot or parcel of land for Fiscal Year 2020-21.

Pursuant to the Landscaping and Lighting Act of 1972 (Part 2 Division 15 of the Streets and Highways Code of the State of California, commencing with Section 22500) ("Act"), Article XIIID, Section 4(a) of the State of California Constitution, and in accordance with the City of King's Resolution being adopted by the City Council for the:

RIVERVIEW GARDENS LANDSCAPE MAINTENANCE DISTRICT

(Hereinafter referred to as the "District"),

I, K. Dennis Klingelhofer, authorized representative of the District, the duly appointed Assessment Engineer submit the following Report which consists of the following four (4) parts and Appendices:

PART 1

Description of Improvements: This part provides a general description of improvements proposed to be maintained in the District. Plans and specifications for the improvements are on file with the City and are hereby made a part of this Report by reference.

PART 2

Estimate of Cost: This part contains the cost estimate of the proposed maintenance including incidental costs and expenses for Fiscal Year 2020-21.

PART 3

District Diagram: This part incorporates a Diagram of the District showing the external boundaries of the District. The lines and dimensions of each lot or parcel within the District are those lines and dimensions shown on the maps of the Monterey County Assessor for the year in which this Report was prepared and are incorporated by reference herein and made part of this Report. The District Diagram is filed under separate cover with the office of the City Clerk.

PART 4

Method of Apportionment of the Assessments: This part describes the method of apportionment of assessments, based upon parcel classification of land within the District in proportion to the estimated special benefits to be received. The costs and expenses of the District have been assessed upon the parcels of land within the boundaries of District pursuant to the initial methodology established Resolution No. 3757 approved on the 19th day of May, 1998.

Appendices

Appendix A – Assessment Roll
Appendix B – District Diagram

In conclusion, it is my opinion that the costs and expenses of the District have been assessed to the lots and parcels within the boundaries of the District in proportion to the estimated benefits to be received by each lot or parcel from the services provided.

DATED this 23rd day of June, 2020

 Harris & Associates



K. Dennis Klingelhofer, P.E., Assessment Engineer
R.C.E. No. 50255
Engineer of Work

PART 1 – PLANS AND SPECIFICATIONS

The District was formed for the purpose of ensuring the ongoing operation, maintenance and servicing of certain landscape improvements within the boundaries of the District. Said improvements are detailed below under “Improvements and Services Provided”.

The Riverview Gardens Landscape Maintenance District is within the boundaries of the City and is located south of Willow Street, east of San Antonio Drive, and generally north of King City high school.

The District is comprised of the residential development known as Riverview Gardens and includes forty five (45) developed single family residential parcels.

The plans and specifications for the improvements, showing the general nature, location, and the extent of the improvements, are on file with the City and are incorporated herein by reference.

IMPROVEMENTS AND SERVICES PROVIDED

The following are the specific improvements which are maintained and serviced within the District:

- Landscape maintenance along the Willow Street frontage, including ground cover, shrubs, trees and irrigation system. Landscaping total approximately 12,275 square feet.
- Masonry wall maintenance, including graffiti abatement at the entrance to the tract. Masonry wall is 300 linear feet by 6 feet high.
- Utilities including water and electricity for landscaping.

Maintenance includes all necessary repair, service, and replacement of improvements, including the masonry wall, water and electrical energy to run the irrigation system, fertilizer, weeding, debris removal, etc.

PART 2 – ESTIMATE OF COST

The estimated budget for the annual maintenance and servicing of the improvements and the proportionate share of administration costs of the District have been prepared based on the estimated and recent historical costs of the District. The 2020-21 District budget is shown below.

ESTIMATE OF COST

DIRECT COSTS	
Utility – Water and Electricity	\$2,300.00
Contract Services – Landscape Maintenance (12,275 sf @0.49/sf)	6,000.00
(ex: tree & shrub maintenance and replacement, sprinkler repairs, etc.)	
Masonry Wall – Maintenance and Graffiti Abatement	180.00
Professional Services – Public Works (inspection & oversight)	<u>500.00</u>
Direct Costs Sub-Total	\$8,980.00
ADMINISTRATIVE COSTS	
Professional Services – Engineer's Report	\$4,500.00
City Administration Fee	898.00
County Administration Fee (\$3 per parcel)	135.00
Rounding Adjustment (to make an even penny for tax roll purposes)	<u>0.00</u>
Administrative Costs Sub-Total	\$5,533.00
SUBTOTAL DIRECT AND ADMINISTRATIVE COSTS	\$14,513.00
Operating Reserve Collection/(Reduction)	\$3,886.60
Capital Reserve Collection/(Reduction)	<u>0.00</u>
TOTAL BALANCE TO ASSESSMENT	\$18,399.60
Total Assessable Parcels/Units	45
ASSESSMENT PER PARCEL/UNIT	\$408.88

The 1972 Act requires that a special fund be set-up for the revenues and expenditures of the District. Funds raised by assessment shall be used only for the purpose as stated herein. A contribution to the District by the City may be made to reduce assessments or to fund costs which are greater than revenue from the assessments, as the City Council deems appropriate. Any balance or deficit remaining on July 1 must be carried over to the next fiscal year. Estimated beginning and ending fund balances for Fiscal Year 2020-21 are shown in the following table.

Section 22569 (a) of the 1972 Act allows the District assessments to "...include a reserve (Operating Reserve) which shall not exceed the estimated costs of maintenance and servicing to December 10 of the fiscal year, or whenever the city expects to receive its apportionment of special assessments and tax collections from the county, whichever is later."

DISTRICT FUND BALANCES

OPERATING RESERVE FUND	
Estimated Reserve Fund Beginning Balance as of July 1, 2020	(\$6,273.00)
Operating Reserve Collection/(Reduction) – Fiscal Year 2020-21	<u>3,886.60</u>
Estimated Reserve Fund Balance Ending June 30, 2021	(\$2,386.40)

CAPITAL RESERVE FUND	
Estimated Reserve Fund Beginning Balance as of July 1, 2020	\$0.00
Operating Reserve Collection/(Reduction) – Fiscal Year 2020-21	<u>0.00</u>
Estimated Reserve Fund Balance Ending June 30, 2021	\$0.00

Operating Reserve collections will continue until such time as the fund balance reaches approximately 50% of the annual budget. This is necessary to fund the District costs for the first 6 months of the fiscal year. After the Operating Reserve has been fully funded (50% of annual costs), any future collections will be to maintain the proper level of funding.

Capital Reserve collection is intended for the eventual replacement of the masonry wall at the entrance of the development. Masonry walls typically have an expected useful life of approximately 30 years. The wall was installed in 1998, leaving approximately seven years of useful life, as of Fiscal Year 2020-21. The allowable District assessment is insufficient for Capital Reserve collections at this time, but future budgets may include amounts to contribute to the replacement of the masonry wall.

DESCRIPTION OF COST ESTIMATE ITEMS

- **Utility – Water & Electricity:** The costs to provide water and electrical utilities for the landscaping improvements within the District.
- **Contract Services – Landscape Maintenance:** The contracting costs associated with performing the landscape maintenance duties associated with the improvements within the District. In Fiscal Year 2020-21 the City plans on hiring a landscape contractor to perform these services. Annual costs may be adjusted to reflect the actual contract costs.
- **Masonry Wall:** Costs associated with the maintenance of the masonry wall, including graffiti removal, painting and repairs. This cost is currently equal to \$0.10/sf, but may be adjusted as necessary to cover actual costs.
- **Professional Services Special – Public Works:** Costs associated with individuals within the Public Works Department who contribute time to inspection of the improvements, and oversight of the work performed by the landscape contractor.
- **Professional Services – Engineer:** The contracting costs associated with hiring a consultant for the preparation of an engineer's report, resolutions, assessment roll and budget.
- **City Administration Fee:** Costs associated with individual City Staff and Management (City Clerk, City Council, City Manager, Finance Director, City Engineer, etc.) who contribute time to the annual administration and oversight of the District, and totals 10% of Direct Costs. This may include but is not limited to, preparation for and attendance of meetings, legal counsel, printing, preparation and posting of public notices, mailing, budgeting, etc.
- **County Administration Fee –** The County costs related to placement of the annual assessment charges onto the tax roll and the generation of annual tax bills related thereto. This charge is \$3.00 for each parcel submitted for inclusion on the tax roll.
- **Contingency –** This item includes costs related to the unplanned repair or replacement of any of the improvements, including the irrigation system.
- **Operating Reserve Collection/(Contribution):** This item shows any collections which adds to the Operating Reserve Fund balance, or contributions made from the Operating Reserve Fund, to offset the annual budget.
- **Capital Reserve Collection/(Contribution):** This item shows collections for replacement costs related to the masonry wall, irrigation system and trees. These items have a finite life span and will require replacement in the future. There may also be need for unplanned replacement, due to accident or natural disaster.
- **Estimated Reserve Fund Balances:** These items show the estimated Operating and Capital Reserve Fund amounts at the beginning and end of the fiscal year. The estimated ending balance reflects any collections or reductions from the estimated beginning balance.



PART 3 – ASSESSMENT DIAGRAM

A diagram showing the exterior boundaries of the District and the lines and dimensions of each lot or parcel of land within the District has been submitted to the office of the City Clerk of the City, and is hereby made a part hereof by reference.

A copy of the assessment diagram for the District is included in Appendix B of the Report.



PART 4 – METHOD OF APPORTIONMENT

General

Estimated costs for Fiscal Year 2020-21 for the construction, operation, servicing and maintenance of the landscaping facilities described in Part A are shown in the following table.

Street and Highways Code Section 22573 requires that maintenance assessments be levied according to benefit rather than according to assessed value. This section states:

“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

— Streets and Highways Code Section 22573

The 1972 Act permits the designation of areas of benefit within any individual assessment district if "by reason of variations in the nature, location, and extent of the improvements, the various areas will received different degrees of benefit from the improvements." (Sec. 22574). Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

In November 1996, the voters of California adopted Proposition 218, which has been codified as Articles XIII C and XIII D of the California Constitution. Proposition 218 imposed a number of substantive and procedural requirements on taxes, assessments, and property-related fees imposed by local governments in California.

The method of apportionment described in this Report, and confirmed by the City Council, utilizes commonly accepted engineering practices which have been established pursuant to the 1972 Act and the California Constitution for the allocation of special benefit assessments. The calculation of assessments is based upon the parcel type and the services and improvements provided to equitably apportion the costs based on the special benefit received by each lot or parcel. The special benefit received by each lot or parcel is over and above any general benefit conferred upon said lots or parcels or to the public at large.

SPECIAL BENEFIT

The improvements and associated costs have been allocated to the assessable properties within the District based upon the special benefit received by those properties. The improvements for which the properties are assessed have been identified as necessary, were installed and are being maintained as part of the development plans specifically for each tract. As such, the improvements and continuing maintenance and servicing of those improvements are strictly the obligation of the properties within the District.

General Benefit

Although the improvements may be visible to passersby or to the public at large, the improvements were installed as a requirement of the development of the tract and are for the sole benefit of those properties. It has been determined therefore, any access or use by properties or individuals outside the District is completely incidental and the costs of operating, maintaining and servicing said improvements therefore provides no measurable benefit to outside properties or individuals.



Definition of Special Benefit

The method of apportionment described in this Report is based on the premise that each assessable parcel or unit receives distinct and special benefits from the improvements and services provided, including the visual desirability provided by well-maintained landscaping. In accordance with Article XIII D, Section 4 of the California Constitution:

“Special benefit means a particular and distinct benefit over and above general benefits conferred on real property located in the District or the public at large”

The special benefits associated with local landscaping improvements are specifically:

- Enhanced desirability of properties due to proximity and accessibility of the improvements.
- Improved aesthetic appeal provided by a positive representation of the development, neighborhood and the community.
- Reduced vandalism and other criminal activity.
- Enhanced environmental quality provided by adequate green space and other landscaping which helps moderate temperatures, reduce noise pollution and control dust and debris.

ASSESSMENT RANGE FORMULA

It is generally recognized that most budgetary items will be impacted by inflation in future years. In accordance with the California Constitution, Section 53739 (b)(1), assessments ***“may be adjusted for inflation pursuant to a clearly defined formula...”*** A formula for an inflationary adjustment is therefore included as part of the maximum assessment for this District and was approved by the property owner(s) at the time of formation. The formula, as described below, allows for annual adjustments to the budget and the assessments.

To impose a new assessment or increased assessment in excess of the Maximum Assessment Rate for the current fiscal year, as provided by the following Assessment Range Formula, the City must comply with the provisions of the California Constitution, Article XIII D, Section 4c that requires a public hearing and certain protest procedures including mailed notice of the public hearing and property owner protest balloting. Property owners must approve the proposed new or increased assessment via a property owner protest balloting process before any such new or increased assessment can be imposed. A protest occurs when, at the public hearing, the returned assessment ballots opposed to the new or increased assessment outweigh the returned ballots in favor of the new or increased assessment, weighting those assessment ballots by the financial obligation of each parcel.

The definition of new or increased assessments includes any assessment which, 1) did not previously exist or, 2) exceeds a previously approved assessment amount or assessment range formula. Any assessment range formula must have been previously adopted by the agency and approved by the property owners.



ASSESSMENT METHODOLOGY

The benefit formula used to determine the financial obligation for each parcel is based on the improvements benefitting the parcels, as well as the use, or type, of each parcel that benefits from said improvements. One of the more common approaches to fairly distributing District costs to the benefitting parcels in maintenance districts such as this utilizes a methodology referred to as the "Per Parcel" method of apportionment. This method, as confirmed by the City Council at the time the District was formed, identifies the fact that all the parcels in the District, each being single family residential, benefit equally from the improvements provided by the District.

The initial maximum assessment for this District was established at the time of formation and was assessed for the first time during the 1998-99 fiscal year. That initial maximum assessment was \$221.72 per parcel. This initial maximum assessment has been adjusted each subsequent fiscal year by the following Assessment Range Formula:

- The Maximum Assessment Rate allowed each fiscal year (the "Adjusted Maximum Assessment Rate") shall be based on the initial maximum assessment established in Fiscal Year 1998-99, adjusted annually by the Bureau of Labor Statistics, Consumer Price Index for the month of April, All Urban Consumers, ("CPI") for the San Francisco/Oakland/Hayward area. Should the Bureau of Labor Statistics revise or discontinue the preparation of such index, the City reserves the right to use such revised index or a comparable system to determine fluctuations in the annual cost of living.
- Each fiscal year, the CPI shall be applied to the Maximum Assessment Rate established the previous fiscal year to calculate the appropriate Adjusted Maximum Assessment Rate for the current fiscal year.
- If the proposed annual assessment rate (levy per parcel) for the any year is less than or equal to the Adjusted Maximum Assessment Rate established for that fiscal year then the proposed annual assessment is not considered an increased assessment.

Beginning in the second fiscal year after the formation of the District (1999-00) and each fiscal year since, the Maximum Assessment Rate has been recalculated and a new Maximum Assessment Rate has been established for each fiscal year using the Assessment Range Formula described above. Based on the April CPI, shown in the table below, the Maximum Assessment Rate for the upcoming fiscal year (2020-21) shall be **\$408.88**. The Adjusted Maximum Assessment Rate has been calculated independent of the annual budget and proposed assessment rate for the given fiscal year. As stated above, if the proposed annual assessment for any fiscal year does not exceed the Adjusted Maximum Assessment Rate for that year, it is not considered to be an increased assessment under the terms of Proposition 218 or the Brown Act.

The table on the following page shows the annual April CPI increase, the Adjusted Maximum Assessment and the Actual Annual Assessment each year since the formation of the District:



Fiscal Year	April CPI %	CPI Calculation	Adjusted Max. Assessment	Actual Assessment
1998-99	N/A	N/A	\$221.72	\$221.72
1999-00	4.60%	1.046000000	\$231.92	\$221.72
2000-01	3.80%	1.038000000	\$240.73	\$213.60
2001-02	5.80%	1.058000000	\$254.69	\$229.92
2002-03	2.10%	1.021000000	\$260.04	\$229.92
2003-04	2.20%	1.022000000	\$265.76	\$114.96
2004-05	0.50%	1.005000000	\$267.09	\$114.96
2005-06	2.10%	1.021000000	\$272.70	\$114.96
2006-07	3.20%	1.032000000	\$281.43	\$114.96
2007-08	3.30%	1.033000000	\$290.72	\$114.96
2008-09	2.90%	1.029000000	\$299.15	\$114.96
2009-10	0.80%	1.008000000	\$301.54	\$25.00
2010-11	1.70%	1.017000000	\$306.67	\$25.00
2011-12	2.80%	1.028000000	\$315.25	\$25.00
2012-13	2.10%	1.021000000	\$321.87	\$0.00
2013-14	2.40%	1.024000000	\$329.60	\$0.00
2014-15	2.80%	1.028000000	\$338.83	\$0.00
2015-16	2.40%	1.024000000	\$346.96	\$0.00
2016-17	2.70%	1.027000000	\$356.33	\$0.00
2017-18	3.80%	1.038000000	\$369.87	\$0.00
2018-19	3.20%	1.032000000	\$381.70	\$0.00
2019-20	4.00%	1.040000000	\$396.97	\$213.60
2020-21*	3.00%	1.030000000	\$408.88	\$408.88

*April CPI was not available at the time this Report was written. 3% is being used as an estimate. The actual April CPI and the appropriate change to the Adjusted Maximum Assessment will be updated prior to the Public Hearing or when the assessments are sent to the County. The actual April 2020 CPI increase will be published in late May or early June.

The City assessed the parcels in the District for the first time in seven years, in Fiscal Year 2019-20, due to the fact that there were no improvements being maintained. The improvements have now been installed and the City has been maintaining and servicing the improvements. The City plans to hire a landscape contractor to perform the maintenance duties in Fiscal Year 2020-21. Annual maintenance costs will be adjusted as necessary to reflect the contract costs.



APPENDIX A – ASSESSMENT ROLL

Parcel Identification for each lot or parcel within the District shall be based on available parcel maps and other property data from the Monterey County Assessor's office as they existed at the time this Report was prepared and adopted by the City Council.

A listing of parcels assessed within the District for Fiscal Year 2020-21, along with the corresponding assessment amounts, is included on the following page. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel(s) shall be based on the method of apportionment and assessment rate approved in this Report. Therefore, if a single parcel has changed to multiple parcels, the assessment amounts applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.

Non-assessable lots or parcels include areas of public streets and other roadways (typically not assigned an APN by the County); dedicated public easements, open space areas and rights-of-way, including public greenbelts and parkways; utility rights-of-way; common areas; landlocked parcels; small parcels vacated by the County, bifurcated lots and any other property that cannot be developed or has specific development restrictions. These types of parcels are considered to receive little or no benefit from the improvements and are therefore, exempted from assessment.

APN	Units	2020-21 Maximum Assessment Rate	2020-21 Proposed Assessment Rate	2020-21 Proposed Assessment
026-072-001	1.00	\$408.88	\$408.88	\$408.88
026-072-002	1.00	\$408.88	\$408.88	\$408.88
026-072-003	1.00	\$408.88	\$408.88	\$408.88
026-072-004	1.00	\$408.88	\$408.88	\$408.88
026-072-005	1.00	\$408.88	\$408.88	\$408.88
026-072-006	1.00	\$408.88	\$408.88	\$408.88
026-072-007	1.00	\$408.88	\$408.88	\$408.88
026-072-008	1.00	\$408.88	\$408.88	\$408.88
026-072-009	1.00	\$408.88	\$408.88	\$408.88
026-072-010	1.00	\$408.88	\$408.88	\$408.88
026-072-011	1.00	\$408.88	\$408.88	\$408.88
026-072-012	1.00	\$408.88	\$408.88	\$408.88
026-072-013	1.00	\$408.88	\$408.88	\$408.88
026-072-014	1.00	\$408.88	\$408.88	\$408.88
026-072-015	1.00	\$408.88	\$408.88	\$408.88
026-072-016	1.00	\$408.88	\$408.88	\$408.88
026-072-017	1.00	\$408.88	\$408.88	\$408.88
026-072-018	1.00	\$408.88	\$408.88	\$408.88
026-072-019	1.00	\$408.88	\$408.88	\$408.88
026-072-020	1.00	\$408.88	\$408.88	\$408.88
026-072-021	1.00	\$408.88	\$408.88	\$408.88
026-072-022	1.00	\$408.88	\$408.88	\$408.88
026-072-023	1.00	\$408.88	\$408.88	\$408.88
026-072-024	1.00	\$408.88	\$408.88	\$408.88
026-072-025	1.00	\$408.88	\$408.88	\$408.88
026-072-026	1.00	\$408.88	\$408.88	\$408.88
026-072-027	1.00	\$408.88	\$408.88	\$408.88
026-072-028	1.00	\$408.88	\$408.88	\$408.88
026-072-029	1.00	\$408.88	\$408.88	\$408.88
026-072-030	1.00	\$408.88	\$408.88	\$408.88
026-072-031	1.00	\$408.88	\$408.88	\$408.88
026-072-032	1.00	\$408.88	\$408.88	\$408.88
026-072-033	1.00	\$408.88	\$408.88	\$408.88
026-072-034	1.00	\$408.88	\$408.88	\$408.88
026-072-035	1.00	\$408.88	\$408.88	\$408.88
026-072-036	1.00	\$408.88	\$408.88	\$408.88
026-072-037	1.00	\$408.88	\$408.88	\$408.88
026-072-038	1.00	\$408.88	\$408.88	\$408.88

APN	Units	2020-21 Maximum Assessment Rate	2020-21 Proposed Assessment Rate	2020-21 Proposed Assessment
026-072-039	1.00	\$408.88	\$408.88	\$408.88
026-072-040	1.00	\$408.88	\$408.88	\$408.88
026-072-041	1.00	\$408.88	\$408.88	\$408.88
026-072-042	1.00	\$408.88	\$408.88	\$408.88
026-072-043	1.00	\$408.88	\$408.88	\$408.88
026-072-044	1.00	\$408.88	\$408.88	\$408.88
026-072-045	1.00	\$408.88	\$408.88	\$408.88
026-072-046	0.00	\$408.88	\$408.88	\$0.00
026-072-047	0.00	\$408.88	\$408.88	\$0.00
026-072-048	0.00	\$408.88	\$408.88	\$0.00
TOTALS:	45.00			\$18,399.60



Item No. 11(A)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF FY 2020-21 KING CITY COMMUNITY POWER ANNUAL BUDGET AND RATE SCHEDULE

RECOMMENDATION:

It is recommended the City Council adopt a Resolution approving the King City Community Power (KCCP) budget and rates for FY 2020-21.

BACKGROUND:

The City launched its KCCP Community Choice Aggregation (CCA) program on July 2, 2018. The program has been successful in achieving the initial goals of providing lower rates, no-cost solar for low-income families and increased use of clean energy. Plans are also under way for the addition of future streetlights and potential future construction of a local solar plant and/or wind power.

Staff provided input on budget goals to Pilot Power Group, LLC., who manages the KCCP program for the City. Based on that input, they have completed a budget and rate analysis for the upcoming year and provided recommendations for rate adjustments and expenditures.

DISCUSSION:

The attached proposed rate schedule in Exhibit 1 maintains the savings on power generation rates to 5% below those charged by PG&E for power generation. This was increased last year from the original 3%. This matches what is being offered as a rebate by Monterey Bay Community Power.

The overall net changes to customers' electricity costs are complex to determine because there are multiple components to the bills they receive. Part of the costs are for distribution, which are charged by PG&E and are the same whether or not the customer receives its power generation from KCCP. The primary remaining

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costs are for power generation. It is necessary to consider both adjustments to KCCP rates and adjustments to the Power Charge Indifference Adjustment (PCIA) in order to determine the overall change in costs associated with power generation. PCIA is a charge to Community Choice Aggregation (CCA) customers approved by the California Public Utilities Commission (CPUC) to reimburse PG&E for long-term financial obligations the utility incurred on behalf of now-departed customers.

As a result, the proposed rate structure represents a decrease in rates charged by KCCP. The overall impact on rates when combined with the PCIA is a very minor decrease or increase depending upon the rate category. The reduction in KCCP rates is necessary in order to maintain rates 5% lower than PG&E's power generation rates when factoring in the PCIA. Since the PCIA varies based on the rate category, the KCCP rate reduction is proposed to also vary in order to maintain a consistent differential of 5%. The following is a summary showing the rate changes by rate category for KCCP, PCIA and the combined total:

- Residential (E1) – The KCCP rate will decrease by 7.5% due to an increase to PCIA by 23.1% over last year. The overall generation portion of the customer bill will decrease by 0.05% over last year.
- Medium Commercial (E19) – The KCCP rate will decrease by an average of 7.4% due to an increase in the PCIA by 18.6% over last year. The overall generation portion of the customer bill will increase by an average of 0.18% over last year.
- Small Commercial (A1) – The KCCP rate will decrease by 4.3% due to an increase in PCIA by 18.1% over last year. The overall generation portion of the customer bill will increase by 0.25% over last year.
- Small Commercial (A1- Time of Use) – The KCCP rate will decrease by an average of 4.6% due to an increase to PCIA by 18.1% over last year. The overall generation portion of the customer bill will increase by an average of 0.62% over last year.

The City was not able to complete the installation of solar street lights this year. Therefore, the expenditure of \$45,000 and the donation of \$10,000 from KCCP is being carried over to the FY 2020-21 budget. Staff is now recommending the City pursue installation of traditional lights rather than solar because it has been determined they provide better performance and durability. Jayne Street is proposed as the first project site since a request has been received from employees of the migrant worker housing at that location regarding the need for more lighting in the evening. It has also been identified as a priority public safety area.

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Other costs budgeted include approximately \$48,000 in funding for the consultant to assist with the RFP process for the potential future solar plant and/or wind power project, an increase of \$30,000 in reimbursement for City costs, and \$30,000 for an emergency generator at the Civic Center to assist in emergency preparedness for potential PG&E outages. The increase in City fees is consistent with the funding recommended in the City's General Fund budget adjustments.

COST ANALYSIS:

The proposed budget is presented in Exhibit 2. Forecasted headroom before any City costs is approximately \$634,419. Total City costs are proposed to be \$213,100, representing an increase of only about \$5,000 from the prior year. KCCP is projected to net approximately \$376,000 in the next fiscal year.

The projected year-end net revenue from FY 2019-20 is projected to be \$383,589, which is below the original projection by \$211,411. The reduction is due to an inaccuracy in the original estimate because it was the first full year of projected operation and a decrease in demand due to COVID-19 shutdowns. Therefore, the projected year-end balance will be \$829,688.

The KCCP goal for reserves is \$750,000 in cash reserves. The year-end fund balance includes revenues for billing that have not yet been received. Therefore, it is projected that the cash balance goal will not be reached until August 2021, but this means KCCP is getting close and the City should have an increase in excess revenues next fiscal year to allocate to the goals for the agency.

ENVIRONMENTAL REVIEW:

Rates and the budget are not considered a "project" for the purposes of the California Environmental Quality Act (CEQA). Therefore, this item does not have the potential for resulting in either a direct physical change to the environment or a reasonably foreseeable indirect physical change in the environment. No further action is required under CEQA for City Council action.

ALTERNATIVES:

The following alternatives are presented for Council consideration:

1. Adopt the Resolution;
2. Reduce City expenditures in order to further reduce the recommended rates;
3. Do not approve the rate adjustments or budget; or
4. Provide staff other direction.

**CITY COUNCIL
CONSIDERATION OF FY 2020-21 KING CITY COMMUNITY POWER ANNUAL
BUDGET AND RATE SCHEDULE
JUNE 23, 2020
PAGE 4 OF 4**

Exhibits:

1. Rate Schedule
2. Proposed FY 2020-21 KCCP Budget

Prepared and Approved by:



Steven Adams, City Manager

RESOLUTION NO. 2020-
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KING
APPROVING ADJUSTMENTS TO THE KING CITY COMMUNITY POWER
RESIDENTIAL RATE SCHEDULE

WHEREAS, the City of King established the King City Community Power (KCCP) Community Choice Aggregation program to provide more cost-effective energy and related services offered to the community; and

WHEREAS, KCCP was launched on July 2, 2018; and

WHEREAS, the City Council has authority over setting all rates charged by KCCP and expenditures; and

WHEREAS, an updated budget and rate analysis has been prepared by the City's contract management firm administering KCCP; and

WHEREAS, the goals of the program are to provide rates lower than offered by PG&E, increase use of renewable energy sources, increase streetlights throughout the community, fund rooftop solar projects for low-income residents and establish and maintain a reserve of \$750,000;

WHEREAS, a recommended KCCP rate structure and budget for FY 2020-21 has been prepared that is designed to make progress in accomplishing these goals.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of King hereby approves a new Rate Schedule for King City Community Power attached and included herein as Exhibit 1, which will result in power generation rates that are 5% lower than PG&E.

BE IT FURTHER RESOLVED that the City Council of the City of King hereby adopts the proposed FY 2020-21 Annual Budget for King City Community Power attached and included herein as Exhibit 2, which approves total projected revenues of \$3,196,819 and budgeted expenditures of \$2,735,888.

This resolution was passed and adopted this **23rd** day of **June 2020** by the following vote:

AYES, Council Members:

NAYS, Council Members:

ABSENT, Council Members:

ABSTAIN, Council Members:

APPROVED:

Mike LeBarre, Mayor

ATTEST:

Steven Adams, City Clerk

APPROVED AS TO FORM:

Roy Santos, City Attorney



Residential Rates

Effective July 2020

Note: These rates only reflect Generation. Your Transmission and Distribution costs are not included and will not change based on participation

	PG&E Generation Rate	KCCP Generation Rate	PG&E Fees*
E-1 - RESIDENTIAL SERVICE			
All Usage (kWh)	\$0.11752	\$0.07760	\$0.03404
E-6 - RESIDENTIAL TIME-OF-USE SERVICE			
Summer - May 1 through October 31			
Peak (kWh)	\$0.26468	\$0.21741	\$0.03404 Mon-Fri 1:00 p.m. to 7:00 p.m.
Part-Peak (kWh)	\$0.14175	\$0.10062	\$0.03404 Mon-Fri 10:00 a.m.-1:00 p.m. + 7:00 p.m. to 9:00 p.m., Sat & Sun 5:00 p.m.-8:00 p.m.
Off-Peak (kWh)	\$0.09157	\$0.05295	\$0.03404 All other times including Holidays.
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.11942	\$0.07941	\$0.03404 Mon-Fri 5:00 p.m. to 8:00 p.m.
Off-Peak (kWh)	\$0.10569	\$0.06631	\$0.03404 All other times including Holidays.
*Schedule closed to new customers as of May 31, 2016			
**Time Periods will change in 2021 & 2022			
E-TOU-A - RESIDENTIAL TIME-OF-USE SERVICE			
Summer - June 1 through September 30			
Peak (kWh)	\$0.20087	\$0.15679	\$0.03404 Mon-Fri 3:00 p.m. to 8:00 p.m.
Off-Peak (kWh)	\$0.12530	\$0.08500	\$0.03404 All other times including Holidays.
Winter - October 1 through May 31			
Peak (kWh)	\$0.11353	\$0.07381	\$0.03404 Mon-Fri 3:00 p.m. to 8:00 p.m.
Off-Peak (kWh)	\$0.09923	\$0.06023	\$0.03404 All other times including Holidays.
E-TOU-B - RESIDENTIAL TIME-OF-USE SERVICE			
Summer - June 1 through September 30			
Peak (kWh)	\$0.22242	\$0.17726	\$0.03404 Mon-Fri 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.11936	\$0.07935	\$0.03404 All other times including Holidays.
Winter- October 1 through May 31			
Peak (kWh)	\$0.11558	\$0.07576	\$0.03404 Mon-Fri 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.09678	\$0.05790	\$0.03404 All other times including Holidays.
E-TOU-C - RESIDENTIAL TIME-OF-USE SERVICE (PEAK PRICING 4-9p.m. EVERYDAY)			
Summer - June 1 through September 30			
Peak (kWh)	\$0.16735	\$0.12494	\$0.03404 4:00 p.m. to 9:00 p.m. all days
Off-Peak (kWh)	\$0.11391	\$0.07417	\$0.03404 All other times
Winter- October 1 through May 31			
Peak (kWh)	\$0.11859	\$0.07862	\$0.03404 4:00 p.m. to 9:00 p.m. all days
Off-Peak (kWh)	\$0.10356	\$0.06434	\$0.03404 All other times
E-TOU-D - RESIDENTIAL TIME-OF-USE SERVICE (PEAK PRICING 5-8 p.m. non-holiday weekdays) eff. 5/1/2020			
Summer - June 1 through September 30			
Peak (kWh)	\$0.17947	\$0.13646	\$0.03404 5:00 p.m. to 8:00 p.m. Monday thru Friday
Off-Peak (kWh)	\$0.09451	\$0.05574	\$0.03404 All other times including holidays
Winter- October 1 through May 31			
Peak (kWh)	\$0.13817	\$0.09722	\$0.03404 5:00 p.m. to 8:00 p.m. Monday thru Friday
Off-Peak (kWh)	\$0.12309	\$0.08290	\$0.03404 All other times including holidays
EM - MASTER-METERED MULTIFAMILY SERVICE			
All Usage (kWh)	\$0.11752	\$0.07760	\$0.03404
ET - MOBILEHOME PARK SERVICE			
All Usage (kWh)	\$0.11752	\$0.07760	\$0.03404
EVA - RESIDENTIAL TIME-OF-USE SERVICE FOR PLUG-IN ELECTRIC VEHICLE CUSTOMERS			
Summer - May 1 through October 31			
Peak (kWh)	\$0.27692	\$0.22903	\$0.03404 2:00 p.m. to 9:00 p.m. Monday through Friday. 3:00 p.m. to 7:00p.m. Saturday, Sunday and Holidays
Part-Peak (kWh)	\$0.13345	\$0.09274	\$0.03404 7:00 a.m. to 2:00 p.m. and 9:00 p.m. to 11:00 p.m. Monday through Friday, except holidays
Off-Peak (kWh)	\$0.05707	\$0.02968	\$0.03404 All other hours
Winter- November 1 through April 30			
Peak (kWh)	\$0.10348	\$0.06427	\$0.03404 2:00 p.m. to 9:00 p.m. Monday through Friday. 3:00 p.m. to 7:00p.m. Saturday, Sunday and Holidays
Part-Peak (kWh)	\$0.06465	\$0.02738	\$0.03404 7:00 a.m. to 2:00 p.m. and 9:00 p.m. to 11:00 p.m. Monday through Friday, except holidays
Off-Peak (kWh)	\$0.06946	\$0.03195	\$0.03404 All other hours
EV2 - RESIDENTIAL TIME-OF-USE SERVICE FOR PLUG-IN ELECTRIC VEHICLE CUSTOMERS			
Summer - June 1 through September 30			
Peak (kWh)	\$0.18340	\$0.14019	\$0.03404 4:00 p.m. to 9:00 p.m. every day including weekends and holidays
Part-Peak (kWh)	\$0.13869	\$0.09772	\$0.03404 3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12 a.m. every day including weekends and holidays
Off-Peak (kWh)	\$0.09755	\$0.05863	\$0.03404 All other hours
Winter- October 1 through May 31			
Peak (kWh)	\$0.12653	\$0.08616	\$0.03404 2:00 p.m. to 9:00 p.m. Monday through Friday. 3:00 p.m. to 7:00p.m. Saturday, Sunday and Holidays
Part-Peak (kWh)	\$0.11404	\$0.07430	\$0.03404 7:00 a.m. to 2:00 p.m. and 9:00 p.m. to 11:00 p.m. Monday through Friday, except holidays
Off-Peak (kWh)	\$0.09056	\$0.05199	\$0.03404 All other hours



KING CITY COMMUNITY POWER

Commercial and Industrial Rates

Effective July 2020

Note: These rates only reflect Generation. Your Transmission and Distribution costs are not included and will not change based on participation

	PG&E Generation Rate	KCCP Generation Rate	PG&E Fees*
B-1 - SMALL GENERAL SERVICE NON-TIME-OF-USE SERVICE			
Summer - June 1 through September 30			
Peak (kWh)	\$0.17737	\$0.13588	\$0.03262 every day including weekends and holidays 4:00 p.m. to 9:00 p.m.
Part-Peak (kWh)	\$0.12814	\$0.08911	\$0.03262 every day including weekends and holidays 2:00 p.m. to 4:00 p.m. + 9:00 p.m. to 11:00 p.m.
Off-Peak (kWh)	\$0.10733	\$0.06934	\$0.03262 all other hours
Winter - October 1 through May 31			
Peak (kWh)	\$0.12212	\$0.08339	\$0.03262 every day including weekends and holidays 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.10600	\$0.06808	\$0.03262 all other hours
Super Off-Peak (kWh)	\$0.08958	\$0.05248	\$0.03262 every day in March, April, and May only 9:00 a.m. to 2:00 p.m.
A-1 - SMALL GENERAL SERVICE NON-TIME-OF-USE SERVICE			
Summer (kWh)			
	\$0.13350	\$0.09421	\$0.03262 May 1 through October 31
Winter (kWh)			
	\$0.09336	\$0.05607	\$0.03262 November 1 through April 30
A-1-TOU - SMALL GENERAL SERVICE TIME-OF-USE SERVICE			
Summer - May 1 through October 31			
Peak (kWh)	\$0.14851	\$0.10847	\$0.03261 Mon-Fri 12:00 p.m. to 6:00 p.m.
Part-Peak (kWh)	\$0.12486	\$0.08601	\$0.03261 Mon-Fri 8:30 a.m. to 12:00 p.m. + 6:00 p.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.09750	\$0.06002	\$0.03261 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
Winter - November - 1 through April 30			
Part-Peak (kWh)	\$0.12466	\$0.08582	\$0.03261 Monday through Friday (except holidays)
Off-Peak (kWh)	\$0.10375	\$0.06595	\$0.03261 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
B-6 - SMALL GENERAL TIME-OF-USE SERVICE			
Summer - June 1 through September 30			
Peak (kWh)	\$0.18197	\$0.14025	\$0.03262 every day including weekends and holidays 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.11081	\$0.07265	\$0.03262 all other hours
Winter - October 1 through May 31			
Peak (kWh)	\$0.11845	\$0.07991	\$0.03262 every day including weekends and holidays 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.10139	\$0.06370	\$0.03262 all other hours
Super Off-Peak (kWh)	\$0.08498	\$0.04811	\$0.03262 every day in March, April, and May only 9:00 a.m. to 2:00 p.m.
A-6 - SMALL GENERAL TIME-OF-USE SERVICE			
Summer - May - 1 through October 31			
Peak (kWh)	\$0.38984	\$0.33773	\$0.03262 Mon-Fri 12:00 p.m. to 6:00 p.m.
Part-Peak (kWh)	\$0.15026	\$0.11013	\$0.03262 Mon-Fri 8:30 a.m. to 12:00 p.m. + 6:00 p.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.09196	\$0.05474	\$0.03262 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
Winter - November - 1 through April 30			
Part-Peak (kWh)	\$0.11743	\$0.07894	\$0.03262 Mon-Fri 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.09993	\$0.06231	\$0.03262 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
B-10 - MEDIUM GENERAL DEMAND-METERED SERVICE TIME-OF-USE			
Secondary Voltage			
Energy Rate by Components			
Summer - June 1 through September 30			
Peak (kWh)	\$0.20191	\$0.15669	\$0.03512 every day including weekends and holidays 4:00 p.m. to 9:00 p.m.
Part-Peak (kWh)	\$0.14022	\$0.09809	\$0.03512 every day including weekends and holidays 2:00 p.m. to 4:00 p.m. + 9:00 p.m. to 11:00 p.m.
Off-Peak (kWh)	\$0.10765	\$0.06715	\$0.03512 all other hours
Winter - October 1 through May 31			
Peak (kWh)	\$0.14386	\$0.10155	\$0.03512 every day including weekends and holidays 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.10838	\$0.06784	\$0.03512 all other hours



KING CITY COMMUNITY POWER

Commercial and Industrial Rates

Effective July 2020

Note: These rates only reflect Generation. Your Transmission and Distribution costs are not included and will not change based on participation

	PG&E Generation Rate	KCCP Generation Rate	PG&E Fees*
Super Off-Peak (kWh)	\$0.07204	\$0.03332	\$0.03512 every day in March, April, and May only 9:00 a.m. to 2:00 p.m.
Demand Rate by Components			
Summer (kW)	\$0.00000	\$0.00000	
Winter (kW)	\$0.00000	\$0.00000	
A-10 - MEDIUM GENERAL DEMAND-METERED SERVICE NON-TIME-OF-USE			
Secondary Voltage			
Energy Rate by Components			
Summer (kWh)	\$0.12331	\$0.08202	\$0.03512 May 1 through October 31
Winter (kWh)	\$0.09600	\$0.05608	\$0.03512 November 1 through April 30
Demand Rate by Components			
Summer (kW)	\$5.78000	\$5.75110	May 1 through October 31
Winter (kW)	\$0.00000	\$0.00000	
A-10 - MEDIUM GENERAL DEMAND-METERED SERVICE TIME-OF-USE			
Secondary Voltage			
Energy Rate by Components			
Summer - May 1 through October 31			
Peak (kWh)	\$0.17720	\$0.13323	\$0.03511 Mon-Fri 12:00 p.m. to 6:00 p.m.
Part-Peak (kWh)	\$0.12207	\$0.08086	\$0.03511 Mon-Fri (Except Holidays) 8:30 a.m. to 12:00 p.m. + 6:00 p.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.09400	\$0.05419	\$0.03511 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
Winter - November - 1 through April 30			
Part-Peak (kWh)	\$0.10613	\$0.06571	\$0.03511 Mon-Fri (Except Holidays) 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.08907	\$0.04951	\$0.03511 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
Demand Rate by Components			
Summer (kW)	\$5.78000	\$5.75110	
AG-1A - AGRICULTURAL POWER			
Energy Rate by Components			
Summer (kWh)	\$0.11298	\$0.07692	\$0.03041 May 1 through October 31
Winter (kWh)	\$0.09156	\$0.05657	\$0.03041 November 1 through April 30
Demand (Horsepower charge)			
Connected Load Summer (kW)	\$1.55000	\$1.54225	
Connected Load Winter (kW)	\$0.00000	\$0.00000	
AG-4A - TIME-OF-USE AGRICULTURAL POWER			
Energy Rate by Components			
Summer - May 1 through October 31			
Peak (kWh)	\$0.18115	\$0.14168	\$0.03041 Mon-Fri 12:00 p.m. to 6:00 p.m.
Off-Peak (kWh)	\$0.08070	\$0.04626	\$0.03041 All other times including Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.08526	\$0.05059	\$0.03041 Mon-Fri 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.07329	\$0.03922	\$0.03041 All other times including Holidays
Demand (Horsepower charge)			
Connected Load Summer (kW)	\$1.57000	\$1.56215	
Connected Load Winter (kW)	\$0.00000	\$0.00000	



Commercial and Industrial Rates

Effective July 2020

Note: These rates only reflect Generation. Your Transmission and Distribution costs are not included and will not change based on participation

	PG&E Generation Rate	KCCP Generation Rate	PG&E Fees*
AG-4B - TIME-OF-USE AGRICULTURAL POWER			
<i>Energy Rate by Components</i>			
Summer - May 1 through October 31			
Peak (kWh)	\$0.13861	\$0.10127	\$0.03041 Mon-Fri 12:00 p.m. to 6:00 p.m.
Off-Peak (kWh)	\$0.08205	\$0.04754	\$0.03041 All other times including Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.08011	\$0.04569	\$0.03041 Mon-Fri 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.06873	\$0.03488	\$0.03041 All other times including Holidays
<i>Demand Rate by Components</i>			
Summer			
Maximum Peak Demand (kW)	\$2.95000	\$2.93525	
Maximum Demand (kW)	\$2.77000	\$2.75615	
Primary Voltage Discount Summer (kW)	(\$0.69000)	(\$0.69000)	
AG-4C - TIME-OF-USE AGRICULTURAL POWER			
<i>Energy Rate by Components</i>			
Summer - May 1 through October 31			
Peak (kWh)	\$0.15943	\$0.12105	\$0.03041 Mon-Fri 12:00 p.m. to 6:00 p.m.
Part-Peak (kWh)	\$0.09179	\$0.05679	\$0.03041 Mon-Fri 8:30 a.m. to 12:00 p.m. + 6:00 p.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.06721	\$0.03344	\$0.03041 Mon-Fri 9:30 p.m. to 8:30 a.m.; All Day Sat, Sun including Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.07419	\$0.04007	\$0.03041 Mon-Fri 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.06363	\$0.03004	\$0.03041 All other times including Holidays
<i>Demand Rate by Components</i>			
Summer			
Maximum Peak Demand (kW)	\$6.86000	\$6.82570	
Maximum Part-Peak Demand (kW)	\$1.17000	\$1.16415	
Primary Voltage Discount Summer (kW)	(\$1.19000)	(\$1.19000)	
Transmission Voltage Discount Summer			
Maximum Peak Demand (kW)	(\$2.19000)	(\$2.19000)	
Maximum Part-Peak Demand (kW)	(\$0.02000)	(\$0.02000)	
AG-5A - LARGE TIME-OF-USE AGRICULTURAL POWER			
<i>Energy Rate by Components</i>			
Summer - May 1 through October 31			
Peak (kWh)	\$0.16828	\$0.12946	\$0.03041 Mon-Fri 12:00 p.m. to 6:00 p.m.
Off-Peak (kWh)	\$0.08536	\$0.05068	\$0.03041 All other times including Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.08919	\$0.05432	\$0.03041 Mon-Fri 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.07670	\$0.04246	\$0.03041 All other times including Holidays
<i>Demand (Horsepower charge)</i>			
Connected Load Summer (kW)	\$4.27000	\$4.24865	
AG-5B - LARGE TIME-OF-USE AGRICULTURAL POWER			
<i>Energy Rate by Components</i>			
Summer - May 1 through October 31			
Peak (kWh)	\$0.16546	\$0.12678	\$0.03041 Mon-Fri 12:00 p.m. to 6:00 p.m.
Off-Peak (kWh)	\$0.05780	\$0.02450	\$0.03041 All other times including Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.08024	\$0.04582	\$0.03041 Mon-Fri 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.04852	\$0.01568	\$0.03041 All other times including Holidays
<i>Demand Rate by Components</i>			
Summer			
Maximum Peak Demand (kW)	\$6.51000	\$6.47745	
Maximum Demand (kW)	\$5.20000	\$5.17400	
<i>Voltage Discounts</i>			
Summer			
Primary Maximum Demand (kW)	(\$1.63000)	(\$1.63000)	
Transmission Maximum Demand (kW)	(\$2.84000)	(\$2.84000)	



Commercial and Industrial Rates

Effective July 2020

Note: These rates only reflect Generation. Your Transmission and Distribution costs are not Included and will not change based on participation

	PG&E Generation Rate	KCCP Generation Rate	PG&E Fees*
AG-5C - LARGE TIME-OF-USE AGRICULTURAL POWER			
<i>Energy Rate by Components</i>			
Summer - May 1 through October 31			
Peak (kWh)	\$0.13792	\$0.10061	\$0.03041 Mon-Fri 12:00 p.m. to 6:00 p.m.
Part-Peak (kWh)	\$0.08113	\$0.04666	\$0.03041 Mon-Fri 8:30 a.m. to 12:00 p.m. + 6:00 p.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.05999	\$0.02658	\$0.03041 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.06633	\$0.03260	\$0.03041 Mon-Fri 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.05672	\$0.02347	\$0.03041 All other times including Holidays
<i>Demand Rate by Components</i>			
Summer			
Maximum Peak Demand (kW)	\$12.12000	\$12.05940	
Maximum Part-Peak Demand (kW)	\$2.28000	\$2.26860	
<i>Voltage Discounts</i>			
Summer			
Primary Maximum Peak Demand (kW)	(\$2.49000)	(\$2.49000)	
Transmission Maximum Peak Demand (kW)	(\$4.66000)	(\$4.66000)	

B-19 - MEDIUM GENERAL DEMAND-METERED TOU SERVICE

Secondary Voltage

Energy Rate by Components

Summer - June 1 through September 30			
Peak (kWh)	\$0.13878	\$0.09964	\$0.03220 every day including weekends 4:00 p.m. to 9:00 p.m.
Part-Peak (kWh)	\$0.10899	\$0.07134	\$0.03220 every day including weekends 2:00 p.m. to 4:00 p.m. + 9:00 p.m. to 11:00 p.m.
Off-Peak (kWh)	\$0.08792	\$0.05132	\$0.03220 all other hours
Winter - October 1 through May 31			
Peak (kWh)	\$0.11986	\$0.08167	\$0.03220 every day including weekends 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.08784	\$0.05125	\$0.03220 all other hours
Super Off-Peak (kWh)	\$0.04488	\$0.01570	\$0.03220 every day in March, April, and May only 9:00 a.m. to 2:00 p.m.
<i>Demand Rate by Components</i>			
Summer			
Maximum Peak Demand (kW)	\$14.92000	\$14.84540	
Maximum Part-Peak Demand (kW)	\$2.17000	\$2.15915	
Winter			
Maximum Peak Demand (kW)	\$1.77000		

E-19 - MEDIUM GENERAL DEMAND-METERED TOU SERVICE

Secondary Voltage

Energy Rate by Components

Summer - May 1 through October 31			
Peak (kWh)	\$0.14785	\$0.10826	\$0.03220 Mon-Fri 12:00 p.m. to 6:00 p.m.
Part-Peak (kWh)	\$0.10014	\$0.06293	\$0.03220 Mon-Fri (Except Holidays) 8:30 a.m. to 12:00 p.m. + 6:00 p.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.06854	\$0.03291	\$0.03220 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.09360	\$0.05672	\$0.03220 Mon-Fri (Except Holidays) 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.07638	\$0.04036	\$0.03220 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
<i>Demand Rate by Components</i>			
Summer			
Maximum Peak Demand (kW)	\$14.88000	\$14.80560	
Maximum Part-Peak Demand (kW)	\$3.68000	\$3.66160	

B-19 - MEDIUM GENERAL DEMAND-METERED TOU SERVICE (OPTION R - SOLAR)

Secondary Voltage

Energy Rate by Components

Summer - June 1 through September 30			
Peak (kWh)	\$0.26625	\$0.22074	\$0.03220 every day including weekends 4:00 p.m. to 9:00 p.m.
Part-Peak (kWh)	\$0.13068	\$0.09195	\$0.03220 every day including weekends 2:00 p.m. to 4:00 p.m. + 9:00 p.m. to 11:00 p.m.
Off-Peak (kWh)	\$0.09217	\$0.05536	\$0.03220 all other hours



KING CITY COMMUNITY POWER

Commercial and Industrial Rates

Effective July 2020

Note: These rates only reflect Generation. Your Transmission and Distribution costs are not included and will not change based on participation

	PG&E Generation Rate	KCCP Generation Rate	PG&E Fees*
Winter - October 1 through May 31			
Peak (kWh)	\$0.13442	\$0.09550	\$0.03220 every day including weekends 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.09210	\$0.05530	\$0.03220 all other hours
Super Off-Peak (kWh)	\$0.05628	\$0.02127	\$0.03220 every day in March, April, and May only 9:00 a.m. to 2:00 p.m.
E-19 - MEDIUM GENERAL DEMAND-METERED TOU SERVICE (OPTION R - SOLAR)			
Secondary Voltage			
Energy Rate by Components			
Summer - May 1 through October 31			
Peak (kWh)	\$0.30824	\$0.26063	\$0.03220 Mon-Fri 12:00 p.m. to 6:00 p.m.
Part-Peak (kWh)	\$0.14041	\$0.10119	\$0.03220 Mon-Fri (Except Holidays) 8:30 a.m. to 12:00 p.m. + 6:00 p.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.07299	\$0.03714	\$0.03220 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
Winter - November 1 through April 30			
Part-Peak (kWh)	\$0.09716	\$0.06010	\$0.03220 Mon-Fri (Except Holidays) 8:30 a.m. to 9:30 p.m.
Off-Peak (kWh)	\$0.08056	\$0.04433	\$0.03220 Mon-Fri 9:30 p.m. to 8:30 a.m., All Day Sat-Sun + Holidays
B-19 - MEDIUM GENERAL DEMAND-METERED TOU SERVICE (OPTION S - STORAGE)			
Secondary Voltage			
Energy Rate by Components			
Summer - June 1 through September 30			
Peak (kWh)	\$0.26625	\$0.22074	\$0.03220 every day including weekends 4:00 p.m. to 9:00 p.m.
Part-Peak (kWh)	\$0.13068	\$0.09195	\$0.03220 every day including weekends 2:00 p.m. to 4:00 p.m. + 9:00 p.m. to 11:00 p.m.
Off-Peak (kWh)	\$0.09217	\$0.05536	\$0.03220 all other hours
Winter - October 1 through May 31			
Peak (kWh)	\$0.13442	\$0.09550	\$0.03220 every day including weekends 4:00 p.m. to 9:00 p.m.
Off-Peak (kWh)	\$0.09210	\$0.05530	\$0.03220 all other hours
Super Off-Peak (kWh)	\$0.05628	\$0.02127	\$0.03220 every day in March, April, and May only 9:00 a.m. to 2:00 p.m.
LS-1 - PG&E-OWNED STREET AND HIGHWAY LIGHTING			
All Usage (kWh)	\$0.09363	\$0.06182	\$0.02713
LS-2 - CUSTOMER-OWNED STREET AND HIGHWAY LIGHTING			
All Usage (kWh)	\$0.09363	\$0.06182	\$0.02713
LS-3 - CUSTOMER-OWNED STREET AND HIGHWAY LIGHTING ELECTROLIER METER RATE			
All Usage (kWh)	\$0.09363	\$0.06182	\$0.02713
OL-1 - OUTDOOR AREA LIGHTING SERVICE			
All Usage (kWh)	\$0.09363	\$0.06182	\$0.02713
TC-1 - TRAFFIC CONTROL SERVICE			
All Usage (kWh)	\$0.10448	\$0.06677	\$0.03249



KING CITY

COMMUNITY POWER

Fiscal Year	Forecast	Actual	Delta
	2020-2021		
Customer Accounts	3283	3283	
Customer Opt-out Rate	13.6%	13.6%	
Customer Load less Optout (MWh)			
Total KCCP Revenues	\$3,101,987	\$0	(3,101,987)
System Energy+CAISO Charges	\$269,312	\$0	(269,312)
Hedged Energy	\$1,413,914	\$0	(1,413,914)
Renewable Energy	\$181,729	\$0	(181,729)
Resource Adequacy	\$317,424	\$0	(317,424)
IOU Services Charges	\$14,439	\$0	(14,439)
Power Supply Sub-Total	\$2,196,819	\$0	(2,196,819)
Pilot and EDMS Fees			
Professional Services	\$200,021	\$0	(200,021)
Data Management and Call Center	\$44,878	\$0	(44,878)
PPG Interest Charges	\$10,019	\$0	(10,019)
PGE LC Interest Charges	\$6,981	\$0	(6,981)
Fees and Notices	\$8,850	\$0	(8,850)
Operating Sub-Total	\$270,749	\$0	(270,749)
Headroom before City Programs	\$634,419	\$0	(634,419)
King City Fees and Programs			
King City Fees	\$90,000	\$0	(90,000)
Renewable Project	\$48,100	\$0	(48,100)
Streetlights	\$55,000	\$0	(55,000)
Generator	\$30,000	\$0	(30,000)
City Programs	\$223,100	\$0	(223,100)
Headroom before Bad Debt	\$411,319	\$0	(411,319)
Bad Debt Reserve	\$31,020	\$0	(31,020)
Bank Fees	\$1,200	\$0	(1,200)
Customer Refunds	\$13,000	\$0	(13,000)
Available Net Income	\$366,099	\$0	(366,099)



Item No. 11(B)

REPORT TO THE CITY COUNCIL

DATE: JUNE 23, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: STEVEN ADAMS, CITY MANAGER

RE: CONSIDERATION OF RESOLUTION PLACING ON THE NOVEMBER 3, 2020 ELECTION BALLOT AN ORDINANCE AMENDING CHAPTER 5.14 OF THE CITY OF KING MUNICIPAL CODE TO ADD A COMMERCIAL CANNABIS TAX ON THE RETAIL SALE OF CANNABIS AND INDUSTRIAL HEMP AND CANNABIS AND INDUSTRIAL HEMP PRODUCTS AND ON DISTRIBUTION OF CANNABIS AND CANNABIS PRODUCTS

RECOMMENDATION:

It is recommended the City Council: 1) review the draft Resolution placing on the ballot of the election to be held on November 3, 2020 an Ordinance to amend Chapter 5.14 of the City of King Municipal Code to add a commercial cannabis tax on retail sale of cannabis and industrial hemp and cannabis and industrial hemp products and on distribution of cannabis and cannabis products; and 2) direct staff to proceed to place the Resolution on the July 14, 2020 Council meeting agenda for adoption following final legal review and any recommended modifications.

BACKGROUND:

At the November 26, 2019 meeting, staff presented a number of recommended changes to cannabis tax rates. Some were approved at that time. Others require approval by the voters. The City's current tax rate for cultivation is \$9.75 per square foot. Nurseries are \$5 per square foot for the first 5,000 square feet and \$2.50 per square foot above that. Manufacturing and testing businesses are charged a flat annual fee of \$31,170.

At the February 25, 2020 meeting, the City Council adopted an Ordinance to allow cannabis storefront retail dispensaries. Staff recommended placing a measure on the November 3rd ballot to modify the existing cannabis tax

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CONSIDERATION OF RESOLUTION PLACING ON THE NOVEMBER 3, 2020 ELECTION BALLOT AN ORDINANCE AMENDING CHAPTER 5.14 OF THE CITY OF KING MUNICIPAL CODE TO ADD A COMMERCIAL CANNABIS TAX ON THE RETAIL SALE OF CANNABIS AND INDUSTRIAL HEMP AND CANNABIS AND INDUSTRIAL HEMP PRODUCTS AND ON DISTRIBUTION OF CANNABIS AND CANNABIS PRODUCTS

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ordinance to establish a tax on cannabis retail dispensary businesses and incorporate other tax rate changes. At the May 12, 2020 meeting, staff presented options for the cannabis tax measure and received direction from the City Council. Staff has now drafted a proposed measure for the November 3, 2020 ballot for consideration, which incorporates the direction received.

DISCUSSION:

The draft ballot measure includes the following changes to the City's cannabis tax ordinance:

- Creates a 5% tax on gross receipts from the sale of cannabis and cannabis products for any cannabis storefront or non-storefront retail dispensary business.
- Creates a 5% tax on gross receipts from the sale of industrial hemp and industrial hemp products sold from any cannabis storefront or non-storefront retail dispensary business or any other business that derives at least 50% of its revenue from the sale of industrial hemp or industrial hemp products.
- Creates a 2% tax on gross receipts from distribution of cannabis or cannabis products generated from businesses outside the City of King.
- Modifies payment of taxes from manufacturing and testing businesses to a quarterly rather than annual basis to be consistent with the tax on cultivation and nurseries.
- Updates language in the existing cannabis tax ordinance to address changes in statute and case law that have occurred since the original ordinance was approved by the voters.

The proposed question to be placed on the ballot is as follows:

Shall the measure amending the City of King commercial cannabis tax to include a new tax of up to 5% of gross receipts on the sale of cannabis and cannabis products, including industrial hemp and hemp products, and up to 2% of gross receipts on the distribution of cannabis and cannabis products generated from outside King City, which is projected to generate approximately

CITY COUNCIL

CONSIDERATION OF RESOLUTION PLACING ON THE NOVEMBER 3, 2020 ELECTION BALLOT AN ORDINANCE AMENDING CHAPTER 5.14 OF THE CITY OF KING MUNICIPAL CODE TO ADD A COMMERCIAL CANNABIS TAX ON THE RETAIL SALE OF CANNABIS AND INDUSTRIAL HEMP AND CANNABIS AND INDUSTRIAL HEMP PRODUCTS AND ON DISTRIBUTION OF CANNABIS AND CANNABIS PRODUCTS

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\$150,000 annually, and proposed to be in effect until terminated by the voters, be adopted?

The ballot measure will require a simple majority vote for approval. The draft is still under review by the City Attorney's Office and will be submitted to the County Elections Office to confirm that it meets all their requirements prior to adoption. Therefore, there still may be errors and corrections needed in the legal and procedural language of the two documents. However, since the next Council meeting is the last opportunity for Council to adopt the Resolution in order to meet the County's deadline, staff is requesting Council to review the draft and provide direction at this meeting to provide staff time to make any requested changes to the provisions proposed.

A ballot argument will also be drafted and presented to City Council at the next meeting for approval. City Council will be requested to adopt the Resolution at the July 14th meeting, which will place the proposed ordinance on the ballot for voter consideration. Adoption of the actual ordinance is done by the voters.

COST ANALYSIS:

The total cost of drafting the measure, placing it on the ballot, and providing public education is projected to be about \$10,000.

ENVIRONMENTAL REVIEW:

This matter is not a "project" for the purposes of the California Environmental Quality Act (CEQA) as it does not have the potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment. No further action is required under CEQA for City Council action.

ALTERNATIVES:

The following alternatives are provided for City Council consideration:

1. Direct staff to finalize the legal review of the Resolution and Ordinance and then proceed to place it on the July 14, 2020 agenda for adoption;
2. Make changes to the ballot question and direct staff to proceed;
3. Make changes to the draft ordinance and direct staff to proceed;
4. Do not approve placing the measure on the ballot; or
5. Provide staff other direction.

**CITY COUNCIL
CONSIDERATION OF RESOLUTION PLACING ON THE NOVEMBER 3, 2020
ELECTION BALLOT AN ORDINANCE AMENDING CHAPTER 5.14 OF THE
CITY OF KING MUNICIPAL CODE TO ADD A COMMERCIAL CANNABIS TAX
ON THE RETAIL SALE OF CANNABIS AND INDUSTRIAL HEMP AND
CANNABIS AND INDUSTRIAL HEMP PRODUCTS AND ON DISTRIBUTION
OF CANNABIS AND CANNABIS PRODUCTS
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Exhibits:

1. Draft Resolution and Ordinance

Prepared and Approved by:



Steven Adams, City Manager

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KING, CALIFORNIA, SUBMITTING TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION HELD ON TUESDAY, NOVEMBER 3, 2020, AN ORDINANCE AMENDING AND RESTATING CHAPTER 15.12 OF THE KING CITY CODE TO IMPOSE TAXES ON BUSINESSES WHICH SELL AND/OR DISTRIBUTE CANNABIS AND CANNABIS PRODUCTS, INCLUDING INDUSTRIAL HEMP AND HEMP PRODUCTS, AND TO CLARIFY AND AMEND CERTAIN ITEMS IN THE MUNICIPAL CODE.

WHEREAS, Pursuant to Article XI, Section 7, of the California Constitution, the City of King ("City") may adopt and enforce resolutions, ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, the City Council of the City of King ("City") previously submitted to the voters a measure introducing a cannabis tax on certain businesses ("Cannabis Tax") in the City, which tax is now codified as Chapter 5.12 of the King City Municipal Code; and

WHEREAS, commercial cannabis business is regulated in the City pursuant to Chapter 17.03 of the King Municipal Code; and

WHEREAS, the California Industrial Hemp Farming Act, constituting Government Code Section 81600 et. seq. and regulations associated therewith, effective in 2017, authorized the commercial production of Industrial Hemp in California; and

WHEREAS, the cultivation and manufacturing of industrial hemp is regulated under the Chapter 17.04 of the King Municipal Code; and

WHEREAS, the City Council now desires to call an election to approve an ordinance to amend and restate Chapter 5.12 of the King Municipal Code to (a) enact a new Cannabis Tax on retailers and distributors in the City, (b) clean up and update provisions and interpretations of the Municipal Code related to the Cannabis Tax and (c) enact new taxes on retail sales of industrial hemp activities (the "Ordinance"); and

WHEREAS, the City Council has passed Resolution No. 2020-____ on June 9, 2020, calling a general municipal election for the purpose of electing two (2) members of the City Council, and requesting that the general municipal election be consolidated with the Statewide general election to be held on Tuesday, November 3, 2020, and requesting that the Board of Supervisors of the County of Monterey direct the Registrar of Voters/Election Department to take any and all necessary steps to conduct the consolidated election; and under the provisions of the laws relating to cities in the State of California,

a General Municipal Election shall be held on November 3, 2020, for the election of municipal officers; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation; and

WHEREAS, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, various district, county, state, federal and other political subdivision elections may be or have been called to be held on November 3, 2020; and

WHEREAS, the City Council also desires to consolidate the election on the Ordinance ballot measure with the Statewide general election to be held on November 3, 2020.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KING DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. That the Recitals hereto are true and correct and incorporated herein by this reference.

Section 2. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election to be held and consolidated with the Statewide general election on Tuesday, November 3, 2020, the following question:

Measure XX. Measure ____. Shall the measure amending the City of King commercial cannabis tax to include a new tax of up to 5% of gross receipts on the sale of cannabis and cannabis products, including industrial hemp and hemp products, and up to 2% of gross receipts on the distribution of cannabis and cannabis products generated from outside King City, which is projected to generate approximately \$150,000 annually, and proposed to be in effect until terminated by the voters, be adopted?	YES
	NO

Section 3. That the proposed complete text of the Ordinance submitted to the voters is attached hereto as Exhibit A and is hereby approved and adopted and by this reference incorporated herein.

Section 4. That the Board of Supervisors of the County of Monterey is hereby requested to consent and agree to the consolidation of the election on the ballot measure and the City's general municipal elections for councilmembers with the Statewide general election to be held on November 3, 2020, and to direct the Monterey County Registrar of Voters/Election Official to take any and all necessary steps to conduct the consolidated election.

Section 5. That the Election Department of the County of Monterey and Board of Supervisors/Registrar of Voters is authorized to canvass the returns of the election, The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 6. That the City recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for its share of the costs.

Section 7. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election in accordance with the Elections Code and the laws of the state of California.

Section 8. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and Election Department of the County of Monterey.

Section 9. That the deadline for filing arguments on the ballot measures with the City Clerk of the City shall be the close of business on August 13, 2020. That in accordance with the requirements of Division 9, Chapter 3, Article 4 of the California Elections Code, all written arguments for or against the foregoing measures: (1) shall not exceed three hundred (300) words in length; (2) shall be filed with the City's elections official; (3) shall be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of the principal officers who is the author of the argument; and (4) shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. All written arguments may be changed or withdrawn until and including the date fixed by the City's elections official, being the close of business on August 13, 2020, after which time no arguments for or against the foregoing measure may be submitted to the elections official. Pursuant to Elections Code 9285, the City Council is authorized file a written argument. ____ is hereby designated to file an argument on behalf of the City Council.

That in the event that more than one argument for or against any of the foregoing measures is timely submitted, the City's elections official shall give preference and priority first, to arguments submitted by member(s) of the City Council, as authorized by this

Resolution, and second, to individual voters, bona fide associations, or a combination thereof, in the order set forth at California Elections Code § 9287.

Section 10. That the deadline for filing of rebuttal arguments on the ballot measures with the City Clerk shall be at the close of business August 20, 2020. Rebuttals shall not exceed 250 words in length. The rebuttal arguments shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

Section 11. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 12. That, pursuant to Elections Code Section 9280, the City Clerk is hereby directed to transmit a copy of the measures to the City Attorney. The City Attorney shall prepare an impartial analysis of the measures, not to exceed 500 words in length, showing the effect of the measures on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk by the close of business on August 13, 2020. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows: "The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office/city clerk at (831) 386-5971 and a copy will be mailed at no cost to you."

Section 13. That City Council of King hereby orders an election be called and consolidated with any and all elections also called to be held on November 3, 2020 insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the requests the Board of Supervisors of the County of Monterey to order such consolidation under Elections Code Section 10401 and 10403.

Section 14. That the City Council hereby requests the Board of Supervisors to permit the Monterey County Elections Department to provide any and all services necessary for conducting the election and agrees to pay for said services.

Section 15. That the Monterey County Elections Department shall conduct the election for the measure delineated in Section 2 to be voted on at the election on November 3, 2020.

Section 16. The Elections Departments of Monterey County is hereby requested not to print the attached full measure text of Exhibit A hereto in the Voter Guide, but send a copy to voters upon request at the cost of the City. The contact number to be printed in the Voter Guide is (831) 386-5971 (EC §§ 9160, 9312, 9280).

In addition, the full text will be available at the following web site address: <http://www.kingcity.com>.

Section 17. Pursuant to Article XIII C of the Constitution, this measure requires approval by a majority of those casting ballots on the measure.

Section 18. The adoption of this Resolution is exempt from the California Environmental Quality Act, Public Resources Code §§ 21000 et seq. ("CEQA") and 14 Cal. Code Reg. §§ 15000 et seq. ("CEQA Guidelines"). The calling and noticing of a General Municipal Election for the submission of a ballot measure to voters is not a project within the meaning of CEQA Guidelines Section 15378. The tax submitted to the voters is a general tax that can be used for any governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

Section 19. That the City Clerk and City Manager are hereby authorized to take all actions as necessary to effectuate the purposes of this resolution and the election.

Section 20. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of King at a regular meeting thereof held on the ___ day of ____, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

h

By: _____
MIKE LEBARRE, Mayor

APPROVED AS TO FORM:

By: _____
Roy C. Santos, 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 Resolution
passed and adopted by the City Council of the City of King on the date and by the vote
indicated herein.

Exhibit A to Resolution No. ____

(Full Text of Ordinance Amendment)

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KING CITY, CALIFORNIA AMENDING CHAPTER 5.14 (CANNABIS BUSINESS TAX) TO TITLE 5 OF THE KING CITY MUNICIPAL CODE

THE PEOPLE OF THE CITY OF KING CITY DO ORDAIN AS FOLLOWS;

SECTION 1. CODE AMENDMENT. Chapter 5.14 is amended to Title 5 of the King City Municipal Code to read as follows:

Chapter 5.14

Commercial Cannabis Tax

- 5.14.010 Authority and purpose.
- 5.14.020 Tax imposed.
- 5.14.030 Definitions.
- 5.14.040 Other licenses, permits, taxes, fees or charges.
- 5.14.050 Payment of tax does not authorize unlawful business.
- 5.14.060 Payment - Location.
- 5.14.070 Amount of cannabis tax owed.
- 5.14.080 Payment - Time limits.
- 5.14.090 Payments and communications made by mail - Proof of timely submittal.
- 5.14.100 Payment- When taxes deemed delinquent.
- 5.14.110 Notice not required by city.
- 5.14.120 Payment- Penalty for delinquency.
- 5.14.130 Waiver of penalties.
- 5.14.140 Refunds- Credits.
- 5.14.150 Refunds and procedures.
- 5.14.160 Exemptions -Application - Issuance conditions.
- 5.14.170 Exemptions - General.
- 5.14.180 Exemptions - Occasional transactions.
- 5.14.190 Personal cultivation not taxed.
- 5.14.200 Enforcement - Duties of tax administrator and Police Department.
- 5.14.210 Rules and regulations.
- 5.14.220 Apportionment.

- 5.14.230 Audit and examination of records and equipment.
- 5.14.240 Tax deemed debt to city.
- 5.14.250 Deficiency determinations.
- 5.14.260 Tax assessment - Authorized when - Nonpayment - Fraud.
- 5.14.270 Tax assessment - Notice requirements.
- 5.14.280 Tax assessment - Hearing -Application and determination.
- 5.14.290 Conviction for chapter violation - Taxes not waived.
- 5.14.300 Violation deemed misdemeanor - Penalty.
- 5.14.310 Severability.
- 5.14.320 Effect of state and federal reference/authorization.
- 5.14.330 Remedies cumulative.
- 5.14.340 Amendment or modification .

5.14.010 Authority and Purpose of chapter.

This chapter shall be entitled the "Commercial Cannabis Tax" and is enacted solely to raise revenue for the general governmental purposes for the City and not for purposes of regulation or of raising revenues for regulatory purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the City's general fund and used for the purposes consistent with the general fund expenditures of the City. The Cannabis Tax is a tax on a Cannabis business (and not a sales tax or excise tax) and shall not be separately identified by the Cannabis business on the customer, member, patient or caretaker or otherwise specifically assessed or charged to any member, customer, patient or caretaker.

5.14.020 Tax imposed.

There is established and imposed, a commercial cannabis tax at the rate set forth in this chapter.

5.14.030 Definitions

The definitions set forth in this part shall govern the application and interpretation of this chapter.

(A) "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

(B) "Calendar year" means January 1 through December 31, of the same year.

(C) "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or

not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. "Cannabis" shall not include "industrial hemp" unless otherwise specified.

(D) "Cannabis business" or "marijuana business" means any commercial business activity not limited to, cultivation, testing, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, distribution, wholesale, and/or retail sales of cannabis, cannabis products, industrial hemp and/or industrial hemp products and any ancillary products in the city, whether or not carried on for gain or profit.

(E) "Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means cannabis products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medicinal cannabis products.

(F) "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane shall be counted as a separate canopy area. The plant canopy does not need to be continuous on any premise in determining the total square footage which will be subject to tax.

(G) "Commercial Cannabis tax", "Business tax" or "Cannabis tax" means the tax due for any Person engaged in business in the city related to cannabis and/or industrial hemp, including a cannabis business, required by this Chapter.

(H) "Commercial cannabis cultivation" means cultivation of cannabis undertaken in the course of conducting a cannabis business.

(I) "Distributor" or "Distribution" or "Distribution Facility" shall mean a person or facility licensed by the State to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed retailer (dispensary).

(J) "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

(K) "Engaged in business" or "engaged in the business" or

“engaged in a business” means the commencing, conducting, operating, managing or carrying on of a Cannabis business and the exercise of corporate or franchise powers or other powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

(1) Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;

(2) Such person or person's employee owns or leases real property within the City for business purposes;

(3) Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;

(4) Such person or person's employee regularly conducts solicitation of business within the City;

(5) Such person or person's employee performs work or renders services in the City; or

(6) Such person or person's employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(L) “Evidence of doing business” means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or represents to a government agency or to the public that such person is engaged in the business of a Cannabis business in the City, then these facts may be used as evidence that such person is engaged in business in the City.

(M) “Gross Receipts” except as otherwise specifically provided, means whether designated as a sales price, royalty, rent, membership fee, ATM service fee, delivery fee, slotting fee, any other fee, vaping room service charge, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares or merchandise, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods,

wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. However, the following shall be excluded from Gross Receipts:

- (1) Cash discounts allowed and taken on sales;
- (2) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (3) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (4) Cash value of sales, trades or transactions between departments or units of the same business located in the City of King authorized by the Tax Administrator in writing or in accordance with section 5.14.210;
- (5) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
- (6) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;
- (7) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the Finance Department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.
- (8) Retail sales of items that are not cannabis, industrial hemp, cannabis products or industrial hemp products , such as t-shirts, sweaters, hats, stickers, key chains, bags, books, posters, rolling papers, cannabis accessories such as pipes, pipe screens, vape pen batteries (without cannabis or industrial hemp) or other personal tangible property which the Tax Administrator has excluded in writing by issuing an administrative ruling per Section 5.14.210 shall not be subject to the cannabis business tax under this section. However, any business activities

not subject to this section as a result of an administrative ruling shall be subject to the appropriate business tax provisions of Title 5, Chapter 5.12 or any other Title or Chapter of this code as determined by the Tax Administrator.

(9) Payments made by the tax-reporting cannabis business (Seller) to a cannabis business (Buyer) for the difference in the original acquisition price and subsequent renegotiated or finalized selling price of products or services sold to a specific end customer. This type of transaction is referred to as a "Billback". The tax-reporting cannabis business must provide supporting documentation acceptable to the Tax Administrator to substantiate the transaction in order to be eligible for an exemption.

(10) Any business which sells industrial hemp and/or hemp products or offers services or activities related to industrial hemp and/or industrial hemp products and/or which is not required to obtain a cannabis or industrial hemp permit or license from the City or the State for the purpose of cultivating, growing, drying, curing, manufacturing, processing, packaging, transporting, distributing, testing or selling of industrial hemp either wholesale or retail shall be exempt from the cannabis tax provided that such business does not generate more than 50% of their total gross revenues in the reporting period from the business from industrial hemp activities. However, the exemption may be amended by the City Council by resolution or ordinance pursuant to Section 5.14.070 (I) to increase or decrease the percentage of business from zero to 100%. To the extent the gross revenues from the hemp activities do not meet the relevant percentage to be included, this exclusion shall reduce the gross receipts to zero. The business shall still be subject to appropriate business tax provisions of other Chapters of the municipal code.

(11) Any distributor located in the City that distributes cannabis and/or cannabis products for another cannabis business located in the City which is licensed or permitted by the City shall not be required to include such gross receipts for the purpose of paying the cannabis business tax on such gross receipts, the revenues from distribution to the other cannabis business. However, such deduction must be properly documented on the City's tax remittance form in order to claim such deduction in a manner acceptable to the Tax Administrator. This limitation may be amended or eliminated by the City Council by resolution or ordinance pursuant to Section 5.14.070 (I).

(N) "Industrial hemp" means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. "Industrial hemp" also means an agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin

extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.

(O) "Industrial hemp products" also means any raw hemp and/or industrial hemp that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product or any other product containing industrial hemp. "Hemp product" also means industrial hemp or products therefrom as may be defined or described in Food and Agriculture Code 81000 et. seq and/or other applicable law.

(P) "Manufacturer" or "Manufacturing" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis, or cannabis products or labels or relabels its container, that holds a valid state license and that holds a valid local license or permit.

(Q) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, intended to be sold or sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, for a medicinal cannabis patient in California who possesses a physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71.

(R) "Nursery" means a facility or part of a facility that is used only for producing clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

(S) "Person" means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court. A person may be operated as a for profit or not for profit organization or entity or person or as otherwise permitted under the law.

(T) "Sale" "Sell" and "to sell" means and includes any sale, exchange, or barter. It shall also mean any transaction whereby, for any consideration, title to cannabis, cannabis products, industrial hemp and/or industrial hemp products are transferred from one person to another and includes the delivery of cannabis, cannabis products, industrial hemp and/or industrial hemp products pursuant to an order placed for the purchase of the same, but does not include the return of cannabis, cannabis products, industrial hemp and/or industrial hemp products to the licensee from whom the cannabis, cannabis product, industrial hemp and/or

industrial hemp product was purchased.

(U) "Square Foot" or "Square Footage" shall mean the maximum canopy area allowed under permit classification by the local agency and/or licensed by the State and shall be the basis for the tax rate calculations for cultivation unless otherwise specified.

(V) "Tax Administrator" or "administrator" means the Finance Director or such other designated by the City Manager to administer this chapter.

(W) "Testing" or "Testing Laboratory" shall mean a facility, entity, or site in the state and within City limits, that offers or performs tests of cannabis or products and is an accredited body by the state and is independent from all other persons involved in the cannabis industry.

5.14.040 Other licenses, permits, taxes, fees or charges.

Nothing contained in this Chapter 5.14 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license, land use entitlement or permit required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the city, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the city. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

5.14.050 Payment of tax does not authorize unlawful business.

(A) The payment of a cannabis tax required by this chapter, and its acceptance by the city, shall not entitle any person to carry on any Cannabis business unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any Cannabis business in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such Cannabis business is in violation of any law.

(B) No cannabis tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the city.

5.14.060 Payment - Location.

The cannabis tax imposed under this chapter shall be paid to the tax administrator in the King City Finance Department on or before the

prescribed date during regular city business hours.

5.14.070 Amount of cannabis tax owed.

(A) Every person who is engaged in the business of Commercial cannabis cultivation in the city other than as a nursery shall pay an annual cannabis tax on cannabis. The initial tax shall be set at a rate of twenty-five dollars (\$25) per Square Foot of permitted or licensed canopy space for the first 5,000 square feet and then ten dollars (\$10) per square foot of canopy space for the remaining space licensed or permitted canopy space by the City or State of California for cultivation of cannabis and/or industrial hemp.

(B) Every person who is engaged in the business of Commercial cannabis cultivation as a nursery in the City shall pay an annual cannabis tax on cannabis. The initial tax shall be set at five (\$5) dollars per square foot for the first five thousand (5,000) feet of canopy space and two dollars and fifty cents (\$2.50) for the remaining canopy space for the first three (3) years.

(C) For purposes of 5.14.070 subsection (A) and (B), the square feet of canopy space for a business shall be rebuttably presumed to be the maximum square footage of canopy allowed by the City permit issued to the business for commercial cannabis cultivation, or, in the absence of such permit, the square footage shall be the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license. All canopy square footage that is authorized by the City permit shall be included in the calculation of the cannabis tax for cultivation. No deduction will be applied to any canopy square footage that is not used for cultivation unless the Tax Administrator is informed in writing that such space will not be used and authorizes such reduction for the purpose of relief from the cannabis tax prior to the period for which the space will not be utilized.

(D) Every person who is engaged in the business of Manufacturing or of Testing of Cannabis or Cannabis products in the city shall pay an annual cannabis tax on cannabis and/or cannabis products. The initial annual tax shall be set at a flat rate of thirty thousand (\$30,000) dollars per facility for the first three (3) years.

(E) The cannabis tax in subsection 5.14.070(A)(B) (C) and (D) shall constitute the maximum annual cannabis tax permitted to be charged annually with respect to the respective Person for such categories, except as stated herein. Beginning on January 1, 2020 for cannabis taxes enacted prior to the 2020 and on January 1, of each succeeding year thereafter for all applicable cannabis taxes, the amount of each maximum tax imposed by subsection 5.14.070 (A), (B),and (D) may be adjusted up to the equivalent to the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics; if the City Council by ordinance increases any such tax however related to the "CPI", provided, however

that no CPI adjustment shall decrease any tax imposed by this Section. To the extent the cannabis tax is adjusted by the City Council pursuant to this CPI provision, such new tax shall constitute the maximum cannabis tax with respect to the respective Business (to be referred to herein as the "Maximum Tax"). The Maximum Tax for other categories are described below.

(F) For every person engaged in the business of retail sales of cannabis, cannabis products, industrial hemp, and/or industrial hemp products, including as a retailer (dispensary) or non-storefront retailer (retail delivery business), or microbusiness, s/he/it shall be subject to the cannabis tax of percent (5%) of gross receipts. This cannabis tax shall be the Maximum Tax for retailers.

(G) For every person engaged in the business of distribution of cannabis and/or cannabis products, s/he/it shall be subject to the cannabis tax of two percent (2%) of gross receipts. This cannabis tax shall be the Maximum Tax for distribution.

(H) For every person engaged in any other cannabis business activity related to cannabis, cannabis products, industrial hemp and/or industrial hemp products not described in Section 5.14.070 (A) through (G) or exempted pursuant to 5.14.180(B), s/he/it shall be subject to a cannabis tax of five percent (5%) of gross receipts. This cannabis tax shall be the Maximum Tax for unlisted categories.

(I) The Maximum Tax is the highest tax that may be levied in each category. The City Council may, annually by resolution or ordinance, increase the cannabis tax permanently up to the allowable Maximum Tax. The City Council may in its discretion by resolution levy the Cannabis Tax in any category at rates lower than the Maximum Tax for each category or all categories of the Cannabis Tax, provided, however, such lowering of the rate shall not lower any permitted Maximum Rate in any category. The City Council may, by resolution or ordinance, increase or decrease the rate of the medicinal cannabis business tax, including the initial rate of the cannabis tax applicable to medicinal cannabis, independent of other cannabis business tax activities. In addition, the City Council may, by resolution or ordinance, increase or decrease the rate of the cannabis business tax on hemp or hemp products, including the initial rate of the tax on hemp or hemp products independent of other cannabis activities. Notwithstanding the foregoing, in no event shall the City Council repeal this tax or set any adjusted rate that exceeds the maximum rates calculated pursuant to this section.

5.14.080 Payment-Time limits.

The cannabis tax imposed by this chapter shall be due and payable as follows:

(A) Each person owing a Commercial Cannabis Cultivation Tax under this chapter shall, on or before the last day of the month following

the close of each calendar quarter, prepare a tax statement and remit to the tax administrator the tax due on the total square footage of canopy space subject to the tax. The square footage tax due shall be paid based on the type of cultivation permit issued by the state and/or the City and the maximum square footage so permitted or licensed or as otherwise specified in Section 5.14.070 (C). Each business shall pay on or before the last day of the month following the close of each calendar quarter in four equal installments of the annual tax due. The City may at its discretion determine other methodologies in determining the payment of such tax in order to promulgate collection of said tax in order to reduce the burden of collection which may also include the form of payment in which the city may except for such tax.

(B) Each person owing a Cannabis Tax for a Manufacturing, Testing, Retail or Distribution under this chapter shall prepare and submit a tax statement to the tax administrator with the amount of tax owed. Each business shall pay on or before the last day of the month following the close of each calendar quarter in four equal installments of the annual tax due or it will be determined to be delinquent. The Tax Administrator may publish alternate dates for collection and reporting of the cannabis tax.

(C) All tax statements shall be completed on forms authorized by the tax administrator.

(D) Tax statements and payments for all outstanding taxes owed the city are immediately due to the tax administrator upon cessation of business for any reason.

5.14.090 Payments and communications made by mail - Proof of timely submittal.

Whenever any payment, statement, report, request or other communication is due, it must be received by the tax administrator on or before the final due date. A postmark will not be accepted as timely remittance. If the due day falls on Saturday, Sunday or a holiday observed by the City, the due day shall be the next regular business day on which the city is open to the public.

5.14.100 Payment- When taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the cannabis taxes required to be paid pursuant to this chapter shall be deemed delinquent if not paid by the tax administrator on or before the due date as specified in Section 5.14.080.

5.14.110 Notice not required by city.

The tax administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter and

failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

5.14.120 Payment-Penalty for delinquency.

(A) Any person who fails or refuses to pay any cannabis tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to ten percent of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at a rate established by resolution of the City Council; and

(2) An additional penalty equal to twenty-five percent of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties, calculated at the rate established by resolution of the City Council.

(3) Interest shall be applied at the monthly rate on the first day the first day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

(B) Whenever a check is submitted in payment of a cannabis tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under state law.

(C) The cannabis tax due shall be that amount due and payable from the first date on which the person was engaged in business as a Cannabis business in the city, together with applicable penalties and interest calculated in accordance with 5.14.120 subsection (A).

5.14.130 Waiver of penalties.

The tax administrator may waive the first and second penalties each imposed upon any person if:

(A) The person provides evidence satisfactory to the tax administrator that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent cannabis tax and accrued interest owed the city prior to applying to the tax administrator for a waiver.

(B) The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four-month period.

5.14.140 Refunds-Credits.

(A) No refund shall be made of any tax collected pursuant to this chapter, except as provided in this Section and Section 5.14.150.

(B) No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution or other termination of a business.

(C) Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against such person's cannabis tax for the next tax reporting period or as authorized by the tax administrator. .

5.14.150 Refunds and procedures.

(A) Whenever the amount of any cannabis tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the tax administrator within one year of the date the tax was originally due and payable, and the provisions of Chapter 2.50 are satisfied.

(B) The tax administrator or the tax administrator's authorized agent shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the tax administrator to do so. In the event that the cannabis tax was erroneously paid and the error is attributable to the city, the city shall refund the amount of tax erroneously paid up to one year from when the error was identified.

(C) No refund may be had, or tax may be challenged unless the tax has been paid.

5.14.160 Exemptions - Application - Issuance conditions.

Any person desiring to claim exemption from the payment of the tax set forth in this chapter shall make application upon forms prescribed by the tax administrator and shall furnish such information and make such affidavits as may be required by the tax administrator.

5.14.170 Exemptions - General.

Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the State of California or preemptive federal or state law.

5.14.180 Exemptions - Occasional transactions.

(A) For any person not having a fixed place of business within the city who comes into the city for the purpose of transacting business and who is not otherwise exempt, the cannabis tax payable by such person may be apportioned by the tax administrator in accordance with Section 5.14.220.

(B) The City does not levy a cannabis tax for the cultivation, manufacture, testing or distribution of hemp and/or hemp products.

5.14.190 Personal Cultivation Not Taxed.

The provisions of this section shall not apply to personal cannabis cultivation or personal use of cannabis, to the extent those activities are authorized in the "Medicinal and Adult Use Cannabis Regulation and Safety Act," as may be amended. This section shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and provided that the individual receives no compensation whatsoever related to that personal cultivation or use.

5.14.200 Enforcement- Duties of tax administrator and police department.

It shall be the duty of the tax administrator or his/her designee to enforce each and all of the provisions of this chapter, and the police department shall render such assistance in the enforcement of this chapter as may from time to time be required by the tax administrator.

5.14.210 Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this chapter generally, the tax administrator, with the concurrence of the city attorney, may from time to time promulgate administrative rules and regulations.

5.14.220 Apportionment.

(A) None of the tax provided for by this chapter shall be applied so as to occasion an undue burden upon interstate commerce or be in violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California.

(B) If any case where a cannabis tax is believed by a taxpayer to place an undue burden upon interstate commerce or be in violation of such constitutional clauses, the taxpayer may apply to the tax administrator for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one year after the date of payment of the tax. If the taxpayer does not

request in writing within one year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.

(C) The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the tax administrator may deem necessary in order to determine the extent, if any, of such undue burden or violation. The tax administrator shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the tax administrator shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this chapter.

(D) Should the tax administrator determine that the gross receipt measure of tax to be the proper basis, the tax administrator may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the tax administrator.

5.14.230 Audit and examination of records and equipment.

(A) The tax administrator, or its designee, shall have the power to audit and examine all books and records of persons engaged in Cannabis business including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in Cannabis business, and, where necessary, all equipment, of any person engaged in Cannabis business in the city, for the purpose of ascertaining the amount of cannabis tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant 5.14.260 through 5.14.280 of any taxes estimated to be due.

(B) It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the tax administrator shall have the right to inspect at all reasonable times.

5.14.240 Tax deemed debt to city.

The amount of any tax, penalties and interest imposed by the provisions of this chapter shall be deemed a debt to the city and any person carrying on any Cannabis business without first having paid

such tax shall be liable in an action in the name of the city in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

5.14.250 Deficiency determinations.

If the tax administrator is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 5.14.260 through 5.14.280.

5.14.260 Tax assessment - Authorized when - Nonpayment - Fraud.

(A) Under any of the following circumstances, the tax administrator may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

(1) If the person has not filed any statement required under the provisions of this chapter;

(2) If the person has not paid any tax due under the provisions of this chapter;

(3) If the person has not, after demand by the tax administrator, filed a corrected statement, or furnished to the administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter;

(4) If the tax administrator determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.

(B) The notice of assessment shall separately set forth the amount of any tax known by the tax administrator to be due or estimated by the tax administrator, after consideration of all information within the

tax administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

5.14.270 Tax assessment - Notice requirements.

The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the tax administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the tax administrator for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

5.14.280 Tax assessment - Hearing - Application and determination.

Within ten days after the date of service the person may apply in writing to the tax administrator for a hearing on the assessment. If application for a hearing before the city is not made within the time herein prescribed, the tax assessed by the tax administrator shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the tax administrator shall cause the matter to be set for hearing before him or her not later than thirty-five days after the receipt of the application, unless a later date is agreed to by the tax administrator and the person requesting the hearing. Notice of such hearing shall be given by the tax administrator to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment, as made by the tax administrator should not be confirmed and fixed as the tax due. After such hearing the tax administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 5.14.270 for giving notice of assessment.

5.14.290 Conviction for chapter violation -Taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

5.14.300 Violation deemed misdemeanor - Penalty.

Any person violating any of the provisions of this chapter or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine

of not more than five hundred (\$500) dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

5.14.310 Severability.

Should any provision of this chapter, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

5.14.320 Effect of state and federal reference/ authorization.

(A) Unless specifically provided otherwise, any reference to a state or federal statute in this chapter shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

(B) To the extent that the city's authorization to collect or impose any tax imposed under this chapter is expanded as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.

5.14.330 Remedies cumulative.

All remedies and penalties prescribed by this chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

5.14.340 Amendment or modification.

Chapter 5.14 of the King City Code may be amended or modified by the City Council without a vote of the people. However, as required by Chapter

XIIIC of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this chapter. The people of the City of King affirm that the following actions shall not constitute an increase of the rate of a tax:

(A) The restoration of the rate of the tax to a rate that is no higher than the Maximum Tax for any Person permitted by this chapter, if the City Council has acted to reduce the rate of the tax;

(B) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;

(C) The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or

(D) The collection of the tax imposed by this chapter, even if the city had, for some period of time, failed to collect the tax.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The people of the City of King City hereby declare that they would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. ENVIRONMENTAL COMPLIANCE. The findings establishing that this Ordinance is in compliance with the California Environmental Quality Act ("CEQA") are the same as those set forth in the City Council's Resolution No. _____ calling for an election on this Ordinance. The CEQA findings in Resolution No. _____ are incorporated herein by this reference.

SECTION 4. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of a City tax and shall take effect immediately.

This Ordinance was approved and adopted by the People of the City of King City at the City's November 3, 2020 statewide election.

This Ordinance was approved by Declaration of the vote by the City Council of the City of King City on November __ XX 2020.