

REGULAR MEETING OF THE MADERA CITY COUNCIL

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

Wednesday, May 3, 2017
6:00 p.m.

Council Chambers
City Hall

CALL TO ORDER

ROLL CALL: Mayor Andrew J. Medellin
Mayor Pro Tem Cece Foley Gallegos, District 1
Council Member Jose Rodriguez, District 2
Council Member Donald E. Holley, District 6
Council Member Derek O. Robinson Sr., District 4
Council Member William Oliver, District 3
Council Member Charles F. Rigby, District 5

INVOCATION: Pastor Fred Thurman, New Life Assembly

PLEDGE OF ALLEGIANCE:

PUBLIC COMMENT:

The first fifteen minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Mayor has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

INTRODUCTIONS Mark Souders, Information Services Manager

A. WORKSHOP

A-1 Madera Police Department Annual Report (Presentation by Steve Frazier)

B. CONSENT CALENDAR

B-1 Minutes – There are no minutes for consideration.

- B-2 Information Only – Warrant Disbursement Report
- B-3 Bi-Weekly Water Conservation Report for 4/10/17 - 4/23/17 (Report by Dave Randall)
- B-4 Consideration of a Minute Order Acceptance of the Construction of Thomas Jefferson Middle School Safe Routes to School Along Sunset Avenue, Pine Street to Schnoor Avenue Project Number SR2SL 5157-091 City Project No. ST 14-06 (Report by Keith Helmuth)
- B-5 Consideration of a Resolution Approving Amendment No. 1 to the Professional Engineering Design Services Agreement with Giersch & Associates Inc. for Sewer Main Replacements at Sherwood Way and Wessmith Way Near Lake Street (Report by Keith Helmuth)
- B-6 Consideration of a Resolution Approving an Agreement with Nan McKay and Associates, Inc. to Provide Community Development Block Grant Fair Housing Education/Training and Auditing Services and Authorizing the Mayor to Execute the Agreement (Report by Ivette Iraheta)
- B-7 Consideration of a Resolution Approving an Amendment to the 16/17 Fiscal Year Budget to Appropriate Funds for the Acquisition of Real Estate and Easements for the Sharon Boulevard Infrastructure Improvements (Report by Dave Merchen)
- B-8 Consideration of a Resolution Approving a Contract with Sam Balbas Painting for Exterior Painting Services at the John W. Wells Youth Center and Authorizing the Mayor to Sign on Behalf of the City (Report by John Scarborough)

C. HEARINGS, PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS

- C-1 A Continued Public Hearing to Consider an Appeal by Mr. David Delawder of Planning Commission Approval for Conditional Use Permit 2017-07 and Site Plan Review 2017-08, which Allows for Three Outdoor Automotive Sales Events to be Held by 365 Autos in the Madera Marketplace Wal-Mart Parking Lot during 2017 and;

Consideration of a Resolution of Determination on Appeal (Report by Chris Boyle)
- C-2 Consideration of a Resolution Approving a Second Amendment to the City Clerk At-Will Employment Agreement Relating to Ceasing Receipt of a Technology Allowance and Authorizing the Mayor to Execute the Amendment (Report by Wendy Silva)

D. WRITTEN COMMUNICATIONS

There are no items for this section.

E. ADMINISTRATIVE REPORTS

- E-1 Presentation of the Preliminary City of Madera Enterprise Fund Budgets for Fiscal Year 2017/2018 (Report by Tim Przybyla)
- E-2 Presentation of the Preliminary City of Madera General Fund Budgets for Fiscal Year 2017/2018 (Report by Tim Przybyla)
- E-3 Council's Selection of a Date for the 2017/2018 Budget Workshop (Report by Tim Przybyla)

F. COUNCIL REPORTS

G. CLOSED SESSION

G-1 Closed Session Announcement – City Attorney

G-2 Conference with Real Property Negotiators - Pursuant to Government Code Section 54956.8

Property: 1 Parcel

City of Madera APN: 009-331-018

Agency Negotiators: David Tooley, David Merchen

Negotiating Parties: King Husein, Tim Mitchell, Julia Peña

Under Negotiations: Price and Terms

G-3 CONFERENCE WITH LABOR NEGOTIATORS - Pursuant to California Government Code Section 54957.6

Agency Designated Representatives: David Tooley and Wendy Silva

Employee Organizations: General Bargaining Unit
Mid Management Group
Madera Police Officers' Association
Law Enforcement Mid Management Group
Management Employees

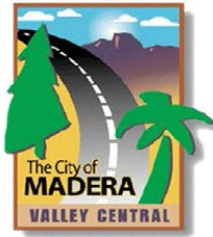
G-4 Closed Session Report – City Attorney

ADJOURNMENT – Next regular meeting May 17, 2017

-
- Please silence or turn off cell phones and electronic devices while the meeting is in session.
 - Regular meetings of the Madera City Council are held the 1st and 3rd Wednesday of each month at 6:00 p.m. in the Council Chambers at City Hall.
 - Any writing related to an agenda item for the open session of this meeting distributed to the City Council less than 72 hours before this meeting is available for inspection at the City of Madera Office of the City Clerk, 205 W. 4th Street, Madera, California 93637 during normal business hours.
 - The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Request for additional accommodations for the disabled, signers, assistive listening devices, or translators needed to assist participation in this public meeting should be made at least seventy two (72) hours prior to the meeting. Please call the Human Resources Office at (559) 661-5401. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service.
 - Questions regarding the meeting agenda or conduct of the meeting, please contact the City Clerk's office at (559) 661-5405.
 - Para asistencia en Español sobre este aviso, por favor llame al (559) 661-5405.
-

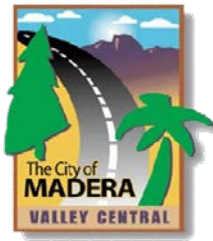
I, Sonia Alvarez, City Clerk for the City of Madera, declare under penalty of perjury that I posted the above agenda for the regular meeting of the Madera City Council for May 3, 2017, near the front entrances of City Hall at 3:00 p.m. on April 28, 2017.


Sonia Alvarez, City Clerk



**Madera City Council Agenda 05/03/17
Agenda Item A-1**

**Presentation only.
There is no written report for this item.**



**Madera City Council Agenda 05/03/17
Agenda Item B-1**

There are no minutes for consideration.

City of Madera

Council Meeting Of May 3rd, 2017
Agenda Item No. B-2

Memorandum To: The Honorable Mayor,
City Council and City Administrator

From: Office of the Director of Finance

Subject: Listing of Warrants Issued

Date: 05/03/2017

Attached, for your information, is the register of the warrants for the City of Madera covering obligations paid during the period of:

April 11th, 2017 to April 24th, 2017

Each demand has been audited and I hereby certify to their accuracy and that there were sufficient funds for their payment.

General Warrant:	12873-12984	\$	926,703.81
Wire Transfer	Union Bank Payroll and Taxes	\$	620,942.21
Wire Transfer	SDI	\$	2,102.43
Wire Transfer	Cal Pers	\$	0.00

Respectfully submitted,



Tim Przybyla
Financial Services Director

CITY OF MADERA
REGISTER OF AUDITED DEMANDS FOR BANK #1-UNION BANK GENERAL ACCOUNT
April 24th, 2017

CHECK	PAY DATE	ISSUED TO	DESCRIPTION	AMOUNT
12873	04/14/2017	ADMINISTRATIVE SOLUTIONS INC.	FUNDS ON DEPOSIT FOR MEDICAL CLAIMS	40,000.00
12874	04/14/2017	AL VASQUEZ CONSTRUCTION	ABATEMENT COSTS	2,000.00
12875	04/14/2017	AMERICAN BUSINESS MACHINES	PRINTER REPAIR NOT UNDER SERVICE CONTRACT	163.67
12876	04/14/2017	ANDY'S SPORTS AND DESIGN	GREEN MARBLE AWARD - EMPLOYEE OF THE MONTH	75.43
12877	04/14/2017	ARAMARK UNIFORM SERVICES	02/17 UNIFORM SERVICES	4,020.26
12878	04/14/2017	AT&T	02/17 CALNET 3 SVS 9391026394	989.24
12879	04/14/2017	BEST UNIFORMS	MOTOR BREECHES	377.91
12880	04/14/2017	MARTINEZ, JAVIER	REFUND FEES FOR CUP 2017-08	1,768.00
12881	04/14/2017	BSK ASSOCIATES	MATERIAL INSPECTION AND LABOR APR - JUNE 2016	3,903.40
12882	04/14/2017	CALIFORNIA DEPARTMENT OF JUSTICE	FINGERPRINT APPS	490.00
12883	04/14/2017	CITY OF MADERA	04/17 UTILITIES ACCT# 003040421-6	71.08
12884	04/14/2017	CITY OF MADERA	04/17 UTILITIES ACCT# 003040431-8	71.55
12885	04/14/2017	CITY OF MADERA	04/17 UTILITIES ACCT# 003040441-0	111.00
12886	04/14/2017	CONCENTRA MEDICAL CENTERS	PRE EMPLOYMENT PHYSICALS	515.00
12887	04/14/2017	CORELOGIC INFORMATION SOLUTIONS INC	REALQUEST 03/17	325.00
12888	04/14/2017	CPS HR CONSULTING	SERGEANT WRITTEN EXAM	409.20
12889	04/14/2017	CREATIVE COPY	SENIOR TICKETS	305.39
12890	04/14/2017	CROP PRODUCTION SERVICES	PESTICIDES	284.35
12891	04/14/2017	DATAPROSE, LLC	MARCH 2017 STATEMENTS/ NEWLETTER/ 48HR NOTICE	16,434.20
12892	04/14/2017	DIAMOND COMMUNICATIONS	ANNUAL U.L FIRE CERTIFICATION	275.00
12893	04/14/2017	DIVISION OF THE STATE ARCHITECT	SB 1186 FEES QTR 3 FY 16/17	30.90
12894	04/14/2017	ANTONIO, RAFAEL	BOND RELEASE FOR ENROACHMENT PERMIT #5080	500.00
12895	04/14/2017	COLOMER, BILLY	BOND RELEASE FOR ENROACHMENT PERMIT #5082	500.00
12896	04/14/2017	ENNIS TRAFFIC SAFETY SOLUTIONS	Traffic Paint	42,927.61
12897	04/14/2017	ENTENMANN-ROVIN CO	BADGES	329.17
12898	04/14/2017	FORENSIC NURSE SPECIALISTS, INC.	FRESNO SART	3,700.00
12899	04/14/2017	FRESNO MADERA AREA AGENCY ON AGING	UNSERVED MEALS	52.80
12900	04/14/2017	GEIL ENTERPRISES, INC.	AUTOSCRUB THE BREEZEWAY 3/31/17	575.00
12901	04/14/2017	GOVERNMENT STAFFING SERVICES, INC.	PW Dept Admin Asst. temp staff - Invoice 127149	2,666.25
12902	04/14/2017	LANGUAGE LINE SERVICES, INC.	TRANSLATION SERVICES	23.64
12903	04/14/2017	MADERA CLEANERS AND LAUNDRY INC.	YOUTH CENTER MAT SERVICE	32.30
12904	04/14/2017	MADERA UNIFORM & ACCESSORIES	UNIFORMS FOR POLICE DEPARTMENT	154.78
12905	04/14/2017	MOLINA, HUMBERTO	PER DIEM 2017 CWEA ANNUAL CONFERENCE	648.64
12906	04/14/2017	PACIFIC GAS & ELECTRIC	03/17 SVS 3642526071-2	2,070.14
12907	04/14/2017	CHRISTMAN, PHILIP	PARK DEPOSIT REFUND	370.00
12908	04/14/2017	PALOMINO, ROSALIA	PARK DEPOSIT REFUND	50.00
12909	04/14/2017	SANTOS, ALICIA	PARK DEPOSIT REFUND	50.00
12910	04/14/2017	ZAMBRANO, ANGIE	PARK DEPOSIT REFUND	50.00
12911	04/14/2017	PURCHASE POWER	POSTAGE	20.00
12912	04/14/2017	ROBINSON, DEREK	PER DIEM LOCC POLICY COMMITTEE MILEAGE ONLY	295.32
12913	04/14/2017	SEAL RITE PAVING	THOMAS JEFFERSON MIDDLE SCHOOL	108,498.08
12914	04/14/2017	SPEAKWRITE LLC	INVESTIGATION - JOB NUMBER 17065, 17079, 17089	1,224.86
12915	04/14/2017	STATE WATER RESOURCES CONTROL BOARD	WWTP OPERATOR CERTIFICATE RENEWAL	300.00
12916	04/14/2017	TESEI PETROLEUM INC.	FUEL PURCHASE 3/21/17 - 3/26/17	482.23
12917	04/14/2017	THE ARC FRESNO	CITY CAN ORDERS MAR 2017	2,232.81
12918	04/14/2017	THYSSENKRUPP ELEVATOR CORPORATION	YOUTH CENTER ELEVATOR SERVICE	250.32
12919	04/14/2017	TRANSUNION RISK & ALTERNATIVE DATA SOL.	DATABASE ACCESS MARCH 2017	111.00
12920	04/14/2017	VERIZON WIRELESS	CITY CELL PHONE CHARGES FEB 11 - MAR 10	5,862.37
12921	04/14/2017	WEST VALLEY CONSTRUCTION CO. INC.	COMMERCIAL WATER METER INSTALL	2,670.40
12922	04/14/2017	WILLDAN FINANCIAL SERVICES	CFD FEES FOR JANUARY 2017	800.25
12923	04/14/2017	WILLDAN FINANCIAL SERVICES	CFD FEES FOR APRIL 2017	1,058.09
12924	04/21/2017	ADMINISTRATIVE SOLUTIONS INC.	CITY PAID RETIREE MEDICAL BILL MAY 2017	3,219.71
12925	04/21/2017	ADMINISTRATIVE SOLUTIONS INC.	MONTHLY ADMINISTRATIVE FEE APRIL 2017	4,450.50
12926	04/21/2017	AKEL ENGINEERING GROUP, INC.	PROFESSIONAL ENGINEERING SERVICE	2,324.00
12927	04/21/2017	ALL VALLEY ADMINISTRATORS	ADMIN FEES FOR APRIL 2017	102.00
12928	04/21/2017	ALL VALLEY ADMINISTRATORS	MEDICAL AND CHILD CARE EXP ACCT 04/21/2017 PAYROLL	731.16
12929	04/21/2017	AMERICAN BUSINESS MACHINES	COPIER LEASE AGREEMENT APRIL 2017	1,197.17
12930	04/21/2017	AMERICAN LEGAL PUBLISHING CORPORATION	MUNI CODE S-40 FOLIO	170.94
12931	04/21/2017	AT&T	02/17 CALNET 3 SVS 9391026396	803.20
12932	04/21/2017	VIVINT SOLAR	CANCELLED PERMIT #20162210	132.94
12933	04/21/2017	BOTWRIGHT JR., JOHN D.	PER DIEM CRWA 2017 EXPO	165.75
12934	04/21/2017	BROOKS, ERIC	PER DIEM CRWA 2017 EXPO	165.75
12935	04/21/2017	BSK ASSOCIATES	PERMIT COMPLIANCE LAB WORK	652.00
12936	04/21/2017	CANON FINANCIAL SERVICES	COPIER CHARGES	4,353.72
12937	04/21/2017	CITY OF MADERA	0417 UTILITY SVS 322 W 6TH ST	152.94
12938	04/21/2017	CITY OF MADERA	04/17 UTILITIES 703 SHERWOOD WAY	179.17

12939	04/21/2017	COLONIAL LIFE & ACCIDENT INSURANCE CO	#E700482-3 FOR 4/21/2017 PAYROLL	1,080.04
12940	04/21/2017	CONCENTRA MEDICAL CENTERS	PRE EMPLOYMENT PHYSICAL	223.50
12941	04/21/2017	COSTTREE, LLC	ANNUAL LICENSE AGREEMENT 06/09/17 TO 06/09/18	2,499.00
12942	04/21/2017	DIAMOND COMMUNICATIONS	PAN AM FIRE ALARM	26.00
12943	04/21/2017	PURE HM US, INC.	BOND RELEASE FOR ENROACHMENT PERMIT #4858	10,000.00
12944	04/21/2017	ESTEVEZ, BRIAN	PER DIEM POST MGMT COURSE BLOCK C	288.00
12945	04/21/2017	FIRE SAFETY SOLUTIONS, LLC	FIRE PROTECTION ENG SVS 04/01/17-04/15/17	8,268.75
12946	04/21/2017	FIRST TRANSIT INC.	FIRST TRANSIT MARCH 2017	82,736.47
12947	04/21/2017	FLOYD JOHNSTON CONSTRUCTION CO., INC.	EMERGENCY REPAIR ASSOCIATED W/ SINK HOLE	4,806.64
12948	04/21/2017	FRESNO REPROGRAPHICS	PRINT JOB	90.97
12949	04/21/2017	GIERSCH & ASSOCIATES, INC.	PROFESSIONAL ENGINEERING DESIGN	8,925.63
12950	04/21/2017	GOLDEN STATE OVERNIGHT	OVERNIGHT SHIPPING	176.61
12951	04/21/2017	GRANITE CONSTRUCTION	Apron Reconstruction Project P	138,962.33
12952	04/21/2017	JOHNSON REAL ESTATE APPRAISAL	920 SONORA ST APPRAISAL	450.00
12953	04/21/2017	M A C E A	APRIL 2017 MONTHLY DUES	24.00
12954	04/21/2017	M P O A	APRIL 2017 MONTHLY DUES	6,919.26
12955	04/21/2017	M.C.E.A.	APRIL 2017 MONTHLY DUES	400.00
12956	04/21/2017	MADERA CLEANERS AND LAUNDRY INC.	MAT CLEANING	4.50
12957	04/21/2017	MADERA COUNTY TREASURER	MARCH 2017 PARKING PENALTIES	324.00
12958	04/21/2017	MADERA DOWNTOWN ASSOC.	FY 16/17 3RD QTR ASSESSMENTS	1,109.21
12959	04/21/2017	MATHIES, MICHAEL	PER DIEM CRWA 2017 EXPO	165.75
12960	04/21/2017	MCCOMBS, MATTHEW	PER DIEM PATROL RIFLE INSTRUCTOR	280.50
12961	04/21/2017	N.P.C.-ORCHARD TRUST COMPANY	PLAN #340227-01 FOR 4/21/2017 PAYROLL	8,334.31
12962	04/21/2017	N.P.C.-ORCHARD TRUST COMPANY	PLAN #340227-02 FOR 4/21/2017 PAYROLL	2,734.44
12963	04/21/2017	NOLAN MCGUIRE CONSTRUCTION	CalHome OOR 12-08 / 920 Sonora St.	5,359.00
12964	04/21/2017	OMNI-MEANS, LTD	PROFESSIONAL PROJECT DEVELOPMENT	6,449.19
12965	04/21/2017	OPERATING ENGINEERS, LOCAL #3	APRIL 2017 MONTHLY DUES	376.00
12966	04/21/2017	DAHL, JARRED	TURF REPLACEMENT REBATE	1,000.00
12967	04/21/2017	SUNDOWNER INSULATION	MISAPPLIED CK #50856 TO UB ACT FOR BUILDING PERMIT	519.63
12968	04/21/2017	PACIFIC GAS & ELECTRIC	03/17 SVS 5207933925-6	99,519.08
12969	04/21/2017	PECK'S PRINTERY	WATER CITATION FORMS	1,068.43
12970	04/21/2017	PHOENIX GROUP INFO SYS	MAR 2017 PARKING CITATIONS	348.30
12971	04/21/2017	PITNEY BOWES, INC.	POSTAGE MACHINE LEASE	245.67
12972	04/21/2017	PROVOST & PRITCHARD CONSULTING GROUP	PROFESSIONAL ENGINEERING DESIGN	26,265.47
12973	04/21/2017	REGENCE BLUECROSS BLUESHIELD OF UTAH	CITY PAID RETIREE MEDICAL BILL DAVID CHUMLEY 05/17	175.00
12974	04/21/2017	SEAL RITE PAVING	THOMAS JEFFERSON MIDDLE SCHOOL	40,860.30
12975	04/21/2017	SPARKLETT'S	LAB & DRINKING WATER	195.73
12976	04/21/2017	STATE WATER RESOURCES CONTROL BOARD	WWTP OPERATOR CERTIFICATE RENEWAL	230.00
12977	04/21/2017	STEVE DOVALI CONSTRUCTION	Previous PO 8018 in Mais - Project CNG 11-01	16,317.85
12978	04/21/2017	SYSCO OF CENTRAL CALIFORNIA	EGGSTRAVAGANZA	246.58
12979	04/21/2017	TAMARACK PEST CONTROL	APRIL 2017 PEST CONTROL SVS	30.00
12980	04/21/2017	TESEI PETROLEUM INC.	FUEL PURCHASE 04/01/17 - 04/10/17	311.63
12981	04/21/2017	THRIVE FITNESS	APRIL 2017 MONTHLY DUES	52.00
12982	04/21/2017	CRUZ ESPERANZA	Utility Billing Credit Refund	126.87
12983	04/21/2017	US BANK CORPORATE PAYMENT SYSTEMS	03/17 CAL-CARD CHARGES	154,031.16
12984	04/21/2017	VANTAGEPOINT TRANSFER AGENTS-457	PLAN #302351 CONTRIBS FOR 4/21/17 PAYROLL	24,218.42
Bank # 1 - Union Bank General Account Total				926,703.81

REPORT TO CITY COUNCIL

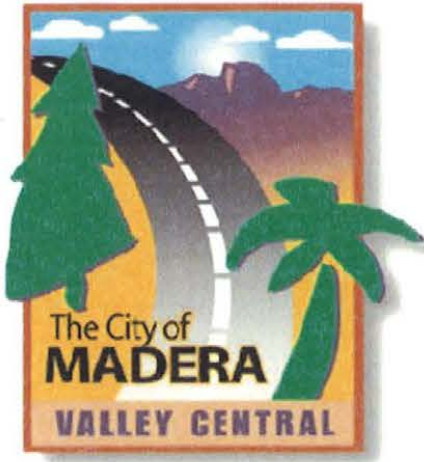
MEETING DATE: May 3, 2017

AGENDA ITEM NUMBER: B-3

Approved By:


PUBLIC WORKS DIRECTOR

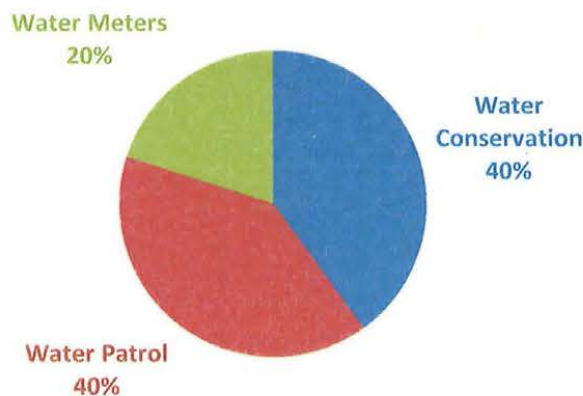

CITY ADMINISTRATOR



SUBJECT: Bi-Weekly Water Conservation Report for April 10th through April 23rd.

RECOMMENDATION: Staff recommends that the Council review the attached bi-weekly report of water conservation activities and progress in reducing residential water consumption.

BACKGROUND: The Water Conservation Unit is split between three different areas of focus: Water Conservation, Water Patrol and Water Meters. This varies throughout the year depending on weather and seasonal tasks. Below is the approximate distribution of efforts in the Unit during the bi-weekly reporting period.

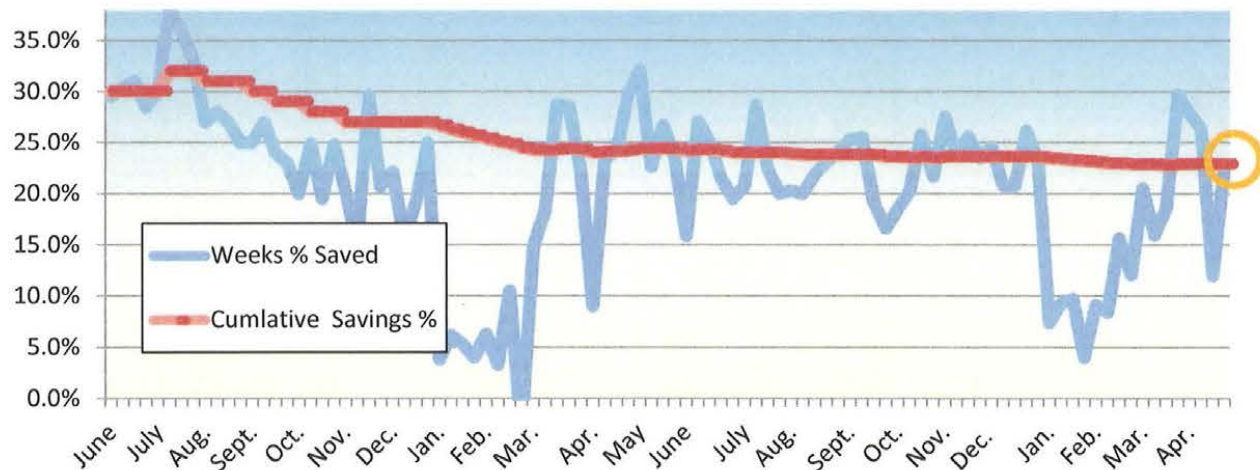


WATER CONSERVATION: As illustrated below, the City's water conservation rate was down from 23% in the last bi-weekly reporting to 17% in this report. The monthly conservation rate for the first three weeks of April is up from 19% in 2016 to 22% in 2017. Below is the most current water conservation data.

Bi-Weekly
Apr. 10 th – 23 rd
17%

Monthly
April 1 st – 23 rd
22%

Cumulative
June 1 st , 2015 April 23 rd , 2017
22.9%



As part of our local outreach and education, water conservation presentations were made at three local elementary schools; handouts were distributed to 309 kids. Additionally, the Water Conservation Unit participated in Earth Day outreach which resulted in 150 community contacts.

Conservation Outreach	
3 Public Presentations (309 Participants)	
Earth Day (150 Participants)	

WATER PATROL: The water patrol staff made 112 individual public contacts. Below is the most current enforcement data.

Enforcement			
Individual Contacts	112	1st offenses (\$75)	25
Verbal Warnings	4	2nd offenses (\$250)	1
Correction Notices	29	3rd or more offense (\$500)	0

WATER METERS: During this bi-weekly period, the Water Conservation Unit completed the reading of the City's manual read meters, needed for the billing process, and began to process service interruptions and restorations due to payment delinquencies.

In addition, staff responded to various customer complaints regarding meters and consumption issues, which resulted in leak discovery at some of the properties. Meters that were reporting zero flow were investigated which resulted in repairs and/or replacement of the meters.


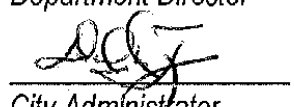
The Unit also began assisting the Engineering Department surveying properties and compiling information to be used for future project development.

FINANCIAL IMPACT: The expenses for implementing and administering these water conservation activities occur within the Water Fund and do not impact the General Fund.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN: While the proposed actions are not specifically addressed as part of the Plan, they are not in conflict with it and are sympathetic of the underlying principles of the 2025 Plan.



REPORT TO CITY COUNCIL

Approved By: 
Department Director

City Administrator

Council Meeting of May 3, 2017

Agenda Item No. B-4

SUBJECT: MINUTE ORDER – ACCEPTANCE OF THE CONSTRUCTION OF THOMAS JEFFERSON MIDDLE SCHOOL SAFE ROUTES TO SCHOOL ALONG SUNSET AVENUE, PINE STREET TO SCHNOOR AVENUE PROJECT NUMBER SR2SL 5157-091 CITY PROJECT No. ST 14-06

RECOMMENDATION:

1. That the City Council approve Minute Order approving:
 - a. Acceptance of the Thomas Jefferson Middle School Safe Routes to School along Sunset Avenue, Pine Street to Schnoor Avenue Project Number SR2SL 5157-091 City Project No. ST 14-06.
 - b. The recording of the Notice of Completion.
2. The release of retention after 35 days from recording of the Notice of Completion.

SUMMARY:

The City Council, at their January 4, 2017 meeting, awarded a contract to Witbro, Inc. dba Seal Rite Paving & Grading, for the Construction of Thomas Jefferson Middle School Safe Routes to School along Sunset Avenue, Pine Street to Schnoor Avenue Project Number SR2SL 5157-091 City Project No. ST 14-06. The Contractor has completed the project in accordance with the plans and specifications. It is staff's recommendation that the City Council accept the project.

SITUATION:

The City of Madera received Safe Routes to School funds for the construction of pedestrian facilities on Sunset Avenue.

Engineering

205 W. Fourth Street • Madera, CA 93637 • TEL (559) 661-5418 • FAX (559) 675-6605

www.cityofmadera.ca.gov

The project consisted of the following components: construction of sidewalk, handicap ramps, driveway and alley approaches, minor curb and gutter repair, and the installation of rectangular rapid flashing beacons for Thomas Jefferson Middle School project.

A final project inspection was held and Public Works Department and Engineering Division have accepted the project. The project can now be accepted by the City Council and a "Notice of Completion" recorded. The final progress payment less the retention amount of five percent has been processed. The original contract amount was \$285,182.00.

Two contract change orders have been processed for scope of work added and credited/deducted to the project as tabulated below.

Contract Change Order(s)

Change Order No. 1

CCO	Item Description	Amount
1-1	Additional work to demolition of ramp, SW corner of Fairview and Sunset Avenue, modified driveway approach south side of Sunset between Fairview and Rotan.	\$ 1,846.20
1-2	Additional work to remove curb and gutter 5' behind radius point to meet ADA ramps transitions on each side of ramps at SE Sunset and Willis and SW and SE Sunset and Fairview	\$ 2,913.54
1-3	Additional work to remove curb and gutter 5' behind radius point to meet ADA ramps transitions on each side of ramps at SW Sunset and Paul and SE Sunset and Paul. 1 Day	\$ 4,130.16
1-4	Additional work to sawcut, demo and subgrade and compact extra 5' of each side of ramp on Orchard and Sunset Avenue to obtain ADA compliance.	\$ 807.18
1-5	Additional cost to install U-23 inlet at Alley with pipe. Work required to mitigate drainage issues caused by project. 1 day	\$ 4,500.00
Total Additive Amount - - -		\$14,197.08

Change Order No. 2

CCO	Item Description	Amount
2-1	Balancing Change order for Bid Item No. 5 Asphalt Concrete Type B. Additional 743.5 SF paid per bid item.	\$ 3,665.46
2-2	Balancing Change order for Bid Item No. 6 8"-9" Curb and Gutter. Additional 1.6 LF paid per bid item.	\$ 52.80
2-3	Balancing Change order for Bid Item No. 7 Concrete Sidewalk. Credit for 3,157 SF paid per bid item.	\$ (13,890.80)
2-4	Balancing Change order for Bid Item No. 10 ADA Ramp with truncated domes. Additional 7.44 SF paid per bid item.	\$ 65.47
2-5	Weather days.	\$ 0
2-6	Additional days required to accommodate delivery of RRFB device. The supplier made an initial shipping error.	\$ 0
Total Additive Amount - - -		\$3,783.73
Total Deductive Amount - - -		(\$13,890.80)
Total Change Order 2-----		(\$10,107.07)

The total cost of the Change Order is an additive in the amount of \$4,090.01 increasing the cost of the project approximately 1.43% to \$289,272.01.

The construction project was completed within the contract time and budgeted amount.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Strategy 121.8 – Promote an encourage walking within the City.

Strategy 126.0 – Create safe streets.

RECORDING REQUESTED BY:
CITY OF MADERA

AND WHEN RECORDED MAIL TO:
CITY OF MADERA – CITY CLERK
205 W. 4TH STREET
MADERA, CA 93637

SPACE ABOVE THIS LINE FOR RECORDER'S USE
FEE WAIVED PER SECTION 27383 OF THE GOVERNMENT CODE - NO DOCUMENT TAX DUE \$ -0-

NOTICE OF COMPLETION

Corporation

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is owner of the interest or estate stated below in the property hereinafter described,
2. The full name of the undersigned is City of Madera
3. The full address of the undersigned is 205 West 4th Street; Madera, CA 93637
4. The nature of the title of the undersigned is: In fee Public Improvements
(If other than fee, strike "In fee" and insert, for example, "purchaser under contract of purchase," or "lessee")
5. The full names and full addresses of all persons, if any, who hold title with the undersigned as joint tenants or as tenants in common are:

NAMES

ADDRESSES

N/A

6. A work of improvement on the property hereinafter described was completed on MAY 3, 2017
7. The name of the original contractor, if any, for such work of improvement was Witbro, Inc. dba Seal Rite Paving & Grading
(If no contractor for work of improvements as a whole, insert "none".)
8. The full name(s) and address (es) of the transferor(s) of the undersigned is (are):

NAMES

ADDRESSES

N/A

(Complete where undersigned is successor to owner who caused improvement to be constructed)

9. The property on which said work of improvement was completed is in the City of Madera
County of Madera, State of California, and is described as follows:

Thomas Jefferson Middle School Safe Routes to School along Sunset Avenue, Pine Street to Schnoor Avenue Project Number SR2SL 5157-091 City Project No. ST 14-06

10. The street address of said property is Madera City Limits
(If no street address has been officially assigned, insert "none".)

(Signature of Owner named In Paragraph 2)

Dated: _____

Keith Brent Helmuth, P.E.
City Engineer

10. Continued

**Thomas Jefferson Middle School Safe Routes to School along Sunset Avenue, Pine Street
to Schnoor Avenue Project Number SR2SL 5157-091 City Project No. ST 14-06**

STATE OF CALIFORNIA
County of Madera

Keith Brent Helmuth, being duly sworn says: That he is the City Engineer of the City of Madera,
The corporation that executed the foregoing notice as owner of the aforesaid interest or estate in the
property therein described; that he makes this verification on behalf of said corporation;
That he has read said notice and knows the contents thereof, and that the facts therein stated are true:

Signature of Officer: _____

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

State of California
County of Madera

Subscribed and sworn to (or affirmed) before me on this 3rd day of May, 2017, by Keith Brent Helmuth, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

_____(Seal)
Sonia Alvarez, City Clerk



REPORT TO CITY COUNCIL

Approved By:


Department Director

Council Meeting of May 3, 2017

Agenda Item Number B-5


City Administrator

SUBJECT: APPROVAL - RESOLUTION APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL ENGINEERING DESIGN SERVICES AGREEMENT WITH GIERSCH & ASSOCIATES INC. FOR SEWER MAIN REPLACEMENTS AT SHERWOOD WAY AND WESSMITH WAY NEAR LAKE STREET

RECOMMENDATION:

That the City Council approves Resolution No. 17 - _____ approving Amendment No. 1 to the Professional Engineering Design Services Agreement with Giersch & Associates Inc. for Sewer Main Replacements at Sherwood Way and Wessmith Way near Lake Street.

SUMMARY:

Giersch & Associates Inc. has submitted an amendment to the original contract for additional professional engineering design services for the design of the replacement of an 8-inch sewer line in the alley bounded by Daulton and Riverside between Lake Street and Fresno Street. This line was recently identified by Public Works crews to be in imminent need of replacement. Funds are available for the additional costs in the established budgets.

DISCUSSION:

The City of Madera entered into an agreement with Giersch & Associates Inc. on December 21, 2016 to perform engineering design services for the replacement of a 10 inch sewer main along Wessmith Way east of Lake Street and a 12 inch sewer main along Sherwood Way west of Lake Street with new 15 inch diameter sewer mains.

Engineering

205 W. Fourth Street • Madera, CA 93637 • TEL (559) 661-5418 • FAX (559) 675-6605

www.cityofmadera.ca.gov

During routine maintenance by Public Works crews during the week of 12/26/16, the crews identified an 8-inch clay sewer line – bounded by Daulton and Riverside and between Lake Street and Fresno Street – with longitudinal splits at each side of the pipe and instances of root intrusion. The crews attempted to view the line with a camera but could not reach beyond 60 feet from the end due to the root intrusion. Public Works contacted the Engineering Department to request that the line be replaced.

Since this need was identified after the City and Giersch & Associates entered into the original agreement on December 21, 2016, this Amendment No. 1 will serve to add the design of the replacement of this line to this project. Construction of this sewer main replacement will be included in this project along with the replacement of the sewer mains on Sherwood Way and Wessmith Way.

Giersch & Associates has submitted a proposed amendment to their contract for additional engineering services required to complete design of the added alley sewer line replacement. These services include surveying and preliminary design, preparation of project plans, specifications, and estimate (PS&E), and engineering support during bidding and construction of the alley line replacement. The amendment proposal and fee for services is acceptable and reasonable in the opinion of staff.

Amendment No. 1 to the Agreement is attached with associated EXHIBIT A, "Amendment No. 1 Scope of Work" and EXHIBIT B, "Amendment No. 1 Manpower Schedule and Fee Summary."

FISCAL IMPACT:

There will be no impact to the City's General Fund by approving this amendment. The cost for the requested additional engineering services is \$11,005, bringing the total design contract cost to \$52,805, with a provision for an additional \$2,000 for extra services with approval of the City Engineer. These costs will be funded from the Sewer Utility Fund (20400-511).

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

Action 101.6 – This entire effort supports this strategy to ensure infrastructure can sustain population growth in the development of the General Plan.

RESOLUTION NO. 17 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL ENGINEERING DESIGN SERVICES AGREEMENT WITH GIERSCHE & ASSOCIATES INC. FOR SEWER MAIN REPLACEMENTS AT SHERWOOD WAY AND WESSMITH WAY NEAR LAKE STREET

WHEREAS, the City of Madera entered into an agreement with Giersch & Associates on December 21, 2016 for professional engineering design services related to the preparation of contract documents for construction of sewer main replacements at Sherwood Way and Wessmith Way near Lake Street; and

WHEREAS, Giersch & Associates Inc. has submitted Amendment No. 1 in response to the City's request to adjust the scope of the project as described therein; and

WHEREAS, adequate funds are available in the project budget for these additional costs.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, determines and orders as follows:

1. The above recitals are true and correct.
2. Amendment No. 1 to the Agreement for Professional Engineering Design Services for Sewer Main Replacements at Sherwood Way and Wessmith Way near Lake Street, a copy of which is on file in the office of the City Clerk and referred to for particulars, is hereby approved in an amount not to exceed \$11,005.
3. The Mayor is authorized to execute the Amendment as approved.
4. This resolution is effective immediately upon adoption.

* * * * *

**AMENDMENT NO. 1 TO AGREEMENT WITH GIERSCHE & ASSOCIATES
INC. FOR PROFESSIONAL ENGINEERING DESIGN SERVICES
FOR SEWER MAIN REPLACEMENTS AT SHERWOOD WAY
AND WESSMITH WAY NEAR LAKE STREET**

This Amendment No. 1 to the Agreement for Professional Engineering Design Services for Sewer Main Replacements at Sherwood Way and Wessmith Way near Lake Street, between the City of Madera, hereinafter called "CITY", and Giersch & Associates Inc., hereinafter called "CONSULTANT" is entered into this 3rd day of May, 2017.

WITNESSETH

WHEREAS, CITY plans to construct sewer main improvements along Sherwood Way and Wessmith Way near Lake Street in the City of Madera, California, hereinafter called "Project"; and

WHEREAS, CITY and CONSULTANT entered into an Agreement dated December 21, 2016 for Professional Engineering Design Services to design such sewer main improvements; and

WHEREAS, CITY has requested changes to the Scope of Work for the design of the Project; and

WHEREAS, Amendment No. 1 to Agreement is necessary to revise the Scope of Work and Compensation for the additional engineering services.

NOW THEREFORE:

The parties hereto mutually agree as follows:

In consideration of the recitals listed above and the mutual obligations of the parties herein, CITY and CONSULTANT agree that the Agreement for Professional Engineering Design Services for Sewer Main Replacements at Sherwood Way and Wessmith Way near Lake Street dated December 21, 2016 between CITY and CONSULTANT shall be amended as follows:

Item No. 2: SCOPE OF WORK of the Agreement shall be amended by adding the following:

2. SCOPE OF WORK:

CONSULTANT shall provide the professional engineering design services as set forth in EXHIBIT A, "Amendment No. 1 Scope of Work", attached hereto and incorporated herein by reference.

CONSULTANT accepts full responsibility for the scope of services provided by sub-consultants necessary for delivery of the project. CONSULTANT shall comply with applicable City of Madera design standards and requirements as directed by the CITY and applicable State and Federal requirements.

Item No. 5: COMPENSATION of the Agreement shall be amended by adding the following:

5. COMPENSATION

The basic fee based on the estimated hours of work shown in EXHIBIT B, "Amendment No. 1 Manpower Schedule and Fee Summary", attached hereto and incorporated herein by reference, for the work tasks itemized in EXHIBIT A, "Amendment No. 1 Scope of Work" is \$11,005. It is understood and agreed by both parties that all expenses incidental to Consultant's performance of services, including travel expenses, are included in the basic fee shown in EXHIBIT B.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to the Agreement to be executed as of the day and year first above written.

* * * * *

CITY OF MADERA

By: _____
Andrew J. Medellin, Mayor

GIERSCH & ASSOCIATES INC.

By: Michael L. Giersch
Michael Giersch, PE
President, Principal Engineer

94-2259021
Taxpayer I.D. Number

APPROVED AS TO FORM:

By: _____
Brent Richardson, City Attorney

ATTEST:

By: _____
Sonia Alvarez, City Clerk

ATTACHMENTS

EXHIBIT A
AMENDMENT NO. 1 SCOPE OF WORK

EXHIBIT B
AMENDMENT NO. 1 MANPOWER SCHEDULE AND FEE SUMMARY

EXHIBIT A

Amendment No. 1 Scope of Work

The City of Madera (hereafter City) and Giersch and Associates, Inc. (hereafter G&A) entered into an agreement on December 21, 2016 for the design of the replacement of a 10 inch sewer main along Wessmith Way east of Lake Street, and a 12 inch sewer main along Sherwood Way west of Lake Street with new 15 inch diameter sewer mains.

At the request of the City, G&A has prepared this Amendment No. 1 to the Agreement to include:

- The replacement of approximately 450 feet of an existing 8 inch dia. VCP located in Daulton Ave./Riverside Dr. alley between Lake St. and Fresno St., which sewer video inspections indicate is heavily damaged as a result of root intrusion. Replacement of said line with an 8 in. dia. PVC pipe is hereby added to the project. In addition to replacement of the existing main line sewer, service connections will be modified with the addition of clean out structures, and an existing brick manhole located at the intersection of the alley with Lake St. will be reconstructed in conformance with the City's S-1 Standard.
- The replacement of approximately 50 feet of an existing 8 inch diameter sanitary sewer in the "D" Street/Nebraska Ave. alley between Sherwood Way and the first manhole in the alley south of Sherwood Way.

The existing project tasks to be modified under this amendment are as follows:

Task 2 – Topographic Survey/Project Research

2.1 Right-of-Way and Utility Research

Research the location of the existing right of way boundaries for the added sewer main replacement. Contact utility companies to collect as-built data for existing utility facilities near the added sewer main replacement.

2.2 Field Topographic Survey

The preliminary survey will identify the following:

- Surface elevations at 25 foot intervals along the alley, at the centerline and edges, both for the improved and unimproved portions of the alley to determine current drainage patterns.
- Location and invert elevations of sanitary sewer manholes, sewer service laterals, water valves and meters, drop inlets (both location and invert elevations), utility boxes and structures, street lights, utility poles and guy wires.
- No additional topo survey will be done for the fifty foot replacement section, but survey elevations furnished by the City's GIS will be adjusted to be consistent with the datum of the improvement plans.

2.3 Base Plan Drafting

Prepare base plan CAD files for use in design and plan preparation for the added sewer main. This will include all data collected during the field topographic survey.

Deliverables – None

Task 3 – Conceptual Design (30%)

3.1 Preliminary Design

- Analyze sewer video, site conditions, and other available data; make recommendations for the length of alley sewer main needing replacement
- Evaluate and make recommendations for the most feasible and cost-effective method of replacing the added sewer main.
- Evaluate the condition of the existing manhole in Lake Street where the alley sewer main intersects, and make recommendations if replacement is warranted.
- Make recommendations for extent of improvement of existing alley surfacing, including resurfacing of the alley in PS&E if requested by City.

3.2 Plan Preparation

Prepare preliminary improvement plans showing proposed improvements and their location with respect the street center line, as well as all items identified in paragraph 2.2 “Field Topographic Survey.” The plans would include both a plan view, anticipated to be a 1”=40’ scale, as well as a profile view, anticipated to be a 1’=2’ scale.

Task 4 – Plans, Specifications and Estimate (60% PS&E)

Provide the services outlined in the original agreement for the added sewer main replacement

Task 5 – Plans, Specifications and Estimate (90% PS&E)

Provide the services outlined in the original agreement for the added sewer main replacement.

Task 6 – Final Contract Documents (100% PS&E)

Provide the services outlined in the original agreement for the added sewer main replacement.

Task 7 – Pre-Bid and Advertising Support Services

Provide the services outlined in the original agreement for the added sewer main replacement.

Task 8 – Construction Support Services

Provide the services outlined in the original agreement for the added sewer main replacement.

EXHIBIT B - Amendment No. 1 Manpower Schedule and Fee Summary
Addition of Sewer Main Replacement in Daulton Ave./Riverside Dr. Alley between Lake St. and Fresno St.

TASK		Note	Principal Engineer	Senior Engineer	2-Man Survey PW	Licensed Surveyor	CAD Surveyor	CAD Draftsman	Clerical/ Secretary	Total Station	Task Hours
1.	Preliminary Surveying			2	6	2				6	16
2.	Processing of Survey Data/Prelim. Layout			2				10			12
3.	Progress Meeting w/City (35%)										0
4.	Utility Coordination			5					1.5		7
5.	Preparation of PS&E		2	12				4	6.5		25
6.	Progress Meeting w/City (65%)										0
7.	Incorporation of Plan Review Comments, Develop Final Cost Estimate			4					3		7
8.	Bid Advertisement Support			1					2		3
9.	Construction Support		1	6							7
											0
											0
Subtotal Hours			3	32	6	2	0	14	13	6	76
Hourly Rate			\$140	\$130					\$75		
			\$420	\$4,160					\$975		\$5,555

Contingency (16%)
Project Deliverables

\$900
\$450

Estimated Cost of Additional Subconsultant Services

\$4,100

Estimated Overall Cost of Additional Consultant Services

\$11,005

Original Contract Cost

\$41,800

Contract Cost After Amendment No. 1

\$52,805



REPORT TO THE CITY COUNCIL

COUNCIL MEETING OF May 3, 2017

AGENDA ITEM NUMBER B-6

APPROVED BY


GRANT ADMINISTRATOR


CITY ADMINISTRATOR

SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING AN AGREEMENT WITH NAN McKAY AND ASSOCIATES INC. TO PROVIDE COMMUNITY DEVELOPMENT BLOCK GRANT FAIR HOUSING EDUCATION/TRAINING AND AUDITING SERVICES, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

RECOMMENDATION:

Staff recommends Council approve the Resolution to enter into the Agreement and authorize the Mayor to execute the Agreement.

DISCUSSION:

The Federal Fair Housing Act requires the Department of Housing and Urban Development (HUD), and HUD grantees, to administer its programs in such a way as to ensure equal opportunity to participate, without regard to an applicant's or beneficiary's

- | | | |
|-------------------|--------------------|--------------------|
| ➤ Race | ➤ Sex | ➤ Disability |
| ➤ Color | ➤ Familial status | (physical, mental, |
| ➤ National origin | (people with minor | developmental) |
| ➤ Religion | children) | |

Council approved the current City of Madera HUD Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI) May 6, 2015. Consolidated Plan regulations require each local government to submit a certification that it is affirmatively furthering fair housing. City of Madera's certification is contained in the recently adopted Consolidated Plan. The AI identifies barriers to fair housing faced by protected classes of people (listed above). Staff submitted both documents to HUD to support grant applications for Federal funding for housing programs over the five-year period from July 2015 to June 2020.

Madera residents and stakeholders participated in the public outreach opportunities for the Consolidated Plan and AI. According to the input received, Madera residents might be unaware of their fair housing rights. Staff has limited evidence of fair housing complaints; however, this may be a reflection of residents not understanding their rights and recognizing when discrimination occurs. Therefore, the AI identified fair housing education/training and auditing as top priorities. A definition of a fair housing audit is as follows:

In a fair housing audit, an individual from the white majority and an individual from a minority group, who have been matched according to their family and economic characteristics, successively visit a landlord or real estate broker in search of housing. By comparing the treatment minority and majority auditors receive, a researcher can isolate discrimination, which is defined as systematically less favorable treatment for the minority auditors.

Audits provide direct measures of discrimination and an unprecedented opportunity to study the circumstances under which discrimination occurs. (Yinger, 1986)¹

The competitive Request for Proposal (RFP) process began with purchasing staff circulating a RFP to nine consultants and publishing it on the city website March 15, 2017. The due date for bids was April 17, 2017. Nan McKay and Associates (NMA) responded to the RFP. NMA has 37 years experience offering professional consulting, program management, financial management, training, tools and technology solutions. It is privately owned, incorporated in the state of California and a certified Women-Owned Business Enterprise. Staff is aware of NMA's working relationships with Housing Authorities located in various states. Staff also contacted references included in NMA's proposal. None of the references were negative. The proposed attached agreement allows staff to utilize NMA for fair housing education/training and auditing.

FINANCIAL IMPACT:

The \$16,644 cost of services was anticipated in the current Community Development Block Grant Administration budget; therefore, these expenditures do not impact the General Fund.

VISION MADERA 2025 ACTION PLAN CONSISTENCY:

Strategy 135: Affordable, Accessible Housing: Ensure adequate supply of affordable, accessible, and barrier-free housing citywide. The audit and its analysis may identify disparities among rental and for sale units and biases held toward persons of low and moderate income, disabled and elderly persons, and members of minority groups.

¹ Yinger, J. (1986). *Measuring Racial Discrimination with Fair Housing Audits: Caught in the Act*. Pittsburgh, PA: American Economic Association.

RESOLUTION NO. 17-

**A RESOLUTION OF THE CITY COUNCIL, OF THE
CITY OF MADERA, CALIFORNIA, APPROVING AN
AGREEMENT WITH NAN MCKAY AND ASSOCIATES INC. TO
PROVIDE COMMUNITY DEVELOPMENT BLOCK GRANT FAIR
HOUSING EDUCATION/TRAINING AND AUDITING SERVICES, AND
AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT**

WHEREAS, City of Madera is in need of a qualified and experienced consulting firm to conduct fair housing education/training and auditing; and

WHEREAS, City of Madera released a Request for Proposals seeking experienced and qualified consulting firms to conduct the fair housing education/training and auditing; and

WHEREAS, City of Madera received a proposal from Nan McKay and Associates, Inc.; and

WHEREAS, Staff is aware of Nan McKay and Associates, Inc.'s working relationships with Housing Authorities located in various states; and

WHEREAS, Staff has prepared an Agreement with Nan McKay and Associates, Inc. to conduct fair housing education/training and auditing and such Agreement is on file in the office of the City Clerk and referred to for more particulars

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, hereby finds, determines, resolves and orders as follows:

1. The recitals listed above are true and correct.
2. The Agreement as described above is approved.
3. The Mayor of the City of Madera, California, is authorized to execute the Agreement on behalf of the City.
4. This resolution is effective immediately upon adoption.

AGREEMENT FOR SERVICES FUNDED BY CITY OF MADERA

This Agreement is entered into, effective on the date of May 4, 2017.

PARTIES:

The City of Madera hereafter referred to as "CITY," and Nan McKay and Associates, Inc., hereafter referred to as the "CONTRACTOR."

RECITALS:

WHEREAS, the CITY has been designated as the sponsoring agency to administer and implement the program for the Community Development Block Grant (CDBG) activities of the City, and in accordance with the provisions of Title I of the Housing and Community Development Act of 1974, as amended, and the laws of the State of California; and

WHEREAS, the Madera City Council has determined an activity to perform fair housing education/training and auditing is eligible for funding under 24 CFR Part 570.201(c); and

WHEREAS, the CONTRACTOR is dedicated to establishing a partnership with the community and to assist City in conducting its fair housing education/training and auditing; and

WHEREAS, the CONTRACTOR has submitted a project plan and budget to provide in-depth expertise to carry out the fair housing education/training and auditing consistent with the intent and purpose of the provisions of Title I of the Housing and Community Development Act of 1974, as amended, and which has been approved by the City Council.

NOW THEREFORE, the parties hereto agree as follows:

1. Services

The CONTRACTOR shall provide all services and responsibilities as set forth in the Scope of Work and Budget, which is attached to this Agreement, marked as Exhibit "A," and incorporated herein by reference.

2. Funding and Method of Payment

a. Compensation

Payments shall be made after receipt and verification of actual expenditures incurred by the CONTRACTOR in the performance of this Agreement and shall be documented to the CITY by the fifteenth (15th) day of the month following the end of the current month. Allowable expenditures under this Agreement are specifically established and attached hereto marked Exhibit "A" and incorporated herein by reference. The total obligation of the CITY under this Agreement shall not

exceed \$16,644. Any compensation not consumed by expenditures of the CONTRACTOR by the expiration of this Agreement shall automatically revert to the CITY.

b. Public Information

The CONTRACTOR shall disclose in all public information its funding source.

c. Lobbying Activity

The CONTRACTOR shall not directly or indirectly use any of the funds provided under this Agreement for publicity, lobbying, or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States or the Legislature of the State of California.

d. Political Activity

The CONTRACTOR shall not directly or indirectly use any of the funds under this Agreement for any political activity or to further the election or defeat of any candidate for public office.

3. Fiscal Compliance

The CONTRACTOR shall be subject to the same fiscal regulations imposed on CITY by the U. S. Department of Housing and Urban Development for the use of Community Development Block Grant funds.

4. Compliance With Laws

If the CONTRACTOR receives CDBG funding under this Agreement, CONTRACTOR shall comply with all rules and regulations established pursuant to the Housing and Community Development Act of 1974 and its amendments. The CONTRACTOR and any subcontractors shall comply with all applicable local, State and Federal regulations, including but not limited to those requirements listed in Exhibit "B" attached hereto and incorporated herein by reference.

5. Contract Administrator

CITY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof. CONTRACTOR and CITY shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

6. Period of Performance

The CONTRACTOR shall commence performance under this contract May 4, 2017, and shall end its performance June 30, 2017, unless terminated sooner as provided for elsewhere in this Agreement. Agreement may be extended upon written approval of the CITY. The key deadlines for performance under this Agreement are as follows:

Date	Task
May 4, 2017	Consultant Begins Scope of Work
June 30, 2017	Consultant Completes Scope of Work
July 19, 2017	Staff and Consultant Present Findings to Council

7. Records

a. Record Establishment and Maintenance

CONTRACTOR shall establish and maintain records in accordance with those requirements prescribed by CITY, with respect to all matters covered by this Agreement. CONTRACTOR shall retain all fiscal books, account records, and client files for services performed under this Agreement for at least three (3) years from the date of the final payment under this Agreement or until all State and Federal audits are completed for that fiscal year, whichever is later. Pursuant to State and Federal law, it is the intent of the parties to this Agreement that the CONTRACTOR shall be reimbursed for actual costs incurred in the performance of this Agreement but that no profit is to accrue to the CONTRACTOR on account of such performance.

b. Reports/Required Notifications

The CONTRACTOR shall submit reimbursement claims with substantiating invoices. The CONTRACTOR shall also furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement. In the event that the CONTRACTOR fails to provide such reports, it shall be deemed sufficient cause for the CITY to withhold payment until there is compliance. In addition, the CONTRACTOR shall provide written notification and explanation to the CITY within five (5) days of any funds received from another source to conduct the same services covered by this Agreement.

CITY shall notify CONTRACTOR in writing within thirty (30) days of any potential State or Federal exception discovered during an examination. Where findings indicate that program requirements are not being met and State and Federal participation in this program may be imperiled in the event that corrections are not accomplished by CONTRACTOR within thirty (30) days, written notification shall constitute CITY's intent to terminate this Agreement.

CONTRACTOR shall report to CITY promptly and in written detail, each notice of claim of copyright infringement received by CONTRACTOR with respect to all subject data delivered under this Agreement. CONTRACTOR shall not affix any restrictive markings upon any data. If markings are affixed, CITY shall have the right at any time to modify, remove, obliterate, or ignore such markings.

c. CDBG Reporting Requirements

The CITY will inform CONTRACTOR in writing if CDBG funds are provided under this Agreement, which require CONTRACTOR to submit an application or to complete a record as an integral part of receiving these funds.

CONTRACTOR shall submit with each invoice copies of paid invoices/receipts, copies of cash receipts or checks used to pay each invoice submitted for reimbursement.

8. Assignment

CITY and CONTRACTOR may not assign, or transfer their obligation of this Agreement or any rights hereunder without the prior written consent of the other party.

9. Subcontracts

If the CONTRACTOR should propose to subcontract with one or more third parties to carry out a portion of those services described in Exhibit "A" insofar as it deems proper or efficient, any such subcontract shall be in writing and approved as to form and content by the CITY prior to execution and implementation. Any such subcontract, together with all other activities performed, or caused by the CONTRACTOR, shall not allow compensation greater than the total project budget contained in Exhibit "A." An executed copy of any such subcontract shall be received by the CITY before any implementation and shall be retained by the CITY.

The CONTRACTOR shall be responsible to the CITY for the proper performance of any subcontract. Any subcontractor shall be subject to all of the same terms and conditions that the CONTRACTOR is subject to under this Agreement. No officer or director of the CONTRACTOR shall have any direct monetary interest in any subcontract made by the CONTRACTOR. A direct monetary interest contrary to this paragraph shall be deemed to exist, if an officer or director of the CONTRACTOR is also an owner, officer, or director of a corporation, association, or partnership subcontracting with the CONTRACTOR.

In addition, if the CONTRACTOR receives CDBG funds under this Agreement, the subcontractor shall be subject to CDBG federal regulations, including those listed in Exhibit "B."

10. Conflict of Interest

No officer, employee, or agent of the CITY who exercises any function or responsibility for planning and carrying out of the services provided under this Agreement shall have any direct or indirect personal financial interest in this Agreement. The CONTRACTOR shall comply with all Federal, State and local conflict of interest laws, statutes, and regulations, which shall be applicable to all parties and beneficiaries under this Agreement and any officer, employee, or agent of the CITY.

11. Discrimination

a Eligibility for Services

The CONTRACTOR shall prepare and make available to the CITY and to the public all eligibility requirements to participate in the program plan set forth in Exhibit "A." No person shall, on the grounds of race, color, national origin, sex, religion, age, or disability status, be excluded from participation in, and denied the benefits of, or be subjected to discrimination with respect to the services funded under this Agreement.

b. Employment Opportunity

The CONTRACTOR shall comply with the CITY policy, the Community Development Block Grant regulations, and the Equal Employment Commission guidelines, which forbids discrimination against any person on the grounds of race, color, national origin, sex, religion, age, familial status or disability status in employment practices. Such practices include retirement, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer, rates of pay or other forms of compensation, use of facilities, and other terms and conditions of employment.

c. Suspension of Compensation

If an allegation of discrimination occurs, the CITY shall withhold all further funds until the CONTRACTOR can show by clear and convincing evidence to the satisfaction of the CITY that funds provided under this Agreement were not used in connection with the alleged discrimination.

d. Nepotism

Except by written consent of the CITY, no person shall be employed by the CONTRACTOR who is related by blood or marriage or who is a member of the Board of Directors or an officer of the CONTRACTOR. In the event HUD determines a CDBG-funded CONTRACTOR'S organization/agency operations violate federal rules and regulations with regard to nepotism and/or conducts business and a conflict of interest issue arises, then CONTRACTOR shall accept all responsibility to return any CDBG funds received from CITY.

12. Termination

a. This Agreement may be immediately terminated by CITY for cause where in the determination of CITY, any of the following conditions exist: (1) an illegal or improper use of funds, (2) failure to comply with any terms of this Agreement, (3) a materially incorrect or incomplete report, (4) an improper performance of services.

b. Any one of or combination of the above conditions will constitute grounds for suspension or termination of the Agreement. In no event shall any payment by the CITY hereunder constitute a waiver by the CITY of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR, nor shall such payment impair or prejudice any remedy available to the CITY

with respect to the breach of default. When there is a breach of this Agreement, as defined by this section, the CITY may, in its sole discretion, immediately suspend or terminate this Agreement.

c. CITY shall have the option to terminate this Agreement without obligation of CITY to reimburse CONTRACTOR from the date the Federal or State Government withholds or fails to disburse funds to CITY, in the event such government withholds or fails to disburse funds, CITY shall give CONTRACTOR notice of such funding limitation or termination within a reasonable time after CITY receives notices of same.

d. Upon thirty (30) days written notice to the other party, either party may terminate this Agreement without cause. Notice shall be deemed served upon mailing.

13. Amendments

Adjustment of any line item within the total approved budget contained in Exhibit "A" or changes in the nature or scope of the program plan set forth in Exhibit "A" may be approved in writing by the City Administrator, or his or her designee.

14. Administration

This Agreement shall be administered by the City of Madera Grants Department.

15. Evaluation

The CITY shall monitor and evaluate the performance of the CONTRACTOR under this Agreement to determine to the best possible degree the success or failure of the services provided under this Agreement and the adequacy of the program plan contained in Exhibit "A." The CONTRACTOR shall participate in evaluation of the program.

CONTRACTOR shall cooperate fully with CITY, State and Federal agencies, which shall have the right to monitor and audit all work performed under this Agreement.

16. Governing Law

Any controversy or claim arising out of or relating to this Agreement which cannot be amicably settled without court action shall be litigated only in the County of Madera, California. The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of California.

17. Reversion of Assets

The CONTRACTOR must obtain prior written approval from the CITY whenever there is any modification or change in the use of any property acquired or improved, in whole or in part, using CDBG funds. If any real or personal property acquired or improved with CDBG funds is sold and/or is utilized by the CONTRACTOR for a use which does not qualify under the CDBG program, the

CONTRACTOR shall reimburse the CITY in an amount equal to the current fair market value of the property, less any portion thereof attributable to expenditures of non-CDBG funds. These requirements shall continue in effect for the life of the property. In the event the CDBG program is closed-out, the requirements of this Section shall remain in effect for activities or property funded with CDBG funds, unless action is taken by the Federal government to relieve the CITY of these obligations.

18. Breach of Agreement

In the event the CONTRACTOR fails to comply with any of the terms of this Agreement, the CITY may, at its option, deem the CONTRACTOR's failure as a material breach of this Agreement and utilize any of the remedies set forth in 24 CFR 85.43 or that it deems appropriate. Should the CITY deem a breach of this Agreement material, the CITY shall immediately be relieved of its obligations to make further payment as provided herein. In addition to the Agreement being terminated by the CITY in accord with a material breach of this Agreement by the CONTRACTOR, this Agreement may also be terminated for convenience by the CITY in accord with 24 CFR 85.44.

19. No Third Party Beneficiaries

This Agreement is not intended to create and does not create any rights in or benefits to any third party, nor will it be deemed to confer rights or remedies upon any person or legal entity not a party to this Agreement.

20. Indemnification

IN THE EVENT HUD DETERMINES A CDBG-FUNDED CONTRACTOR HAS VIOLATED FEDERAL RULES AND REGULATIONS AND HUD REQUIRES REPAYMENT OF CDBG FUNDS, THEN CONTRACTOR SHALL REPAY ANY CDBG FUNDS WITHIN 90 DAYS OF A WRITTEN REQUEST FROM CITY.

CONTRACTOR shall defend, indemnify and hold harmless, CITY, its agents, officers and employees from and against all claims, damages, losses, judgment, liabilities, and other costs including litigation costs and attorney's fees arising out of or resulting from the negligent or wrongful acts of CONTRACTOR, its officers or employees, arising out of CONTRACTOR's performance of this Agreement, except for those claims, damages or losses which arise out of the sole negligence or wrongful acts of CITY.

21. Entire Agreement

This Agreement constitutes the entire agreement between CONTRACTOR and CITY with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications and understandings of any nature whatsoever unless expressly included in this Agreement.

22. Insurance Requirements

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Subconsultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance

Contractor shall maintain limits no less than:

- **\$1,000,000 General Liability** (including operations, products and completed operations) per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed using ISO forms CG 20 10 and CG 20 37 to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **\$1,000,000 Automobile Liability** combined single limit per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 for all activities of Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles. Automobile Liability policies shall be endorsed to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **Worker's Compensation** as required by the State of California and **\$1,000,000 Employer's Liability** per accident for bodily injury or disease. Contractor shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

Maintenance of Coverage

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Contractor, his agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance

Contractor shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by the City prior to commencement of performance. Current evidence of insurance shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Acceptable Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow Contractor, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

Enforcement of Contract Provisions (non estoppel)

Contractor acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

Specifications not Limiting

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Contractor maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Contractor.

Notice of Cancellation

Contractor agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days notice of cancellation (except for nonpayment for which ten (10) calendar days notice is required) or nonrenewal of coverage for each required coverage.

Self-insured Retentions

Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

Timely Notice of Claims

Contractor shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional Insurance

Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of the Work.

Contractor shall indemnify, defend, and hold harmless the City of Madera and its officers, employees, and agents ("Agency indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this agreement or out of the operations conducted by Contractor, including the Agency's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the Agency. In the event the Agency indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this agreement, the Contractor shall provide a defense to the Agency indemnitees, or at the Agency's option, reimburse the Agency indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective officers thereunto duly authorized on the date first written above.

CITY OF MADERA:

NAN McKAY and ASSOCIATES, INC.

By: _____
Andrew J. Medellin, Mayor

By: _____
John McKay, Chief Executive Officer, and
Corporate Secretary

Date: _____

Date: _____

ATTEST:

APPROVED AS TO LEGAL FORM:

By: _____
Sonia Alvarez, City Clerk

By: _____
Brent Richardson, City Attorney

Date: _____

Date: _____

3.2 Performance Measurements & Timeline

3.2.1 Education/Training Narrative

For the education/training task, NMA will follow a four (4) phase approach:



PHASE I: Initiating

During the *Initiating Phase*, NMA will facilitate an introductory conference call with the City's key stakeholders. During this call, the team will review the scope of services, clarify goals and expectations, and review the project approach. The NMA team will also request necessary materials for remote review and schedule the onsite visit.

PHASE II: Offsite Discovery

The offsite discovery work will include review of key documents. The NMA consultant will prepare for the onsite visit by reviewing documents prior to arrival to ensure best possible use of onsite time.

PHASE III: Executing

NMA will provide customized onsite training services related to Section 504, ADA, the Fair Housing Act, the Architectural Barriers Act, Affirmatively Furthering Fair Housing, customer service, and sexual harassment.

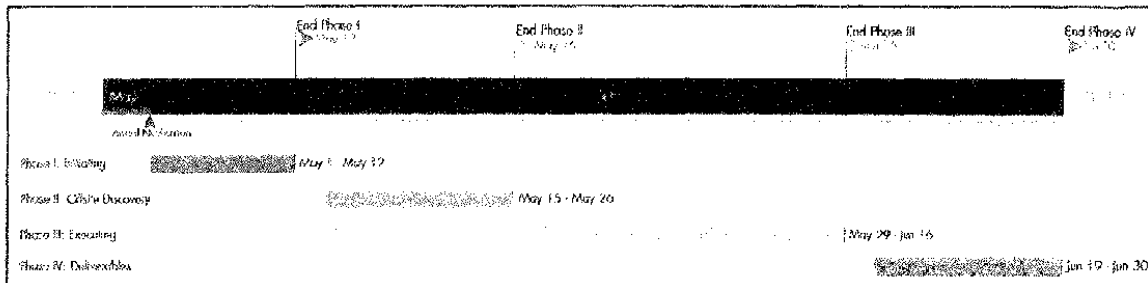
PHASE IV: Deliverables

The deliverable under this task is customized onsite training services.



1.2.1.1 Sample Timeline

Provided below is a sample project timeline for the requested services. Upon contract award, NMA will work closely with the City to schedule the specific project task work.



1.2.1.2 Sample Training Agenda

Included within this section is a sample training agenda. NMA will work closely with the City to develop a customized training agenda to achieve the City's goals.

DAY ONE	
8:00	Registration
8:30	Welcome and Introductions
8:45	Learning Outcomes
	Customer Service
	<ul style="list-style-type: none"> • We Don't Have Customers, Do We? • The Basic Elements of Excellent Service • Basic Customer Needs • Mission, Vision, and Customer Service • Service Within and Between Departments • Giving Good Customer Service When You Can't Say "Yes" • Dealing with Upset People • Customer Service and Confidentiality • Community Relations and Working with Advocates
	Fair Housing Laws and Requirements
	<ul style="list-style-type: none"> • Types of Discrimination • Federally-Protected Classes/Local Laws • Fair Housing Act • Section 504 and Duties of the 504 Coordinator • Americans with Disabilities Act (ADA) • State Laws
	Sexual Harassment
	<ul style="list-style-type: none"> • HUD Final Rule on Harassment and Liability for Discriminatory Practices • Quid Pro Quo • Hostile Environment • Gossip • Bullying • Policies, Practices and Enforcement
	Persons with Disabilities
	<ul style="list-style-type: none"> • HUD Definition • Fair Housing Act/ADA Definition • Nexus
5:00	End of Day One
Nan McKay & Associates, Inc. Page 1 of 2 3/3/17	
DAY TWO	
8:00	Reasonable Accommodation
	<ul style="list-style-type: none"> • Notification to Applicants and Participants • Handling Requests <ul style="list-style-type: none"> ◦ Request is By or on Behalf of Person with Disability ◦ Nexus ◦ Considering if Request is Reasonable • Documentation and Verification • Live-in Aides and Medical Equipment • Service Animals and Assistance Animals
	Other Fair Housing Issues in Assisted Housing
	<ul style="list-style-type: none"> • Violence Against Women Act (VAWA) • Limited English Proficiency (LEP) • GGC guidance on Application of Fair Housing Act Standards to the Use of Criminal Records • Gender Identity, Sexual Orientation, and Marital Status • Race and National Origin Discrimination • Hate Crimes and PHA Liability
	Program Specific Issues
	<ul style="list-style-type: none"> • Fair Housing Issues in HCV - Extension of Vouchers, Exception Payment Standards • Fair Housing Issues in Public Housing - Site-Based Waiting Lists, No Smoking
	Accessibility of PHA Structure and Program
	<ul style="list-style-type: none"> • Requirements for Accessible Units (UFAS) • Health and Safety and Accessibility • Physical Accessibility Regulations and Laws
	Certificates of Participation Awarded
5:00	End of Seminar
Nan McKay & Associates, Inc. Page 2 of 2 3/3/17	

3.2.2 Auditing Narrative

For the auditing task, NMA will follow a four (4) phase approach:



PHASE I Initiating

During the *Initiating Phase*, NMA will facilitate an introductory conference call with the City's key stakeholders. During this call, the team will review the scope of services, clarify goals and expectations, and review the project approach. The NMA team will also request necessary materials for remote review and schedule the onsite visit.

PHASE II Discovery/Offsite Review

The offsite discovery work will include review of key documents. The NMA consultant will prepare for the onsite visit by reviewing documents prior to arrival to ensure best possible use of onsite time.

PHASE III Executing

The NMA consultant will be onsite over a period of two (2) days to complete the following:

1. Onsite kick-off meeting with the City's key personnel
2. Reasonable accommodation audit
 - a. Including review of policies, notices, processes, and forms
3. Violence Against Women Act of 1994 (VAWA) audit
 - a. Including review of policies, notices, processes, and forms
4. Limited English Proficiency (LEP) audit
 - a. Include review of language assistance plan and use of language line
5. Review Office of General Counsel (OGC) guidance regarding the application of the Fair Housing Act to adverse decisions
6. Review application of Equal Access Rule
7. Interview 504 Coordinator
8. Interview up to two (2) property managers, as time permits
9. Closeout meeting with the City's key personnel



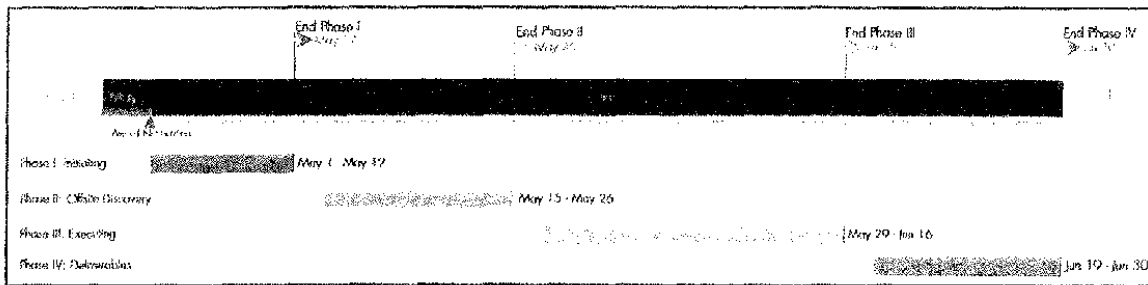
The NMA team will utilize the Assessment of Fair Housing (AFH) Assessment Tool to collect, track, and store relevant demographic information.

Phase V: Final Draft Report

Following the onsite visit, NMA will provide an electronic draft report to the City. All recommendations included within the report will be specific. NMA will schedule a conference call to review the draft report with the City's key personnel. Within ten (10) business days following NMA receipt of input from the City, NMA will submit an electronic version of a final report.

3.2.2.4 Sample Timeline

Provided below is a sample project timeline for the requested services. Upon contract award, NMA will work closely with the City to schedule the specific project task work.



3.2.2.5 Sample Report

Please see *Section 6, Reporting Examples*.



4. Project Budget

Task 1: Education/Training*			
Resource	Hourly Rate	Quantity	Cost
Engagement Manager	\$195	1	\$195
Project Manager	\$130	4	\$520
Lead Consultant	\$150	24	\$3,600
Desktop Publishing	\$58	8	\$464
Other Direct Costs			\$1,143
Travel, Lodging, Per Diem			
Task 1 Total			\$5,922
Task 2: Auditing			
Resource	Hourly Rate	Quantity	Cost
Engagement Manager	\$195	1	\$195
Project Manager	\$130	4	\$520
Lead Consultant	\$150	56	\$8,400
Desktop Publishing	\$58	8	\$464
Other Direct Costs			\$1,143
Travel, Lodging, Per Diem			
Task 2 Total			\$10,722
Task 1 & Task 2 Subtotal			\$16,644

*If requested, NMA can also provide certification exams for the training seminar at an additional cost.

COMMUNITY DEVELOPMENT BLOCK GRANT CERTIFICATIONS

- A. Federal Common Rule Requirements, including, but not limited to, Executive Order 11246, as amended by Executive Orders 11375 and 120860 and implementing regulations issued at 41 CFR Chapter 60; Davis-Bacon Act as amended (40 U.S.C. 276 a to a-7 and 29 CFR, Part 5); Copeland "Anti-Kick Back" Act (18 U.S.C. 874 and 29 CFR, Part 3); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330 and 29 CFR, Part 5); Section 306 of the Clean Air Act (42 U.S.C. 0857 (h)); Section 506 of the Clean Water Act (33 U.S.C. 1368); Executive Order 11738; Environmental Protection Agency Regulations (40 CFR Part 15); and applicable sections of 24 CFR 85. Also in the common rule are mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Pub L. 94 - 163).
- B. Office of Management and Budget Circulars No. -21, A-102 revised, A-87, A-110, A-122 and A-128 as they relate to the acceptance and use of Federal funds under this program.
- C. Executive Order 11063, as amended by Executive Order 11259, and implementing regulations at 24 CFR Part 107, as they relate to non-discrimination in housing.
- D. The Architectural Barriers Act of 1968 (42 U.S.C. 4151).
- E. Clean Air Act of 1970 (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).
- F. Bidding requirements contained in the California Public Contracts Code.
- G. The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations, 24 CFR Part I as it relates to prohibiting discriminatory action under any activity receiving Federal funds.
- H. Provisions of the California Water Code Section 55350 et. sequens.
- I. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations 24 CFR Part I as it relates to prohibiting discriminatory action under any activity receiving Federal funds.
- J. Title VIII of the Civil Rights Act of 1968, (Pub. L. 90-284) as amended and implementing regulations 24 CFR 107 as it relates to fair housing.

- K. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112) as amended and implementing regulations when published for effect as they relate to non-discrimination against the handicapped.
- L. The Age Discrimination Act of 1975, (Pub. L. 94-135) as amended, and implementing regulations contained in 10 CFR Part 1040 and 45 CFR Part 90.
- M. The lead based paint requirements of 24 CFR Part 35 Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et.seq.).
- N. Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations issued pursuant thereto (24 CFR Section 570.601) as it relates to prohibiting discriminatory actions and activities funded by Community Development Funds.
- O. Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations at 24 CFR Part 135.
- P. Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution.
- Q. The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234).
- R. No member, officer or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.
- S. Additionally, all conflict requirements noted in 24 CFR 570.611 shall be complied with by all parties.

- T. Title I of Section 104(b)(5) of the Housing and Community Development Act as amended and implementing regulations at 24 CFRE 570.200 relating to Special Assessments.
- U. Section 106 of the National Historic Preservation Act and implementing regulations at 36 CFR Part 800.
- V. The Endangered Species Act of 1973, as amended, and implementing regulations at 50 CFR Part 402.
- W. Title I of the Housing and Community Development Act of 1974, as amended, and implementing regulations contained in 24 CFR Part 570 and in 24 CFR Part 85.
- X. The use of CDBG funds by a religious organization shall be subject to those conditions as prescribed by HUD for the use of CDBG funds by religious organizations in accordance with Section 570.200(j) of the Federal CDBG regulations.
- Y. All contracts shall include a "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions" as required by 29 CFR Part 98.

REPORT TO THE CITY COUNCIL



COUNCIL MEETING OF:

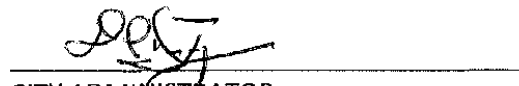
May 3, 2017

AGENDA ITEM NUMBER:

B-7

Approved By:


COMMUNITY DEVELOPMENT DIRECTOR


CITY ADMINISTRATOR

SUBJECT: Consideration of a Resolution Approving an Amendment to the 16/17 Fiscal Year Budget to Appropriate Funds for the Acquisition of Real Estate and Easements for the Sharon Boulevard Infrastructure Improvements

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution amending the budget to appropriate funds for the acquisition of real estate and easements for the Sharon Boulevard Infrastructure Improvements.

SUMMARY & DISCUSSION:

In November of 2016, the City Council approved an agreement with the owners of property along the proposed Sharon Boulevard street alignment for the purchase of real estate and easements for public utilities. The agreement specified that the owners would provide the City with the requested property, and the City would provide compensation at a value to be specified in an appraisal completed on the owner's behalf. Total compensation was capped at \$327,500.

The owners have performed in the manner prescribed by the purchase and sale agreement and an appraisal has been completed. Total compensation per the appraisal is \$200,000. Pursuant to the agreement, an additional \$5,000 will be paid to the owners for the cost of the appraisal itself. A budget amendment is necessary to create an appropriation to cover these amounts. As previously described to the Council, acquisition costs for a water well site and a water line easement may be expensed from the capital improvements component of the Water Fund. Remaining easement costs are recommended to be expensed from the Industrial/Economic Development Reserve Fund.

The acquisition of real property and easements is required in conjunction with the Sharon Boulevard Improvement Project. Said project involves the installation of master planned infrastructure improvements including a municipal well, a water line, and a sewer line within and adjacent to the planned alignment for Sharon Boulevard south of Avenue 17. The land acquired consists of a 0.55 acre well site, a 0.21 acre water line easement, a 1.06 acre sewer line easement, and a 4.94 acre construction easement.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

This project supports the realization of vision statements for a “Good Jobs and Economic Opportunity”, in which Madera is envisioned with a strong and diverse economy, supporting the local tax base and essential community services that provide living wage opportunities for all its community members.

FISCAL IMPACT:

Total acquisition costs are capped at \$205,000. Acquisition costs for the water well site and the water line easement (\$48,500) are recommended to be appropriated from the available balance in the capital improvement component of the Water Fund. Remaining easement costs (\$156,500) are recommended to come from the Industrial/Economic Development Reserve Fund.

RESOLUTION NO. 17-_____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING AN
AMENDMENT TO THE 16/17 FISCAL YEAR BUDGET TO APPROPRIATE FUNDS FOR THE
ACQUISITION OF REAL ESTATE AND EASEMENTS FOR THE SHARON BOULEVARD
INFRASTRUCTURE IMPROVEMENTS**

WHEREAS, the City of Madera has undertaken the Sharon Boulevard Infrastructure Project “the Project” in accordance with the City’s adopted Sewer and Water Master Plans; and

WHEREAS, the Project involves the installation of master planned sewer and water improvements which requires the acquisition of a 0.55 acre well site, a 0.21 acre water line easement, a 1.06 acre sewer line easement, and a 4.94 acre construction easement (“the acquisition areas”) to construct and install the subject improvements; and

WHEREAS, at its November 16, 2016 meeting, the City Council approved a Purchase and Sale Agreement (the Agreement) providing for the City’s acquisition of the necessary property; and

WHEREAS, under the terms of the Agreement, the City has agreed to compensate the owners (sellers) for the value of the land and the cost of an appraisal, which together total \$205,000; and

WHEREAS, a budget amendment is needed to create an appropriation to cover the total compensation amount pursuant to the Agreement; and

WHEREAS, the acquisition costs constitute an appropriate public use of the undesignated fund balance in the Water Fund, for that amount associated with the acquisition of a well site and water line easement, and an acceptable use of undesignated fund balance in the Industrial Development Fund designation of the General Fund for the remaining acquisition costs.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA hereby resolves, finds, determines and orders as follows:

1. The above recitals are true and correct.
2. The amendment to the FY 2016-17 budget for the appropriation of undesignated fund balance in the Water Fund in the amount of \$48,500 and appropriation of undesignated fund balance in the Industrial Development Fund designation in the general fund in the amount of \$156,500 in accordance with Exhibit “AA” is hereby approved.
3. A signed copy of this resolution shall be placed on file in the office of the Director of Finance who shall prepare all entries necessary to reflect the budget changes identified above in the City’s accounting system.
4. This resolution is effective immediately upon adoption.

* * * * *

CITY OF MADERA

Budget Appropriation : Res.#17- xxxx 5/3/2017

Appropriation Adjustment Fiscal Year 2016/17

SHARON BOULEVARD INFRASTRUCTURE IMPROVEMENT

			PROJECT CODE			
FUND	ORG CODE	OBJECT CODE	Expense String	DESCRIPTION	(+)	(-)
Water Utility Fund (20303830)						
	20303830	7050	R-000072-DESG-ROW	Ave. 17/Sharon Blvd Improvements	48,500.00	
					48,500.00	-
Economic Development Fund (4250)						
	42500000	7050	R-000072-DESG2-ROW	Ave. 17/Sharon Blvd Improvements	156,500.00	
					156,500.00	-
				GRAND TOTAL	205,000.00	-



REPORT TO CITY COUNCIL

COUNCIL MEETING OF May 3, 2017
AGENDA ITEM NUMBER B-8


PREPARED BY: Mary Anne Seay, Director
Parks and Community Services Department


APPROVED BY: David R. Tooley, City Administrator

SUBJECT:

CONSIDERATION OF A RESOLUTION APPROVING A CONTRACT WITH SAM BALBAS PAINTING FOR EXTERIOR PAINTING SERVICES AT THE JOHN W. WELLS YOUTH CENTER AND AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY

RECOMMENDATION:

Staff recommends Council adopt the Resolution approving a Contract with Sam Balbas Painting for exterior painting services at the John W. Wells Youth Center. Staff further recommends Council authorize the Mayor to sign the Contract on behalf of the City.

SUMMARY:

The Madera City Council made its finalized allocations for the 2016/17 Community Development Block Grant (CDBG) Program at their August 3, 2016 Regular Meeting. Included in the allocations was \$430,000 in a capital grant award to fund the Centennial Park Lighting and Improvement Project.

Improvement project renovations and upgrades include exterior painting of portions of the John W. Wells Youth Center and the swimming pool building both located at Centennial Park. The Parks & Community Services (PCS) Department staff recommend Council approve the contract with Sam Balbas Painting in the amount of \$45,650.00 as this represented the lowest responsive bid. Staff also recommends a small contingency of 3%, or \$1,369.50. Future upgrades include ADA improvements, lighting, diving board replacement and concrete work at the pool.

DISCUSSION:

The PCS Department submitted the CDBG application for Centennial Park Lighting and Improvement Project for Council consideration last Fiscal Year. This total project represents a rehabilitation of elements at Centennial Park located in a low income neighborhood which falls within an eligible census tract. Centennial Park contains amenities which include parking lots; a swimming pool complex (with 3 pools, pool decking, a shade structure and pool building); outdoor inclusive play feature; play areas; and the John W. Wells Youth Center.

Aging infrastructure and the lack of adequate lighting need to be addressed. Concrete pool decking and associated drains are failing, shade structures have become worn and blighted, ADA deficits have been made clear, the community has expressed concern over the lack of exterior lighting, and the finish on the exposed wood beams for both buildings is failing and in jeopardy of becoming blighted.

Within a few years after construction was completed, staff noted deterioration of the exposed wood attached to the Youth Center. PCS and Engineering staff met with the facility's architectural firm, SIM, who recommended paint as the best fix to address the concern. Staff received estimates at that time and sought external funding sources to adequately address the issues. The CDBG grant award described above will fund this project.

A solicitation of bids was sent out by PCS staff. The lowest responsive bid came from Sam Balbas Painting of Madera. As such, staff recommends approval of a Contract in the amount of \$47,019.50 which represents the bid and a 3% contingency.

FINANCIAL IMPACT:

Resources for this project are borne 100% from the CDBG allocation for the Centennial Park Rehabilitation Project. To the extent allowable by the Federal Government, staff will offset their Generally Funded salaries for time spent managing the CDBG Project.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The recommended actions are consistent with the following Vision Strategies and Actions:

- | | |
|---------------------|--|
| Strategy 113 | Promote greater accessibility to City facilities and services to meet the needs of various cultural, socio-economic and disabled groups. |
| Action 314.2 | Continue and expand facilities for youth-at-risk. |
| Strategy 411 | Recreational Opportunities: Enhance and expand recreational activities available to Maderans. |
| Strategy 414 | Neighborhood Parks: Ensure recreational availability by providing a park in close proximity to every neighborhood. |
| Strategy 404 | Community Wellness: Promote increased community wellness. |

RESOLUTION NO. 17 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING A CONTRACT WITH SAM BALBAS PAINTING FOR EXTERIOR PAINTING SERVICES AT THE JOHN W. WELLS YOUTH CENTER AND AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY

WHEREAS, the City of Madera has need for painting services at the John W. Wells Youth Center located in Centennial Park; and

WHEREAS, the City of Madera's Parks & Community Services Department was awarded Community Development Block Grant (CDBG) funding for the Centennial Park Lighting and Improvement Project; and

WHEREAS, Bids were solicited from three local firms and Sam Balbas Painting responded with the lowest responsive bid; and

WHEREAS, The City wishes to enter into a Contract with Sam Balbas Painting; and

WHEREAS, said Contract is in the best interests of the Community.

NOW THEREFORE, THE COUNCIL OF THE CITY OF MADERA does hereby resolve, find and order as follows:

1. The above recitals are true and correct.
2. The Contract with Sam Balbas Painting, a copy of which is on file in the office of the City Clerk and referred to for particulars is hereby approved.
3. The Mayor is authorized to execute the Contract on behalf of the City of Madera.
4. This resolution is effective immediately upon adoption.

* * * * *

CONTRACT WITH SAM BALBAS PAINTING TO PROVIDE EXTERIOR PAINTING SERVICES AT THE JOHN W. WELLS YOUTH CENTER.

This Contract made and entered into this 3rd day of May, 2017 with the City of Madera, a municipal corporation of the State of California, hereinafter called "CITY", and Sam Balbas Painting located in Madera, CA, hereinafter called "CONTRACTOR".

WITNESSETH

WHEREAS, CITY plans to perform needed maintenance in the form of exterior painting at the John W. Wells Youth Center, hereinafter called "Project"; and

WHEREAS, CITY needs the services of a professional firm to supply labor and materials to complete the Project; and

WHEREAS, CONTRACTOR is qualified and licensed to provide the required professional services and CITY desires to hire CONTRACTOR for such purposes.

NOW THEREFORE,

The parties hereto mutually agree as follows:

1. SCOPE OF WORK:

CONTRACTOR shall provide needed resources for the Project to perform the services set forth in EXHIBIT A – Technical Specifications, and Exhibit B – Project Drawings, and Exhibit C- CONTRACTOR'S proposal attached hereto and incorporated herein by reference. CONTRACTOR shall comply with all CITY policies and procedures.

2. COMPENSATION

The CONTRACTOR shall be paid for labor and materials per costs as described in Exhibit C in the amount of forty five thousand six hundred fifty dollars (\$45,650.00)

3. LICENSING

CONTRACTOR shall hold a valid California Contractors License Classification "C33" and a valid City of Madera Business License through the entirety of this Contract.

4. EXTRA SERVICES:

Extra services not contemplated hereunder, as set forth in Exhibit A or for such services beyond the control of the CITY or CONTRACTOR, may be specifically requested in writing by CITY or CONTRACTOR. Extra services limited to 3 percent of contract value upon approval of the Parks and Community Services Director.

5. AUDITS, RECORDS AND INSPECTIONS ACCESS:

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Contract pursuant to Government Code 8546.7; the CITY and CONTRACTOR shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Contract, including but not limited to, the costs of administering this Contract.

CONTRACTOR shall, upon reasonable notice and at any time during regular business hours, and as often as CITY may deem necessary, make available to the CITY or its authorized representative for examination, all of its books, records and data with respect to matters covered by this Contract. CONTRACTOR shall permit CITY to audit and inspect all invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to matters covered by this Contract. CONTRACTOR shall retain all of these documents for a period of three (3) years after final payment to CONTRACTOR.

6. LIABILITY INSURANCE:

Without limiting Contractor's indemnification of City, and prior to commencement of Work, Contractor shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Sub consultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance

A. Contractor shall maintain limits no less than:

\$2,000,000 General Liability (including operations, products and completed operations) per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General

liability policies shall be endorsed using ISO forms CG 20 10 and CG 20 37 to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies. \$1,000,000 Automobile Liability combined single limit per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 for all activities of Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles. Automobile Liability policies shall be endorsed to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies.

Worker's Compensation as required by the State of California and \$1,000,000 Employer's Liability per accident for bodily injury or disease. Contractor shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

B. Maintenance of Coverage

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Contractor, his agents, representatives, employees, subcontractors or sub consultants as specified in this Agreement.

C. Proof of Insurance

Contractor shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by the City prior to commencement of performance. Current evidence of insurance shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

D. Acceptable Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

E. Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow Contractor, or others providing insurance evidence in

compliance with these specifications, to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its sub consultants or subcontractors.

F. Enforcement of Contract Provisions (non estoppel)

Contractor acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

G. Specifications not limiting

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Contractor maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Contractor.

H. Notice of Cancellation

Contractor agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

I. Self-insured Retentions

Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

J. Timely Notice of Claims

Contractor shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

K. Additional Insurance

Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of the Work.

7. CONFIDENTIALITY OF DATA:

All financial, statistical, personal, technical, or other data and information relative to the CITY'S operations, which are designated confidential by the CITY and made available to the CONTRACTOR, in order to carry out this Contract, shall be protected by the CONTRACTOR from unauthorized use and disclosure. Permission to disclose information on one occasion, or public hearing held by the CITY relating to this Contract, shall not authorize the CONTRACTOR to further disclose such information or disseminate the same on any other occasion.

The CONTRACTOR shall not comment publicly to the press or any other media regarding this Contract or the CITY'S actions on the same, except to the CITY'S staff, CONTRACTOR'S own personnel involved in the performance of the Contract, at public hearings or in response to questions from a Legislative committee. The CONTRACTOR shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this Contract without prior review of the contents thereof by the CITY, and receipt of the CITY'S written permission.

8. TIME OF COMPLETION:

A. From issuance of the Notice to Proceed, CONTRACTOR services shall be completed within 90 calendars days. This Time of Completion may be extended by mutual written consent.

9. TERMINATION OF CONTRACT:

A. This Contract may be terminated at any time by either party upon thirty (30) calendar day's written notice. In the event the Contract is terminated by either party, CONTRACTOR shall be compensated for services performed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to together with such additional services performed after termination which are authorized by the City to wind up the work performed to date of termination.

B. CITY may immediately suspend or terminate this Contract in whole or in part by written notice where, in the determination of CITY, there is:

1. An illegal use of funds by CONTRACTOR;
2. A failure by CONTRACTOR to comply with any material term of this Contract;
3. A substantially incorrect or incomplete report submitted by CONTRACTOR to CITY.

In no event shall any payment by CITY or acceptance by CONTRACTOR constitute a waiver by such party of any breach of this Contract or any default which may then exist on the part of either party. Neither shall such payment impair or prejudice any remedy available to either party with respect to such breach or default. CITY shall have the right to demand of CONTRACTOR the repayment to CITY of any funds disbursed to CONTRACTOR under this Contract which, as determined by the appropriate court or arbitrator, were not expended in accordance with the terms of this Contract.

10. APPROVAL:

CITY will give reasonably prompt consideration to all matters submitted by CONTRACTOR for approval to the end that there will be no significant delays in CONTRACTOR'S program of work. An approval, authorization or request to CONTRACTOR given by CITY will only be binding upon CITY under the terms of this Contract if in writing and signed on behalf of CITY by a CITY representative or designee.

11. HOLD HARMLESS:

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, and its officers, employees, and agents ("City indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the CONTRACTOR's performance of its obligations under this agreement or out of the operations conducted by CONTRACTOR, including the CITY's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the CITY. In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from CONTRACTOR's performance of this agreement, the CONTRACTOR shall provide a defense to the City indemnitees, or at the CITY's option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.

12. RESPONSIBILITY FOR OTHERS:

CONTRACTOR shall be responsible to CITY for its services and the services of its sub consultants. CONTRACTOR shall not be responsible for the acts or omissions of other parties engaged by CITY nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.

13. PROFESSIONAL RESPONSIBILITY:

CONTRACTOR shall be obligated to comply with applicable standards of professional care in the performance of the CONTRACTOR'S Services as outlined in Exhibits A and B.

14. PARTIES BOUND BY CONTRACT:

This Contract shall be binding upon CITY, CONTRACTOR and their successors in interest, legal representatives, executors, administrators and assigns with respect to all covenants as set forth herein. CONTRACTOR shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to the Contract shall be subcontracted, assigned, or transferred except that which is expressly identified in the approved Exhibit A attached hereto this Contract.

15. COMPLETE CONTRACT OF PARTIES:

This Contract, including attachments incorporated herein by reference, represents the entire Contract and understanding between the parties. Any modifications of this Contract shall be in writing and signed by authorized representatives of the parties. One or more waivers of any term, condition or covenant by either party shall not be construed as a waiver of any other term, condition or covenant.

16. ASSIGNMENT WITH APPROVAL:

It is understood that neither party shall assign, sublet, subcontract or transfer its rights or obligation under this Contract without the prior express, written consent of the other party.

17. INDEPENDENT CONTRACTOR:

In performance of the work, duties and obligations assumed by CONTRACTOR under this Contract, it is mutually understood and agreed that CONTRACTOR, including any and all of CONTRACTOR'S officers, agents and employees will, at all times, be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,, employee, joint venture, partner or associate of CITY. Furthermore, CITY shall have no right to control or supervise or direct the manner or method by which CONTRACTOR shall perform its work and function. However, CITY shall retain the right to administer this Contract so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and

conditions hereof. CONTRACTOR and CITY shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over the subject matter hereof.

Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right to employment rights and benefits available to CITY employees. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. In addition, CONTRACTOR shall be solely responsible and hold CITY harmless from all matters relating to payment of CONTRACTOR'S employees, including compliance with Social Security, withholding and all other regulations governing such matters. It is acknowledged that during the term of this Contract CONTRACTOR may be providing services to others unrelated to CITY or to this Contract.

18. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONTRACTOR warrants that this Contract was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any CITY employee. For breach or violation of this warranty, CITY shall have the right in its discretion; to terminate this Contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

19. GOVERNING LAW:

Any controversy or claim arising out of, or relating to, this Contract which cannot be amicably settled without court action shall be litigated either in the appropriate State court for Madera County, California, or as appropriate in the U. S. District Court for the Eastern District of California, located in Fresno County. The rights and obligations of the parties and all interpretations and performance of this Contract shall be governed in all respects by the laws of the State of California.

20. AMENDMENTS:

Any changes to this Contract requested either by CITY or CONTRACTOR may only be affected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Contract shall not be modified or amended or any rights of a party to it waived except by such in writing.

21. COMPLIANCE WITH LAWS AND WAGE RATES:

CONTRACTOR shall comply with all Federal, State, and local laws, ordinances, regulations and provisions applicable in the performance of CONTRACTOR'S services. This includes compliance with prevailing wages and their payment in accordance with California Labor Code, Section 1775. CONTRACTOR is required to be registered with the State of California Department of Industrial Relations. CONTRACTOR may use professional practices and standards regarding the interpretation of these laws.

Wherever reference is made in this Contract to standards or codes in accordance with which work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Contract shall apply, unless otherwise expressly stated.

22. CONTRACTOR'S LEGAL AUTHORITY:

Each individual executing or attesting this Contract on behalf of CONTRACTOR hereby covenants and represents: (i) that he or she is duly authorized to execute or attest and deliver this Contract on behalf of such corporation in accordance with a duly adopted resolution of the corporation's board of directors and in accordance with such corporation's articles of incorporation or charter and bylaws; (ii) that this Contract is binding upon such corporation; and (iii) that CONTRACTOR is a duly organized and legally existing corporation in good standing in the State of California.

23. NOTICES:

Any and all notices or other communications required or permitted by this Contract or by law to be served on or given to either party to this Contract by the other party shall be in writing, and shall be deemed duly served and given when personally delivered to the party to whom it is directed or any managing employee of that party of, in lieu or personal service, when deposited in the United States mail, first class postage prepaid, addressed as follows:

CITY OF MADERA
Attn: John Scarborough
Parks and Community Services
701 E 5th Street
Madera, CA 93638

Sam Balbas Painting
Attn: Sam Balbas
20229 Del Mar Rd.
Madera, CA. 93638

24. COVENANT AGAINST CONTINGENT FEES

The CONTRACTOR warrants that they have not employed or retained any company or person, other than a bona fide employee working for the CONTRACTOR; to solicit or secure this Contract; and that they have not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this Contract. For breach or violation of this warranty, CITY shall have the right to annul this Contract without liability, or at its discretion; to deduct from the Contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

25. SOLE CONTRACT:

This instrument constitutes the sole and only Contract between CONTRACTOR and CITY respecting the Project and correctly sets the obligations of the CONTRACTOR and CITY to each other as of this date first written above. Any Contracts or representations respecting the above project, not expressly set forth in this instrument are null and void.


IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

* * * * *

CITY OF MADERA

By: _____
Andrew J. Medellin, Mayor

SAM BALBAS PAINTING

By: 
Sam Balbas
80-0305301
Taxpayer I.D. Number

APPROVED AS TO FORM:

By: _____
Brent Richardson, City Attorney

ATTEST:

By: _____
Sonia Alvarez, City Clerk

SECTION 09 91 00

PAINTING

PART 1 - GENERAL

1.01 WORK INCLUDED

- A. The work includes furnishing of materials and equipment, preparation of surfaces and completion of the painting and finishing of the exposed wood framing surfaces at the John Wells Youth Center, Madera, California.

1.03 SUBMITTALS

- A. Product data:
 - 1. Not less than thirty (30) days before beginning work, submit a complete list of materials proposed for use, together with manufacturer's specifications.
 - 2. Paint materials and products shall be subject to the Architect's approval.
- B. Color samples:
 - 1. Prepare all color and finishes on samples, 8-1/2" x 11" in size.
 - 2. Samples shall be submitted as requested until required sheen, color and texture is achieved.
 - 3. Prepare wood samples on type and quality of wood specified for use on project.
 - 4. Label and identify each sample as to location and application.

1.04 DELIVERY, STORAGE AND HANDLING

- A. Deliver paint materials in sealed original labeled containers bearing manufacturer's name, type of paint, stock number, color and instructions for reducing or mixing where applicable.
- B. Paint materials and equipment
 - 1. Store only acceptable project materials on site.
 - 2. Store in a suitable location.
 - 3. Restrict storage to paint materials and related materials.
 - 4. Comply with health and fire regulations.
 - 5. Provide a secure location for all paint materials and equipment. The District is not responsible for any stolen or damaged equipment.

1.05 PROJECT CONDITIONS

- A. Comply with manufacturer's recommendations as to environmental conditions under which coatings and coating systems can be applied. Do not apply paint

when temperature is below 50°F. Do not apply exterior paint in damp or rainy weather; ensure that the surface has dried thoroughly before proceeding.

- B. Do not apply finish in areas where dust is being generated.

PART 2 - PRODUCTS

2.01 DESCRIPTION AND SCOPE

- A. The work includes surface preparation, application of necessary primer, and finished coats of paint to exterior trim.

2.02 MATERIALS

Specified Manufacturer: Products of the Dunn Edwards Company are the basis of design products specified to establish the level of quality.

- 1. Dunn Edwards Paints
4916 N. Blackstone Ave.
Fresno, California 93711
Tel: (559) 304.5561

- A. Materials selected for coating systems for each type surface shall be the product of a single manufacturer.
- B. Accessory materials such as turpentine, thinner, linseed oil, putty and shellac shall be of the highest quality and by approved manufacturer.
- C. All paints shall be ready-mixed except field catalyzed coatings. Mix only in metal pails.
- D. Finish coats shall not be thinned without Architect's approval.
- E. Unsuitability of specified products: Claims concerning unsuitability of any material specified (or the inability to satisfactorily produce the work) will not be entertained, unless such claim is made in writing to the Architect before the work is started.
- F. Number of coats scheduled is a minimum. Additional coats shall be applied at no additional cost if necessary to completely hide base materials, produce uniform color and provide satisfactory finish result.
- G. All submitted paint products shall be in compliance with all current local, state and federal air quality regulations.

2.03 COLORS

- A. All colors are to be selected or approved by the Architect and actual color chips shall be supplied to the Contractor for matching.

- B. Approval of final color: Final coat of paint shall not be applied until colors have been approved by the Architect.

PART 3 - EXECUTION

3.01 INSPECTION

- A. Examine surfaces scheduled to receive paint and finishes for conditions that will adversely affect execution, permanence or quality of work and which cannot be put into acceptable condition through preparatory work as included in Article 3.02 "Preparation of Surfaces". The Contractor shall notify the General Contractor and Architect in writing of any defects or conditions which will prevent a satisfactory installation.
- B. Replace damaged or dry-rotted wood trim as required. Inform the City's Project Manager when damaged framing material is encountered. A cost proposal would be required when wood is deemed to be replaced.
- C. Do not proceed with surface preparation or coating application until conditions are suitable.
- D. Commencement of installation construed as acceptance of surfaces.

3.02 CLEANING, PREPARATION, AND PRETREATMENT OF SURFACES

- A. General. All surfaces shall be prepared in a skillful manner to produce finish work of first class, appearance and durability. Hardware, hardware accessories, machine surfaces, plated, lighting fixtures, and similar items in contact with surfaces to be painted shall be removed, masked or otherwise protected prior to surface preparation and painting operations. Surfaces to be painted shall be cleaned before applying paint or otherwise protected prior to surface preparation and painting operations. Cleaning and painting shall be so programmed that dust and other contaminants from the cleaning process will not fall on wet, newly painted surfaces. Feather edged sanding will be required where the old surfacing has been removed and the immediate adjacent area has sharp or raised edges. Wood decking is not to be painted, and metal connectors shall be painted black.
- B. Wood Surfaces. Exposed Wood Framing surfaces shall be primed and finish coated as specified herein. Wood surfaces to be painted shall be cleaned of dirt, oil and other foreign substances with pressure washing, scraper and sandpaper. The surface shall be checked thoroughly to ensure all finishing nails have been properly set; then all holes and surface imperfections shall be patched and primed. Do not paint wood decking.

3.03 APPLICATION

- A. Do not apply initial coating until moisture content of surface is within limitations recommended by the paint manufacturer.

B. Application:

1. Apply paint with suitable brushes, rollers or spraying equipment.
2. Rate of application shall not exceed that as recommended by the paint manufacturer for surface involved.

C. Comply with recommendations of product manufacturer for drying time between succeeding coats.**D. Leave all parts of molding and ornaments clean and true to details with no undue amount of paint in corners and depressions.****E. Make edges of paint adjoining other material or color clean and sharp with no overlapping.****F. Refinish whole wall where portion of finish is not acceptable.****G. All materials shall be applied evenly with proper film thickness and free of runs, sags, skips and other defects. Enamel and varnishes shall be sanded lightly between coats, dusted and cleaned before recoating.****H. Hardware, hardware accessories, plates, framing connectors shall be painted black.****3.04 CLEANING GLASS**

- A. Upon completion of all painting work, all exterior glass surfaces shall be cleaned where paint and foreign materials have been left on glass.

3.05 CLEANING

- A. All cloths and cotton waste, which might constitute a fire hazard, shall be placed in a closed metal container or destroyed at the end of every workday. Upon completion of the work, all staging, scaffolding and containers shall be removed from the jobsite. On the last day of the workweek pickup paper, plastic, tape, and miscellaneous garbage on job-site.

3.06 WORKMANSHIP

- A. All work shall be done by painters and finishers of established status and reputation for executing their work by the very best methods for each kind of work. Strict adherence to the specifications and the recommendations of the manufacturer whose materials are used shall be followed in the application.

3.07 CLEANUP

- A. Upon completion of the work, the Contractor will remove all equipment, excess material and debris, remove all paint splatters and leave his area in a neat and orderly condition.

3.06 PROTECTION

- A. Protect work of other trades, whether to be painted or not, against damage by painting. Correct damage by cleaning, repairing or replacing, and repainting, as acceptable to Architect.
- B. Provide "wet paint" signs to protect newly painted finishes. Remove temporary protective wrappings provided by others for protection of their work after completion of painting operations.
 - 1. At completion of construction activities of other trades, touch up and restore damaged or defaced painted surfaces.

3.07 EXTRA STOCK OF EACH COLOR

- A. 2 single gallons of trim paint color.

3.08 FINISH SCHEDULE

- A. Finish all surfaces in accordance with Section D. Catalog names and numbers refer to products as manufactured or distributed by Dunn Edwards Paint otherwise approved by the Architect.
- B. Provide paint finishes of even uniform color, free from cloudy or mottled appearance. Properly correct all non-complying work to the satisfaction of the owner's representative and the representative of the Dunn Edwards Paint Company.
- C. The specified number of primer and finish coats is the minimum acceptable. If full coverage and opacity is not obtained with the specified number of coats, apply additional coats as necessary to produce the required finish.
- D. At Exposed Wood Framing surfaces including, edges, ends, faces, underside and back. Do not paint exposed wood decking:
 - 1st coat: Dunn Edwards Ultra Grip Primer
 - 2nd coat: Dunn Edwards Evershield Flat
 - 3rd coat: Dunn Edwards Evershield Flat
- E. Paint color to match as close as possible to existing stain on trim. Architect to provide paint color.

END OF SECTION

Exhibit B

Wylene Powers

Good morning,

Here are the drawings showing where to paint, and what color. There are only 2 paint colors.

- A. Frazee - Asteroid #CL 2657N (which is no longer available, but any good paint shop can match your sample).
- B. Benjamin Moore - Honeycomb #1120

Make sure you have the paint store do "brush-outs" for you so you can make sure it's what you want. They should do this before your men start painting.

If you have any questions, please feel free to call me.

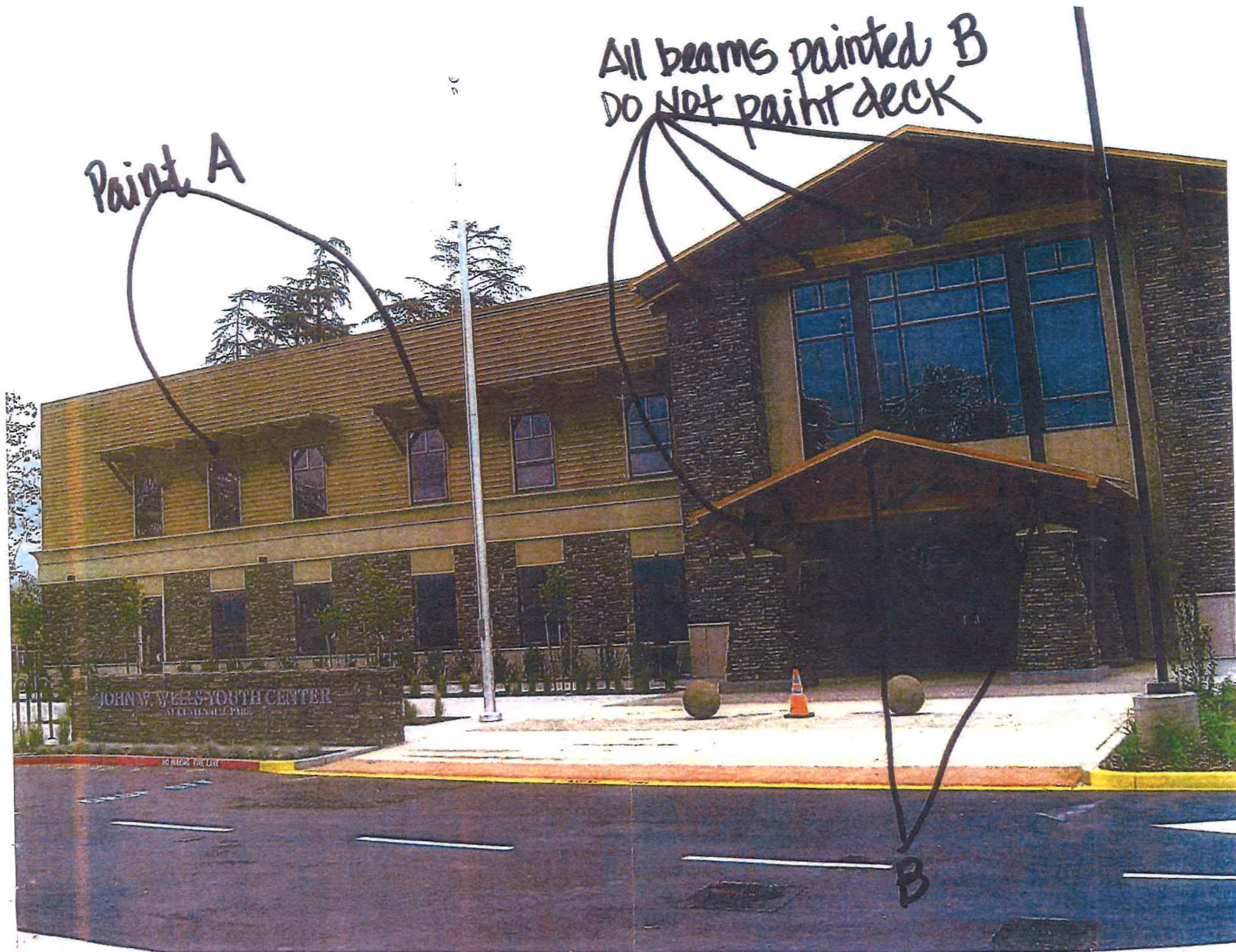
Wylene

w y l e n e P O W E R S

SIM architects • 7591 north INGRAM suite 101 • Fresno CA 93711
p. 559.448.8400 • f. 559.448.8467 • www.simarchitects.com

Paint A

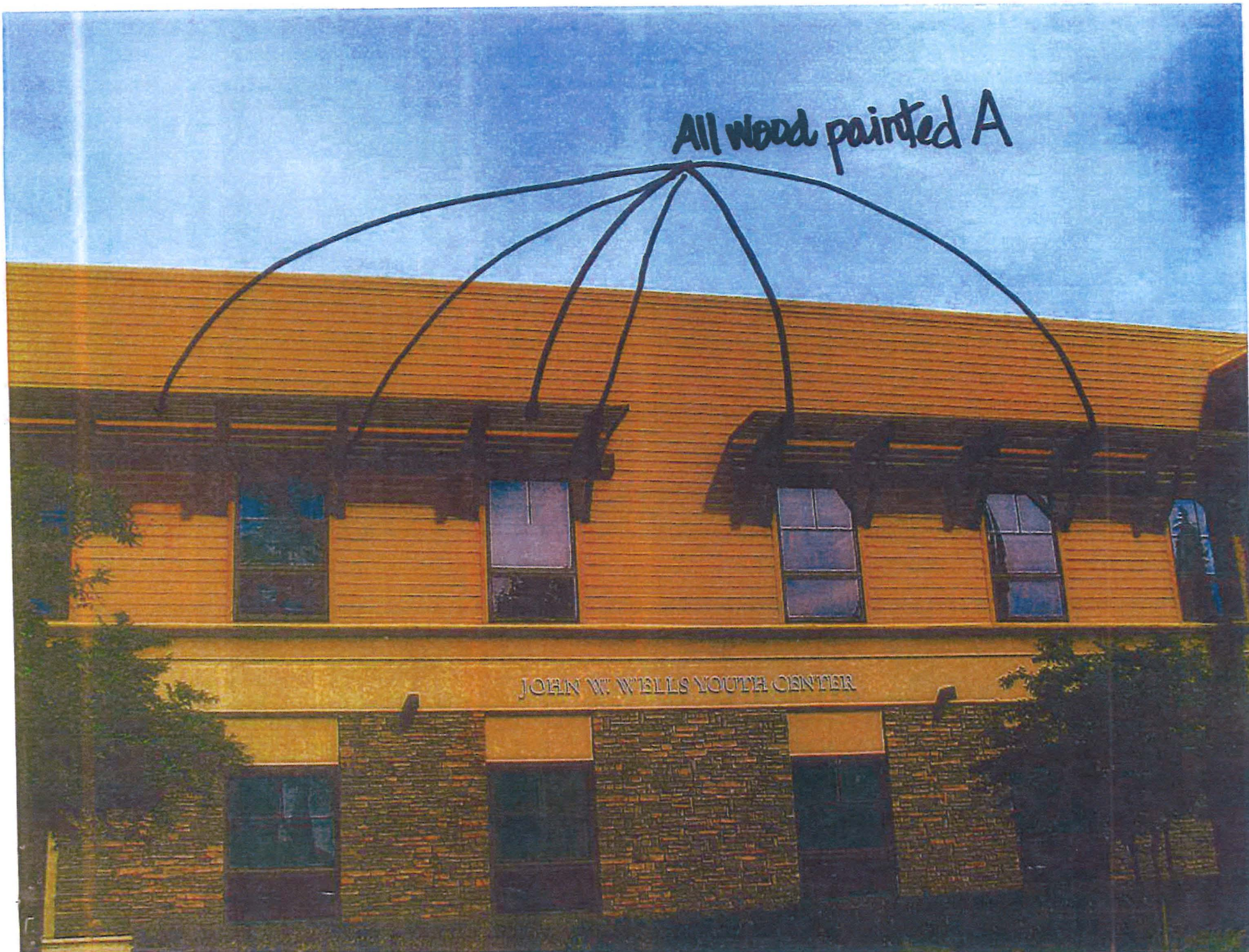
All beams painted B
DO NOT paint deck



All wood above door
painted A



All wood painted A



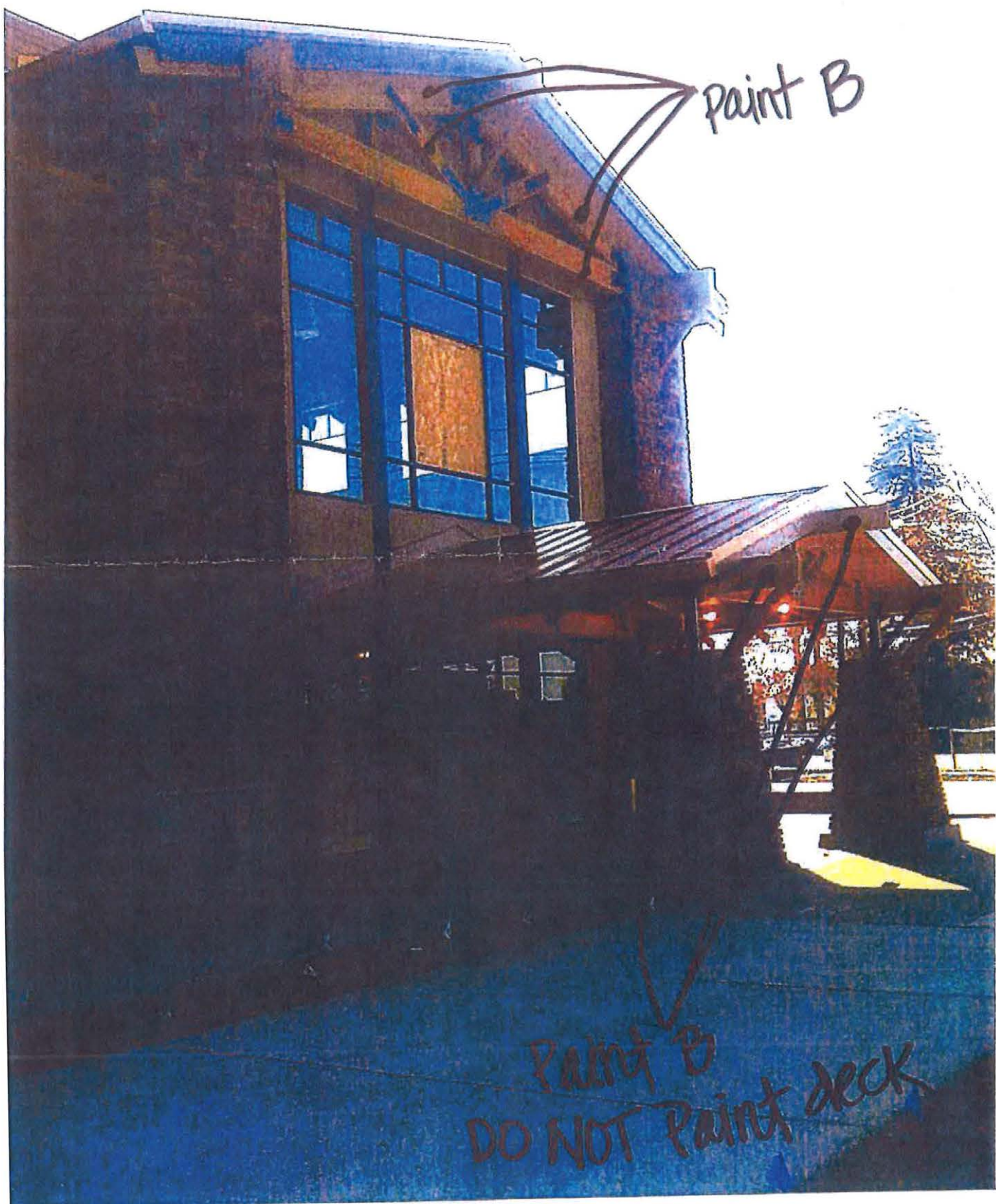
Painted B



DO NOT Paint deck!



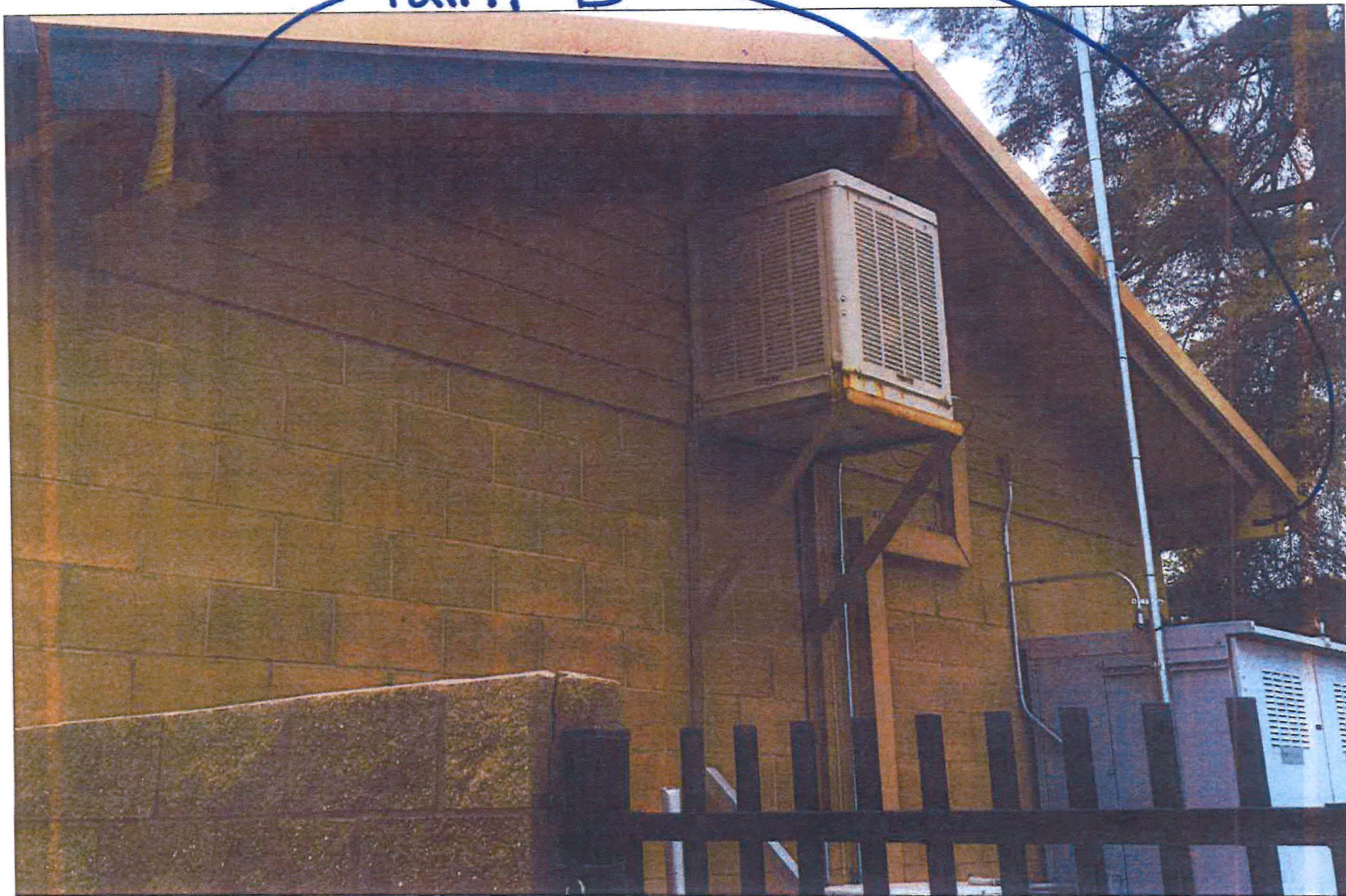
Paint Beams only B



paint B

✓
Paint B
DO NOT paint deck

Paint B



Paint B



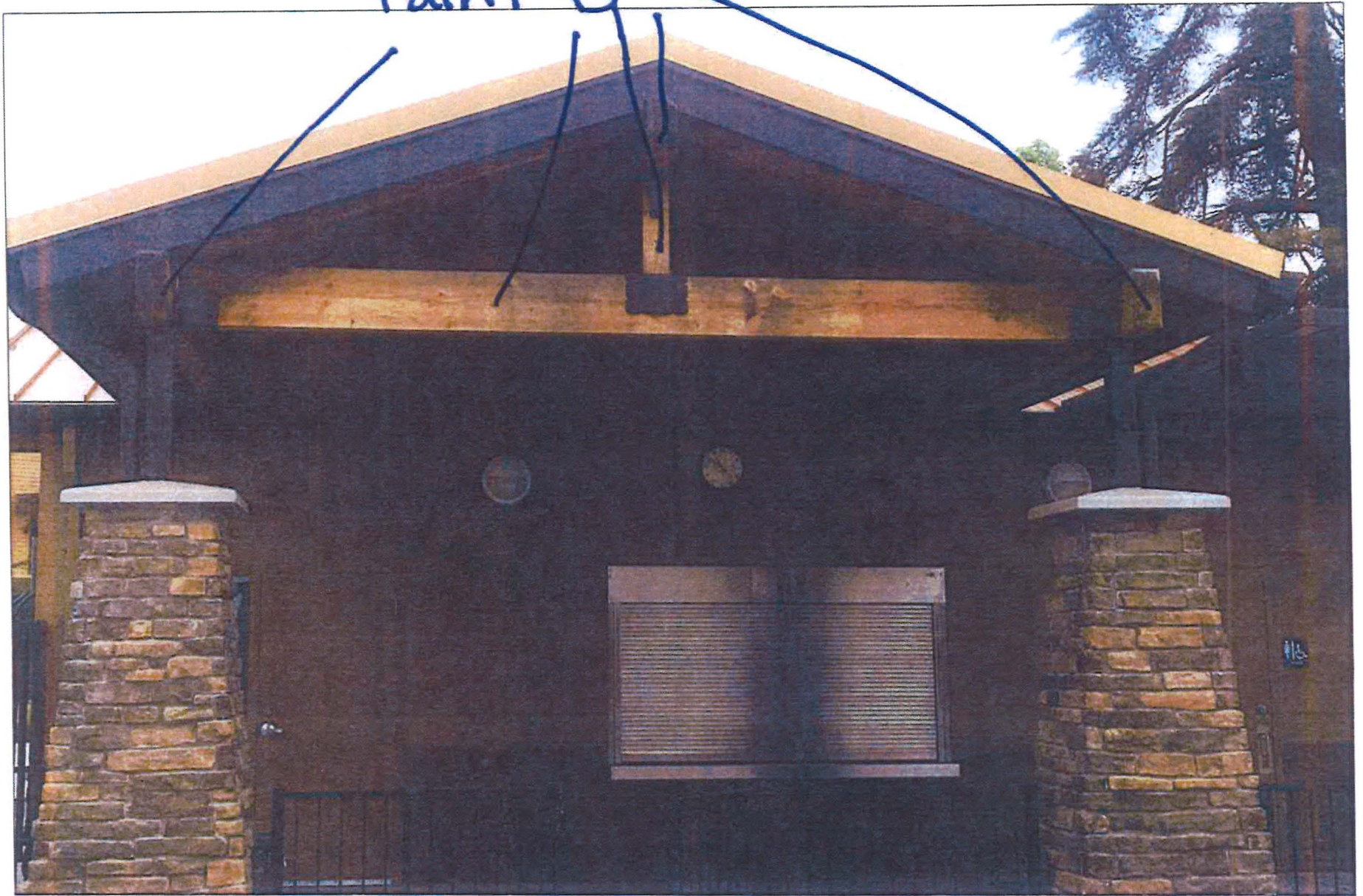
Paint B Beams only
Do not paint deck



Paint A



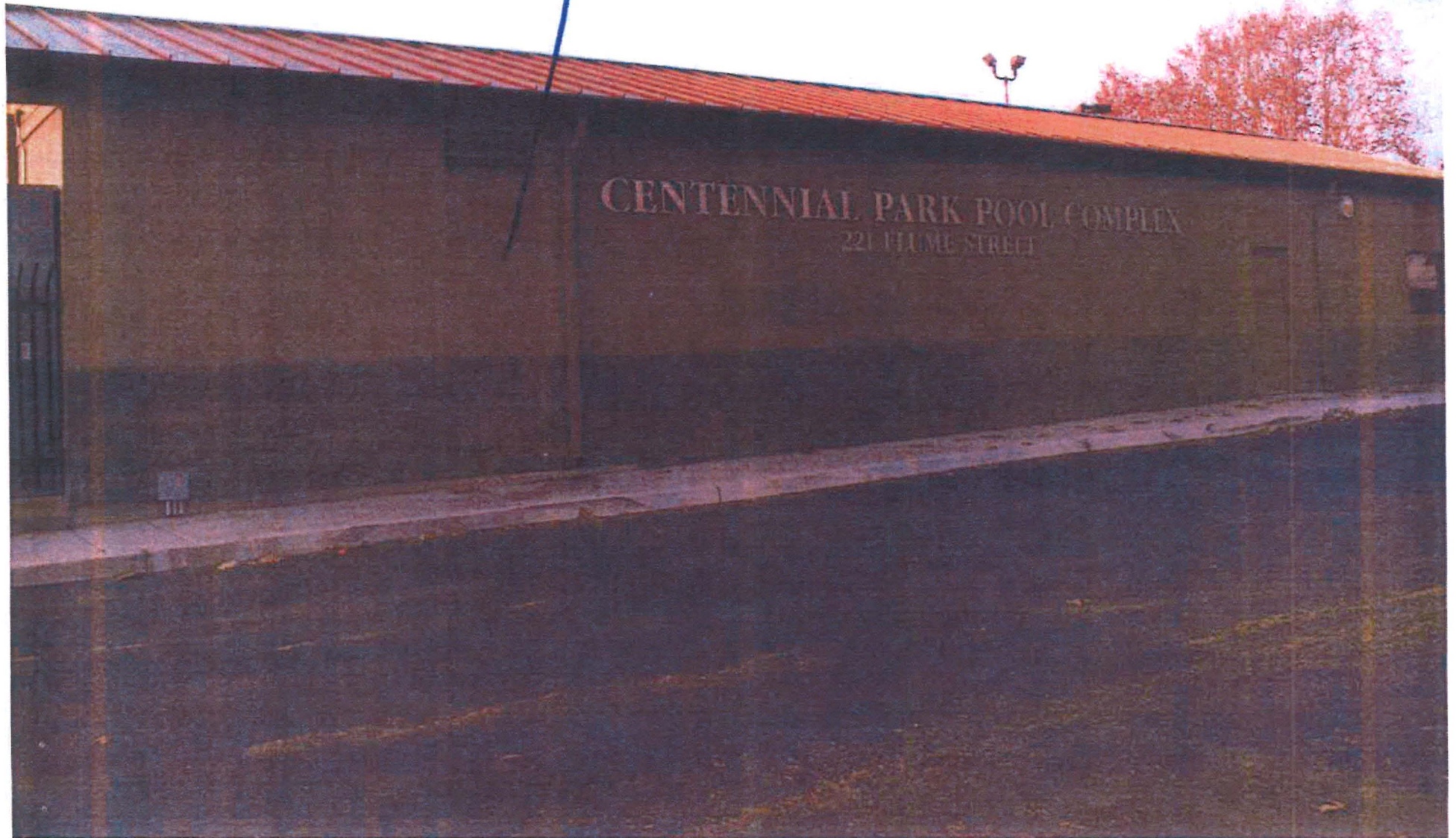
Paint B



Paint A



Please submit separate quote
Paint color will be chosen later. — light brick only



Sam Balbas Painting

Proposal

Contractor Sam Balbas
Ca. License #923727
20229 Del Mar Rd
Madera Ca. 93638
Phone (559)363-8658

Attn: Nicki Rincon

Proposal submitted to: City of Madera, John Wells Youth Center

Date: 2/14/2017

Address: John Wells Youth Center

Phone: 661-5478

Fax:

E-mail:

We hereby submit specifications and estimates for:

- Exterior Painting of Exposed wood framing surfaces, including Centennial Pool Complex.
- Power wash to remove all dirt and loose finish, etc.
- Hand scrape and wire brush any remaining loose material.
- Cover all roofing, concrete, and any additional needed areas in areas needed to be painted.
- Apply one coat Dunn Edwards Ultra Grip Primer to all wood beams and trim specified in packet delivered at bid walk.
- Apply two additional coats of Dunn Edwards Evershield flat paint to all wood beams and trim specified in packet.

Sub-Total: \$38,250.00

** Exterior painting of doors, window frames, upper portion of block wall (previously painted in light color), and drain pipes on Centennial Pool Complex.

- Power wash to remove all dirt and loose finish, paint, etc.
- Hand scrape and wire brush any remaining loose material.
- Cover all roofing, concrete and any additional needed areas in areas needed to be painted.
- Apply one coat Dunn Edwards Ultra Grip Primer to all areas listed.
- Apply two additional coats of Dunn Edwards Evershield flat paint to areas listed.

Sub-Total: \$7,400.00

We propose hereby to furnish material and labor-complete in accordance with the above specification for the sum of: **Prices listed above. Price includes all labor material and rental of boom lifts.**

With payment to be made as follows: **Completion of project.**

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted by: **SAM BALBAS PAINTING**

Note-this proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of proposal

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do work as specified. Payments will be made as outlined above.

Client Signature

Contractor Signature

Date

REPORT TO THE CITY COUNCIL

COUNCIL MEETING OF:
May 3, 2017

AGENDA ITEM NUMBER:
C-1

Approved By:



PLANNING MANAGER



CITY ADMINISTRATOR

SUBJECT: A Continued Public Hearing to Consider an Appeal by Mr. David Delawder of Planning Commission Approval for Conditional Use Permit 2017-07 and Site Plan Review 2017-08, which allows for three outdoor automotive sales events to be held by 365 Autos in the Madera Marketplace Wal-Mart parking lot during 2017, and Consideration of a Resolution of Determination on Appeal.

RECOMMENDATION

Staff recommends the City Council adopt a resolution of determination after an appeal hearing, affirming and upholding the Planning Commission's approval of Conditional Use Permit 2017-07 and Site Plan Review 2017-08.

ANALYSIS

Introduction

On March 14, 2017, the Planning Commission approved Conditional Use Permit 2017-07 and Site Plan Review 2017-08. The entitlements cumulatively allowed for three temporary outdoor used car sales events to occur during the 2017 calendar year. The three approved sales period are June 28th – July 5th, September 20th – October 1st and December 26th – December 31st.

The appellant, Mr. David Delawder, filed an appeal of the Planning Commission approval on March 21, 2017. Per Section 10-3.1310(C), the City Council must render a decision on the appeal within sixty days of receipt of the appeal. On April 5, 2017, the City Council scheduled the appeal hearing to April 19, 2017. At the appellant's request, the appeal hearing was continued to the May 3, 2017 City Council agenda.

Procedurally, in the event of an appeal of a decision of the Planning Commission, the Madera Municipal Code Section 10-3.1310(D) provides that the City Council may, by resolution, affirm, reverse or modify the decision of the Planning Commission. That section also requires that, in the event it decides to reverse the decision of the Planning Commission, it must make a written finding of fact setting forth where the Planning Commission decision was in error.

Per Section 10-3.1310(B), a member of the Planning Commission will be present to represent the Commission. The March 14, 2017 Planning Commission staff report is attached as Exhibit A.

History

The Madera Marketplace shopping center was approved within two separate phases. The first phase, approved within Conditional Use Permit (CUP) 1989-39, provided for the development of the Wal-Mart component of the shopping center, which includes the building itself as well as a substantial area of the parking field. The second phase, approved within Site Plan Review (SPR) 1990-25, provided for the remaining construction which cumulatively formed the Madera Marketplace, which included a JC Penney and Pak N Save grocery store as primary tenants. Perhaps because of the separate development entitlements, outdoor sales activities have been largely handled separately for each of the two phases.

For the Wal-Mart component, outdoor sales activities were initially guided by Condition No. 5 of CUP 1989-39 which states: "The outdoor storage and sales activities shall be restricted to the fenced area defined on the site plan, except for official, sanctioned community sidewalk sale days." Any and all outdoor sales activities not consistent with the condition of approval have required an additional request for conditional use permit to accommodate the proposed activity. Many use permits have been granted over the years. The last used car sales event occurred as part of CUP 2013-12. Gill Automotive Group secured approval for separate events in July, September and November of that year. Wal-Mart also uses the use permit process for annual placement of storage containers to assist in the holiday sales season.

For the second phase of the Madera Marketplace, outdoor sales activities were not initially addressed with conditions of approval for SPR 1990-25. The first entitlement to allow for outdoor sales activities was granted as part of CUP 1995-25, which allowed for multiple restaurants to provide outdoor dining. Actual outdoor sales events were not addressed until CUP 1996-13. CUP 1996-13 was "a request to allow periodic weekend outdoor sales events in the parking lot area of Madera Market Place Shopping Center (exclusive of Wal-Mart)." The Phase II operators were approved to "operate outdoor special sales events on each of six occasions, for one week at a time, in front of shops in the center and at times in the parking lot area, except for Wal-Mart, which is allowed outdoor sales periodically under a different use permit." No use permit for outdoor sales activities has been requested from the Phase II businesses for an extended period of time.

Since at least the 1995 use permit approval, outdoor sales activities have been allowed on an annual basis, with the Wal-Mart (Phase I) property requiring separate permits for outdoor sales activities from the Madera Marketplace (Phase II) properties.

Current Approval

CUP 2017-07 and SPR 2017-08 allow for three outdoor sales events over the remainder of the 2017 calendar year. The event has a defined sales event area with logical conditions of approval to provide compatibility with surrounding uses and to address potential nuisances. These conditions of approval have been utilized in past used car sales events and have proven sufficient to provide for the conducting of the used car sales events. The conditions of approval for CUP 2017-07 are included in the attached Planning Commission staff report.

CC&Rs

The appellant described a set of CC&Rs which he contends restricts outdoor sales activities in the shopping center. He indicated that there was a difference in opinion as to how the CC&Rs were interpreted.

The actual enforcement of CC&Rs is not in any way the responsibility of the City. When requested, the City may review CC&Rs as a courtesy to an applicant. Within that review, only two issues are of importance to the City; that no element of the document is inconsistent with

the Municipal Code, and that the City is not called out as an agent for the enforcement of the provisions within the document.

SUMMARY

Based on the record herein, it is the opinion of staff that the appellant cannot demonstrate an error occurred on the part of the Planning Commission. The historic record of activities on the project site additionally supports the use permit allowance. Staff recommends the City Council adopt a resolution affirming the Planning Commission decision approving Conditional Use Permit 2017-07 and Site Plan Review 2017-08.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

The vision plan “encourage[s] viable economic development.” Although good governance is a foundational goal of the City, an appeal of a Planning Commission approval of a use permit is not directly addressed within the Vision for Madera.

FISCAL IMPACT

The fee assessed for processing an appeal request assists the City in recovering the costs expended in bringing the appeal request to the City Council.

ATTACHMENTS

Application for Appeal of Administrative Decision

Resolution of Determination

Exhibit A – Planning Commission Report of March 14, 2017

Exhibit B – Minutes of March 14, 2017 Planning Commission

Exhibit C – Minutes of May 14, 1996 Planning Commission

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, MAKING A DETERMINATION AFTER HEARING AN APPEAL OF
THE PLANNING COMMISSION DECISION APPROVING CONDITIONAL USE
PERMIT 2017-07 AND SITE PLAN REVIEW 2017-08**

WHEREAS, the Planning Commission for the City of Madera Approved Conditional Use Permit 2017-07 and Site Plan Review 2017-08 which cumulatively allow for three outdoor used car sales events at 1977 West Cleveland Avenue; and

WHEREAS, Madera Capital L.P., David Delawder has filed an appeal of the Planning Commission decision to the City Council; and

WHEREAS, the Madera Municipal Code provides at section 10-3.1310(D) that the City Council may, by resolution, affirm, reverse or modify the decision of the Planning Commission.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA
HEREBY FINDS, ORDERS AND RESOLVES AS FOLLOWS:**

1. The above recitals are true and correct.
2. After duly conducting a public hearing on May 3, 2017, to hear the appeal filed by Madera Capital L.P., David Delawder, of the Planning Commission Decision approving Conditional Use Permit 2017-07 and Site Plan Review 2017-08, and after considering all of the evidence before it, the City Council hereby makes the following decision on said appeal:

_____ The Decision of the Madera Planning Commission approving Conditional Use Permit 2017-07 and Site Plan Review 2017-08 is affirmed.

(or)

_____ The Decision of the Madera Planning Commission approving Conditional Use Permit 2017-07 and Site Plan Review 2017-08 is reversed based on the following findings of error by the Planning Commission:

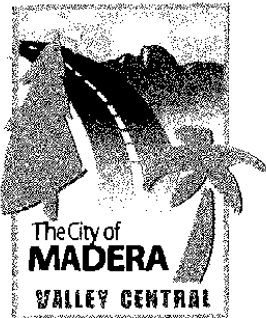
(or)

_____ The Decision of the Madera Planning Commission approving Conditional Use Permit 2017-07 and Site Plan Review 2017-08 is modified in following aspects:

3. This Resolution is effective immediately upon adoption.

* * * * *

665-2



APPLICATION FOR APPEAL OF ADMINISTRATIVE DECISION

APPLICANT NAME Madera Capital LP David Delacorte Proprietor
ADDRESS 1850 S. Sepulveda Blvd
CITY L.A. CA 90025 PHONE 661-547-8037 (C)
310-473-9520 (C)

AN APPEAL CANNOT BE ACCEPTED FOR PROCESSING WITHOUT A FULL EXPLANATION OF THE CIRCUMSTANCES SURROUNDING THE ACTION, AND THE GROUNDS FOR THE APPEAL THEREOF. (USE ADDITIONAL SHEETS IF NECESSARY.)

I AM HEREBY APPEALING THE DECISION OF (NAME) 365 Autos ON (date) March 14, 2017 PERTAINING TO ACTION RELATING TO MY PROPERTY LOCATED AT 1977 W Cleveland Ave. AND FURTHER IDENTIFIED AS ASSESSOR'S PARCEL NUMBER 013-160-014. THIS APPEAL IS BASED ON (GIVE A FULL EXPLANATION) CCRA's for Madera Marketplace. We feel that Auto Sales were never to be allowed. The sales were only intended for the merchants and not outside vendors & this is not part of the shopping center and there are no Auto Sales at the shopping center. We also disagree that the sale is being held during a prime time of the year at Christmas. The current approval does not address how many cars are for sale. And no limitation how many cars can be sold. We have restrictions to other tenants what can be sold in front of their stores. The CCRA's stipulate that they run with the land even when property is sold. Some of the Planning Commissioners indicated Walmart has this approval from the City in the past that we lost our rights that is not the interpretation of the CCRA's. We feel this whole thing affects the sales of the other tenants by driving in these sales and hampers our parking. Our parking under the CCRA's is for customers and service vendors & employees to come and go.

Signature [Signature]

THE SUBMISSION OF THIS FORM, COMPLETED AS REQUIRED, AND ACCOMPANIED BY THE APPLICATION FEE AS DETERMINED BY THE CITY COUNCIL, ENTITLES THE APPLICANT TO A HEARING BEFORE THE CITY COUNCIL OF THE CITY OF MADERA AT THE NEXT AVAILABLE PUBLIC HEARING, UNLESS DELAYED AT REQUEST OF THE APPLICANT OR DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF STAFF OR THE CITY COUNCIL OF THE CITY OF MADERA.

DATE FILED _____

DATE ACCEPTED _____

RECEIVED
MAR 21 2017

CITY OF MADERA
PLANNING DEPARTMENT

APPLICATION FEE:

Administrative \$1,204

Project Approvals \$605

(Fee Schedule Res. No. 14-137)

City of Madera, 205 W. 4th St., Madera, CA 93637 (559) 661-5405

**CITY OF MADERA
PLANNING COMMISSION**

205 W. Fourth Street
Madera CA 93637
(559) 661-5430

**Staff Report: 365 Autos - Walmart
Temporary Outdoor Sales Activities
CUP 2017-07 & SPR 2017-08
Item #5 – March 14, 2017**

PROPOSAL: Consideration of a request for a conditional use permit and site plan review to allow for three outdoor automotive sales events to be held by 365 Autos in the Madera Marketplace Wal-Mart parking lot. The Madera Marketplace requires the approval of a use permit for all outdoor sales activities. 365 Autos is requesting approval for three separate events, in addition to an event recently completed.

APPLICANT: Auto USA Inc. (dba 365 Autos) **OWNER:** Wal-Mart Realty Company

ADDRESS: 1977 West Cleveland Avenue **APN:** 013-160-014

APPLICATIONS: CUP 2017-07 & SPR 2017-08 **CEQA:** Categorical Exemption

LOCATION: The site is located in the Madera Marketplace shopping center, situated on the northeast corner of the intersection of North Schnoor Avenue and West Cleveland Avenue.

STREET ACCESS: Access to the project site is provided via North Schnoor and West Cleveland Avenues.

PARCEL SIZE: The Wal-Mart store is located on a 12.3-acre parcel, which is a portion of the overall shopping center site.

GENERAL PLAN DESIGNATION: C (Commercial)

ZONING DISTRICT: C1 (Light Commercial)

SITE CHARACTERISTICS: The Madera Marketplace shopping center is substantially surrounded by developed commercial/retail properties, with The Commons at the Madera Fair shopping center to the south and the John Deere equipment dealer to the east.

ENVIRONMENTAL REVIEW: This project is categorically exempt under §15304(e), Minor Alterations to Land, of CEQA Guidelines.

SUMMARY: Outdoor sales events require the approval of a conditional use permit at the Madera Marketplace shopping center. Approval would allow for three additional ten-day temporary outdoor used car sales events to occur.

APPLICABLE CODES AND PROCEDURES

MMC § 10-3.802 Uses Permitted, C-1 Zones

MMC § 10-3.1202 Parking Regulations

MMC § 10-3.1301, et seq. Use Permit Procedures

The General Plan designates the project site as C (Commercial) property. The project site is located in the C-1 (Light Commercial) Zone District. The C-1 (Commercial) Zone District allows for "temporary outdoor display of merchandise and sales activities" with the approval of a zoning administrator permit, while also allowing for "outdoor sales establishments" subject to the approval of a use permit by the Planning Commission. Original entitlements allowing for the development of the Wal-Mart property require a use permit for the placement of any outdoor storage and sales activities beyond the fenced outdoor sales area on the northern side of the Wal-Mart store structure.

The City's Zoning Ordinance allows for the granting of a use permit by the Planning Commission subject to the Planning Commission being able to make findings that the establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

If the Commission cannot make the appropriate findings, the use should be denied. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered and on or off-site improvements required in order to make the project compatible with nearby uses. In addition, the application may be subject to further review, modification or revocation by the Commission as necessary.

PRIOR ACTION

Use Permit X-89-39, approved by the Commission on November 14, 1989, allowed for "an outdoor storage/sales area" in conjunction with the development of the Wal-Mart commercial site. Since development of the Madera Marketplace site, numerous use permits and zoning administrator permits have been approved on behalf of Wal-Mart to allow outdoor display and sale of merchandise, and/or outdoor storage of merchandise. Most recently, Conditional Use Permit 2013-12 made an allowance for up to three outdoor sales events for the Gill Automotive Group.

The applicant recently initiated a sales event on the Wal-Mart site without first securing the required permits. Upon notification by City staff, the applicant made application for the required use permit and site plan review. With the application submittal, staff allowed the completion of the non-permitted five-day event.

ANALYSIS

Nature of Request

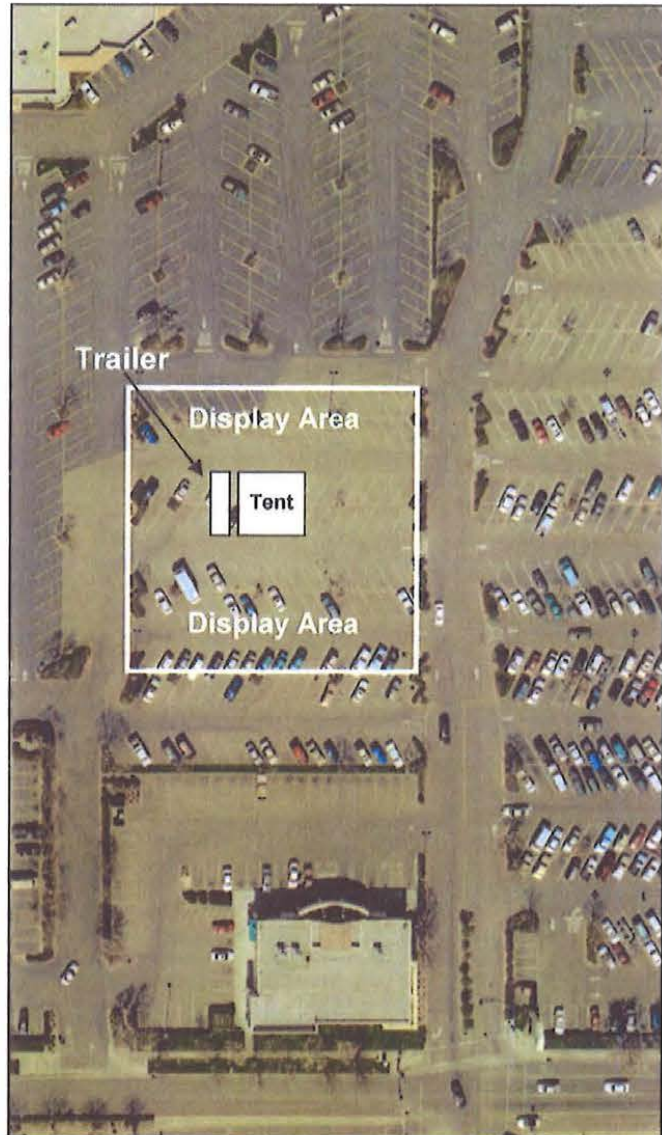
The applicant, 365 Autos, is a used car dealer located on Blackstone Avenue in Fresno. The applicant is requesting an allowance to hold three outdoor automotive sales events during the spring, summer and fall in the Wal-Mart parking lot. These outdoor sales events would allow 365 Autos greater exposure to potential Madera customers. The events would be supported with coordinated media exposure to maximize visitation to the events. The three proposed

weekend events would occur on June 28th through July 5th, September 20th through October 1st and December 26th through December 31st in the 2017 calendar year.

In consideration of outdoor activities in any commercial zone, issues such as traffic congestion and pedestrian safety, loitering, noise, trash, litter, vector control, visual blight, and site maintenance are concerns that generally need to be considered. While conditions of approval may be imposed to address these concerns, implementation and monitoring of compliance with those conditions of approval would be a necessity on the part of the applicant and staff. The primary concerns within this application relate to traffic congestion, pedestrian safety, trash/litter and public nuisances.

Analysis

The proposed location for the outdoor sales event is positioned in a centralized location in the center of the shopping center parking field, just to the west of the primary drive into and out of the shopping center. This location has in the past successfully accommodated similar outdoor events, including new and used car sales events. No primary interior drive aisles are compromised by the proposed event footprint and there is ample space for display of vehicles for sale. A sales trailer and shade tent(s) will be located in the center of the proposed event area, which will provide customer seating as well as areas for loan processing and vehicle financing as needed. It is recommended that no direct vehicle access be allowed into the proposed event area. Drive aisles along the perimeter of the event area should be clearly blocked to restrict vehicular access into the event area. Customers to the event will be able to utilize the remaining parking field to park and then take access to the event. To best protect pedestrians, pedestrian entrances should be logically placed and clearly marked.



To control litter, trash receptacles should be distributed inside of the tent and in each quadrant of the display area. The site should be checked for litter throughout the course of the business day and remedied as necessary. The serving of food or drink out of doors should not be a component of the automotive sales event without the authorization of the Community Development Director and the written authorization of the Madera County Public Health Department.

To address nuisances, amplified sound should not be employed as a component of the outdoor sales event. Lighting should be focused onto the event sight and should not create conditions of glare that could adversely impact surrounding uses and/or motorists. Adequate security should be the responsibility of the applicant. All signage associated with the outdoor sales event must be consistent with ordinance and will require the approval of a temporary sign permit in advance of placement of any signage.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Though approval of outdoor automobile sales events are not specifically addressed in the vision or action plans, the overall project does indirectly support Action 115.1 to “encourage viable economic development” and also Good Jobs and Economic Opportunity which focuses in part on creating “a broad spectrum of business opportunities”.

SUMMARY OF RECOMMENDATIONS

The outdoor sales event is permitted with the approval of a conditional use permit. Conditions of approval are recommended in order to ensure compatibility with surrounding uses. It is recommended that the conditional use permit be approved as conditioned.

PLANNING COMMISSION ACTION

The Commission would be taking action regarding the conditional use permit.

Motion 1: Move to approve the requested Conditional Use Permit 2017-07 and Site Plan Review 2017-08 based on and subject to the findings and conditions of approval as listed below.

Findings

- This project is categorically exempt under Section 15304(e), Minor Alterations to Land, of the California Environmental Quality Act (CEQA) since this temporary use of lands will have negligible or no permanent on the environment.
- The allowance for outdoor sales events is consistent with the purposes of the C (Commercial) General Plan land use designation and the C-1 (Light Commercial) Zone District which provide for the use, subject to the issuance of a conditional use permit.
- There is adequate parking and site features to allow for the proposed outdoor sales events.
- As conditioned, the outdoor sales events would be compatible with surrounding properties, because its operation would not negatively impact adjoining businesses within the Madera Marketplace shopping center and adjacent properties.
- As conditioned, the establishment, maintenance or operation of the outdoor sales events would not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City.

CONDITIONS OF APPROVAL

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by receipt in the Planning Department of the applicant's signature upon an Acknowledgement and Acceptance of Conditions within thirty (30) days of the date of approval for this use permit.
2. Any deviation from the approved plan or any condition contained herein shall require prior written request by the applicant and approval by the Planning Manager.
3. The use permit is valid for the current request(s) only. Any subsequent request for outdoor sales events shall require an application for use permit. This approval shall expire upon completion of the permitted events.
4. The applicant's failure to utilize this use permit within approved time periods following the date of this approval shall render the conditional use permit null and void unless an application for amendment has been submitted to and approved by the Planning Commission.
5. It shall be the responsibility of the applicant to ensure that any required permits, inspections and approvals from any regulatory agency shall be obtained from the concerned agency prior to commencement of any outdoor sales activities on the site.
6. This use permit shall be subject to periodic reviews and inspection by the City to determine compliance with the conditions of approval and applicable codes. If at any time, the use is determined by Staff to be in violation of the conditions of approval, Staff may schedule a public hearing before the Planning Commission within 45 days of the violation to consider revocation of the permit.
7. Three outdoor sales events are allowed during the remainder of the 2017 calendar year.
 - June 28th – July 5th
 - September 20th – October 1st
 - December 26th – December 31st
8. The daily hours of operation for each event shall be from as early as 9:00 am to as late as 9:00 pm. Setup of the event shall occur as early as 12:00 noon on the day before the event and teardown shall be completed by no later than 12:00 noon on the day following the event.
9. Ingress and egress to the Madera Marketplace shopping center parking lot shall not be blocked at any time.
10. The applicant shall be responsible for providing adequate event security.
11. The applicant shall keep the outdoor sales event area clear of all trash, rubbish and debris at all times. To control litter, trash receptacles shall be distributed inside of the tent and in each quadrant of the display area. The site should be checked for litter throughout the course of the business day and remedied as necessary.
12. Vandalism and graffiti shall be corrected per the Madera Municipal Code.

**CITY OF MADERA PLANNING COMMISSION
REGULAR MEETING
March 14, 2017**

CALL TO ORDER: The meeting was called to order by Chairperson Hutchings at 6:00 p.m.

ROLL CALL

PRESENT: Commissioner Kenneth Hutchings (Chairperson)
Commissioner Robert Gran Jr. (Vice Chairperson)
Commissioner Jim DaSilva
Commissioner Israel Cortes
Commissioner Pamela Tyler
Commissioner Richard Broadhead

ABSENT: Commissioner Bruce Norton

STAFF: Dave Merchen, Community Development Director
Christopher Boyle, Planning Manager
Keith Helmuth, City Engineer
Jose Sandoval, Assistant Engineer
Robert Holt, Assistant Planner
Brent Richardson, City Attorney
Brandi Garcia, Recording Secretary

PLEDGE: Commissioner Tyler led the Pledge of Allegiance.

PUBLIC COMMENT: None

MINUTES: February 13, 2017

Commissioner DaSilva moved to approve the minutes from the February 13th meeting.
Seconded by Commissioner Tyler. The motion carried unanimously.

CONSENT ITEMS: None

NON-PUBLIC HEARING ITEMS: None

PUBLIC HEARING ITEMS

1. TSM 2016-02 – Sunrise Estates

A continued public hearing to consider a tentative subdivision map proposing to subdivide four parcels (008-180-001, 002, 003 and 004) encompassing 22.52 acres into a 112-lot single family residential subdivision. The project site is located at the northwest corner of Sunrise Avenue and Tozer Street in the R1 (Low Density Residential) Zone District, with an LD (Low Density Residential) General Plan land use designation. A Negative Declaration will also be considered by the Planning Commission.

Christopher Boyle, Planning Manager explained that this item was removed from the Agenda per the applicant's request.

2. CUP 2007-24MOD & SPR 2016-60 – Head Start Expansion

A noticed public hearing to consider a modification to a conditional use permit and site plan review to allow for a 960 square foot modular classroom expansion for the Head Start program at the Valley West Christian Center located on the north side of West Adell Street at its intersection with Sonora Street (101 West Adell Street), in the R1 (Low-Density Residential) Zone District with an MD (Medium-Density Residential) General Plan land use designation. (APN: 003-200-004)

Christopher Boyle, Planning Manager presented the item.

Commissioner Gran asked about the condition regarding inspections.

Mr. Boyle said they felt that based on the time lines it was important to address land use entitlements at this point. Typically the office would be constructing structures on school sites which would be exempt from inspections. This is not a school site, it's a residentially zoned property but staff feels confident that we will resolve that issue in the near future. Because of the time lines it was good advice to the applicant to move forward with the zoning entitlements since they would be required regardless.

Commissioner Gran noted it is a mix of church and state, usually it's a state, state situation. They must understand that different rules apply for private property.

Mr. Boyle said he believes there is a realization coming about. There's a bit of a sticker shock as well for inspection fees, etc. He believes they will be able to resolve those matters with the applicant and come to agreement and move forward.

The applicant was invited to the podium.

Corina McDonald of 1100 H St. in Modesto stepped to the podium. She brought the architect, Mike Clark, up with her as well. Corina is the Operations and Construction Manager for the County and works for the Stanislaus County Office of Education. They are in agreement with the conditions. Their number one goal is to serve the kids. They did come into this in a backwards way, this is not the traditional manner but they are trying to correct the issues and move forward.

Commissioner Gran asked how Stanislaus County ended up in Madera.

Mrs. McDonald stated they have extra funding so they are working with Madera County staff but it is their funding that is being used.

Commissioner Hutchings had a question for the architect. He asked about the proposed site plan. With the shade trees there is one light that is placed near a couple trees. Has there been an analysis to make sure that light would be effective once the trees are mature? He wanted to bring that to their attention.

Mr. Clark of 571 McHenry Ave. in Modesto responded that he will discuss that with the electrical person. Sometimes with the preliminary plans there is a coordination issue and they may not have coordinated with locations of shade trees.

Commissioner Hutchings asked if anyone else would like to address the Commission.

Pastor Roger Leach of Valley West Christian Center at 101 W. Adell St. stepped to the podium. He said he and M.J. Neighbors got together back in about 2000 and started talking about the need for education for small children in that area. The idea started to take place then. It's a unique collaboration working with Stanislaus. They will work things out and get things done. They have a migrant housing complex right across the street and the children come walking across the street. They want to do everything they can to make sure the children are protected.

The item was returned to the Commission for further processing.

Commissioner Gran was concerned about the inspections.

Brent Richardson, City Attorney said the City will have the same enforcement as we would for anything else.

Commissioner Gran said he just wants to make sure they can come to some kind of agreement.

Mr. Richardson said they have agreed to the conditions for the use permit.

Commissioner Gran made a move to approve Motion 1, seconded by Commissioner DaSilva. The motion was carried unanimously.

3. CUP 2017-04 & SPR 2017-05 – Paletalandia Beer and Wine Sales

A noticed public hearing to consider a conditional use permit and site plan review to allow for the on-site consumption of beer and wine in conjunction with an existing restaurant located in the Madera Marketplace shopping center at the northeast corner of North Schnoor Avenue and West Cleveland Avenue (2295 West Cleveland Avenue), in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 013-160-020)

Robert Holt, Assistant Planner presented the item.

The applicant was invited to the podium.

Alejandro Aguilar, General Manager for Paletalanda stated he has read the conditions of approval and is in agreement with them.

Commissioner DaSilva asked who would be doing the upgrades, him or the property owner.

Mr. Aguilar said he believes the property owner will be doing the upgrades.

There were no further questions of Mr. Aguilar. He stepped down from the podium.

Dave Delawder, Property Manager for the Shopping Center stepped to the podium.

He asked about the water meter and the sewer going into the City easement areas. He met with Public Works, the Water District and Engineering and also sat

down with Chris. He has easement rights with the City to have the water meters where they are now. Some are on public right of way, the same with the sewer lines. They would like to keep the same locations and just upgrade the meters. It's very costly to redesign the infrastructure of the shopping center.

Commissioner Hutchings asked about Mr. Delawder managing the entire shopping center.

Mr. Delawder said that IHOP and the Tire Center are not a part of it even though they should have been. He manages the parking lot sweeping and landscape maintenance for the shopping center. Walmart maintains their own security and issues on their property. He does also take care of the sweeping, lighting and landscaping for Chase.

Commissioner Hutchings noted there is a stop sign near Chase and IHOP that is extremely washed out.

Mr. Delawder noted that right at that drive way is the property line for IHOP. They don't take care of anything on the IHOP side which is where the sign is.

Commissioner Hutchings verified that he would need to contact the IHOP Manager.

The item was returned to the Commission for further processing.

Commissioner Gran asked if the water meter would be an issue.

Keith Helmuth noted that he did speak with Mr. Delawder that day and they are able to keep the location of the meter and just do the upgrade of the meter.

Commissioner Gran made a move to approve Motion 1 with the modification to #15 to read the upgrade to City standards but remain in the existing location. Seconded by Commissioner Tyler. The motion carried unanimously.

4. CUP 2017-05 & SPR 2017-02 – La Quinta Inn & Suites

A noticed public hearing to consider a conditional use permit and site plan review to allow for the renovation of the existing hotel located at the northeast corner of West 4th Street and North G Street (317 North G Street), in the C2 (heavy Commercial) Zone District with a C (Commercial) General Plan land use designation. (APN: 006-095-010)

This item was presented by Planning Manager, Christopher Boyle.

Commissioner DaSilva asked what they were going to do with signage.

Mr. Boyle said that all signage on site has a permit so La Quinta will then propose alternative signage as part of the remodel. They may wish to retain freestanding signage or they may wish to entertain alternative signage as part of the rebranding.

Commissioner Gran asked where the trash enclosure is going.

Mr. Boyle said that they will be required to bring the trash enclosure to City standards.

There were no further questions for Mr. Boyle. The applicant was invited to step forward.

Carter Case of 232 Southeast Oak Street, Portland OR 97214 stepped to the podium. He said that Mr. Boyle did a good job describing what their intent is which is a complete remodel. The number of rooms will stay the same with maybe one or two that will be switched around. They will take the old restaurant and make it a lobby and breakfast room with places to sit and eat. He described the materials that will be used in the remodel of the outside of the building. He also noted that they will take care of the trash enclosure. They want the first impression of people to be that they want to stay there. They have read the conditions of approval and they are anxious to move forward.

Commissioner Gran confirmed that he is in agreement with all the conditions.

Mr. Case said, yes.

Commissioner DaSilva made a move to approve Motion 1, seconded by Commissioner Tyler. The motion was carried unanimously.

5. CUP 2017-07 & SPR 2017-08 – 365 Autos Temporary Outdoor Sales

A noticed public hearing to consider a modification to a conditional use permit and site plan review to allow for three outdoor sales events to be held by 365 Auto in the Walmart parking lot located on the northeast corner of the intersection of North Schnoor Avenue and West Cleveland Avenue (1977 West Cleveland Avenue) in the C1 (Light Commercial) Zone District, with a C (Commercial) General Plan land use designation. (APN: 013-160-014)

Planning Manager, Christopher Boyle presented the item.

Commissioner DaSilva asked if the tent was a pop up tent that would be taken down every night.

Mr. Boyle said no, it's not a pop up tent, this vendor relies on a trailer. The trailer is noted in the site plan. Regardless, the tent will need to be inspected by the Fire Marshall.

Commissioner Hutchings noted that during the holiday season it gets busy in the shopping center and this will add to the congestion the parking lot and this will add to it.

Mr. Boyle said that yes the shopping center will experience higher degrees of congestion during the holiday season. The parking lot is parked in a way to provide for the expansion of the green space along Cleveland Ave if at such time Walmart had chosen to move forward with that expansion project. Not withstanding, the fact that the day after Christmas is a high parking demand period, the site chosen is away from the other tenants on the site and staff would still feel that the parking field would adequately address the number of cars.

Commissioner Gran noted that the only thing that would be impacted is the area where the RV's park.

Commissioner Broadhead asked if the location would be taped off.

Mr. Boyle said there are conditions of approval that require them to make sure the site is separated from rights of way to protect pedestrians.

Commissioner DaSilva asked about security during the night.

Mr. Boyle said that he would anticipate there will be some type of security to protect inventory while they are closed. There are conditions of approval that relate to things like trash, nuisances, etc.

Commissioner Broadhead asked if parking for the event will be parked there or mixed in with the Walmart parking.

Mr. Boyle said that typically those who visit the site will not park within it.

The applicant was invited to the podium.

Jim Estes of 4175 N. Blackstone, the dealer of 365 Autos stepped forward. He stated he is in agreement with the conditions of approval.

There were no questions of Mr. Estes.

Dave Delawder, Property Manager for the shopping center stepped to the podium. He said that the owner of the other part of the shopping center is opposed to it. They have a CCR which was established when the shopping center was built. It states there will be no other activities in the parking lot except for parking lot sales for those retail stores located in the shopping center. 365 Autos is an auto sale that has nothing to do with the retail sales of the shopping center such as Walmart having a parking lot sale. Under the CC&R there are parking requirements as well. There are a certain number of parking stalls for shopping center customer's only. As far as the safety and barricading of the roadway; it states that you cannot block any roadway for through traffic in the shopping center. They do block off a whole section and it takes away the whole section which is a violation of the CC&R's.

Commissioner DaSilva asked if they (365 Autos) came to him and asked for permission.

Mr. Delawder said no, and in 2014 when it was done he wrote to Benton, AR. To the Walmart Corporate office. They said they felt different and they've done it already, the Planning Commission gave them permission.

Commissioner DaSilva said you were notified already for Gill.

Commissioner Gran noted that they were notified by mail and all of a sudden now, they're opposed to it. The sales have been going on for years now just not with this applicant. He said he understands there's a CCR but does it apply to Walmart's property also?

Mr. Delawder said that the CC&R is between Walmart and the other owner of the shopping center. Walmart is part of the shopping center. It stipulates these are the rules and regulations. It says that when there are parking lot sales none of the roadways can be blocked. Only the parking stalls can be roped off.

Commissioner Gran asked how the storage was addressed.

Mr. Delawder said that the storage containers are in the back of Walmart and is under a container issue. The City has come to him and he says he doesn't own the Walmart parking and as long as they are in the back there are no parking spaces so he doesn't have a problem.

Commissioner Gran said yes, there are and they are counted spaces.

Mr. Delawder said they may be counted but they're not blocking the roadway.

Commissioner Gran asked about RV's.

Mr. Delawder asked what RV's, the one in the middle?

Commissioner Gran said it is a known fact that if you have an RV you can park at a Walmart.

Mr. Delawder said that he talked to Walmart about it in the past and even went to Walmart's corporate office. He's had people coming to him including Madera Police but he doesn't own their property or control their security issues, they do.

Commissioner DaSilva asked for clarification on the boundaries.

Mr. Delawder said he can provide a map.

Commissioner Gran noted that the CC&R's apply to both.

Mr. Delawder said there is an agreement that they would operate the parking lot to be for parking only for the use of the retail stores that are in the shopping center.

Mr. Boyle noted that to answer the question regarding the parcel configuration, looking at the aerial photo, you can see the difference in the parking lot between the times the blacktop has been refreshed. That is closely aligns with the parcel line.

Mr. Delawder said they have restrictions on signs being put up throughout the parking lot. The stalls need to be left open for those that are tentative shoppers. There is over flow in the middle but the stores that run from Pak N Save to Goodwill have a narrow parking strip. With the school there now, they are having trouble with the parking and will be making the parking in some areas to 30 minute parking. Walmart owns the parking lot but there is the CC&R agreement with them.

Commissioner Hutchings said the opposition had been noted.

Mr. Estes stepped back to the podium. He said he prefers to have parking only in the stalls because the more open it is the more traffic comes through. They don't want to take over the lot and block traffic. He has extensive experience in automotive and has been in the Valley for a long period of time. They signed a contract with Walmart and mailed out several pieces of mail offering a \$5 Walmart card for everyone that visits. It not only benefits Walmart but people will also stop and get groceries or whatever while there.

Commissioner Hutchings asked if anyone else would like to address the Commission on this item. Seeing none, the public hearing was closed and the item was returned to the Commission for further processing.

Commissioner Gran asked for Mr. Richardson's input on this.

Mr. Richardson said it is certainly something that we could consider but they do not necessarily apply to the City. They are between the two property owners. The City itself is not necessarily bound by it. It's a little problematic to consider them since you cannot see them. If the Commission grants the permit and it is in violation then the property owner can pursue some sort of action to keep them from operating in violation.

Commissioner DaSilva made a move to accept Motion 2, to continue the request for approval of Conditional Use Permit 2017-07 and Site Plan Review 2017-08 to the April 11, 2017 Planning Commission meeting so they can see the CC&R's.

Commissioner Gran said this has been going on for a while and he understands that they feel like they need to say something but at the same time...

Commissioner Cortes seconded the motion.

Commissioner Hutchings - no
Commissioner Gran - yes
Commissioner Tyler - no
Commissioner Broadhead - no
Commissioner Cortes - yes
Commissioner DaSilva - yes

The motion failed due to a tie vote.

Commissioner Tyler made a move to accept Motion 1, to approve Conditional Use Permit 2017-07 and Site Plan Review 2017-08, seconded by Commissioner Gran.

Commissioner Hutchings - yes
Commissioner Gran - yes
Commissioner Tyler - yes
Commissioner Cortes - no
Commissioner Broadhead - yes
Commissioner DaSilva - no

Motion 1 was carried by a 4-2 vote.

NON PUBLIC HEARING ITEMS:

1. CUP 2016-20 & SPR 2016-36 – Teran Residence (Performance Review)

A review of the performance of Conditional Use Permit 2016-20 and Site Plan Review 2016-36 allowing for a residential use on a commercially zoned property, to determine whether it is appropriate to schedule a hearing on revocation.

Mr. Boyle, Planning Manager presented the item.

Commissioner DaSilva asked if there was any ADA compliance.

Mr. Boyle confirmed there was not but it would not be required from a residential perspective. It there would have been a requirement if the applicant wished to continue the use as a commercial building.

Commissioner DaSilva asked if it was commercial throughout the whole year or just during tax season.

Mr. Boyle said that in the inspections over time it had remained commercial. As of six days ago the 'Open' sign had been removed and the 'Tax Services' sign had been removed but as you walk up the front steps the interior of the site still functions as a commercial entity. He can't say with certainty that every day since the approval of the use permit it was functioning as a commercial, but every time staff has inspected it has been.

Commissioner DaSilva asked if the parking stalls would be removed if it was a residential use.

Mr. Boyle said that staff made a concession that the site doesn't have a covered parking stall on site but since the site never has had covered parking, it would not be required and they could use the street parking for the residential needs moving forward. We felt that long term viability as a commercial property is where we wanted to see the property go.

There were no further questions of Mr. Boyle.

Commissioner Gran made a move to accept Motion 1, seconded by Commissioner DaSilva. The motion was carried unanimously.

ADMINISTRATIVE REPORTS:

Mr. Boyle stated that staff would bring updates on current projects at the next scheduled meeting.

COMMISSIONER REPORTS:

Commissioner DaSilva reported that the Planning Commission Academy was good. He felt that last year was better but they did get a lot of good information.

Commissioner DaSilva also asked Mr. Helmuth about the sinkhole at Olive and Pecan. He said it's getting bigger.

Mr. Helmuth said the construction manager was going to look at it but he will check on it.

The meeting adjourned at 7:23 p.m.


Planning Commission Chairperson


Brandi Garcia, Recording Secretary

MINUTES OF THE CITY OF MADERA PLANNING COMMISSION

REGULAR MEETING OF MAY 14, 1996

CITY COUNCIL CHAMBERS

CALL TO ORDER

The meeting was called to order by Chairman Thornton at 6:30 P.M.

The Invocation was led by Pastor Randy Brannon of the Grace Community Church.

The Pledge of Allegiance was led by Vice-Chairman Garcia.

ROLL CALL:

PRESENT: Vice-Chairman Danny Garcia
Comm. Donald E. Holley
Chairman Ross Thornton
Comm. Michael Westley
Comm. Corky Walters
Comm. Bob Gran, Jr.
Comm. Maurice Phillips

STAFF: Planning Director Larry J. Red
Community Development Director/City Engineer Leon Lancaster
Assistant Planner/Code Enforcement Officer Pat Bodin
City Attorney Joseph Soldani
Recording Secretary Dawn Flores

PUBLIC COMMENT: The Chairman opened the meeting for public comment on any items not on the regular scheduled agenda. There being no speakers, the Chairman closed the Public Comment section of the meeting.

APPROVAL OF MINUTES:

ON MOTION BY COMM. HOLLEY, SECONDED BY COMM. GRAN, THE MINUTES OF THE APRIL 9, 1996 MEETING WERE APPROVED BY THE FOLLOWING VOTE: AYES: COMMS. HOLLEY, WESTLEY, WALTERS, PHILLIPS, GRAN, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

CONSENT CALENDAR:

A. BUENROSTRO USE PERMIT TIME EXTENSION #X-96-08.

Review of a request for an extension of time on an approved Use Permit to allow establishment of a restaurant and night club in an existing building at 301 East Yosemite Avenue in the C-1, Light Commercial Zone. A one year extension to April 13, 1997, is requested.

B. NORTHVIEW ESTATES TENTATIVE MAP TIME EXTENSION #VIII-96-05.

Review of a request for a one year time extension for the Northview Estates Tentative Subdivision Map #VIII-90-09 for 123 single family residential lots of approximately 6,000 square feet each on 26.7 acres located on the east side of Merced Street just south of Adell Street in the R-1, Residential Zone.

ON MOTION BY VICE-CHAIRMAN GARCIA, SECONDED BY COMM. GRAN, THE CONSENT CALENDAR WAS APPROVED BY THE FOLLOWING VOTE: AYES: COMMS. WESTLEY, HOLLEY, WALTERS, GRAN, PHILLIPS, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

HEARING CALENDAR:

1. MADERA MARKETPLACE OUTDOOR SALES USE PERMIT #X-96-13.

Public hearing on a request to allow periodic weekend outdoor retail sales events in the parking lot area of Madera Market Place Shopping Center (exclusive of Wal-Mart) located on the north side of West Cleveland Avenue and the east side of North Schnoor Avenue in the C-1, Light Commercial zone.

Chairman Thornton introduced the item and Assistant Planner/Code Enforcement Officer Bodin presented the staff report as written. The request is to allow the applicants to operate outdoor special sales events on each of six occasions, for one week at a time, in front of the shops in the center and at times in the parking lot area, except for Wal-Mart, which is allowed outdoor sales periodically under a different use permit. The requested special occasions were Easter, Mother's Day, Independence Day, Labor Day, Veteran's Day and Father's Day.

In response to Comm. Gran's question, Planner Bodin explained that once Hollywood Video moves into the old Wherehouse building, they will also be able to use this use permit.

Chairman Thornton opened the public hearing and called on the applicant.

Jeff Foss, Property Manager for the Madera Market Place, 41 Lafayette Circle, Lafayette, CA, states that the only problem they have with the conditions of this use permit is that they would like to have

seven days instead of the three that Staff is recommending so that they can have extra time for set up and take down time. Mr. Foss explained that even though the shopping center and Wal-Mart provides security on a day-to-day basis, they will also provide additional security on sale days. Mr. Foss also assured the Commission that they will be sure not to block fire lanes as well.

Richard Strong, attorney representing Wal-Mart, states that he would like Wal-Mart included in this use permit to take advantage of the outdoor sales events. Mr. Strong advised that Wal-Mart has security from early A.M. to late P.M.

Adolf Vizcarra, representative for Pepsi-Cola Company; Michelle Simmons, operator - TCBY; and Sue Robinson, Pacific Color Nurseries all added that they are in favor of including Wal-Mart on this use permit and believe that it would be good for the community.

There being no further speakers, the Chairman closed the public hearing.

COMM. PHILLIPS MOVED TO APPROVE THE MADERA MARKETPLACE USE PERMIT #X-96-16 IN FAVOR OF THE MADERA MARKETPLACE SHOPPING CENTER, INCLUDING WAL-MART, IN THE C-1, LIGHT COMMERCIAL ZONE, WITH FINDINGS AND CONDITIONS OF APPROVAL, WITH CORRECTION TO #2 (FROM THREE DAY TO FIVE DAY EVENTS).

THE MOTION WAS SECONDED BY COMM. HOLLEY AND WAS CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. GRAN, WESTLEY, HOLLEY, PHILLIPS, WALTERS, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

2. "CHARLIE'S FAMILY ENTERTAINMENT CENTER" USE PERMIT #X-96-14.

Public hearing on a negative declaration in conjunction with a Use Permit application to establish an amusement arcade in the existing 2,500 square foot building at 216 South "D" Street (across the street from the Post Office) in the C-1, Light Commercial zone. The operation will include four pool tables, four video games, plus two pinball machines and two air hockey games. It is proposed to be open from 11 A.M. to 10 P.M. daily. Non-alcoholic beverages and prepackaged snacks will be available.

Chairman Thornton introduced the item and Assistant Planner/Code Enforcement Officer Pat Bodin presented the staff report as written. The use permit, if granted, would allow the applicants to operate an entertainment arcade with four pool tables, four video arcade games, two air hockey games and two pinball games. Hours of operation would be 11:00 a.m. to 10:00 p.m., daily. Snack items of food and drink would be available as packaged food only. The business owner would provide two employees during the peak business hours from 5:00 p.m. to 10:00 p.m.

Chairman Thornton opened the public hearing and called on the applicant.

Mike Mideiros, draftsman on project, commented that he told the applicant, Mr. Bazan, that he needed to assure the Planning Commission that he will be able to control any problems that may arise from operating an arcade, such as gang activity, etc.

Miguel Bazan, applicant, states that he would try to do whatever is needed to comply with conditions of the use permit. In response to Comm. Walters' question, Mr. Bazan stated that if needed, he would be happy to hire a security guard if warranted. Mr. Bazan commented that he doesn't have any actual experience operating an arcade but he does go to them frequently and feels that this experience will help him deal with any problems that may arise.

OPPOSITION

Mitch Rigby, 219 So. "D" Street; Jim Massetti, 215 So. "D" Street; Chris Pistoressi, auto dealer; all state that if this project is approved, they would be concerned for the downtown area as they don't perceive this use as a step forward for the downtown area. They also cited the possibility of loitering and vandalism as reasons to deny this request.

Chairman Thornton commented that Mr. Massetti had called him before tonight's meeting to discuss this request.

REBUTTAL

Michael Mideiros suggested that perhaps an additional condition could be added to include the hiring of a security officer during business hours. Mr. Mideiros urged the Commission not to deny this project out right and suggested they continue it until some of their concerns could be mitigated.

There being no further speakers, the Chairman closed the public hearing.

Comm. Phillips, Vice-Chairman Garcia and Comm. Westley all cited the lack of experience in operating an arcade by the applicant and felt that this is definitely a detriment to opening this type of business. They also said they concur with the comments made by those in opposition to this project and fully sympathize with the business owners in the area.

COMM. PHILLIPS MOVED TO DENY USE PERMIT #X-96-14 TO ALLOW ESTABLISHMENT OF AN AMUSEMENT ARCADE AT 216 SOUTH "D" STREET IN THE C-1, LIGHT COMMERCIAL ZONE BASED ON THE FINDING THAT THE PROPOSED USE WOULD BE DETRIMENTAL TO THE HEALTH, SAFETY AND WELFARE OF THE NEIGHBORHOOD AND THE LACK OF AVAILABLE PARKING IN THE AREA.

THE MOTION WAS SECONDED BY COMM. WALTERS AND CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. WESTLEY, HOLLEY, PHILLIPS, GRAN, WALTERS, AND VICE-CHAIRMAN GARCIA. NOES: CHAIRMAN THORNTON. ABSTENTIONS: NONE. ABSENT: NONE.

3. MADERA DOWNTOWN ASSOCIATION OUTDOOR SALES USE PERMIT #X-96-16.

Public hearing on a Use Permit request by the Madera Downtown Association to allow its retail members to conduct outdoor sales events on the first Friday, Saturday, and Sunday of each month from June through October, 1996, in the area generally located between North and South "E" Streets and North and South Lake Street, and two blocks north and two blocks south of East Yosemite Avenue in the C-1, Light Commercial, C-2, Heavy Commercial, I, Industrial, and PF, Public Facility zones.

Chairman Thornton introduced the item and Assistant Planner/Code Enforcement Officer Pat Bodin presented the staff report as written. The use permit, if granted, would allow the applicants to operate outdoor special sales events within the above defined boundaries on the first Friday, Saturday and Sunday of each month from May to October, inclusive. Only member businesses of the Madera Downtown Association would be allowed participation, and the events would be conditioned to prevent any potential negative impact on the community.

In response to Comm. Gran's question regarding Condition #11, Planner Bodin explained that if the Downtown Association wanted to have a radio remote (amplified music/sound), this would take a modification to their use permit and they would have to come back before the Commission for this approval.

Chairman Thornton opened the public hearing and called on the applicant.

Bill Alessini, President of the Downtown Association, 148 No. Park Drive, commented that if the radio station wanted to broadcast at the outdoor sales events, they should get their own use permit. In response to Vice-Chairman Garcia's question, Mr. Alessini explained there shouldn't be a problem with non-members of the Association participating in these sale events because most of the business operators in the downtown area are already members. Responding to Comm. Phillips' question, Mr. Alessini indicated that he wouldn't be opposed to changing the hours of operation on Sunday's from 9:00 A.M. to Noon until 6:00 P.M. to accommodate the people coming from church.

There being no further speakers, the Chairman closed the public hearing.

COMM. WALTERS MOVED TO APPROVE THE DOWNTOWN ASSOCIATION USE PERMIT #X-96-16 IN FAVOR OF THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, IN THE C-1, LIGHT COMMERCIAL, C-2, HEAVY COMMERCIAL, I, INDUSTRIAL AND PF, PUBLIC FACILITY ZONES, WITH FINDINGS AND CONDITIONS OF APPROVAL WITH A CORRECTION TO CONDITION #2 WITH REGARD TO HOURS OF OPERATION ON SUNDAY.

THE MOTION WAS SECONDED BY COMM. PHILLIPS AND WAS CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. HOLLEY, WALTERS, GRAN, PHILLIPS, WESTLEY, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

4. DMP DEVELOPMENT CORPORATION MINI-STORAGE USE PERMIT #X-96-15.

Public hearing on a Negative Declaration in conjunction with a Use Permit application to allow construction of a mini-storage complex on 4.5 acres located at 125 Tozer Street, on the east side between Millview School and the small commercial development on the southeast corner of Tozer Street and East Yosemite Avenue. A total of 557 units in 107,651 square feet, with a manager's residence, is proposed. The site is zoned C-1, Light Commercial zone.

Chairman Thornton introduced the item and Planning Director Larry Red presented the staff report as written. The applicant is proposing to construct in phases, a self-serve mini-storage yard to consist of 557 storage units totaling 107,651 square feet. An on-site manager's residence is also proposed. The applicant's operational statement indicates that Phase 1 is proposed to consist of the manager's residence/office, and approximately 25% of the storage units. The remaining phases of the project have not been specifically identified.

In response to Comm. Phillips' question, Director Red explained that the project as it is currently designed has the entrance on the north side of the property and Staff is recommending that the front part of the project be flipped over so that the entrance to the facility is on the southerly side of the property, which would get the entrance just a little further away from that major intersection.

Chairman Thornton opened the public hearing and called on the applicant.

Mike Pistoiresi, D.M.P. Development Corp., 227 So. "D" Street, applicant, states that he has a few objections as regards the conditions of approval of his project. Mr. Pistoiresi requested that the required installation of the sewer main in Storey Road be deferred until the project develops fronting on Storey Road and that the drainage issue with regard to Storey Road not be dealt with again until the project reaches that stage. Mr. Pistoiresi further explained that because they are going to be developing in phases and starting at the far end of the project, they would like to defer that expense until the point in time when they have to deal with drainage and street improvements on Storey Road. Mr. Pistoiresi added that he also has a problem with Staff's recommendation of flipping the plans over to put entrance closer to Millview School. Current State and City Engineering Standards require that the minimum distance from an intersection is 200 feet. City Engineer Lancaster commented that the issue also is that Mr. Pistoiresi has to have a median island and will probably want a left turn pocket and he isn't sure there is enough room for it from Tozer to get onto Yosemite Ave. Mr. Pistoiresi said that if Engineer Lancaster would stipulate that he would be allowed to have a left turn pocket in the median island, he wouldn't have a problem flipping the plans to put the entrance closer to Millview School (wording for Condition #4 would be changed to reflect this).

Mr. Pistoiresi asked that Conditions #7 and #17 be changed to reflect deferral of Storey Road improvements being completed. As regards Condition #17, Mr. Pistoiresi asks that the requirement that the sewer line for Tozer and Storey Streets be inspected via video tape be removed because at the current time, this type of inspection is not a City Standard. Lastly, as regards Condition #20, Mr. Pistoiresi requests that they be allowed to install a water line that would accommodate on-site fire hydrants and provide fire flows sufficient for the Fire Department Standards; they can do this with an 8" line at this point without running a complete looped system. However, as they approach the half

way point of the project, they ask then to be able to go to Storey Road and tap into the existing water line to loop the system.

There being no further speakers, the Chairman closed the public hearing.

In response to Chairman Thornton's question, Director Red stated he saw no problem with Mr. Pistoresi's request for a deferral with some modification to Condition #7 to accomplish that. It goes without saying that in terms of the street improvements, that if they are deferred then installation of the water line would be deferred as well. As regards Condition #20, Director Red felt that the elimination of the term "looped" would probably be satisfactory. That would indicate that it would be a system that would provide adequate fire flow to satisfy the Fire Marshall's requirements.

Responding to Comm. Walters' question, Engineer Lancaster explained what a video inspection of the sewer line entailed and remarked that he felt that this inspection is necessary for this project.

Vice-Chairman Garcia asked Engineer Lancaster if he had a problem with changing #4 to reflect the left turn pocket requirement and Engineer Lancaster said he didn't.

COMM. HOLLEY MOVED TO CERTIFY THE NEGATIVE DECLARATION WITH THE FINDINGS THAT THERE IS NO SUBSTANTIAL EVIDENCE IN THE RECORD THAT THE PROJECT MAY HAVE A SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT WHICH CANNOT BE MITIGATED, BECAUSE OF THE AVAILABILITY OF PUBLIC SERVICES, ADEQUATE CIRCULATION IN THE AREA AND LOW TRAFFIC GENERATION EXPECTED FROM THIS TYPE OF USE, THE DESIGNATION OF THE SITE FOR URBAN USES, AND LACK OF IDENTIFIED SIGNIFICANT ENVIRONMENTAL FEATURES ON THE PROPERTY.

AND

MOVED TO GRANT DMP DEVELOPMENT COMPANY'S MINI-STORAGE USE PERMIT #X-96-15 IN FAVOR OF THE PROPERTY AT 125 TOZER STREET TO CONSTRUCT A SELF-SERVE MINI-STORAGE YARD CONSISTING OF 557 STORAGE UNITS AND AN ON-SITE MANAGER'S RESIDENCE TOTALING 107,651 SQUARE FEET, ON 4.5 ACRES OF PROPERTY IN THE C-1, LIGHT COMMERCIAL ZONE, WITH FINDINGS AND CONDITIONS OF APPROVAL WITH CORRECTIONS TO CONDITIONS #4, #7, #17, AND #20.

THE MOTIONS WERE SECONDED BY COMM. GRAN AND CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. GRAN, HOLLEY, WALTERS, PHILLIPS, WESTLEY, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

A recess was called at 8:00 P.M. and the meeting was reconvened at 8:10 P.M.

5. CARPENTER REZONING #I-96-08.

Public hearing on a Negative Declaration in conjunction with a request for rezoning of a 6,250 square foot parcel location at 115 West Lewis Street from R-1 to R-2, Residential. The project will be construction of a duplex, and the General Plan designation is for Medium Density Residential.

Chairman Thornton introduced the item and Planning Director Larry Red presented the staff report as written. The project proposal is for a rezoning of the property to R-2, Residential, consistent with the General Plan designation of Medium Density Residential. The applicant has indicated an intent to construct a duplex on property with completion of the rezoning.

Chairman Thornton opened the public hearing and called on the applicant.

John Carpenter, 3088 Sunnyside, applicant, states he has no problem with any of the Conditions of approval.

There being no further speakers, the Chairman closed the public hearing.

VICE-CHAIRMAN GARCIA MOVED TO CERTIFY THE NEGATIVE DECLARATION WITH THE FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE IN THE RECORD THAT THE PROJECT MAY HAVE A SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT BECAUSE OF THE AVAILABILITY OF PUBLIC SERVICES AND UTILITIES, ACCESS TO AN IMPROVED STREET, AND THE DESIGNATION OF THE SITE FOR RESIDENTIAL DEVELOPMENT.

AND

MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE REZONING OF 6,250 SQUARE FEET OF PROPERTY LOCATED AT 115 WEST LEWIS STREET FROM R-1, RESIDENTIAL, TO R-2, RESIDENTIAL WITH FINDINGS AND CONDITIONS OF APPROVAL AS OUTLINED IN THE DRAFT ORDINANCE.

THE MOTIONS WERE SECONDED BY COMM. HOLLEY AND CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. HOLLEY, PHILLIPS, GRAN, WESTLEY, WALTERS, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

6. THRIFTY DRUG STORE USE PERMIT MODIFICATION #X-96-19.

Public hearing on a Use Permit Modification request to allow expansion of outdoor display and sales from the front sidewalk area of the store to the parking lot on a seasonal basis. The applicant is also requesting to be allowed to expand the area allowed for display on the sidewalk in front of the store from three to four feet from the wall, and to be allowed to market items other than live plants outdoors. The store is located in the Bethard Square Shopping Center, 335 West Olive Avenue, north side, between South "I" and South "K" Streets in the C-1, Light Commercial zone.

Chairman Thornton introduced the item and Assistant Planner/Code Enforcement Officer Pat Bodin presented the staff report as written. The request is to allow the applicant to expand use of the sidewalk in front of the Thrifty Drug Store from the currently allowed three foot wide nursery racks to a four foot width as measured from the front of the store out into the sidewalk, and to allow a broader range of nursery items to be displayed. The applicant is also requesting permission to allow a fenced enclosure now in the parking lot to remain for the remainder of the Spring, and to be erected each Spring thereafter. There is a further request to be allowed Christmas tree sales in the parking lot, but this is allowed under separate provisions of the Code.

In response to Comm. Westley's question regarding if there had been a resolution to the Code Enforcement problem in relation to the fenced enclosure in the middle of the parking lot and Planner Bodin advised that the enclosure is still there.

Chairman Thornton opened the public hearing and called on the applicant.

Kevin Doyle, Manager, stated he began the use permit process last year because of the added responsibility of adding a large garden section to the store. Mr. Doyle advised that in regard to Condition #2, he would rather have February to May instead of March to May. Mr. Doyle indicated that the garden section has grown from \$12,000 last year to \$40,000 this year and he needs help from the Commission as to how he can comply with the use permit and still be able to store and display his garden supplies. Mr. Doyle states he has asked Code Enforcement Officer Ruiz how he can comply with the use permit and hasn't received a lot of help from him. Mr. Doyle indicated that he would like to use the fenced compound as a surplus area to deal with the heavy ad traffic in the Spring time, specifically for the garden division. Mr. Doyle said he would like to have consideration given to allow him to use the compound for other seasonal events such as Christmas trees, etc. In response to Mr. Doyle's question, Planner Bodin explained the process of obtaining permission to hold an event at the store.

Comm. Westley commented that when Mr. Doyle came before the Commission last year for the original use permit, he was very impressed with the changes that had occurred at the store and Mr. Doyle made some very definitive statements as to what he was going to be selling outside which did not include any fertilizers or chemicals. Mr. Doyle took it upon himself to make changes regardless of what the use permit was indicating and Comm. Westley asked for an explanation from Mr. Doyle as to what gave him the right to make changes without benefit of a modification from the Commission. Mr. Doyle went on to explain what had happened when he received a citation for blocking the sidewalk (nursery truck off-loaded and it took two hours to process delivery). Mr. Doyle further explained that he felt that he could get away with sidewalk sales because others had gotten away with it and besides the property manager for Bethard Square had given him permission to use the sidewalk in front of the empty store next to Thrifty's. Mr. Doyle said he can see now where he was at fault but would like to come into compliance now.

Chairman Thornton expressed anger at people who don't comply and doesn't appreciate people who ignore the conditions that the Commission has imposed on them. He further noted that he wants to encourage business but the point is it doesn't matter what other businesses do or don't do; if a use permit indicates certain conditions to comply with, that is just what the business operator is to do.

Steve McClellan, Corporate Attorney, commented that he took this issue seriously and wanted to assure the Commission that Mr. Doyle would comply with the conditions of the use permit. Following a lengthy discussion between Mr. McClellan and Chairman Thornton, Mr. McClellan advised that Thrifty's Corporation has told Mr. Doyle he will cooperate with the City and the C.U.P. Mr. McClellan also pointed out that Mr. Doyle was told by the property manager that it would be all right if Mr. Doyle were to use the sidewalk in front of the empty store next door to Thrifty's.

Comm. Phillips observed that when Mr. Doyle came before the Commission last June and made his presentation and asked for approval of his use permit application, the Commission were all very impressed by Mr. Doyle and his intelligent presentation, they were sympathetic to him and gave him what he asked for. Based upon all of that, Comm. Phillips said he felt that Mr. Doyle would have made the Planning Department his "best friend" and any time he had a question or a problem, he would go to the Planning Department for guidance. Comm. Phillips indicated that he felt that attitude more than the violation is the problem and he doesn't appreciate it. The landlord had no right to tell Mr. Doyle he could move his sidewalk sale in front of another store because that is the Commission's place and right to do so.

Jane Coddington, Property Manager for Bethard Square Shopping Center, states she wasn't aware of the Commission's meeting last June and she is here tonight so that she knows what conditions are being set so that when she is on the property she can review the situation and make sure that the conditions are being upheld. She states they support Thrifty's in relationship with the things that they are attempting to do and understands their need to comply with the City regulations. Ms. Coddington points out that the landowners give permission in relationship to them owning the land but not all government authority in relationship to that. She further states that in looking at what Thrifty's is proposing, they feel that it will be attractive for the center and Mr. Doyle has done a good job in turning that store around for the better. Ms. Coddington indicated that the landowners have proposed to Thrifty's that they take the 900 square feet that is adjacent to their current space and turn that into a garden center. She added that they feel that the greenery out in the parking lot and in front of the store truly does enhance the appearance of the center and they have gotten many compliments in relationship to that.

There being no further speakers, the Chairman closed the public hearing.

COMM. HOLLEY MOVED TO APPROVE THRIFTY DRUG STORE USE PERMIT MODIFICATION #X-96-19 IN FAVOR OF THE REQUEST TO ALLOW INCREASED OUTDOOR DISPLAY OF GARDEN RELATED MERCHANDISE, IN THE C-1, LIGHT COMMERCIAL ZONE, WITH FINDINGS AND CONDITIONS OF APPROVAL WITH CORRECTIONS TO CONDITIONS #1, #2 AND #3 AND THE ADDITION OF CONDITION #14 AS FOLLOWS:

14. REVIEW FOR COMPLIANCE IN ONE YEAR.

THE MOTION WAS SECONDED BY COMM. GRAN AND WAS CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. GRAN, WALTERS, HOLLEY, PHILLIPS, WESTLEY, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

7. THREE STAR BAR RELOCATION USE PERMIT #X-96-20.

Public hearing on an application for a Conditional Use Permit to allow the owner of the Three Star Bar to relocate his current business from 222 South "C" Street to 224 South Gateway Drive in the C-2, Heavy Commercial zone. The business would consist of one card table, two pool table and a premises to premises beer and wine license transfer.

Chairman Thornton introduced the item and Assistant Planner/Code Enforcement Officer Pat Bodin presented the staff report as written. The use permit, if granted, would allow the applicant to relocate the bar, now at 222 South "C" Street, to 224 South Gateway Drive and to operate two pool tables and two card games, and serve beer and wine on the premises. The Police Department notes that the State ABC Department may or may not approve the application for a premises to premises license transfer. Based on the fact that the establishment is located in a census tract where there is an overconcentration of licensees already, premises to premises transfers may be treated as new applications under the circumstances.

In response to Comm. Westley's question, Planner Bodin explained that the parking spaces on 7th Street are currently being used and they don't qualify as on-site parking.

Responding to Chairman Thornton's question, Director Red explained that the Winner's Circle Card Room was allowed to count the 7th Street parking spaces as their own per the Commission's determination.

Chairman Thornton opened the public hearing and called on the applicant.

Russ Ryan, 2000 No. Schnoor Ave., attorney for Mr. Ruben Zendejas, applicant, explained that after Mr. Zendejas' bar was damaged through no fault of his own, he has been looking for over a year for a suitable location to relocate and he feels that 224 So. Gateway is an ideal location. Mr. Ryan noted that there shouldn't be a parking problem as long as Mr. Zendejas can use the 7th Street parking as the last occupants were allowed to do. Mr. Ryan indicated that if he and Mr. Zendejas can't work something out with this location, perhaps the agreement with the City on acquiring the Three Star Bar is going to have to be delayed because Mr. Zendejas needs this to survive. Mr. Ryan further commented that he was unaware that there was an objection by the church until tonight's meeting but he is sure that they can reassure the church group that any problems they may have can be mitigated.

OPPOSITION

Linda Gardner, 14282 Road 24; Manuel Capistrano, 1401 Noreen Way; Pat Royale, 230 So. Gateway Drive; Rose Marchetti, 309 No. "E" Street; Mary Martinez, 1123 Cross Street; Bill Purcell,

27468 Ave. 17 - All cited the close proximity to their church (450') and A.B.C.'s requirement that a bar cannot be located within 600' of a church; lack of parking in the area; close proximity to residential housing; possibility of illegal activities around the bar; and lastly, they cited the fact that there are A.A. meetings situated across the street from the proposed location of the bar which could possibly send a wrong message to the recovering alcoholics to come across the street for a drink.

REBUTTAL

Russ Ryan urged the Commission to look at Mr. Zendejas' past record in running his bar and the lack of problems he has experienced before making their decision.

There being no further speakers, the Chairman closed the public hearing.

Responding to Comm. Westley's question, Chief Colston said that any past law enforcement problems at the Three Star Bar is probably a moot issue since ABC probably won't accept the premise to premise transfer license request anyway since there is more than ample and sufficient grounds for them to deny it.

In response to Chairman Thornton's question, City Attorney Soldani explained that the Redevelopment Agency is involved in this project and they have given direction to Staff to acquire this building. The City has negotiated and they have come to an agreement. Mr. Soldani indicated that the fact that the City is acquiring the building shouldn't enter into the Commission's decision tonight.

COMM. WALTERS MOVED TO DENY USE PERMIT #X-96-20 TO ALLOW RELOCATION OF THE THREE STAR BAR FROM 222 SOUTH "C" STREET TO 224 SOUTH GATEWAY DRIVE IN THE C-2, HEAVY COMMERCIAL ZONE BASED ON THE FINDINGS THAT THE PROPOSED USE WOULD BE DETRIMENTAL TO THE HEALTH, SAFETY AND WELFARE OF THE NEIGHBORHOOD AND WOULD LACK REQUIRED ON-SITE PARKING.

THE MOTION WAS SECONDED BY COMM. PHILLIPS AND WAS CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. WALTERS, PHILLIPS, WESTLEY, GRAN, HOLLEY, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

8. CITY OF MADERA / BOMANITE CORPORATION REZONING #I-96-07.

Public hearing on a Negative Declaration in conjunction with a City initiated rezoning of approximately one acre at 220 South Schnoor Avenue adjacent to the City Fire Station. A rezoning from PF, Public Facility, to IP, Industrial Park is proposed for the site consistent with the General Plan and the adjacent industrial park area.

Chairman Thornton introduced the item and Planning Director Larry Red presented the staff report as written. The project proposal is for a rezoning of the property consistent with the adjacent Bomanite property, and the Industrial Park.

Chairman Thornton opened the public hearing and called on anybody wishing to speak on this matter.

There being no speakers, the Chairman closed the public hearing.

VICE-CHAIRMAN GARCIA MOVED TO RECOMMEND CERTIFICATION OF THE NEGATIVE DECLARATION WITH THE FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE IN THE RECORD THAT THE PROJECT MAY HAVE A SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT BECAUSE OF THE AVAILABILITY OF PUBLIC SERVICES AND UTILITIES, THE PROXIMITY OF IMPROVED STREETS ADJACENT TO THE SITE, AND THE DESIGNATION OF THE SITE FOR INDUSTRIAL DEVELOPMENT.

AND

MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE REZONING OF APPROXIMATELY ONE ACRE OF PROPERTY LOCATED AT 220 SOUTH SCHNOOR AVENUE FROM PF, PUBLIC FACILITY, TO IP, INDUSTRIAL PARK, WITH THE FINDINGS THAT A NEGATIVE DECLARATION HAS BEEN CERTIFIED, AND THE PROPOSED REZONING IS CONSISTENT WITH THE MADERA GENERAL PLAN.

THE MOTIONS WERE SECONDED BY COMM. WALTERS AND CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. WALTERS, WESTLEY, GRAN, HOLLEY, PHILLIPS, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

9. CITY OF MADERA CODE AMENDMENT #I-96-03.

Public hearing on a proposed amendment of the Madera Municipal code to establish provisions for granting exceptions to the requirement that existing utilities along perimeter streets be placed underground with construction of new subdivisions.

Chairman Thornton introduced the item and Planning Director Larry Red presented the staff report as written. The project proposal is to amend the Code to establish exception provisions for granting exceptions to the requirement that existing underground utilities along perimeter streets be placed underground with the construction of new subdivision.

In response to Chairman Thornton's question, Director Red explained that traditionally the development community will wait to go before the City Council to present their testimony rather than present it to the Commission.

Chairman Thornton opened the public hearing and called on anyone wishing to speak on this matter.

There being no speakers, the Chairman closed the public hearing.

VICE-CHAIRMAN GARCIA MOVED TO RECOMMEND TO THE CITY COUNCIL THE AMENDMENT OF THE MUNICIPAL CODE AS INDICATED IN THE DRAFT ORDINANCE PROVIDED.

THE MOTION WAS SECONDED BY COMM. WALTERS AND CARRIED BY THE FOLLOWING VOTE: AYES: COMMS. GRAN, WALTERS, WESTLEY, HOLLEY, PHILLIPS, VICE-CHAIRMAN GARCIA AND CHAIRMAN THORNTON. NOES: NONE. ABSTENTIONS: NONE. ABSENT: NONE.

ADMINISTRATIVE REPORTS:

Planning Director Larry Red reported that at the May 15th City Council meeting, the Council will consider the Outdoor Retail Sales and Mobile Vendor ordinance and the recommended code amendment for regulation of Alcoholic Beverage Establishments.

COMMISSIONER REPORTS:

Comm. Holley reported that on May 11th, he was presented with the key to the City by Mayor Armentrout while at McNally Park during the Jesse Owens races. Comm. Holley was heartily congratulated by all present.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:02 P.M.

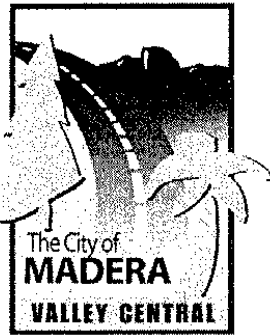


ROSS THORNTON, CHAIRMAN




DAWN FLORES, RECORDING SECRETARY

Report to City Council

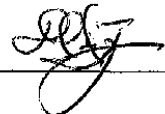


Council Meeting of May 3, 2017
Agenda Item Number C-2

Approved by:



Department Director



City Administrator

Consideration of a Resolution Approving a Second Amendment to the City Clerk At-Will Employment Agreement Relating to Ceasing Receipt of a Technology Allowance and Authorizing the Mayor to Execute the Amendment

RECOMMENDATION

Should the Council desire to effectuate the proposed Agreement Amendment, staff recommends Council adopt the resolution amending the City Clerk At-Will Employment Agreement and authorizing the Mayor to execute the Agreement.

Pursuant to Government Code § 54953 (c) (3), prior to taking action on this item, the Council must publicly announce a summary of the action being considered.

Announcement - *If approved, the proposed amendment to the City Clerk's At-Will Employment Agreement would stop her receipt of a \$75 per month technology allowance and provide for issuance of a City cell phone for business use effective June 1, 2017.*

HISTORY

The City Council negotiated an At-Will Employment Agreement with Sonia Alvarez to serve as City Clerk. The most recent Agreement was entered into in 2015. The 2015 Agreement contained a provision whereby Ms. Alvarez received a technology allowance in lieu of receiving a City-issued cell phone.

SITUATION

As part of the benefits package, management employees have the option to receive a technology allowance and utilize their personal cell phone for City business in lieu of a City-issued cell phone for business purposes. Some employees prefer separate devices for personal and business use while others prefer not to carry multiple devices.

Ms. Alvarez has requested to stop her receipt of the technology allowance and instead be issued a City cell phone for business purposes. If approved, this change would be effective June 1, 2017.

FISCAL IMPACT

Purchase and activation of the cell phone is estimated at \$400. The anticipated monthly fee is \$38 (\$456/year). City-issued devices are generally replaced on a 2-year cycle. The technology allowance is equal to \$900 per year.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Compensation and benefits for City employees are not addressed in the vision or action plan; the requested action is also not in conflict with any of the actions or goals contained in that plan.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA
APPROVING A SECOND AMENDMENT TO THE CITY CLERK AT-WILL EMPLOYMENT
AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, the City of Madera wishes to establish reasonable rules, regulations and compensation for its staff and elected officials within the financial limits of the organization; and

WHEREAS, a Second Amendment to the City Clerk At-Will Employment Agreement has been prepared and is amenable to all parties.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, and orders as follows:

1. The above recitals are true and correct.
2. The Second Amendment to the City Clerk's At-Will Employment Agreement between the City and Sonia Alvarez, on file with the office of the City Clerk and referred to for more particulars, is hereby approved.
3. The Mayor of the City of Madera is authorized to execute the Second Amendment on behalf of the City of Madera.
4. This resolution is effective immediately upon adoption.

* * * * *

**SECOND AMENDMENT TO THE
CITY ATTORNEY AT-WILL EMPLOYMENT AGREEMENT**

This Amendment, entered into on the 3rd day of May, 2017, amends the previous agreement entitled CITY CLERK AT-WILL EMPLOYMENT AGREEMENT dated August 5, 2015, and amended June 15, 2016, by and between the City of Madera, a municipal corporation, hereinafter called "Employer," and Sonia Alvarez, hereinafter called "Employee," both of whom understand as follows:

WITNESSETH:

WHEREAS, Employee and Employer entered into an agreement dated August 5, 2015 and amended June 15, 2016, to contract with Employee to serve as City Clerk of Employer ("Agreement"); and

WHEREAS, Employer and Employee desire to modify said Agreement to update the contract provisions related to Employee's receipt of a technology allowance.

NOW THEREFORE, it is hereby agreed that the Agreement between the parties is amended in the following particulars only:

Section 1. Section 6. J. of the Agreement is amended to read as follows:

Section 6: OTHER TERMS AND CONDITIONS OF EMPLOYMENT

J. Technology Allowance

Employee will receive a monthly technology allowance of \$75. Employee will not receive a City-issued cell phone or be provided with any type of wireless or data plan through the City's wireless carrier and will be expected to utilize her personal cell phone for City business. Employee's personal cell phone number must be available to the public.

Notwithstanding the preceding paragraph, effective June 1, 2017, Employee no longer desires to utilize her personal cell phone for business purposes. Therefore, Employee's receipt of the technology allowance will cease and Employee will be provided with a City-issued cell phone on the City's cellular/data plan for business purposes Effective June 1, 2017.

Section 2. All other provisions of the Agreement not inconsistent with this Amendment shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective officers duly authorized on the date first written above.

EMPLOYEE

CITY OF MADERA

By: *Sonia Alvarez*
Sonia Alvarez

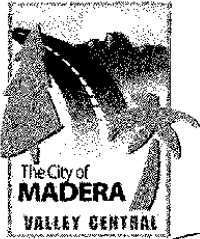
By: _____
Andrew J. Medellin, Mayor

ATTEST

APPROVED AS TO LEGAL FORM

By: _____
Zelda Leon, Deputy City Clerk

By: _____
Brent Richardson, City Attorney



REPORT TO CITY COUNCIL

[Return to Agenda](#)

Approved by: _____

Council Meeting of: May 3, 2017

Agenda Number: E-1

Department Director _____

City Administrator _____

SUBJECT: Presentation of the Preliminary City of Madera Enterprise Fund Budgets for Fiscal Year 2017/2018

RECOMMENDATION: No action recommended. Informational only.

DISCUSSION: This is the second of four preliminary budget presentations to the City Council pertaining to the City of Madera Fiscal Year 2017/2018 Budgets. The purpose of this preliminary presentation is to engage the Council and the public in the budget process and to help the Council, the public and staff to become familiar with the Enterprise Fund Budgets prior to the budget workshop and the final budget presentation. The Capital Project Budget was presented to Council on April 5th. The General Fund Preliminary Budget will also be presented this evening and all other preliminary budgets will be at the second meeting in May. A special Budget Workshop will be held on a date of the Council's choice in late May to mid-June, and the Final Budget presentation will be presented to Council on June 21st or July 5th for consideration of approval.

The Enterprise Budgets are primarily funded by User Fees. Enterprise Funds are expected to be run as separate businesses that are funded by the rates that are charged for their services. Unlike the General Fund which has little control over the tax revenues, the Enterprise Funds have the ability to increase User Fees to meet its operational needs. This can be done without a vote of the public, but is subject to the Proposition 218 process, which gives the public the opportunity to contest such fee increases.

Major Enterprise Funds - The City's Major Enterprise Funds are: Water, Sewer, Solid Waste and Storm Drainage. As can be seen in the Summary of Enterprise Fund Revenues and Expenditures, included as Exhibit "A", these four Enterprise Funds combined are projecting \$35.9 million, which represents 86.8% of total projected Enterprise Fund expenditures in Fiscal Year 2017/2018. With projected revenues of \$26.6 million, the Major Enterprise Funds are projecting a \$9.3 million deficit in Fiscal Year 2017/2018. The \$9.3 million deficit represents 25.9% of the total projected expenditures in the Major Enterprise Funds and includes \$13.6 million of capital outlay.

The Water and Sewer Budget requests for Fiscal Year 2017/2018 reflect capital improvements and efforts to better manage and maintain existing assets, to insure a sustainable water and sewer infrastructure as called for by the Vision Madera 2025 Plan.

The Sewer Fund is operated from User Fee revenue and pays for the maintenance and operation of the sewage collection system and Waste Water Treatment Plant. There are several new positions being requested this year to increase preventative maintenance operations. However, the costs for those new positions have not been included in this preliminary budget projection and will not be included until those requests have been reviewed in detail by the City Administrator. There are \$2.9 million of new capital projects scheduled for FY17/18. The City will be completing an infrastructure asset inventory that was begun mid FY 15/16. The results will assist us in identifying and prioritizing future capital projects that will replace worn infrastructure and improve

efficiencies. Total Sewer operational costs, which do not include any of the requested positions costs, are projected to decrease by 1%. With Capital Outlay included, the projected increase is 24%. With these projections, the Sewer Fund will easily cover the required 1.20 debt service ratio, with a projected ratio of about 1.82.

The Water Fund is operated from User Fee revenue and pays for the operations and maintenance of the municipal water system including 18 wells, a one million gallon above ground storage tank, miles of distribution mains and approximately 13,000 water meters and services. During Fiscal Year 2015/2016 there was a fair amount of capital projects related to refurbishment of wells. During the current year, staff is continuing its efforts on the previously mentioned infrastructure inventory and asset analysis to further refine our capital program. Two new positions were included in the current Fiscal Year (2016/2017) Budget, to enable the Water Division to do repairs, maintenance and add water main valves so that areas can be isolated without affecting several blocks of customers. For Fiscal Year 2017/2018, one half of a new Seasonal Part-time Maintenance Worker I position is being requested in the Water Division to address the increasing demands of servicing, repairing and replacing the City's inventory of 13,500 water meters; some early phases of our water meter installations are now reaching their expected life and have to be rebuilt or replaced. In Fiscal Year 2017/2018 \$10.5 million dollars are requested for capital projects.

The Solid Waste Fund is operated from User Fee revenue and pays for solid waste collection and street sweeping. When the solid waste rates were set four years ago, there was a high fund balance that was in excess of the goal of 20-30% of the annual operating expenses. Along with user rates being reduced by 15% and projected to stay flat for five years, annual deficits were programmed for the subsequent 5 years. The deficit for FY 17/18 is projected to be \$487,914. As we approach the end of the 5-year rate freeze, staff will reassess the fund balance and the potential need for rate increases. An enhancement of an existing Seasonal Part-time Maintenance Worker I position to full time is being requested to address an increasing demand for refuse cart repairs, due to the original carts being 30 years old.

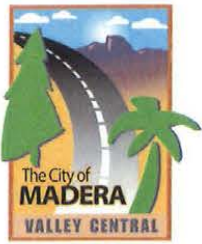
The Drainage Fund - Drainage is projecting an 11.6% surplus. In the current fiscal year, staff repurposed certain drainage basins to be used for groundwater restoration. Shifting the related expenses to the Water Fund has helped the Drainage Fund to obtain this projected surplus for Fiscal Year 2017/2018.

Non-Major Enterprise Funds - The Non-Major Enterprise Funds project a deficit of \$2,232,062 which is the result of \$2.5 million of Capital Outlay projects, primarily in the Fixed Route budgets. The Airport budget will see a minor increase in retained earnings. The Golf Course Fund should be balanced, after a transfer in from the General Fund of about \$231,000 to help with the debt service on the bonds. That will be taken care of prior to the Budget Workshop.

SUMMARY - In total, the Enterprise Funds project an \$11.5 million or 27.8% deficit for Fiscal Year 2017/2018. The Director of Financial Services will present a PowerPoint presentation that reviews and summarizes all of the proposed budgets and discusses fund balance (reserve) levels. The line-item detail for these budgets are not included in this presentation, but staff will be available to answer any general questions that Council or the public might have regarding any of these budgets and line-item detail will be available at the Budget Workshop.

FINANCIAL IMPACT: No action is requested of Council at this time. As such, there is no financial impact of this agenda item.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN: The presentation of this item is consistent with Strategy 115 of the Vision Plan - Economic Resource Provision: Ensure sufficient economic resources to provide adequate City services and prepare for future growth. It is also in line with funding core services as articulated by the Vision Madera 2025 Plan.



REPORT TO CITY COUNCIL

[Return to Agenda](#)

Approved by:

Council Meeting of: May 3, 2017

Agenda Number: E-2

Department Director

City Administrator

SUBJECT: Presentation of the Preliminary City of Madera General Fund Budgets for Fiscal Year 2017/2018

RECOMMENDATION: No action required. Informational only.

DISCUSSION: This is the third of three preliminary budget presentations to the City Council pertaining to the City of Madera Fiscal Year 2017/2018 Budgets. The Capital Projects preliminary budgets has already been presented to Council and the preliminary Enterprise Fund budgets will be presented just prior to this agenda item. This preliminary budget presentation includes the various budgets that make up the General Fund. This information is presented as a high level overview of the anticipated budget at this time with no major changes over the FY 2016/17 budget except for inclusion of Measure K revenues and expenses. A specific budget workshop will be scheduled where individual pieces of the budget will be addressed in detail. Prior to the budget workshop, the City Administrator and Director of Financial Services will meet with each department to review their anticipated revenues and expenditures for Fiscal Year 2017/18.

The General Fund Operational Budgets are primarily funded by taxes and fees for services. They are designed to be funded from current year operational revenues. Reserves and one-time sources of funds should only be used on an exception basis. The majority of operational expenses relate to staffing or personnel costs, and this budget proposal includes an increase of 8.4% to personnel expenses, including \$1,037,054 of personnel costs related to Measure K Police personnel. The 2016/2017 Budget moved the Utility Billing division directly into the Enterprise Funds (Water, Sewer and Solid Waste), which are served by Utility Billing, rather than running it through the General Fund and covering the expenditures by transfers in from the Enterprise Funds to the General Fund. The increase to personnel costs is caused primarily by the Measure K positions plus the temporary out-of-class assignment of Project Manager for the Tyler Munis implementation.

The proposed Maintenance and Operations (M&O) budgets overall have increased by approximately 18.7% from the 2016/2017 Budget, but that includes \$360,000 for new Measure K Police vehicles. Without the vehicles, the M&O increase would be 15.6%. The proposed Capital Outlay budgets have increased from about \$635,000 in 2016/2017 to about \$2.36 million in 2017/2018. The main increase there is for the Fire Station. Another \$360,000 that is currently in M&O cost for Measure K vehicles will also need to be moved into Capital Outlay, which will result in about \$2.72 million of Capital Outlay and an increase of about 329% from the 2016/2017 Budget. These and other necessary changes will be made prior to the Budget Workshop.

Unlike the Enterprise Funds with their respective user fees, the General Fund depends primarily on taxes for revenues, which fluctuate with the economy and the housing market. Balancing budgets that provide essential services to the City can be tricky when there are large shifts in Sales Tax and Property Tax or when the State discovers new ways to take money away from us. Some of the factors that could be making it challenging to balance requested expenditures with projected revenues for Fiscal Year 2017/2018 are: a 3% cost of living

increase for the upcoming fiscal year, increases to healthcare costs that are yet to be determined, increased CalPERS costs with further increases projected at least over the next 6 years and restrictions on the use of funds from CDBG grants for General Fund expenditures. For the upcoming fiscal year, the overall revenue picture has improved significantly, with \$3.5 million of anticipated revenue coming from Measure K. However, those funds are primarily designated to expand Public Safety and are not providing any relief to the rest of the General Fund budgets.

This Preliminary General Fund Budget presentation includes approximately \$39 million of proposed expenditures and about \$36 million of projected revenues. Staff will be looking for ways to decrease this \$3 million General Fund deficit, prior to the final budget presentation. Summaries of revenues and expenses are attached to this report as Exhibit A. Also attached as Exhibit B are a table and chart that show the projected General Fund expenditures and percentages by department. Revenue detail and line-item budget pages are not included with this presentation, but will be made available for review prior to the Budget Workshop.

The Director of Financial Services will present a PowerPoint presentation that gives further information regarding these budgets and the factors that could potentially help us to finish Fiscal Year 2017/2018 closer to a balanced budget. Further detail, descriptions, analysis and explanations will be included in the final budget presentation, as well. The purpose of this preliminary presentation is to help the Council to become somewhat familiar with the budgets that we are working on at this time and to begin to consider steps that may need to be taken to balance future budgets and maintain adequate reserves.

In November of 2016, Council approved the City of Madera General Fund Balance Reserve Policy, which established a minimum reserve balance that is equal to 30% of the General Fund's annual operating budget for the purpose of stabilizing the delivery of City services during periods of operational budget deficits. Those contingency reserves include a 15% reserve for Cash Flow, a 5% reserve for Revenue Stabilization and a 10% Emergency Reserve. We will keep this policy in mind as we continue our preparation of the Fiscal Year 2017/2018 General Fund Budgets.

FINANCIAL IMPACT: There is no financial impact of this agenda item.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN: The presentation of this item is consistent with Strategy 115 of the Vision Plan - Economic Resource Provision: Ensure sufficient economic resources to provide adequate City services and prepare for future growth. It is also in line with funding core services as articulated by the Vision Madera 2025 Plan.

Exhibit A

Summary of General Fund Expenditures

Description	FY 2018		Salaries and		Maintenance		Total		Capital		Total	
	Proposed	Chng	17/18 Budget	Chng	17/18 Budget	Chng	17/18 Budget	Chng	17/18 Budget	Chng	17/18 Budget	Chng
GENERAL FUND: 1020												
City Council			116,587	-20%	38,190	44%	154,777		0		154,777	-10%
City Adm			483,956	37%	42,282	53%	526,238		15,000		541,238	43%
City Clerk			286,391	1%	43,093	-65%	329,485		0		329,485	-19%
Finance			538,379	-1%	381,753	5%	920,132		0		920,132	2%
Attorney			434,722	0%	40,385	14%	475,106		0		475,106	1%
HR			496,073	3%	60,717	8%	556,790		0		556,790	4%
Central Adm			0		1,055,102	-16%	1,055,102		0		1,055,102	-16%
Finance UB			0		0		0		0		0	
Purchasing			152,548	-19%	36,404	55%	188,952		0		188,952	-11%
Police Svs-AB109			60,150	-3%	1,966	-93%	62,116		0		62,116	-32%
Police Svs-CCP			109,197	-15%	0		109,197		0		109,197	-15%
School Policing			243,842	-3%	0		243,842		0		243,842	-3%
Police Svs-Cal Grip Grant			0		0		0		0		0	
Hsg Auth Policing			127,728	1%	0		127,728		0		127,728	1%
Police Adm			10,479,525	8%	1,712,631	20%	12,192,156		0		12,192,156	10%
Police Cops Program			94,002	-58%	0		94,002		0		94,002	-58%
Fire			0		3,642,941	2%	3,642,941		0		3,642,941	2%
PW Streets			953,838	-14%	2,069,602	53%	3,023,440		0		3,023,440	23%
Street Cleaning			0		0		0		0		0	
Comm Promotion			0		226,330	0%	226,330		0		226,330	0%
Nuisance Abatement			142,766	2%	198,507	3%	341,273		0		341,273	2%
Planning			501,609	2%	75,705	19%	577,314		0		577,314	4%
Building			577,739	-2%	295,456	5%	873,195		0		873,195	1%
Engineering			1,514,773	3%	159,544	21%	1,674,317		0		1,674,317	4%
Graffiti Abatement			200,242	-6%	112,892	33%	313,134		0		313,134	5%
Parks & Rec - LMD's			263,971	3%	0		263,971		0		263,971	3%
Parks & Rec			1,067,730	3%	623,545	12%	1,691,274		20,000		1,711,274	8%
P&R Recreation			489,615	4%	114,284	29%	603,899		0		603,899	8%
P&R Adm			506,315	2%	171,753	0%	678,068		0		678,068	1%
P&R Leisure Programs			130,345	4%	51,000	16%	181,345		0		181,345	7%
P&R Sports Program			156,067	10%	17,800	-2%	173,867		0		173,867	8%
P&R Swimming pool			113,904	5%	62,196	29%	176,100		0		176,100	13%
P&R Centers			98,110	4%	300,992	43%	399,102		0		399,102	31%
P&R Median Landscape			0		119,100	-33%	119,100		0		119,100	-33%
P&R Youth Center			78,949	-1%	190,190	37%	269,139		0		269,139	23%
Grants			451,069	3%	37,458	87%	488,528		0		488,528	6%
TOTAL FUND 10200	(30,816,006)	3%	20,870,141	3%	11,881,816	11%	32,751,957		35,000		32,786,957	6%
(SURPLUS)/DEFICIT									(Surplus)/Deficit		\$ 1,970,950	

Exhibit A (continued)

Summary of General Fund Expenditures

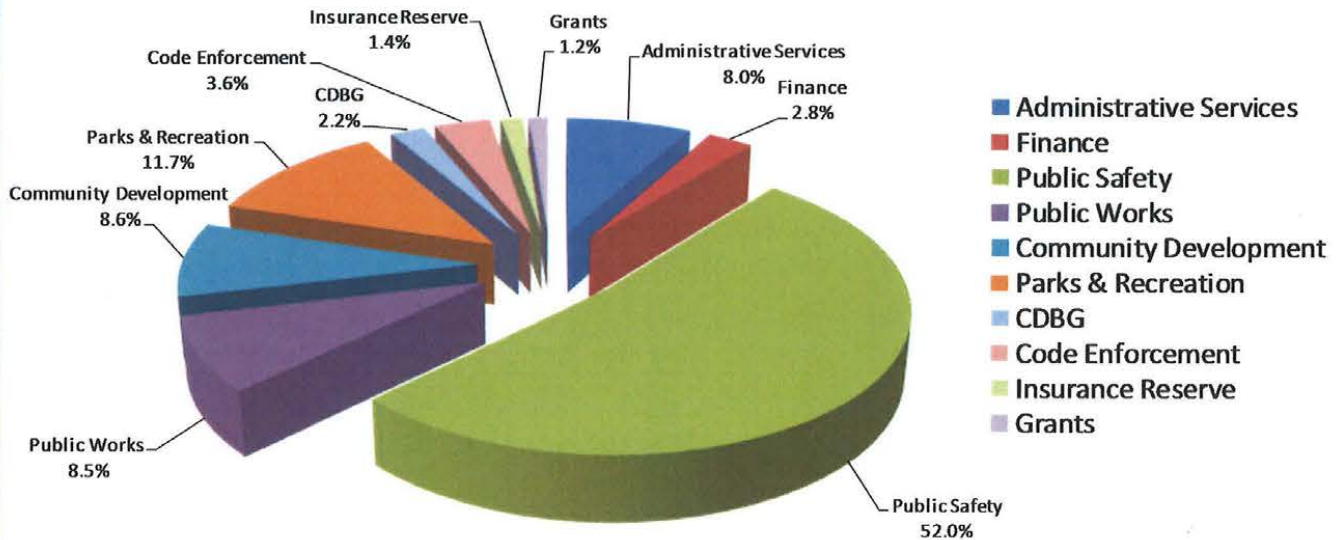
Description	FY 2018 Proposed Revenue	Chng	Salaries and Benefits 17/18 Budget	Chng	Maintenance and Operations 17/18 Budget	Chng	Total Operations 17/18 Budget	Chng	Capital Outlay 17/18 Budget	Total 17/18 Budget	Chng
CDBG FUND: 1021											
CDBG-Public Impr	(576,946)		0		0		0		576,946	576,946	-7%
CDBG-Public Services	(125,227)		0		125,227	-7%	125,227		0	125,227	-7%
CDBG-Adm Costs	(150,273)		0		150,273	-10%	150,273		0	150,273	-10%
TOTAL FUND 1021	(852,446)	-8%	0		275,500	-9%	275,500		576,946	852,446	-8%
									(Surplus)/Deficit	\$ -	
CODE ENFORCEMENT FUND: 1020											
Code Enforcement	(702,800)		1,048,798	4%	290,349	-5%	1,339,148		0	1,339,148	2%
LEA Tire Grant	(18,338)		11,706	-1%	7,161	0%	18,867		0	18,867	0%
Tire Clean-up	0		0		0		0		0	0	
Tire Amnesty Grant	(45,230)		9,757	-1%	28,467	-7%	38,224		0	38,224	-5%
TOTAL FUND 10800	(766,368)	-30%	1,070,262	4%	325,977	-5%	1,396,239		0	1,396,239	2%
									(Surplus)/Deficit	\$ 629,871	
INSURANCE RESERVE FUND: 1090											
Insurance Reserve	(143,000)		0		555,000	171%	555,000		0	555,000	171%
TOTAL FUND 10900	(143,000)	-17%	0		555,000	171%	555,000		0	555,000	171%
									(Surplus)/Deficit	\$ 412,000	
TOTAL OTHER FUNDS	(1,761,814)	-20%	1,070,262	4%	1,156,477	36%	2,226,739		576,946	2,803,685	12%
									(Surplus)/Deficit	1,041,871	
MEASURE K FUND: 1025											
Measure K Police			1,037,054		712,946		1,750,000		0	1,750,000	
Measure K Fire			0		0		0		1,750,000	1,750,000	
	(3,500,000)		1,037,054		712,946		1,750,000		1,750,000	3,500,000	
										(0)	
GRAND TOTAL	(36,077,820)	13%	22,977,457	8.4%	13,751,239	18.7%	36,728,696		2,361,946	39,090,642	17%
(SURPLUS)/DEFICIT REVENUE									(Surplus)/Deficit	\$ 3,012,821	

Exhibit B

General Fund Expenses

	S&B	% of Dept	M&O	% of Dept	SUBTOTAL OPERATIONS	% of Dept	CAP OUTLAY	% of Dept	TOTAL	% of Gen Fund
Administrative Services	1,817,729	58%	1,279,769	41%	3,097,498	100%	15,000	0%	3,112,498	8.0%
Finance	690,928	62%	418,157	38%	1,109,084	100%	0	0%	1,109,084	2.8%
Public Safety	12,294,264	61%	6,268,991	31%	18,563,255	91%	1,750,000	9%	20,313,255	52.0%
Public Works	1,154,080	35%	2,182,494	65%	3,336,574	100%	0	0%	3,336,574	8.5%
Community Development	2,594,121	77%	757,034	23%	3,351,155	100%	0	0%	3,351,155	8.6%
Parks & Recreation	2,905,005	63%	1,650,858	36%	4,555,863	100%	20,000	0%	4,575,863	11.7%
CDBG	0	0%	275,500	32%	275,500	32%	576,946	68%	852,446	2.2%
Code Enforcement	1,070,262	77%	325,977	23%	1,396,239	100%	0	0%	1,396,239	3.6%
Insurance Reserve	0	0%	555,000	100%	555,000	100%	0	0%	555,000	1.4%
Grants	451,069	92%	37,458	8%	488,528	100%	0	0%	488,528	1.2%
Total GF Expenses	22,977,457	59%	13,751,239	35%	36,728,696	94%	2,361,946	6%	39,090,642	100.0%

General Fund Expenditures



Note: Administrative Services includes City Council, City Administrator, City Clerk, Attorney, HR and Central Administration. Finance includes Finance and Purchasing. Community Development includes Planning, Building and Engineering. Public Safety includes Police and Fire with Measure K funding.



REPORT TO CITY COUNCIL

[Return to Agenda](#)

Approved by:

Council Meeting of: May 3, 2017

Agenda Number: E-3

Department Director

City Administrator

SUBJECT: Council's Selection of a Date for the 2017/2018 Budget Workshop

RECOMMENDATION: Council to select a date and time to hold the 2017/2018 Budget Workshop from those suggested by staff.

DISCUSSION: Staff anticipates having a draft budget, all funds, prepared and delivered to Council by the Friday prior to the Budget Workshop. Staff would like to propose that Council select from one of these suggested dates and times for the Budget Workshop or select another date and time that works better for Council, within the same approximate timeframe:

- Monday, June 12th from 4:00pm to 8:00pm
- Friday, June 16th from 4:00pm to 8:00pm

FINANCIAL IMPACT: There is no financial impact of this agenda item.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN: The presentation of this item is consistent with Strategy 115 of the Vision Plan - Economic Resource Provision: Ensure sufficient economic resources to provide adequate City services and prepare for future growth. It is also in line with funding core services as articulated by the Vision Madera 2025 Plan.