



**REGULAR MEETING AGENDA  
OF THE  
ARVIN CITY COUNCIL / SUCCESSOR AGENCY TO THE ARVIN  
COMMUNITY REDEVELOPMENT AGENCY / ARVIN HOUSING  
AUTHORITY / ARVIN PUBLIC FINANCING AUTHORITY**

**TUESDAY JUNE 5, 2018 6:00 PM  
ARVIN CITY COUNCIL CHAMBERS  
200 CAMPUS DRIVE, ARVIN, CA 93203**

**CALL TO ORDER** Mayor Jose Gurrola

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

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<b>ROLL CALL</b>	Jose Gurrola	Mayor
	Jess Ortiz	Mayor Pro Tem
	Jazmin Robles	Councilmember
	Erika Madrigal	Councilmember
	Gabriela Martinez	Councilmember

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<b>STAFF</b>	Richard G. Breckinridge	Acting City Manager/Chief of Police
	Shannon L Chaffin	City Attorney – Aleshire & Wynder
	Jeff Jones	Finance Director
	Adam Ojeda	City Engineer – DeWalt Corporation
	Cecilia Vela	City Clerk

## **PUBLIC COMMENTS:**

The meetings of the City Council and all municipal entities, commissions, and boards (“the City”) are open to the public. At regularly scheduled meetings, members of the public may address the City on any item listed on the agenda, or on any non-listed matter over which the City has jurisdiction. At special or emergency meetings, members of the public may only address the City on items listed on the agenda. The City may request speakers to designate a spokesperson to provide public input on behalf of a group, based on the number of people requesting to speak and the business of the City.

In accordance with the Brown Act, all matters to be acted on by the City must be posted at least 72 hours prior to the City meeting. In cases of an emergency, or when a subject matter needs immediate action or comes to the attention of the City subsequent to the agenda being posted, upon making certain findings, the City may act on an item that was not on the posted agenda.

## **AGENDA STAFF REPORTS AND HANDOUTS:**

Staff reports and other disclosable public records related to open session agenda items are available at City Hall, 200 Campus Drive, Arvin, CA 93203 during regular business hours.

## **CONDUCT IN THE CITY COUNCIL CHAMBERS:**

### **Rules of Decorum for the Public**

Members of the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, clapping, whistling, stamping of feet or other acts which disturb, disrupt, impede or otherwise render the orderly conduct of the City meeting infeasible. A member of the audience engaging in any such conduct shall, at the discretion of the presiding officer or a majority of the City, be subject to ejection from the meeting per Gov. Code Sect. 54954.3(c).

### **Removal from the Council Chambers**

Any person who commits the following acts in respect to a meeting of the City shall be removed from the Council Chambers per Gov. Code Sect. 54954.3(c).

- (a) Disorderly, contemptuous or insolent behavior toward the City or any member thereof, tending to interrupt the due and orderly course of said meeting;
- (a) A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;
- (a) Disobedience of any lawful order of the Mayor, which shall include an order to be seated or to refrain from addressing the City; and
- (a) Any other unlawful interference with the due and orderly course of said meeting.

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## **AMERICANS with DISABILITIES ACT:**

In compliance with the ADA, if you need special assistance to participate in a City meeting or other services offered by the City, please contact the City Clerk’s office, (661) 854-3134. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

## 1. Approval of Agenda as To Form.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_\_ CM Madrigal \_\_\_\_\_ CM Martinez \_\_\_\_\_ MPT Ortiz \_\_\_\_\_ Mayor Gurrola \_\_\_\_\_

## 2. PUBLIC COMMENTS

(This is the opportunity for the public to address the City Council on any matter on the agenda or any item of interest to the public that is within the subject matter jurisdiction of the City Council.)

## 3. PRESENTATION(S)

- A. Proclamation proclaiming June 05, 2018 as Arvin Bears Varsity Baseball Team – Day of Pride (Mayor Gurrola and Councilmember Robles)

## 4. CONSENT AGENDA ITEM(S)

- A. Approval of Demand Register(s) of May 11, 2018 – June 01, 2018.
- B. Approval of Payroll Register(s) of May 18, 2018 and June 01, 2018.
- C. Approval of the Minutes of the Regular Meeting(s) of May 15, 2018.
- D. Approval of A Resolution of the City Council of the City of Arvin to Authorize the Mayor and/or the Interim City Manager to Sign a Cooperative Agreement - Local Contribution Only - With the State of California - Department of Transportation (Caltrans) In Respects to Project 0614000162 - Installing Traffic Signals in the City of Arvin Miles West of Derby Street to King Street and Also Authorizing the Mayor and/or Interim City Manager to Sign a Deobligation Letter in Respects to the Same Project.
- E. Approval of A Resolution of the City Council of the City of Arvin Approving and Adopting the Safety-Sensitive Drug and Alcohol Testing Policy.
- F. Approval of A Resolution of the City Council of the City of Arvin Consenting to the Submittal of a Grant Application and Application Documents to the Federal Transit Administration 5311 Program; And Authorizing Related Action.
- G. Approval of A Resolution of the City Council of The City of Arvin Consenting to the Submittal of a Grant Application and Application Documents to the Federal Transit Administration 5339 Program; and Authorizing Related Actions.
- H. Approval of A Proclamation Proclaiming June 05, 2018 as Arvin Bears Varsity Baseball Team – Day of Pride.

- I. Approval of A Resolution of the City Council of the City of Arvin Repealing and Replacing Previously Adopted Resolution No. 2017-30 and Setting Salary Ranges and Benefits For Non-Represented, Non-Department Head Employees.

Staff recommends approval of the Consent Agenda.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_ CM Madrigal \_\_\_\_ CM Martinez \_\_\_\_ MPT Ortiz \_\_\_\_ Mayor Gurrola \_\_\_\_

**5. PUBLIC HEARING ITEM(S)**

- A. Public Hearing to Consider Introduction and First Reading, by Title Only, of an Ordinance of the City Council of the City of Arvin Amending and Renumbering Chapter 17.62 (“Commercial Cannabis Activity”) of Title 17 of the Arvin Municipal Code and Thereby Adding Chapter 17.64 (“Commercial Cannabis Activity”) to Title 17 of the Arvin Municipal Code to Establish Comprehensive Regulations Pertaining to Commercial Cannabis Activity, and Finding an Exemption from the California Environmental Quality Act. (Finance Director / City Attorney)

Staff recommends the City Council consider introducing the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, and approve the introduction of the Ordinance.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_ CM Madrigal \_\_\_\_ CM Martinez \_\_\_\_ MPT Ortiz \_\_\_\_ Mayor Gurrola

- B. Public Hearing to Consider Introduction and First Reading, by Title Only, of an Ordinance of the City Council of the City of Arvin Amending Chapter 17.56 of Title 17 of the Arvin Municipal Code to Add Commercial Cannabis Businesses as a Permitted Use in Specific Zones and to Add Express Procedures for Suspension and Revocation of Conditional Use Permits, and Finding an Exemption from the California Environmental Quality Act. (Finance Director / City Attorney)

Staff recommends the City Council consider introducing the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, and approve the introduction of the Ordinance.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_ CM Madrigal \_\_\_\_ CM Martinez \_\_\_\_ MPT Ortiz \_\_\_\_ Mayor Gurrola

- C. Public Hearing to Consider Introduction and First Reading, by Title Only, of an Ordinance of the City Council of the City of Arvin, Modifying the Arvin Municipal Code Such That Certain Fees Which Must Be Set By Ordinance May Now Be Set By Resolution, By Amending The Following Sections of the Arvin Municipal Code: Section 16.40.040 of Chapter 16.40 of Title 16; Section 17.45.130 of Chapter 17.45 of Title 17; Section 17.45.210 of Chapter 17.45 of Title 17; Section 17.46.060 of Chapter 17.46 of Title 17; Section 17.54.080 of Chapter 17.54 of Title 17; and Section 17.60.080 of Chapter 17.60 of Title 17. (City Planner / City Attorney)**

Staff recommends the City Council consider introducing the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, and approve the introduction of the Ordinance.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_ CM Madrigal \_\_\_\_ CM Martinez \_\_\_\_ MPT Ortiz \_\_\_\_ Mayor Gurrola

- D. Public Hearing to Consider Introduction and First Reading, by Title Only, of An Ordinance of the City Council of the City of Arvin, Modifying the Arvin Municipal Code Such That Certain Fees Which Must Be Set By Ordinance May Now Be Set By Resolution, By Amending The Following Sections of the Arvin Municipal Code: Section 3.32.010 of Chapter 3.32 of Title 3; Section 3.32.020(A) of Chapter 3.32 of Title 3 of the Arvin Municipal Code; The First Paragraph of Section 3.32.040(A) of Chapter 3.32 of Title 3 of the Arvin Municipal Code; Section 10.02.010 of Chapter 10.02 of Title 10; Section 10.02.020 of Chapter 10.02 of Title 10; Section 12.04.040(B) of Chapter 12.04 of Title 12; Section 12.04.250 of Chapter 12.04 of Title 12; Section 12.12.070 of Chapter 12.12 of Title 12; Section 12.16.030(B) of Chapter 12.16 of Title 12; Section 15.08.010(M) of Chapter 15.08 of Title 15; and Section 15.24.090 of Chapter 15.24 of Title 15. (City Planner / City Attorney)**

Staff recommends the City Council consider introducing the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, and approve the introduction of the Ordinance.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_ CM Madrigal \_\_\_\_ CM Martinez \_\_\_\_ MPT Ortiz \_\_\_\_ Mayor Gurrola

**6. ACTION ITEM(S)**

- A. Designation of Voting Delegate and Alternates for the League of California Cities Annual Conference to be held on September 12-14, 2018 in Long Beach, CA. (City Clerk)**

Staff recommends designating a voting delegate and up to two alternates.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_ CM Madrigal \_\_\_\_ CM Martinez \_\_\_\_ MPT Ortiz \_\_\_\_ Mayor Gurrola

- B. Presentation of Veolia Capabilities and Recommendations for a Comprehensive Wastewater Capital Improvement Program Plan. (Dale Ducharme - Veolia Water)**

Staff recommends the Council provide direction to Veolia Capital Program Management Team to return to Council with a proposal to develop a Comprehensive Capital Improvement Management Plan.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: CM Robles \_\_\_\_ CM Madrigal \_\_\_\_ CM Martinez \_\_\_\_ MPT Ortiz \_\_\_\_ Mayor Gurrola

**7. WORKSHOP**

- A. Budget Update Fiscal Year 2018-2019 (Finance Director)**

**8. DISCUSSION ITEM(S)**

- A. CalTrans Audit (Finance Director)**

**9. STAFF REPORTS**

- A. Budget Amendment Report (Finance Director)**

**10. COUNCIL MEMBER COMMENTS**

**11. CLOSED SESSION ITEM(S)**

- A. Conference with Legal Counsel Anticipated Litigation (Pursuant to Government Code § 54956.9)  
Four Potential cases**
- B. Conference with Labor Negotiators (Pursuant to Government Code § 54957.6) City Negotiator, Pawan Gill, Human Resources Administrator  
Employee Organizations: Arvin Police Officers Association (APOA) and Service Employees International Union (SEIU) Local 521**

## 12. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the Arvin City Council Chambers Bulletin Board not less than 72 hours prior to the meeting. Dated June 01, 2018.

A handwritten signature in blue ink, appearing to read "Cecilia Vela", written over a horizontal line.

Cecilia Vela, City Clerk



# PROCLAMATION

## ARVIN BEARS VARSITY BASEBALL TEAM - DAY OF BEAR PRIDE

**JUNE 5, 2018**

**WHEREAS**, The City Council of the City of Arvin, is proud to recognize the success of the Arvin High School Varsity Baseball Team during the 2018 season; and

**WHEREAS**, The Arvin High School Varsity Baseball Team earned an outstanding 24-6 record for the season; and

**WHEREAS**, on May 25<sup>th</sup>, 2018, the Arvin High School Varsity Baseball Team played for the CIF Central Section Division V Championship game in Rawhide Stadium in Visalia, California. They earned the coveted CIF Central Section Division V “Runner-Up” Award.

**WHEREAS**, All of the hard work and dedication that Arvin High’s Varsity Baseball Team put in over the season and through their playoff run was displayed during their spectacular performance in the CIF Central Section Division V Title Game.

**WHEREAS**, Arvin High’s Varsity Baseball Team is made up of spectacular and dedicated players. Three of these players, Brandon Seablom, Robert Mendoza, and Manuel Felix were named 1<sup>st</sup> Team All-League players; and

**WHEREAS**, The entire coaching staff made up of Eddie Lopez, Joshua Machado, Jose Garcia, and Jose Tamayo; with the help of Joey Salinas, Jaime Nunez Jr., and Chris Rubio have turned Arvin High’s Baseball program into a source of pride for the city; and

**WHEREAS**, Citizens of Arvin and fans of the Arvin High School Bears are proud of the accomplishments thus far of the Arvin High School Varsity Baseball Team.

**NOW, THEREFORE**, the City Council, of the City of Arvin, hereby recognizes this day, Tuesday, June 5<sup>th</sup>, 2018 as

**“ARVIN BEARS VARSITY BASEBALL TEAM - DAY OF BEAR PRIDE”**

in the city of Arvin, and encourage our citizens to join us in honoring the Arvin High School Varsity Baseball Team and its faculty on this special occasion.

\_\_\_\_\_  
Jose Gurrola, Mayor

\_\_\_\_\_  
Jess Ortiz, Mayor Pro Tem

\_\_\_\_\_  
Erika Madrigal, Councilmember

\_\_\_\_\_  
Jazmin Robles, Councilmember

\_\_\_\_\_  
Gabriela Martinez, Councilmember

**In Witness Whereof**, We have hereunto set our hands and caused the Great Seal of the City of Arvin to be affixed this 05<sup>th</sup> day of June 2018.

Attachment: Proclamation - Arvin High School Varsity Baseball\_060518 (Proclamation - Arvin Bears Varsity Baseball Team - Day of Bear Pride)

**Edit List of Invoices - Summary**

DEMAND LIST 05/14/2018

**4.A.a**

Date: 05/14/2018

Time: 2:51 pm

Page: 1

City of Arvin

Ref. No.	Vendor Name	Invoice No.	Posting Date	PO Number	Invoice Date	Invoice Description	Invoice Amount
46908	ADOBE PLAZA REFUND		05/14/2018		05/14/2018	REIMBURSEMENT EVENT	
		REFUND RECEIPT 30293					410.00
						Vendor Total:	410.00
46910	AIRGAS WEST		05/14/2018		05/14/2018	RENT CYL IND. LARGE OXYGEN/	
		9953333129					67.95
						Vendor Total:	67.95
46911	ALESHIRE & WYNDER, LLP		05/14/2018		05/14/2018	COA LEGAL SVCS. MARCH 2018	
		COA LEGAL SVCS. MARCH 2018					55,650.63
						Vendor Total:	55,650.63
46909	ALLSTATE		05/14/2018		05/14/2018	POST TAX APRIL 2018	
		CASE#91936 POST TAX INS. 4/18					350.73
						Vendor Total:	350.73
46912	AT&T MOBILITY		05/14/2018		05/14/2018	CELLPHONES SVC. M&I DEPT.	
		287251442687X04282018					210.19
						Vendor Total:	210.19
46930	BAKERSFIELD CALIFORNIAN	1ARV05	05/14/2018		05/14/2018	LEGAL PUBLICATIONS APRIL 2018	
		2695756					3,428.14
						Vendor Total:	3,428.14
46913	C & T AUTOMOTIVE, INC		05/14/2018		05/14/2018	MAINTENANCE FLEET#279	
		900024332					45.12
46914	C & T AUTOMOTIVE, INC		05/14/2018		05/14/2018	MAINTENANCE FLEET#275	
		900024327					172.50
						Vendor Total:	217.62
46915	CENTRAL CALIF. ASSOC. PUBLIC		05/14/2018		05/14/2018	COA UNION DUES 5.4.18	
		CITY OF ARVIN UNION DUES 5/4					708.23
						Vendor Total:	708.23
46916	ROSEMARIE CHAVEZ		05/14/2018		05/14/2018	EDUCATION REIMBURSEMENT	
		EDUCATION REIMBURSEMENT					85.00
						Vendor Total:	85.00
46953	CITY OF MCFARLAND		05/14/2018		05/14/2018	KCAC DINNER-MAYOR GURROLA	
		2018-KCAC-01					50.00
						Vendor Total:	50.00
46949	CLEAN CUT LANDSCAPE MANAGEMENT		05/14/2018		05/14/2018	LANDSCAPE MAINTENANCE LLMI	
		1329					2,500.00
46950	CLEAN CUT LANDSCAPE MANAGEMENT		05/14/2018		05/14/2018	LANDSCAPE MAINTENANCE LLMI	
		1330					550.00
						Vendor Total:	3,050.00
46917	COMMUNICATION ENTERPRISES		05/14/2018		05/14/2018	LTR 450 PAMPA DISPATCH-TRANS	
							135.00
46929	COMMUNICATION ENTERPRISES		05/14/2018		05/14/2018	LTR 450 DISPATCH M&I DEPT.	
		1094871					165.00
46952	COMMUNICATION ENTERPRISES		05/14/2018		05/14/2018	DISPATCH EQUIPMENT REPAIR	
		162243					263.81
						Vendor Total:	563.81
46918	COMPLETE HARDWARE STORE & MORE		05/14/2018		05/14/2018	REPAIR TANK SUPPLIES-PARKS	
		188647					10.15
46919	COMPLETE HARDWARE STORE & MORE		05/14/2018		05/14/2018	REPAIR TANK SUPPLIES-PARKS	
		188660					2.37
46920	COMPLETE HARDWARE STORE & MORE		05/14/2018		05/14/2018	SUPPLIES FOR APD SIGNS	
		188795					7.79

Attachment: Demand Register (Demand Register of May 11, 2018 – June 01, 2018)

**Edit List of Invoices - Summary**

DEMAND LIST 05/14/2018

**4.A.a**

Date: 05/14/2018

Time: 2:51 pm

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City of Arvin

Ref. No.	Vendor Name	Invoice No.	Posting Date	PO Number	Invoice Date	Invoice Description	Invoice Amount
						Vendor Total:	20.31
46931	CORELOGIC SOLUTIONS, LLC	81885224	05/14/2018		05/14/2018	METROSCAN MONTHLY DUES	137.50
						Vendor Total:	137.50
46932	DIAMOND IT PREPAID USE 28-397	21693	05/14/2018		05/14/2018	PREPAID IT SERVICES APRIL 2018	0.00
46933	DIAMOND IT PREPAID USE 28-397	21694	05/14/2018		05/14/2018	PREPAID IT SERVICES APRIL 2018	0.00
						Vendor Total:	0.00
46934	DIAMOND TECHNOLOGIES, INC	21610	05/14/2018		05/14/2018	OFFICE 365 SVC. APRIL 2018	856.70
						Vendor Total:	856.70
46921	FRANCHISE TAX BOARD		05/14/2018		05/14/2018	WITHHOLDING ORDER 5.4.18	150.00
						Vendor Total:	150.00
46935	GROUND CONTROL SYSTEMS	10699	05/14/2018		05/14/2018	16 BIKE RACKS-TDA ARTICLE III	4,476.06
						Vendor Total:	4,476.06
46936	JTS TRUCKING REPAIR	216877	05/14/2018		05/14/2018	MAINTENACE FLEET#110	680.04
						Vendor Total:	680.04
46922	KERN COUNTY SHERIFF'S OFFICE		05/14/2018		05/14/2018	LEVYING OFFICER #2018064450	213.24
						Vendor Total:	213.24
46937	KERN RIVER POWER EQUIPMENT INC	79345	05/14/2018		05/14/2018	SUPPLIES LAWNMOWER-M&I DEF	211.18
						Vendor Total:	211.18
46923	FERNANDO LOPEZ		05/14/2018		05/14/2018	INTERPRETER SVC. JUNE 2018	320.00
						Vendor Total:	320.00
46924	MOUNTAINSIDE DISPOSAL	498680	05/14/2018		05/14/2018	LANDFILL FEE MAY 2018	162.12
46955	MOUNTAINSIDE DISPOSAL	499268	05/14/2018		05/14/2018	ROLLOFF/BIN RENTAPRIL 2018	65.30
						Vendor Total:	227.42
46958	OVERLAND, PACIFIC, &	1804223	05/14/2018		05/14/2018	BEAR MTN. BLVD HSIP 5370(025)	1,953.43
						Vendor Total:	1,953.43
46926	PG & E		05/14/2018		05/14/2018	SVC. 03.31.18-05.01.18	280.04
46956	PG & E		05/14/2018		05/14/2018	SVC 4.9.18-5.8.18	29.58
46957	PG & E		05/14/2018		05/14/2018	SVC 4.9.18-5.8.18	1,070.24
						Vendor Total:	1,379.86
46938	PITNEY BOWES	3102137692	05/14/2018		05/14/2018	POSTAGE MACHINE LEASE	268.86

Attachment: Demand Register (Demand Register of May 11, 2018 – June 01, 2018)

**Edit List of Invoices - Summary**

DEMAND LIST 05/14/2018

**4.A.a**

Date: 05/14/2018

Time: 2:51 pm

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City of Arvin

Ref. No.	Vendor Name	Invoice No.	Posting Date	PO Number	Invoice Date	Invoice Description	Invoice Amount
						Vendor Total:	268.86
46954	PUBLIC WORKS COUNTY OF KERN		05/14/2018		05/14/2018	MUNI & STSW SVC. APRIL 2018	
		ACCT#01-ARV 5.8.18					3,158.32
						Vendor Total:	3,158.32
46939	SITEONE LANDSCAPE SUPPLY LLC		05/14/2018		05/14/2018	SUPPLIES WATER IRRIGATION-PA	
		85681567					1,285.44
						Vendor Total:	1,285.44
46940	SO. CAL. GAS CO.		05/14/2018		05/14/2018	NATURAL GAS VEHICLE FUEL	
		085-832-2970 6 5.4.18					13.00
						Vendor Total:	13.00
46948	SPARKLE TEXTILE RENTAL SERVICE		05/14/2018		05/14/2018	UNIFORM RENTAL SVC. APRIL 20	
		UNIFORM RENTAL SVC. APRIL 2018					1,158.12
						Vendor Total:	1,158.12
46941	SPARKLETTS		05/14/2018		05/14/2018	SVC. APRIL 2018	
		15470162 042718					71.94
						Vendor Total:	71.94
46942	TEL-TEC SECURITY SYSTEMS		05/14/2018		05/14/2018	ADOBE COMPLEX FIRE ALARM	
		621667					55.00
						Vendor Total:	55.00
46927	URBAN FUTURES, INC		05/14/2018		05/14/2018	2005 TAX ALLOCATION BOND 16-	
		CD-2018-40					4,300.00
						Vendor Total:	4,300.00
46928	VANTAGE POINT TRANSFER AGENTS		05/14/2018		05/14/2018	457K CONTRIBUTION/LOANS 5.4.	
		457K CONTRIBUTION/LOANS 5.4.18					257.95
						Vendor Total:	257.95
46945	VERIZON WIRELESS 609123961-1		05/14/2018		05/14/2018	A#609123961-00001	
		9806082296					470.87
						Vendor Total:	470.87
46946	VERIZON WIRELESS 609123961-3		05/14/2018		05/14/2018	A#609123961-00003	
		9806082297					646.17
						Vendor Total:	646.17
46944	VERIZON WIRELESS 609123961-4		05/14/2018		05/14/2018	A#609123961-00004	
		9806082298					304.08
						Vendor Total:	304.08
46943	VERIZON WIRELESS A#642023305-1		05/14/2018		05/14/2018	WIRELESS SVC. 3/29-4/28	
		9806241178					120.18
						Vendor Total:	120.18
46951	WESTERN ALLIANCE BANK-LN PMT		05/14/2018		05/14/2018	LOAN#04500161025-61025	
		LOAN#04500161025-61025 5.1.18					91,703.50
						Vendor Total:	91,703.50
46947	ZEE MEDICAL SERVICE		05/14/2018		05/14/2018	MEDICAL SUPPLIES	
		34-215207					7.58
						Vendor Total:	7.58

Attachment: Demand Register (Demand Register of May 11, 2018 – June 01, 2018)

**Edit List of Invoices - Summary**

DEMAND LIST 05/14/2018

**4.A.a**

Date: 05/14/2018

Time: 2:51 pm

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City of Arvin

Ref. No.	Vendor Name	Invoice No.	Posting Date	PONumber	Invoice Date	Invoice Description	Invoice Amount
Grand Total:							179,239.05
Less Credit Memos:							0.00
Net Total:							179,239.05
Less Hand Check Total:							0.00
Outstanding Invoice Total:							179,239.05

Total Invoices: 50

**Attachment: Demand Register (Demand Register of May 11, 2018 – June 01, 2018)**

**Edit List of Invoices - Detail**

Demand Register 5/23/18

**4.A.a**

Date: 05/23/2018

Time: 4:38 pm

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City of Arvin

Ref. No.	Vendor Name	Post Date	PONumber	Bank	Invoice Description Line 1	Gross Amount
Vendor No.	Vendor Address	Pay. Date	Req. No.	Hold?	Invoice Description Line 2	Taxes Withheld
	City	Disc. Date	Disc. %	Sep. Ck.?	Use Description 1 On Check	Discount
	State/Province Zip/Postal	Due Date		1099?	Hand Check Number/Date	Net Amount
	Email Address	Inv. Date	Invoice No.			
46970	ARVIN POLICE OFFICERS	05/18/2018		BOFA	UNION DUES 5/4/18 & 5/18/18	
01-725		05/22/2018		N		600.00
		05/18/2018		N	N	0.00
		05/18/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/18/2018	DUES 5/4/18 & 5/18/18			600.00
Vendor Total:						600.00
47002	AT&T	05/01/2018		BOFA	CALNET3 A#9391060015	
26-909	P.O. BOX 9011	05/22/2018		N	SVC 4/1/18 - 4/30/18	186.51
	CAROL STREAM	05/01/2018		N	N	0.00
	IL 60197	06/07/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/01/2018	000011272974 5/1/18			186.51
47003	AT&T	05/13/2018		BOFA	CALNET3 A#9391056024	
26-909	P.O. BOX 9011	05/22/2018		N	SVC 4/13/18 - 5/12/18	520.57
	CAROL STREAM	05/13/2018		N	N	0.00
	IL 60197	06/19/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/13/2018	000011352025 5/13/18			520.57
47004	AT&T	05/13/2018		BOFA	CALNET A#9391033189	
26-909	P.O. BOX 9011	05/22/2018		N	SVC 4/13/18 - 5/12/18	360.35
	CAROL STREAM	05/13/2018		N	N	0.00
	IL 60197	06/19/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/13/2018	000011350262 5/13/18			360.35
47005	AT&T	05/01/2018		BOFA	CALNET3 A#9391059040	
26-909	P.O. BOX 9011	05/22/2018		N	SVC 4/1/18 - 4/30/18	278.40
	CAROL STREAM	05/01/2018		N	N	0.00
	IL 60197	06/07/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/01/2018	000011272743 5/1/18			278.40
Vendor Total:						1,345.83
46960	BLUE SHIELD OF CALIFORNIA	05/14/2018		BOFA	MEDICAL INSURANCE-JUNE	
02-490	PO BOX 749415	05/22/2018		N	2018 #W00784231000	16,677.58
	LOS ANGELES	05/14/2018		N	N	0.00
	CA 90074-9415	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/14/2018	181340213095			16,677.58
Vendor Total:						16,677.58
46963	BSSR, INC.	04/25/2018		BOFA	GASOLINE PUMP REPAIR 4/24/18	
48-554	6630 ROSEDALE HSY. #B	05/22/2018		N		385.05
	BAKESFIELD	04/25/2018		N	N	0.00
	CA 93308	04/25/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	04/25/2018	30697 4/25/18			385.05
Vendor Total:						385.05
46969	CENTRAL CALIF. ASSOC. PUBLIC	05/18/2018		BOFA	UNION DUES 5/18/18	
11-150	SEIU LOCAL 521	05/22/2018		N		681.41
	SAN FRANCISCO	05/18/2018		N	N	0.00
	CA 94139-8826	05/18/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/18/2018	UNION DUES 5/18/18			681.41
Vendor Total:						681.41

Attachment: Demand Register (Demand Register of May 11, 2018 - June 01, 2018)

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Ref. No.	Vendor Name Vendor Address City	Post Date Pay. Date Disc. Date	PO Number Req. No.	Bank Hold? Sep. Ck.?	Invoice Description Line 1 Invoice Description Line 2 Use Description 1 On Check	Gross Amount Taxes Withheld
Vendor No.	State/Province Zip/Postal Email Address	Due Date Inv. Date	Disc. % Invoice No.	1099?	Hand Check Number/Date	Discount Net Amount
46964 27-067	COPOWER	05/10/2018		BOFA	CHIRO SVC JUN 2018	
	DEPT. 33824	05/22/2018		N		158.66
	SAN FRANCISCO	05/10/2018		N	N	0.00
	CA 94139	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/10/2018	745949 5/10/18			<u>158.66</u>
Vendor Total:						158.66
46959 06-012	FEDEX	05/18/2018		BOFA	Carrier Svc 04/20/18-05/15/18	
	P.O. BOX 7221	05/22/2018		N		394.22
	PASADENA	05/18/2018		N	N	0.00
	CA 91109-7321	05/18/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/18/2018	6-186-43120 5/18/18			<u>394.22</u>
Vendor Total:						394.22
46967 06-705	FRANCHISE TAX BOARD	05/18/2018		BOFA	WITHHOLDING ORDER 5/18/18	
	PO BOX 942867	05/22/2018		N		150.00
	SACRAMENTO	05/18/2018		N	N	0.00
	CA 94267-0011	05/18/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/18/2018	WITHHOLDING ORDER 5/1			<u>150.00</u>
Vendor Total:						150.00
47007 07-790	GUARDIAN	05/21/2018		BOFA	INSURANCE BUNDLE-	
	P.O. BOX 677458	05/23/2018		N	6/1/18 - 6/30/18	6,450.83
	DALLAS	05/21/2018		N	N	0.00
	TX 75267-7458	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/21/2018	GROUP ID#00 473727 5/21/			<u>6,450.83</u>
Vendor Total:						6,450.83
46971 28-063	KAISER PERMANENTE	06/05/2018		BOFA	MEDICAL INSURANCE- JUNE 2018	
	FILE 5915	05/22/2018		N		22,332.85
	LOS ANGELES	06/05/2018		N	N	0.00
	CA 90074-5915	06/05/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	06/05/2018	CU ID#000300785-000 6/5/1			<u>22,332.85</u>
Vendor Total:						22,332.85
46968 11-170	KERN COUNTY SHERIFF'S OFFIC	05/18/2018		BOFA	WITHHOLDING ORDER 5/18/18	
		05/22/2018		N		213.24
	BAKERSFIELD	05/18/2018		N	N	0.00
	CA 93387	05/18/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/18/2018	WITHHOLDING ORDER 5/1			<u>213.24</u>
Vendor Total:						213.24
46965 28-130	LOWE'S	05/02/2018		BOFA	SUPPLIES FOR SHOP 5/2/18	
	P.O. BOX 530954	05/22/2018		N		320.92
	ATLANTA	05/02/2018		N	N	0.00
	GA 30353-0954	05/20/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/02/2018	A#9800 748917 6 5/2/18			<u>320.92</u>
Vendor Total:						320.92

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Ref. No.	Vendor Name Vendor Address City	Post Date Pay. Date Disc. Date	PONumber Req. No.	Bank Hold? Sep. Ck.?	Invoice Description Line 1 Invoice Description Line 2 Use Description 1 On Check	Gross Amount Taxes Withheld
Vendor No.	State/Province Zip/Postal Email Address	Due Date Inv. Date	Disc. % Invoice No.	1099?	Hand Check Number/Date	Discount Net Amount
46962 14-025	NAPA AUTO PARTS 107 MORTON PL ARVIN CA 93203-1301 <Emailing Stub Disabled>	05/14/2018 05/22/2018 05/14/2018 05/14/2018		BOFA N N N	FUEL PUMP FILTER 5/14/18 N 0	12.46 0.00 0.00 12.46
Vendor Total:						12.46
46972 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	174.65 0.00 0.00 174.65
46973 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	9.53 0.00 0.00 9.53
46974 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	239.34 0.00 0.00 239.34
46975 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	9.69 0.00 0.00 9.69
46976 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	9.53 0.00 0.00 9.53
46977 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	9.53 0.00 0.00 9.53
46978 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	461.16 0.00 0.00 461.16
46979 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	05/11/2018 05/22/2018 05/11/2018 05/29/2018 05/11/2018		BOFA N N N	SVC 4/12/18 - 5/10/18 N N 0	9.53 0.00 0.00 9.53

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Ref. No.	Vendor Name	Post Date	PONumber	Bank	Invoice Description Line 1	Gross Amount
Vendor No.	Vendor Address	Pay. Date	Req. No.	Hold?	Invoice Description Line 2	Taxes Withheld
	City	Disc. Date	Disc. %	Sep. Ck.?	Use Description 1 On Check	Discount
	State/Province Zip/Postal	Due Date	Invoice No.	1099?	Hand Check Number/Date	Net Amount
	Email Address	Inv. Date				
46980	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		51.89
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#5106956658-9	5/11/18		51.89
46981	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		9.53
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#4569461468-1	5/11/18		9.53
46982	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		38.70
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#4157630593-6	5/11/18		38.70
46983	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		133.34
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#6358251136-4	5/11/18		133.34
46984	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		9.55
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#5673737579-2	5/11/18		9.55
46985	PG & E	05/11/2018		BOFA	SVC 4/13/18 - 5/11/18	
16-004	BOX 997300	05/22/2018		N		81.46
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#5242161718-5	5/11/18		81.46
46986	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		779.49
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#4601018108-2	5/11/18		779.49
46987	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		23.31
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#7132070819-2	5/11/18		23.31
46988	PG & E	05/11/2018		BOFA	SVC 4/13/18 - 5/11/18	
16-004	BOX 997300	05/22/2018		N		98.88
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#6747823013-8			98.88
46989	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
16-004	BOX 997300	05/22/2018		N		3,164.08
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#6632224172-1	5/11/18		3,164.08

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Ref. No.	Vendor Name Vendor Address City	Post Date Pay. Date Disc. Date	PONumber Req. No.	Bank Hold? Sep. Ck.?	Invoice Description Line 1 Invoice Description Line 2 Use Description 1 On Check	Gross Amount Taxes Withheld
Vendor No.	State/Province Zip/Postal Email Address	Due Date Inv. Date	Disc. % Invoice No.	1099?	Hand Check Number/Date	Discount Net Amount
46990 16-004	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
	BOX 997300	05/22/2018		N		339.74
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#7235938816-1	5/11/18		<u>339.74</u>
46991 16-004	PG & E	05/11/2018		BOFA	SVC 4/13/18 - 5/11/18	
	BOX 997300	05/22/2018		N	-	833.92
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#9083999874-8	5/11/18		<u>833.92</u>
46992 16-004	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
	BOX 997300	05/22/2018		N		30.83
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#8517683481-1	5/11/18		<u>30.83</u>
46993 16-004	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
	BOX 997300	05/22/2018		N		32.14
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#9132070691-3	5/11/18		<u>32.14</u>
46994 16-004	PG & E	05/14/2018		BOFA	SVC 4/12/18 - 5/10/18	
	BOX 997300	05/22/2018		N		6.06
	SACRAMENTO	05/14/2018		N	N	0.00
	CA 95899-7300	05/31/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/14/2018	A#9853233499-6	5/14/18		<u>6.06</u>
46995 16-004	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
	BOX 997300	05/22/2018		N		433.10
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#2124436632-0	5/11/18		<u>433.10</u>
46996 16-004	PG & E	05/11/2018		BOFA	SVC 4/12/18 - 5/10/18	
	BOX 997300	05/22/2018		N		9.55
	SACRAMENTO	05/11/2018		N	N	0.00
	CA 95899-7300	05/29/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/11/2018	A#1215425391-3	5/11/18		<u>9.55</u>
46997 16-004	PG & E	05/15/2018		BOFA	SVC 4/17/18 - 5/15/18	
	BOX 997300	05/22/2018		N		10.93
	SACRAMENTO	05/15/2018		N	N	0.00
	CA 95899-7300	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/15/2018	A#6226711721-6	5/15/18		<u>10.93</u>
46998 16-004	PG & E	05/15/2018		BOFA	SVC 4/17/18 - 5/15/18	
	BOX 997300	05/22/2018		N		180.28
	SACRAMENTO	05/15/2018		N	N	0.00
	CA 95899-7300	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/15/2018	A#3441010184-3	5/15/18		<u>180.28</u>
46999 16-004	PG & E	05/15/2018		BOFA	SVC 4/16/18 - 5/14/18	
	BOX 997300	05/22/2018		N		118.05
	SACRAMENTO	05/15/2018		N	N	0.00
	CA 95899-7300	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/15/2018	A#4891617948-3	5/15/18		<u>118.05</u>

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Ref. No.	Vendor Name	Post Date	PO Number	Bank	Invoice Description Line 1	Gross Amount
Vendor No.	Vendor Address	Pay. Date	Req. No.	Hold?	Invoice Description Line 2	Taxes Withheld
	City	Disc. Date	Disc. %	Sep. Ck.?	Use Description 1 On Check	Discount
	State/Province Zip/Postal	Due Date		1099?	Hand Check Number/Date	Net Amount
	Email Address	Inv. Date	Invoice No.			
47000	PG & E	05/15/2018		BOFA	SVC 4/17/18 - 5/15/18	1,665.57
16-004	BOX 997300	05/22/2018		N		0.00
	SACRAMENTO	05/15/2018		N	N	0.00
	CA 95899-7300	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/15/2018	A#3232674778-2			1,665.57
47001	PG & E	05/15/2018		BOFA	SVC 4/17/18 - 5/15/18	312.12
16-004	BOX 997300	05/22/2018		N		0.00
	SACRAMENTO	05/15/2018		N	N	0.00
	CA 95899-7300	06/01/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/15/2018	A#4121972200-0			312.12
Vendor Total:						9,285.48
46961	TOYOTA FINANCIAL SERVICES	05/14/2018		BOFA	LEASE PMT_5/14/17 #100	256.63
28-217	PO BOX 5855	05/22/2018		N		0.00
	CAROL STREAM	05/14/2018		N	N	0.00
	IL 60197-5855	05/31/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/14/2018	A#002 6595452			256.63
Vendor Total:						256.63
46966	VANTAGE POINT TRANSFER AGE	05/18/2018		BOFA	4575 CONTRIBUTIONS_5/18/18	257.95
26-912	C/O M&T BANK	05/22/2018		N		0.00
	BALTIMORE	05/18/2018		N	N	0.00
	MD 21264	05/18/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/18/2018	457 CONTRIBUTIONS 5/18/			257.95
Vendor Total:						257.95
47006	VEOLIA WATER NA - MAINT-NOTE	05/09/2018		BOFA	O&M WASTEWATER TREATMENT	144,800.10
22-282	23654 NETWORK PLACE	05/22/2018		N	APRIL 2018	0.00
	CHICAGO	05/09/2018		N	N	0.00
	IL 60673	06/09/2018	0.00	N	0	0.00
	<Emailing Stub Disabled>	05/09/2018	90148709			144,800.10
Vendor Total:						144,800.10
Grand Total:						204,323.21
Less Credit Memos:						0.00
Net Total:						204,323.21
Less Hand Check Total:						0.00
Outstanding Invoice Total:						204,323.21
Total Invoices: 49						

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Ref. No.	Vendor Name	Invoice No.	Posting Date	PO Number	Invoice Date	Invoice Description	Invoice Amount
47009	A-C ELECTRIC COMPANY	43208	05/30/2018		05/30/2018	ELECTRIC SVC. WALNUT ST. EXT.	990.00
						Vendor Total:	990.00
47008	ACC BUSINESS	181325319	05/30/2018		05/30/2018	INTERNET ACCESS A#1205939	1,020.92
						Vendor Total:	1,020.92
47010	ADOBE PLAZA REFUND		05/30/2018		05/30/2018	DEPOSIT REIMBURSEMENT	250.00
		REFUND RECEIPT#30944				Vendor Total:	250.00
47012	OLAN R. ARMSTRONG		05/30/2018		05/30/2018	TRAVEL REIMBURSEMENT 5.11.18	25.81
		TRAVEL REIMBURSEMENT 5.11.18				Vendor Total:	25.81
47013	BANK OF AMERICA - SVC CHGS		05/30/2018		05/30/2018	SVC. CHARGES APRIL 2018	484.47
		BANK SVC. FEES APRIL 2018				Vendor Total:	484.47
47014	BOB MURRAY & ASSOCIATES	7715	05/30/2018		05/30/2018	CITY MANAGER POSITION 5.16.18	3,667.96
						Vendor Total:	3,667.96
47016	C & T AUTOMOTIVE, INC	900024116	05/30/2018		05/30/2018	MAINTENANCE FLEET #273	64.37
47017	C & T AUTOMOTIVE, INC	900024369	05/30/2018		05/30/2018	MAINTENANCE FLEET #274	80.40
47018	C & T AUTOMOTIVE, INC	900024456	05/30/2018		05/30/2018	MAINTENANCE FLEET #283	45.12
						Vendor Total:	189.89
47015	CARTWRIGHT WHEEL & BRAKE SVC	040345	05/30/2018		05/30/2018	MAINTENANCE FLEET #275	813.91
						Vendor Total:	813.91
47051	COMPLETE HARDWARE STORE & MORE	190651	05/30/2018		05/30/2018	REPAIR SUPPLIES - PARKS	32.41
47052	COMPLETE HARDWARE STORE & MORE	191373	05/30/2018		05/30/2018	SUPPLIES FOR REPAIR-VET'S HA	8.83
47053	COMPLETE HARDWARE STORE & MORE	190497	05/30/2018		05/30/2018	CHAIN SAW SUPPLIES	20.56
						Vendor Total:	61.80
47011	LUCIA CORTEZ		05/30/2018		05/30/2018	DEPOSIT REIMBURSEMENT	450.00
		REFUND RECEIPT#29600				Vendor Total:	450.00
47019	DEPARTMENT OF JUSTICE	299100	05/30/2018		05/30/2018	FINGERPRINT SVC. APRIL 2018	334.00
						Vendor Total:	334.00
47020	GARCIA, JASMIN		05/30/2018		05/30/2018	EDUCATIONAL REIMBURSEMENT	1,500.00
		5.15.18 EDUCATION REIMBURSEMEN				Vendor Total:	1,500.00
47021	GRANITE CONSTRUCTION	1381788	05/30/2018		05/30/2018	ROAD MATERIALS	2,022.13
						Vendor Total:	2,022.13

Attachment: Demand Register (Demand Register of May 11, 2018 – June 01, 2018)

**Edit List of Invoices - Summary**

DEMAND LIST 05/30/2018

**4.A.a**

Date: 05/30/2018

Time: 3:41 pm

Page: 2

City of Arvin

Ref. No.	Vendor Name	Invoice No.	Posting Date	PO Number	Invoice Date	Invoice Description	Invoice Amount
47024	JAS PACIFIC		05/30/2018		05/30/2018	PLANNER SVC. MARCH 2018	
		BI12890					25,168.12
47025	JAS PACIFIC		05/30/2018		05/30/2018	BUILDING INSPECTOR SVC. 4/201	
		BI12912					7,312.50
47026	JAS PACIFIC		05/30/2018		05/30/2018	PLAN CHECK SVC. APRIL 2018	
		PC5068					1,340.00
47027	JAS PACIFIC		05/30/2018		05/30/2018	BUILDING INSPECTOR SVC. 3/201	
		BI12882					5,137.50
						Vendor Total:	38,958.12
47036	JTS TRUCKING REPAIR		05/30/2018		05/30/2018	MAINTENANCE FLEET#203	
		217777					342.24
47037	JTS TRUCKING REPAIR		05/30/2018		05/30/2018	MAINTENANCE FLEET#207	
		217833					212.12
47038	JTS TRUCKING REPAIR		05/30/2018		05/30/2018	MAINTENANCE FLEET#207	
		218160					842.52
47039	JTS TRUCKING REPAIR		05/30/2018		05/30/2018	MAINTENANCE FLEET#100	
		217357					194.40
47040	JTS TRUCKING REPAIR		05/30/2018		05/30/2018	MAINTENANCE FLEET#110	
		218240					180.00
						Vendor Total:	1,771.28
47022	KERN PRINT SERVICES		05/30/2018		05/30/2018	OFFICE SUPPLIES-POLICE DEPT.	
		40992					340.44
						Vendor Total:	340.44
47054	KERN RIVER POWER EQUIPMENT INC		05/30/2018		05/30/2018	CHAIN SAW #3 REPAIR	
		82287					260.42
47055	KERN RIVER POWER EQUIPMENT INC		05/30/2018		05/30/2018	MOWER #1 REPAIR	
		81654					364.86
						Vendor Total:	625.28
47023	KERN TROPHIES		05/30/2018		05/30/2018	OFFICE SUPPLY-CITY HALL	
		62093					40.76
						Vendor Total:	40.76
47028	MOUNTAINSIDE DISPOSAL		05/30/2018		05/30/2018	PROPERTY TAXES 5.11.18	
		PROPERTY TAXES 5.11.18					7,754.50
						Vendor Total:	7,754.50
47029	O'REILLY AUTOMOTIVE, INC		05/30/2018		05/30/2018	TOW STRAP-M&I DEPT.	
		4451-349541					32.46
47030	O'REILLY AUTOMOTIVE, INC		05/30/2018		05/30/2018	SUPPLIES-STREET SWEEPER	
		4451-349686					24.89
47056	O'REILLY AUTOMOTIVE, INC		05/30/2018		05/30/2018	MAINTENANCE SUPPLIES #315	
		4451-350523					3.79
47057	O'REILLY AUTOMOTIVE, INC		05/30/2018		05/30/2018	MAINTENANCE SUPPLIES #315&#	
		4451-350524					69.24
47058	O'REILLY AUTOMOTIVE, INC		05/30/2018		05/30/2018	APD DOG CATCHER BACKUP#302	
		4451-353230					3.24
47059	O'REILLY AUTOMOTIVE, INC		05/30/2018		05/30/2018	MAINTENANCE SUPPLIES #302	
		4451-353059					116.43
47060	O'REILLY AUTOMOTIVE, INC		05/30/2018		05/30/2018	MAINTENANCE SUPPLIES #00	
		4451-350928					6.16
						Vendor Total:	256.21
47031	PACIFIC TIRE ARVIN		05/30/2018		05/30/2018	MAINTENANCE FLEET#273	
		20611					10.00
47032	PACIFIC TIRE ARVIN		05/30/2018		05/30/2018	MAINTENANCE FLEET#205	
		20629					440.60
						Vendor Total:	450.60
47033	PG & E		05/30/2018		05/30/2018	SVC. 4.23.18-5.21.18	
		A#7368140966-7 5.22.18					51.71

Attachment: Demand Register (Demand Register of May 11, 2018 - June 01, 2018)

**Edit List of Invoices - Summary**

DEMAND LIST 05/30/2018

**4.A.a**

Date: 05/30/2018

Time: 3:41 pm

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City of Arvin

Ref. No.	Vendor Name	Invoice No.	Posting Date	PO Number	Invoice Date	Invoice Description	Invoice Amount
47034	PG & E		05/30/2018		05/30/2018	SVC.4.17.18-5.15.18	
		A#7149339108-1	5.23.18				2,864.20
						Vendor Total:	2,915.91
47035	PRO AIR		05/30/2018		05/30/2018	AC REPAIR SVC. COMM.DEV.DEPT	
		16575					445.00
						Vendor Total:	445.00
47041	PURCHASE POWER		05/30/2018		05/30/2018	POSTAGE REFILL	
		8000-9000-0054-0157	5.11.18				500.00
						Vendor Total:	500.00
47042	SITEONE LANDSCAPE SUPPLY LLC		05/30/2018		05/30/2018	REPAIRS-GITS PARK	
		85742306					93.95
						Vendor Total:	93.95
47043	SO. CAL. GAS CO.		05/30/2018		05/30/2018	SVC. 04.24.18-05.23.18	
		A#102 716 6200 8	5.25.18				35.70
47044	SO. CAL. GAS CO.		05/30/2018		05/30/2018	SVC. 04.24.18-05.23.18	
		A#056 316 7000 6	5.25.18				33.13
47045	SO. CAL. GAS CO.		05/30/2018		05/30/2018	SVC. 04.24.18-05.23.18	
		A#056 316 6714 3	5.25.18				24.58
47046	SO. CAL. GAS CO.		05/30/2018		05/30/2018	SVC. 04.24.18-05.23.18	
		A#100 518 4100 4	5.25.18				25.43
47047	SO. CAL. GAS CO.		05/30/2018		05/30/2018	SVC. 04.24.18-05.23.18	
		A#085 716 6576 2	5.25.18				16.86
47048	SO. CAL. GAS CO.		05/30/2018		05/30/2018	SVC. 04.24.18-05.23.18	
		A#071 118 3372 4	5.25.18				16.01
						Vendor Total:	151.71
47049	TOTAL CONCRETE SERVICES		05/30/2018		05/30/2018	4 PADS & 2 STINGERS BIKE RACK	
		30					8,886.24
						Vendor Total:	8,886.24
47050	TRINITY SAFETY COMPANY-TSC		05/30/2018		05/30/2018	PPE FOR EE M&I DEPT.	
		89432					386.96
						Vendor Total:	386.96
Grand Total:							75,387.85
Less Credit Memos:							0.00
Net Total:							75,387.85
Less Hand Check Total:							484.47
Outstanding Invoice Total:							74,903.38
Total Invoices: 53							

**Attachment: Demand Register (Demand Register of May 11, 2018 – June 01, 2018)**

# EARNINGS REPORT

4.B.a

Emp. Code Desc.: CITY OF ARVIN  
 From 05/18/2018 to 05/18/20  
 City of Arvin

PAYROLL 05-18-18

Date: 6/1/2018  
 Time: 12:20:45

Employee Name	Employee ID	15X	1X	1XFTO	25X	2X	3X	ADJ	ADLCO	Oth
		ADMLV	ALLOW	BERV	BNFT1	COMP	CTO	CTYWK	DEGRE	To
		DIFFL	FH	FTO	HLPER	HOL	HP1X	INSUR	JURY	
		LONG	MILIT	MISC	PBD	PBD3	PBDCO	PERE	PERS	
		PHALW	POST	PTO	REG	RETOT	RETRO	SCKCO	SEVR	
		SHOEA	SICK	SRO	STDBY	TRAIN	TUPGR	UACL	UAPEP	
		UNADV	URCL	URPEP	VAC	VACCO	VACTO	WRKCO	STLMT	
<b>Grand Total:</b>	<b>Employee Count: 49</b>	0.00	14,390.81	0.00	0.00	1,629.75	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	761.60	0.00	1,856.86	0.00	230.79	119,572.9
		153.30	343.56	0.00	0.00	0.00	0.00	1,978.21	0.00	
		2,413.41	0.00	0.00	0.00	21.49	0.00	0.00	0.00	
		225.00	780.39	0.00	89,964.04	0.00	0.00	0.00	0.00	
		0.00	2,774.35	0.00	0.00	0.00	66.16	0.00	0.00	
		90.78	0.00	0.00	1,892.41	0.00	0.00	0.00	0.00	

# COST REPORT

Emp. Code Desc.: CITY OF ARVIN  
 From 05/18/2018 to 05/18/20  
 City of Arvin

PAYROLL 05-18-18

Date: 6/1/2018  
 Time: 12:21:03

Employee Name	Employee ID	PER3E	FUTA	MC	MC1	PER1E	PER2D	PER2E	PER2M	Oth
		PER3E	PER5E	PER6E	PER9E	PERCP	PERS	PERS1	PERS2	To
		PERS3	PERS4	PERS5	PERS6	PERS8	PERS9	SS	SS1	
		SUTA								
<b>Grand Total:</b>	<b>Employee Count: 49</b>	0.00	0.00	1,411.68	578.80	0.00	573.56	0.00	790.53	0.00
		1,631.01	119.59	0.00	0.00	571.02	0.00	0.00	2,074.29	22,395.1
		2,912.68	0.00	0.00	1,616.94	1,484.91	0.00	5,919.47	2,710.62	
		0.00								

Attachment: Payroll Register (Payroll Register(s) of May 18, 2018 and June 01, 2018)

# EARNINGS REPORT

4.B.a

Emp. Code Desc.: CITY OF ARVIN  
 From 06/01/2018 to 06/01/20  
 City of Arvin

PAYROLL 06-01-18

Date: 6/1/2018  
 Time: 12:21:43

Employee Name	Employee ID	15X	1X	1XFTO	25X	2X	3X	ADJ	ADLCO	Oth
		ADMLV	ALLOW	BERV	BNFT1	COMP	CTO	CTYWK	DEGRE	To
		DIFFL	FH	FTO	HLPER	HOL	HP1X	INSUR	JURY	
		LONG	MILIT	MISC	PBD	PBD3	PBDCO	PERE	PERS	
		PHALW	POST	PTO	REG	RETOT	RETRO	SCKCO	SEVR	
		SHOEA	SICK	SRO	STDBY	TRAIN	TUPGR	UACL	UAPEP	
		UNADV	URCL	URPEP	VAC	VACCO	VACTO	WRKCO	STLMT	
<b>Grand Total:</b>	<b>Employee Count: 49</b>	0.00	18,320.03	0.00	0.00	703.40	0.00	0.00	0.00	0.0
		0.00	0.00	0.00	761.60	0.00	1,647.25	0.00	230.79	130,965.6
		208.95	654.48	0.00	0.00	6,203.03	4,727.80	1,978.21	0.00	
		2,413.41	0.00	0.00	407.10	0.00	0.00	0.00	0.00	
		225.00	780.39	0.00	80,965.91	0.00	0.00	0.00	0.00	
		0.00	2,147.74	0.00	0.00	0.00	38.30	0.00	0.00	
		90.78	0.00	0.00	6,857.77	0.00	0.00	1,603.72	0.00	

# COST REPORT

Emp. Code Desc.: CITY OF ARVIN  
 From 06/01/2018 to 06/01/20  
 City of Arvin

PAYROLL 06-01-18

Date: 6/1/2018  
 Time: 12:21:29

Employee Name	Employee ID	PER3E	FUTA	MC	MC1	PER1E	PER2D	PER2E	PER2M	Oth
		PERS3	PER5E	PER6E	PER9E	PERCP	PERS	PERS1	PERS2	Tot
		SUTA	PERS4	PERS5	PERS6	PERS8	PERS9	SS	SS1	
<b>Grand Total:</b>	<b>Employee Count: 49</b>	0.00	0.00	1,515.37	655.31	0.00	573.56	0.00	790.53	0.0
		1,850.31	119.59	0.00	0.00	571.02	0.00	0.00	2,103.77	24,206.4
		3,296.19	0.00	0.00	1,586.96	1,743.25	0.00	6,362.81	3,037.78	
		0.00								

Attachment: Payroll Register (Payroll Register(s) of May 18, 2018 and June 01, 2018)

## REGULAR MEETING MINUTES

### ARVIN CITY COUNCIL / SUCCESSOR AGENCY TO THE ARVIN COMMUNITY REDEVELOPMENT AGENCY / ARVIN HOUSING AUTHORITY / ARVIN PUBLIC FINANCING AUTHORITY

MAY 15, 2018

CALL TO ORDER @ 6:00PM

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL: MPT Ortiz absent; All others present.

#### 1. Approval of Agenda as To Form.

**Motion to approve the agenda.**

Motion CM Robles                      Second CM Madrigal                      Vote 4-0

#### 2. PUBLIC COMMENTS

(This is the opportunity for the public to address the City Council on any matter on the agenda or any item of interest to the public that is within the subject matter jurisdiction of the City Council.)

#### 3. PRESENTATION(S)

A. Arvin Air Quality Project - Central California Environmental Justice Network (CCEJN)

Gustavo Aguirre, Jr., Kern County Coordinator

#### 4. CONSENT AGENDA ITEM(S)

A. Approval of Demand Register(s) of April 27, 2018 – May 10, 2018.

B. Approval of Payroll Register(s) of May 04, 2018.

C. Approval of the Minutes of the Regular Meeting(s) of May 01, 2018.

D. Approval of A Resolution of the City Council of the City of Arvin to Authorize the Mayor and/or Interim City Manager to Approve Task Authorization with Veolia West Operating Services, Inc. for Parshall Flume Upgrade Project Tasks #3 and #4 in an Amount Not To Exceed \$293,101.00.

**Resolution No. 2018-32**

Attachment: Minutes of the Regular Meeting of May 15, 2018 (Approval of the Minutes of the Regular Meeting of May 15, 2018.)

- E. Approval of A Resolution of the City Council of the City of Arvin Providing for the Collection of Sewer Charges by the Kern County Tax Collector, In Compliance With The Applicable Provisions of Proposition 218 and the Arvin Municipal Code.

**Resolution No. 2018-33**

- F. Approval of A Resolution of the City Council of the City of Arvin Providing for the Collection of Refuse Charges by the Kern County Tax Collector, in Compliance with the Applicable Provisions of Proposition 218 and the Arvin Municipal Code.

**Resolution No. 2018-34**

- G. Approval of A Resolution of the City Council of the City of Arvin to Approve the 2017 Annual Housing Element Progress Report.

**Resolution No. 2018-35**

- H. Authorization to Oppose the Federal Government’s Litigation Against the State of California Challenging the State’s Sanctuary State Law, and Authorize and Direct the Mayor and City Attorney to Sign The City of New York’s Amicus Brief Opposing the Same on Behalf of the City of Arvin.

**Motion to approve Consent Agenda Items 4A – 4G.**

Motion Mayor Gurrola      Second CM Robles      Vote 4-0

**Motion to approve Consent Agenda Item 4H.**

Motion Mayor Gurrola      Second CM Robles      Vote 4-0

**5. PUBLIC HEARING ITEM(S)**

- A. Public Hearing to Consider Adoption of An Uncodified Ordinance of the City Council of the City of Arvin for A Third Amendment to the Development Agreement with Westminster Capital, Inc. (City Planner/City Attorney)

Staff recommends the City Council consider adopting the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive second reading of the Ordinance, and approve the adoption of the Ordinance.

**Hearing opened.**

**No public testimony received.**

**Hearing closed.**

**Motion to waive second reading of the Ordinance and approve the adoption of the Ordinance.**

Motion CM Robles      Second CM Madrigal      Vote 4-0

**Ordinance No. 446**

**6. WORKSHOP**

- A. Budget Workshop FY 2018-2019 (Finance Director)

Attachment: Minutes of the Regular Meeting of May 15, 2018 (Approval of the Minutes of the Regular Meeting of May 15, 2018.)

**7. STAFF REPORTS**

- A. Monthly Financial Report - April 2018 (Finance Director)

**8. COUNCIL MEMBER COMMENTS****9. CLOSED SESSION ITEM(S)**

- A. Conference with Legal Counsel Anticipated Litigation (Pursuant to Government Code § 54956.9)  
Three Potential cases
- B. Conference with Labor Negotiators (Pursuant to Government Code § 54957.6) City Negotiator, Pawan Gill, Human Resources Administrator  
Employee Organizations: Arvin Police Officers Association (APOA) and Service Employees International Union (SEIU) Local 521

**CLOSED SESSION REPORT BY CITY ATTORNEY:**

No reportable action.

**10. ADJOURNED @ 8:24PM**

Respectfully submitted,

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Cecilia Vela, City Clerk



**CITY OF ARVIN  
Staff Report**

Meeting Date: June 5, 2018

<b>TO:</b>	City Council
<b>FROM:</b>	Jeff Jones, Finance Director Jerry Breckinridge, Interim City Manager
<b>SUBJECT:</b>	Approval of a Resolution of the City Council of the City of Arvin to authorize the Mayor and/or the Interim City Manager to sign a cooperative agreement - local contribution only - with the State of California - Department of Transportation (Caltrans) in respects to project 0614000162 - installing traffic signals in the City of Arvin miles west of Derby street to King street and also authorizing the Mayor and/or Interim City Manager to sign a deobligation letter in respects to the same project

**BACKGROUND:**

On March 17, 2016, District Agreement Number 06-1618, Project ID 0614000162 was signed and agreed to between State of California Department of Transportation (Caltrans) and the City of Arvin for installing traffic signals in the City of Arvin 0.2 miles west of Derby Street to King Street (project).

To date substantial progress has been made on the project, including basic design, appraisals of properties where right of way access is needed, communications with the San Joaquin Valley Railroad regarding re-design of the railroad crossing just east of the intersection of Bear Mountain Valley Blvd and Tejon Highway.

However, at this time it has been agreed by the City management and Caltrans staff that Caltrans take over the project. Factors for this decision include current lack of City staff resources and the familiarity of Caltrans in the area of right-of-way acquisition.

In order to complete the transfer, the Mayor and/or Interim City Manager will be required to sign (1) a new project agreement with Caltrans and (2) a deobligation of current project funding. Those documents are attached to the staff report.

**ENVIRONMENTAL:**

The Derby Signal Project has already been environmentally assessed, and there are no changes in circumstances or conditions which would require additional assessment. As such, the

requirements of the California Environmental Quality Act have been satisfied, and no further environmental assessment is required

**FINANCIAL IMPACT:**

None to the general fund as this project was grant funded.

**ATTACHMENTS:**

06-1680 EA 0S510 Proj 0618000158 Agreement 042018 TD

2016-05 Cooperative Agreement CALTRANS HSIP Improvements to Derby and Br Mtn SR223  
for Traffic Signal\_021616

## **COOPERATIVE AGREEMENT**

### **Local Contribution Only**

This AGREEMENT, effective on \_\_\_\_\_, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

City of Arvin, a body politic and municipal corporation or chartered city of the State of California, referred to hereinafter as CITY.

#### **RECITALS**

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System (SHS) per the California Streets and Highways Code sections 114 and 130.
2. The term AGREEMENT, as used herein, includes this document and any associated attachments, exhibits, and amendments.
3. For the purpose of this AGREEMENT, installing traffic signals in Arvin 0.2 miles west of Derby Street to King Street, will be referred to hereinafter as PROJECT. This description only serves to identify the PROJECT. The project scope of work is defined in the appropriate authorizing documents per the Project Development Procedures Manual.
4. CITY will contribute an amount of \$400,000 to the PROJECT. Contributed funds will be used for the PROJECT.
5. PARTIES agree that funds will be contributed to the following PROJECT COMPONENT:
  - CONSTRUCTION CAPITAL
6. PARTIES hereby set forth the terms, covenants, and conditions for CITY's contribution toward the PROJECT.

### **ROLES AND RESPONSIBILITIES**

7. CALTRANS is the SPONSOR and IMPLEMENTING AGENCY for the PROJECT.
8. CITY is a FUNDING PARTY contributing a fixed amount toward the PROJECT as shown in the FUNDING TABLE.
9. CALTRANS is responsible for completing all work for the PROJECT.

### **GENERAL CONDITIONS**

10. All obligations of CALTRANS under the terms of this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
11. The cost of any engineering support performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.
12. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless CITY and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
13. This AGREEMENT is intended to be PARTIES' final expression and supersedes any oral understanding or writings pertaining to PROJECT.

### INVOICE AND PAYMENT

14. CITY will contribute the funds listed below:

FUNDING TABLE			
Fund Source	Fund Type	Project Component	Amount
FEDERAL	HSIP	Construction Capital	\$400,000
Total Funds			\$400,000

15. CALTRANS will draw from state and federal funds that are provided by CITY without invoicing CITY when CALTRANS administers those funds and CALTRANS has been allocated those funds by the CTC and whenever else possible. Otherwise invoicing and payment will occur in accordance with the following:
16. CALTRANS will submit to CITY monthly invoices for the prior month's expenditures.
17. CITY will pay the invoiced amount within forty-five (45) calendar days of receipt of the invoice unless CITY is paying with Electronic Funds Transfer (EFT). When paying with EFT, CITY will pay the invoiced amount within five (5) calendar days of receipt of the invoice.
18. If CITY has received Electronic Funds Transfer (EFT) certification from CALTRANS then CITY will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
19. After all work for the PROJECT is complete, CALTRANS will submit a final accounting for all costs. Based on the final accounting CALTRANS will, if necessary, refund CITY the unexpended local fund sources shown in the FUNDING TABLE.
20. This AGREEMENT will terminate upon CALTRANS' receipt of the PROJECT funds. However, all indemnification articles will remain in effect until terminated or modified in writing by mutual agreement.

## DEFINITIONS

**FUNDING PARTY** – A PARTY who commits a defined dollar amount to the PROJECT.

**IMPLEMENTING AGENCY** – The party responsible for managing the scope, cost, and schedule of a project component to ensure the completion of that component.

**PARTY** – The term that references a signatory agencies to this AGREEMENT.

**PARTIES** – The term that collectively references all of the signatory agencies to this AGREEMENT. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one party's individual actions legally bind the other PARTIES.

**SPONSOR** – The PARTY that accepts the obligation to secure financial resources to fully fund PROJECT. This includes any additional funds beyond those committed in this AGREEMENT necessary to complete the full scope of PROJECT.

**PROJECT COMPONENT** – A distinct portion of the planning and project development process of a capital project as outlined in California Government Code, section 14529(b).

- **PID (Project Initiation Document)** – The activities required to deliver the project initiation document for PROJECT.
- **PA&ED (Project Approval and Environmental Document)** – The activities required to deliver the project approval and environmental documentation for PROJECT.
- **PS&E (Plans, Specifications, and Estimate)** – The activities required to deliver the plans, specifications, and estimate for PROJECT.
- **R/W (Right of Way) SUPPORT** – The activities required to obtain all property interests for PROJECT.

- **R/W (Right of Way) CAPITAL** – The funds for acquisition of property rights for PROJECT.
- **CONSTRUCTION SUPPORT** – The activities required for the administration, acceptance, and final documentation of the construction contract for PROJECT.
- **CONSTRUCTION CAPITAL** – The funds for the construction contract.

### CONTACT INFORMATION

The information provided below indicates the primary contact information for each PARTY to this AGREEMENT. PARTIES will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this AGREEMENT.

The primary AGREEMENT contact person for CALTRANS is:

Paul Pineda, Project Manager  
2015 E. Shields Avenue, Suite 100  
Fresno, CA 93726  
Office Phone: (661) 326-3416  
Mobile Phone: (559) 287-2128  
Email: [paul.pineda@dot.ca.gov](mailto:paul.pineda@dot.ca.gov)

The primary AGREEMENT contact person for CITY is:

Jeff Jones, Finance Director  
200 Campus Drive  
Post Office Box 548  
Arvin, CA 93203  
Office Phone: (661) 854-3134  
Email: [jeffjones@arvin.org](mailto:jeffjones@arvin.org)

**SIGNATURES**

PARTIES declare that:

1. Each PARTY is an authorized legal entity under California state law.
2. Each PARTY has the authority to enter into this AGREEMENT.
3. The people signing this AGREEMENT have the authority to do so on behalf of their public agencies.

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Sharri Bender Elhert  
District Director

VERIFICATION OF FUNDS AND  
AUTHORITY:

By: \_\_\_\_\_  
William Etherton  
District Budget Manager

CERTIFIED AS TO FINANCIAL TERMS  
AND POLICIES:

By:  \_\_\_\_\_  
Darwin Salmos  
HQ Accounting Supervisor

CITY OF ARVIN

By: \_\_\_\_\_  
Jose Gurrola  
Mayor

**COOPERATIVE AGREEMENT COVER SHEET**

**Work Description**

Improve traffic control at the intersection of SR-223 and Derby Street, in the City of Arvin, in Kern County

**Contact Information**

**CALTRANS**

Paul Pineda, Project Manager  
900 Truxtun Avenue, Suite 200  
Bakersfield, CA 93301  
Office Phone: (661) 326-3416  
Email: [Paul.Pineda@dot.ca.gov](mailto:Paul.Pineda@dot.ca.gov)

CITY OF ARVIN  
CITY CLERK'S OFFICE  
AGMT NO 2016-05

**ARVIN**

Alfonso Noyola, City Manager  
200 Campus Drive  
Arvin, CA 93203  
Office Phone: (661) 854-3134  
Fax Number: (661) 854-0817  
Email: [anoyola@arvin.org](mailto:anoyola@arvin.org)

Attachment: 2016-05 Cooperative Agreement CALTRANS HSIP Improvements to Derby and Br Mtn SR223 for Traffic Signal\_021616 (Agreement

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Attachment: 2016-05 Cooperative Agreement CALTRANS HSIP Improvements to Derby and Br Mtn SR223 for Traffic Signal\_021616 (Agreement



**COOPERATIVE AGREEMENT**

CITY OF ARVIN  
CITY CLERK'S OFFICE  
AGMT NO 2016-05

MAR 17 2016

This AGREEMENT, effective on \_\_\_\_\_, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

Arvin, a body politic and municipal corporation of the State of California, referred to hereinafter as CITY.

**RECITALS**

1. PARTNERS are authorized to enter into a cooperative agreement for improvements to the state highway system (SHS) per the California Streets and Highways Code sections 114 and 130.
2. For the purpose of this AGREEMENT, improve traffic control at the intersection of SR-223 and Derby Street, in the City of Arvin, in Kern County will be referred to hereinafter as PROJECT. The project scope of work is defined in the PROJECT initiation and approval documents (e.g. Project Study Report, Permit Engineering Evaluation Report, or Project Report).
3. All responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENTS will be referred to hereinafter as OBLIGATIONS:
  - Right of Way Support (R/W SUPPORT)
  - Right of Way Capital (R/W CAPITAL)
4. This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between PARTNERS regarding the PROJECT.
5. The following work associated with this PROJECT has been completed or is in progress:
  - CALTRANS approved the Categorical Exemption on August 10, 2015 (Cooperative Agreement No. 06-1618).
  - CALTRANS approved the Categorical Exclusion on August 10, 2015 (Cooperative Agreement No. 06-1618).
  - CALTRANS is developing the Plans, Specifications and Estimate on January 15, 2018 (Cooperative Agreement No. 06-0000).
6. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.

Attachment: 2016-05 Cooperative Agreement CALTRANS HSIP Improvements to Derby and Br Mtn SR223 for Traffic Signal\_021616 (Agreement

7. PARTNERS hereby set forth the terms, covenants, and conditions of this AGREEMENT, under which they will accomplish OBLIGATIONS.

## RESPONSIBILITIES

### Sponsorship

8. CITY is the SPONSOR for the PROJECT COMPONENTS in this AGREEMENT.

### Funding

9. FUNDING PARTNERS, funding sources, funding limits, spending limits, and invoicing/payment details are documented in the FUNDING SUMMARY. The FUNDING SUMMARY is incorporated and made an express part of this AGREEMENT.

PARTNERS will execute a new FUNDING SUMMARY each time the funding details change. The FUNDING SUMMARY will be executed by a legally authorized representative of the respective PARTNERS. The most current fully executed FUNDING SUMMARY supersedes any previous FUNDING SUMMARY created for this AGREEMENT. Replacement of the FUNDING SUMMARY will not require an amendment to the body of this AGREEMENT unless the funding changes require it.

10. PARTNERS will not incur costs beyond the funding commitments in this AGREEMENT.
11. Unless otherwise documented in the FUNDING SUMMARY, all fund types contributed to a PROJECT COMPONENT will be spent proportionately within that PROJECT COMPONENT.
12. Unless otherwise documented in the FUNDING SUMMARY, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
13. All costs incurred for WORK except those that are specifically excluded in this AGREEMENT are OBLIGATIONS COSTS. OBLIGATIONS COSTS are to be paid from the funds shown in the FUNDING SUMMARY. Costs that are not OBLIGATIONS COSTS are to be paid by the PARTNER incurring the costs from funds that are outside the scope of this AGREEMENT.

**Implementing Agency**

- 14. CITY is the IMPLEMENTING AGENCY for RIGHT OF WAY.
- 15. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will provide a Quality Management Plan (QMP) for that component as part of the PROJECT MANAGEMENT PLAN. The Quality Management Plan describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The Quality Management Plan is subject to CALTRANS review and approval.
- 16. Any PARTNER responsible for completing WORK shall make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT COMPONENT work that may occur under separate agreements.

**Independent Quality Assurance**

- 17. CALTRANS will provide Independent Quality Assurance for the portions of WORK within the existing and proposed SHS right-of-way.

CALTRANS' Independent Quality Assurance efforts are to ensure that CITY's quality assurance activities result in WORK being developed in accordance with the applicable standards and within an established Quality Management Plan. Independent Quality Assurance does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking work performed by another party.

When CALTRANS performs Independent Quality Assurance it does so for its own benefit. No one can assign liability to CALTRANS due to its Independent Quality Assurance.

The cost of CALTRANS' Independent Quality Assurance is not an OBLIGATIONS COST.

**CEQA/NEPA Lead Agency**

- 18. CALTRANS is the CEQA Lead Agency for the PROJECT.
- 19. CALTRANS is the NEPA Lead Agency for the PROJECT.

**Environmental Permits, Approvals and Agreements**

- 20. PARTNERS will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTNER's responsibilities in this AGREEMENT.

21. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.

**Right of Way (R/W)**

22. As IMPLEMENTING AGENCY for R/W, CITY is responsible for all R/W SUPPORT WORK except those R/W SUPPORT activities and responsibilities that are assigned to another PARTNER in this AGREEMENT and those activities that may be specifically excluded.

23. CALTRANS will be responsible for completing the following R/W SUPPORT activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)	OBLIGATION COST
Independent Quality Assurance	No
220 Right of Way Engineering	Yes
300 Final Right of Way Engineering	Yes

24. This AGREEMENT includes the R/W SUPPORT PROJECT COMPONENT but does not include the PS&E PROJECT COMPONENT. Completion of R/W SUPPORT is dependent upon completion of some activities in PS&E. PARTNERS acknowledge that the WORK will not result in a product that can be used to advertise and award a contract for the CONSTRUCTION SUPPORT/CAPITAL PROJECT COMPONENTS without completing some activities under a separate agreement or by later amending this AGREEMENT.

25. The selection of R/W personnel and WORK within the completed PROJECT’s SHS right-of-way will be performed in accordance with federal and California laws and regulations, and CALTRANS’ policies, procedures, standards, practices, and applicable agreements.

26. CITY will make all necessary arrangements with utility owners for the timely accommodation, protection, relocation, or removal of any existing utility facilities that conflict with construction of the PROJECT or that violate CALTRANS’ encroachment policy.

27. CITY will provide CALTRANS a copy of conflict maps, Relocation Plans, proposed Notices to Owner, Reports of Investigation, and Utility Agreements (if applicable) for CALTRANS' concurrence prior to issuing the Notices to Owner and executing the Utility Agreement. All utility conflicts will be fully addressed prior to Right of Way Certification and all arrangements for the protection, relocation, or removal of all conflicting facilities will be completed prior to construction contract award and included in the PROJECT plans, specifications, and estimate.
28. CITY will determine the cost to positively identify and locate, protect, relocate, or remove any utility facilities whether inside or outside SHS right-of-way in accordance with federal and California laws and regulations, and CALTRANS' policies, procedures, standards, practices, and applicable agreements including but not limited to Freeway Master Contracts.
29. Caltrans will provide a land surveyor licensed in the State of California to be responsible for surveying and right-of-way engineering. All survey and right-of-way engineering documents will bear the professional seal, certificate number, registration classification, expiration date of certificate, and signature of the responsible surveyor.
30. CITY will utilize a public agency currently qualified by CALTRANS or a properly licensed consultant for all right-of-way activities. A qualified right-of-way agent will administer all right-of-way consultant contracts.

CITY will submit a draft Right of Way Certification document to CALTRANS six (6) weeks prior to the scheduled Right of Way Certification milestone date for review.

CITY will submit a final Right of Way certification document to CALTRANS for approval prior to the PROJECT advertisement.

31. Physical and legal possession of right-of-way must be completed prior to construction advertisement, unless PARTNERS mutually agree to other arrangements in writing. Right of way conveyances must be completed prior to OBLIGATION COMPLETION, unless PARTNERS mutually agree to other arrangements in writing.
32. CALTRANS' acceptance of right-of-way title is subject to review of an Updated Preliminary Title Report provided by CITY verifying that the title is free of all encumbrances and liens. Upon acceptance, CITY will provide CALTRANS with a Policy of Title Insurance in CALTRANS' name.
33. The California Transportation Commission is responsible for hearing and adopting Resolutions of Necessity.

**Schedule**

- 34. PARTNERS will manage the schedule for OBLIGATIONS through the work plan included in the PROJECT MANAGEMENT PLAN.

**Additional Provisions**

- 35. PARTNERS will perform all OBLIGATIONS in accordance with federal and California laws, regulations, and standards; FHWA STANDARDS; and CALTRANS STANDARDS.
- 36. CALTRANS retains the right to reject noncompliant WORK, protect public safety, preserve property rights, and ensure that all WORK is in the best interest of the SHS.
- 37. Each PARTNER will ensure that personnel participating in OBLIGATIONS are appropriately qualified or licensed to perform the tasks assigned to them.
- 38. PARTNERS will invite each other to participate in the selection of any consultants who participate in OBLIGATIONS.
- 39. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within SHS right-of-way. Contractors and/or agents, and utility owners will not work within the SHS right-of-way without an encroachment permit issued in their name. CALTRANS will provide encroachment permits to PARTNERS, their contractors, consultants and agents, and utility owners at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT shall prevail.
- 40. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the PROJECT COMPONENT WORK.
- 41. If any PARTNER discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTNER will notify all PARTNERS within twenty-four (24) hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and a plan is approved for its removal or protection.
- 42. PARTNERS will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the PROJECT in confidence to the extent permitted by law and where applicable, the provisions of California Government Code section 6254.5(e) shall protect the confidentiality of such documents in the event that said documents are shared between PARTNERS.

PARTNERS will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the PROJECT without the written consent of the PARTNER authorized to release them, unless required or authorized to do so by law.

43. If a PARTNER receives a public records request pertaining to OBLIGATIONS, that PARTNER will notify PARTNERS within five (5) working days of receipt and make PARTNERS aware of any disclosed public documents. PARTNERS will consult with each other prior to the release of any public documents related to the PROJECT.
44. If HM-1 or HM-2 is found during a PROJECT COMPONENT, the IMPLEMENTING AGENCY for that PROJECT COMPONENT will immediately notify PARTNERS.
45. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing SHS right-of-way. CALTRANS will undertake, or cause to be undertaken, HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to the PROJECT schedule.

The cost for HM MANAGEMENT ACTIVITIES related to HM-1 found within the existing SHS right-of-way is not an OBLIGATIONS COST and CALTRANS will pay, or cause to be paid, all costs for HM-1 ACTIVITIES.

46. CITY, independent of the PROJECT, is responsible for any HM-1 found within the PROJECT limits and outside the existing SHS right-of-way. CITY will undertake, or cause to be undertaken, HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to the PROJECT schedule.

The cost of HM MANAGEMENT ACTIVITIES related to HM-1 found within the PROJECT limits and outside of the existing SHS right-of-way is not an OBLIGATIONS COST and CITY will pay, or cause to be paid, all costs for such ACTIVITIES.

47. If HM-2 is found within the PROJECT limits, the public agency responsible for the advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM MANAGEMENT ACTIVITIES related to HM-2.
48. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.
49. The IMPLEMENTING AGENCY for each PROJECT COMPONENT will furnish PARTNERS with written monthly progress reports during the implementation of OBLIGATIONS in that component.

50. Any PARTNER that is responsible for completing OBLIGATIONS will accept, reject, compromise, settle, or litigate claims arising from those OBLIGATIONS.
51. PARTNERS will confer on any claim that may affect OBLIGATIONS or PARTNERS' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTNER will prejudice the rights of another PARTNER until after PARTNERS confer on the claim.
52. If the PROJECT expends state or federal funds, each PARTNER will comply with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTNERS will ensure that any for-profit party hired to participate in the OBLIGATIONS will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the PROJECT these principles and requirements apply to all funding types included in this AGREEMENT.
53. PARTNERS will maintain, and will ensure that any party hired by PARTNERS to participate in OBLIGATIONS will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.
54. PARTNERS will maintain and make available to each other all OBLIGATIONS-related documents, including financial data, during the term of this AGREEMENT.

PARTNERS will retain all OBLIGATIONS-related records for three (3) years after the final voucher.

55. PARTNERS have the right to audit each other in accordance with generally accepted governmental audit standards.

CALTRANS, the state auditor, FHWA (if the PROJECT utilizes federal funds), and CITY will have access to all OBLIGATIONS-related records of each PARTNER, and any party hired by a PARTNER to participate in OBLIGATIONS, for audit, examination, excerpt, or transcription.

The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation. The auditing PARTNER will be permitted to make copies of any OBLIGATIONS-related records needed for the audit.

The audited PARTNER will review the draft audit, findings, and recommendations, and provide written comments within thirty (30) calendar days of receipt.

Upon completion of the final audit, PARTNERS have thirty (30) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

Any audit dispute not resolved by PARTNERS is subject to mediation. Mediation will follow the process described in the General Conditions section of this AGREEMENT.

56. If the PROJECT expends state or federal funds, each PARTNER will undergo an annual audit in accordance with the Single Audit Act and the federal Office of Management and Budget (OMB) Circular A-133.
57. If the PROJECT expends federal funds, any PARTNER that hires an A&E consultant to perform WORK on any part of the PROJECT will ensure that the procurement of the consultant and the consultant overhead costs are in accordance with Chapter 10 of the *Local Assistance Procedures Manual*.
58. If WORK stops for any reason, IMPLEMENTING AGENCY will place the PROJECT right-of-way in a safe and operable condition acceptable to CALTRANS.
59. If WORK stops for any reason, each PARTNER will continue to implement all of its applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, as they apply to each PARTNER's responsibilities in this AGREEMENT, in order to keep the PROJECT in environmental compliance until WORK resumes.
60. The cost of awards, judgments, or settlements generated by OBLIGATIONS is an OBLIGATIONS COST.
61. The cost of legal challenges to the environmental process or documentation is an OBLIGATIONS COSTS.
62. Fines, interest, or penalties levied against a PARTNER are not an OBLIGATIONS COST and will be paid, independent of OBLIGATIONS COST, by the PARTNER whose action or lack of action caused the levy.
63. The cost of any engineering support performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.
64. Travel, per diem, and third-party contract reimbursements are an OBLIGATIONS COST only after those hired by PARTNERS to participate in OBLIGATIONS incur and pay those costs.

Payments for travel and per diem will not exceed the rates paid rank and file state employees under current California Department of Personnel Administration (DPA) rules current at the effective date of this AGREEMENT.

If CITY invoices for rates in excess of DPA rates, CITY will fund the cost difference and reimburse CALTRANS for any overpayment.

65. If there are insufficient funds available in this AGREEMENT to place PROJECT right-of-way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY will fund these activities until such time as PARTNERS amend this AGREEMENT.

That IMPLEMENTING AGENCY may request reimbursement for these costs during the amendment process.

66. CITY will furnish CALTRANS with the Project History Files related to the PROJECT facilities on SHS within sixty (60) days following the completion of each PROJECT COMPONENT. CITY will prepare the Project History File in accordance with the Project Development Procedures Manual, Chapter 7. All material will be submitted neatly in a three-ring binder and on a CD ROM in PDF format.

### GENERAL CONDITIONS

67. PARTNERS understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTNER initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.
68. All CALTRANS' OBLIGATIONS under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.

69. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless CITY and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
70. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CITY under this AGREEMENT. It is understood and agreed that CITY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
71. PARTNERS do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights in parties not signatory to this AGREEMENT. PARTNERS do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling OBLIGATIONS different from the standards imposed by law.
72. PARTNERS will not assign or attempt to assign OBLIGATIONS to parties not signatory to this AGREEMENT without an amendment to this AGREEMENT.
73. CITY will not interpret any ambiguity contained in this AGREEMENT against CALTRANS. CITY waives the provisions of California Civil Code section 1654.  
  
A waiver of a PARTNER's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.
74. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.
75. If any PARTNER defaults in its OBLIGATIONS, a non-defaulting PARTNER will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTNER fails to do so, the non-defaulting PARTNER may initiate dispute resolution.

76. PARTNERS will first attempt to resolve AGREEMENT disputes at the PROJECT team level. If they cannot resolve the dispute themselves, the CALTRANS district director and the executive officer of CITY will attempt to negotiate a resolution. If PARTNERS do not reach a resolution, PARTNERS' legal counsel will initiate mediation. PARTNERS agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTNERS from full and timely performance of OBLIGATIONS in accordance with the terms of this AGREEMENT. However, if any PARTNER stops fulfilling OBLIGATIONS, any other PARTNER may seek equitable relief to ensure that OBLIGATIONS continue.

Except for equitable relief, no PARTNER may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTNERS will file any civil complaints in the Superior Court of the county in which the CALTRANS district office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located. The prevailing PARTNER will be entitled to an award of all costs, fees, and expenses, including reasonable attorney fees as a result of litigating a dispute under this AGREEMENT or to enforce the provisions of this article including equitable relief.

77. PARTNERS maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.
78. If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.
79. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTNERS will amend this AGREEMENT to include completion of those additional tasks.
80. Except as otherwise provided in the AGREEMENT, PARTNERS will execute a formal written amendment if there are any changes to OBLIGATIONS.

81. When WORK performed on the PROJECT is done under contract and falls within the Labor Code section 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771, PARTNERS shall conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTNERS shall include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts. Work performed by a PARTNER's own employees is exempt from the Labor Code's Prevailing Wage requirements.
82. If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTNERS shall conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. § 276(a).

When applicable, PARTNERS shall include federal prevailing wage requirements in contracts for public work. WORK performed by a PARTNER's employees is exempt from federal prevailing wage requirements.

83. PARTNERS agree to sign a CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expire by the statute of limitations.
84. PARTNERS intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the OBLIGATIONS. The requirements of this agreement shall preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

## **DEFINITIONS**

**AGREEMENT** – This agreement including any attachments, exhibits, and amendments.

**CALTRANS STANDARDS** – CALTRANS policies and procedures, including, but not limited to, the guidance provided in the Project Development Procedures Manual (PDPM) and the CALTRANS Workplan Standards Guide for the Delivery of Capital Projects (WSG) [which contains the CALTRANS Work Breakdown Structure (WBS) and was previously known as the WBS Guide] and is available at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.

**CEQA (California Environmental Quality Act)** – The act (California Public Resources Code, sections 21000 et seq.) that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those significant impacts, if feasible.

**CFR (Code of Federal Regulations)** – The general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

**CLOSURE STATEMENT** – A document signed by PARTNERS that verifies the completion of all OBLIGATIONS included in this AGREEMENT and in all amendments to this AGREEMENT.

**FHWA** – Federal Highway Administration.

**FHWA STANDARDS** – FHWA regulations, policies and procedures, including, but not limited to, the guidance provided at [www.fhwa.dot.gov/topics.htm](http://www.fhwa.dot.gov/topics.htm).

**FUNDING PARTNER** – A PARTNER that commits funds in this AGREEMENT to fulfill OBLIGATIONS. A FUNDING PARTNER accepts the responsibility to provide the funds it commits in this Agreement.

**FUNDING SUMMARY** – An executed document that names FUNDING PARTNER(S), includes a FUNDING TABLE, SPENDING SUMMARY, deposit amounts, and invoicing and payment methods.

**FUNDING TABLE** – The table that designates funding sources, types of funds, and the PROJECT COMPONENT in which the funds are to be spent. Funds listed on the FUNDING TABLE are “not-to-exceed” amounts for each FUNDING PARTNER.

**GAAP (Generally Accepted Accounting Principles)** – Uniform minimum standards and guidelines for financial accounting and reporting issued by the Federal Accounting Standards Advisory Board that serve to achieve some level of standardization. See <http://www.fasab.gov/accepted.html>.

HM-1 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law whether it is disturbed by the PROJECT or not.

HM-2 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by the PROJECT.

HM MANAGEMENT ACTIVITIES – Management activities related to either HM-1 or HM-2 including, without limitation, any necessary manifest requirements and disposal facility designations.

IMPLEMENTING AGENCY – The PARTNER responsible for managing the scope, cost, and schedule of a PROJECT COMPONENT to ensure the completion of that component.

IQA (Independent Quality Assurance) – CALTRANS’ efforts to ensure that another PARTNER’s quality assurance activities are in accordance with the applicable standards and the PROJECT’s Quality Management Plan (QMP). When CALTRANS performs Independent Quality Assurance it does not develop, produce, validate, verify, re-check, or quality control another PARTNER’s work products.

NEPA (National Environmental Policy Act of 1969) – This federal act establishes a national policy for the environment and a process to disclose the adverse impacts of projects with a federal nexus.

OBLIGATIONS – All WORK responsibilities and their associated costs.

OBLIGATION COMPLETION – PARTNERS have fulfilled all OBLIGATIONS included in this AGREEMENT and have signed a COOPERATIVE AGREEMENT CLOSURE STATEMENT.

OBLIGATIONS COST(S) – The cost(s) to complete the responsibilities assigned in this AGREEMENT. Costs that are specifically excluded in this AGREEMENT or that are not incurred in the performance of the responsibilities in this AGREEMENT are not OBLIGATIONS COSTS.

OBLIGATIONS COSTS are to be paid from the funds shown in the FUNDING SUMMARY. Costs that are not OBLIGATIONS COSTS are to be paid by the party that incurs the cost from funds that are outside the scope of this AGREEMENT.

PARTNER – Any individual signatory party to this AGREEMENT.

PARTNERS – The term that collectively references all of the signatory agencies to this AGREEMENT. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one PARTNER’s individual actions legally bind the other PARTNER.

**PROJECT COMPONENT** – A distinct portion of the planning and project development process of a capital project as outlined in California Government Code, section 14529(b).

- **PID (Project Initiation Document)** – The work required to deliver the project initiation document for the PROJECT in accordance with CALTRANS STANDARDS.
- **PA&ED (Project Approval and Environmental Document)** – The work required to deliver the project approval and environmental documentation for the PROJECT in accordance with CALTRANS STANDARDS.
- **PS&E (Plans, Specifications, and Estimate)** – The work required to deliver the plans, specifications, and estimate for the PROJECT in accordance with CALTRANS STANDARDS.
- **R/W (Right of Way)** – The project components for the purpose of acquiring real property interests for the PROJECT in accordance with CALTRANS STANDARDS.
  - **R/W (Right of Way) SUPPORT** – The work required to obtain all property interests for the PROJECT.
  - **R/W (Right of Way) CAPITAL** – The funds for acquisition of property rights for the PROJECT.
- **CONSTRUCTION** – The project components for the purpose of completing the construction of the PROJECT in accordance with CALTRANS STANDARDS.
  - **CONSTRUCTION SUPPORT** – The work required for the administration, acceptance, and final documentation of the construction contract for the PROJECT.
  - **CONSTRUCTION CAPITAL** – The funds for the construction contract.

**PROJECT MANAGEMENT PLAN** – A group of documents used to guide the PROJECT’s execution and control throughout that project’s lifecycle.

**QMP (Quality Management Plan)** – An integral part of the PROJECT MANAGEMENT PLAN that describes IMPLEMENTING AGENCY’s quality policy and how it will be used.

**R/W (Right of Way) CAPITAL** – See PROJECT COMPONENT.

**R/W (Right of Way) SUPPORT** – See PROJECT COMPONENT.

**SHS (State Highway System)** – All highways, right-of-way, and related facilities acquired, laid out, constructed, improved, or maintained as a state highway pursuant to constitutional or legislative authorization.

**SPENDING SUMMARY** – A table that identifies the funds available for expenditure by each PARTNER. The table shows the maximum reimbursable expenditure for each PARTNER in each PROJECT COMPONENT.

**SPONSOR** – Any PARTNER that accepts the responsibility to establish scope of the PROJECT and the obligation to secure financial resources to fund the PROJECT COMPONENTS in this AGREEMENT. A SPONSOR is responsible for adjusting the PROJECT scope to match committed funds or securing additional funds to fully fund the PROJECT COMPONENTS in this AGREEMENT. If this AGREEMENT has more than one SPONSOR, funding adjustments will be made by percentage (as outlined in Responsibilities). Scope adjustments must be developed through the project development process and must be approved by CALTRANS as the owner/operator of the SHS.

**WORK** – All efforts to complete the OBLIGATIONS included in this AGREEMENT as described by the activities in the CALTRANS Workplan Standards Guide for the Delivery of Capital Projects (WSG).

**SIGNATURES**

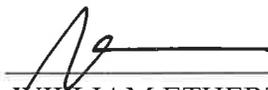
PARTNERS are empowered by California Streets and Highways Code section 114 and 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT.

Signatories may execute this AGREEMENT through individual signature pages provided that each signature is an original. This AGREEMENT is not fully executed until all original signatures are attached.

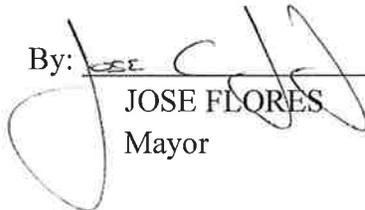
**STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION**

By:   
SHARRI BENDER EHLERT  
District Director

Certified as to funds:

By:   
WILLIAM EHERTON  
Budget Manager

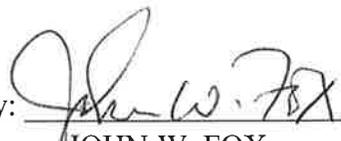
**CITY OF ARVIN**

By:   
JOSE FLORES  
Mayor

Attest:

By:   
CECILIA VELA  
City Clerk

Approved as to form and procedure:

By:   
JOHN W. FOX  
City Attorney

Attachment: 2016-05 Cooperative Agreement CALTRANS HSIP Improvements to Derby and Br Mtn SR223 for Traffic Signal\_021616 (Agreement

**FUNDING SUMMARY NO. 01**

v. 2

Source	FUNDING PARTNER	Fund Type	CITY		Totals
			R/W SUPPORT	R/W CAPITAL	
State	CALTRANS	SHOPP	345,000	74,000	419,000
Local	CITY	Local	163,000	200,000	363,000
Totals			508,000	274,000	782,000

v. 22

Fund Type	R/W Support		R/W CAPITAL		Totals
	CALTRANS	CITY	CALTRANS	CITY	
State Funds					
SHOPP	345,000	0	74,000	0	419,000
Local Funds					
Local	0	163,000	0	200,000	363,000
Totals	345,000	163,000	74,000	200,000	782,000

**Funding****Invoicing and Payment**

1. PARTNERS will invoice for funds where the SPENDING SUMMARY shows that one PARTNER provides funds for use by another PARTNER. PARTNERS will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, CITY will pay invoices within five (5) calendar days of receipt of invoice.
2. If CITY has received EFT certification from CALTRANS then CITY will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
3. When a PARTNER is reimbursed for actual costs, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTNERS will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTNERS will invoice or refund as necessary to satisfy the financial commitments of this AGREEMENT.

**Right of Way Support (R/W SUPPORT)**

4. No invoicing or reimbursement will occur for the R/W SUPPORT PROJECT COMPONENT.

**Right of Way Capital (R/W CAPITAL)**

5. No invoicing or reimbursement will occur for the R/W CAPITAL PROJECT COMPONENT.

**Signatures**

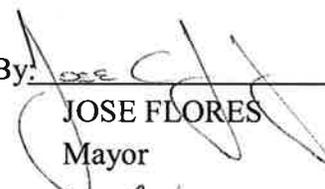
PARTNERS are empowered by California Streets and Highways Code sections 114 and 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this FUNDING SUMMARY on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this FUNDING SUMMARY.

Signatories may execute this FUNDING SUMMARY through individual signature pages provided that each signature is an original. This FUNDING SUMMARY is not fully executed until all original signatures are attached.

**STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION**

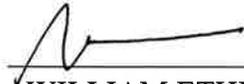
**CITY OF ARVIN**

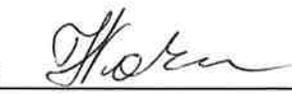
By:   
SHARRI BENDER EHLERT  
District Director

By:   
JOSE FLORES  
Mayor

Date: 3/17/2016

Date: February 25, 2016

By:   
WILLIAM ETHERTON  
District Budget Manager

By:   
HQ ACCOUNTING

District Agreement No.: 06-1618  
 Project ID: 0614000162  
 EA: 06- 0S510  
 06 KER 223 (PM 21.0/21.3)

## CLOSURE STATEMENT INSTRUCTIONS

### PLEASE DO NOT SIGN UNTIL PROJECT IS COMPLETED

1. Did PARTNERS complete all scope, cost and schedule commitments included in this AGREEMENT and any amendments to this AGREEMENT?  
  
YES / NO
  
2. Did CALTRANS accept and approve all final deliverables submitted by CITY?  
  
YES / NO
  
3. Did the CALTRANS HQ Office of Accounting verify that all final accounting for this AGREEMENT and any amendments to this AGREEMENT were completed?  
  
YES / NO
  
4. If construction is involved, did the CALTRANS District Project Manager verify that all claims and third party billings (utilities, etc.) have been settled before termination of the AGREEMENT?  
  
YES / NO
  
5. Did PARTNERS complete and transmit the As-Built Plans, Project History File, and all other required contract documents?  
  
YES / NO

If ALL answers are "YES", this form may be used to TERMINATE this AGREEMENT.

District Agreement No.: 06-1618  
Project ID: 0614000162  
EA: 06- 0S510  
06 KER 223 (PM 21.0/21.3)

**CLOSURE STATEMENT**

PARTNERS agree that they have completed all scope, cost, and schedule commitments included in Agreement 06-1618 and any amendments to the agreement.

The final signature date on this document terminates Agreement 06-1618 except survival articles.

All survival articles in Agreement 06-1618 will remain in effect until expired by law, terminated or modified in writing by PARTNER's mutual agreement, whichever occurs earlier.

The people signing this Agreement have the authority to do so on behalf of their public agencies.

**CALTRANS**

**ARVIN**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Name:

District Director

Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attachment: 2016-05 Cooperative Agreement CALTRANS HSIP Improvements to Derby and Br Mtn SR223 for Traffic Signal\_021616 (Agreement

## RESOLUTION

**APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN TO AUTHORIZE THE MAYOR AND/OR THE INTERIM CITY MANAGER TO SIGN A COOPERATIVE AGREEMENT - LOCAL CONTRIBUTION ONLY - WITH THE STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION (CALTRANS) IN RESPECTS TO PROJECT 0614000162 - INSTALLING TRAFFIC SIGNALS IN THE CITY OF ARVIN 0.2 MILES WEST OF DERBY STREET TO KING STREET AND ALSO AUTHORIZING THE MAYOR AND/OR INTERIM CITY MANAGER TO SIGN A DEOBLIGATION LETTER IN RESPECTS TO THE SAME PROJECT**

**WHEREAS**, On March 17, 2016, District Agreement Number 06-1618, Project ID 0614000162 was signed and agreed to between State of California Department of Transportation (Caltrans) and the City of Arvin for installing traffic signals in the City of Arvin 0.2 miles west of Derby Street to King Street (project); and

**WHEREAS**, Although, substantial progress has been made on the project, it has been determined that it best that Caltrans take over management of this project; and

**WHEREAS**, The City intends to request that Caltrans deobligate \$450,000 in funds on this project so Caltrans can complete it; and

**WHEREAS**, Caltrans requires a new cooperative agreement between the City of Arvin and Caltrans in order to complete the project; and

**WHEREAS**, the Derby Signal Project has already been environmentally assessed, and there are no changes in circumstances or conditions which would require additional assessment. As such, the requirements of the California Environmental Quality Act have been satisfied, an no further environmental assessment is required.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Arvin as follows:

1. The Council authorizes the Mayor and/or Interim City Manager to sign a Cooperative Agreement (Local Contribution Only) with Caltrans on project 0614000162 regarding installation of traffic signals on Derby Street to King Street.

3. The Council approves authorizing the Mayor and/or Interim City Manager to sign a de-obligation letter regarding funding on this same project, subject to approval as to legal form by the City Attorney.

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Arvin at a Regular Meeting thereof held on the 5th day of June, 2018 by the following vote:

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**SHANNON L. CHAFFIN**, City Attorney  
Aleshire & Wynder, LLP

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



## CITY OF ARVIN Staff Report

Meeting Date: June 5, 2018

**TO:** City Council

**FROM:** Pawan Gill, Human Resources Administrator  
Jerry Breckinridge, Interim City Manager

**SUBJECT:** A Resolution of the City Council of the City of Arvin Approving and Adopting the Safety-Sensitive Drug and Alcohol Testing Policy

### **BACKGROUND:**

Recognizing the need for a drug and alcohol free transportation industry, Congress passed the Omnibus Transportation Employee Testing Act in 1991, requiring Department of Transportation (DOT) Agencies to implement mandatory drug and alcohol testing of safety-sensitive transportation employees. Employers may use service agents to collect specimens, conduct laboratory analyses, medically review lab results and determine test outcomes, but may not delegate responsibility to comply with all applicable requirements and procedures.

As a result, the federal government has issued regulations for agencies employing motor carriers which provide the requirements and guidance to employers on how to conduct testing and how to return employees to safety-sensitive duties after they violate a DOT drug and alcohol regulation. Based upon these requirements, the City of Arvin has developed the Safety-Sensitive Drug & Alcohol Testing Policy for the Council's consideration.

The policy was vetted through an extensive meet and confer process with Service Employees International Union Local 521, which resulted in the final attached version. It applies to City transit positions considered "safety-sensitive" which at this time includes 5 Transit Bus Drivers, and the Transportation Supervisor.

### **FINANCIAL IMPACT:**

Funds for testing are included in the FY 18/19 budget and are a reimbursable expense from transit grants the City receives from various sources, therefore the financial impact is estimated at low to negligible.

### **RECOMMENDATION:**

Adopt the attached Resolution and Safety-Sensitive Drug And Alcohol Testing Policy for the City Of Arvin

**ATTACHMENTS:**

- 1) Resolution of the City Council of the City of Arvin Approving and Adopting the Safety-Sensitive Drug and Alcohol Testing Policy
- 2) Safety-Sensitive Drug And Alcohol Testing Policy-City Of Arvin

**ATTACHMENTS:**

Exhibit A - City of Arvin Drug and Alcohol Policy

## RESOLUTION

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN APPROVING AND ADOPTING THE SAFETY-SENSITIVE DRUG AND ALCOHOL TESTING POLICY

**WHEREAS**, recognizing the need for a drug and alcohol free transportation industry, Congress passed the Omnibus Transportation Employee Testing Act in 1991, requiring Department of Transportation (DOT) Agencies to implement mandatory drug and alcohol testing of safety-sensitive transportation employees; and

**WHEREAS**, employers may use service agents to collect specimens, conduct laboratory analyses, medically review lab results and determine test outcomes, but may not delegate responsibility to comply with all applicable requirements and procedures; and

**WHEREAS**, the federal government has issued regulations for agencies employing motor carriers which provide the requirements and guidance to employers on how to conduct testing and how to return employees to safety-sensitive duties after they violate a DOT drug and alcohol regulation; and

**WHEREAS**, the City of Arvin is an employs motor carriers and employees with safety-sensitive duties; and

**WHEREAS**, consistent with federal requirements, the City of Arvin has developed the Safety-Sensitive Drug & Alcohol Testing Policy (“Policy”); and

**WHEREAS**, the was Policy was subject to an extensive meet and confer process with Service Employees International Union Local 521, which agreed to the Policy as attached; and

**WHEREAS**, the Policy applies to City transit positions considered “safety-sensitive” which at this time includes 5 Transit Bus Drivers, and the Transportation Supervisor; and

**WHEREAS**, all pre-requisites to the adoption of the Policy have occurred, and the City Council desires to adopt the Policy.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Arvin as follows:

1. The City Council adopts the Safety-Sensitive Drug And Alcohol Testing Policy City Of Arvin attached hereto as Exhibit “A”.
2. This Resolution shall be effective immediately.

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Arvin at a Regular Meeting thereof held on the 5th day of June, 2018 by the following vote:

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**SHANNON L. CHAFFIN**, City Attorney  
Aleshire & Wynder, LLP

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

**EXHIBIT A**

Safety-Sensitive Drug And Alcohol Testing Policy City Of Arvin

Attachment: Exhibit A - City of Arvin Drug and Alcohol Policy (Safety-Sensitive Drug and Alcohol Testing Policy)

**SAFETY-SENSITIVE  
DRUG AND ALCOHOL TESTING POLICY  
CITY OF ARVIN  
Adopted as of June 5, 2018**

**A. PURPOSE**

- 1) The City provides public transit and paratransit services for the residents of the City. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug- and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, City declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug- and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and federal regulations published by the Federal Transit Administration (FTA) of the United States Department of Transportation (DOT). This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry.
- 3) Any provisions set forth in this policy that are included under the sole authority of the City and are not provided under the authority of the applicable federal regulations are underlined. Tests conducted under the sole authority of City will be performed on non-DOT forms and will be separate from DOT testing in all respects.

**B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all employees (full- or part-time) who perform safety-sensitive functions, as described below, and in Attachment A. See Attachment A for a list of current *safety-sensitive employees* and the authority under which they are included. Supervisors are safety-sensitive if they perform one or more safety-sensitive functions described below. Volunteers are considered safety-sensitive and subject to testing if they are required to hold a California Driver's License or receive remuneration for service in excess of actual expense.

## C. DEFINITIONS

*Accident:* An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- 1) An individual dies;
- 2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- 3) One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Adulterated Specimen:* A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a test under 49 CFR Part 40.

*Aliquot:* A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

*Canceled Test:* A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

*Confirmatory Validity Test:* A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

*Covered Employee Under FTA Authority:* An employee who performs a safety-sensitive function, including an applicant or transferee who is being considered for hire into a safety-sensitive function (see Attachment A for a list of covered employees).

*Designated Employer Representative (DER):* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

*Department of Transportation (DOT):* For the purposes of Drug and Alcohol regulatory oversight, the DOT is the department of the federal government which includes the Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Federal Motor Carriers' Safety Administration, Pipeline & Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

*Dilute Specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling Damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Evidentiary Breath Testing Device (EBT):* A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the NHTSA conforming products list.

*Initial Drug Test: (Screening Drug Test)* The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

*Invalid Result:* The result reported by an Department of Health and Human Services (HHS)-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or

substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

*Limit of Detection (LOD):* The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

*Limit of Quantitation:* For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

*Medical Review Officer (MRO):* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

*Negative Result:* The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

*Non-Negative Test Result:* A test result found to be adulterated, substitute, invalid, or positive for drug/drug metabolites.

*Oxidizing Adulterant:* A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

*Performing (a safety-sensitive function):* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

*Positive Result:* The result reported by an HHS-Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

*Prohibited Drug:* Identified as marijuana, cocaine, opiates, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

*Reconfirmed:* The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

*Rejected for Testing:* The result reported by an HHS-Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

*Revenue Service Vehicles:* All transit vehicles that are used for passenger transportation service.

*Safety-Sensitive Functions:* Employee duties identified as:

- 1) The operation or supervision of a transit revenue service vehicle, even when the vehicle is not in revenue service.
- 2) The operation of a non-revenue service vehicle by an employee, when the operation of such a vehicle requires the driver to hold a Commercial Driver's License (CDL).
- 3) Maintaining a revenue service vehicle or equipment used in revenue service.
- 4) Controlling the movement of a revenue service vehicle, and
- 5) Carrying a firearm for security purposes.

*Split Specimen Collection:* A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted Specimen:* A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

*Test Refusal:* The following are considered a refusal to test if the employee:

- 1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer.
- 2) Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has *not* refused to test.
- 3) Fails to attempt to provide a urine or breath specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has *not* refused to test.
- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the employee's provision of a specimen.
- 5) Fails to provide a sufficient amount of urine or breath without a valid medical explanation.
- 6) Fails or declines to take a second test as directed by the collector or the employer for drug testing.
- 7) Fails to undergo a medical examination or evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- 8) Fails to cooperate with any part of the testing process.
- 9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- 10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- 11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- 12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- 13) Fail to remain readily available following an accident.
- 14) As a covered employee, if the MRO reports that the employee has a verified adulterated or substituted test result, the employee has refused to take a drug test.

*Verified Negative Test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the HHS.

*Verified Positive Test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity Testing:* The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

#### **D. EDUCATION AND TRAINING**

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations, including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of sixty (60) minutes of training on the signs and symptoms of drug use, including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or officials who are in a position to determine employee fitness-for-duty will receive sixty (60) minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and sixty (60) minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **E. PROHIBITED SUBSTANCES**

- 1) Prohibited substances addressed by this policy include the following.
  - a. Illegally used controlled substance or drugs under the Drug-Free Workplace Act of 1988, or any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15, is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including codeine, morphine, and heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use

of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

FTA drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opioids (including codeine, morphine, and heroin), and phencyclidine as described in Section H of this policy. Employees covered under the City's authority will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, employees using any substance that carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited.

## **F. PROHIBITED CONDUCT**

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The City shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.

- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater, regardless of when the alcohol was consumed.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) The City, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all City employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place, including transit system premises and transit vehicles.

#### **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the City management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

#### **H. TESTING REQUIREMENTS**

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted, as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive functions, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under City authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

- 3) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with the City. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

## **I. DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opiates (including codeine, morphine, and heroin), amphetamines (including methamphetamine and ecstasy), and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS-certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive

or refusal to test and reported to the City. If a legitimate explanation is found, the MRO will report the test result as negative to the City.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within seventy-two (72) hours of notice of the original sample verified test result. Requests after seventy-two (72) hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. The City will ensure that the costs for the split specimen are covered in order for a timely analysis of the sample; however, the City will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct the City to retest the employee under direct observation.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one (1) year and the split specimen will also be retained for one (1) year. If the primary is positive, the primary and the split will be retained for longer than one (1) year for testing if so requested by the employee through the MRO, or by the employer, by the MRO, or by the relevant DOT agency.
- 8) Observed collections
  - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the City that there was not an adequate medical explanation for the result;
- ii. The MRO reports to the City that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see § 40.197(b)(1)).
- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v. The temperature on the original specimen was out of range;
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- vii. All follow-up-tests; or
- viii. All return-to-duty tests

## J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight (8) hours or for the duration of the work day, whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) The City affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

#### **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or City authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one (1) year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

- d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or City authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
- e. If a pre-employment test is canceled, City will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of ninety (90) consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide the City with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered employers that the applicant has worked for within the last two (2) years. Failure to do so will result in the employment offer being rescinded. The City is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two (2) years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide City proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

#### **L. REASONABLE SUSPICION TESTING**

- 1) All City FTA-covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion

referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under City's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

- 2) The City shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave, pending disciplinary action as specified in Section Q of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the City and shall be attached to the forms reporting the test results.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. The City shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the City. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under federal authority.** However, self-referral does not exempt the covered employee from testing under federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

#### **M. POST-ACCIDENT TESTING**

- 1) FATAL ACCIDENTS – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, regardless of whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the City using the best information available at the time of the decision.
- 2) NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
  - a. The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident.
  - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, and the covered employee may have contributed to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than thirty-two (32) hours for drugs. If an alcohol test is not performed within two hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within thirty-two (32) hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that City is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the City may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

#### **N. RANDOM TESTING**

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <http://www.dot.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under FTA regulations will be included in one random pool maintained separately from the testing pool of employees that are included solely under City authority.

- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety-sensitive duty. However, under the City's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **O. RETURN-TO-DUTY TESTING**

Any employee that tests positive or refuses a test will be subject to discipline, up to and including termination, as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test must test negative for drugs, alcohol (below 0.02 for alcohol), or both, and be evaluated and released by the Substance Abuse Professional (SAP) before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

#### **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one (1) to five (5) years with a minimum of six (6) tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-DOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-DOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was

not precipitated by a positive test result (or refusal to test) does not constitute a violation of the federal regulations will be conducted under City authority and will be performed using non-DOT testing forms.

**Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, referred to a Substance Abuse Professional (SAP) for assessment, and will be disciplined, up to and including termination.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in discipline, up to and including termination, and referral to an SAP. A test refusal includes the following circumstances:
  - a) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of the employee's provision of a specimen.
  - e) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
  - f) Fail or decline to take a second test as directed by the collector or the employer for drug testing.
  - g) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
  - h) Fail to cooperate with any part of the testing process.
  - i) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
  - j) Possess or wear a prosthetic or other device used to tamper with the collection process.

- k) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- l) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- m) Fail to remain readily available following an accident

As a covered employee, if the MRO reports that an employee has a verified adulterated or substituted test result, the employee has refused to take a drug test.

- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for eight (8) hours or the remainder of the work day, whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
  - a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
  - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from City employment.
    - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under Section Q of this policy is under the sole authority of City and will be performed using non-DOT testing forms.
  - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return to work agreement will be conducted under City authority and will be performed using non-DOT testing forms.**
  - d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.**

- e. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
  - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with City.
  - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in discipline, up to and including termination.

## **R. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

## **S. PROPER APPLICATION OF THE POLICY**

The City is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

## **T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the Transit Manager and/or Human Resources Department. Except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Transit Manager, Human Resources Department, and other management personnel on a need to know basis.

- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision-maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision-maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a federal, state or local safety agency with regulatory authority over the City or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the *City of Arvin* on [MONTH DD, YEAR].

[APPLICABLE SIGNATURES]

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JOSE GURROLA, JR., Mayor

01159.0009/385436.5

*Safety-Sensitive Drug and Alcohol Testing Policy*

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City of Arvin

**Attachment A**

<b><u>Job Title</u></b>	<b><u>Job Duties</u></b>	<b><u>Testing Authority</u></b>
Driver	Drives vehicles over specified routes or to specified destinations according to time schedules in order to transport passengers.	FTA
Transit Manager	Administering, managing, and executing the affairs of the transit system. Ensuring daily activities are in compliance. Develop annual work plan.	FTA

Attachment: Exhibit A - City of Arvin Drug and Alcohol Policy (Safety-Sensitive Drug and Alcohol Testing Policy)

## Attachment B

### Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

#### City of Arvin

Name: Hesham Elshazly  
 Title: Transit Manager  
 Address: 165 Plumtree Drive, Arvin, CA 93203  
 Telephone: (661) 854-3139

#### Medical Review Officer

Name: Dr. Sara Rinck, MD, Central Drug Systems  
 Title: Medical Review Officer  
 Address: 16560 Harbor Blvd. Ste. A, Fountain Valley, CA 92708  
 Telephone: (714) 418-0130

#### Substance Abuse Professional

Name: National Substance Abuse Professional Network  
 Address: 1615 Orange Tree Lane, Redlands, CA 92374  
 Telephone: (800) 879-6428

#### HHS Certified Laboratory Primary Specimen

Name: Medtox Laboratories  
 Address: 402 W. Country Rd, St. Paul. MN 55112  
 Telephone: (800) 832-3244

#### [HHS Certified Laboratory Split Specimen]\*

Name: Quest Diagnostics Laboratory  
 Address: 7600 Tyrone Ave., Van Nuys, CA 91405  
 Telephone: (800) 877-2520

\*May be subject to change.



**CITY OF ARVIN**  
**Staff Report**

Meeting Date: June 5, 2018

**TO:** City Council

**FROM:** Jeff Jones, Finance Director  
Jerry Breckinridge, Interim City Manager

**SUBJECT:** A Resolution of the City Council of the City of Arvin Consenting to the Submittal of a Grant Application and Application Documents to the Federal Transit Administration 5311 Program; And Authorizing Related Action

**BACKGROUND:**

The City of Arvin provides transportation services to the Citizens of the City of Arvin. Many of the services provided by the transit department are at low or no cost for the benefit of the community residents. As such, the City can apply for grant funds to help offset the costs of the City's transportation program. The transportation department relies on 5311 funds for operational costs.

The FTA 5311 program is a grant funding source for the acquisition of mass transit vehicles, equipment, and operational funding for fiscal years 2018 and 2019.

**FINANCIAL IMPACT:**

Staff has determined the application for grant funds to the FTA will allow the City Transit Department to apply for funds for operational costs that may become available under the 5311 program.

## RESOLUTION

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN CONSENTING TO THE SUBMITTAL OF A GRANT APPLICATION AND APPLICATION DOCUMENTS TO THE FEDERAL TRANSIT ADMINISTRATION 5311 PROGRAM; AND AUTHORIZING RELATED ACTIONS

**WHEREAS**, the Federal Transit Administration is an operating administration of the United States Department of Transportation, for Federal Transportation assistance authorized by 49 U.S.C Chapter 53, Title 23 of the United States Code, and other Federal statutes administered by the Federal Administration, and

**WHEREAS**, the Federal Transit Administration (FTA) has been delegated authority to award Federal financial assistance for transportation projects; and

**WHEREAS**, the City of Arvin is eligible to apply for Federal Transportation Administration 5311 FTA funds; and

**WHEREAS**, the grant agreement for Federal financial assistance will impose certain obligations upon the City of Arvin, and may require the city to provide share of the project cost; and

**WHEREAS**, the City of Arvin will provide all annual certifications and assurances to the Federal Transit Administration required for the 5311 grant funds, and

**WHEREAS**, the City of Arvin recognizes that it is responsible for compliance with all FTA grant assurances, and state and federal laws, including, but not limited to, laws governing the use of bond funds; and

**WHEREAS**, The FTA requires the City of Arvin to complete and submit a Governing Body Resolution for the purposes of identifying an agent authorized to act on behalf of The City of Arvin to execute actions necessary to apply for Federal Transportation 5311 FTA Funds and ensure continued compliance with FTA assurances, and state and federal laws; and

**WHEREAS**, it is the intent of the City Council that this Resolution constitute such a Governing Body Resolution.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Arvin as follows:

**Section 1:** The City Manager or his designee, is hereby authorized to submit required documents to file an application for federal assistance under the

5311-FTA program on behalf of the City of Arvin with the Federal Transit Administration for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration; and

**Section 2:** The City Manager or his designee, is hereby authorized and empowered to execute in the name of the City of Arvin all grant documents including, but not limited to, applications, agreements, amendments and request for payments, necessary to secure 5311 grant funds and implement the approved grant projects from the Federal Transit Administration, subject to approval as to legal form by the City Attorney.

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Arvin at a Regular Meeting thereof held on the 5th day of June, 2018 by the following vote:

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**SHANNON L. CHAFFIN**, City Attorney  
Aleshire & Wynder, LLP

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



## CITY OF ARVIN Staff Report

Meeting Date: June 5, 2018

**TO:** City Council

**FROM:** Jeff Jones, Finance Director  
Jerry Breckinridge, Interim City Manager

**SUBJECT:** A Resolution of the City Council of the City of Arvin Consenting to the Submittal of a Grant Application and Application Documents to the Federal Transit Administration 5339 Program; and Authorizing Related Actions

### **BACKGROUND:**

The City can apply for grant funds to help offset the cost of vehicle fleet replacement and the transition from diesel to electric buses to meet the States Climate Change Initiatives. The transportation department needs at least two new buses which have reached useful life. The FTA 5339 program is a grant funding source for the acquisition of “Low or No Emissions” transit vehicles, and equipment for fiscal years 2017 and 2018. City Council previously consented to apply to the State of Good Repair (SGR) and LCTOP programs as matching fund sources on February 20, 2018 and March 6, 2018, respectively.

### **FINANCIAL IMPACT:**

Staff has determined the application for grant funds to the FTA 5339 will allow the City Transit Department to apply for funds to purchase new electric buses that may become available under the 5339 program. The goal is to raise matching funds and apply to multiple grants as leverage for what will be a 2.5-million-dollar project. The City anticipates a local match of 15-30% which can be funded through Arvin's STA fund held in an account by Kern Council of Governments once all grant funds have been leveraged.

## RESOLUTION

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN CONSENTING TO THE SUBMITTAL OF A GRANT APPLICATION AND APPLICATION DOCUMENTS TO THE FEDERAL TRANSIT ADMINISTRATION 5339 PROGRAM; AND AUTHORIZING RELATED ACTIONS**

**WHEREAS**, the Federal Transit Administration is an operating administration of the United States Department of Transportation, for Federal Transportation assistance authorized by 49 U.S.C Chapter 53, Title 23 of the United States Code, and other Federal statutes administered by the Federal Administration, and

**WHEREAS**, the Federal Transit Administration (FTA) has been delegated authority to award Federal financial assistance for transportation projects; and

**WHEREAS**, the City of Arvin is eligible to apply for Federal Transportation Administration 5339 FTA funds; and

**WHEREAS**, the grant agreement for Federal financial assistance will impose certain obligations upon the City of Arvin, and may require the city to provide share of the project cost; and

**WHEREAS**, the City of Arvin will provide all annual certifications and assurances to the Federal Transit Administration required for the 5339 grant funds, and

**WHEREAS**, the City of Arvin recognizes that it is responsible for compliance with all FTA grant assurances, and state and federal laws, including, but not limited to, laws governing the use of bond funds; and

**WHEREAS**, the FTA requires the City of Arvin to complete and submit a Governing Body Resolution for the purposes of identifying an agent authorized to act on behalf of The City of Arvin to execute actions necessary to apply for Federal Transportation 5339 FTA Funds and ensure continued compliance with FTA assurances, and state and federal laws; and

**WHEREAS**, it is the intent of the City Council that this Resolution constitute such a Governing Body Resolution.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Arvin as follows:

**Section 1:** The City Manager or his designee, is hereby authorized to submit all required documents to file an application for federal assistance under the 5339 FTA

program on behalf of the City of Arvin with the Federal Transit Administration for Federal assistance authorized by 49 U.S.C. Chapter 53, Title

23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration; and

**Section 2:** The City Manager or his designee, is hereby authorized and empowered to execute in the name of the City of Arvin all grant documents including, but not limited to, applications, agreements, amendments and request for payments, necessary to secure 5339 grant funds and implement the approved grant projects from the Federal Transit Administration, subject to approval as to legal form by the City Attorney.

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Arvin at a Regular Meeting thereof held on the 5th day of June, 2018 by the following vote:

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA, City Clerk**

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA, Mayor**

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**SHANNON L. CHAFFIN, City Attorney**  
Aleshire & Wynder, LLP

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



## PROCLAMATION

### ARVIN BEARS VARSITY BASEBALL TEAM - DAY OF BEAR PRIDE

**JUNE 5, 2018**

**WHEREAS**, The City Council of the City of Arvin, is proud to recognize the success of the Arvin High School Varsity Baseball Team during the 2018 season; and

**WHEREAS**, The Arvin High School Varsity Baseball Team earned an outstanding 24-6 record for the season; and

**WHEREAS**, on May 25<sup>th</sup>, 2018, the Arvin High School Varsity Baseball Team played for the CIF Central Section Division V Championship game in Rawhide Stadium in Visalia, California. They earned the coveted CIF Central Section Division V “Runner-Up” Award.

**WHEREAS**, All of the hard work and dedication that Arvin High’s Varsity Baseball Team put in over the season and through their playoff run was displayed during their spectacular performance in the CIF Central Section Division V Title Game.

**WHEREAS**, Arvin High’s Varsity Baseball Team is made up of spectacular and dedicated players. Three of these players, Brandon Seablom, Robert Mendoza, and Manuel Felix were named 1<sup>st</sup> Team All-League players; and

**WHEREAS**, The entire coaching staff made up of Eddie Lopez, Joshua Machado, Jose Garcia, and Jose Tamayo; with the help of Joey Salinas, Jaime Nunez Jr., and Chris Rubio have turned Arvin High’s Baseball program into a source of pride for the city; and

**WHEREAS**, Citizens of Arvin and fans of the Arvin High School Bears are proud of the accomplishments thus far of the Arvin High School Varsity Baseball Team.

**NOW, THEREFORE**, the City Council, of the City of Arvin, hereby recognizes this day, Tuesday, June 5<sup>th</sup>, 2018 as

**“ARVIN BEARS VARSITY BASEBALL TEAM - DAY OF BEAR PRIDE”**

in the city of Arvin, and encourage our citizens to join us in honoring the Arvin High School Varsity Baseball Team and its faculty on this special occasion.

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Jose Gurrola, Mayor

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Jess Ortiz, Mayor Pro Tem

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Erika Madrigal, Councilmember

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Jazmin Robles, Councilmember

---

Gabriela Martinez, Councilmember

**In Witness Whereof**, We have hereunto set our hands and caused the Great Seal of the City of Arvin to be affixed this 05<sup>th</sup> day of June 2018.



**CITY OF ARVIN**  
**Agenda Report**

**Meeting Date:** June 5<sup>th</sup>, 2018

**TO:** Arvin City Council

**FROM:** Jerry Breckinridge, Interim City Manager

**SUBJECT:** Consideration and Adoption of A Resolution Of The City Council Of The City Of Arvin, California, Repealing And Replacing Previously Adopted Resolution No. 2017-30 Setting Salary Ranges And Benefits For Non-Represented Employees (Non-Department Heads)

**RECOMMENDATION:**

Staff recommends the City Council adopt the attached Resolution updating the salaries, benefits and terms and conditions for employees not represented by a collective bargaining unit, and who are not Department Heads. This Resolution supersedes and replaces Resolution 2017-30 adopted on May 2, 2017.

**BACKGROUND:**

State law and the Arvin Municipal Code requires the City Council to set the salaries and benefits of all public employees. For employees who are not part of a collective bargaining unit subject to an MOU, the City establishes salaries and benefits through a salary and benefits resolution. These resolutions set salary ranges for particular positions, benefits, and other terms and conditions of employment. Salary resolutions are updated from time to time to reflect necessary changes. In 2017, the Council adopted 2017-30 which added the salary range for the Human Resources Administrator to the salary schedule, deleted the Building Official/Code Enforcement Officer; and required a standard release in the event of layoff or termination without cause in exchange for severance pay.

This Resolution supersedes and replaces the previous salary resolution to provide a mechanism for acting/interim/additional duty pay and add a provision for educational reimbursement. Adoption of the Resolution will not otherwise affect retirement, salary ranges, etc., previously adopted by the City Council in 2017.

**FINANCIAL IMPACT:**

No additional fiscal impact to the City.

**ATTACHMENT:**

Agenda Report Re Consideration and Adoption of A Resolution Of The City Council Of The City Of Arvin, California, Repealing And Replacing Previously Adopted Resolution No. 2017-30 Setting Salary Ranges And Benefits For Non-Represented Employees (Non-Department Heads)  
Page 2

1. Consideration and Adoption of A Resolution Of The City Council Of The City Of Arvin, California, Repealing And Replacing Previously Adopted Resolution No. 2017-30 Setting Salary Ranges And Benefits For Non-Represented Employees (Non-Department Heads) effective May 2, 2017.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN  
REPEALING AND REPLACING PREVIOUSLY ADOPTED  
RESOLUTION NO. 2017-30 AND SETTING SALARY RANGES  
AND BENEFITS FOR NON-REPRESENTED, NON-DEPARTMENT  
HEAD EMPLOYEES.**

**WHEREAS**, Section 36506 of the California Government Code requires that the City Council fix the compensation of all appointive officers and employees by resolution or ordinance; and

**WHEREAS**, pursuant to the terms of the Arvin Municipal Code (“AMC”), Section 2.48.050, the non-represented employees covered by this Resolution are not part of the City’s “competitive service”; and

**WHEREAS**, pursuant to AMC sections 2.06.090 and 2.06.100, it shall be the duty of the City Manager to “appoint, remove, promote and demote any and all officers and employees of the city, except the City Attorney, subject to all applicable personnel ordinances, rules and regulations, and subject to the review and approval of the City Council,” and further under AMC section 2.06.150, it is the duty of the City Manager to prepare and submit the annual salary plan to the City Council for its approval; and

**WHEREAS**, the City recognizes that it is desirable to establish the salary, benefits and terms of employment for non-represented employees in order to maintain consistency among employees of unrepresented classifications; and

**WHEREAS**, on May 2, 2017, the Arvin City Council approved Resolution 2017-30 which repealed and replaced all previously adopted Resolutions Relating To Salary Ranges and Benefits For Non-Represented, Non-Department Head Employees.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, by the City Council of the City of Arvin as follows:

**SECTION 1. DESIGNATED CLASSIFICATIONS**

The following non-represented positions are designated as subject to the conditions set forth in this Resolution:

- 1) Human Resources Administrator
- 2) Transportation Manager
- 3) Police Department Lieutenant
- 4) Financial Analyst
- 5) Management Analyst

6) Parks Manager

7) Notwithstanding any other provision herein, to the extent any of these positions is subject to a contract for employment, the provisions of such contract shall exclusively control, and this Resolution shall not apply during the duration of the term of the contract.

## **SECTION 2. SUPERSESION OF PRIOR SALARY RESOLUTIONS; PERIODIC REVIEW**

Resolution 2017-30 is hereby superseded and repealed. Additionally, this Resolution supersedes any prior resolutions adopted by the City Council of the City of Arvin to the extent said resolutions set the salary ranges or benefits for the employees governed by this Resolution, save and except separately adopted resolutions which establish employer paid member retirement contributions as required under state public retirement laws, or as required under the Public Employee Pension Reform Act of 2013 ("PEPRA").

The City Council reserves the right and discretion to review and amend this Resolution as it deems necessary.

## **SECTION 3. SCOPE OF WORK**

### **A. Personnel System**

Unless a position is designated as "at will," this Resolution is not intended to supersede the City's personnel system, including personnel ordinances, resolutions, rules and regulations. The City personnel system may be superseded by a contract between the employee and the City approved by City Council resolution, in which case the specific language of any contract supersedes the general language of this Resolution. All employees covered by this Resolution shall be required to perform the scope of work set forth in the job description established for each of their respective positions, and perform additional related work as assigned by the City Manager and pursuant to AMC Sections 2.06.092 and 2.48.040.

Pursuant to the AMC Section 2.06.220, it shall be the duty of all subordinate officers to assist the City Manager in administering the affairs of the City efficiently, economically and harmoniously.

### **B. Probationary Period**

Unless "at will," when a vacant position subject to this Resolution is filled it shall be subject to a one (1)-year probationary period.

C. Police Lieutenant

The position of Police Lieutenant is required to meet and maintain the requirements of the Peace Officers Standards and Training guidelines set forth in Title 8 of the California Code of Regulations throughout his/her employment.

D. Exempt Status

Each of the positions set forth in this resolution are categorized as exempt from overtime under the Fair Labor Standards Act and the California Labor Code.

**SECTION 4. COMPENSATION**

A. Salary Ranges and Steps

The City Manager shall establish the step in the salary range in which an individual should be initially assigned upon appointment based on experience, certifications and education. Thereafter, any salary increases awarded by the City Manager will be within the steps set forth on the City of Arvin Employee Step Schedule approved by the City and as may be amended or updated from time to time by the City Council.

B. Overtime Compensation

Except as specifically provided for in this Resolution, all positions subject to this Resolution are exempt from overtime for purposes of state and federal wage and hour laws, and are not entitled to overtime compensation or to compensatory time off. Benefits and salary are considered adequate compensation for demands outside of the standard hours of work required of these positions.

**SECTION 5. PERFORMANCE EVALUATIONS**

A. All employees shall be evaluated in writing by the designated department head or City Manager.

B. Performance evaluations shall occur in twelve (12) month intervals. Evaluation periods may be extended by leaves, or any circumstances which may prevent observation of an employee during the evaluation period as determined by the City Manager. Employees may be evaluated more frequently at the discretion of the City Manager and/or the department head.

C. Annual salary and performance review for employees absent more than thirty (30) consecutive days for any reason shall be postponed an equal or reasonable number of days to allow for observation of performance, and

retroactive salary increases shall be within the discretion of the City Manager.

- D. Grievance or appeal of performance evaluations is not permitted. Employees who disagree with a performance evaluation may attach a written rebuttal to the performance evaluation within thirty (30) calendar days of receiving the evaluation. Performance evaluations, along with any rebuttal, are maintained in the employee's personnel file and will be treated as confidential.

## **SECTION 6. BENEFITS**

Employees designated in this Resolution shall receive the following benefits:

### A. Health Insurance

The City shall provide employees with 100% of all premiums for medical, dental, and vision insurance.

The City will make available a cafeteria plan for benefits, such as deferred compensation, available to employees covered under this Resolution. Employees may participate in an "IRC Section 125" plan which allows the use of pre-tax dollars to offset out-of-pocket insurance premiums and medical costs.

1. Dependent Coverage Non-sworn employees shall pay a maximum of \$150.00 per month for dependent coverage and the City will pay for any excess. Sworn employees pay a maximum of \$199.00 per month for dependent coverage and City will pay for any excess.

2. Waiver of Insurance Employees who decline the City's medical insurance coverage will receive \$250.00 per month additional compensation in lieu of participation in the City's medical insurance program. Employees receiving alternative compensation for health care must provide proof of current insurance coverage annually.

### B. Expenses and Reimbursements

1. Uniform Expenses The Police Lieutenant shall receive uniform benefits in the amount of eight hundred dollars (\$800.00) per year payable in twenty six (26) equal payments beginning January 1 of each year.

2. Educational Pay Dependent upon the availability of funds, employees may be eligible for reimbursement of costs of tuition, registration fees, required text books and other educational expenses incurred in connection with enrollment in and successful completion of courses of instruction related to the employee's current position or a higher paying position within the City. The

determination of available funds is within the sole discretion of the City Manager upon review of the budget for the fiscal year in which reimbursement is requested.

Employees seeking reimbursement must provide advance notice of course work for approval by the City Manager. Courses in progress at the time of hire may be partially approved in the discretion of the City Manager. Eligible employees shall be reimbursed up to three thousand five hundred dollars (\$3,500.00) per fiscal year for the cost of tuition, registration fees, required textbooks and other educational expenses. After approval, the employee must provide proof of successful completion of a course or study undertaken at an accredited institution with a final course grade of C or better, or if no grade is given, a certificate of completion, or other proof in the discretion of the City Manager. A copy of transcripts, receipts for course registration and/or other directly related expenses must be provided. Employees voluntarily leaving City employ within one (1) year of completion of a course(s) may be required to repay City for educational reimbursement in the discretion of the City Manager. Receipts for reimbursement must be submitted within six (6) months of course completion unless otherwise approved by the City Manager.

C. Holidays

Sworn and non-sworn employees shall be granted the same paid holidays as are granted to other employees in the SEIU MOU. When a holiday falls on a Sunday, the following Monday shall be observed as the holiday. When the holiday falls on a Saturday, the preceding Friday shall be observed as the holiday.

D. Retirement Benefits

1. Social Security City shall pay Social Security for non-sworn employees hired after September 1, 1994, at 50% of the Social Security/FICA payment per employee, and the employee shall pay fifty percent (50%).

City shall pay Social Security for sworn employees hired before July 1, 2007 at 100% of the employees' contribution to Social Security/FICA. For employees hired on or after July 1, 2007, the employees shall pay their full required employee contribution.

2. Retirement City is a contracting agency of the California Public Employees Retirement System ("CalPERS"). The City shall maintain and confirm by resolution applicable Employer Paid Member Contribution ("EPMC") payments for "classic" members and all previous employee cost sharing language as required by Public Employee Pension Reform Act of

2013 (“PEPRA”). New Members as defined and determined by CalPERS shall receive no EPMC as mandated by PEPRA and related statutes and regulations, which took effect on or after January 1, 2013.

- a. Non-Sworn “Classic Members” as defined and determined by CalPERS, shall be enrolled in the 2% at 55 plan, and City shall pay 100% of the employer-employee member contribution. “New” or PEPRA members shall be enrolled in the 2% at 62 plan, and comply with current PEPRA rules.
- b. Sworn For sworn “classic members” as defined and determined by CalPERS, the City will pay 100% of the employees’ CalPERS contribution, and employee shall be enrolled in the 2% at 55 plan. Said contribution shall be paid directly to CalPERS designating the contribution to be credited to the employee’s account. “New members” as defined and determined by CalPERS shall receive no EPMC as mandated by PEPRA and shall be enrolled in the 2% at 57 plan.

Sworn employees hired on or after January 1, 2013, with previous employment in another CalPERS system shall be enrolled in either the preexisting 2% at 55 retirement formula for public safety employees or the “Two Percent at 57” (2% @ 57) PEPRA mandated retirement formula for public safety employees depending upon eligibility rules as established by CalPERS under PEPRA and related laws and regulations. Based upon the City’s pre-existing contract with CalPERS, sworn members shall have their final compensation defined as the highest average annual final compensation during a consecutive thirty-six month period, subject to legally mandated caps for some or all employees.

3. The City will report as special compensation the value of EPMC. The special compensation shall be calculated on the base pay rate and reported as non-taxable to PERS. All PERS contributions are deferred compensation and the responsibility of the individual to report as taxable earnings upon withdrawal or retirement.

E. Disability Insurance

The City will make long-term disability insurance available to the employee and will pay 100% of the premium costs of such insurance.

F. Life Insurance

The City shall provide employees covered under this Resolution with life insurance and will pay 100% of the premium costs of such insurance, with a maximum benefit equal to one year's salary.

G. Paid Time Off

1. Accrual and Cash Out All employees shall accrue 9.23 hours of Paid Time Off ("PTO") per pay period with a cap of 340 hours, after which PTO will cease to accrue. PTO is a combination of vacation, sick leave, and compensated time off. Employees may cash out PTO for hours above 160 once annually per fiscal year. Paid time off may be cashed out upon separation from service.

2. Longevity Incentive

a. Employees with five (5) to nine (9) years of continuous city employment shall accrue PTO at a rate of 10.77 hours per pay period, with a cap of 380 hours, after which PTO will cease to accrue.

b. Employees with ten (10) or more years of continuous city employment shall accrue PTO at a rate of 12.30 hours per pay period, with a cap of 420 hours, after which PTO will cease to accrue.

3. Prior Accruals Any other type of leave, whether vacation, sick, holiday or compensatory time off, shall no longer accrue as of the effective date of this resolution. Employees may continue to use such leave balances, if any, until exhausted. Upon separation from service, any remaining leave balances subject to this paragraph, except for sick leave, shall be paid to the employee at the employee's then base salary rate.

4. Use of PTO PTO shall be used in fifteen (15) minute minimum increments, and must be approved by a director/department head having supervisory authority over the employee, or the City Manager or designee.

H. Professional Organizations

Upon advance approval of the City Manager, the City will pay for the professional dues, subscriptions and training necessary for the employees' participation in organizations necessary and desirable for their continued professional growth, to maintain professional licenses, advancement, and for the good of the City. Upon advance approval of the City Manager, the City will pay for or reimburse the employees for reasonable travel expenses related to meetings and conferences related to such professional organizations.

I. Cellular Phone Allowance

An allowance may be provided in the discretion of the City Manager.

J. Bereavement Leave

Employees shall receive up to five (5) days bereavement leave

Employees may, after informing the appointing authority, take up to five (5) days of bereavement leave to attend the funeral or memorial service of an immediate family member. Bereavement leave shall not to be chargeable against an employee's PTO, or sick leave balances if available, and shall not be subject to cashing out.

For the purposes of bereavement leave, the employee's immediate family shall be defined as: spouse, child, stepchild, mother, stepmother, father, stepfather, mother-in-law, father-in-law, brother, stepbrother, sister, stepsister, brother-in-law, sister-in-law, grandmother, grandfather, spouse's grandmother, spouse's grandfather, son-in-law, daughter-in-law, grandchild, immediate uncle or aunt (defined as brother or sister of employee's mother or father, or brother or sister of employee's guardian or employee's stepmother or stepfather), registered domestic partner or anyone living in the immediate household of the employee.

K. Police Officer Standard Training ("POST")

Sworn employees shall receive reimbursement for maintaining POST certification, including related training and associated expenses. Sworn employees are not entitled to reimbursement for obtaining initial POST certification required by the job description for the sworn position.

L. Provisional Pay

1. Acting or Interim Pay An employee may be assigned supervisory or non-supervisory duties of a vacant position while recruitment for that position is pending, or of a filled position whenever the position becomes temporarily vacant for reasons of sick leave, vacation, leave of absence or injury on duty status. An employee assigned the duties of a position pursuant to the provisions of this section shall be designated as "acting." The selection of the employee for "acting" status shall be within the sole discretion of the City Manager or designee. Employees acting in a supervisory position shall not be entitled to additional compensation unless they have worked ten (10) or more work days in that assignment. If the acting assignment continues past ten (10) days, then the employee shall receive additional compensation of five percent (5%) to ten percent (10%) of the employee's then regular rate of pay, at the sole discretion of the City Manager, retroactive to the first day of the assignment. Such compensation shall continue until such time as the incumbent returns or, in the case of a vacant position, the position is filled, but in no event longer

than six (6) months or 960 hours. In determining the rate of additional compensation the City Manager shall consider all of the circumstances of the assignment including the nature of the vacancy, other job duties assigned to the interim or acting employee outside the job description, and any other relevant factors.

2. Additional Duties Pay Employees required and designated by the City Manager to perform specially assigned or extra duties outside the scope of their job description as deemed necessary in the course of City business shall be eligible for additional duties pay after completion of thirty (30) consecutive calendar days in the assignment excluding vacations and holidays. Eligible employees may receive between five percent (5%) to ten percent (10%) of their regular rate of pay, at the sole discretion of the City Manager, retroactive to the first day of the assignment. In determining the rate of additional compensation the City Manager shall consider all of the circumstances of the assignment including the nature of any vacancy, other job duties assigned to the employee outside the job description, and any other relevant factors.

M. Grievance Procedures

Except as otherwise set forth in this Resolution, the City's Grievance policies and procedures set forth in the City's Personnel Rules and Regulations shall govern grievance matters. Employees who are "at-will" shall not be entitled to any rights under the City's Disciplinary procedures as they do not accrue property rights or permanency in their position.

**SECTION 7. RESIGNATION, RETIREMENT, DISCIPLINE OR REMOVAL**

A. Resignation

An employee wishing to resign shall notify the City Manager in writing at least thirty (30) days in advance. The City Manager or designee shall accept the resignation in writing.

B. Retirement

If an employee wishes to retire, the employee shall notify the City Manager or designee in writing, with the effective date of said retirement. At least ninety (90) days' notice is requested.

C. Discipline or Removal

1. Discipline or Removal Discipline, including removal for cause, shall be conducted through City's disciplinary policies, procedures and Personnel Rules and Regulations, except that at-will employees are not subject to disciplinary rules and may be removed without cause at any time, in the discretion of the City Manager.

2. Layoff or Termination: Severance The City Manager may layoff any position, or terminate an at-will position covered under this Resolution, without cause, and in such event may pay up to forty-five (45) days' salary as severance. Any and all severance rights are conditioned upon and in consideration for execution of a standard agreement of separation, severance, and general release/waiver of claims in a form approved by the City Attorney. The severance rights provided for herein shall constitute the sole and exclusive entitlement of a non-represented employee with respect to severance pay in the event of being laid-off or terminated, other than for cause.

3. Discipline or Removal of Police Lieutenant Discipline or removal of the Police Lieutenant shall comply with the requirements of The California Peace Officer's Bill of Rights Act, Government Code section 3300, *et seq.* and the City's Personnel Rules.

## **SECTION 8. Ethical Obligations**

A. Outside Employment, Enterprise, or Activity In accordance with California Government Code Title 1, Division 4, Chapter 1, Article 4.7, no employee may engage in any outside employment, enterprise, or activity that is inconsistent, incompatible, in conflict with, or adverse to his/her employment or their ability to perform their duties and responsibilities, including performance of overtime work and emergency duties, or any other aspect of City operations. Employees are required to notify the City Manager in writing of all outside employment in which they are engaged, regardless of when that outside employment began, so that the City may assess whether such outside employment conflicts with the employee's City employment.

An employee's outside employment, enterprise, or activity must be approved by the City Manager in advance.

The employees described hereinabove are public employees and therefore subject to all conflicts of interest and ethics laws and regulations promulgated by the City and the State of California, and as such are under a duty to comply with such ethical obligations while employed at the City of Arvin.

and the City's Personnel Rules.

## **SECTION 9. Effective Date**

This Resolution shall become effective immediately, and operative as of March 8, 2018.

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**I HEREBY CERTIFY** that the foregoing Resolution was passed and adopted by the Arvin City Council at a regularly scheduled meeting held on the 05<sup>th</sup> day of June, 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**SHANNON L. CHAFFIN**, City Attorney  
Aleshire & Wynder, LLP

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



**CITY OF ARVIN**  
**Staff Report**

Meeting Date: June 5, 2018

**TO:** City Council

**FROM:** Jeff Jones, Finance Director  
Jerry Breckinridge, Interim City Manager

**SUBJECT:** Public Hearing to Consider Introduction and First Reading, by Title Only, of an Ordinance of the City Council of the City of Arvin Amending and Renumbering Chapter 17.62 (“Commercial Cannabis Activity”) of Title 17 of the Arvin Municipal Code and Thereby Adding Chapter 17.64 (“Commercial Cannabis Activity”) to Title 17 of the Arvin Municipal Code to Establish Comprehensive Regulations Pertaining to Commercial Cannabis Activity, and Finding an Exemption from the California Environmental Quality Act.

**BACKGROUND:**

In 1996, California voters approved Proposition 215, the Compassionate Use Act (codified at Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes without fear of criminal prosecution under limited, specified circumstances.

In 2004, the State Legislature enacted SB 420, the Medical Marijuana Program Act (codified at Health and Safety Code section 11362.7 *et seq.*), to clarify the scope of the Compassionate Use Act, provide additional statutory guidance regarding medical cannabis use, and allow cities and counties to adopt supplemental rules and regulations.

In 2015, the Governor signed the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of MMRSA was to ensure uniformity among jurisdictions that wished to allow commercial cannabis operations.

Proposition 64, the Adult Use of Marijuana Act (“AUMA”) was approved by a majority of California voters in the November 2016 election. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products. Under AUMA, adults, age 21 and older, are legally entitled to possess and grow certain amounts of cannabis at home for personal use.

On June 27, 2017, the Governor signed SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), effectively repealing MCRSA and merging certain provisions of MCRSA into the provisions of AUMA to create a comprehensive state law

licensing and regulatory framework applicable to all types of commercial cannabis activities. Under MAUCRSA, three state licensing authorities, the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health, are empowered to issue state licenses authorizing the various types of commercial cannabis uses, and to promulgate regulations applicable to the licensing process. All three state licensing authorities have promulgated regulations and are now issuing annual state licenses.

MAUCRSA preserves the dual licensing scheme applicable to commercial cannabis uses, authorizing cities to adopt their own ordinances permitting, regulating and/or prohibiting the various types of commercial cannabis uses. Under MAUCRSA, cannabis businesses are required to comply with local ordinances and obtain any required local permits in addition to obtaining the necessary state licenses.

Local ordinances regulating commercial cannabis activities are not only authorized under MAUCRSA, they are necessary to the protection of public health, safety and welfare. State law requirements applicable to commercial cannabis activities under MAUCRSA are minimum standards and are not tailored to the needs of any specific locality.

There are numerous studies and reports that demonstrate that unregulated or under-regulated cannabis cultivation can be harmful to the health, safety and welfare of the surrounding community and constitute a public nuisance. Cannabis plants produce a strong odor, offensive to many people, and detectable far beyond property boundaries without proper ventilation, odor control, and other regulations. Due to the value of cannabis plants and their strong smell (which alerts others to their locations), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety.

In addition, insufficiently-regulated cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and to result in the pollution of waters. The indoor cultivation of cannabis has potential adverse effects to the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire, which presents a clear and present danger to persons and property. There are numerous well publicized studies and reports, as well as numerous documented incidents throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community.

Absent local land use regulations, commercial cannabis activities holding state licenses would be free to operate in nearly any area or zone of the City, with the exception of areas located in close proximity to certain sensitive land uses such as schools and youth centers. Local ordinances can expand the areas and zones in which commercial cannabis uses are prohibited, and can establish rules and regulations that are more stringent than the state law minimum standards, in order to better protect public health, safety and welfare in the local community.

In late 2017, to address the foregoing risks to local public health, safety and welfare, the City adopted Ordinance No. 443, adding Chapter 17.62 to the Arvin Municipal Code (“AMC”) pertaining to commercial cannabis activities.

The proposed ordinance attached hereto (the “Proposed Ordinance”) would renumber AMC Chapter 17.62 to Chapter 17.64 (to avoid numerical duplication of another existing Chapter 17.62 of the AMC pertaining to sign regulation) and would also amend the chapter to establish new and amended permitting requirements and associated regulations applicable to commercial cannabis activities in the City, to establish a comprehensive and up-to-date permitting and regulatory scheme pertaining to such activities.

**ENVIRONMENTAL:**

**Environmental Review:**

The Proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment, as the Proposed Ordinance merely amends the Arvin Municipal Code to establish new and amended procedures and requirements for the permitting and regulation of certain commercial cannabis activities, the environmental impacts of which will be assessed on a use-specific basis. (CEQA Guidelines § 15061(b)(3).) It is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§ 15307 and 15308.) Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to the Proposed Ordinance.

**Discussion:**

The Proposed Ordinance regulates the establishment, operation and maintenance cannabis businesses, including businesses selling medicinal and recreational cannabis and cannabis products, in the City. The Proposed Ordinance prohibits outdoor commercial cannabis cultivation activities and retail sales from storefront dispensaries. All other types of commercial cannabis activities, including indoor cultivation, manufacturing, distribution, delivery, testing and microbusiness are permitted, subject to issuance of a “commercial cannabis permit,” a City business license, a conditional use permit, employee work permits for all employees, and the required State license. Permitted commercial cannabis businesses would be obligated to pay an annual permit fee to cover the City’s costs of administering the mandatory functions of Chapter 17.64, in addition to application fees for each of the required City entitlements.

The commercial cannabis permit is a regulatory permit issued by the City Manager upon confirming compliance with requirements of AMC Chapter 17.64. The permit expires after one year from the date of issuance, at which point it must be renewed upon a showing that the business remains in compliance with all applicable laws and regulations, and upon payment of the requisite renewal application fee. Any denial of a commercial cannabis permit application is subject to an administrative appeal to the City Manager, and subsequently to the Planning Commission. The decision of the Planning Commission constitutes a final administrative decision, subject to judicial petition for writ of mandate. Commercial cannabis permits may also

be revoked by the City Manager based on a violation of Chapter 17.64. Revocation may be challenged only by petition for writ of mandate.

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Some other key aspects of the Ordinance are as follows:

- Commercial cannabis uses are prohibited in all zones of the City except M-1, M-2, M-3, A-1 and A-2 zones, in which such uses are conditionally permitted;
- Commercial cannabis uses are prohibited within 200 feet of a residential zone, absent approval by the City Manager upon a finding that the operation in such location would not tend to cause a public nuisance or have a negative impact on the nearby residential units or dwellings;
- Commercial cannabis uses are prohibited within one thousand feet (1,000') of any school, day care center, youth center, public park, or public library;
- No person under the age of 21 may enter or work for a commercial cannabis business;
- Consumption of cannabis is prohibited on the premises of a commercial cannabis business;
- No commercial cannabis business may sell or dispense alcoholic beverages from its premises, no alcohol may be consumed on the premises, and no commercial cannabis business may operate adjacent to a business that sells alcoholic beverages at retail;
- All commercial cannabis businesses must pass inspections by the City's Code Enforcement Division, Building Official, Police Department, and Fire Department for compliance with applicable laws and regulations prior to obtaining a commercial cannabis permit;
- All commercial cannabis businesses are also subject to suspicionless biennial inspections conducted by the foregoing officials to confirm continuing compliance with all applicable laws and regulations;
- All commercial cannabis businesses are subject to certain mandatory security requirements, including maintaining security cameras with 24-hour surveillance video recording, to be retained for at least 45 days and subject to City inspection upon request,

and having at least one licensed security guard on the premises during all operating hours (or more if deemed necessary by the City Manager);

- All cannabis and cannabis products must be kept secured and out of public view at all times.
- All commercial cannabis businesses are subject to certain mandatory operating requirements, including tracking all cannabis products, sales, and inventory, having a sufficient odor absorbing ventilation and exhaust system so that cannabis odors are not detectable outside of the facility, packaging and labeling of cannabis and cannabis products, and storage and disposal of waste.
- Additional special operating requirements apply depending on the type of permitted commercial cannabis business (e.g., cultivation, delivery, manufacturing, testing, distribution, etc). For instance, where the business engages in manufacturing using volatile solvents, strict requirements apply to the equipment used to conduct such activities.
- All employees and independent contractors of cannabis businesses must obtain an employee work permit prior to commencing work for any cannabis business, and to obtain such permit they must pass annual criminal background checks. Owners of cannabis businesses also must pass criminal background checks as part of the commercial cannabis application/renewal process.
- Commercial cannabis businesses or applicants may, at their option, apply to enter into a development agreement with the City. The ordinance provides criteria to govern the development application process for those who elect to apply.

The land use and location-related requirements of the commercial cannabis business, many of which are set forth above, are the subject of the conditional use permit requirement. Another function of the conditional use permit requirement is to ensure CEQA compliance on a project-specific basis. The City's conditional use permit ordinance, AMC Chapter 17.56, is being proposed for amendment concurrently with the Proposed Ordinance to enumerate commercial cannabis businesses as a conditionally permitted use in the City's M-1, M-2, M-3, A-1 and A-2 zones, consistent with the Proposed Ordinance, and to establish express procedures for suspension and revocation of conditional use permits.

Violations of the Proposed Ordinance are punishable by permit suspension and revocation, criminal misdemeanor prosecution, civil injunctive relief, administrative public nuisance abatement, and imposition of administrative penalties.

Personal cannabis activity, both recreational and medical, remains governed by the requirements of Chapter 8.29 of Title 8 of the Arvin Municipal Code.

**FINANCIAL IMPACT:**

There were consultant staff costs involved in preparation of the Proposed Ordinance, which staff believes can be funded within the existing budget appropriations. The overall impact of the Ordinance is anticipated to have a positive financial impact by encouraging business and economic development and creating new job opportunities in the City.

## ORDINANCE

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AMENDING AND RENUMBERING CHAPTER 17.62 (“COMMERCIAL CANNABIS ACTIVITY”) OF TITLE 17 OF THE ARVIN MUNICIPAL CODE AND THEREBY ADDING CHAPTER 17.64 (“COMMERCIAL CANNABIS ACTIVITY”) TO TITLE 17 OF THE ARVIN MUNICIPAL CODE TO ESTABLISH COMPREHENSIVE REGULATIONS PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

**WHEREAS**, the City of Arvin (“the City”) has the authority under Article XI, Section 7 of the California Constitution, to enact regulations for the public peace, morals, and welfare of the City; and

**WHEREAS**, in 1996, with the adoption of Proposition 215, the California voters approved the Compassionate Use Act (Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances; and

**WHEREAS**, in 2004, the State Legislature enacted SB 420, the Medical Marijuana Program Act (Health and Safety Code § 11362.7 *et seq.*), clarifying the scope of the Compassionate Use Act, providing additional statutory guidance regarding medical cannabis use, and allowing cities and counties to adopt supplemental rules and regulations; and

**WHEREAS**, on October 9, 2015, the Governor signed the Medical Marijuana Regulation and Safety Act (“MMRSA”), comprised of California legislative bills AB 243, AB 266, and SB 643, creating a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medicinal marijuana, all subject to local control; and

**WHEREAS**, on June 27, 2016, the Governor signed SB 837, changing the title of MMRSA to the Medical Cannabis Regulation and Safety Act (“MCRSA”), changing the terminology therein from “medical marijuana” or “marijuana” to “medical cannabis” or “cannabis,” and making other technical changes thereto. SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

**WHEREAS**, at the November 8, 2016 general election, the California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), establishing a comprehensive regulatory and licensing scheme for commercial recreational (adult-use) cannabis operations, and legalizing limited personal adult-use cannabis use, possession, and cultivation; and

**WHEREAS**, on June 27, 2017, Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the

regulatory regimes of MCRSA and AUMA; and

**WHEREAS**, MAUCRSA, at Business & Professions Code §26050, establishes 20 different types of state licenses, including permit types pertaining to cannabis cultivation, manufacturing, testing, retailing, and distribution, which medicinal and adult-use cannabis businesses must obtain, depending on the nature of the cannabis business, in order to operate legally in the State; and

**WHEREAS**, MAUCRSA, at Business & Professions Code §26200(a)(1), provides that local jurisdictions may adopt and enforce local ordinances to regulate or prohibit any or all types of medicinal and adult-use business operations licensed by the state under Business & Professions Code §26050, including, but not limited to, by imposing local zoning and land use requirements; and

**WHEREAS**, MAUCRSA, at Business & Professions Code §26055(d), provides that a State commercial cannabis license may not be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation; and

**WHEREAS**, MAUCRSA, at Business & Professions Code §26201, provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state for the various types of medicinal and adult-use commercial cannabis operations licensed by the state under Business & Professions Code §26050 shall be the minimum standards, and that a local jurisdiction may establish additional or more stringent standards, requirements, and regulations; and

**WHEREAS**, pursuant to MAUCRSA, the California Bureau of Cannabis Control (“BCC”), Department of Food and Agriculture (“CDFA”), and Department of Public Health (“CDPH”) adopted emergency regulations which establish additional State license types and specify the process and requirements for obtaining state licenses to engage in all types of commercial medicinal and adult-use cannabis activities in the State of California (“Regulations”); and

**WHEREAS**, the Regulations were approved by the State Office of Administrative Law on December 7, 2017; and

**WHEREAS**, the BCC is now accepting applications for temporary and annual state licenses for commercial cannabis retailers, distributors, microbusinesses, testing laboratories, and cannabis events; and

**WHEREAS**, the CDPH is now accepting applications for temporary and annual state licenses for commercial cannabis manufacturers; and

**WHEREAS**, the CDFA is now accepting applications for temporary and annual state licenses for commercial cannabis cultivators, nurseries and processors; and

**WHEREAS**, several California cities have reported negative impacts of cannabis

cultivation and related activities, including but not limited to offensive odors, criminal activity, (such as trespassing, theft, violent robberies and robbery attempts, and the illegal sale and distribution of cannabis), and public health and safety concerns (such as fire hazards and problems associated with mold, fungus, and pests); and

**WHEREAS**, cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors or if grown indoors without proper ventilation, odor control, and other regulations; and

**WHEREAS**, due to the value of cannabis plants and their strong smell (which alerts others to their locations), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety; and

**WHEREAS**, unregulated cannabis cultivation can be harmful to the welfare of the surrounding community and its residents and can constitute a public nuisance, in that cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and has resulted in the pollution of waters and navigable waterways in the State of California; and

**WHEREAS**, unregulated indoor cultivation of cannabis has potential adverse effects on the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity in such buildings increases the risk of fire, which presents a risk of property damage to the building and neighboring buildings, and endangers the building's occupants and nearby residents; and

**WHEREAS**, unregulated indoor cultivation of cannabis can also be harmful to the public health, safety and welfare in that electrical modifications risk fires, poor irrigation can cause mold, overloaded circuits can leave entire neighborhoods in the dark, plant chemicals can cause illness, improper carbon dioxide mixed with insufficient ventilation can cause injury or death, and structural changes put first responders in danger if they rush into the unknown; and

**WHEREAS**, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognize that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering and/or crime; and

**WHEREAS**, there are numerous well publicized studies and reports, as well as numerous documented incidents in Kern County and throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community; and

**WHEREAS**, in the absence of a formal regulatory framework, the adverse impacts frequently associated with commercial cannabis activities will occur, resulting in a potentially significant negative impact upon the environment and upon public health, safety, and welfare of the community; and

**WHEREAS**, outdoor cannabis cultivation and unregulated indoor cannabis cultivation are likely to result in these negative effects on the public health, safety, and welfare in the City, as reflected by the experiences of other cities; and

**WHEREAS**, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, and in preserving the peace and quiet of the neighborhoods within the City by regulating commercial cannabis activities; and

**WHEREAS**, based on the foregoing and pursuant to the above-described express statutory authority and its police power, the City desires to explicitly prohibit certain cannabis activities, including storefront sales and outdoor cultivation (for both medicinal and adult-use), and to enact reasonable regulations for other commercial cannabis activities in order to protect and promote public health, safety and welfare; and

**WHEREAS**, under U.S. Supreme Court precedent, government agencies generally may conduct regulatory inspections of “closely regulated” businesses without reasonable suspicion that the business subject to inspection has violated a statute or regulation, provided that the governmental agency conducting the inspection has “special needs,” beyond its ordinary interest in enforcement of criminal statutes, to conduct inspections, the regulations in the particular area could not be enforced if public officials could conduct inspections only when they have a reasonable suspicion that a violation has occurred, the businesses subjected to inspection are engaged in a particular category of activity that reduces the reasonable expectation of privacy of those engaged in such activities in relation to the inspections at issue, and the discretion of inspecting officials is reasonably constrained by the authorizing statute (*People v. Maikhio*, 51 Cal.4th 1074, 1091-92 (2011)); and

**WHEREAS**, commercial cannabis businesses cultivate, manufacture, dispense, distribute, test, or engage in other business activities relating to a historically criminalized substance which is often used for medical purposes, which can cause health and safety issues for those consuming it, which can be unsafe if improperly cultivated, manufactured or handled, and which is subject to illegal diversion, and as a result, state and local government agencies, including the City, have a strong governmental interest in regulating such businesses; and

**WHEREAS**, businesses engaged in commercial cannabis activities constitute “closely regulated” businesses which have a reduced reasonable expectation of privacy due to the strong governmental interest in regulating such activities to protect against the potential risks to public health and safety relating to such activities, and therefore the probable cause and warrant requirements ordinarily required for law enforcement searches are relaxed as to such businesses; and

**WHEREAS**, the City has a special need, beyond its ordinary interest in enforcement of criminal statutes, to conduct regulatory inspections of commercial cannabis businesses due to the unique threats to public health, safety and welfare posed by such businesses, including but not limited to risks of fire and explosion resulting from improper cultivation, manufacturing or other processes used by such businesses, and the increased risk of crime, in the absence of proper

security measures, resulting from the presence of valuable property on the premises of such businesses; and

**WHEREAS**, the regulations imposed by this Ordinance could not be effectively enforced if the City's officials could conduct inspections only when they have a reasonable suspicion that a violation has occurred, because often the threats to public health, safety and welfare arising from a commercial cannabis business will not be apparent from the outside, and any prior notice requirements associated with such inspections would allow such businesses to temporarily conceal or remove the conditions that give rise to such threats for purposes of passing the inspection, only to allow such conditions to return thereafter; and

**WHEREAS**, based on the foregoing, the City Council intends to authorize reasonable suspicionless inspections of commercial cannabis business in the City by local officials as necessary to enforce this Ordinance and thereby safeguard public health, safety and welfare, and to impose reasonable constraints on the discretion of such inspecting officials by limiting their inspection authority to confirming compliance with this Ordinance and the applicable laws and regulations referenced herein; and

**WHEREAS**, in 2010, the City adopted Sections 17.02.435 and 17.07.01 of Title 17 of the Arvin Municipal Code pertaining to Medical Marijuana Dispensaries, placing a complete ban on dispensaries in the City based upon various health, safety and welfare and land use findings relating to marijuana cultivation, dispensing, and consumption; and

**WHEREAS**, on November 21, 2017, the City Council adopted Ordinance No. 443, which added Chapter 17.62 "Commercial Cannabis Activity" to Title 17 of the Arvin Municipal Code, and which repealed Sections 17.02.435 and 17.07.01 of Title 17 of the Arvin Municipal Code pertaining to Medical Marijuana Dispensaries; and

**WHEREAS**, the Arvin Municipal Code already contained a Chapter 17.62 ("Sign Regulations [Private Property]") prior to adoption of Ordinance No. 443, and said chapter remains in full force and effect;

**WHEREAS**, the City Council now sees fit to renumber and relocate the duplicative Chapter 17.62 "Commercial Cannabis Activity" to Chapter 17.64 of the Arvin Municipal Code, and to amend and supplement the regulations imposed by said chapter on commercial cannabis businesses and applicants in the City; and

**WHEREAS**, nothing in this Ordinance shall be construed to: (1) allow any person to engage in conduct that endangers others or causes a public nuisance; or (2) allow any activity relating to the cultivation, manufacturing, testing, distribution, or consumption of cannabis which is illegal under state or federal law; and

**WHEREAS**, all legal prerequisites to the adoption of this ordinance have occurred.

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

**SECTION 1.** The above recitals are true and correct and are incorporated herein.

**SECTION 2.** The City Council finds and determines that the Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment, as this Ordinance merely amends the Arvin Municipal Code to establish new and amended procedures and requirements for the permitting and regulation of certain commercial cannabis activities, the environmental impacts of which will be assessed on a use-specific basis. (CEQA Guidelines § 15061(b)(3)). Furthermore, the City Council finds and determines the Ordinance would also be subject to Categorical Exemptions under CEQA Guidelines sections 15307 and 15308, as it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§ 15307 and 15308.) Finally, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this Ordinance. Therefore, the City Council also adopts Categorical Exemptions for this Ordinance, pursuant to CEQA Guidelines sections 15307 and 15308.

**SECTION 3.** Chapter 17.62 of the Arvin Municipal Code, entitled “Commercial Cannabis Activity,” as added to the Arvin Municipal Code by City Ordinance No. 443, is hereby renumbered to Chapter 17.64 and is amended to read in its entirety as follows:

### **Chapter 17.64**

#### **COMMERCIAL CANNABIS ACTIVITY**

##### **Section 17.64.010 Purpose and Intent.**

- (a) It is the purpose and intent of this Chapter to adopt local prohibitions and regulations applicable to commercial cannabis activity as may be permitted by the Medicinal and Adult-Use Cannabis Regulation and Safety Act and other applicable State law, as amended, pertaining to regulation of commercial cannabis and the use of land, in order to protect the City’s neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing and testing of cannabis and cannabis products in a manner which is responsible and which protects the health, safety, and welfare of the residents of the City, and to enforce rules and regulations consistent with applicable state law including, but not limited to, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, the Adult Use of Marijuana Act, the Compassionate Use Act of 1996, and the Medical Marijuana Program Act. In furtherance of these objectives, this Chapter imposes an annual regulatory permit requirement, a conditional use permit requirement, employee work permit requirements, and operating requirements applicable to persons who seek to own, operate, or engage in commercial cannabis businesses within the City as authorized under this Chapter or the Arvin Municipal Code. Nothing in this

Chapter is intended to authorize any activity which is in violation of state or federal law. The provisions of this Chapter are in addition to the business license requirements applicable to business conducted in the City, and to all other applicable requirements of the Arvin Municipal Code.

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

**Section 17.64.020 Definitions.**

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

- (a) “*Building Official*” means the Building Official for the City or his/her designee.
- (b) “*Cannabis*” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “*Cannabis*” also means the separated resin, whether crude or purified, obtained from marijuana. “*Cannabis*” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “*Cannabis*” also does not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. For the purpose of this Chapter, “*Cannabis*” does not mean industrial hemp as that term is defined by Section 11018.5 of the California Health and Safety Code.
- (c) “*Cannabis concentrate*” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health & Safety Code, or a drug, as defined by Section 109925 of the Health & Safety Code.

- (d) “*Cannabis products*” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- (e) “*Chief of Police*” means the Chief of Police for the Arvin Police Department or his/her designee.
- (f) “*City Manager*” means the City Manager for the City or his/her designee.
- (g) “*Commercial cannabis activity*” or “*commercial cannabis business*” includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale (including retail and wholesale) of cannabis or cannabis products conducted or engaged in by any person, except cultivation and possession of cannabis for personal use as governed by Arvin Municipal Code Chapter 8.29 and/or as preempted by State law.
- (h) “*Commercial cannabis permit*” means a permit issued by the City pursuant to this Chapter to a commercial cannabis business.
- (i) “*Cultivation*” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (j) “*Cultivation site*” means a facility where cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or where all or any combination of those activities occur.
- (k) “*Day care center*” means, as the term is understood in Business & Professions Code Section 26001(o), as may be amended, any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.
- (l) “*Delivery*” means the commercial transfer of cannabis or cannabis products to a customer at the customer’s home or other location remote from the premises of the commercial cannabis business making the delivery, and includes the use by a retailer of any technology platform. “*Delivery*” does not mean or include storefront sales.
- (m) “*Distribution*” means the procurement, sale and transport of cannabis and cannabis products between licensees.
- (n) “*Distributor*” means a licensee engaged in distribution.
- (o) “*Edible cannabis product*” means a cannabis product that is intended to be used,

in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

- (p) “*Fire Chief*” means the Fire Chief for the City as designated by the Kern County Fire Department, or his or her designee.
- (q) “*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996.
- (r) “*Labeling*” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (s) “*License*” or “*State License*” means a license issued by the State of California, or one of its departments or divisions, pursuant to Division 10 of the California Business & Professions Code. “*Licensee*” means a person holding a State License.
- (t) “*Live plants*” means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (u) “*Manufacture*” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (v) “*Manufacturer*” means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container; “*Manufacturer*” includes the activity of manufacturing.
- (w) “*Manufacturer 1*” means a licensee that manufactures cannabis products using nonvolatile solvents, or no solvents.
- (x) “*Manufacturer 2*” means a licensee that manufactures cannabis products using volatile solvents.
- (y) “*Nursery*” means a licensee that produces only cannabis clones, immature cannabis plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- (z) “*Owner*” means any person who has an ownership interest in a commercial cannabis business.
- (aa) “*Package*” means any container or receptacle used for holding cannabis or cannabis products.

- (bb) “*Person*” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, nonprofit organization, or any other group or combination acting as a unit, and includes the plural as well as the singular.
- (cc) “*Premises*” means the designated structure or structures and the surrounding land that is owned, leased or otherwise held under the control of a commercial cannabis permit applicant or permittee where commercial cannabis activity will be or is conducted. This definition does not alter the meaning of the term “*Premises*” as utilized by the State of California for commercial cannabis licensing.
- (dd) “*Responsible person*” means any person who is responsible for, or who will oversee or participate in, the direction, control, management, or supervision of a commercial cannabis business.
- (ee) “*Retailer*” means a person who engages in the retail sale of cannabis or cannabis products to customers.
- (ff) “*Sell,*” “*sale*” and “*to sell*” include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting and receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.
- (gg) “*School*” means, as the term is understood in Business & Professions Code Section 26054(b), as may be amended, a place of instruction in kindergarten or any grades 1 through 12.
- (hh) “*State*” means the State of California and all of its departments, divisions and agencies, including but not limited to the Bureau of Cannabis Control, the Department of Public Health, and the Department of Food and Agriculture.
- (ii) “*Stacking*” means cultivating cannabis plants on platforms or tables and stacking them in multiple layers on top of each other.
- (jj) “*Storefront sales*” means the retail sale of cannabis or cannabis products directly to customers from a storefront, dispensary, or other permanent building or structure, or in any manner that does not constitute delivery. “*Storefront sales*” does not include delivery.
- (kk) “*Testing Laboratory*” means a laboratory, facility or entity that offers or performs tests of cannabis or cannabis products and that is both: (1) accredited by an accrediting body that is independent from all other persons involved in

commercial cannabis activity; and (2) a State licensee.

- (ll) “*Topical cannabis*” means a cannabis product intended for external application. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (mm) “*Volatile solvent*” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
- (nn) “*Youth center*” means, as the term is understood in Business & Professions Code Section 26001(av), as may be amended, any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

**Section 17.64.030 Applicability to Personal Cannabis Activity.**

This Chapter applies only to commercial cannabis activities. Except as otherwise provided by this Chapter, cultivation of cannabis for personal use is governed by Section 8.29.03 of the Arvin Municipal Code, as may be amended from time to time, and consumption of cannabis is governed by Section 8.29.06 of the Arvin Municipal Code, as may be amended from time to time. To the extent any provision of Chapter 8.29 of the Arvin Municipal Code conflicts with this Chapter, this Chapter shall govern.

**Section 17.64.040 Permitted Types of Commercial Cannabis Businesses**

- (a) Commercial cannabis operations within the City, which comprise the activities of indoor cultivation, mixed-light cultivation, nursery cultivation, retailer (delivery only), manufacturer, testing laboratory, distributor, and microbusiness (other than storefront sales) are allowed subject to issuance and maintenance of the permits and entitlements set forth in Section 17.64.060(a), continuing compliance with this Chapter and all other applicable City and State laws and regulations, and issuance and maintenance of a valid and current State license of a classification listed below, as provided for in Business & Professions Code Section 26050 and applicable State regulations:
  - (1) Type 1A = Cultivation; Specialty Indoor; Small.
  - (2) Type 1B = Cultivation; Specialty Mixed-Light; Small.
  - (3) Type 2A = Cultivation; Indoor; Small.
  - (4) Type 2B = Cultivation; Mixed-Light; Small.
  - (5) Type 3A = Cultivation; Indoor; Medium.

- (6) Type 3B = Cultivation; Mixed-Light; Medium.
  - (7) Type 4 = Cultivation; Nursery.
  - (8) Upon authorization by the State of California, Type 5A = Cultivation; Indoor; Large.
  - (9) Upon authorization by the State of California, Type 5B = Cultivation; Mixed-Light; Large.
  - (10) Type 6 = Manufacturer 1.
  - (11) Type 7 = Manufacturer 2.
  - (12) Type N = Manufacturer (i.e. no extractions, pursuant to 17 CCR § 40118, as may be amended).
  - (13) Type P = Manufacturer (i.e. packaging and labeling only, pursuant to 17 CCR § 40118, as may be amended).
  - (14) Type 8 = Testing Laboratory.
  - (15) As authorized by California Code of Regulations, Type 9 = Non-Storefront Retailer (i.e. retail sales by delivery only, pursuant to 16 CCR § 5414, as may be amended).
  - (16) Type 10 = Retailer (subject to Section 17.64.050, i.e. delivery only).
  - (17) Type 11 = Distributor.
  - (18) Type 12 = Microbusiness (subject to Sections 17.64.040(c) and 17.64.050).
  - (19) Type 13 = Distributor (i.e. transport only, pursuant to 16 CCR § 5315, as may be amended).
  - (20) Cultivation License Types for Indoor or Mixed-Light pursuant to 3 CCR § 8201, as may be amended).
- (b) Any commercial cannabis activity not expressly authorized by this Chapter is prohibited.
- (c) The number of commercial cannabis permits authorizing the operation of a microbusiness requiring a Type-12 State License that may be active or valid in the City at any given time shall not exceed ten (10) permits, or a lower number as may be established by the City Council.

**Section 17.64.050 Prohibited Types of Commercial Cannabis Businesses**

- (a) Commercial cannabis businesses within the City which involve the activities of outdoor cultivation and storefront sales are prohibited in the City. This prohibition includes, but is not limited to, commercial cannabis activities licensed by the State license classifications listed below, as provided for in Business & Professions Section 26050 and applicable State regulations:
- (1) Type 1= Cultivation; Specialty Outdoor; Small.
  - (2) Type 1C = Cultivation; Specialty Cottage; Small.
  - (3) Type 2 = Cultivation; Outdoor; Small.
  - (4) Type 3= Cultivation; Outdoor; Medium.
  - (5) Type 5 = Cultivation; Outdoor; Large.
  - (6) Types 10 and 12 (storefront sales prohibited).
- (b) Except as otherwise expressly provided in this Chapter, the prohibition of subsection (a) includes any similar commercial cannabis activities authorized under new or revised State licenses, or any other State authorization, for any type, category, or classification of commercial cannabis activities which involve the above-referenced or similar activities or operations.
- (c) Notwithstanding any provision of this Chapter or the Arvin Municipal Code, storefront sales are prohibited in the City. No commercial cannabis permit issued to any person, including but not limited to a person holding a Type 10 “Retailer” or Type 12 “Microbusiness” State license, shall include any authorization to engage in storefront sales. This prohibition applies to both adult-use and medicinal cannabis and cannabis products. As such, no medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider, within the meaning of Health & Safety Code Section 11362.768, shall be permitted to engage in storefront sales. The term “storefront sales” shall include making available, tendering, offering, bartering, gifting, releasing, delivering, providing or exchanging any cannabis or cannabis products. However, this subsection does not prohibit the issuance of commercial cannabis permits authorizing non-storefront sales, by delivery only, of cannabis or cannabis products in the City.
- (d) Consistent with Business & Professions Code Section 26080, nothing in this Chapter shall be interpreted to prohibit the use of the public roads of the City by a State licensee in the course of making cannabis deliveries to and from areas outside of the City.

**Section 17.64.060 Required Licenses and Permits.**

- (a) It shall be unlawful to own, establish, operate, use, or allow the establishment or activity of a commercial cannabis business, or to participate in a commercial cannabis business as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this Chapter and pursuant to the following:
- (1) A valid and current commercial cannabis permit(s) issued by the City pursuant to this Chapter;
  - (2) The equivalent State license(s) for such commercial cannabis business issued pursuant Division 10 of the Business & Professions Code, as may be amended;
  - (3) A conditional use permit pertaining to the location of the business, issued by the City pursuant to Section 17.64.210 and Chapter 17.56; and
  - (4) Employee work permits pursuant to Section 17.64.090; and
  - (5) A valid City business license.
- (b) The City Manager is hereby authorized to issue commercial cannabis permits on behalf of the City. The City Manager, in his or her sole discretion, may issue a commercial cannabis permit only upon confirming that the applicant to whom the permit is to be issued has satisfied all of the requirements of this Chapter and the other applicable provisions of the Arvin Municipal Code, as may be amended from time to time, any regulations promulgated pursuant to this Chapter, and any law or regulation enacted by the State of California or any department of the State governing commercial cannabis activities.
- (c) Commercial cannabis permits shall be governed by the following requirements and limitations:
- (1) Commercial cannabis permits may only permit the types of cannabis activity expressly authorized by this Chapter.
  - (2) No commercial cannabis permit shall authorize public access to any commercial cannabis business. Only persons involved in the bona fide business activities of a commercial cannabis business shall be authorized to access the premises of a commercial cannabis business.
  - (3) Commercial cannabis businesses shall not employ or grant access to any individual who is under twenty-one (21) years of age.
  - (4) Each commercial cannabis permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance and must thereupon be renewed. Continued operation of a commercial cannabis

business after expiration of a commercial cannabis permit shall be unlawful and a violation of this Chapter.

- (5) Prior to issuance of any commercial cannabis permit, each proposed commercial cannabis business shall be subject to the mandatory inspections provided by Section 17.64.150 and shall obtain all required permits or approvals which are otherwise required for the premises by applicable law, including, but not limited to, building permits, California Fire Code approvals, and planning-level permit(s) required by Title 17 Zoning of the Arvin Municipal Code.
  - (6) Consistent with Business and Professions Code Section 26053, a commercial cannabis business conducting multiple commercial cannabis activities shall obtain a commercial cannabis permit authorizing each type and location of commercial cannabis activity prior to engaging in that activity. A commercial cannabis business licensed by the State to conduct multiple commercial cannabis activities shall not receive a commercial cannabis permit authorizing any commercial cannabis activity within the City that is not expressly authorized by this Chapter. An applicant may be issued a commercial cannabis permit authorizing multiple different types of commercial cannabis activities as defined by applicable State license classifications, consistent with the requirements of Business and Professions Code Section 26053 and/or a Type 12 “Microbusiness” State license.
  - (7) Revocation, termination, denial, non-issuance or suspension of a State license shall immediately and automatically terminate the commercial cannabis permit, and all commercial cannabis activity shall immediately cease. Upon reinstatement or receipt of a new State license, the commercial cannabis activity may file for a new permit from the City. While a new application for a commercial cannabis permit is pending, the applicant shall not engage in any commercial cannabis activity. Violations of this Section shall be grounds for denial of an application for a commercial cannabis permit and for the enforcement, penalties and cost recovery prescribed within Section 17.64.170 and any other applicable provisions of the Arvin Municipal Code.
  - (8) The issuance of a commercial cannabis permit shall constitute a revocable privilege and shall not create or establish any vested rights for the development or use of any property.
- (d) Renewals of commercial cannabis permits shall be governed by the following requirements and limitations:
- (1) Applications for renewal of commercial cannabis permits shall be filed

with the City Manager at least sixty (60) calendar days prior to the expiration date of the permit and shall be subject to all requirements applicable to an applications for initial issuance of a commercial cannabis permit.

- (2) An application for renewal of a commercial cannabis permit shall be denied if any of the following exists:
  - i. The application is filed less than sixty (60) calendar days before expiration of the commercial cannabis permit. Notwithstanding the foregoing, the City Manager, in his discretion, may accept an application filed between thirty (30) and sixty (60) days before expiration based upon a showing of good cause by the applicant for the late filing.
  - ii. The commercial cannabis permit, or any of the other entitlements required for the commercial cannabis to operate in compliance with this Chapter, is suspended or revoked at the time the application for renewal is submitted, or is suspended or revoked while the application for renewal is pending.
  - iii. The commercial cannabis business or activity has not been in regular and continuous operation during the four (4) months prior to the submission of the application for renewal.
  - iv. The commercial cannabis business is in noncompliance with any provision of this Chapter, any regulation promulgated pursuant hereto, any other provision of the Arvin Municipal Code applicable to the commercial cannabis business, or any condition of approval of the commercial cannabis permit or any other entitlement issued by the City to the commercial cannabis business.
  - v. The applicant for renewal of the commercial cannabis permit has failed to obtain or renew any required State license, or is in violation of any applicable provision of State law or any applicable State regulation.
  - vi. The applicant for renewal has failed to pay in full all fees, administrative fines, penalties and/or charges imposed by the City relating to the commercial cannabis business, unless assessment of the fees, administrative fines, penalties and/or charges are being appealed.
- (3) If a renewal application is denied, the applicant may file an appeal. The appeal must be in writing, must identify the grounds for reversing the denial, and must be submitted to the City Clerk within ten (10) days from

the date of the denial. The appeal shall be conducted pursuant to Section 17.64.190(j). In the alternative, the applicant may file a wholly new application for a commercial cannabis permit pursuant to this Chapter. Upon expiration of the commercial cannabis permit and regardless of a pending appeal or new application for a commercial cannabis permit, all of the applicant's commercial cannabis activity shall immediately cease. Violations of this Section shall subject the violator to denial of the appeal or new application for a commercial cannabis permit and/or the enforcement, penalties and cost recovery mechanisms prescribed within this Chapter and/or the Arvin Municipal Code.

- (4) Any unpaid fees, administrative fines, penalties and/or costs imposed by the City relating to the commercial cannabis business shall be added to the fee for renewal of the commercial cannabis permit, unless assessment of the fees, administrative fines, penalties and/or costs are being appealed.
  - (5) A commercial cannabis permit shall not be renewed until the City receives payment in full of the fee for the commercial cannabis permit renewal application. Said fee shall be governed by and subject to the provisions of Section 17.64.190(b), unless otherwise provided by resolution of the City Council.
- (e) Failure of a commercial cannabis business to obtain and maintain a valid City business license, and to remain in compliance with all applicable provisions and requirements of that license, shall constitute grounds for denial of an application for renewal of a commercial cannabis permit, suspension or revocation of a current commercial cannabis permit.

**Section 17.64.070 Existing Commercial Cannabis Businesses.**

Commercial cannabis businesses in existence in the City as of the date of adoption of this Chapter shall immediately apply for a commercial cannabis permit pursuant to this Chapter and otherwise meet all other conditions and requirements of this Chapter imposed on newly established commercial cannabis businesses. An unpermitted commercial cannabis business that can demonstrate to the City Manager's satisfaction that it is diligently applying to obtain the required permits and licenses, and that it is in good standing and otherwise in compliance with all applicable local and state laws and regulations, may, at the discretion of the City Manager, be temporarily permitted to continue its operations while its applications for the required permits and licenses are pending.

**Section 17.64.080 Security Measures.**

- (a) A permitted commercial cannabis business, regardless of building type utilized, shall implement sufficient security measures to both deter and prevent

unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products at the premises. These security measures shall include, but shall not be limited to, all of the following, in addition to any other security measures deemed necessary by the City Manager or required pursuant to any regulations as may be promulgated by the City Manager in furtherance of the purposes of this Chapter:

- (1) Preventing persons from remaining on the premises of the commercial cannabis business if they are not engaging in bona fide business activity of the commercial cannabis business.
- (2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- (3) Ensuring that live growing plants which are being cultivated are kept in a secured cultivation site, and that all cannabis and cannabis products are stored in a secured and locked room, safe, or vault at all times. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
- (4) Installing twenty-four (24) hour security surveillance cameras with night vision capability and of at least HD-quality to monitor all entrances and exits to and from the premises and to monitor all interior spaces, excluding all restroom and changing room facilities, within the commercial cannabis business. The security surveillance system shall be compatible with software and hardware utilized by the Arvin Police Department. The security surveillance system shall be capable of providing the Arvin Police Department with remote real-time/live access to the video footage during emergency situations, including but not limited to armed robbery, active shooter, hostage, and exposure to hazardous or volatile substances. Video recordings shall be maintained for a minimum of forty-five (45) days. Upon request by the Chief of Police, video recordings will provided to the Arvin Police Department within twenty-four (24) hours. If the commercial cannabis business refuses to provide the Chief of Police access to the real-time/live video feed or the requested video recordings, the City Attorney shall be authorized to seek reimbursement of all costs, including but not limited to court costs, attorney's fees, filing fees, administrative time and fees and employee time, incurred by the City while seeking a warrant and/or judicial intervention granting the requested access. The requirements of this Section shall be in addition to any other applicable provision of the Arvin Municipal Code.
- (5) Sensors shall be installed to detect entry and exit from all secure areas.

- (6) Panic buttons shall be installed in all commercial cannabis businesses.
  - (7) A professionally installed, maintained, and monitored alarm system shall be maintained in operable condition at all times.
  - (8) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building and shall be installed in compliance with all applicable requirements of the Arvin Municipal Code, California Building Code and California Fire Code.
  - (9) Each commercial cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
  - (10) All security personnel to be hired or used by each commercial cannabis business shall be licensed by and in good standing with the State Bureau of Security and Investigative Services and shall obtain an Employee Work Permit pursuant to Section 17.64.090. At least one such security guard shall be on the premises of each commercial cannabis business during all operating hours. The City Manager may increase the number of security guards required to be on the premises of any commercial cannabis business as a condition of approval of any commercial cannabis permit application, if he or she deems such additional security guards necessary to adequately protect the premises based on the size or other characteristics of the commercial cannabis business or its premises.
- (b) Each commercial cannabis business shall provide the City Manager with the identity and contact information for a liaison who shall be reasonably available to meet and discuss compliance with the requirements of the Arvin Municipal Code, state law and/or any other laws and regulations applicable to the commercial cannabis business.
  - (c) As part of the application and permitting process, each commercial cannabis business shall provide the City Manager with a detailed transportation plan describing the procedures for safely and securely transporting cannabis, cannabis products and/or currency.
  - (d) A commercial cannabis business shall notify the Chief of Police within twenty-four (24) hours after discovering any of the following:
    - (1) Significant discrepancies identified in inventory. The level of significance may be determined by regulations promulgated by the City Manager.
    - (2) Diversion, theft, loss or any criminal activity involving the commercial

cannabis business, an employee or any agent of the commercial cannabis business.

- (3) The loss or unauthorized alteration of records referring or related to cannabis, cannabis products, employees or agents of the commercial cannabis business.
- (4) Any other breach of security.

**Section 17.64.090 Employee Work Permits.**

- (a) Every employee or independent contractor working at or for a commercial cannabis business or involved in security, delivery or distribution, or other services for a commercial cannabis business shall obtain an annual Employee Work Permit prior to commencing work for the commercial cannabis business, and shall maintain such permit at all times while working for such business. It shall be the responsibility of the commercial cannabis permit holder to ensure that Employee Work Permits are obtained from the City Manager prior to the employee or independent contractor commencing work and renewed on an annual basis thereafter. Persons who are listed as commercial cannabis permit holders or owners thereof, who are subject to criminal history records checks pursuant to Section 17.64.240(k), shall not be required to obtain an Employee Work Permit if such person also serves as an employee or contractor for the permit holder's commercial cannabis business.
- (b) Prior to commencing work for a commercial cannabis business, each prospective employee or independent contractor of a commercial cannabis business shall be required to submit an application to the City Manager so that a criminal history records check can be performed by the City or an agency authorized or requested to do so by the City. The application shall contain the following:
  - (1) Name, current resident address, and telephone number.
  - (2) Date of birth.
  - (3) Social security number, tax identification number, and/or a photocopy of the person's California Driver's license or equivalent identification card as approved by the City Manager.
  - (4) Height, weight, eye color and hair color.
  - (5) Photographs for identification purposes (photographs shall be taken by the Arvin Police Department or another source deemed reliable and appropriate by the City Manager in his or her discretion).
  - (6) Signed consent to a fingerprint-based state and federal criminal history records check conducted by the City or an agency authorized or requested

to do so by the City, including but not limited to fingerprint analysis conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager.

- (7) Such other identification and information as deemed necessary and pertinent to the Employee Work Permit by the City Manager in his or her discretion.
  - (8) Authorization for the City Manager to seek verification of the information contained within the application.
  - (9) The name of the commercial cannabis business and commercial cannabis permit holder for which the applicant is seeking to work.
- (c) Every applicant for an Employee Work Permit shall provide the City with a non-refundable fee, as established by resolution of the City Council, to cover the City's costs of general review and processing Employee Work Permit Applications. The fee may also be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount of the trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, application review and processing shall cease and shall not continue until such additional amounts are paid. The fee may be paid by the commercial cannabis business on behalf of an applicant for an employee work permit.
- (d) A state and federal criminal history records check fee, pursuant to Section 17.64.240(k)(4), shall also be required in connection with the employee work permit application, except that the applicant may provide the City Manager with a completed state and federal criminal history records check performed by a third party vendor, as deemed necessary or appropriate in the discretion of the City Manager, in which case no criminal history records check fee shall be required except as otherwise stated in Section 17.64.240(k). When the fee is required, it may be paid by the commercial cannabis business on behalf of the applicant.
- (e) The City Manager, upon receiving a properly completed application, payment of the application fee, and payment of the criminal history records check fee or a completed third party criminal history records check, shall conduct an investigation into the information provided by the applicant. In connection with the criminal history records check, the City Manager is authorized to request subsequent notification service, if Live Scan is used, or an equivalent service, if

another system is used, sufficient to obtain ongoing notifications of criminal offenses committed by the employee-applicant after the work permit is approved. In the event the City Manager does so, and such subsequent notification or equivalent service reveals any conviction or other conduct specified in subsection (g) at any time, such conviction or other conduct shall constitute grounds for immediate revocation of the employee work permit.

- (f) The investigation shall be completed within thirty (30) days of receiving the properly completed required application materials and fees, unless a longer period is required to complete the criminal history records check. The City Manager shall provide the applicant with notice either approving or denying the requested Employee Work Permit within fifteen (15) days of completing the criminal history records check and investigation. The City Manager, in his or her sole discretion, may conditionally approve the issuance of an Employee Work Permit pending completion of the criminal history records check and investigation. Notice of the decision shall be personally served or mailed to the applicant via U.S. mail. Notice of the decision is presumed served upon the applicant at the time it is deposited within the U.S. mail. The decision of the City Manager on an Employee Permit shall be final, subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.
- (g) An Employee Work Permit shall be denied based upon any of the following grounds:
- (1) The employee-applicant has, at any time, been issued a local or state permit or license to conduct commercial cannabis activities in California or another state and the permit or license has been suspended or revoked, or the applicant has otherwise been sanctioned by or subjected to disciplinary action by any licensing authority or court relating to the permit or license.
  - (2) The employee-applicant has been convicted of a serious or violent offense as listed within California Penal Code Sections 667.5 and 1192.7(c), or has been convicted of any other offense listed within Business and Professions Code Section 26057.
  - (3) The employee-applicant has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
  - (4) The employee-applicant has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation

as defined in said Act.

- (5) The employee-applicant has engaged in misconduct related to the qualifications, functions or duties of his or her position with the commercial cannabis business.
  - (6) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the Arvin Municipal Code and/or state or federal law.
  - (7) The employee-applicant is under the age of twenty-one (21), or any age as may be set by state law.
  - (8) The employee-applicant meets any of the conditions identified within Business and Professions Code Section 26057(b).
- (h) Each employee work permit shall expire twelve (12) months after the date of its issuance and must thereupon be renewed. The procedures and requirements for applying for and obtaining a renewal of an employee work permit shall be the same as for initial issuance of such permit. It shall be unlawful and a violation of this Chapter for any person to act as an employee or independent contractor for a commercial cannabis at any time without a valid and current Employee Work Permit issued pursuant to this Section.
- (i) The City Manager may suspend or revoke an Employee Work Permit when the employee or independent contractor has committed any of the following acts:
- (1) Any action which would be grounds for denial of an Employee Work Permit.
  - (2) Any violation of this Chapter, the Arvin Municipal Code, or any other applicable state or federal law governing the commercial cannabis business or activity.
- (j) Prior to suspending or revoking an Employee Work Permit, the City Manager shall conduct a hearing. Written notice of the hearing shall be provided to the employee or independent contractor at least five (5) calendar days prior to the hearing. The notice shall contain the basis for suspending or revoking the Employee Work Permit. Notice may be provided by either personal service or U.S. mail. After the hearing, the City Manager shall provide notice of the decision whether to suspend or revoke the Employee Work Permit, which notice shall be given in the same manner applicable to the notice of hearing. The decision of the City Manager shall be final, subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision. The employee or independent contractor has no right to appeal the decision to the City Council.

- (k) The City Manager may immediately suspend an Employee Work Permit without notice or a hearing, subject to a subsequent hearing prior to reinstatement or revocation pursuant to subsection (j), under the following circumstances:
- (1) The employee or independent contractor is convicted of a public offense in any court for the violation of any law which would be grounds for denial of an Employee Work Permit.
  - (2) The City Manager or Chief of Police determines that immediate suspension is necessary to protect the public health, safety and welfare of the community. The City Manager shall provide notice of the grounds for immediate suspension of the Employee Work Permit and the suspension shall only be for as long as reasonably necessary to address the grounds which led to the suspension.

**Section 17.64.100 Right to Occupy and to Use Property.**

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

**Section 17.64.110 Location of Commercial Cannabis Business - Proximity to Sensitive Uses.**

- (a) Commercial cannabis activity shall be a conditional use within the following zoning districts of the City: M-1, M-2, M-3, A-1 and A-2 zoning districts. Commercial cannabis activity is prohibited in all other zoning districts of the City.
- (b) No commercial cannabis business shall be located within one thousand feet (1,000') from any school, day care center, youth center, public park, or public library.
- (c) No commercial cannabis business may operate within any residential zoning district or area of the City.
- (d) A commercial cannabis business generally may not operate adjacent to, across a street or alley from, or within two hundred feet (200') of, any residential zoning district or area of the City. However, if an existing building or facility in a City zoning district enumerated in subsection (a) is located adjacent to or across a street or alley from a residential zoning district or area of the City, a commercial

cannabis business may be permitted to operate in such location if, in the opinion of City Manager, the operation of a commercial cannabis business in such location would not tend to cause a public nuisance, nor a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings. Any subsequent expansion of a commercial cannabis business permitted to operate in such a location, which expansion requires a new or amended commercial cannabis permit, shall also be subject to a determination by the City Manager that the expansion would not tend to cause a public nuisance or a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings.

- (e) Commercial cannabis businesses shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in Title 17 of the Arvin Municipal Code.
- (f) Any commercial cannabis business which has been determined by the City Manager to be an existing commercial cannabis business on the effective date of this Chapter shall be exempt from compliance with the limitations prescribed in this Section, unless such location is otherwise determined to constitute a public nuisance or otherwise a disturbance to the adjacent or neighboring uses as determined by the provisions of this Chapter.

**Section 17.64.120 Alcohol and Tobacco Restrictions.**

- (a) In accordance with Business & Professions Code Section 26054, as may be amended, no commercial cannabis business shall cause or allow the sale (whether retail or wholesale) of alcoholic beverages or tobacco products on its premises.
- (b) No commercial cannabis business shall cause or allow alcoholic beverages to be dispensed or consumed on its premises.
- (c) No commercial cannabis business shall operate in a location that requires persons to pass through a business that sells alcohol or tobacco to access the premises of the commercial cannabis business, or that requires persons to pass through the premises of the commercial cannabis business to access a business that sells tobacco or alcohol.
- (d) No commercial cannabis business shall operate in a location that is adjacent to a

business that sells alcoholic beverages at retail.

**Section 17.64.130 Concurrent Regulation with State.**

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City concurrently and consistently with State law. Except where an express provision of this Ordinance applies to create an obligation that is more stringent than the minimum standards established by State law, this Chapter shall be construed in accordance with that intent.

**Section 17.64.140 Compliance with Laws.**

- (a) It shall be the responsibility of the commercial cannabis permit holder, including its owners and operators, to ensure that the permitted commercial cannabis business is, at all times, operating in compliance with all applicable state and local laws and regulations, as amended, and any conditions of approval of a State license or City-issued commercial cannabis permit or other entitlement.
- (b) Nothing in this Chapter shall be construed as an authorization of any action or conduct in violation of state law or local law with respect to the operation of a commercial cannabis business.
- (c) Nothing in this Chapter shall be construed as an authorization by the City, its elected or appointed officials, employees, agents, representatives and/or consultants, collectively or individually, of any conduct in violation of federal law.

**Section 17.64.150 Inspections and Enforcement.**

- (a) No commercial cannabis business shall commence operation, and no commercial cannabis permit application or conditional use permit application shall be approved for any commercial cannabis business, unless and until:
  - (1) The City Manager and Police Chief have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter, and have confirmed in writing that the business is in compliance with all applicable requirements of this Chapter and other applicable provisions of the Arvin Municipal Code, any applicable local regulations, and any applicable state laws, administration or enforcement of which is within their jurisdiction; and

- (2) The Fire Chief and Building Official have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter, and have confirmed in writing that the premises are in compliance with the California Building Standards Code and the State Fire Marshal regulations, as adopted by the City, and all other applicable building and fire safety-related requirements, administration or enforcement of which is within their jurisdiction.
- (b) In addition to the initial permit inspections pursuant to subsection (a) and after permitted commercial cannabis business activities have commenced, the City Manager, the Building Official, the Police Chief, and the Fire Chief are authorized to conduct reasonable unannounced and suspicionless inspections of the interior and exterior premises of any commercial cannabis businesses at any time during regular business hours (generally eight (8:00) a.m. and seven (7:00) p.m., Monday through Sunday), for the purpose of ensuring compliance with this Chapter and applicable state law as specified in subsection (a).
- (c) Each commercial cannabis business shall be subject to two mandatory inspections conducted pursuant to subsection (b) per calendar year. Notwithstanding the foregoing, further inspections may be conducted at any time in response to complaints received by the City relating to violations on the premises of a commercial cannabis business.
- (d) During all inspections conducted pursuant to this Section, the inspecting officials are authorized to photograph and otherwise document the conditions on the premises, and to take such other measures as are reasonably necessary to ascertain whether the business is in compliance with this Chapter, subject to adherence to all HIPAA rights and all other applicable privacy rights unrelated to the purpose and intent of the inspection. Samples of cannabis and cannabis products may be temporarily taken from the commercial cannabis business and retained for the minimum time and to the minimum extent necessary to ascertain compliance with this Chapter, provided that any such samples shall be logged, recorded, and maintained in accordance with the Arvin Police Department standards for evidence.
- (e) For all inspections required by this Section (not including complaint-based inspections), inspection fees sufficient to cover the costs of such inspections shall be paid by each commercial cannabis business as part of such business' commercial cannabis permit application fees or annual permit fees.
- (f) Failure or refusal of a commercial cannabis business, or any owner, manager, employee or agent thereof, to grant access to the premises of the commercial

cannabis business to facilitate any inspection pursuant to this Section shall constitute a violation of this Chapter, and shall constitute grounds for the City to obtain an inspection warrant to inspect the commercial cannabis business in accordance with State law.

- (g) All inspections shall be subject to adherence to applicable HIPAA rights and other applicable privacy rights unrelated to the purpose and intent of the inspections.
- (h) The requirements and remedies set forth in this Section shall be in addition to all other applicable provisions of the Arvin Municipal Code.

**Section 17.64.160 Fees and Charges.**

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

**Section 17.64.170 Violations and Enforcement.**

- (a) It is unlawful for any person to violate any provision of this Chapter.
- (b) Each and every violation of this Chapter constitutes a misdemeanor punishable in accordance with Chapter 1.08.010 of the Arvin Municipal Code.
- (c) Each and every violation of this Chapter constitutes a public nuisance which may be abated by the City pursuant to the Arvin Municipal Code.
- (d) Violations of this Chapter may be redressed by any and all applicable civil remedies available to the City, including but not limited to civil actions for injunctive relief.
- (e) Violations of this Chapter are subject to all applicable administrative remedies under the Arvin Municipal Code, including but not limited to issuance of administrative citations. Notwithstanding the foregoing, the administrative citation penalty for all violations of this Chapter, within a rolling twelve (12) month period, shall be as follows: one thousand dollars and no cents (\$1,000.00) per violation.
- (f) Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which the violation exists. and shall be penalized pursuant to this Chapter and the applicable provisions of

the Arvin Municipal Code.

- (g) The remedies set forth in this Section are cumulative of each other and of any other legal remedies available at law.
- (h) The City Manager may suspend or revoke a commercial cannabis permit when the permit holder or anyone acting on its behalf has committed any of the following acts or maintained any of the following conditions:
  - (1) Any action or condition which would constitute grounds for denial of a commercial cannabis permit.
  - (2) Any violation of this Chapter, the Arvin Municipal Code, any applicable state law governing the commercial cannabis business or activity, or any applicable condition of approval of the commercial cannabis permit or any other entitlement pertaining to the operation of the commercial cannabis business.
- (i) Prior to suspending or revoking a commercial cannabis permit, the City Manager shall conduct a hearing. Written notice of the hearing shall be provided to the permit holder at least five (5) calendar days prior to the hearing. The notice shall contain the basis for suspending or revoking the commercial cannabis permit. Notice may be provided by either personal service, U.S. mail and/or posting or depositing the notice at the commercial cannabis business. After the hearing, the City Manager shall provide notice of the decision whether to suspend or revoke the commercial cannabis permit in the same manner applicable to the notice of hearing. The decision of the City Manager shall be final, subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision. The commercial cannabis permit holder has no right to an administrative appeal of the decision.
- (j) The City Manager may immediately suspend a commercial cannabis permit without notice or hearing, subject to a subsequent hearing prior to reinstatement or revocation pursuant to subsection (i), under the following circumstances:
  - (1) The commercial cannabis permit holder is convicted of a public offense in any court for the violation of any law which would be grounds for denial of a commercial cannabis permit.
  - (2) The City Manager, Chief of Police, Fire Chief or any other authorized public safety or building official determines that immediate suspension is necessary to protect the public health, safety and welfare of the community. The City Manager shall provide notice of the grounds for immediate suspension of the commercial cannabis permit, and the suspension shall only be for as long as reasonably necessary to address the grounds which led to the suspension.

**Section 17.64.180 Limitations on City's Liability.**

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

- (a) Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the City and its officers, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries or liabilities associated with permitting or approving the operation of a commercial cannabis activity or the operation thereof or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
- (b) Maintain insurance at coverages, limits, and with conditions thereon determined necessary by the City Manager, in consultation with the City Attorney. Commercial General Liability insurance shall be maintained at all times with coverage limits that meet or exceed two million dollars (\$2,000,000.00) per occurrence and in the aggregate. In the alternative to maintaining Commercial General Liability insurance, a commercial cannabis permit holder may post a bond, in a form subject to approval by the City Attorney, with the City in the minimum amount of two million dollars (\$2,000,000.00). The City Manager may, in his or her sole discretion, increase the minimum bond amount required by a commercial cannabis permit holder.
- (c) Reimburse the City for any and all costs and expenses, including attorneys' fees and costs and court costs, that the City may be required to pay as a result of any legal challenge related to the City's approval of a commercial cannabis permit pursuant to this Chapter or the City's approval of the operation of a commercial cannabis activity. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this Section.

The City may revoke a commercial cannabis permit for failure to maintain the required insurance or bond. The City may provide a commercial cannabis permit holder with written notice of its intent to revoke the commercial cannabis permit and for failure to maintain the required insurance or bond. Within seven (7) calendar days from the date upon the notice of intent to terminate, a commercial cannabis permit holder shall tender to the City proof that it has obtained the required insurance or posted the required bond. If a commercial cannabis permit holder fails to timely provide proof of the required insurance or bond to the City, the commercial cannabis permit shall be revoked and the commercial cannabis permit holder shall immediately cease all commercial cannabis business activities. Failure to immediately cease all commercial cannabis business

activities shall subject the commercial cannabis permit holder to the penalties, enforcement and cost recovery provisions established within the Arvin Municipal Code and any other legal remedies available to the City.

**Section 17.64.190 Commercial Cannabis Permit Application Procedures and Requirements.**

- (a) In addition to the authority granted pursuant to the express provisions of this Section and Chapter, to the extent consistent with this Chapter and other applicable law, the City Council may by resolution adopt such fees, and the City Manager may adopt such forms and procedures, as are necessary to implement this Chapter with respect to the review, processing, evaluation, selection, investigation, approval, denial, renewal, suspension, and revocation of commercial cannabis permits and related appeals.
- (b) The owner of a proposed commercial cannabis operation shall file an application with the City Manager upon a form provided by the City and shall pay an application filing fee as established by resolution of the City Council, as may be amended from time to time. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, it shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount of the trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, application review and processing shall cease and shall not continue until such additional amounts are paid.
- (c) Each commercial cannabis permit application shall contain, at minimum, the following:
  - (1) The printed full name, signature, date of birth, social security number, a color photocopy of the California Driver's license or equivalent form of identification approved by the City Manager, and current address and telephone number of all owners of and responsible persons for the commercial cannabis business that is the subject of the application.
  - (2) Signed consent of each owner and responsible person, who is identified pursuant to subsection (c)(1) and who is not required to obtain an employee work permit pursuant to Section 17.64.090, to a fingerprint-based state and federal criminal history records check conducted by the City or an agency authorized or requested to do so by the City, including but not limited to fingerprint analysis conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager.

- (3) The address of the commercial cannabis business to which correspondence from the City is to be sent, if other than the permitted premises.
- (4) The names and addresses of all businesses operated by, and the employment of, the applicant and its owners for the five (5) years immediately preceding the date of the application.
- (5) Any litigation in which the applicant(s) has been involved within the five (5) years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the five (5) years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the five (5) years immediately preceding the date of the application.
- (6) The address of any commercial cannabis business currently being operated by the applicant or any of its owners, or which has been previously operated by any of them.
- (7) The existing and/or anticipated supply sources and product supply chain for all cannabis and cannabis products entering and leaving the commercial cannabis business, including the site(s) where cultivation occurs, where the cannabis or cannabis products are processed or manufactured, where any required testing of cannabis or cannabis products occurs, and distribution information. Packaging and labelling information and criteria, demonstrating compliance with Section 17.64.240(w), shall also be included.
- (8) The names, telephone numbers, and color photocopies of California driver's licenses or other identification cards as approved by the City Manager, of all employees, volunteers and independent contractors to be regularly engaged in the operation of the commercial cannabis business.
- (9) Odor control devices and techniques demonstrating compliance with Section 17.64.240(i), sufficient to prevent odors from cannabis from being detectable off of the premises.
- (10) Procedures for safety and adequately identifying, storing, managing, and disposing of all litter, waste, hazardous materials, contaminants, or adulterated, deteriorated or excess cannabis or cannabis products or byproducts of the commercial cannabis business, and demonstrating compliance with Section 17.64.240(t).
- (11) Information reflecting adequate capitalization of the commercial cannabis business.

- (12) Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures.
- (13) A detail of the operating procedures to be utilized at the facility, including a description of how chemicals and fertilizers will be stored, handled, used and disposed of, manufacturing methods, the transportation process, inventory procedures, and quality control procedures.
- (14) A site plan and floor plan of the premises of the commercial cannabis business denoting the property lines and the layout of all structures and areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception or waiting areas, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses, indicating compliance with the California Building Standards Code and Title 17 of the Arvin Municipal Code.
- (15) A plan for the proposed signage at the site, including size, height, colors and design of all signage, demonstrating compliance with Section 17.64.240(g). A City sign permit issued pursuant to applicable provisions of the Arvin Municipal Code shall be required.
- (16) A security plan satisfactorily addressing all required security measures identified in Section 17.64.080 and lighting as required by Section 17.64.240(x).
- (17) Standard operating procedures detailing how operations will comply with state and local regulations, how safety and quality of products will be ensured, record-keeping procedures for financing, testing, and adverse event recording, and product recall procedures.
- (18) Proposed days and hours of operation.
- (19) Recycling and waste disposal procedures reflecting, to the extent practicable, efficiency and conservation of materials and resources used in the commercial cannabis business.
- (20) Youth access restriction procedures demonstrating compliance with Section 17.64.240(h).
- (21) A transportation plan providing procedures for safely and securely transporting all cannabis, cannabis products and currency to and from the premises.
- (22) A detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both

resources.

- (23) Evidence of compliance with all applicable insurance-related requirements of this Chapter and State law, including but not limited to Section 17.64.180. Endorsements reflecting the City's status as an additional insured on all required policies shall also be included.
  - (24) A copy of the valid and current City business license held by the applicant.
  - (25) A copy of the valid and current seller's permit issued by the California Department of Tax and Fee Administration (formerly the Board of Equalization) to the applicant, or confirmation from said agency that a seller's permit is not required. If a seller's permit is required but the applicant has not yet received it, an attestation that the applicant is currently applying for a seller's permit shall suffice, provided that a copy of the permit shall be provided to the City immediately upon being obtained by the applicant, and the applicant shall not commence activities for which a seller's permit is required until it is obtained.
  - (26) Identification of any and all other licenses and permits currently or formerly held by the applicant, and any other applications pending review for the applicant, relating to commercial cannabis activities, from any licensing or permitting authority, and specific identification of any licenses or permits denied to, suspended for, or revoked from the applicant.
  - (27) Signed acknowledgment of the requirements of this Chapter, including bi-annual inspections as established within Section 17.64.150.
  - (28) Signed authorization for the City Manager to seek verification of the information contained in the application.
  - (29) A signed statement by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
  - (30) Any other information deemed necessary by the City Manager.
- (d) A commercial cannabis permit application may be denied based upon any of the following grounds:
- (1) The applicant has been issued a state or local permit or license to conduct commercial cannabis activities (in California or another state) and the permit or license has been suspended or revoked, or the applicant has otherwise been sanctioned or subjected to administrative disciplinary action relating to the permit or license by any licensing or permitting

authority, or the applicant has been involved in a cannabis business that was ordered closed by a civil injunction or other court order based on a violation of law.

- (2) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a serious or violent offense as listed within California Penal Code Sections 667.5 and 1192.7(c), or the applicant has been convicted of any other offense listed within Business and Professions Code Section 26057.
- (3) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
- (4) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in that Act, within the ten (10) years preceding the date of the application.
- (5) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has engaged in misconduct related to the ownership, qualifications, functions or duties of their position with the commercial cannabis business.
- (6) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the Arvin Municipal Code and/or state or federal law.
- (7) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, is under the age of twenty-one (21).
- (8) The applicant has violated or failed to comply with any of the requirements of this Chapter or other applicable state or local laws or regulations, or any condition of any entitlement issued to the commercial cannabis business, as determined by the City Manager.
- (9) The applicant has not been issued a conditional use permit pertaining to the location of the commercial cannabis business pursuant to Section 17.64.210 and Chapter 17.56.

A conviction within the meaning of this Chapter means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

This Section shall not constitute an exhaustive list of grounds for denial of a commercial cannabis application. The City Manager may promulgate regulations identifying additional grounds for denial.

- (e) The City Manager shall review each application to determine whether it contains all of the required information. If the application does not contain all of the required information, it shall be returned to the applicant for completion. The City Manager shall endeavor to conclude his or her review within ninety (90) days of the filing of the application. If additional time is necessary, the City Manager will advise the applicant of an estimated review time.
- (f) In reviewing an application for a commercial cannabis permit, the City Manager may request whatever additional information is deemed necessary to determine whether the application meets the requirements of this Chapter or other applicable local laws or regulations.
- (g) The City Manager shall have the authority to either approve or deny the application for a commercial cannabis permit. The City Manager shall approve the application if and only if it meets all applicable requirements of this Chapter. Notwithstanding any other provision of this Chapter, the City Manager, when approving a commercial cannabis permit, may place any additional limitations and conditions on the operation of a commercial cannabis business as he or she deems necessary, consistent with the with this Chapter and any regulations promulgated pursuant hereto.
- (h) Payment of an annual commercial cannabis permit fee, in an amount set by resolution of the City Council sufficient to cover the City's annual costs of administering the mandatory regulatory functions of this Ordinance in regards to the permitted commercial cannabis business, including but not limited to inspections, audits and investigations, shall be required before issuance or renewal of any commercial cannabis permit pursuant to this Chapter. The fee may be established as a trust deposit for actual costs. The fee, or initial trust deposit, shall be in an amount the City Manager estimates will cover the City's annual costs as described in this paragraph. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount is not sufficient, the applicant shall provide additional amounts as necessary upon request from the City. Failure to pay such additional amounts within thirty (30) days of a request by the City shall constitute a violation of this Ordinance and grounds for denial, non-renewal or revocation of the subject commercial cannabis permit.
- (i) When an application is denied, the City Manager shall provide a statement of

decision giving the reasons for the denial and the findings upon which the decision is based. Notice of the denial may be provided by either personal service or U.S. mail. Notice is presumed to be served upon the applicant once deposit into the U.S. mail. Any person denied a commercial cannabis permit shall have the right to appeal such denial in accordance with this Section.

- (j) Any appeal of a denial of an application shall be filed and conducted as prescribed in this subsection.
  - (1) Within ten (10) calendar days from the date of the denial of an application, the aggrieved party may appeal such action by filing with the City Clerk a written appeal setting forth the grounds for reversing the denial. The time requirement for filing an appeal shall be deemed jurisdictional and may not be waived. Appeals not timely filed or not setting forth the basis for the appeal are defective and shall be dismissed.
  - (2) Upon receipt of such written appeal, the City Clerk shall set the matter for a hearing before the City Manager. The hearing shall be conducted pursuant to the following procedures:
    - i. All hearings shall be recorded. Any party may, at their sole expense, have the hearing transcribed by a certified shorthand reporter;
    - ii. Hearings need not be conducted according to the technical rules of evidence;
    - iii. Any relevant evidence shall be admitted, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state;
    - iv. Oral evidence shall be taken only on oath or affirmation. The City Manager shall have the power to administer oaths;
    - v. Irrelevant and unduly repetitious evidence shall be excluded;
    - vi. Each party shall have the right to: call and examine witnesses on any matter relevant to the issues of the hearing; introduce documentary and physical evidence; cross-examine opposing witnesses on any matter relevant to the issues of the hearing, subject to the control of the City Manager, including the imposition of reasonable alternatives to cross-examination; impeach any witness regardless of which party first called the witness to testify; rebut the evidence; and be represented by anyone who is lawfully permitted to do so;

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

The hearing shall be set for hearing in a reasonable time after the date of filing the appeal with the City Clerk, but in no event later than ninety (90) days from the date of such filing. At least ten (10) days prior to the date of the hearing on the appeal, the City shall notify the appellant of the time and the place of the hearing. Notice may be provided by either personal service or U.S. mail. Notice is presumed to be served upon deposit into the U.S. mail.

- (3) At the conclusion of the hearing, the City Manager shall deliberate and reach a decision within fifteen (15) calendar days. The decision and the reason(s) for the decision shall be reduced to writing. The City Manager may affirm, reverse, or modify the denial issued pursuant to this Code as the facts and law warrant, subject to the following limitations:
  - i. The City Manager shall not have authority to waive any requirements of the Arvin Municipal Code or other applicable law.
  - ii. Nothing in these procedures shall be deemed to authorize the City Manager to deviate from unambiguous provisions of the governing code or statute, or well established interpretations of the same, based upon expert opinions or other reliable evidence.

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

- (4) The decision of the City Manager shall subject to a further administrative appeal to the Planning Commission, which shall be conducted in accordance with the procedures and requirements applicable to the appeal to the City Manager pursuant to this subsection.
- (5) The decision of the Planning Commission on the appeal shall constitute a final administrative decision. The appellant may thereafter file a petition for writ of mandate in superior court pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.

**Section 17.64.200 Development Agreement.**

A qualified applicant, pursuant to subsection (b) of this Section, may apply to enter into a development agreement with the City pertaining to a commercial cannabis operation. The provisions of this Section shall apply to such applications.

- (a) Content and Procedures.
  - (1) Development agreements entered into pursuant to this Chapter shall set forth the terms and conditions under which the commercial cannabis business will operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community benefit, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare of the City.
  - (2) The procedures for commercial cannabis development agreements shall comply with this Chapter, Chapter 16.40 of the Arvin Municipal Code, and Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code. To the extent there is a conflict between this Chapter and Chapter 16.40 of the Arvin Municipal Code with respect to a development agreement for a commercial cannabis business, this Chapter shall govern.
- (b) Qualified Applicant. Development agreements are for substantial development projects, often requiring an investment in infrastructure and/or improvements, and payment of development impact fees. Such agreements are special contracts to be negotiated with property owners or those with an interest in the land. A qualified applicant is a person who meets all of the following criteria, with satisfaction of each criterion to be determined in the sole discretion of the City Manager:
  - (1) The applicant has a pending or approved application for a commercial cannabis permit and a pending or approved application for a conditional use permit pursuant to Section 17.64.210 and Chapter 17.56 on file with the City pertaining to the real property that will be subject to the

development agreement;

- (2) The applicant holds a legal or equitable interest in the real property that will be the site of the commercial cannabis business. If the applicant does not own the property, the applicant must have a legal right to purchase or develop the property and/or notarized written consent from the owner of the property to operate a commercial cannabis business on the property and to enter into a development agreement with the City pertaining to the property.

(c) Filing Requirements.

- (1) Only a qualified applicant may file an application to enter into a development agreement. An applicant shall provide, to the satisfaction of the City Manager, written proof of meeting the criteria in subsection (b) above, as well as proof of the authority of any agent or representative to act for the applicant.
- (2) The City Manager shall prescribe the form for each application, notice and documents provided for or required under this Section for the preparation and implementation of development agreements. The applicant shall complete and submit such an application form to the City Manager, along with a deposit for the estimated direct and indirect costs of processing the development agreement. Each applicant pursuant to this Section shall be required to pay a development agreement application fee, in an amount established by resolution of the City Council, sufficient to cover the City's costs of review and processing of the development agreement application pursuant to this Section and/or Chapter 17.56. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days upon of a request from the City. If the applicant fails to do so, the application review and processing shall cease and shall not continue until such additional amounts are paid.
- (3) The City Manager shall require an applicant to submit such information and supporting data as the City Manager considers necessary to process the application, including but not limited to a community benefit assessment to evaluate the benefits the development agreement will provide to the community.

(d) Processing Requirements.

- (1) The City Manager shall endorse on the application the date it is received. An application or related document shall not be complete until an estimated deposit for the cost of processing has been paid to the City. The City Manager shall review the application and determine any additional requirements necessary to complete processing of the application. If within thirty (30) days of receiving the application the City Manager finds that all required information has not been submitted or the application is otherwise incomplete or inaccurate, the processing of the application and the running of any limits shall be suspended upon written notice to the applicant and a new thirty (30) day period shall commence once the required material is received by the City Manager.
- (2) If the City Manager finds that the application is complete, it shall be accepted for filing and the applicant so notified. After receiving the required information and determining that the application is complete, the City Manager shall prepare a staff report and recommendation to the Planning Commission and City Council stating whether or not the agreement as proposed or in an amended form would be consistent with policies of the City, this Chapter and any applicable general or specific plan. The City Attorney shall review the proposed development agreement as to legal form.
- (3) Notice of a hearing regarding the development agreement shall be given by the City Manager and shall comply with the requirements of Section 65867 of the California Government Code, as may be amended, as well as in the manner set forth in this Code.
- (4) The Planning Commission shall review the proposed development agreement and provide a recommendation to the City Council to approve, approve with modifications or deny the proposed development agreement. If the Planning Commission fails to take action within sixty (60) days of opening the hearing on the matter, such failure shall be deemed to have made a recommendation of denial to the City Council unless the applicant has requested an extension of time, either in writing or on the record, which has been approved by the Planning Commission prior to the running of the sixtieth day.
- (5) The proposed development agreement shall be set for hearing and consideration before the City Council within sixty (60) days of the recommendation of the Planning Commission, unless the applicant agrees in writing to an extension of time with the City Manager prior to the matter being heard by the City Council.
- (6) Within ten (10) calendar days after the City enters into any development agreement pursuant to this Section, the City Clerk shall have the

agreement recorded with the County Recorder. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Section 65868 of the California Government Code, or if the City terminates or modifies the agreement as provided in Section 65865.1 of the California Government Code for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

- (e) Findings and Development Agreement Conditions. After the City Council completes the public hearing, the City Council may not approve the development agreement unless it finds that the provisions of the agreement:
- (1) Are consistent with the goals, objectives, and policies of the general plan and any applicable specific plan;
  - (2) Are compatible with the uses authorized in and the regulations prescribed for the zoning district and area in which the real property is located;
  - (3) Will not be detrimental to the health, safety, environmental quality, and general welfare of the community;
  - (4) Will provide for or result in contributions, services or facilities that benefit the community, which may include, but are not limited to, public facilities, improvements, and services, parks, recreation and open space improvements, public art, youth sports programs, other public youth benefit programs, substance abuse awareness and recovery programs, and other public service programs.
  - (5) Will not adversely affect the orderly development of property or the preservation of property values;
  - (6) Provides for payment by the applicant of all costs associated with preparing and entering into the agreement; and
  - (7) Provides for a reasonable penalty for any violation of the development agreement.
- (f) Effectiveness of a development agreement pursuant to this Section shall be contingent upon issuance of a commercial cannabis permit and all other entitlements necessary to operate a commercial cannabis business on the subject property.
- (g) Modifications and Extensions.
- (1) The provisions of Section 65868 of the California Government Code shall apply for all modifications, extensions or other amendments of the terms of a development agreement subject to this Chapter.

- (2) Either party may propose an amendment or termination of an approved development agreement subject to the following:
  - (i) The procedure for amending or terminating the development agreement is the same as the procedure for entering into an agreement in the first instance.
  - (ii) The development agreement may be amended or cancelled only by the mutual consent of the parties, as provided in Section 65868 of the California Government Code.
- (3) Nothing herein shall limit the City's ability to terminate or modify the agreement consistent with Section 65865.1 or 65865.3 of the California Government Code, or as may be amended.

**Section 17.64.210 Conditional Use Permits.**

- (a) Except as otherwise stated herein, the procedure for filing of applications, payment of filing fees, investigations, notices, public hearings, findings, and appeals of denials of conditional use permits required for commercial cannabis businesses pursuant to this Chapter shall be as stated in Section 17.56.020, as may be amended.
- (b) Applications. In addition to the application requirements pursuant to Section 17.56.020, as amended, applications for conditional use permits for commercial cannabis businesses pursuant to this Chapter shall contain the following information:
  - (1) The City zoning district, street address, legal description, and assessor's parcel number of the subject real property to be used as the site of the commercial cannabis operation.
  - (2) A general description of the subject property and the area surrounding the subject property, including proposed and existing land uses and existing physical characteristics.
  - (3) Payment of the required application fee pursuant to subsection (c).

- (4) A statement of whether the subject property is located within 1,000 feet of any school, day care center, youth center, park or library.
- (5) A statement of whether the subject property is located adjacent to or across a street or alley from any residential zoning district of the City.
- (6) An agreement by the applicant to comply with all state and local laws and regulations applicable to the operation of the proposed commercial cannabis business on the subject property, including but not limited to the prohibitions of Section 17.64.120 relating to the sale and consumption of alcohol on the premises of the proposed commercial cannabis business.
- (7) An agreement by the applicant to comply with the terms of any and all mitigation measures adopted, imposed or adhered to by the City pursuant to the California Environmental Quality Act relating to or affecting the operation of a commercial cannabis business on the subject property.
- (8) An agreement by the applicant to indemnify, defend (at its sole cost and expense), and hold harmless the City and its officers, employees, representatives, and agents from any and all claims, losses, damages, injuries or liabilities associated with permitting or approving the operation of a commercial cannabis activity or the operation thereof on the site, or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
- (9) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- (10) Any other deemed necessary, by the City Manager, in his or her discretion, to determine whether the applicant meets the requirements of this Chapter or other applicable requirements of state or local laws or regulations, or to further the purpose and intent of this Chapter.

(c) Each applicant for a conditional use permit pursuant to this Section shall be required to pay a conditional use permit application fee, as established by resolution of the City Council, sufficient to cover the City's costs of review and processing of the conditional use permit application pursuant to this Section and/or Chapter 17.56. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, the application review and processing shall cease and shall not continue until such additional amounts are paid.

(d) Conditions of Approval.

(1) No conditional use permit shall be granted to a commercial cannabis business unless and until:

(i) The applicant has submitted a completed application for a commercial cannabis permit to the City Manager pursuant to Section 17.64.190, including payment of all required application fees;

(ii) The applicant has paid the required conditional use permit application fee and submitted all information and documentation required pursuant to this section; and

All required inspections have been conducted pursuant to Section 17.64.150, and all inspection authorities have approved the proposed business and premises pursuant to said inspections.

(2) A conditional use permit pursuant to this Section may be issued contingent upon the applicant obtaining a commercial cannabis permit and all other necessary entitlements pertaining to the operation of a commercial

cannabis business pursuant to this Chapter.

- (3) The City Manager, the Building Official, the Fire Chief, and the Chief of Police may recommend conditions of approval which may be imposed by the Planning Commission in connection with any conditional use permit granted by the Planning Commission pursuant to this Section.
- (e) Approval; Required Findings. The Planning Commission shall not approve any application for a conditional use permit pursuant to this Section unless and until it makes all of the following findings:
- (1) The commercial cannabis business satisfies all requirements of this Section and all other requirements of this Chapter pertaining to the location of the commercial cannabis business.
  - (2) The commercial cannabis business satisfies all requirements of Chapter 17.56.
  - (3) The proposed land use will be compatible with the uses authorized in and the regulations prescribed for the zoning district and area in which the premises of the business is located.
  - (4) The proposed land use not be detrimental to the health, safety, environmental quality, and general welfare of the community.
  - (5) Issuance of the conditional use permit is consistent with the terms of any development agreement entered into pursuant to Section 17.64.200.
  - (6) Issuance of the conditional use permit is in compliance with the California Environmental Quality Act (CEQA), and the applicant has agreed to comply with all applicable CEQA mitigation measures.

- (f) Suspension and Revocation. The City's Planning Commission may suspend or revoke a conditional use permit issued to a commercial cannabis business in accordance with Chapter 17.56. Notwithstanding the foregoing, in addition to the grounds set forth in Chapter 17.56 for suspension or revocation of a conditional use permit, failure to utilize the subject property for the use authorized in a conditional use permit within six months of its issuance, unless an extension is granted by the City Manager, shall constitute a basis for denial or suspension of the conditional use permit.

**Section 17.64.220 Records and Reporting.**

- (a) Commercial cannabis operations shall maintain on the permitted premises the following records either in paper or electronic form:
- (1) The full name, address, and telephone numbers of the owner and lessee of the property.
  - (2) The name, date of birth, address, and telephone number of each employee and independent contractor of the commercial cannabis operation; the date each was hired or retained; and the nature of each person's participation in the commercial cannabis business.
  - (3) Copies of all required state licenses.
  - (4) An inventory record documenting the dates and amounts of cannabis and cannabis products received at the site, the daily amounts of cannabis and cannabis products on the site, and the daily amounts of cannabis and cannabis products leaving the site for any reason, including but not limited to cannabis that is sold, delivered, or distributed.
  - (5) A written accounting of all expenditures, costs, revenues and profits of the commercial cannabis operation, including but not limited to cash and in-kind transactions.
  - (6) A copy of all insurance policies related to the operation of the commercial cannabis operation.
  - (7) A copy of the commercial cannabis operation's most recent year's financial statement and tax return.
  - (8) Proof of a valid and current permit issued by the City in accordance with this chapter, and the equivalent State of California license to operate the commercial cannabis business. Every commercial cannabis business shall display at all times during business hours the City permit issued pursuant to the provisions of this Chapter, and the equivalent State license, in a

conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.

- (b) Subject to HIPAA rights and regulations unrelated to the purpose and intent of the inspection, each commercial cannabis business shall allow City officials, upon request, to inspect all books, accounts, records, information and data required to be maintained by the cannabis business pursuant to this Chapter or otherwise relevant to its permitted activities for the purpose of facilitating any inspection, audit or investigation deemed necessary by the City. Such records shall be produced within twenty-four (24) hours after receipt of the City's request.
- (c) By December 1 of each year, each commercial cannabis business shall file with the City Manager a complete audited report detailing its financial operations for the previous fiscal year, including its gross revenues, net profits, and total expenditures, which report shall be certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The report shall also include a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the report shall be made available to the City in standard electronic format which shall be compatible with Microsoft Office programs and software and which can easily be imported into either Excel, Access or any other contemporary software designated by the City Manager, and shall be subject to audit by the City.
- (d) All records required by this Chapter shall be maintained by commercial cannabis businesses for a period of not less than seven (7) years, and commercial cannabis businesses shall maintain accurate records of all commercial cannabis activities. All such records shall be made available for immediate inspection by the City upon request consistent with California Business and Professions Code Section 26160.

**Section 17.64.230 Prohibition on Transfer of Commercial Cannabis Permits.**

- (a) No commercial cannabis business shall operate under a commercial cannabis permit issued pursuant to this Chapter at any place or location other than that identified in the commercial cannabis permit.
- (b) Any permit issued pursuant to this Chapter shall be null and void upon sale or transfer of ownership of the commercial cannabis business unless prior approval is given by the City Manager and the proposed transferee submits all required application materials, pays all applicable fees and charges, and independently meets the requirements of this Chapter.
- (c) Any attempt to transfer or any transfer of a commercial cannabis permit issued pursuant to this Chapter shall be void and the commercial cannabis permit shall

be deemed immediately revoked and no longer of any force or effect.

**Section 17.64.240 General Operating Requirements for Commercial Cannabis Businesses.**

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

- (a) **Hours of Operation.** Normal business hours for commercial cannabis businesses are eight (8:00) a.m. and seven (7:00) p.m., Monday through Sunday. Subject to the night-time operating restrictions applicable to deliveries set forth in Section 17.64.280, commercial cannabis businesses may operate outside normal business hours, provided that any business activity conducted outside of normal business hours shall be sensitive to surrounding land uses and occupants and shall not result in excessive light, noise or other impacts that could cause a nuisance to members of the surrounding community.
- (b) **Restriction on Consumption.** Cannabis shall not be consumed on the premises of any commercial cannabis businesses, except that medicinal cannabis may be consumed within a clinic, health care facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health & Safety Code, as stated in Section 8.29.06 of the Arvin Municipal Code.
- (c) **No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the public right-of-way or other public area or any adjacent property. No outdoor storage of cannabis or cannabis products is permitted at any time.**
- (d) **Reporting and Tracking of Product and of Gross Sales.** Each commercial cannabis business shall have in place a point-of-sale tracking system to track and to report on all aspects of the commercial cannabis business including, but not limited to, such matters as tracking of cannabis and cannabis products, inventory data, and gross sales (by weight and by sale price) and shall ensure that such information is compatible with the City's recordkeeping systems. The system must have the capability to produce historical transactional data for review by the City. All information provided to the City pursuant to this subsection shall be confidential and shall not be disclosed, except as may otherwise be required under law.
- (e) **All cannabis and cannabis products sold, cultivated, manufactured, delivered, distributed or tested shall be cultivated, manufactured, delivered, distributed or tested by State licensees that maintain operations in full conformance with the state and local laws and regulations.**
- (f) **Emergency Contact.** Each commercial cannabis business shall provide the City

Manager with the name and telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided on a 24-hour per day, 7-day per week basis.

- (g) Signage and Notices.
- (1) In addition to the requirements otherwise set forth in this Section, business identification signage for a commercial cannabis business shall conform to the signage requirements of the Arvin Municipal Code, including, but not limited to, issuance of a City of Arvin sign permit.
  - (2) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
  - (3) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
  - (4) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
  - (5) Signage shall not be directly illuminated, internally or externally. No banners, flags or other prohibited signs may be used at any time.
- (h) Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business. It is unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
- (i) Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected off the premises, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the public,

or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment or any other equipment which the City Manager determines has the same or better effectiveness:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
  - (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- (j) Display of Commercial Cannabis Permit, State License and City Business License. The original copy of the commercial cannabis permit issued by the City pursuant to this Chapter, the required State license, and the business license issued by the City pursuant to the Arvin Municipal Code shall be posted inside the commercial cannabis business in a location readily visible to the public.
- (k) Criminal History Records Check.
- (1) Every owner and responsible person of each commercial cannabis business must submit to annual fingerprint-based state and federal criminal history records checks, conducted by the City or another agency authorized or requested to do so by the City, as an application requirement in connection with each application for issuance or renewal of a commercial cannabis permit for the commercial cannabis business.
  - (2) The criminal history records check may be conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager. The City Manager is authorized to request subsequent notification service, if Live Scan is used, or an equivalent service, if another system is used, sufficient to obtain ongoing notifications of criminal offenses committed by owners or responsible persons of commercial cannabis businesses. In the event the City Manager does so, and such subsequent notification or equivalent service reveals a conviction or other conduct that would constitute grounds for denial of an employee work permit pursuant to Section 17.64.090(g), such conviction or other conduct shall constitute grounds for immediate suspension or revocation of the subject commercial cannabis permit.
  - (3) Owners and responsible persons shall be disqualified from involvement with a commercial cannabis business where the results of a criminal history records check would constitute grounds for denial of an employee

work permits to a commercial cannabis business employee pursuant to Section 17.64.090(g).

- (4) A fee for the City's costs of conducting the criminal history records check, as established by resolution of the City Council, shall be paid at the time the application for a commercial cannabis permit is submitted. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of conducting the criminal history records check, including City review and processing services and any third-party fees. If a trust deposit-based fee is established, it shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If the initial trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, the investigation shall cease and shall not continue until such additional amounts are paid.
- (5) In the alternative to subsection (k)(4) above, the commercial cannabis business or the subject owner, manager or supervisor may provide the City Manager with a completed criminal history records check performed by a third party vendor, as deemed necessary or appropriate in the discretion of the City Manager. If this alternative is used, the fee established pursuant to subsection (k)(4) above shall not apply, except as may be necessary for the City to confirm the validity and the results of the records check used.
- (l) Upon completion of the investigation or in the event the applicant withdraws its application, any unused amount of any trust deposit made pursuant to this Chapter will be refunded to the applicant within thirty (30) days of request by the applicant.
- (m) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering on the premises of the commercial cannabis business.
- (n) Permits and other Approvals. Prior to the establishment or operation of any commercial cannabis business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.
- (o) Greenhouses. Greenhouses may be utilized only for commercial cannabis cultivation businesses, including nurseries. Greenhouses used for cannabis cultivation shall be fully-enclosed permanent structures with solid walls that are clad in an opaque material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that use a combination of

natural and supplemental artificial lighting. The cultivation activities conducted within a greenhouse shall not be visible from any public right-of-way or adjacent private property. All greenhouses shall comply with the requirements of this Chapter and the Arvin Municipal Code, including the adopted requirements of the California Building Code, the California Fire Code and any other code adopted or incorporated by reference within the Arvin Municipal Code, as amended.

- (p) No commercial cannabis business may store food grade alcohol or any other volatile chemical, solvent or substance in an amount which exceeds the maximum authorized amount determined by the Fire Chief. Subject to the foregoing, use of food grade alcohol solely for the purposes of cleaning machinery and dissolving wax, unless otherwise prohibited by the State, is allowed.
- (q) Commercial cannabis businesses shall comply with all pesticide use requirements of local, state and federal law.
- (r) All weighing devices used by commercial cannabis businesses shall be maintained in compliance with local, state or federal law and applicable regulations regarding device registration with the Agricultural Commissioner.
- (s) Commercial cannabis businesses shall comply with all applicable provisions of the California Building Standards Code, as adopted or incorporated into the Arvin Municipal Code.
- (t) Commercial cannabis businesses shall comply with all local, state and federal laws and regulations and best practices applicable to storage and disposal of chemicals, solid waste, contaminants, hazardous materials, adulterated, deteriorated or excess cannabis and cannabis products, and all byproducts of the commercial cannabis business.
- (u) In no case shall any commercial cannabis business utilize any volatile solvents or other flammable, explosive or toxic substances to process or manufacture cannabis products in the City, except as expressly authorized pursuant to both a Type 7 State license and a City-issued commercial cannabis permit.
- (v) All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance to the provisions of the California Retail Food Code, California Health and Safety Code Sections 113700 through 114437. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases.
- (w) All cannabis and cannabis products, prior to leaving any licensed premises for transfer to any retailer, shall be properly labeled and placed in resealable, tamper-evident, child-resistant packaging, shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products, and shall

otherwise comply with applicable State laws, including Business and Professions Code Section 26120, and applicable State regulations, all as may be amended from time to time.

- (x) The premises of all commercial cannabis businesses shall have sufficient lighting such that all areas subject to monitoring by the security surveillance camera system shall be visible to all cameras of the system at all times.

**Section 17.64.250 Operating Requirements for Cultivation Businesses and Nurseries.**

- (a) Outdoor commercial cultivation and outdoor nursery activity is prohibited.
- (b) If a commercial cannabis business includes nursery activities, only one nursery may be located on the premises of the commercial cannabis business, and the nursery activity must be permitted pursuant to this Chapter and State law.
- (c) Cannabis cultivation and nursery activity shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (d) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- (e) In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site, except as otherwise stated in this Chapter pertaining to food grade alcohol.
- (f) The cultivation of cannabis and any nursery activity shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- (g) Stacking shall be allowed in a given structure only to the point that measuring the total canopy of each level of stacking is cumulatively no greater than the maximum canopy size allowed under State laws or regulations applicable to the State cultivation license held by the commercial cannabis business.
- (h) All applicants for a commercial cannabis permit for cultivation or nursery activity shall submit the following, which shall be subject to approval by the City Manager prior to issuance of a commercial cannabis permit to the applicant, in

addition to the information otherwise required for a commercial cannabis permit application:

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

**Section 17.64.260 Cannabis Manufacturing Business Operating Requirements.**

- (a) Manufacturer 1 (Type 6) permittees shall utilize only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
- (b) Manufacturer 2 (Type 7) permittees shall utilize only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
  - (1) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
  - (2) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
  - (3) A licensed engineer certifies that the system is commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the

American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

- (4) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.
- (c) No compressed gases used in the manufacturing process shall be stored on the premises of any manufacturer in excess of the amount authorized by the Fire Chief.
- (d) No manufacturer may engage in the retail sale, by delivery or otherwise, of any manufactured cannabis products, including edible cannabis products, on a retail basis in the City.
- (e) All cannabis products shall be properly packaged and labeled in accordance with Business & Professions Code Section 26120 and applicable State regulations before leaving the commercial cannabis manufacturing business. All edible cannabis products must be in an opaque (non-see-through) package.
- (f) Manufacturers shall comply with all applicable federal, State and local laws and regulations relating to manufacturing safety procedures.

**Section 17.64.270 Cannabis Testing Laboratory Operating Requirements.**

- (a) Commercial cannabis testing laboratories (e.g. businesses requiring a Type 8 State license) shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing testing procedures and safety measures.
- (b) Testing laboratories are prohibited from obtaining permits to engage in any commercial cannabis activity, except testing. A commercial cannabis business which holds a commercial cannabis permit for testing shall not be issued or hold any other commercial cannabis permit.
- (c) Testing laboratories shall not employ any individual who is also employed by any other State licensee that does not hold a Type 8 State license.
- (d) Testing laboratories must be accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity, and must provide proof of said accreditation, to the satisfaction of the City Manager, as a prerequisite to obtaining a commercial cannabis permit authorizing testing of cannabis or cannabis products.

**Section 17.64.280 Cannabis Retail/Delivery Businesses Operating Requirements**

- (a) Retail sales of cannabis and cannabis products in the City shall be conducted by delivery only.
- (b) All commercial cannabis businesses conducting deliveries shall have permitted premises in the City from which all deliveries to addresses in the City shall be conducted. Commercial cannabis businesses that do not have physical premises located in the City, and/or that propose to deliver into the City from premises outside the City, shall not be eligible for issuance of a commercial cannabis permit, and are prohibited from conducting deliveries in the City.
- (c) The premises of all commercial cannabis businesses that are permitted to conduct deliveries shall be closed to the general public at all times, and shall be accessible only to employees and persons with a bona fide business or regulatory purpose for accessing the premises.
- (d) In accordance with Business & Professions Code Section 26070.1, cannabis or cannabis products purchased by a customer shall not leave the permitted premises of a retailer unless they are placed in an opaque package.
- (e) Retailers shall not accept, possess, or sell cannabis or cannabis products that are not packaged and labeled as they will be sold at final sale and in accordance with Business & Professions Code Section 26120, as may be amended. Retailers shall not package or label cannabis or cannabis products.
- (f) No employee or other person acting on behalf of a commercial cannabis operation permitted to conduct deliveries may possess or deliver more than \$3,000 worth of cannabis or cannabis products at any given time.
- (g) No delivery shall be made to any person other than the person who requested the delivery, except when the person requesting the delivery is a qualified patient and the person receiving the delivery is his or her primary caregiver, or vice versa.
- (h) Any person who is present on the permitted premises of a commercial cannabis business permitted to conduct deliveries who is not an employee, officer, agent, or representative of the retailer must sign in and wear a “visitor” identification badge at all times while on the premises.
- (i) Proof of the required State license and commercial cannabis permit, and a copy of all requests/orders for deliveries being conducted, shall be carried at all times in all vehicles being used to make deliveries, and shall be immediately available upon request from law enforcement officers.
- (j) Deliveries shall not be conducted between the hours of 11:00 p.m. and 7:00 a.m.

**Section 17.64.290 Total Area Devoted to Commercial Cannabis Businesses**

- (a) No more than one million, three hundred fifty thousand (1,350,000) square feet of area shall be permitted for use by commercial cannabis businesses in the City. Notwithstanding the foregoing, land annexed into the City after the date of enactment of this Chapter shall not be subject to, nor shall be counted toward, this restriction.
- (b) The premises of each permitted commercial cannabis business shall be a minimum of 2,000 square feet in area.

**Section 17.64.300 Periodic Review by the City Council.**

Upon request of the City Manager, the City Attorney and the Chief of Police shall report to the City Council with findings on the operation of any commercial cannabis business permitted pursuant to this Chapter and a recommendation as to whether the business should be permitted to continue operating for the remaining period of its commercial cannabis permit (in addition to whatever other recommendations may be made) and whether the City should renew the permit upon application for renewal. Any termination or revocation of a permit based on such findings shall be in accordance with the provisions of this Chapter.

**Section 17.64.310 Promulgation of Regulations and Standards.**

The City Manager, in his or her discretion, is authorized to promulgate reasonable regulations as he or she deems necessary to implement procedures or requirements in furtherance of the purposes of this Chapter. Regulations promulgated by the City Manager shall have the same force and effect of law and shall become effective upon the date of approval and execution of such regulations by the City Manager.

**Section 17.64.320 Community Relations.**

- (a) Each commercial cannabis business shall provide the City Manager with the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided.
- (b) The owner, manager, and community relations representative of a commercial cannabis permit holder operating in the City shall, upon request of the City Manager, meet to discuss costs, benefits, and other community issues resulting from implementation or application of this Chapter.

**Section 17.64.330 Unpaid Fees Deemed Debt to City.**

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

**Section 17.64.340 Permit Holder Responsible for Violations.**

Commercial cannabis permit holders shall be responsible for all violations of State or local laws or regulations, whether or not committed by the permit holder or any employee or agent of the permit holder, which occur in or on the premises of the commercial cannabis business, whether or not said violations occur within the permit holder's presence.

**SECTION 4.** Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance, in that the invalid provision shall be deemed severed from the ordinance and the balance shall remain in effect. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 5.** Arvin Municipal Code Section 17.62 relating to sign regulations on private property, which existed prior to the date of adoption of Ordinance No. 443, remains in full force and effect.

**SECTION 6:** This Ordinance shall take effect thirty (30) calendar days after its adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the 05<sup>th</sup> day of June 2018, and adopted the Ordinance after the second reading at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2018, by the following roll call vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

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



**CITY OF ARVIN**  
**Staff Report**

Meeting Date: June 5, 2018

<b>TO:</b>	City Council
<b>FROM:</b>	Jeff Jones, Finance Director Jerry Breckinridge, Interim City Manager
<b>SUBJECT:</b>	An Ordinance of the City Council of the City of Arvin Amending Chapter 17.56 (“Conditional Use Permits”) of Title 17 of the Arvin Municipal Code to Add Commercial Cannabis Businesses as a Conditionally Permitted Use in Specific Zones and to Add Express Procedures for Suspension and Revocation of Conditional Use Permits

**BACKGROUND:**

In late 2017, the City adopted Ordinance No. 443, adding Chapter 17.62 (“Commercial Cannabis Activities”) to the Arvin Municipal Code (“AMC”). Said chapter authorizes certain types of commercial cannabis businesses to operate in the City’s M-1, M-2, M-3, A-1, and A-2 zoning districts, subject to issuance of City permits.

The City is now considering, concurrently with the proposed ordinance attached hereto (the “Ordinance”), an ordinance that would amend and renumber AMC Chapter 17.62 (“Commercial Cannabis Activities”), and thereby add Chapter 17.64 (“Commercial Cannabis Activities”) to the AMC, to establish new and amended permitting requirements and associated regulations applicable to commercial cannabis activities in the City (the “Proposed Cannabis Ordinance”). The Proposed Cannabis Ordinance, consistent with Ordinance No. 443, would allow commercial cannabis activities only in M-1, M-2, M-3, A-1, and A-2 zones. However, the Proposed Cannabis Ordinance would also expressly designate such uses as conditionally permitted uses and would require all such uses to obtain a conditional use permit prior to operation.

**ENVIRONMENTAL:**

The Ordinance is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. Although the Ordinance adds commercial cannabis businesses as a conditionally permitted use in specific zones, this addition is merely reflective of the provisions of the AMC which directly regulate commercial cannabis activities, and any such use will be subject to environmental review on a project-specific basis pursuant to those provisions in conjunction with the existing provisions of AMC Chapter 17.56. Otherwise, this Ordinance merely adds express procedures to the AMC for revocation and suspension of conditional use permits by the City, an action which relates only to the applicable process for termination of

conditionally permitted land uses. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.

**DISCUSSION:**

The Ordinance would add commercial cannabis businesses to the list of conditionally permitted uses in specific zones set forth in AMC Chapter 17.56, in order to ensure consistency between AMC Chapter 17.56 and the provisions of the AMC which directly regulate commercial cannabis activities, as referenced above.

The Ordinance would also add express provisions to AMC Chapter 17.56 to govern the process for suspension and revocation of all City-issued conditional use permits. The City will likely soon experience an increase in the total number of conditional use permits issued, given the permitting of cannabis businesses and the requirement that such businesses obtain conditional use permits. In the event a commercial cannabis business obtains a conditional use permit and subsequently violates a condition of approval of the permit or a provision of the AMC, the City will likely deem it necessary to suspend or revoke the conditional use permit to protect public health, safety and welfare and make it clear that commercial cannabis uses in violation of the City's land use regulations will not be tolerated (note, however, that the conditional use permit is just one of multiple City and State entitlements that a cannabis business must maintain in a current and valid status in order to operate legally).

However, holders of conditional use permits have certain procedural due process rights that must be respected in any proceeding to modify or revoke a conditional use permit. In other words, the City must afford the permit holder notice and a hearing prior to taking such action. This requirement is codified in State law at Government Code Section 65905.

Because of the rights implicated and the likelihood of an increase in the need to take adverse action with respect to a conditional use permit, it is important to have a clear process in place to guide City staff and officials throughout the suspension and revocation process to ensure that, if a City elects to suspend or revoke a conditional use permit, the City does so while adhering to the due process rights of the permit holder. This will help to insulate the City from exposure to legal liability. To date, the City does not have any process in place to govern such proceedings. The proposed ordinance would establish such a process, consistent with current state law.

**FINANCIAL IMPACT:**

There were minor staff and legal costs involved in preparation of the proposed Ordinance, which staff believes can be funded within the existing budget appropriations.

**ORDINANCE****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AMENDING CHAPTER 17.56 (“CONDITIONAL USE PERMITS”) OF TITLE 17 OF THE ARVIN MUNICIPAL CODE TO ADD COMMERCIAL CANNABIS BUSINESSES AS A CONDITIONALLY PERMITTED USE IN SPECIFIC ZONES AND TO ADD EXPRESS PROCEDURES FOR SUSPENSION AND REVOCATION OF CONDITIONAL USE PERMITS**

**WHEREAS**, the City has the police power, pursuant to Article XI, Section 7 of the California Constitution, to regulate land uses within its jurisdiction and to adopt and enforce ordinances to protect and promote the public health, safety, and welfare; and

**WHEREAS**, in the exercise of its police power, the City has established various zoning districts and has prohibited certain land uses in each of such zoning districts; and

**WHEREAS**, to ensure the compatibility of land uses and to protect against adverse effects on public health, safety and welfare resulting from improper or conflicting land uses, the City has enumerated certain land uses, pursuant to Chapter 17.56 of its Municipal Code, which are permitted subject to issuance of a conditional use permit in some or all of the City’s zoning districts; and

**WHEREAS**, to ensure consistency with provisions of the City’s Municipal Code directly regulating commercial cannabis activities, the City Council desires to declare commercial cannabis businesses a conditionally permitted use in specified zones of the City; and

**WHEREAS**, the City is authorized to suspend or revoke conditional use permits as necessary in the exercise of its police power, subject to the constitutional procedural due process rights of the permit holder; and

**WHEREAS**, pursuant to California Government Code Section 65905, cities are generally required to hold a public hearing on a proposed revocation or modification of a conditional use permit or an appeal from the action taken on a conditional use permit application, and notice of such a hearing shall be given pursuant to Government Code Section 65091; and

**WHEREAS**, the City’s Municipal Code does not presently contain any express provisions governing the procedures or requirements applicable to the City’s suspension or revocation of conditional use permits; and

**WHEREAS**, the City Council desires to enact such provisions to define and guide the procedural rights and obligations of the City and of the holders of conditional use permits in circumstances in which the City feels it is necessary, in the exercise of its police power, to suspend or revoke conditional use permits, and to ensure that the process is clear and efficient

and that conditional use permits are not suspended or revoked in violation of the due process rights of permit holders; and

**WHEREAS**, all pre-requisites to adoption of this Ordinance have occurred.

**NOW, THEREFORE**, the City Council of the City of Arvin does ordain as follows:

**SECTION 1.** The Recitals set forth above are true and correct and incorporated herein.

**SECTION 2.** This Ordinance is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. Although this Ordinance adds commercial cannabis businesses as a conditionally permitted use in specific zones, this addition is merely reflective of the provisions of the AMC which directly regulate commercial cannabis activities, and any such use will be subject to environmental review on a project-specific basis pursuant to those provisions in conjunction with the existing provisions of AMC Chapter 17.56. Otherwise, this Ordinance merely adds express procedures to the Arvin Municipal Code for revocation and suspension of conditional use permits by the City, an action which relates only to the applicable process for termination of conditionally permitted land uses. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.

**SECTION 3.** Chapter 17.56 of Title 17 of the Arvin Municipal Code is hereby amended to read in its entirety as follows:

### **Chapter 17.56**

#### **CONDITIONAL USE PERMITS**

##### **17.56.010 - Applicability.**

The regulations set forth in this chapter shall apply to the granting of conditional use permits.

##### **17.56.020 - Prohibited uses permitted when.**

- A. Certain uses may be permitted by the planning commission and the city council in zones in which they are not permitted by this title where such uses are deemed essential or desirable to the public convenience or welfare, and are in harmony with the various elements or objectives of the comprehensive general plan.
- B. Except as otherwise provided in this Chapter, the procedure for filing of conditional use permit applications, payment of filing fees for such applications, and all associated investigations, notices, public hearings, findings and appeals shall be the same as provided in Chapter 17.54 for variances.
- C. The planning commission may waive public hearings on an application for a conditional use permit for public utility or public service uses or public buildings, when found to be necessary for the public health, safety, convenience or welfare.

- D. No conditional use permit application shall be deemed complete or processed until the filing fee (which may be in the form of a deposit), as established pursuant to resolution of the City Council, has been paid in full.

**17.56.030 - Permitted Uses - Any zone.**

The following uses may be permitted in any zone upon the granting of a conditional use permit:

- A. Airports or aircraft landing fields;
- B. Cemeteries, columbariums, crematories and mausoleums;
- C. Airports or aircraft landing fields;
- D. Cemeteries, columbariums, crematories and mausoleums;
- E. Churches or other places used exclusively for religious worship;
- F. City, county, state and federal enterprises, including buildings, facilities and uses of departments or institutions thereof which are necessary to the general welfare of the community;
- G. Day nurseries and nursery schools;
- H. Educational institutions, including schools, elementary or high;
- I. Establishments or enterprises involving large assemblages of people or automobiles, including amusement parks, circuses, carnivals, expositions, fairgrounds, open-air theatres, racetracks, recreation

**17.56.040 - Permitted Uses - Specific Zone.**

The following uses may be permitted in the zones indicated in this section upon the granting of a conditional use permit:

- A. Advertising sign boards or structures in the C-1 zone;
- B. Agricultural industries and the processing of agricultural products in the A-2 zone;
- C. Animal hospitals, kennels and veterinaries in the C-2 zone;
- D. Apartment hotels in the R-4 zone;
- E. Automobile trailer courts or mobile home parks in the R-4 zone;
- F. Commercial cannabis businesses, as authorized by applicable provisions of the Arvin Municipal Code, in the M-1, M-2, M-3, A-1, and A-2 zones;
- G. Commercial stockyards and animal slaughter in the A-2 and M-3 zones;
- H. Dairies and livestock feed yards in the M-2, M-3 and A-1 zones;
- I. Dumps and refuse disposal areas in the A-2 and M-3 zones;
- J. Equestrian establishments, including stables, riding academies, schools or amusements, in the C-2 zone;
- K. Fruit, vegetable and meat packing plants in the A-1 and A-2 zones;
- L. Hog ranches in the A-2 zone;
- M. Housing for agricultural workers in the A-1 and A-2 zones;
- N. Mortuaries or funeral parlors in the C-1 and A zones;
- O. Sewer farms and sewage disposal plants in the A-2 and M-3 zones;
- P. Auto spray-painting operations when complementary to adjacent uses;
- Q. Fish farming in the E zone;

R. Residential care facilities in the R-2, R-3 and R-4 zones.

**17.56.050 - Suspension and Revocation.**

- A. Suspension and Revocation Authority. The Planning Commission may suspend or revoke a conditional use permit when the permit holder or anyone acting on the permit holder's behalf has committed any of the following acts or maintained any of the following conditions:
1. Any action or condition which would be grounds for denial of a conditional use permit.
  2. Any action or condition which constitutes a violation of this Chapter, any other applicable provision of the Arvin Municipal Code, or any applicable condition of approval of the conditional use permit.
- B. Suspension and Revocation Procedures
1. Prior to suspending or revoking a conditional permit, the Planning Commission shall conduct a public hearing to determine whether there is an appropriate basis for suspension or revocation pursuant to subsection (A) above.
  2. Written notice of the public hearing shall be mailed or delivered, at least ten (10) calendar days prior to the hearing, to:
    - i. The permit holder, and the permit holder's duly authorized agent;
    - ii. The owner of the subject real property as shown on the latest equalized assessment roll, if different than the permit holder, and such owner's duly authorized agent. Instead of using the assessment roll, the City may use records of the Kern County Assessor or Tax Collector if those records contain more recent information than the information contained on the assessment roll;
    - iii. Each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the subject real property, whose ability to provide those facilities and services may be significantly affected by the proposed suspension or revocation; and
    - iv. All owners of real property as shown on the latest equalized assessment roll within 300 feet of the subject real property. Instead of using the assessment roll, the City may use records of the Kern County Assessor or Tax Collector if those records contain more recent information than the information contained on the assessment roll. If the number of owners to whom notice would be mailed or delivered is greater than 1,000, the City, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 days prior to the hearing.
    - v. Any other person or entity entitled to notice pursuant to Government Code Section 65091, as may be amended.
  3. The notice of public hearing shall be published and posted in accordance with Government Code Section 65091, as may be amended.

4. The notice of public hearing shall include the information required by Government Code Section 65094, as may be amended.
5. At the date, time and place set forth in the notice of public hearing, the Planning Commission shall conduct the public hearing and shall entertain all relevant evidence and objections presented. The technical rules of evidence shall not apply. At the conclusion of the public hearing, the Planning Commission shall render its decision.
6. The decision of the Planning Commission shall be appealable to the City Council by filing a notice of appeal with the City Clerk within fifteen (15) days of the date of the decision. The notice of appeal shall specify the grounds for filing an appeal and shall be accompanied by any applicable fee established by resolution of the City Council to cover the costs of processing the appeal.
7. Within 15 days of the City Clerk's receipt of a completed notice of appeal and payment of any required fees, the appeal shall be set for a hearing before the City Council. Notice of the hearing shall be mailed or delivered, at least ten (10) calendar days prior to the hearing, to the persons specified in subsection (B)(2). The notice shall also be published and posted in accordance with subsection (B)(3).
8. The hearing shall be conducted within 45 days of the City Clerk's receipt of the completed appeal and payment of any required fees.
9. At the date, time and place set forth in the notice, the City Council shall conduct the public hearing and shall entertain all relevant evidence and objections presented. The technical rules of evidence shall not apply. At the conclusion of the public hearing, the City Council shall render its decision.
10. The City Council's decision shall constitute a final administrative decision, while shall be subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.

**SECTION 4.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 5.** This Ordinance shall take effect thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the 05<sup>th</sup> day of June 2018, and adopted the Ordinance after the second reading at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2018, by the following roll call vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

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



**CITY OF ARVIN  
Staff Report**

Meeting Date: June 5, 2018

<b>TO:</b>	City Council
<b>FROM:</b>	Jake Raper, City Planner Jerry Breckinridge, Interim City Manager
<b>SUBJECT:</b>	An Ordinance of the City Council of the City of Arvin, Modifying the Arvin Municipal Code Such That Certain Fees Which Must Be Set By Ordinance May Now Be Set By Resolution, By Amending The Following Sections of the Arvin Municipal Code: Section 16.40.040 of Chapter 16.40 of Title 16; Section 17.45.130 of Chapter 17.45 of Title 17; Section 17.45.210 of Chapter 17.45 of Title 17; Section 17.46.060 of Chapter 17.46 of Title 17; Section 17.54.080 of Chapter 17.54 of Title 17; and Section 17.60.080 of Chapter 17.60 of Title 17.

**RECOMMENDATION:**

Staff recommends that the City Council consider introducing to be read by title only, open the hearing, allow for public testimony, close the hearing, waive the first reading, and approve the introduction and first reading of the following Ordinances:

1. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, MODIFYING THE ARVIN MUNICIPAL CODE SUCH THAT CERTAIN FEES WHICH MUST BE SET BY ORDINANCE MAY NOW BE SET BY RESOLUTION, BY AMENDING THE FOLLOWING SECTIONS OF THE ARVIN MUNICIPAL CODE: SECTION 16.40.040 OF CHAPTER 16.40 OF TITLE 16; SECTION 17.45.130 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.45.210 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.46.060 OF CHAPTER 17.46 OF TITLE 17; SECTION 17.54.080 OF CHAPTER 17.54 OF TITLE 17; AND SECTION 17.60.080 OF CHAPTER 17.60 OF TITLE 17.**
2. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, MODIFYING THE ARVIN MUNICIPAL CODE SUCH THAT CERTAIN FEES WHICH MUST BE SET BY ORDINANCE MAY NOW BE SET BY RESOLUTION, BY AMENDING THE FOLLOWING SECTIONS OF THE ARVIN MUNICIPAL CODE: SECTION 3.32.010 OF CHAPTER 3.32 OF TITLE 3; SECTION 3.32.020(A) OF CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; THE FIRST PARAGRAPH OF SECTION**

**3.32.040(A) OF CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; SECTION 10.02.010 OF CHAPTER 10.02 OF TITLE 10; SECTION 10.02.020 OF CHAPTER 10.02 OF TITLE 10; SECTION 12.04.040(B) OF CHAPTER 12.04 OF TITLE 12; SECTION 12.04.250 OF CHAPTER 12.04 OF TITLE 12; SECTION 12.12.070 OF CHAPTER 12.12 OF TITLE 12; SECTION 12.16.030(B) OF CHAPTER 12.16 OF TITLE 12; SECTION 15.08.010(M) OF CHAPTER 15.08 OF TITLE 15; AND SECTION 15.24.090 OF CHAPTER 15.24 OF TITLE 15.**

**BACKGROUND:**

Proposed amendments that change the establishment of fees by ordinance rather than by resolution are:

- Title 3 Revenue and Finance;
- Title 10 Vehicles and Traffic,
- Title 12 Streets, Sidewalks, and Public Places
- Title 15 Buildings and Construction
- Title 16 Subdivisions
- Title 17 Zoning

The City Manager provided direction to staff to update the City's fees in the middle of 2017. Staff has been working to assemble various resolutions, ordinances, that established fees over the past 20 or so years. The City Manager directed that a comprehensive fee schedule be developed, presented to the City Council for consideration and adoption. In this effort, the City Manager's concept was to have all the fees under one resolution in order to manage, update, and share the fee schedule with all interested parties. Also, it is the intent of the City Manager up provide an annual review of fees to ensure that the City remains up dated and reviews fees on an annual basis.

The City Manager under the authority of Chapter 2.06 City Administrator/City Manager initiated the review of the City's fee schedule, amendments to Arvin Municipal Code of various chapters by deleting fees set by ordinance and to set fees by resolution by the City Council. To achieve this effort, the City Manager is recommending the City Council to amend various chapters of the Arvin Municipal Code to amend those sections which refer to the establishment of fees by ordinance to be amended to establish fees as set by resolution by the City Council.

Public hearing notice was published on May 25, 2018 in accordance with Government Code Section 36933. In addition, the full and complete ordinance is available on the City of Arvin's web site [www.arvin.org](http://www.arvin.org) <<http://www.arvin.org>>.

**SUMMARY:**

The ordinance amendments will modify various sections of the City's code that require fees to be established by ordinance so that those fees may be set by resolution of the City Council. This

action will support the goal of the City Manager which is to establish a comprehensive fee schedule for the City of Arvin.

**ENVIRONMENTAL REVIEW:**

Staff have performed a preliminary environmental assessment of this project and have determined that the amendments and additions to Titles 3, 10, 12, 15, 16, and 17 of the Arvin Municipal Code, as contemplated by the Ordinances, do not constitute a project under the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines §15378(b)(4), because the amendments and additions contemplated by these Ordinances are for the purpose of defraying the costs borne by the City in providing certain services and conducting regulatory activities pursuant to the City’s Municipal Code, and therefore are for the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Furthermore, even if the adoption tge Ordinances does constitute a project under CEQA, the City Council finds and determines that said action is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3), in that there is no possibility that the activity in question may have a significant effect on the environment, because the adoption of these fees relates only to the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to a specific project, and which do not have the effect of permitting new uses within the City, instead merely providing further regulations by establishing fees for existing uses already permitted. Finally, the adoption these Ordinances is also exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(1) and 15273 because it is for the establishment of charges which the City Council finds are for the purpose of meeting City operating expenses.

**ATTACHMENTS AND EXHIBITS:**

1. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, MODIFYING THE ARVIN MUNICIPAL CODE SUCH THAT CERTAIN FEES WHICH MUST BE SET BY ORDINANCE MAY NOW BE SET BY RESOLUTION, BY AMENDING THE FOLLOWING SECTIONS OF THE ARVIN MUNICIPAL CODE: SECTION 16.40.040 OF CHAPTER 16.40 OF TITLE 16; SECTION 17.45.130 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.45.210 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.46.060 OF CHAPTER 17.46 OF TITLE 17; SECTION 17.54.080 OF CHAPTER 17.54 OF TITLE 17; AND SECTION 17.60.080 OF CHAPTER 17.60 OF TITLE 17.**
  
2. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, MODIFYING THE ARVIN MUNICIPAL CODE SUCH THAT CERTAIN FEES WHICH MUST BE SET BY ORDINANCE MAY NOW BE SET BY RESOLUTION, BY AMENDING THE FOLLOWING SECTIONS OF THE ARVIN MUNICIPAL CODE: SECTION 3.32.010 OF CHAPTER 3.32 OF TITLE 3; SECTION 3.32.020(A) OF CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; THE FIRST PARAGRAPH OF SECTION 3.32.040(A) OF**

**CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; SECTION 10.02.010 OF CHAPTER 10.02 OF TITLE 10; SECTION 10.02.020 OF CHAPTER 10.02 OF TITLE 10; SECTION 12.04.040(B) OF CHAPTER 12.04 OF TITLE 12; SECTION 12.04.250 OF CHAPTER 12.04 OF TITLE 12; SECTION 12.12.070 OF CHAPTER 12.12 OF TITLE 12; SECTION 12.16.030(B) OF CHAPTER 12.16 OF TITLE 12; SECTION 15.08.010(M) OF CHAPTER 15.08 OF TITLE 15; AND SECTION 15.24.090 OF CHAPTER 15.24 OF TITLE 15.**

**3. Public Hearing Notice**

## ORDINANCE

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, MODIFYING THE ARVIN MUNICIPAL CODE SUCH THAT CERTAIN FEES WHICH MUST BE SET BY ORDINANCE MAY NOW BE SET BY RESOLUTION, BY AMENDING THE FOLLOWING SECTIONS OF THE ARVIN MUNICIPAL CODE: SECTION 16.40.040 OF CHAPTER 16.40 OF TITLE 16; SECTION 17.45.130 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.45.210 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.46.060 OF CHAPTER 17.46 OF TITLE 17; SECTION 17.54.080 OF CHAPTER 17.54 OF TITLE 17; AND SECTION 17.60.080 OF CHAPTER 17.60 OF TITLE 17.**

**WHEREAS**, the Arvin Municipal Code imposes certain fees for the purposes of defraying the costs of a City provided service or regulatory function; and

**WHEREAS**, Titles 16, “Subdivisions,” and 17, “Zoning,” of the Arvin Municipal Code contain certain fees that are set by ordinance, thus, requiring any change in the fees to be adopted by ordinance; and

**WHEREAS**, the City Council desires to amend Titles 16 and 17 of the Arvin Municipal Code such that it may adopt a resolution to modify the fees, instead of an ordinance, for the following sections of the Arvin Municipal Code: Section 16.40.040 Of Chapter 16.40 Of Title 16; Section 17.45.130 Of Chapter 17.45 Of Title 17; Section 17.45.210 Of Chapter 17.45 Of Title 17; Section 17.46.060 Of Chapter 17.46 Of Title 17; Section 17.54.080 Of Chapter 17.54 Of Title 17; And Section 17.60.080 Of Chapter 17.60 Of Title 17 (“Proposed Amendments”); and

**WHEREAS**, on May 08, 2018, at after a duly noticed public hearing, the Planning Commission considered the Proposed Amendments, including presentations from City staff, oral testimony, and written testimony; and

**WHEREAS**, after the above-mentioned public hearing, the Planning Commission adopted Resolution No. APC 2018-07, which recommended that the City Council adopt this Ordinance; and

**WHEREAS**, on June 05, 2018, the City Council conducted a duly noticed public hearing regarding this Ordinance (first reading), where it received presentations from City staff, oral and written testimony from members of the public, and voted to introduce the proposed ordinance; and

**WHEREAS**, on \_\_\_\_\_, 2018, the City Council conducted another public hearing regarding this Ordinance (second reading), where it received presentations from City staff, oral and written testimony from members of the public; and

**WHEREAS**, after the above-mentioned City Council public hearing, the City Council now desires to amend its code such that the above-mentioned fees can be set by resolution of the City Council instead of by ordinance; and

**WHEREAS**, all pre-requisites to adoption of this Ordinance have occurred.

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

**SECTION 1.** The Recitals set forth above are true and correct and incorporated herein.

**SECTION 2.** The City Council finds that the amendments and additions to Titles 16 and 17 of the Arvin Municipal Code, as contemplated by this Ordinance, do not constitute a project under the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines §15378(b)(4), because this Ordinance is for the purpose of defraying the costs borne by the City in providing certain services and conducting regulatory activities pursuant to the City’s Municipal Code, and therefore is for the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Furthermore, even if the adoption of this Ordinance does constitute a project under CEQA, the City Council finds and determines that said action is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3), in that there is no possibility that the activity in question may have a significant effect on the environment, because the adoption of this Ordinance relates only to the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to a specific project, and which do not have the effect of permitting new uses within the City, instead merely providing further regulations by establishing fees for existing uses already permitted. Additionally, the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(1) and 15273 because it is for the establishment of charges which the City Council finds are for the purpose of meeting City operating expenses.

**SECTION 3.** Section 16.40.040, “Fees,” of Chapter 16.04, “Regulations on Procedures and Requirements for Development Agreements,” of Title 16, “Subdivisions,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“The city council shall, by separate ~~*resolution-ordinance*~~, fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or required under these regulations.”

**SECTION 4.** Section 17.45.130, “Master plan modifications,” of Chapter 17.45, “Planned Unit Development District,” of Title 17, “Zoning,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“Minor changes of a technical nature to an approved master development plan may be approved by the city planner, provided changes are consistent with the purposes and character of the master development plan. Such changes shall not change the densities heretofore established, nor the boundaries of the subject property, nor any use as shown on the approved master development plan, nor the location or amounts of land devoted to specific land uses. All modifications or amendments to an approved plan other than the minor changes shall be processed as an original application and shall be subject to applicable, substantive and procedural requirements of the planned unit development district procedure, provided that the filing fee therefor shall be **as set by resolution of the city council** ~~one-half (½) the fee charged for filing an original application.~~”

**SECTION 5.** Section 17.45.210, “Application fees,” of Chapter 17.45, “Planned Unit Development District,” of Title 17, “Zoning,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while **bold and italics** is added language):

“A. Upon the filing of a preliminary development plan, ***the applicant shall pay the city an application fee as set by resolution of the city council*** ~~two hundred fifty dollars (\$250.00) shall be paid by the applicant to the city.~~

B. Upon the filing of a master development plan, ***the applicant shall pay the city an application fee as set by resolution of the city council*** ~~two hundred fifty dollars (\$250.00) shall be paid by the applicant to the city.~~

C. Upon filing of each precise development plan, ***the applicant shall pay the city an application fee as set by resolution of the city council*** ~~one hundred dollars (\$100.00) shall be paid by the applicant to the city~~ plus three and one-half (3 ½) percent of the engineer's estimate of cost of the proposed improvements, as approved by the city engineer.”

**SECTION 6.** Section 17.46.060, “Fees designated,” of Chapter 17.46, “Oil and Gas Production,” of Title 17, “Zoning,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while **bold and italics** is added language):

“A. No fee shall be collected for unrestricted drilling under the provisions of Section 17.44.030.

B. The city shall charge and collect the following fees for the

purpose of defraying the expenditures incidental to the proceedings described in this chapter:

1. A fee *as set by resolution of the city council* ~~of thirty-five dollars (\$35.00)~~ shall be collected for each conditional use permit granted under the provisions of Section 17.44.040. An additional fee *as set by resolution of the city council* ~~of thirty-five dollars (\$35.00)~~ shall be paid by the permittee for each well (after the first well) drilled upon lands covered by a conditional use permit;

2. A fee *as set by resolution of the city council* ~~of five dollars (\$5.00)~~ shall be collected for each counter permit issued under the provisions of Section 17.44.050. An additional fee *as set by resolution of the city council* ~~of five dollars (\$5.00)~~ shall be paid by the permittee for each additional well (after the first well) drilled upon lands covered by a counter permit.

**SECTION 7.** Section 17.54.080, “Fees--Designated,” of Chapter 17.54, “Variances, Modifications and Zone Changes,” of Title 17, “Zoning,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while *bold and italics* is added language):

“ Before accepting any application for filing, the city shall charge and collect the following fees for the purposes of defraying the expenditures incidental to the proceedings prescribed in this chapter:

A. Change of Zone. *The applicant shall pay such fees as adopted by resolution of the city council for* ~~For each change of zone~~ application *submitted to the city* ~~for a change of a zone,~~ a fee of ~~seventy five dollars (\$75.00) for the first lot or portion thereof, plus ten dollars (\$10.00) for each additional lot or portion thereof;~~

B. Variance. *The applicant shall pay such fees as adopted by resolution of the city council for* ~~For each~~ application for a variance *submitted to the city,* a fee of ~~fifty dollars (\$50.00) for the first lot or portion thereof, plus ten dollars (\$10.00) for each additional lot or portion thereof;~~

C. Modification. *The applicant shall pay such fees as adopted by resolution of the city council for* ~~For each~~ application *submitted to the city* ~~for a modification where no public hearing is required,~~ a fee of ~~five dollars (\$5.00) for the first lot, or portion~~

thereof, plus one dollar (\$1.00) for each additional lot or portion thereof, except as provided elsewhere in this chapter. Where a public hearing is required, the fees shall be the same as for a variance;

D. Appeal. For each appeal to the city council from any ordinance, requirement, decision or determination of the planning commission in the administration or enforcement of the provisions of this title, ***the appellant shall pay a fee as adopted by resolution of the city council*** ~~a fee of fifteen dollars (\$15.00) for the first lot or portion thereof, plus one dollar (\$1.00) for each additional lot or portion thereof.~~

**SECTION 8.** Section 17.60.080, “Fees,” of Chapter 17.60, “Site Development Permits,” of Title 17, “Zoning,” of the Arvin Municipal Code is hereby amended to read as follows (~~struck through~~ is deleted language while ***bold and italics*** is added language):

***“The applicant shall pay a*** ~~A~~ ***nonrefundable fee, as set by resolution of the city council,*** ~~of one-tenth ( 1/10 ) of one (1) percent of the building price with a minimum of twenty five dollars (\$25.00), but in no event more than the actual cost of the plan review shall be paid at the time of application for a site development permit.”~~

**SECTION 9.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 10.** This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

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**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading except by Title, at a Regular meeting thereof held on 5th day of June, 2018 and adopted the Ordinance after second reading at a regular meeting held on the 5th day of June, 2018, by the following vote:

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**SHANNON L. CHAFFIN**, City Attorney  
Aleshire & Wynder, LLP

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

## ORDINANCE

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, MODIFYING THE ARVIN MUNICIPAL CODE SUCH THAT CERTAIN FEES WHICH MUST BE SET BY ORDINANCE MAY NOW BE SET BY RESOLUTION, BY AMENDING THE FOLLOWING SECTIONS OF THE ARVIN MUNICIPAL CODE: SECTION 3.32.010 OF CHAPTER 3.32 OF TITLE 3; SECTION 3.32.020(A) OF CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; THE FIRST PARAGRAPH OF SECTION 3.32.040(A) OF CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; SECTION 10.02.010 OF CHAPTER 10.02 OF TITLE 10; SECTION 10.02.020 OF CHAPTER 10.02 OF TITLE 10; SECTION 12.04.040(B) OF CHAPTER 12.04 OF TITLE 12; SECTION 12.04.250 OF CHAPTER 12.04 OF TITLE 12; SECTION 12.12.070 OF CHAPTER 12.12 OF TITLE 12; SECTION 12.16.030(B) OF CHAPTER 12.16 OF TITLE 12; SECTION 15.08.010(M) OF CHAPTER 15.08 OF TITLE 15; AND SECTION 15.24.090 OF CHAPTER 15.24 OF TITLE 15.**

**WHEREAS**, the Arvin Municipal Code imposes certain fees for the purposes of defraying the costs of a City provided service or regulatory function; and

**WHEREAS**, Titles 3, 10, 12, and 15 of the Arvin Municipal Code contain certain fees that are set by ordinance, thus, requiring any change in the fees to be adopted by ordinance; and

**WHEREAS**, the City Council desires to amend Titles 3, 10, 12, and 15 of the Arvin Municipal Code such it may adopt a resolution to modify the fees, instead of an ordinance, for the following sections of the Arvin Municipal Code: Section 3.32.010 of Chapter 3.32 of Title 3; Section 3.32.020(A) of Chapter 3.32 of Title 3 of the Arvin Municipal Code; the First Paragraph of Section 3.32.040(A) of Chapter 3.32 of Title 3 of the Arvin Municipal Code; Section 10.02.010 Of Chapter 10.02 Of Title 10; Section 10.02.020 Of Chapter 10.02 Of Title 10 Section 12.04.040 Of Chapter 12.04 Of Title 12; Section 12.04.250 Of Chapter 12.04 Of Title 12; Section 12.12.070 Of Chapter 12.12 Of Title 12; Section 12.16.030(B) Of Chapter 12.16 Of Title 12; Section 15.08.010(M) Of Chapter 15.08 Of Title 15; And Section 15.24.090 Of Chapter 15.24 Of Title 15.

**WHEREAS**, on June 05, 2018, the City Council conducted a duly noticed public hearing regarding this Ordinance (first reading), where it received presentation from City staff, oral and written testimony from members of the public, and introduced the proposed ordinance; and

**WHEREAS**, on \_\_\_\_, 2018, the City Council conducted another public hearing regarding this Ordinance (second reading), where it received presentation from City staff, oral and written testimony from members of the public; and

**WHEREAS**, the City now desires to amend its code such that certain fees can be set by resolution of the City Council; and

**WHEREAS**, all pre-requisites to adoption of this Ordinance have occurred.

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

**SECTION 1.** The Recitals set forth above are true and correct and incorporated herein.

**SECTION 2.** The City Council finds that amendments and additions to Titles 3, 10, 12, and 15 of the Arvin Municipal Code, as contemplated by this Ordinance, do not constitute a project under the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines §15378(b)(4), because this Ordinance is for the purpose of defraying the costs borne by the City in providing certain services and conducting regulatory activities pursuant to the City’s Municipal Code, and therefore is for the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Furthermore, even if the adoption this Ordinance does constitute a project under CEQA, the City Council finds and determines that said action is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3), in that there is no possibility that the activity in question may have a significant effect on the environment, because the adoption of this Ordinance relates only to the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to a specific project, and which do not have the effect of permitting new uses within the City, instead merely providing further regulations by establishing fees for existing uses already permitted. Finally, the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(1) and 15273 because it is for the establishment of charges which the City Council finds are for the purpose of meeting City operating expenses.

**SECTION 3.** Section 3.32.010, “Findings and intent,” of Chapter 3.32, “Fee and Service Charge Revenue/Cost Comparison System,” of Title 3, “Revenue and Finance,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

“A. Pursuant to Article XIII B of the California Constitution, it is the intent of the city council to require the ascertainment and recovery of costs reasonably borne from fees, charges and regulatory license fees levied therefor in providing the regulation, products or services enumerated in this chapter ***and as may be necessary to address new regulation, product or service not listed herein.***

B. The fee and service charge revenue/cost comparison system set forth in this chapter ***and as may be necessary to address new***

*regulation, product or service not listed herein* provides a mechanism for ensuring that fees adopted by the city for services rendered do not exceed the reasonable estimated cost for providing the services for which the fees are charged.”

**SECTION 4.** Section 3.32.020(A) of Chapter 3.32, “Fee and Service Charge Revenue/Cost Comparison System,” of Title 3, “Revenue and Finance,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“The city manager is delegated the authority and directed to provide documents to the city council to implement its policy enumerated in this chapter to adjust fees and charges to recover the percentage of costs reasonably borne as established hereby, in providing the regulation, product or service enumerated in this chapter ***and as may be necessary to address new regulation, product or service not listed herein*** in the percentage of costs reasonably borne and on the schedule of rate review and revision as established in this chapter ***and as may be necessary to address new regulation, product or service not listed herein.***”

**SECTION 5.** The First Paragraph of Section 3.32.040(A) of Chapter 3.32, “Fee and Service Charge Revenue/Cost Comparison System,” of Title 3, “Revenue and Finance,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“The city manager, finance director and each city department head, under the direction of the city manager, shall review annually the fees and service charges listed following, and provide an adjusted fee or charge schedule to the city council for its consideration so as to recover the listed percentage of costs reasonably borne necessary to provide the listed regulation ***chapter and as may be necessary to address new regulation, product or service not listed herein*** ~~product or service.~~”

**SECTION 6.** Section 10.02.010, “Citation signoff,” Of Chapter 10.02, “Fees,” Of Title 10, “Vehicles and Traffic,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“All citations signed off by any officers of the city will be charged a fee ***set by resolution of the city council*** ~~of ten dollars (\$10.00)~~ ~~per citation~~ in addition to the penalty for the offense cited. This fee includes all citations issued both inside and outside the city limits.”

**SECTION 7.** Section 10.02.020, “Accident report fees,” Of Chapter 10.02, “Fees,” Of Title 10, “Vehicles and Traffic,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while ***bold and italics*** is added language):

“All persons or companies wishing to receive a copy of their accident report will be charged a fee ***as set by resolution of the city council*** ~~of five dollars (\$5.00)~~ for all non-injury accident reports and ~~twenty five dollars (\$25.00)~~ for all accident reports in which an injury has occurred.”

**SECTION 8.** Section 12.04.040(B) Of Chapter 12.04, “Excavations,” Of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while ***bold and italics*** is added language):

“Where a permit is issued for work not included as a part of a proposed subdivision under subsection A of this section, the applicant shall pay a *fee* in accordance with the following:

Minimum permit <i>fee</i>	<b><i>Set by Resolution of the City Council</i></b> \$20.00
Utility main installation (less than 330 lineal feet)	<b><i>Set by Resolution of the City Council</i></b> <del>0.20/ft.</del>
Utility service (incl. sewer laterals) installation	<b><i>Set by Resolution of the City Council</i></b> 45.00
Utility repair/misc. excavation (less than 200 sq. ft.)	<b><i>Set by Resolution of the City Council</i></b> 40.00
Bored and jacked street crossing	<b><i>Set by Resolution of the City Council</i></b> 5.00/ft.
Curb and gutter installation	<b><i>Set by Resolution of the City Council</i></b> <del>0.15/ft.</del>
Driveway	<b><i>Set by Resolution of the City Council</i></b> 35.00
Cross gutter installation	<b><i>Set by Resolution of the City Council</i></b> 45.00
Sidewalk installation	<b><i>Set by Resolution of the City Council</i></b> <del>0.05/ft.</del>

On large scale projects not included above, the *fee* shall be determined by the city engineer.

The above *fees* do not include costs for soils, concrete or other testing, if required.”

**SECTION 9.** Section 12.04.250, “Applicability of provisions to public utilities,” Of Chapter 12.04, “Excavations,” Of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“Public utilities and public districts organized under California law shall have the right to either obtain permits and pay fees equal to the fees set out in subsection B of Section 12.04.040 or to obtain an annual encroachment permit in lieu of all other fees. An annual encroachment permit shall be issued to such utility or district upon request and payment of a permit fee in ***an amount that shall be set by resolution of the city council*** ~~the amount of fifty dollars (\$50.00) for utility and fifty dollars (\$50.00) for district.~~ Such annual permit shall allow the permittee to place, replace, repair, provide and maintain, facilities in any public place where otherwise permitted by law. The permit shall expire on December 31st of the year of issue. The annual permit shall not permit excavations exceeding either three (3) feet in width of four (4) feet in length or extensions in excess of six (6) poles but the provisions of subsection B of Section 12.04.040 alone shall apply thereto.

Such persons exempt under this chapter from the requirements of subsection B of Section 12.04.040 shall, however comply with all other requirements of this chapter. ”

**SECTION 10.** Section 12.12.070, “Permit required,” Of Chapter 12.12, “Street Trees,” Of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“No person may plant, cut, trim, remove, prune, shape, injure, interfere with or do maintenance work on a street tree without first obtaining a street tree permit from the city. The permit shall be issued only for work to be done in compliance with the management plan and this chapter and shall be issued with a fee, ***which shall be in an amount set by resolution of the city council.*** The street department shall supervise work done under a permit, to the degree possible and feasible. ”

**SECTION 11.** Section 12.16.030(B) of Chapter 12.16, “Parking and Keeping of Trucks within City Limits,” of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read as follows (~~striketrough~~ is deleted language while ***bold and italics*** is added language):

“In no instance shall a vehicle park in a manner to prohibit ingress or egress from a driveway, except that the owner or lessee may park in front of the owner's or lessee's private driveway when the vehicle displays a permit issued by the city so authorizing such use in a seven (7) inch square in the lower corner of the windshield farthest removed from the driver. This permit is intended to grandfather all owners or lessees who were established at the time of the enactment of this ordinance. No permits will be issued after October 1, 1997. ***The city council may adopt by resolution such fees necessary to defray the cost of issuing or replacing such permits.*** ~~For the purpose of defraying the cost of issuing or replacing such permits a fee of thirty five dollars (\$35.00) for the original permit and ten dollars (\$10.00) for a replacement permit is established.”~~

**SECTION 12.** Section 15.08.010(M) of Chapter 15.08, “Adoption and Applicability of Codes,” of Title 15, “Buildings and Construction,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while ***bold and italics*** is added language):

“Building valuation data and building and plan check fees as adopted by ***resolution of the city council*** ~~the County of Kern.~~”

**SECTION 13.** Section 15.24.090, “Plan checking fees,” of Chapter 15.24, “Uniform Sign Code,” of Title 15, “Buildings and Construction,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while ***bold and italics*** is added language):

“Where plans and other pertinent information are required in accordance with applicable building codes, a plan check fee ~~equal to one half (1/2) the sign permit fee~~ shall be paid to the building official. ***The city council may adopt by resolution such fees necessary to defray the cost of issuing or replacing such permits.***”

**SECTION 14.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

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

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading except by Title, at a Regular meeting thereof held on 5th day of June, 2018 and adopted the Ordinance after second reading at a regular meeting held on the 5th day of June, 2018, by the following vote:

**ATTEST**

\_\_\_\_\_  
**CECILIA VELA**, City Clerk

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA**, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**SHANNON L. CHAFFIN**, City Attorney  
Aleshire & Wynder, LLP

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

**NOTICE OF PUBLIC HEARING**  
**Arvin Municipal Code Amendment**  
**Chapters 3.32, 10.02, 12.04, 12.12, 12.16, 15.08, 15.24, 16.40, 17.45, 17.46, 17.54,**  
**and 17.60**

Notice is hereby given that the City Council of the City of Arvin, California, will conduct a public hearing, at which time the public may be present and be heard, to consider the following:

- The adoption of an Ordinance amending Chapters 16.40, 17.45, 17.46, 17.54, and 17.60 of the Arvin Municipal Code such that certain fees which must be set by ordinance may henceforth be set by resolution; and
- The adoption of an Ordinance amending Chapters 3.32, 10.02, 12.04, 12.12, 12.16, 15.08, and 15.24 such that certain fees which must be set by ordinance may henceforth be set by resolution; and
- The adoption of CEQA exemption findings pursuant to the California Environmental Quality Act (CEQA) for the forgoing proposed Ordinances.

**Arvin City Council Hearing Information**

Date: June 5, 2018  
Time: 6:00 PM or as the Agenda permits  
Place: City of Arvin Council Chambers  
200 Campus Drive, Arvin, CA 93203

The purpose of the hearing is to consider a the adoption of proposed ordinances modifying certain provisions of Chapters 3.32, 10.02, 12.04, 12.12, 12.16, 15.08, 15.24, 16.40, 17.45, 17.46, 17.54, and 17.60 of the Arvin Municipal Code such that all fees which currently must be set by ordinance may henceforth be set by resolution (“Proposed Ordinance”) and the CEQA findings required thereof. Staff has performed a preliminary environmental assessment of this project and, pursuant to CEQA Guidelines, sections 15061(b)(1), 15061(b)(3), 15273, and 15378(b)(4), the adoption of the Proposed Ordinance is exempt from CEQA for the following reasons:

- The Proposed Ordinance relate to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by the City for the purpose of meeting the City’s operating expenses in that it seeks to modify the manner in which the City Council establishes and modifies the fees contemplated by the Proposed Ordinance. The fees relating to the Proposed Ordinance are for the purpose of defraying the costs borne by the City in providing certain services and conducting regulatory activities under Titles 3, 10, 12, 15, 16 and 17 of the Arvin Municipal Code.
- The Proposed Ordinance will not have a significant effect or physical change

to the environment, because it relates to the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to a specific project which may result in a potentially significant physical impact upon the environment.

Additional information on the Proposed Ordinance, including copies in hard copy or electronic format, may be obtained from the City of Arvin, City Hall, 200 Campus Drive, Arvin, California, 93203, or the City's web site at [www.arvin.org](http://www.arvin.org). All persons interested in this topic who have questions, would like to provide feedback, or ask questions are invited to attend. Written comments may be submitted to the City Clerk's office until 4:00 p.m. on the hearing date. If you challenge the approval or denial of these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk, at or prior to the public hearing. Address any communications or comments regarding the project to Cecilia Vela, City Clerk, at 200 Campus Drive, Arvin, CA 93203, (661) 854-3134, [cvela@arvin.org](mailto:cvela@arvin.org).

Cecilia Vela, City Clerk  
Published: May 25, 2018 Bakersfield Californian



1400 K Street, Suite 400 • Sacramento,  
California 95814  
Phone: 916.658.8200 Fax: 916.658.8240  
www.cacities.org

**Council Action Advised by July 31, 2018**

May 17, 2018

**TO: Mayors, City Managers and City Clerks**

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES  
League of California Cities Annual Conference – September 12 - 14, Long Beach**

The League's 2018 Annual Conference is scheduled for September 12 – 14 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 14, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

**Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, August 31, 2018. This will allow us time to establish voting delegate/alternate records prior to the conference.**

Please note the following procedures are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: [www.cacities.org](http://www.cacities.org). In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 12, 8:00 a.m. – 6:00 p.m.; Thursday, September 13, 7:00 a.m. – 4:00 p.m.; and Friday, September 14, 7:30 a.m.– 11:30 a.m.. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city’s voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League’s office by Friday, August 31. If you have questions, please call Kayla Curry at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

## Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: \_\_\_\_\_

2018 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Friday, August 31, 2018. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: \_\_\_\_\_

Title: \_\_\_\_\_

2. VOTING DELEGATE - ALTERNATE

Name: \_\_\_\_\_

Title: \_\_\_\_\_

3. VOTING DELEGATE - ALTERNATE

Name: \_\_\_\_\_

Title: \_\_\_\_\_

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: \_\_\_\_\_ E-mail \_\_\_\_\_

Mayor or City Clerk \_\_\_\_\_ Phone: \_\_\_\_\_
(circle one) (signature)

Date: \_\_\_\_\_

Please complete and return by Friday, August 31, 2018

League of California Cities
ATTN: Kayla Curry
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: kcurry@cacities.org
(916) 658-8254

Attachment: League of CA Cities Voting Delegate Letter and Form Sept 12-14, 2018 (Voting Delegate and Alternates for Annual League of CA



## CITY OF ARVIN Staff Report

Meeting Date: June 5, 2018

**TO:** City Council

**FROM:** Dale Ducharme, Veolia Plant Manager  
Jerry Breckinridge, Interim City Manager

**SUBJECT:** Presentation of Veolia Capabilities and Recommendations for a Comprehensive Wastewater Capital Improvement Program Plan

### **BACKGROUND:**

The City of Arvin does not have a comprehensive Capital Improvement Plan for Wastewater Collection, Treatment and disposal. A significant portion of the sewers in the downtown area are over 80 years old and in poor condition. Approximately 90% of the entire sewer system has been inspected using closed circuit television technology. All identified defects have been rated and cataloged in a Global Information System data base. This information should be utilized to develop the collection system section of a Capital Improvement Plan.

The Wastewater Treatment Plant is nearing design organic capacity. Continued use of leased property for reuse of treated effluent is in jeopardy after February 2021. The City needs a plan to upgrade the treatment plant to ensure capacity for anticipated City growth and a long term effluent reuse plan.

The Collection System Capacity Assurance Plan developed in 2010, as mandated by the State Water Resources Control Board, needs to be updated to coincide with the most recent Arvin Zoning Map.

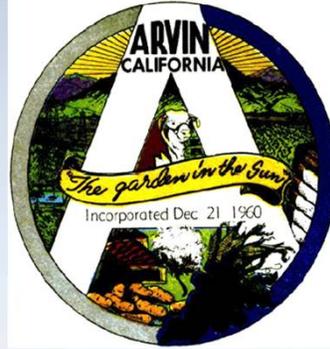
Proposition 218 mandates that the City update sewer service charges every five years. These fees must be based on a comprehensive cost study that explores Operations, Maintenance and Capital needs. A detailed Capital Improvement Plan, including reliable cost estimates, is critical to developing appropriate rates. This study must be completed in the spring of 2019.

### **FINANCIAL IMPACT:**

No financial impact at this time. Veolia will present a detailed proposal to develop a comprehensive Capital Improvement Plan for Council Consideration at a future meeting if the Council so desires.

**ATTACHMENTS:**

Arvin CIP Presentation 20180605



# Capital Improvement Program proposal for City of Arvin Wastewater Assets

*Presented By:*

***William Hanley, Director - Capital Program Management***  
***Chandrasekar Venkatraman, Sr. Program Manager - CPM***



# Roadmap

- Introduction of Veolia North America (VNA) Capital Program Management (CPM) team
- History of City of Arvin's Wastewater (WW) assets
- Review of City of Arvin's collection system
- Review of City of Arvin's wastewater treatment plant
- Current Challenges
- Action Requested
- Proposed next steps

# VNA CPM Team Introduction

Bill Hanley, P.E  
Director, Capital Projects - West

- >20 years experience in water and wastewater project management
- Executed projects in water, wastewater, energy efficiency and other capital projects
- Background in engineering, operations, finance, contracting, project and finance management

Chandrasekar Venkatraman “CV”, PE  
Sr. Program Manager, CPM

- >15 years experience in Capital program and project management
- Executed projects in water, wastewater, energy efficiency and other capital projects
- Background in engineering, finance, contracting, project and finance management

# History of Wastewater Assets

## Collections System:

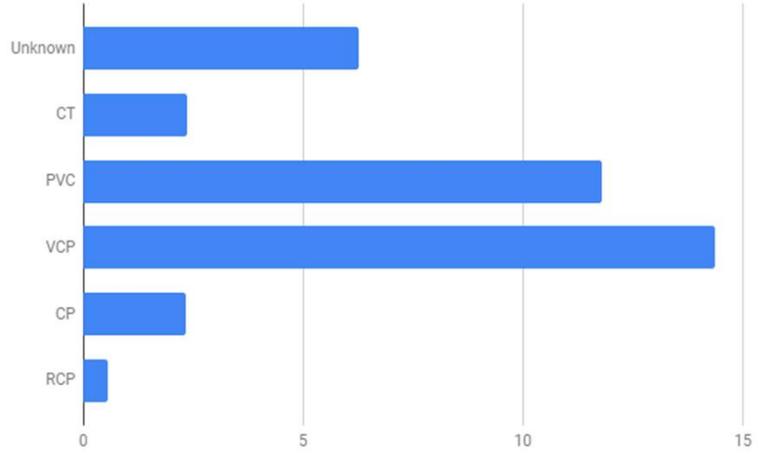
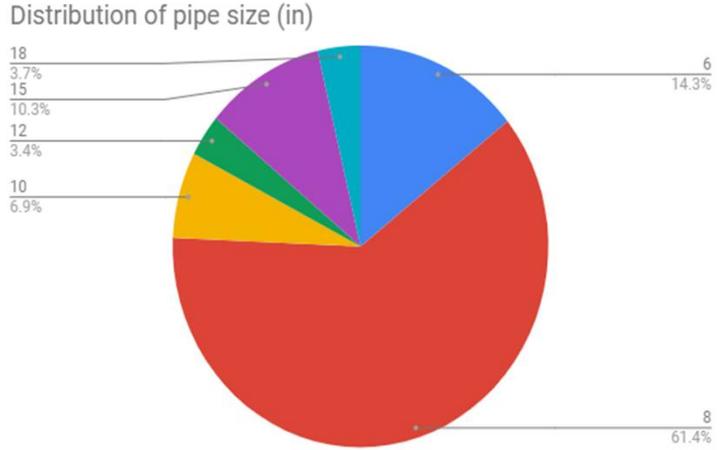
- Number of miles of waste water pipe: 35 miles
- Age of collections pipeline: Up to 80 years (trunk sewers replaced about 30 years back)
- Type: Most sewers are vitrified clay or PVC. Sewers in the north west (oldest area) portion of the City are mainly unreinforced concrete pipe of 8", 10" and 12" sizes

## Wastewater Treatment Plant (WWTP):

- Hydraulic capacity is 2 Million Gallons per Day (MGD), Peak flows are unknown as the flow meters are both downstream of fixed speed pumps. Current ADF slightly less than 1.1 MGD
- Design capacity of Biochemical Oxygen Demand (BOD) = 250 mg/liter, current average >400 mg/liter.
- Organic loading of WWTP = 85% to 90%, hence plant is at capacity

# Review of Wastewater Collection Assets

- Length = ~35 miles
- Sizes = 6", 8", 10", 12", 15" and 18" and different types
- Age: <2 years for new construction to 80+ years
- Capacity: No major capacity issues currently
- Manholes: Mainly precast manholes, few brick manholes



Attachment: Arvin CIP Presentation 20180605 (Wastewater Capital Improvement Plan)

# Review of Wastewater Treatment Plant

- Year Built: 1953, 1983 and 1999 (3 phases)
- Capacity: 2 MGD
- Current flows: 1.1 MGD
- Design BOD: 250 mg/l
- Current BOD: >400 mg/l
- Organic loading: 85%-90%, hence plant is at capacity



# Current Challenges

- Approximately 90% of the sewers have been video-inspected, however the sewer manholes have not been assessed. Hence, there is no comprehensive study available to assess condition of the entire collections system
- Planning needed for next steps based on BSK feasibility study on percolation to determine ultimate reuse of effluent, i.e. tertiary treatment and percolation vs continued re-use of water for irrigation purposes
- Need for a long term comprehensive Capital Improvement Plan (CIP) to maintain and upgrade collections and treatment infrastructure for regulatory and compliance purposes

# Action Requested

Request direction from City Council to return with a proposal to:

Complete capacity assurance plan started by Harris & Associates

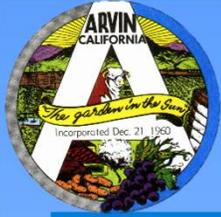
- Perform condition assessment of collection pipeline and manholes
- Update capacity due to zoning changes
- Provide input for a CIP
- Incorporate a new system for inspecting the lines for determining the need for cleaning

# Next Steps

- Based on BSK report, Veolia will work with the City and BSK to develop project plan for addressing plant effluent disposal
- Based on Harris Associates' completed condition assessment report, Veolia will work with City to develop detailed Capital Improvement Program (CIP) to address deficiencies, complete with project timeframe, cost, etc.
- The Capital Improvement Plan would be used in the 2018 Rate Study
- Veolia will work with City's grant writer to identify funding sources and support in the preparing grant application
- Veolia will identify and evaluate odor control equipment needs in the treatment plant upgrade project

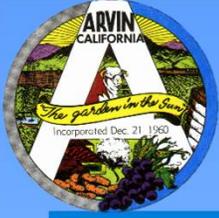
# Thank you!





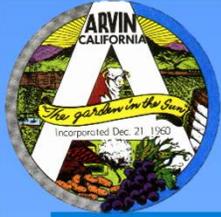
# CAPITAL PROJECTS BUDGET 1 of 3

- CALTRANS – COMPLETE STREETS (PLANNING) \$158,858
- CAL FIRE – URBAN FORESTRY (TREE PLANTING) \$155,000
- TDA 3 – LANGFORD SIDEWALKS \$285,000
- URBAN GREENING/PATHWAYS GREENER ARVIN \$527,747
- '17 ATP-FRANKLIN COMPLETE STREETS \$350,000
- '17/18 FRANKLIN PAVEMENT RSTP \$502,574



## CAPITAL PROJECTS BUDGET 2 of 3

- |                                       |             |
|---------------------------------------|-------------|
| • CMAQ SIDEWALK/GUTTER S. DERBY       | \$385,615   |
| • SCYAMORE DRAINANGE (finish project) | \$1,750,000 |
| • TDA 3 – DI GIORGIO PARK SIDEWALKS   | \$132,000   |
| • PTMISEA – PARK AND RIDE PROJECT     | \$258,000   |
| • SB 1 – STREET REPAIRS AND IMPROVE   | \$384,000   |
| • W/WATER PLANT PARSHALL FLUME        | \$386,000   |

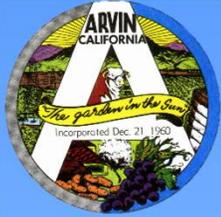


## CAPITAL PROJECTS BUDGET 3 of 3

**\*\*\* IN ADDITION TO THE PROJECTS LISTED ABOVE, THE CITY IS ACTIVELY PURSUING ADDITIONAL GRANT FUNDING FOR MANY PROJECTS.**

**\*\*\*\*\*ONE SUCH PROJECT IS PURCHASE OF 2 FULLY ELECTRIC BUSES FOR THE TRANSIT DEPARTMENT AT A COST OF \$750K/ EACH**

**(those vehicles can be re-charged at charging stations which the City is obtaining in the near future via grant funds)**

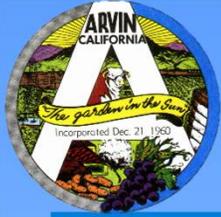


# About Those Grants...

- 12 Grants
- \$5.3 Million total
- The majority of the grants (9) are reimbursable, not advanced cash to the City

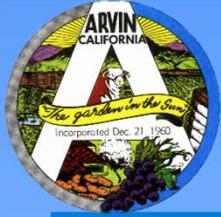
This means that cash flow will be a critical part of a successful implementation. City management will have to prioritize how best to 'phase' in the projects.

**A full-time City Engineer will play a major role in managing multiple projects successfully.**



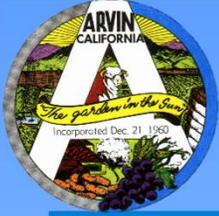
## BUDGET UPDATE – SOLVE DEFICIT **for this year**

CITY MANAGEMENT HAS IDENTIFIED THE ITEMS IN WHICH TO SOLVE THE \$361,000 PROJECTED DEFICIT **for the FY 18/19 budget** THAT WAS PRESENTED AT THE MAY 15,2018 BUDGET WORKSHOP



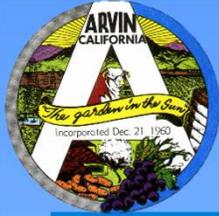
## BUDGET UPDATE – SOLVE DEFICIT **for this year**

- REDUCE LABOR NEGOTIATION COSTS \$ 20,000
- REDUCE OVERTIME TO FY 17/18 BUDGET \$ 19,000
- START 2 OFFICERS BUDGETED IN GEN FUND \$ 63,000  
ON JAN 1, 2019 (NOT JULY 1, 2018)
- INCREASE ADMIN TRAINING FROM \$800 TO \$8,800 (\$8,000)
- ADOBE CENTER – CAPITAL IMPROVEMENTS \$14,000  
(do not expect to replace a/c and fire monitor – those  
were one-time expenses in FY 17/18)



## BUDGET UPDATE – SOLVE DEFICIT **for this year**

- ANIMAL CONTROL – REDUCE TO FY 17/18 BUDGET \$ 35,000  
(City has identified cost savings in this area)
- REDUCE INCREASE IN POLICE TRAINING  
FROM \$10,000 TO \$5,000 OVER FY 17/18 BYDGET \$ 5,000
- REDUCE POLICE RECURITMENT BUDGET FROM \$ 5,000  
\$10,000 TO \$5,000
- SALARY AND BENEFIT CONCESSIONS \$150,000



# BUDGET UPDATE – SOLVE DEFICIT **for this year**

- FUND ONE M&I EMPLOYEE VIA TDA ROAD FUNDS \$60,000  
(currently budgeted in Gas Tax Funds)

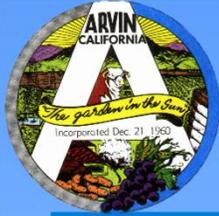
TOTAL EXPENSE CUTS \$363,000

---

CURRENT PROJECTED DEFICIT FY/19 BEFORE CUTS (\$361,000)  
 ADD BACK: EXPNENSE CUTS + 363,000  
 ADD: ADDITIONAL REVENUE PROJECTED  
 SINCE PRIOR PRESENTATION -0-

---

EQUALS: NET BUDGET BALANCE FY/19 GEN FUND **+ \$2,000**



# BUDGET UPDATE – SOLVE DEFICIT **for this year**

- FUND ONE M&I EMPLOYEE VIA TDA ROAD FUNDS \$60,000  
(currently budgeted in Gas Tax Funds)

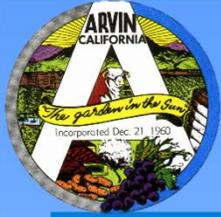
TOTAL EXPENSE CUTS \$363,000

---

CURRENT PROJECTED DEFICIT FY/19 BEFORE CUTS (\$361,000)  
 ADD BACK: EXPNENSE CUTS + 363,000  
 ADD: ADDITIONAL REVENUE PROJECTED  
 SINCE PRIOR PRESENTATION -0-

---

EQUALS: NET BUDGET BALANCE FY/19 GEN FUND **+ \$2,000**



## **BUDGET UPDATE – SOLVE DEFICIT *for this year***

**The budget presented represents a balanced budget for FY 18/19 only.**

**It does not address the overall general fund balance of City which is expected to be as much as negative \$1,000,000 as of 6/30/2018.**



**CITY OF ARVIN  
Staff Report**

Meeting Date: June 5, 2018

<b>TO:</b>	City Council
<b>FROM:</b>	Jeff Jones, Finance Director Jerry Breckinridge, Interim City Manager
<b>SUBJECT:</b>	Budget Amendment Report

**BACKGROUND:**

The City of Arvin's Financial Management Manual (FMM) which was adopted by the City Council on June 6, 2017 authorized the Finance Director and City Manager to make adjustments to the City's budget via budget amendment under the following circumstances:

City Manager: The City Manager has the authority to make or approve administrative adjustments to the budget as long as those changes will not have significant policy impacts nor affect budgeted year-end fund balances or working capital.

Finance Director: The Director of Finance has the authority to make or approve administrative adjustments to all line item accounts at the department and program level, and to adjust offsetting revenue and expenditure accounts based on policies or programs approved by the Council. However, any such adjustments must not have significant policy impacts nor affect budgeted year-end fund balances or working capital.

In both cases it is understood that the net impact of budget adjustments should net to zero. In other words, an increase in expenses for one line item must be offset by decreases in expenses in other line item, OR the identification of additional new, unbudgeted revenue.

The purpose of this budget adjustment is to 'match' \$146,000 in additional legal expenses and \$172,000 in Professional/Contract services with an equal amount (\$318,000 total) of reduction in other budget line items.

Please see City of Arvin Budget Amendment Request # 1718-01 for details.

**FINANCIAL IMPACT:**

None. \$318,000 in additional legal/professional services are offset by \$318,000 reduction in other line items in the general fund budget.

**ATTACHMENTS:**

Budget transfer worksheet



**CITY OF ARVIN  
BUDGET AMENDMENT REQUEST**

per Arvin Financial Management Manual - Section 540

**NUMBER**  
1718-01

<b>REQUESTING DEPARTMENT</b> Finance	<b>FUND NAME - NUMBER</b> 100 - General Fund
---	---

Account Number	Account Name	Amount to Amend
100-xx-5008	Maintenance Other	\$ (30,000.00)
100-xx-5016	Office Supplies	\$ (40,000.00)
100-xx-5016	Legal - Settlements	\$ 36,000.00
100-xx-5042	Legal - Special	\$ 110,000.00
100-xx-5021	Training	\$ (10,000.00)
100-xx-5034	Professional Services	\$ 50,000.00
100-xx-5070	Engineering Services	\$ 50,000.00
100-xx-5077	Outside Services	\$ 40,000.00
100-xx-5095	Plan Check	\$ 32,000.00
100-xx-5035	Regulatory Fees - Outside	\$ (10,000.00)
100-xx-5045	UTT Study	\$ (10,000.00)
100-xx-5046	Community Expense	\$ (15,000.00)
100-xx-5058	Travel/Conference	\$ (10,000.00)
100-xx-5061	Grants Local Match	\$ (81,000.00)
100-xx-5104	Kern County EDC	\$ (10,000.00)
100-xx-5170	Developer Study	\$ (15,000.00)
100-XX-5175	Park Maintenance	\$ (15,000.00)
100-xx-5093	Operating Transfer Out	\$ (61,000.00)
100-xx-5107	Refuse	\$ (11,000.00)
<b>TOTAL ALL AMENDMENTS</b>		\$ -

**PURPOSE**

Re-allocate various expense line items budget per updated projections based on General Expense Report generated 5/31/18

**Approvals: If total of amendments equals ZERO, City Manager approval  
If total of amendments does NOT equal ZERO, Council Approval required**

Finance Department \_\_\_\_\_

City Manager \_\_\_\_\_

City Council - Resolution # \_\_\_\_\_

Attachment: Budget transfer worksheet (Revise budget for legal and professional service costs)