REGULAR MEETING
ARVIN PLANNING COMMISSION

TUESDAY DECEMBER 11, 2018 6:00p.m.
CITY HALL COUNCIL CHAMBERS
200 CAMPUS DRIVE, ARVIN

CALL TO ORDER

PLEDGE OF ALLEGIANCE

***************************************************************************

ROLL CALL:

Olivia Trujillo Chairperson
Janett Zavala Vice Chairperson
Yesenia Martinez Planning Commissioner
Miguel Rivera Planning Commissioner
Gerardo Tinoco Planning Commissioner

STAFF:

Jake Raper City Planner
Shannon L. Chaffin City Attorney – Aleshire & Wynder
Cecilia Vela Secretary
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;

(b) A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;

(c) Disobedience of any lawful order of the Mayor, which shall include an order to be seated or to refrain from addressing the City; and

(d) Any other unlawful interference with the due and orderly course of said meeting.

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: PC Tinoco ____ PC Rivera _____ PC Martinez ____ VC Zavala _____

2. PUBLIC COMMENTS
This portion of the agenda is reserved for persons wishing to address the Planning Commission. At regularly scheduled meetings, members of the public may address the Planning Commission on any matter that is not listed for review on the agenda. At special or emergency meetings, members of the public may only address the Planning Commission on matters that are listed for review on the agenda. Individuals must give their name and limit their comments to two minutes. Issues raised during Public Comments are informational only and the Planning Commission cannot take action at this time. All comments shall be directed towards the Chairperson and not to individual Commissioners or staff.

3. CONSENT AGENDA ITEM(S)
A. Approval of the Minutes of the Regular Meeting of August 14, 2018.

B. Approval of A Resolution of the Planning Commission of the City of Arvin Adopting A Meeting Schedule.

Staff recommends approval of the Consent Agenda.

Motion ______ Second ____________ Vote _______
Roll Call: PC Tinoco ____ PC Rivera _____ PC Martinez ____ VC Zavala _____

4. PUBLIC HEARING(S)
A. Public Hearing to Consider Approval of A Resolution of the Planning Commission of the City of Arvin Recommending the City Council Amend the General Plan by Adopting an Updated Safety Element Consistent with the 2013-2023 Housing Element Work Programs, Including A Recommendation to Adopt an Exemption Pursuant to California Environmental Quality Act Guidelines Section 15061(B)(3).

Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and approve the Resolution.

Motion ______ Second ____________ Vote _______
Roll Call: PC Tinoco ____ PC Rivera _____ PC Martinez ____ VC Zavala _____

B. Public Hearing to Consider and Approve A Resolution of the Planning Commission of the City of Arvin Recommending the City Council I) Adopt the Uncodified Ordinance of the City Council of the City of Arvin, Approving Development Agreement 2018-1 Between the City of Arvin and Aaron Coppelson, M.D., Inc., for the Development of Certain Cannabis Operations located at 100 Sycamore Road, Arvin, CA, and II) adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3) and 15301 (Existing Facilities).
Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and approve the Resolution.

Motion __________ Second __________ Vote __________
Roll Call: PC Tinoco _____ PC Rivera _____ PC Martinez _____ VC Zavala _____

C. Public Hearing to Consider and Adopt a Resolution of the Planning Commission of the City of Arvin Approving a Conditional Use Permit for Type 3b Cultivation, Type 11 Distribution, and Type 9 Non-Store Front Delivery and Site Development Plan/Permit (CUP 2018-001SS/SDP No. 2018-110SR) for Commercial Cannabis Operations located at 100 Sycamore Road, Arvin, CA. (Subject to approval of Development Agreement No. 2018-01.)

Staff recommends the Planning Commission open the hearing, allow for public testimony; close the hearing and approve the following Resolution(s).

Motion __________ Second __________ Vote __________
Roll Call: PC Tinoco _____ PC Rivera _____ PC Martinez _____ VC Zavala _____

5. REPORTS FROM STAFF

6. PLANNING COMMISSIONER COMMENTS

7. ADJOURNMENT

I hereby certify, under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on the City Hall Bulletin Board, not less than 72 hours prior to the meeting. Dated: December 06, 2018.

Cecilia Vela, Secretary
REGULAR MEETING MINUTES
ARVIN PLANNING COMMISSION
AUGUST 14, 2018

CALL TO ORDER @ 6:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL: PC Martinez and PC Rivera absent; All others present.

1. Approval of Agenda As To Form.
Motion to approve the Agenda.
Motion VC Zavala Second Chair Trujillo Vote 3-0

2. PUBLIC COMMENTS
This portion of the agenda is reserved for persons wishing to address the Planning Commission. At regularly scheduled meetings, members of the public may address the Planning Commission on any matter that is not listed for review on the agenda. At special or emergency meetings, members of the public may only address the Planning Commission on matters that are listed for review on the agenda. Individuals must give their name and limit their comments to two minutes. Issues raised during Public Comments are informational only and the Planning Commission cannot take action at this time. All comments shall be directed towards the Chairperson and not to individual Commissioners or staff.

3. CONSENT AGENDA ITEM(S)
A. Approval of the Minutes of the Special Meeting of June 12, 2018.

Staff recommends approval of the Minutes of the Special Meeting of June 12, 2018.

Motion to approve Minutes of the Special Meeting of June 12, 2018.
Motion Chair Trujillo Second VC Zavala Vote 3-0

4. PUBLIC HEARING(S)
A. Public Hearing to Consider and Approve A Resolution of the Planning Commission of the City of Arvin Recommending the City Council I) Approve the Uncodified Ordinance for Third Amendment By and Between Auburn Oak Developers, LLC and the City of Arvin of the Development Agreement Between Sycamore Villas, LLC, and the City of Arvin, Concerning Tract 5816, Recorded on July 3, 2003 as Amended; and II) Adopt a CEQA Determination Per CEQA Guidelines Section 15061(b)(3). (City Planner)

Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and approve the Resolution.
Hearing opened.
Public Testimony: Applicant indicated he agreed with Staff’s recommendation for this item.
Hearing closed.

Motion to approve the Resolution.
Motion VC Zavala Second PC Tinoco Vote 3-0
Resolution No. APC 2018-12

B. Public Hearing to Consider Approval of:
1) A Resolution of the Planning Commission of the City of Arvin Recommending the City Council of the City of Arvin Approve General Plan Amendment 2013-01 – Ariston Project Changing the Land Use Designation on 62+/_ Acres from Light Industrial and Heavy Industrial to 21.32 acres as General Commercial, 27.17 Acres as Medium-Density Residential, and 13.16 Acres as High Density Residential; And Associated Mitigated Negative Declaration;

2) A Resolution of the Planning Commission of the City of Arvin Recommending the City Council Approve An Ordinance For Zone Change 2013-01 Ariston Project, Rezoning 62+/- Acres from Agricultural (A-1 and A-2) to General Commercial -Planned Development (C-2 PD) – 21.32 Acres; Two Family Dwelling Zone- Planned Development (R-2 PD) – 27.17 Acres; Limited Multiple Family Zone- Planned Development (R-3-PD) – 7.15 Acres; and Multiple Family Dwelling Zone – Planned Development (R-4-PD) - 6.01 Acres; and Associated Mitigated Negative Declaration. (City Planner)

Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and approve the Resolutions.

Hearing opened.
Applicant’s Project Representatives, David Cowen and Matt VoVilla spoke in favor of the project.
Tom Dee representing Grimmway Farms spoke in opposition of the project.
Hearing closed.

Motion to approve the Resolutions to include the addition of a supplemental staff report as provided at the meeting and with the addition of Mitigation Sections Nos. 18 and 19 to Attachment A-1 and Mitigation Section No. 20 to Attachment A-2 to Resolution No. APC 2018-14 for Item 4.B.2).

Motion PC Tinoco Second VC Zavala Vote 3-0
Item 4.B.1) Resolution No. APC 2018-13
Item 4.B.2) Resolution No. APC 2018-14

5. REPORTS FROM STAFF
6. PLANNING COMMISSIONER COMMENTS

7. ADJOURNED @ 7:13PM

Respectfully submitted,

______________________________
Cecilia Vela, Secretary
RESOLUTION

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN ADOPTING A MEETING SCHEDULE

WHEREAS, the Arvin City Council determined the need for an independent Planning Commission and appointed five individuals to sit on such commission; and

WHEREAS, the Planning Commission desires to set a day, time and location for their regular monthly meetings.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Arvin as follows:

1. The above recitals are true and correct;

2. The Planning Commission shall meet the third Tuesday of every month at 6:00 p.m. in the Council Chambers at 200 Campus Drive, Arvin, California 93203;

3. The Arvin City Clerk, as Secretary of the Planning Commission shall prepare and post the agendas of all regular and special meetings of the Planning Commission pursuant to California state law.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the Planning Commission of the City of Arvin at a Regular Meeting thereof held on the 11th day of December, 2018 by the following vote:

ATTEST

CECILIA VELA, City Clerk

ARVIN PLANNING COMMISSION

By: OLIVIA TRUJILLO, Chairperson

APPROVED AS TO FORM:

By: SHANNON L. CHAFFIN, City Attorney
I, ______________________________, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.
TO: Planning Commission
FROM: Jake Raper, City Planner
        Jerry Breckinridge, City Manager
SUBJECT: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN RECOMMENDING THE CITY COUNCIL AMEND THE GENERAL PLAN BY ADOPTING AN UPDATED SAFETY ELEMENT CONSISTENT WITH THE 2013-2023 HOUSING ELEMENT WORK PROGRAMS, INCLUDING A RECOMMENDATION TO ADOPT AN EXEMPTION PURSUANT CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTION 15061(B)(3)

RECOMMENDATION:

Motion to approve a Resolution recommending the City Council amend the General Plan by adopting an updated Safety Element consistent with the 2013-2023 Housing Element work programs, including a recommendation to adopt an exemption pursuant California Environmental Quality Act Guidelines Section 15061(b)(3).

BACKGROUND:

The City of Arvin adopted the 2013-2023 Housing Element on March 27, 2018. The adopted Housing Element established several work programs which require amendments to the Safety Element.

The proposed Safety Element update will implement the requirements of Government Code 65302. In this regard, the proposed Safety Element update will address flood hazards and risk of fire hazards. The updates are consistent with the 2012 Kern County Multi-Jurisdiction Hazard Mitigation Plan, which has been adopted by the City of Arvin.

As required, the City provided a copy of the proposed Safety Element Update to the Department of Conservation, California Geological Survey on November 7, 2017. No comments or response was provided. No amendments were required by the Department of Conservation.
CEQA REVIEW:

Staff have performed a preliminary environmental assessment of this project and, pursuant to CEQA Guidelines, Section 15061(b)(3), has determined with certainty that there is no possibility that the activities in question may have a significant effect on the environment because of the following reasons:

- The update of the Safety Element is consistent with the 2012 Kern County Multi-Jurisdictional Hazard Mitigation Plan, which has already been adopted by the City of Arvin and is currently in effect.
- The update of the Safety Element implements, and is consistent with, the updated Housing Element, including the 2013-2023 Housing Element work programs. As these have already been assessed, no further environmental assessment is required.
- These amendments implement the amendments as required by various Governmental Codes which implements the 2013-2023 Housing Element work programs bringing the City’s General Plan in compliance with state mandated criteria and policy.

As such, this project is not subject to CEQA.

EXHIBITS AND ATTACHMENTS:

Resolution of the Planning Commission of the City of Arvin Recommending the City Council Amend the General Plan by Adopting an Updated Safety Element Consistent with the 2013-2023 Housing Element Work Programs, Including a Recommendation to Adopt an Exemption Pursuant California Environmental Quality Act Guidelines Section 15061(b)(3)

Resolution (Proposed) (with attached Arvin Safety Element to the City of Arvin General Plan)
Attachment 1 - 2013-2023 Housing Element Update - Work Program.
Attachment 2 - Government Code Section 65302 - Safety Element Requirements
Attachment 3 - November 6, 2017 Letter to Department of Conservation
Attachment 4 - Housing Work Program (excerpt)
Attachment 5 - Government Cod Section 65302
Attachment 6 - November 7, 2017 letter with the Department of Conservation
Attachment 7 - Additional reference material.
RESOLUTION

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN RECOMMENDING THE CITY COUNCIL AMEND THE GENERAL PLAN BY ADOPTING AN UPDATED SAFETY ELEMENT CONSISTENT WITH THE 2013-2023 HOUSING ELEMENT WORK PROGRAMS, INCLUDING A RECOMMENDATION TO ADOPT AN EXEMPTION PURSUANT CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTION 15061(B)(3)

WHEREAS, the City of Arvin adopted the 2013-2023 Housing Element on March 27, 2018 by Resolution Number 2018-23; and

WHEREAS, the 2013-2023 Housing Element adopted Work Programs of which updates and amendments to the General Plan and Zoning Ordinances are required. The update of the 1988 Safety Element is necessary to address fire hazard risks and flood hazards; and

WHEREAS, the update of the 1988 Safety Element is consistent with the 2012 Kern County Multi-Jurisdictional Hazard Mitigation Plan adopted by the City of Arvin, and is in compliance with Government Code Section 65032; and

WHEREAS, the City provided a copy of the proposed Safety Element Update to the Department of Conservation, California Geological Survey on November 7, 2017, and no comments or amendments were required by the Department of Conservation; and

WHEREAS, the Planning Commission duly noticed the public hearing on the proposed updated to the Safety Element of the General Plan accordance with local requirements and state requirements.

WHEREAS, the Planning Commission conducted a public hearing on December 11, 2018 providing an opportunity for all interested persons to give testimony; and

WHEREAS, the Planning Commission desires to recommend that the City Council adopt the proposed Safety Element update to the General Plan, and further desires to recommend the City Council adopt a finding under California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).

NOW THEREFORE BE IT RESOLVED by the Planning Commission of the City of Arvin as follows:

1. The Planning Commission of the City of Arvin finds that the above recitals are true and correct.

   The Planning Commission recommends the City Council adopt a finding pursuant to CEQA Guidelines, Section 15061(b)(3), as there is no possibility that the updated Safety Element to
the General Plan may have a significant effect on the environment because of the following reasons:

- The update of the Safety Element is consistent with the 2012 Kern County Multi-Jurisdictional Hazard Mitigation Plan, which has already been adopted by the City of Arvin and is currently in effect.
- The update of the Safety Element implements, and is consistent with, the updated Housing Element, including the 2013-2023 Housing Element work programs. As these have already been assessed, no further environmental assessment is required.
- These amendments implement the amendments as required by various Governmental Codes which implements the 2013-2023 Housing Element work programs bringing the City’s General Plan in compliance with state mandated criteria and policy.

As such, this project would not be subject to CEQA.

2. The Planning Commission recommends the City Council adopt the proposed update of the Safety Element, in its entirety, to the General Plan as shown on Exhibit A of this Resolution.

3. This Resolution shall take effect immediately.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the Planning Commission of the City of Arvin at a Regular Meeting thereof held on the 11th day of December, 2018 by the following vote:

ATTEST

CECILIA VELA, City Clerk

ARVIN PLANNING COMMISSION

By: ______________________________
OLIVIA TRUJILLO, Chairperson
APPROVED AS TO FORM:

By: ______________________________

    SHANNON L. CHAFFIN, City Attorney
    Aleshire & Wynder, LLP

I, ________________________________, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.
Notice is hereby given that the Planning Commission of the City of Arvin, California, will conduct a public hearing, at which time you may be present and be heard, to consider the following:

Adoption of a Resolution Recommending the City Council Amend the General Plan by Adopting an Updated Safety Element Consistent with the 2013-2023 Housing Element Work Programs, Including a Recommendation to Adopt an Exemption Pursuant California Environmental Quality Act Guidelines Section 15061(b)(3).

The purpose of the proposed amendment is to implement the work programs as identified in the 2013-2023 Housing Element and Government Code Section 65302 by updating the Safety Element of the City of Arvin General Plan. The proposed Safety Element will update the General Plan to be consistent with the Government Code and implement the work programs as identified in the adopted Housing Element. The update will also bring the Safety Element into consistency with the 2012 Kern County Multi-Jurisdictional Hazard Mitigation Plan adopted by the City of Arvin.

Additional information on the proposed project and proposed environmental finding 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.

All persons interested in this topic, who have questions, would like to provide feedback, or who have comments, are invited to attend. 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.

Cecilia Vela, City Clerk
Published: November 30, 2018, Bakersfield Californian
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### EXHIBITS

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### APPENDICIES (All Appendices are on file at the Community Development Department)

- Appendix 1 - Resolution No. 2014-07 Adopting the Updated Kern Multi-Jurisdiction Hazard Mitigation Plan
- Appendix 2 - Excerpt for City of Arvin – Section 4.5 Vulnerability and Capability Assessment of Participating Jurisdictions of the Kern County Multi-Jurisdiction Hazard Mitigation Plan
- Appendix 3 - 1988 Safety Element – City of Arvin
- Appendix 4 - City of Arvin – Chapter 15.32 Floodplain Management

### REFERENCES (All References are on file at the Community Development Department)

- City of Arvin General Plan – Land Use Element, Conservation and Open Space Element, Air Quality Element Community Health Element, and Implementation Plan – 2012
- City of Arvin General Plan – Circulation Element adopted August 21, 2012
- City of Arvin Zoning Ordinance
- City of Arvin Standards and Specifications
- City of Arvin Drainage Master Plan Update – August 2009
- City of McFarland Safety Element 2014
- Kern County Multi-Jurisdiction Hazard Management Plan 2012
PURPOSE

The State General Plan Guidelines direct cities to incorporate a number of required elements into their general plans, including Safety. The purpose of the Safety Element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. The Safety Element establishes preventative and responsive policies and programs to mitigate the potential impacts associated with hazards that may affect the City of Arvin. This Element along with the Kern County Multi-Jurisdiction Hazard Mitigation Plan (HMP) addresses geologic and seismic hazards, flood hazards, fire hazards, hazardous materials, and emergency preparedness and response planning.

The Safety Element also includes policies on natural hazard mitigation planning that implement and supports the Kern County Multi-Jurisdiction Hazard Mitigation Plan (HMP), adopted by the Arvin City Council on March 18, 2014. The Federal Emergency Management Agency (FEMA) requires local agencies to adopt a HMP in order to be eligible for pre-disaster mitigation funds. By law, a Hazard Mitigation Plan (HMP) must describe the type, location, and extent of all natural hazards that can affect the jurisdiction; describe the jurisdiction’s vulnerability to these hazards; include a mitigation strategy that provides the jurisdiction’s blueprint for reducing the potential losses; and, contain a plan maintenance process. The Kern County Multi-Jurisdiction (Arvin) Hazard Mitigation Plan (HMP) addresses several natural disasters that may affect the City: Flood, Geologic, Severe Weather, Drought, and Extreme Heat. The HMP identifies community policies, actions, and tools for implementation to reduce the public’s exposure to these hazards, to minimize property damage and community disruption, and to reduce or avoid the costs of disaster relief.

The City of Arvin adopted Resolution No. 2014-07 on March 18, 2014 Adopting the Updated Kern Multi-Jurisdiction Hazard Mitigation Plan (HMP) serves as one major implementation programs of the Safety Element and contains programs that implement its policies. The City of Arvin participates in the Kern County Multi-Jurisdiction HMP and the HMP is updated on a five (5) year cycle. The HMP will continue to be incorporated by reference in the Safety Element. The Safety Element and HMP are complementary documents that work together to achieve the goal to reduce the impacts on a community from a disaster.

RELATIONSHIP TO OTHER GENERAL PLAN ELEMENTS

The California Government Code requires internal consistency among the various elements of a general plan. The Safety Element is affected by policies contained in other elements of the Arvin General Plan including the Land Use, Housing, Circulation, Conservation and Open-Space, and Noise Elements, and may overlap with topical areas addressed in these elements.

The Land Use Element is linked to the Safety Element as the policies and programs are intended to protect current and planned land uses. Potential hazards identified in the Safety Element are addressed through programs established to avoid or mitigate public safety impacts associated with future development, such as land use compatibility.

The Housing Element identifies existing and projected housing needs, and establishes goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing to serve all members of the community. The Safety Element addresses hazards or nuisances that should be considered when determining the location of new housing development and improvements to existing housing.
The Circulation Element is closely related to safety and security as well-designed streets and efficient circulation are imperative during an emergency. The provision of viable evacuation routes within the City are linked to the planned circulation system described in the Circulation Element. Safety is integral in maintaining an efficient, effective, coordinated, multi-modal circulation system that serves the variety of transit, automobile, bicycle, and pedestrian users in a complete street network.

The Conservation and Open Space provides information on soils and erosion, and water quality within the Planning Area in the interest of health, safety, and welfare. Additionally, flood control measures are included in the Conservation and Open Space of the City's General Plan under the title of Public Health and Safety for the protection of the lives and property of its citizens during a disaster. Flooding has been identified as a major issue for areas of the City and is discussed in detail in the HMP.

The Noise Element also affects the Safety Element as it contains safety guidelines regarding acceptable noise levels which consider occupational noise exposure as well as noise exposure in the home. The guidelines recognize exterior noise levels to protect the public from hearing loss, activity interference, sleep disturbance, and annoyance. The Noise Element also documents and guides the location of noise sensitive land uses including all residential uses and schools so they may be less impacted by noise.

Section 65300.5 of the Government Code states that the general plan and the individual elements shall be integrated and internally consistent. The City will maintain this consistency as future General Plan amendments are processed by evaluating proposed amendments for consistency with all elements of the Arvin General Plan.

**CONTEXT AND SETTING**

Section 4.5 Vulnerability and Capability Assessment of Participating Jurisdictions of the Kern County Multi-Jurisdiction Hazard Mitigation Plan, refer to Appendices – App -2 Excerpt for City of Arvin, assess each jurisdiction’s vulnerability separate from that of the planning area as a whole. Section 4.3 Vulnerability Assessment provides an inventory of the population, property, and other assets located within each jurisdiction, and further analyzes those assets at risk to identified hazards as of 2014. For more information about how hazards affect the County as a whole, see Chapter 4 Risk Assessment in the main plan. This section also presents the capabilities of each jurisdiction to mitigate hazard impacts.

**GEOLOGIC AND SEISMIC HAZARDS**

Geologic and soils hazards include subsidence, expansive soils, and steep slopes and landslides. Seismic hazards related to earthquakes include ground shaking and ground failures, such as liquefaction, lateral spreading, ground lurching, seiches, mudslides, landslides, and soil slumping. Geologic hazards pose a danger to residents of Arvin and can result in significant property and infrastructure damage.

**GEOLOGIC HAZARDS**

Existing Safety and Geologic Conditions

Geology:

The San Joaquin Valley, which includes the Arvin area, is the most extensive basin area in the State of California. This basin area was formed by intermittent westerly tilting of the underlying crystalline rocks, which elevated the Sierra-Nevada Mountains on the east border of the valley and depressed the western portion of the valley. Slopes in the valley feature a
southwest alignment and consist of underlying crystalline based complex and overlying sediments.

In the vicinity of the community of Arvin, the sediment layer is approximately 4,800 ft. thick and consists of older sedimentary rocks composed primarily of stratified sandstone, conglomerates and shale. In addition, there is overlying younger unconsolidated sediment approximately 1,900 ft. thick.

Portions of Kern County are identified as seismically active areas consisting of major unstable fault lines. Within the Arvin vicinity, 8 major fault line systems have been identified. The White Wolf Fault runs 3 miles south of the community of Arvin. The Edison Fault runs 8 miles north of the community. In addition, the San Andreas Fault, the Garlock Fault, the Sierra-Nevada Fault, the Big Pine Fault, the Kern Canyon Fault, and the Bear Mountain Fault are significant fault systems which run in the vicinity of Arvin.

Three major earthquakes have occurred in the county since such events have been historically recorded, the nearest seismic event to the local community occurred in 1952. This major quake, known as the Arvin-Tehachapi quake, measured 7.7 on the Richter scale and caused extensive damage throughout the County. The epicenter of the quake was located on the White Wolf Fault zone which impacted the City. Magnitude 5.0 and above earthquakes occur frequently, but damage has been limited from these events. However, damage to the Arvin community was relatively minimal. (App-3 1988 Safety Element)

Hydrology:

The Arvin area significantly contributes to Kern County as being one of the most productive agricultural counties in the nation. In order to sustain the intense farming activities in the area, the local community derives much of its domestic and agricultural water supply from groundwater resources.

Groundwater Supply:

Arvin receives its water services from the Arvin Community Services District. The district manages the water source for domestic, agriculture, recreational and industrial purposes from groundwater within the Tulare Lake groundwater basin, which encompasses a significant portion of the San Joaquin Valley. Groundwater within the basin moves in a south-southwest direction within the basin toward the low lying portion of the valley.

The Arvin Community Services District (ACSD), adopted its 2015 Urban Water Management Plan (UWMP), which was an update of the 2010 UWMP, and is required to update the UWMP each cycle where the year ends in 15 and 0. The plan includes a description of the service area of the District, the current and projected population of the District, a description of the climate and other demographic factors that affect water management, identification of the existing and planned water resources of the District including groundwater management plan prepared by the Arvin-Edison Water Storage District ("AEWSD") which is the underlying water purveyor in the area, description of the groundwater basin and groundwater levels, the participation of ACSD with AEWSD in the groundwater management program, the location, the amount of groundwater pumped in the last five years and sufficiency of the supply, a description of the groundwater supply and a projection of the groundwater demands for the next 20 years, a description of the reliability of the groundwater supply and its vulnerability to seasonal or climactic shortage, a statement addressing the consistency of the District's water supply, a
district’s anticipated water supply projects, the District’s water use projections, water use projections for lower income families, the District’s water shortage contingency plan and a water supply reliability assessment.

The District’s 2015 Urban Water Management Plan is available at the District’s office located at 309 Campus Drive, Arvin, Ca 93203, contact phone number 661-854-2127.

Groundwater Quality:

Groundwater quality in the Arvin area is suitable for domestic use. According to the Arvin Community Services District, the water underlying the Arvin community is generally of good quality. As noted above, the 2015 UWMP addresses the water supply and quality for the Arvin area.

The Arvin Community Services District water supply is deemed to be of high quality. This determination relates to an excellent groundwater recharge basin for the Kern River watershed and activities of the Arvin Edison Water Storage District. Water from these sources is of high quality.

Surface Hydrology:

The City of Arvin is situated on a deep alluvial fan. The ground surface slopes from northeast to southwest at a 0.5% slope. The primary utilization of the land surrounding the community is almost exclusively agriculture, oil extraction, or open space. The soils in these areas are identified as being highly permeable. As the land is very low sloping and the soils have a tendency of being permeable, water run-off is considered slight.

The Arvin area does not possess any significant natural bodies of water. The Arvin-Edison Canal is located to the north and east of the City, running in a diagonal alignment. The East Side Canal, which runs in a northwest-southwest alignment, approaches within one mile of the southwest portion of the city. Both of these canals are primarily used for agriculture irrigation. Sycamore and Little Sycamore Creeks are natural drainage channels which flow from the Tehachapi Mountains approximately four miles east and southeast, respectively, of the Arvin community. These creeks carry relatively low volumes of water and are only identified on a seasonal basis. The flows from these creeks usually run no farther than the Arvin-Edison Canal.

According to the Federal Emergency Management Agency (FEMA), the entire incorporated land within the City of Arvin as well as the immediate surrounding vicinity, lies within the 100 year floodplain of Caliente Creek. This major drainage channel flows into the Southern San Joaquin Valley floor about 10 miles northeast of the Arvin community. Water flow is only seasonal; however, this channel has historically carried large volumes of water over shorter time periods. Subsequently, considerable damage has been caused to some of the agriculture in outlying and developed areas in the Southern San Joaquin Valley floor. During similar flood occurrences, the creek water has flowed in a north to south direction into a channel just east of Tower Line Road, which turned in a westerly direction approximately one mile south of the City of Arvin. During more intense flooding periods, the water flow has been less predictable and has been known to cover parts of the Arvin General Planning area.

In recent years, flooding has been a significant issue in the Arvin area. Storm water run-off generated within the City of Arvin is generally collected and transported by streets into the City’s existing two drainage sumps. Sump One is located on the west central portion of the City along Comanche Drive near Bear Mountain Boulevard. Sump Two is located on the southwest
portion of the community within the Smotherman Park site.

The City of Arvin maintains a Master Drainage System, which can collect and hold storm water run-off originating within the majority of the city from any storm of a magnitude less than or equal to a 10-year storm. Storm events of greater magnitude can also be accommodated through the overflow provision provided with the existing and proposed sumps. The majority of run-off produced by storms is presently being collected and conveyed to the south end of the City by existing street improvements and pipelines to the sumps. Future run-off is expected to continue being collected in the same manner but will be supplemented by additional street and pipeline improvements.

**SEISMIC HAZARDS**

Arvin, like most of California, is located within a seismically active region. Faults and earthquakes present direct hazards from fault rupture and ground shaking, as well as indirect hazards, as described further below. Kern County, in general, is recognized as a seismically active region with several major unstable fault lines identified in the county's geologic composition. The Kern County Multi-Jurisdiction Hazard Management Plan, Section 4.2.10 Earthquakes provides an extensive overview of the Hazard/Problem Description for the planning area.

**Fault Rupture**

Kern County is located in one of the more seismically active areas of California and my, at any time, be subject to moderate-to-severe ground shaking. The reason for this is the presence of the major active faults in portions of the County. The infamous San Andrea's Fault runs just outside of and parallel to the western border of Kern County and eventually enters the south western portion of the county near Frazier Park, where it is intersected by the northeasterly trending Garlock Fault. Please refer to Section 4.2.10 Earthquakes – Kern County Multi-Jurisdiction Hazard Management Plan for a more detailed discussion of faults.

The White Wolf Fault and the Edison Fault are respectively located three miles south and eight miles north of the Arvin community. In addition, a number of other unstable fault lines, including the San Andreas, Garlock, Big Pine, Kern Canyon and Bear Mountain Faults are situated in the general vicinity of Arvin.

The White Wolf Fault Zone is south and east of Arvin. In 1952 a 7.7 earthquake was experienced. Refer to Figure 4.34 Earthquake Shake Map for Kern County. Additionally, seismic hazard mapping indicates that the City has low seismic hazard potential. While there are no known active faults residing within or near the City limits, the Planning Area is likely to experience hazards associated with earthquakes, such as ground shaking.

**Ground Shaking**

Ground shaking from earthquakes affects the most people and can cause the most damage of any geologic hazard. The amount of ground shaking depends on the magnitude of the earthquake, the distance from the epicenter, and the type of earth materials in between. Arvin experienced significant ground shaking from a Magnitude 7.7 earthquake that occurred on the White Wolf Fault in 1952. Arvin is located within an area identified as having moderate ground shaking probability.

**Secondary Seismic Hazards**
Ground shaking can induce secondary seismic hazards such as liquefaction, lateral spreading, subsidence, ground fissuring, and landslides. Liquefaction of saturated cohesionless soils can be caused by strong ground motion resulting from earthquakes.

**Liquefaction**

Liquefaction can occur when loose sand and silt that is saturated with water behaves like a liquid when shaken by an earthquake, resulting in ground failure. The California Geological Survey identifies liquefaction zones where the stability of foundation soils must be investigated and countermeasures undertaken in the design and construction of buildings for human occupancy.

**Earthquake-Induced Landslide and Slope Failure**

In addition to liquefaction, the California Geological Survey identifies landslide zones, which generally indicate steep hillslopes composed of weak materials that may fail when shaken by an earthquake. These areas are required to be investigated and countermeasures undertaken in the design and construction of buildings for human occupancy. Arvin is not located within an area identified as having the potential for earthquake-induced landslides. Similarly, due to the relatively flat topography of Arvin and the surrounding area, lateral spreading, mudslides, ground lurching, and soil slumping are unlikely to occur.

**Seismic Seiches**

Seismic seiches are standing waves in an enclosed or partly enclosed body of water, such as rivers, reservoirs, ponds, and lakes. There are no large bodies of water located within the Planning Area. The potential for water from the lake to reach the Planning Area in the event of a seiche is limited.
Attachment: 3-Exhibit A - (Proposed) Arvin Safety Element to the City of Arvin General Plan 11-2018 (Public Hearing - General Plan - Updated)
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FLOOD HAZARDS

Section 4.5 Vulnerability and Capability Assessment of Participating Jurisdictions of the Kern County Multi-Jurisdiction Hazard Mitigation Plan, refer to Appendices – App -2 Excerpt for City of Arvin, assess each jurisdiction's vulnerability separate from that of the planning area as a whole. Section 4.3 Vulnerability Assessment provides an inventory of the population, property, and other assets located within each jurisdiction, and further analyzes those assets at risk to identified hazards as of 2014. For more information about how hazards affect the County as a whole, see Chapter 4 Risk Assessment in the main plan. This section also presents the capabilities of each jurisdiction to mitigate hazard impacts.

Local Flooding

The location, topography, and land uses in and around the City pose unique drainage situations for the way local runoff is contained. As the City has been developed on predominantly agricultural lands, sump basins are the primary facilities used to retain the local storm water flows. The City has prepared a Storm Drain Master Plan to identify and address local flooding issues within the City. Identified improvements to the existing drainage systems consist primarily of upsizing existing storm drain facilities and extending existing storm drain systems farther upstream to the areas of flooding.

Arvin is within either the 1% or .02% annual chance of a flood event. Much of the flooding in Arvin is characterized by shallow sheet flow of 2 feet depth or less. Arvin adopted Chapter 15.32 Flood Management which promote the public health and safety, and general welfare of its citizenry requiring all new development to comply with the development standards as established and may be modified from time to time.

Dam Inundation

Dams are man-made structures built for a variety of uses including flood control, power, agriculture, water supply, and recreation. When dams are constructed for flood control, they usually are engineered to contain a flood with a computed risk of occurrence. Dam failures can result from any one or a combination of causes, including prolonged periods of rainfall and flooding; earthquake; inadequate spillway capacity resulting in overtopping; or internal erosion caused by embankment or foundation leakage or piping. Dams can fail at any time of year, but the results are most catastrophic when the dams fill or overtop during winter or spring rain/snowmelt events. The onset time of dam failure depends on the type of failure. If the dam is inspected regularly then small leaks allow for adequate warning time. Once a dam is breached, however, failure and resulting flooding occurs rapidly. Although there are several dams that have the ability to affect Kern County in the event of failure, the potential for significant flooding associated with dam inundation to occur within Arvin has not been identified. Dam inundation maps for Lake Isabella, the largest reservoir in the County, indicate that flooding from dam failure would not extend into Arvin.
Levee Failure

Levees are designed to protect against a certain level of flooding. However, levees can and do decay over time and can also be overtopped, or even fail during large floods. According to the 2012 Kern Multi Jurisdiction Hazard Mitigation Plan (Kern MJHMP) Figure 4.32, Kern County Levee Location Map, there are no levees located within Arvin or the surrounding area. The Kern MJHMP identifies the likelihood of a levee failure as low with limited affects to Kern County in the event of a levee failure, with the exception of Bakersfield. However, the Friant-Kern Canal, which is located west of the City’s western boundary, serves as a levee structure. The Friant-Kern Canal is under the jurisdiction of the U.S. Department of the Interior Bureau of Reclamation. Although unlikely, the canal levee could fail if overtopped. In the event the canal is breached, runoff would spread out and flow into the City of Arvin from the east. No flows have overtopped the canal levee since its opening in 1953, but water has ponded near the top of the levee.
HAZARDOUS MATERIALS

The California Code of Regulations defines a hazardous material as a substance that, because of physical or chemical properties, quantity, concentration, or other characteristics, may either (1) cause an increase in mortality or an increase in serious, irreversible, or incapacitating illness or (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of, or otherwise managed. Hazardous wastes are hazardous materials that no longer have practical use, such as substances that have been discarded, discharged, spilled, contaminated, or are being stored prior to proper disposal. A hazardous materials incident involves the uncontrolled release of a hazardous substance during storage, use, or transport.

In addition, the California Legislature has passed a law, 65962.5(a) of the Government Code, which requires persons applying for development projects to review a listing of all hazardous waste sites. If the site of your proposed development project is included on the list of hazardous waste sites (Kern County Cal/EPA below), then it shall be noted. Please review the website “http://envirostor.dtsd.ca.gov” type in Arvin, CA for most recent listing.

The State’s Accidental Release Prevention Law provides for consistency with Federal laws (i.e., the Emergency Preparedness and Community Right-to-Know Act and the Clean Air Act) regarding accidental chemical releases and allows local oversight of both the State and Federal programs. State and Federal laws are similar in their requirements; however, the California threshold planning quantities for regulated substances are lower (stricter) than the Federal quantities. Local agencies may set lower reporting thresholds or add additional chemicals to the program. The Accidental Release Prevention Law is implemented by the Certified Unified Program Agencies (CUPAs) and requires that any business utilizing a greater quantity of a regulated substance than the specified threshold quantity, register with the responsible CUPA as a manager of regulated substances and prepare a Risk Management Plan.

A Risk Management Plan must contain an off-site consequence analysis, a five-year accident history, an accident prevention program, an emergency response program, and a certification of the truth and accuracy of the submitted information. Businesses submit their plans to the CUPA, which makes the plans available to emergency response personnel. The Business Plan must identify the type of business, location, emergency contacts, emergency procedures, mitigation plans, and chemical inventory at each location. Under CUPA, site inspections of these hazardous materials programs (above ground storage tanks, underground storage tanks, hazardous waste treatment, hazardous waste generators, hazardous materials management and response plans, and the California Fire Code) are consolidated and accomplished by a single inspection. In addition, this program provides emergency response to chemical events to furnish substance identification; health and environmental risk assessment; air, soil, water, and waste sample collection; incident mitigation and cleanup feasibility options; and on-scene coordination for state superfund incidents. The program also provides for the oversight, investigation, and remediation of unauthorized releases from underground tanks.

The CUPA for the City of Arvin is Kern County’s Environmental Health Services Department. The Environmental Health Services Department (EHSD) was established in 1989 by the Board of Supervisors. The EHSD’s Hazardous and Solid Waste Division is designed to protect the public health and the environment in the areas of hazardous material and waste surveillance and enforcement, radiological health, vector control, solid waste and infectious waste. Legal authority for these programs is provided by a variety of state and local statutes including the California Health and Safety Code and the California Code of Regulations, which designates the EHSD as the Local Enforcement Agency for the California Integrated Waste Management Board.

Arvin Safety Element – January 2019 Update
Kern County Environmental Health Division, Hazardous Materials Emergency Response program serves to protect the residents of Kern County by responding to hazardous materials emergencies. The first responders perform health and environmental safety assessment, substance identification and monitoring as part of an interagency Emergency Response team as well as provide and oversee investigation and cleanup of incidents activities.¹

**Transportation of Hazardous Materials**

Hazardous substance incidents could occur in Arvin due to the presence of highways and railways. The transport of hazardous materials may occur along the San Joaquin Valley Railroad spur and/or Hwy 223 (Bear Mountain Blvd.) which traverse the City. In the event of train derailment, hazardous materials transported on the rail line could be released impacting adjacent development and properties. Given the City’s reliance on groundwater, the potential release of hazardous materials could migrate into the groundwater aquifer, potentially contaminating the City’s drinking water supply.

Transportation of hazardous materials/wastes is regulated by California Code of Regulations (CCR) Title 26. The United States Department of Transportation (DOT) is the primary regulatory authority for the interstate transport of hazardous materials. The DOT establishes regulations for safe handling procedures (i.e., packaging, marking, labeling, and routing). The CHP and Caltrans enforce Federal and State regulations and respond to hazardous materials transportation emergencies. Emergency responses are coordinated as necessary between Federal, State, and local governmental authorities and private persons through a State Mandated Emergency Management Plan.

**Hazardous Materials Sites**

Hazardous materials can be found in certain businesses in Arvin including production or service processes, which generate hazardous waste. These businesses include automotive services, dry cleaners, photo processing, printing lithography, and medical services. The Kern County EHSD is responsible for the remediation of the Underground Storage Tanks through alternatives including soil washing, vapor extraction, bioremediation, and pump and treat of the contaminated groundwater. Remediation alternatives would provide benefits of no contamination of groundwater and soil. Facilities handling moderately and extremely hazardous materials have a greater chance of significant onsite and offsite consequences if the hazardous materials are released. The last inspection date and category are used to determine inspection priority and frequency, respectively.

**Hazardous Waste**

Hazardous waste is waste with properties that make it dangerous or potentially harmful to human health or the environment. Residential Hazardous Wastes are products purchased for use in or around the home, that when improperly discarded, may threaten human health or the environment including household cleaners; deodorizers; personal hygiene products; pesticides; herbicides; insecticides; pet care products; paint products; photographic chemicals; swimming pool chemicals; and automotive products & fluids.² Business Hazardous Waste is generated during the course of operating a business including schools, government agencies, churches, farms, landlords, property managers, ranches, non-profit organizations as well as conventional businesses. Kern County area landfills do not accept hazardous waste. However, households may bring residential hazardous wastes to one of three County Special Waste facilities or...
hazardous waste collection events in the county, while businesses that generate hazardous waste are required by state and federal law to contract with registered hazardous waste transporters and disposers. The Kern County Special Waste Facilities serve the hazardous waste disposal needs of Kern County businesses including within the City of Arvin. The Conditionally Exempt Small Quantity Generator (CESQG) Program allows eligible businesses to bring hazardous waste to one of three Special Waste Facilities serving Kern County. State and Federal Laws limit the use of this type of program to businesses that qualify as a CESQG. Businesses generating larger amounts are required to use a licensed hazardous waste hauler to manifest and transport their waste. Historical accumulations of waste may require the services of a licensed hazardous waste hauler.

OIL WELLS – SITE DEVELOPMENT ADJACENT TO AND OVER ABANDONED OIL AND GAS WELLS

Oil Well Hazards

The City of Arvin has a number of active and abandoned Oil and Gas Wells within its jurisdiction and within its Sphere of Influence. Issues related to the oil well productions include occasional spills of crude oil and groundwater contamination. More long-term issues involve the decommissioning of the oil wells, abandonment of the wells and development of the area after it is no longer used as an oil well. Wells must be vented to the atmosphere and plugged for several hundred feet with cement or clay-based mud according to the specification in the

Hazards exist for both active and abandoned oil wells. Potential hazards from active oil wells include potential soil and groundwater contamination, as well as release of methane gas. The abandonment of oil wells falls with the jurisdiction of the California Department of Conservation, Oil, Gas, and Geothermal Resources (DOGGR). Oil wells are subject to regulation and oversight by DOGGR. Additionally, DOGGR provides regulations regarding the placement of structures on abandoned oil well sites. Abandoned wells must be vented to the atmosphere and plugged. A well is plugged by placing cement in the well-bore or casing at certain intervals as specified in California laws or regulations (Abandonment/Reabandonment Guidelines) published by and regulated by the California Department of Oil, Gas, and Geothermal Resources (Division).

Construction Site Well Review Program:

Prior to the development of lands where abandoned or activity wells exist, the City will contact the Department of Conservation’s Division of Oil, Gas, and Geothermal Resources (Division) for assistance in the development review process. The Department of Conservation’s Division of Oil, Gas, and Geothermal Resources (Division) is charged with implementing Section 3208.1 of the Public Resources Code (PRC). As a result, the Division developed the Construction Site Well Review Program to assist local permitting agencies in identifying and reviewing the status of oil or gas wells located near or beneath proposed structures.

Before issuing building or grading permits, local permitting agencies review and implement the Division’s preconstruction well requirements. Interaction between local permitting agencies and the Division helps resolve land-use issues and allows for responsible development in oil and gas fields.

California Public Resources Code Section 3208.1 intent is to prevent, as far as possible, damage to life, health, and property. The operator responsible for plugging and abandoning deserted wells under Section 3237 shall be responsible for the reabandonment as provided in Section 3208.1(a).
FIRE HAZARDS

Wildland Fires

A wildland fire is a large destructive fire that spreads quickly over woodland or brush. The California Department of Forestry and Fire Protection (CAL FIRE) conducts fire hazard severity mapping including mapping areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. These zones, referred to as Fire Hazard Severity Zones (FHSZ), define the application of various mitigation strategies to reduce risk associated with wildland fires. According to the Kern County Fire Hazard Severity Zone (FHSZ) map, there are no Fire Hazard Severity Zones (FHSZ) located within the Arvin Planning Area.

Structure Fires

There is the potential for Arvin to experience structure fires, including homes, industrial and commercial buildings, and other facilities. Many fires are related to human behavior or buildings that do not meet current fire regulations. Fires vary in terms of their potential threat to life and property. Areas with older buildings and deteriorated structures tend to have higher fire hazards. Generally, the risk of injury and damage is greater for higher occupancy structures, such as apartment buildings, hotels, hospitals, and churches. Land use considerations affect fire potential, as industrial and commercial areas tend to have higher risks of fire associated with operations. Consideration for fire protection in the City also involves adequate access for fire and emergency response as new areas develop within the Planning Area.

AIRPORT OPERATIONS

The nearest public use airport is the Bakersfield Municipal Airport which is located approximately 18 miles to the northwest, and the nearest private airport is the agricultural (crop dusting) landing strip located approximately on quarter mile to the southwest of the city limits.
Figure 4.82. City of Arvin Wildfire Risk
EMERGENCY SERVICES, PREPAREDNESS, AND RESPONSE

Fire Protection Services

The City of Arvin provides fire prevention, fire protection, emergency medical services, and related services through a contract with the Kern County Fire Department (KCFD). Other Fire Department functions include hazardous materials mitigation, public education and training, arson investigation, air operations, and apparatus maintenance. The Department provides service to Arvin and the surrounding area from Station 54 located at 301 Campus Drive in Arvin (Figure II-3). KCFD employs more than 625 permanent staff, and serves an area spanning more than 8,000 square miles and a population of more than 500,000. Station 54 maintains a staff of three full-time firefighters equipped with two Type 1 engines and one Type 4 FWD Watershed Patrol. In the event that additional personnel are needed to address an emergency, Station 51 is located in Lamont approximately 6.2 miles to the northwest.

Fire Prevention

The fire prevention inspection program consists of Title 19 mandatory inspections, miscellaneous or permit inspections and the Company Fire inspections which are completed by fire station personnel. Arvin utilizes its Municipal Code to promote public safety and welfare and to prescribe regulations governing conditions hazardous to life and property from fire or explosions by the adoption of minimum fire prevention standards.

Police Protection Services

The Arvin Police Department is a full-service department with a variety of specialties and community services. The Police Department strives to work as partners with the community to serve and protect. They provide law enforcement services that focus on building the quality of life of citizens and visitors in the City through proactive problem solving, fair and equitable police services, and utilizing resources effectively. The Police Department ensures public safety in the community by responding to all crime-related matters, hazardous situation incidents, neighborhood disputes, and suspicious activities.

The City’s public safety services include Administration, Animal Control, Dispatch, Patrol, School Resources Officer. The Traffic Division is dedicated to keeping citizens safe in the City whether they are driving, biking, or walking by incorporating traffic education through enforcement, seminars at local schools to educate students on the rules of the roadway and to conduct traffic collision investigations. The Police Department School several community programs including the Police Explorer Program that allows community members to experience first-hand how the department functions and what it takes to get started in a law enforcement career and the Citizen Volunteer Program in which volunteers donate their time assisting patrol officers or attending special events.
Emergency Medical Services

The Emergency Medical Services Department (EMS) is the lead agency for the emergency medical services system in Kern County. In Kern County, the Board of Supervisors designated the EMS Department as the Local EMS Agency. The Kern County Ambulance Ordinance, which governs the majority of the pre-hospital systems in the County, was adopted by the Board of Supervisors in November 1990, and became effective on February 28, 1991. As a result of this ordinance and the subsequent regulations, the EMS System in Kern County became more structured and included, for the first time, measurable standards for the response of paramedic level of care to the citizens of Kern County during an emergency. EMS is responsible for coordinating all system participants in the County. Participants include the public, fire departments, ambulance companies, other emergency service providers, hospitals, and EMT training programs. EMS also provides certification and re-certification for EMT’s, paramedics, specialized nurses, and specialized dispatchers.

EMS includes a system of services organized to provide rapid response to serious medical emergencies, including immediate medical care and patient transport to definitive care in an appropriate hospital setting. While most EMS responses are day-to-day emergencies, EMS agencies also plan and prepare for disaster medical response. In addition, EMS is becoming more and more involved with preventative health care and managed care in the overall scope of its functions. EMS includes:

- Public safety dispatch;
- Fire services first response and treatment;
- Private ground and air ambulance response, treatment and transport;
- Law enforcement agencies;
- Hospitals and specialty care centers;
- Training institutions and programs for EMS personnel;
- Managed care organizations;
- Preventative health care; and
- Citizen and medical advisory groups.

Emergency Communications Center

The Emergency Communications Center (ECC) is responsible for receiving and dispatching all fire, medical and rescue calls. The ECC receives transfers calls from 21 different law enforcement agencies and gives calls to seven different private ambulance companies with an annual call volume at approximately 86,000 calls. All calls requiring medical aid or ambulance dispatch are put through the National Academy of Emergency Medical Dispatch (EMD) protocols, insuring that all medically related calls will be processed the same way and the appropriate response is sent on every call. It also requires dispatchers to remain on the line for life threatening emergencies and give appropriate pre-arrival instructions to the caller such as CPR, the Heimlich maneuver, and childbirth. During fire season, wildland fire dispatching is a large part of ECC operations, utilizing Resource Ordering and Status System (ROSS) to ensure that responders receive the needed resources to fight wildland fires, from engines, bull dozers, hand crews, and aircraft.
Emergency Operations Center

The Emergency Operations Center (EOC) is a centralized location to support multi-agency and/or multi-jurisdiction disaster response coordination and communication. Unique to the State of California is the definition of an Operational Area, which includes all political subdivisions within the County boundary. On behalf of the Kern Operational Area, the Kern County EOC will serve as the designated point of contact between the jurisdictions within the County, as well as between the State and the Operational Area. During an emergency, staff in the EOC will facilitate effective emergency management. The EOC supports multi-agency and multi-jurisdiction coordination and communication.

Emergency Operations Plan

The Kern County Emergency Operations Plan establishes an emergency management organization and assigns functions and tasks consistent with California's Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS). The County of Kern is the lead agency for the Kern Operational Area and is tasked to coordinate emergency activities between the county, cities, and special districts and to serve as a communications link focusing on the collection, processing, and dissemination of vital disaster information. The Plan provides for the integration and coordination of planning efforts of the County/Operational Area with those of its cities, special districts and the state. The content is based on guidance provided by the California Emergency Management Agency, FEMA, and Department of Homeland Security. The intent of the Plan is to facilitate emergency response and short-term recovery by providing a framework for response to all significant emergencies, regardless of the nature of the event. The Plan is comprised of four major parts as follows: 5

- **Basic Plan** – Overview of County/Operational Area’s emergency management program, Emergency Management Organization, and concept of emergency operations.

- **General Procedures** – Emergency procedures to be implemented by employees at the time of a major emergency or disaster.

- **Emergency Operations Center (EOC) Procedures and Annexes** – EOC procedures, annex and checklists for each major EOC function, and resource and contact lists.

- **Contingency Plans** – Event-specific information and emergency instructions (e.g., Terrorism). The Contingency Plans are separate documents that may be implemented independent of the Plan and are incorporated into the Plan by reference.

Further, Kern County’s Health and Medical Branch, comprised of EMS, Department of Public Health (DPH), Environmental Health Services (EHS) and Mental Health Services (MHS), oversees and coordinates disaster medical and mental health care and public and environmental health services on a countywide basis in the field, Department Operations Centers (DOC), and County/Operational Area (OA) Emergency Operations Center (EOC).
Terrorism Response and Recovery Plan

The Terrorism Response and Recovery Plan describes the emergency procedures that will be used in the event of a terrorist threat or incident that occurs or impacts the Kern County Operational Area (OA), which includes Arvin. This Plan is designed to establish responsibilities, and to coordinate preparedness, response, and recovery from a terrorist initiated incident, with emphasis placed upon incidents involving Weapons of Mass Destruction (WMD). The contingency plan supplements the existing Kern County Emergency Operations Plan. It is intended to provide general guidance. Actual response will be dependent upon conditions existing at the time of the emergency, including the availability of local and mutual aid resources.

Evacuation Routes

Currently, the City of Arvin has no defined emergency routes. SR 233 (Bear Mountain Boulevard) would serve as the primary emergency route since it bisects the City and provides an east-west regional access to SR-99 and I-5 within Kern County and SR-58 (Bakersfield-Tehachapi Hwy) to the east.

Emergency Incident Information and Notification

Kern County has implemented ReadyKern, an emergency notification system that alerts residents and businesses about natural disasters and other crises. The emergency notification system enables Kern County to provide essential information quickly in a variety of situations, such as earthquakes, severe weather, fires, floods, or evacuation of buildings or neighbourhoods. Residents and businesses with listed telephone numbers and those that register for notifications receive a message about a potential safety hazard or concern. Messages are sent to all standard voice and text communication devices, including land line phones, cell phones, and e-mail. If receipt of the message is not confirmed, the system will try to reach the second contact number or email. The system will continue trying to contact someone until it receives a confirmation.

When the EOC is activated during an emergency, the Joint Information Center (JIC) is established to coordinate, develop, and disseminate emergency-related public information. The JIC is the central point of contact for all news media. Public information officials from all participating agencies/jurisdictions are collocated at the JIC. The news media receives regular briefings about the emergency in the Media Room adjacent to the JIC.
GOALS AND POLICIES

This section contains goals and policies that provide for the safety and protection of life and property from the occurrence of a natural or manmade hazard. Citywide safety goals and policies apply generally to any potential hazardous event, which may be addressed further in topic-specific goals and policies.
Citywide Safety

Goal SAF-1: A community protected from and prepared for natural and man-made hazards.

Policy SAF-1.1: Support projects, programs, policies, and regulations to mitigate potential impacts associated with natural and man-made hazards.

Policy SAF-1.2: Regularly participate in the maintain and update of the Kern County Multi-Jurisdiction Hazard Maintenance Plan relevant to the Arvin Local Hazard Mitigation Plan.

Policy SAF-1.3: Support programs, policies, and regulations that discourage or limit development within areas that are vulnerable to natural disasters, particularly in areas with recurring damage.

Policy SAF-1.4: Support programs that promote greater public awareness of disaster risks, personal and business risk reduction, and personal and neighborhood emergency response.

Policy SAF-1.5: Investigate and pursue available funding sources to fund safety programs, provide services, upgrade/construct facilities, and purchase equipment.

Geologic and Seismic Hazards

Goal SAF-2: A community protected from loss of life or injury and damage to property due to geologic and seismic hazards.

Policy SAF-2.1: Continue to incorporate geotechnical hazard data in future land use decision-making, site design, and construction standards.

Policy SAF-2.2: Adopt the latest version of the building codes adopted by the State of California and ensure implementation in all new construction and renovations.

Policy SAF-2.3: Require site-specific soils and/or geologic reports for development in areas where potentially serious geologic risks exist.

Policy SAF-2.4: Monitor and enforce mitigation measures to reduce risks for projects where seismic and geologic hazards can be mitigated and prohibit development in areas where seismic and geologic hazards cannot be mitigated.

Policy SAF-2.5: Promote the upgrade, retrofitting, and/or relocation of all existing critical facilities (e.g., police and fire stations, hospitals, schools, community centers, water facilities, public works yard, emergency access routes) and other important public facilities that do not meet current building code standards and are within areas of seismic or geologic hazard risks.

Policy SAF-2.6: Continue to seek out opportunities to educate and encourage the community on ways to implement measures to mitigate potential injury and damage associated with earthquakes.
Flood Hazards

Goal SAF-3: A community protected from loss of life or injury and damage to property due to flood hazards.

Policy SAF-3.1: Continue to work with the appropriate local, State, and Federal agencies to maintain the most current flood hazard and floodplain information and use it as a basis for project review and to guide development.

Policy SAF-3.2: Actively promote and participate in a regional drainage analysis and implementation of regional and local flood control measures to reduce regional flooding conditions within the City.

Policy SAF-3.3: Continue to participate in the National Flood Insurance Program (NFIP) and ensure that City regulations are in full compliance with the standards adopted by the Federal Emergency Management Agency (FEMA).

Policy SAF-3.4: Implement recommendations contained in the Arvin Storm Drain Master Plan that are within the City’s jurisdiction.

Policy SAF-3.5: Minimize whenever possible flood risks associated with existing development.

Policy SAF-3.6: Require evaluation of potential flood hazards prior to approval of grading permits and require floor elevation certification as required by Chapter 15.32 Flood Management.

Policy SAF-3.7: Identify construction or other methods to minimize damage if new development is located in flood hazard zones.

Policy SAF-3.8: Prohibit or require mitigation of new development within the 100-year flood zone unless it can be shown that the development will not:

- Create danger to life and property due to increased flood heights or velocities caused by excavation, fill, roads and intended use.
- Create difficult emergency vehicle access in times of flood.
- Create a safety hazard due to the unexpected heights velocity, duration, rate of rise and sediment transport of the flood waters at the site.
- Create excessive costs in providing governmental services during and after flood conditions, including maintenance and repair of public facilities.
- Interfere with the existing water flow capacity of the floodway.
- Substantially increase erosion and/or sedimentation.
- Change the water storage/volume capacity of the flood basin.

Policy SAF-3.9: Require that essential public facilities be located and designed to mitigate potential flood risk to ensure long term operation.

Policy SAF-3.10: Promote low impact development techniques and design features such as pervious paving, on-site groundwater recharge, rainwater harvesting, minimization of building footprints, and bioretention to improve defensive measures against storm events and stormwater pollution.
Policy SAF-3.11: Educate property owners and residents located in flood hazard areas about opportunities to mitigate flood hazards and damage, implementation of flood preparation activities, and evacuation and recovery efforts associated with a flooding event.

Policy SAF-3.12: Continue to encourage and support efforts of Kern County and the Bureau of Reclamation in the proper maintenance and repairs of the Friant-Kern Canal are accomplished.

Hazardous Materials

Goal SAF-4: A community protected from the harmful effects of hazardous materials, hazardous waste, and environmental contamination.

Policy SAF-4.1: Ensure that land uses involved in the production, storage, transportation, handling, or disposal of hazardous materials are located and operated to reduce risk to other land uses.

Policy SAF-4.2: When approving new development, ensure that the site:

- Is sufficiently surveyed for contamination and remediation, particularly for sensitive uses near existing or former toxic or industrial sites.
- Is adequately remediated to meet all applicable laws and regulations, if necessary.
- Is suitable for human habitation.
- Is protected from known hazardous and toxic materials.
- Does not pose higher than average health risks from exposure to hazardous materials.

Policy SAF-4.3: Assist the Kern County Health Department in the monitoring operations of businesses and individuals that handle hazardous materials through the planning and business permit processes.

Policy SAF-4.4: Work with the appropriate Federal, State, regional, and local agencies to identify previously unidentified contaminated sites in the City, particularly on sites with a high likelihood of past contamination, such as old gas stations or industrial sites, and work with the property owners and applicable agencies to remediate them.

Policy SAF-4.5: Ensure the safe transport of hazardous materials through the City by:

- Restricting transport of hazardous materials within Arvin to designated routes.
- Prohibiting the parking of vehicles transporting hazardous materials on City streets.
- Requiring new pipelines or other channels carrying hazardous materials avoid residential areas to the greatest extent possible.

Policy SAF-4.6: Support Caltrans and California Highway Patrol efforts to ensure safe transportation of hazardous materials on SR-223 (Bear Mountain Blvd.)
<table>
<thead>
<tr>
<th>Policy SAF-4.7:</th>
<th>Assist Kern County Health Department in the education of residents and businesses on how to reduce or eliminate the use of hazardous materials and products, and encourage the use of safer, nontoxic, environmentally friendly equivalents.</th>
</tr>
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<tbody>
<tr>
<td>Policy SAF-4.8:</td>
<td>Assist Kern County Health Department and the Sanitation District in raising public awareness of appropriate disposal for household hazardous waste, and publicize collection events and locations.</td>
</tr>
<tr>
<td>Policy SAF-4.9:</td>
<td>Prior to the development of lands where abandoned or activity wells exist, the City will contact the Department of Conservation’s Division of Oil, Gas, and Geothermal Resources (Division) for assistance in the development review process. The Department of Conservation’s Division of Oil, Gas, and Geothermal Resources (Division) is charged with implementing Section 3208.1 of the Public Resources Code (PFC). As a result, the Division developed the Construction Site Well Review Program to assist local permitting agencies in identifying and reviewing the status of oil or gas wells located near or beneath proposed structures. Before issuing building or grading permits, local permitting agencies review and implement the Division’s preconstruction well requirements. Interaction between local permitting agencies and the Division helps resolve land-use issues and allows for responsible development in oil and gas fields. California Public Resources Code Section 3208.1 intent is to prevent, as far as possible, damage to life, health, and property. The operator responsible for plugging and abandoning deserted wells under Section 3237 shall be responsible for the reabandonment as provided in Section 3208.1(a).</td>
</tr>
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</table>

**Fire Hazards**

**Goal SAF-5:** A community protected from loss of life or injury and damage to property due to fire hazards.

**Policy SAF-5.1:** Continue to coordinate fire protection services with Kern County Fire Department to ensure sufficient capacity, stations, personnel, and equipment are available to meet growth needs in Arvin for fire protection and related emergency services.

**Policy SAF-5.2:** Ensure adequate water supply and water pressure is provided throughout the City for firefighting purposes.

**Policy SAF-5.3:** Ensure all new development provides adequate access for emergency vehicles and evacuation.

**Policy SAF-5.4:** Regularly update building and fire codes to provide for fire safety design.

**Policy SAF-5.5:** Promote public safety education programs to reduce accidents, injuries, and fires, as well as to train members of the public to respond to emergencies.
Policy SAF-5.6: Investigate the development and adoption of Fire Impact Fees to off-set the increase cost of fire protection.

Policy SAF-5.7: Enforce and maintain weed abatement and brush clearance programs to reduce Fire hazards to developed property in the immediate vicinity of vacant undeveloped land.

Emergency Services, Preparedness, and Response

Goal SAF-6: A community prepared to provide effective response and recovery efforts in the event of an emergency.

Policy SAF-6.1: Continue to implement emergency preparedness and response measures in coordination with Kern County's Emergency Operations Plan.

Policy SAF-6.2: Participate in Kern County trainings on emergency operations procedures and response.

Policy SAF-6.3: Support policies and programs that ensure adequate resources are available to respond to health, fire, and police emergencies.

Policy SAF-6.4: Investigate and seek out opportunities to improve emergency access and circulation throughout the community.

Policy SAF-6.5: As in the development of and provide residents and businesses with information about local safety hazards and emergency plans, including evacuation plans and procedures to accommodate special needs populations and efficient post-disaster recovery.

Policy SAF-6.6: Support policies and programs to involve and educate the community in emergency preparedness.

Policy SAF-6.7: Collaborate with the school district, businesses, nonprofit organizations, and community members/groups to maintain safety throughout the City.

Policy SAF-6.8: Involve the Police Department in the development review process to address safety concerns, access issues, and potential traffic conflicts, and identify opportunities to apply Crime Prevention Through Environmental Design (CPTED) principles.
VI. 2013-2023 Housing Plan

In accordance with State Housing Element law, this section presents a statement of goals, policies and priorities. The statement is intended to convey to the community at large Arvin’s plan to provide a variety of housing types for all economic segments of the community. In addition, the goals, policies and priorities also serve as a framework or foundation for the evolution, initiation and implementation of specific programs and actions to improve the existing housing stock, produce new housing, provide financial assistance and to mitigate the adverse impacts of economic and market constraints.

C. Housing Element Programs

This section of the Housing Element defines the actions the City will implement to achieve the identified housing policies during the 2013-2023 planning period. Arvin’s housing programs address the following five major areas:

- Maintaining and preserving the existing affordable housing stock;
- Assisting in the provision of housing;
- Removing governmental constraints, as necessary;
- Providing adequate sites to achieve a variety and diversity of housing; and
- Promoting equal housing opportunity.

The housing plan for addressing unmet needs, removing constraints, and achieving quantitative objectives is described in this section according to the above five areas. The housing programs discussed in this section include existing programs as well as new programs that have been added to address the unmet housing needs.

13. Update and Amend the General Plan and Zoning Ordinance

h) General Plan Consistency. State law (GC Section 65302(g)) requires the safety and conservation elements of the general plan to include analysis and policies regarding fire and flood hazards management. In addition, GC Section 56430 requires the land use element to address disadvantaged communities (unincorporated island or fringe communities within spheres of influence areas or isolated long established “legacy” communities) based on available data. As part of these requirements the City will amend these General Plan elements to comply with State law. Furthermore, to ensure all Elements of the General Plan be internally consistent, the City will annually review the Housing Element for consistency with the General Plan as part of the General Plan Progress Report.

Objective: 1) Amend the Safety and Conservation Elements of the General Plan to include policies regarding fire and flood hazard management, and the Land Use Element to address disadvantaged communities.

2) Prepare the General Plan Progress Report

Agency: City of Arvin CDD

Financing: General Fund

Time Frame: 1) Concurrent with the adoption of the 2013-2023 Housing Element Amendment in 2017/18.

2) Annually 2017-2023
ATTACHMENT 2: **Government Code 65302**

**(g)** (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:
   (i) **Flood hazard zones.** As used in this subdivision, “flood hazard zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.
   (ii) **National Flood Insurance Program maps** published by FEMA.
   (iii) **Information about flood hazards** that is available from the United States Army Corps of Engineers.
   (iv) **Designated floodway maps** that are available from the Central Valley Flood Protection Board.
   (v) **Dam failure inundation maps** prepared pursuant to Section 6161 of the Water Code that are available from the Department of Water Resources.
   (vi) **Awareness Floodplain Mapping Program maps and 200-year flood plain maps** that are or may be available from, or accepted by, the Department of Water Resources.
   (vii) **Maps of levee protection zones.**
   (viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.
   (ix) **Historical data on flooding,** including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.
   (x) **Existing and planned development in flood hazard zones,** including structures, roads, utilities, and essential public facilities.
   (xi) **Local, state, and federal agencies with responsibility for flood protection,** including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:
   (i) **Avoiding or minimizing the risks** of flooding to new development.
   (ii) **Evaluating whether new development** should be located in flood hazard zones,
and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research’s most recent publication of “Fire Hazard Planning, General Plan Technical Advice Series” and shall also include all of the following:

(A) Information regarding fire hazards, including, but not limited to, all of the following:

(i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.

(ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.

(iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.

(iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.

(v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.

(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency
ATTACHMENT 2: **Government Code 65302**

shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) **Designing adequate infrastructure if a new development is located** in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) **Working cooperatively with public agencies** with responsibility for fire protection.

(D) If a **city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county’s adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.**

(4) **Upon the next revision of a local hazard mitigation plan**, adopted in accordance with the federal Disaster Mitigation Act of 2000 (Public Law 106–390), on or after January 1, 2017, or, if a local jurisdiction has not adopted a local hazard mitigation plan, beginning **on or before January 1, 2022**, the safety element shall be reviewed and updated as necessary **to address climate adaptation and resiliency strategies applicable to the city or county**. This review shall consider advice provided in the Office of Planning and Research’s General Plan Guidelines and shall include all of the following:

(A) (i) A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at risk from climate change impacts, including, but not limited to, an assessment of how climate change may affect the risks addressed pursuant to paragraphs (2) and (3).

(ii) Information that may be available from federal, state, regional, and local agencies that will assist in developing the vulnerability assessment and the adaptation policies and strategies required pursuant to subparagraph (B), including, but not limited to, all of the following:

(I) Information from the **Internet-based Cal-Adapt tool**.

(II) Information from the most recent version of the California Adaptation Planning Guide.

(III) Information from local agencies on the types of assets, resources, and populations that will be sensitive to various climate change exposures.

(IV) Information from local agencies on their current ability to deal with the impacts of climate change.

(V) Historical data on natural events and hazards, including locally prepared maps of areas subject to previous risk, areas that are vulnerable, and sites that have been repeatedly damaged.

(VI) Existing and planned development in identified at-risk areas, including structures, roads, utilities, and essential public facilities.

(VII) Federal, state, regional, and local agencies with responsibility for the protection of public health and safety and the environment, including special districts and local offices of emergency services.

(B) A set of adaptation and resilience goals, policies, and objectives based on the information specified in subparagraph (A) for the protection of the community.
(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives identified pursuant to subparagraph (B) including, but not limited to, all of the following:
(i) Feasible methods to avoid or minimize climate change impacts associated with new uses of land.
(ii) The location, when feasible, of new essential public facilities outside of at-risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in at-risk areas.
(iii) The designation of adequate and feasible infrastructure located in an at-risk area.
(iv) Guidelines for working cooperatively with relevant local, regional, state, and federal agencies.
(v) The identification of natural infrastructure that may be used in adaptation projects, where feasible. Where feasible, the plan shall use existing natural features and ecosystem processes, or the restoration of natural features and ecosystem processes, when developing alternatives for consideration. For the purposes of this clause, “natural infrastructure” means the preservation or restoration of ecological systems, or utilization of engineered systems that use ecological processes, to increase resiliency to climate change, manage other environmental hazards, or both. This may include, but is not limited to, floodplain and wetlands restoration or preservation, combining levees with restored natural systems to reduce flood risk, and urban tree planting to mitigate high heat days.

(D) (i) If a city or county has adopted the local hazard mitigation plan, or other climate adaptation plan or document that fulfills commensurate goals and objectives and contains the information required pursuant to this paragraph, separate from the general plan, an attachment of, or reference to, the local hazard mitigation plan or other climate adaptation plan or document.
(ii) Cities or counties that have an adopted hazard mitigation plan, or other climate adaptation plan or document that substantially complies with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions, climate adaptation plan or document, specifically showing how each requirement of this subdivision has been met.

(5) After the initial revision of the safety element pursuant to paragraphs (2) and (3) upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information relating to flood and fire hazards that was not available during the previous revision of the safety element.

(6) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply
with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(7) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(8) To the extent that a county’s safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county’s safety element that pertains to the city’s planning area in satisfaction of the requirement imposed by this subdivision.

**65302.5.** (NOTE: Submit to California Geological Survey of the Department of Conservation 45 Days)

(a) At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the California Geological Survey of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision.
November 7, 2017

Department of Conservation
California Geological Survey
801 K Street, MS 12-30
Sacramento, CA 95814

REF: City of Arvin – Draft Safety Element 2017 Update

Attn: California Geological Survey office,

The City of Arvin is in the process of updating its 1988 Safety Element and as is required by Section 65302.5(a) is submitting the element for your review. The City has a preliminary schedule of adoption on January 16, 2018 as the City Council hearing date. Your comments would be appreciated prior to December 12, 2017.

Enclosed is a hard copy of the Draft Safety Element Update and a compact disc containing the draft City of Arvin Safety Element and the Kern County Multi-Jurisdictional Hazard Management Plan. The City of Arvin City Council adopted the Kern County Multi-Jurisdictional Hazard Management Plan on March 18, 2014 by Resolution Number 2014-07.

Please forward your comments to:
City of Arvin,
Community Development Department,
Planning Division,
141 Plumtree Drive
Arvin, Ca 93203.

My contact information is: Phone number 661-854-2622 and my email address is mbrown@arvin.org.

In addition, please cc: City Planner, Jake Raper. His contact information is:
Jake Raper, JAS Contract Planner, 805-234-7908 and his email is jakeraper@yahoo.com.

Sincerely,

Marti Brown
Community Development Director

Cc: City Planner, Jake Raper, JAS Contract Planner
RESOLUTION NO. -

A RESOLUTION OF THE ARVIN PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL TO ADOPT AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, APPROVING DEVELOPMENT AGREEMENT NO. 2018-01 BETWEEN THE CITY OF ARVIN AND AARON COPPELSON, M.D., INC., FOR THE DEVELOPMENT OF CERTAIN COMMERCIAL CANNABIS OPERATIONS LOCATED AT 100 SYCAMORE ROAD, ARVIN, CA

WHEREAS, Sections 65864-65869.5 of the California Government Code authorize the City to enter into development agreements and requires the planning agency of the City to find the proposed development agreement to be consistent with the policies and programs of the General Plan and any applicable specific plan, which the Planning Commission has done; and

WHEREAS, Government Code Section 65865 authorizes the City to enter into development agreements with any person having a legal or equitable interest in real property; and

WHEREAS, Aaron Coppelson, M.D., Inc. (“Developer”) has filed the following application(s) with the City for development of 100 Sycamore Road, in Arvin, California, APN: 192-231-08, which is generally located north of Sycamore Road between Kavacevich Street and Derby Street/Tejon Highway, (the “Project Area” or “Property”) for the development of cannabis uses under for Type 3b cultivation, Type 9 non-store front delivery, and Type 11 distribution to be completed in two phases (the “Project”):

1) An application for a Development Agreement.
2) An application for a conditional use permit for cannabis cultivation, which would allow the use of Type 3b cultivation, Type 9 non-store front delivery, and Type 11 distribution within the Project Area.
3) An application for a site development permit.
4) An application for Commercial Cannabis Permit(s), as required by Chapter 17.64 of the Arvin Municipal Code, for cannabis uses in the Project Area.

The various entitlements are collectively referred to as “Project Approvals” ; and

WHEREAS, the City performed a preliminary environmental assessment pursuant to the requirements of the California Environmental Quality Act (California Public Resources Code section 21000, et seq.) and the Guidelines thereunder (14 California Code of Regulations section 15000, et seq.) (collectively, “CEQA”), and determined the Project Approvals were subject to exemptions pursuant to CEQA Guidelines Section 15061(b)(3) and 15301 (Existing Facilities).

WHEREAS, the City properly noticed the December 11, 2018 Planning Commission special meeting to consider the proposed development agreement pursuant to Government Code sections 65090 and 65091 by publication in the newspaper and provided notice to all property owners within 300 feet of the proposed projects; and
WHEREAS, the Planning Commission conducted a duly noticed public hearing on December 11, 2018, at which time all interested parties were given an opportunity to be heard and present evidence regarding the Project Approvals, including Development Agreement 2018-01; and

WHEREAS, the Planning Commission now desires to recommend the City Council adopt the CEQA determination and approve the proposed Development Agreement By And Between The City Of Arvin, A Municipal Corporation, And Aaron Coppelson, M.D., Inc., A California Corporation (Development Agreement No. 2018-01) by adoption of this uncodified ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Arvin as follows:

1. The above recitals are true and correct.

2. The Planning Commission recommends to the City Council adopt a CEQA determination pursuant to CEQA Guidelines Section 15061(b)(3) as it can be seen with certainty that there is no possibility that the Third Amendment will have a significant, adverse, physical effect on the environment, and is not subject to the California Environmental Quality Act (CEQA). The project will use existing facilities and will be subject to the restrictions of the Arvin Municipal Code for cannabis operations, including odor, noise, etc. In the alternative, the this project is also subject to a Class 1 (Existing Facilities) categorical exemption pursuant to CEQA Guidelines section 15301, as it consists of the operation, repair, permitting and licensing of an existing private structure and any appurtenant structures, involving negligible or no expansion of use beyond that existing at the time of the City’s determination. Further, none of the exceptions to categorical exemptions set forth in CEQA Guidelines, section 15300.2, apply to this project.

3. The Planning Commission recommends the City Council approve the Development Agreement By And Between The City Of Arvin, A Municipal Corporation, And Aaron Coppelson, M.D., Inc., A California Corporation (Development Agreement No. 2018-01) and uncodified ordinance attached hereto as Exhibit “A,” and recommends the City Council make the following attendant findings:

   a. Finding 1: The proposed Development Agreement No. 2018-01 complies with the purposes, goals and policies of the City's General Plan. Accordingly, the Development Agreement is consistent with all applicable provisions of the General Plan. The proposed land uses and the density are also compliant per this requirement.

   b. Finding 2: The Development Agreement is consistent with and furthers a number of goals and objectives identified in the City’s General Plan.

   c. Finding 3: The Development Agreement does not include a subdivision as defined in Section 66473.7 of the Government Code.

4. This Resolution shall become effective immediately.
I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Arvin Planning Commission at a special meeting thereof held on the ___th day of _______2018 by the following vote:

AYES: ________________________________________________

NOES: ________________________________________________

ABSENT: ______________________________________________

ABSTAIN: ____________________________________________

ATTEST:

__________________________, Secretary

ARVIN PLANNING COMMISSION

By: ____________________________, Chairperson

APPROVED AS TO FORM:

Attachment: Development Agreement By And Between The City Of Arvin, A Municipal Corporation, And Aaron Coppelson, M.D., Inc., A California Corporation (Development Agreement No. 2018-01)

I, ____________________________, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.
ORDINANCE NO. ______

AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, APPROVING DEVELOPMENT AGREEMENT NO. 2018-01 BETWEEN THE CITY OF ARVIN AND AARON COPPELSON, M.D., INC., FOR THE DEVELOPMENT OF CERTAIN COMMERCIAL CANNABIS OPERATIONS LOCATED AT 100 SYCAMORE ROAD, ARVIN, CA

WHEREAS, Sections 65864-65869.5 of the California Government Code authorize the City to enter into development agreements and requires the planning agency of the City to find the proposed development agreement to be consistent with the policies and programs of the General Plan and any applicable specific plan, which the Planning Commission has done; and

WHEREAS, Government Code Section 65865 authorizes the City to enter into development agreements with any person having a legal or equitable interest in real property; and

WHEREAS, Aaron Coppelson, M.D., Inc. (“Developer”) has filed the following application(s) with the City for development of 100 Sycamore Road, in Arvin, California, APN: 192-231-08, which is generally located north of Sycamore Road between Kavacevich Street and Derby Street/Tejon Highway, (the “Project Area” or “Property”) for the development of cannabis uses under for Type 3b cultivation, Type 9 non-store front delivery, and Type 11 distribution to be completed in two phases (the “Project”):

1) An application for this Development Agreement.
2) An application for a conditional use permit for cannabis cultivation, which would allow the use of Type 3b cultivation, Type 9 non-store front delivery, and Type 11 distribution within the Project Area.
3) An application for a site development permit.
4) An application for Commercial Cannabis Permit(s), as required by Chapter 17.64 of the Arvin Municipal Code, for cannabis uses in the Project Area.

The various entitlements are collectively referred to as “Project Approvals” ; and

WHEREAS, the City performed a preliminary environmental assessment pursuant to the requirements of the California Environmental Quality Act (California Public Resources Code section 21000, et seq.) and the Guidelines thereunder (14 California Code of Regulations section 15000, et seq.) (collectively, “CEQA”), and determined the Project Approvals were subject to exemptions pursuant to CEQA Guidelines Section 15061(b)(3) and 15301 (Existing Facilities).

WHEREAS, the City properly noticed the December 11, 2018 Planning Commission special meeting to consider the proposed development agreement pursuant to Government Code sections 65090 and 65091 by publication in the newspaper and provided notice to all property
owners within 300 feet of the proposed projects; and

WHEREAS, the City Planning Commission conducted a duly noticed public hearing on December 11, 2018, at which time all interested parties were given an opportunity to be heard and present evidence regarding the proposed development agreement and associated entitlements, and after which the Planning Commission adopted Resolution [______], recommending the City Council _____ adopt this Ordinance; and

WHEREAS, the City Planning Commission conducted a duly noticed public hearing on _____, 2018, at which time all interested parties were given an opportunity to be heard and present evidence regarding the proposed development agreement and associated CEQA, and after which this Ordinance was introduced by the City Council; and

WHEREAS, the City Council considered this matter on ______, 2019, at which time all interested parties were given another opportunity to be heard and present evidence regarding the proposed development agreement and associated CEQA determination; and

WHEREAS, the City Council now desires to adopt the CEQA determination and approve the proposed Development Agreement By And Between The City Of Arvin, A Municipal Corporation, And Aaron Coppelson, M.D., Inc., A California Corporation (Development Agreement No. 2018-01) by adoption of this uncodified ordinance.

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

Section 1. The City Council determines pursuant to CEQA Guidelines Section 15061(b)(3) that that it can be seen with certainty that there is no possibility that the Third Amendment will have a significant, adverse, physical effect on the environment, and is not subject to the California Environmental Quality Act (CEQA). The project will use existing facilities and will be subject to the restrictions of the Arvin Municipal Code for cannabis operations, including odor, noise, etc. In the alternative, the City Council determines this project is also subject to a Class 1 (Existing Facilities) categorical exemption pursuant to CEQA Guidelines section 15301, as it consists of the operation, repair, permitting and licensing of an existing private structure and any appurtenant structures, involving negligible or no expansion of use beyond that existing at the time of the City’s determination. Further, none of the exceptions to categorical exemptions set forth in CEQA Guidelines, section 15300.2, apply to this project.

Section 2. Pursuant to Government Code Sections 65864 through 65869.5 and in light of the record before it including the staff report (and all attachments), and all evidence and testimony heard at the public hearing for this item, and in light of all evidence and testimony provided in connection with the CEQA and the entitlements, and consistent with
the findings and recommendations of the Planning Commission, the City Council makes
the following findings regarding Development Agreement No. 2018-01:

Finding 1: The proposed Development Agreement No. 2018-01 complies with the
purposes, goals and policies of the City’s General Plan. Accordingly, the Development
Agreement is consistent with all applicable provisions of the General Plan. The proposed
land uses and the density are also compliant per this requirement.

Finding 2: The Development Agreement is consistent with and furthers a number
of goals and objectives identified in the City’s General Plan.

Finding 3: The Development Agreement does not include a subdivision as defined
in Section 66473.7 of the Government Code.

Section 3. The City Council finds the proposed Development Agreement No. 2018-
01 establishes mutual beneficial obligations and benefits for Aaron Coppelson, M.D., Inc.,
and the City.

Section 4. The City Council finds the proposed Third Amendment to the
Development Agreement complies with the requirements of California Government Code
Sections 65865 through 65869.5.

Section 5. The City Council finds Development Agreement No. 2018-01 will not
be detrimental, or cause adverse effects, to adjacent property owners, residents, or the
general public, since the Project will be developed in accordance with the City’s
ordinances, laws, regulations, and entitlements for the Project.

Section 6. For the foregoing reasons, and based on the information contained in any
staff report, supporting documentation, minutes and other records of the proceedings, all of
which are incorporated herein by this reference, the City Council hereby adopts this
Ordinance and approves the proposed Development Agreement By And Between The City
Of Arvin, A Municipal Corporation, And Aaron Coppelson, M.D., Inc., A California
Corporation (Development Agreement No. 2018-01), which is attached hereto as Exhibit
"A" and incorporated herein by this reference.

Section 7. 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. 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 8. The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code, Section 36933, or as otherwise
required by law.
**Section 9.** This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage and adoption.

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of ______ 2019, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of ______ 2019, by the following roll call vote:

**AYES:** 

**NOES:** 

**ABSTAIN:** 

**ABSENT:** 

**ATTEST**

______________________________, City Clerk

By: ____________________________

JOSE GURROLA, Mayor

Exhibit A: Development Agreement By And Between The City Of Arvin, A Municipal Corporation, And Aaron Coppelson, M.D., Inc., A California Corporation (Development Agreement No. 2018-01)

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.
EXHIBIT A

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT
DEVELOPMENT AGREEMENT

by and between

THE CITY OF ARVIN
a municipal corporation

and

Aaron Coppelson, M.D., Inc.,
a California Corporation
DEVELOPMENT AGREEMENT

This Development Agreement (the “Agreement”) is made this ___ day of _____, 2019, by and between the CITY OF ARVIN, a municipal corporation, organized and existing pursuant to the laws of the State of California (the “City”) and Aaron Coppelson, M.D., Inc., a California Corporation (the “Developer”). City and Developer are hereinafter sometimes collectively referred to as the “Parties” and each may be referred to as a “Party”.

RECITALS

A) Pursuant to Section 65864 through 65869.5 of the California Government Code (the “Development Agreement Laws”), the City is authorized to enter into binding development agreements with Persons (as hereinafter defined) having legal or equitable interests in real property for the development of such real property.

B) The following application(s) have been filed by the Developer with the City for 100 Sycamore Road, in Arvin, California, APN: 192-231-08, that is generally located north of Sycamore Road between Kavacevich Street and Derby Street/Tejon Highway, (the “Project Area” or “Property”) for the development of cannabis uses under for Type 3b cultivation, Type 9 non-store front delivery, and Type 11 distribution to be completed in two phases (the “Project”):

1) An application for this Development Agreement (the “DA Application”).
2) An application filed by the Developer (the “CUP Application”) for a conditional use permit for cannabis cultivation, which would allow the use of Type 3b cultivation, Type 9 non-store front delivery, and Type 11 distribution within the Project Area (as more particularly described in the CUP Application).
3) An application for a site development permit filed by the Developer (the “Site Development Application”) for architectural treatment, drainage, site aesthetics, and similar development within the Project Area (as more particularly described in the Site Plan Application).
4) An application filed by the Developer (the “Commercial Cannabis Permit Application”) for a Commercial Cannabis Permit, as required by Chapter 17.64 of the Arvin Municipal Code, for cannabis uses in the Project Area (as more particularly described in the Commercial Cannabis Permit application).

The CUP Application, the Site Development Application and the Commercial Cannabis Permit Application are hereinafter sometimes collectively referred to as the “Project Applications”. Approval of the Project Applications is hereinafter sometimes collectively referred to as the “Project Approvals.” The Project Area is depicted on Exhibit “A” to this Agreement, and the legal description is set forth on Exhibit “B.”

C) All required fees and costs have been paid for the filing, and the City’s processing of, the Project Applications except for the payment of the City Preparation Costs (as hereinafter defined) which will be paid within thirty (30) days of the Effective Date (as hereinafter defined) of this Agreement.

D) Subsequent to the filing of the Project Applications, the City performed a preliminary environmental assessment pursuant to the requirements of the California Environmental Quality Act
(California Public Resources Code section 21000, *et seq.*) and the Guidelines thereunder (14 California Code of Regulations section 15000, *et seq.*) (collectively, “CEQA”), and determined the Project Approvals were subject to exemptions pursuant to CEQA Guidelines Section 15061(b)(3) and 15301 (Existing Facilities).

E) Developer filed the DA Application for approval of this Agreement in order to: (1) vest the land use and zoning policies established in the Existing City Requirements (as hereinafter defined) as of the Adoption Date (as hereinafter defined) of this Agreement for the duration of the Term (as hereinafter defined) with respect to the Project Area and the Project; and (2) memorialize certain other agreements made between the City and Developer with respect to the Project Area and the Project.

F) The City has determined that this Agreement furthers the public health, safety and general welfare, and that the provisions of this Agreement are consistent with the goals and policies of the 2035 Arvin General Plan. For the reasons recited herein, the City and Developer have determined that the Project is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty regarding Project Approvals and certain subsequent development approvals, thereby encouraging planning for, investment in and commitment to use and develop the Project Area. Continued use and development of the Project Area is anticipated to, in turn, provide the following substantial benefits and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Laws were enacted: (1) Provide for the development of unused land; (2) Provide increased tax revenues for the City; (3) Provide for jobs and economic development in the City; and (4) Provide infrastructure improvements that can be utilized by regional users and future users. It is based upon these benefits to the City that the City is agreeable to proceeding with the proposed Project Applications and Project Approvals.

G) The City has further determined that it is appropriate to enter into this Agreement to: (1) provide certainty to encourage investment in the comprehensive development and planning of the Project; (2) secure orderly development and progressive fiscal benefits for public services, improvements and facilities planning for the Project Area and neighboring areas, as appropriate; and (3) fulfill and implement applicable adopted City plans, goals, policies and objectives.

H) The City has further determined that the provisions of this Agreement, including the uses and activities authorized herein, are compatible with the uses authorized in, and the regulations prescribed for, the zoning district and area in which the Property is located, and will not adversely affect the orderly development of property or the preservation of property values in the City.

I) The City has further determined that this Agreement, will provide for or result in contributions, services, or facilities that benefit the community and provides for payment by the Developer or all costs associated with preparing and entering into this Agreement as stated this Agreement.

J) The City has further determined that this Agreement provides a reasonable penalty for violation of its terms, as stated in Section 10 hereof.

K) This Agreement will survive beyond the term or terms of the present City Council.

L) On ______________, 2018, at a duly noticed public meeting and after due review
and consideration of (i) the report of City staff on the Project Applications, (ii) all other evidence heard and submitted at the public hearing, and (iii) all other appropriate documentation and circumstances, the Planning Commission of the City adopted resolutions recommending that the City Council: (1) adopt the exemption pursuant to CEQA Guidelines Sections 15061(b)(3) and 15301(Existing Facilities) in compliance with CEQA; (2) approve the CUP Application, and Site Development Application subject to the express conditions of approval set forth therein (collectively, the “Conditions of Approval”); and (3) approve this Development Agreement.

M) On _____________, 2019, at a duly noticed public meeting and after introduction with of the ordinance due review and consideration of (i) the report of City staff on the Project Applications, (ii) the recommendations of the Planning Commission, (iii) all other evidence heard and submitted at the duly noticed public hearing conducted and closed, and (iv) all other appropriate documentation and circumstances, the City Council adopted an ordinance to: (a) adopt the exemption pursuant to CEQA Guidelines Sections 15061(b)(3) and 15301(Existing Facilities) in compliance with CEQA and adopt any attendant findings required by CEQA; (b) to effectuate the approval of this Agreement, upon making the findings required by section 17.64.200 of the Arvin Municipal Code; and (c) direct the City Manager to finalize and execute this Agreement on behalf of the City (collectively, the “City Council Ordinance”).

AGREEMENT

NOW, THEREFORE, with reference to the above Recitals, and in consideration of the mutual covenants and agreements contained in this Agreement, the City and the Developer agree as follows:

1. Interests of Developer.

1.1 Recordation Prior to Sale of the Property. Prior to the Adoption Date, Developer has entered into a written agreement with the owner of the Property for the acquisition of the Property, but the close of escrow on such acquisition has not occurred as of the Adoption Date. This Agreement shall not be recorded in the Official Records with respect to the Property and the rights and obligations under this Agreement shall not apply to the Property owner unless and until either: (a) the close of escrow occurs on the acquisition of the Property by Developer or its successors and assigns; or (b) the owner of fee title to the Property agrees in writing to (i) consent to such recordation, and (ii) be bound by the terms and conditions hereof. Upon satisfaction of either the condition in clause (a) or clause (b), this Agreement shall be recorded in the Official Records and the City and Developer shall execute any documents reasonably required by the other to effectuate such recordation.

1.2 Recordation of Agreement. Within ten (10) calendar days following mutual execution of this Agreement by the City and Developer, the City shall cause this Agreement to be recorded in the official records of Kern County, California (the “Official Records”) with respect to the Property. Following the recordation of this Agreement in the Official Records, the City shall deliver to Developer a conformed copy of this Agreement evidencing the recording information.

1.3 Binding Covenants. The Developer represents that, except as provided in Section 1.1 of this Agreement: (1) it has a legal or equitable interest in the Project Area; (2) it has provided proof of such interest to the satisfaction of the City Manager; (3) it has provided proof of the authority of any agent or representative to act for the Developer in connection with this
Agreement to the satisfaction of the City Manager; and (4) all other persons holding legal title in the Project Area are bound by this Agreement. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the land in the Project Area, and the burdens and benefits hereof shall bind an inure to all successors in interest to the Parties.

2. Term of Agreement.

2.1 Definitions. For purposes of this Agreement, the following shall have the meanings set forth below:

“Adoption Date” means the date on which the City Council adopted the ordinance approving this Agreement and authorizing the City Manager to execute this Agreement on behalf of the City.

“Effective Date” means the later of: (a) thirty (30) days after the Adoption Date; or (b) if a referendum petition is timely and duly circulated and filed with respect to this Agreement, the date the election results on the ballot measure by City voters approving this Agreement are certified by the City Council in the manner provided in the Elections Code.

“Laws” means the Constitution and laws of the State, the Constitution of the United States, and any codes, statutes, regulations, or executive mandates thereunder, and any court decision, State or federal, thereunder.

“State” means the State of California.

“Terminate” means the expiration of the Term of this Agreement, whether by the passage of time or by any earlier occurrence pursuant to any provision of this Agreement. The term “Terminate” includes any grammatical variant thereof, including “Termination” or “Terminated”.

2.2 Term. The term of this Agreement (the “Term”) shall commence on the Effective Date and shall continue for a period of ten (10) years following the Effective Date; provided that such period shall be extended for any events of Force Majeure pursuant to Section 13.1 and during the pendency of any legal action challenging the Project Approvals, the adoption of an environmental finding or document for the Project pursuant to CEQA, or any legal action challenging or contesting the adoption of this Agreement. Any extension based upon an event described in this Section 2.2 shall be granted pursuant to the procedures set forth in Section 13.2.

2.3 Effect of Termination. Upon any Termination of this Agreement, each Party shall retain any and all of the respective benefits that it received as of the date of Termination under or in connection with this Agreement. Termination of this Agreement shall not: (a) alter, impair or otherwise affect any City Permits for the Project that were issued by the City prior to the date of Termination; or (b) prevent, impair or delay Developer from (i) commencing, performing or completing the construction of any buildings or improvements in the Project or (ii) obtaining any certificates of occupancy or similar approvals from the City for the use and occupancy of completed buildings or improvements in the Project, that were authorized pursuant to City Permits for such construction issued by the City prior to the date of Termination. Nothing herein shall preclude the City, in its discretion, from taking any action authorized by Laws or Existing City Requirements to prevent, stop or correct any violation of Laws or Existing City Requirements occurring before,
during or after construction of the buildings and improvements in the Project by Developer.

3. Development of the Project.

3.1 For purposes of this Agreement, the following shall have the meanings set forth below:

“Applicable Rules” collectively means: (a) the terms and conditions of the Project Approvals; (b) the terms and conditions of this Agreement; and (c) the Existing City Requirements.

“City Agency” means any office, board, commission, department, division or agency of the City.

“City Manager” means the City Manager of the City of Arvin, or designee.

“City Permits” collectively means any and all permits or approvals that are required under the City Requirements in order to develop, use and operate the Project, other than: (a) the Plan Amendments; (b) the Zoning Amendments; (c) the Project Approvals (except for a commercial cannabis permit); and (d) Future Discretionary Approvals (as hereinafter defined) that the Developer may elect to obtain from the City pursuant to Section 3.4. “City Permits” specifically include, without limitation, commercial cannabis permits, building permits and Technical City Permits.

“City Requirements” collectively means all of the following which are in effect from time to time: (a) the Arvin Municipal Code; and (b) all rules, regulations and official plans and policies, including the 2035 Arvin General Plan and any applicable Specific Plan, of the City governing development, subdivision and zoning that are applicable to the Project Area. The City Requirements may include, without limitation, requirements governing building height, maximum floor area, permitted and conditionally permitted uses, floor area ratios, maximum lot coverage, building setbacks and stepbacks, parking, signage, landscaping, Exactions (as hereinafter defined) and dedications, growth management, environmental consideration, grading, construction, security measures, odor control and other items.

“Developer Approved Changes” means those amendments, revisions or additions to the City Requirements adopted or enacted after the Adoption Date that: (a) Developer elects, in its sole discretion, to have applied to the development and occupancy of the Project and the Project Area during the Term of this Agreement; and (b) the City Manager approves such application, which approval shall not be unreasonably withheld.

“Existing City Requirements” means the City Requirements that are in effect as of the Adoption Date of this Agreement.

“Permitted Rules Revisions” collectively means the following: (a) any Minor Changes to this Agreement that are proposed by Developer and approved by the City in accordance with Section 3.3; (b) any commercial cannabis activity regulations enacted by the City Manager; (c) any Future Discretionary Approvals that are applied for by Developer and approved by the City pursuant to Section 3.4; (d) any Authorized Code Revisions under Section 3.5 that are uniformly applied on a City-wide basis; and (e) written amendments to this Agreement that are
mutually executed by City and Developer pursuant to Section 16.2.

“Technical City Permits” collectively means any of the following technical permits issued by the City or any City Agency in connection with any building or improvement in the Project: (a) demolition, excavation and grading permits; (b) foundation permits; (c) permits for the installation of underground lines and facilities for utilities, including without limitation, water, sewer, storm drain and dry utilities (electrical, gas, phone and cable); (d) any encroachment permits; and (e) any street improvement permits, including without limitation, permits for street lighting and traffic signals. “Technical City Permits” specifically excludes building permits from the City or any City Agency for the construction of particular buildings or improvements in the Project.

3.2 Applicable Rules.

3.2.1 Except for the Permitted Rules Revisions and any Developer Approved Changes, Developer shall have the right to develop and occupy the Project during the Term in accordance with the Applicable Rules. In the event of any conflict between the provisions in this Agreement, the Project Approvals and the Existing City Requirements, such conflict shall be resolved in the following order of priority: (a) first, the requirements of Chapter 17.64 of the Arvin Municipal Code; (b) then, commercial cannabis activity regulations enacted by the City Manager; (c) then, this Agreement; (d) then, the Project Approvals; and (e) finally, the Existing City Requirements.

3.2.2 Except for the Permitted Rules Revisions and any Developer Approved Changes, no amendment to, revision of, or addition to any of the City Requirements that is adopted or enacted after the Adoption Date shall (i) be effective or enforceable by the City with respect to the Project or the Project Area or (ii) modify or impair the rights of Developer under this Agreement during the Term without the Developer’s written approval, whether such amendment, revision or addition is adopted or approved by: (a) the City Council; (b) any City Agency; or (c) by the people of the City through referendum or initiative measure.

3.3 Minor Changes.

3.3.1 The Parties acknowledge that further planning and development of the Project may demonstrate that refinements and changes are appropriate with respect to the details and performance of the Parties under this Agreement. The Parties desire that Developer retain a certain degree of flexibility with respect to the details of the development of the Project and with respect to those items covered in general terms under this Agreement. If and when Developer finds that Minor Changes (as hereinafter defined) are necessary or appropriate, then upon written request by Developer, the Parties shall, unless otherwise required by federal, state or local ordinance and/or regulation, effectuate such changes or adjustments through administrative amendments executed by the Developer and the City Manager or his or her designee, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further changed and amended from time to time as necessary, with approval by the City Manager and the Developer.

3.3.2 The term “Minor Changes” collectively means: (a) minor deviations to the Project Approvals that are permitted under the Existing City Requirements and are reasonably approved by the City Manager; (b) a reduction in the parking ratio requirements for the Project under consistent with the Arvin Municipal Code, provided that (i) the reduction does not exceed ten
percent (10%) of the Code requirement, and (ii) the reduction is approved by the City Manager, which approval shall not be unreasonably withheld or denied; or (c) such other changes, modifications or adjustments to the Project Approvals, which the City Manager determines are consistent with the overall intent of the Project Approvals and which do not materially alter the overall nature, scope, or design of the Project, and which are consistent with the requirements of Chapter 17.64 of the Arvin Municipal Code and any commercial cannabis activity regulations enacted by the City Manager.

3.3.3 In effecting any Minor Changes, the City shall cooperate with the Developer, provided that the permitted uses are not modified from those in the Project Approvals and any changes are in accordance with the Existing City Requirements. Minor Changes shall not be deemed to be an amendment to this Agreement under California Government Code section 65868 but are ministerial clarifications and adjustments, and unless otherwise required by law, no such administrative amendments shall require prior notice or hearing by the Planning Commission and City Council. Any amendment or change requiring a environmental impact report, or a supplement thereto, pursuant to CEQA shall not be considered a Minor Change, but shall be considered substantive amendment which shall be reviewed and approved by the Planning Commission or the City Council as determined by the applicable provisions of the Arvin Municipal Code relating to the hearing and approval procedures for the specific Project Approval.

3.4 Future Discretionary Approvals. Nothing in this Agreement is intended, should be construed or shall operate to preclude or otherwise impair the rights of Developer from applying to the City during the Term of this Agreement for any of the following new approvals with respect to any proposed buildings and improvements in the Project (collectively, the “Future Discretionary Approvals”): (a) any new variance or conditional use permit that is required under the Existing City Requirements; (b) any subsequent commercial cannabis permit; and (c) any other approval (i) which is not otherwise addressed or set forth in this Agreement and (ii) which the Existing City Requirements mandate must be reviewed and approved by the Planning Commission or City Council. The City shall process, review and approve or disapprove any application for a Future Discretionary Approval filed by Developer in accordance with the City Requirements then in effect. The approval by the City of an application by Developer for a Future Discretionary Approval shall not require an amendment of this Agreement.

3.5 Authorized Code Revisions. This Agreement shall not prevent the City from applying to the Project the following rules, regulations and policies adopted or enacted after the Adoption Date, if uniformly applied on a City-wide basis (collectively, the “Authorized Code Revisions”):

3.5.1 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided that such changes in procedural regulations do not have the effect of materially interfering with the substantive benefits conferred to Developer by this Agreement.

3.5.2 Regulations which are not in conflict with this Agreement and which would not, alone or in the aggregate, cause development of the Project to be materially different, more burdensome, time consuming or expensive.

3.5.3 Regulations which are necessary to avoid serious threats to the public health and safety, provided that, to the maximum extent possible, such regulations shall be construed
and applied in a manner to preserve the substantive benefits conferred to Developer by this Agreement.

3.5.4 Mandatory regulations of the State and the United States of America applicable to the Project, provided that, to the maximum extent if possible, such regulations shall be construed and applied in a manner to preserve to the Developer the substantive benefits conferred to Developer by this Agreement.

3.5.5 City Requirements imposing life safety, fire protection, mechanical, electrical and/or building integrity requirements with respect to the design and construction of buildings and improvements, including the then current applicable building codes.

3.5.6 Any commercial cannabis activity regulations enacted by the City Manager which are in compliance with the mandatory requirements of the Arvin Municipal Code.

3.6 Timing of Development. The actual timing and order of the development of any particular building(s) within the Project shall be determined by Developer, in its sole discretion, based upon the then projected needs and resources of Developer, as long as all requirements set forth in this Agreement and the Project Approvals related to each designated building or buildings are satisfied by Developer.

3.7 No Obligation to Develop. Nothing in this Agreement is intended, should be construed nor shall require Developer to proceed with the construction of any improvements in the Project Area. The decision to proceed or to forbear or delay in proceeding with the implementation or construction of the Project or any buildings or improvements on the Project Area shall be in the sole discretion of Developer and the failure of Developer to proceed with construction of the Project or any such buildings or improvements on the Project Area shall not: (a) give rise to any rights of the City to terminate this Agreement; or (b) constitute an Event of Default (as hereinafter defined) or give rise to any liability, claim for damages or cause of action against Developer.

3.8 Hold on Certificate of Occupancy. Except as otherwise provided in Section 6.2.3, the City reserves the right to place a hold on the issuance of any required Certificate of Occupancy for a building in the Project in the event the Existing City Requirements or Conditions of Approval with respect to that building have not been substantially completed by Developer.

4. City Permits.

4.1 Review and Processing of City Permits. Except as otherwise expressly provided in this Agreement, all City Permits required for the construction, development and operation of the Project and any buildings and improvements therein which comply with the requirements of the Applicable Rules: (a) shall be issued over-the-counter by the City Manager or the director of the other applicable City Agency having responsibility for the issuance of such City Permits, such as the City Manager for commercial cannabis permits; (b) shall not require the approval of the Planning Commission, City Council or any other City board or commission; and (c) shall not require a public hearing.

4.2 [Reserved.]

5. [Reserved.]
6. Exactions and City Development Fees.

6.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

“City Application Fees” means fees levied or assessed by the City and any City Agency to review and process applications for City Permits.

“City Development Fees” means any and all fees and assessments, other than City Application Fees, charged or required by the City or any City Agency as a condition of, or in connection with, the Project Approvals or any City Permits: (a) to defray, offset or otherwise cover the cost of public services, improvements or facilities; or (b) that are imposed for a public purpose.

“Exaction” means any exactions or mitigation measures, other than the payment of City Development Fees and City Application Fees, that are imposed by the City or any City Agency, as a condition of, or in connection with, the Project Approvals. “Exactions” includes, without limitation: (a) a requirement for the dedication of any portion of the Project Area to the City or any City Agency; (b) an obligation for the construction of any on-site or off-site improvements, including any Off-Site Improvements; (c) an obligation to provide services; or (d) the requirement to dedicate any easements, rights or privileges with respect to the Project or any portion thereof to the City or any City Agency.

6.2 Exactions.

6.2.1 All of the Exactions that Developer shall be required to perform or caused to be performed in connection with the development, construction, use and occupancy of the Project, during the term of the Agreement (collectively, the “Required Exactions”), and the timing requirements for the performance of such Required Exactions, are set forth in this Agreement. The Required Exactions include the following:

6.2.1.1 Developer shall tender payment to the City in the amount of fifty thousand dollars ($50,000.00) in unrestricted community benefit funds. The community benefit funds may be utilized by the City in any manner deemed necessary by majority vote of the City Council. The community benefit funds shall be paid in full by Developer on or before 60 days after issuance of the certificate of occupancy or operations commence, whichever is first.

6.2.1.2 Within 60 days of the Effective Date, Developer shall pay payment to the City fifty thousand dollars ($50,000.00). Once paid, Developer shall be entitled to a credit of $50,000 against those Required Exactions and fees set forth in Exhibit “C.”

6.2.1.3 On a quarterly basis, Developer shall pay the City in the amount one dollar ($1.00) per square foot of cultivated cannabis. The square footage shall be determined by measuring the canopy of the cannabis being cultivated. Upon request of the City, Developer shall allow City staff to independently verify the measurement of the canopy of the cannabis being cultivated. In addition to any other remedies, failure to permit City staff to verify Developer’s measurement of the cannabis canopy shall also be grounds for the City to terminate this Agreement.
6.2.1.4 Developer shall pay to the City an amount as determined by the City, in restricted funds to be utilized on a draw down basis for the City costs to process the Developer’s application(s) relating to its proposed commercial cannabis business. Should the restricted funds be exhausted prior to the City completing its processing of the application(s), Developer shall pay an additional amount to the City sufficient to process the application(s). The restricted funds shall be paid in full by Developer on or before 90 days after approval of this Agreement. Any excess payment from the Developer shall be returned by the City after all processing costs have been satisfied.

6.2.1.5 For the term of this Agreement, the City shall provide Developer with a first right of refusal to receive cannabis cultivation permits up to a total of sixty-six thousand square feet (66,000 sq ft.). Developer must provide its acceptance, of all or a portion of the offered amount, to the City in writing within 30 days of the notification by the City of said availability. No later than 18 months after said acceptance, Developer must pay Required Exactions for the entire accepted portion regardless if that portion is actually entitled, assessed under CEQA as required, or in operation.

6.2.1.6 Developer shall make a one-time payment of $0.044 per square foot of permitted use to offset the proportionate amount of the City’s costs of preparation of Ordinance No. 447 – Chapter 17.64 Commercial Cannabis Activities. The payment shall be made within 30 days of the Effective Date of this Agreement.

In addition, the Required Exactions include, without limitation, all Conditions of Approval imposed by the City, to fully mitigate adverse impacts resulting from, and reasonably related to, the development of the Project.

6.2.2 Except for the Required Exactions and fees listed in this Agreement, no Exaction shall be imposed by the City or any City Agency during the Term of this Agreement in connection with: (a) the development, construction, use or occupancy of the Project; or (b) any applications filed for any City Permit for the development, construction, use or occupancy of the Project or any portion thereof.

6.3 [Reserved]

6.4 City Development Fees.

6.4.1 All of the City Development Fees that Developer shall be required to pay to the City and all City Agencies in connection with the development, construction, use and occupancy of the Project (collectively, the “Required Development Fees”), and the timing requirements for the payment of such Required Development Fees, are set forth in Exhibit “C” to this Agreement.

6.4.2 Notwithstanding the provisions of Section 6.4.1, Developer shall be responsible for paying: (a) any fees that Developer is obligated to directly pay to any Federal, State,
County or local agency (other than any City Agency) under applicable Federal, State, County or local law; and (b) any fees the City is legally required to collect for other State or Federal agencies pursuant to (i) State or Federal law or (ii) any City agreement or City ordinance that the City is legally mandated or required to adopt or enter into to comply with State or Federal law or a judgment of a court of law, but only to the extent necessary to satisfy such compliance.

6.4.3 Except for the Required Development Fees listed on Exhibit “C” to this Agreement, or other fees identified in this Agreement, and any fees for a required building inspection or other required process for occupancy to be charged at the then current rate charged by the City to other developers, no City Development Fees shall be imposed by the City or any City Agency during the Term of this Agreement in connection with: (a) the development, construction, use or occupancy of the Project; or (b) any application filed for any City Permit for the development, construction, use or occupancy of the Project. After the term of this Agreement, development and use of the Property shall comply with all laws, regulations, enactments (including taxes), ordinances, then currently in effect.

6.5 City Application Fees. Developer shall pay to the City the City Application Fees chargeable in accordance with the City’s Fee Schedule that is in effect at the time the relevant application for a City Permit is made; provided that such City Application Fees are uniformly imposed by the City and any City Agency at similar stages of project development on all similar applications for development in the City.

6.6 [Reserved]

7. Actions by City.

7.1 Other Governmental Permits. The City agrees to cooperate with Developer in Developer’s endeavors to obtain permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project Area or portions thereof (such as, for example, but not by way of limitation, public utilities or utility districts and agencies having jurisdiction over transportation facilities and air quality issues) so long as the cooperation by the City will not require the City to exercise legislative action or incur any cost, liability or expense without adequate indemnity against or right of reimbursement therefore from Developer.

7.2 Cooperation in Dealing with Legal Challenge. If any action or other proceeding is instituted by a third party or parties, other governmental entity or official challenging the validity of any provision of this Agreement (collectively, a “Third Party Action”), the Parties shall cooperate in the defense of the Third Party Action to the maximum extent reasonably possible under the circumstances unless otherwise required by law.

7.3 Indemnification.

7.3.1 Third Party Actions. To the furthest extent allowed by law, Developer shall indemnify, hold harmless and defend City and each of its officers, officials, employees, consultants, attorneys, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, damages and costs (including attorney’s fees, litigation expenses and administrative record preparation costs) arising from, resulting from, or in connection with any Third Party Action (as hereinafter defined). The term “Third Party Action” collectively means any legal action or other proceeding instituted by (i) a third party or parties or (ii) a governmental body, agency
or official other than the City or a City Agency, that: (a) challenges or contests any or all of this Agreement, the Project Applications and Approvals, and the Project Approvals; or (b) claims or alleges a violation of CEQA or another law by the City Council; or (c) the grant, issuance or approval by the City of any or all of this Agreement, the Project Applications and Approvals, and the Project Approvals. Developer’s obligations under this Section 7.3.1 shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties forfeitures, costs or damages caused solely by the active negligence or willful misconduct of the City or any of its officers, officials, employees, agents or volunteers. The provisions of this Section 7.3.1 shall survive the termination of this Agreement.

7.3.2 Additional Claims. To the fullest extent permitted by law, Developer shall indemnify, hold harmless and defend the City and each of its officers, officials, employees, consultants, attorneys, agents and volunteers ("City Indemnees") from any and all loss, liability, fines, penalties, forfeitures, costs and damages, including but not limited to personal injury, death at any time, and property damage, and including further attorney's fees, litigation and legal expenses incurred by the City Indemnee or held to be the liability of the City Indemnee (including plaintiff’s or petitioner’s attorney’s fees if awarded, in connection with the City Indemnee’s defense of its actions in any proceeding) (collectively, "Losses") incurred by any City Indemnees from any and all claims, demands and actions in law or equity (collectively, a "Claim"), whether in contract, tort or strict liability, resulting from, arising or alleged to have arisen directly or indirectly out of performance or in any way connected with: (i) the making of this Agreement; (ii) the performance of this Agreement; (iii) the issuance of the CUP, permits, licenses, or other entitlements related to a cannabis operations; or (iv) the City’s granting, issuing or approving use of this Agreement. If any portion of a claim, demand or action in law gives rise to indemnification under this Agreement, Developer shall be responsible for indemnifying, holding harmless or defending the City as to the entire claim, demand or action in law. Developer’s indemnification obligations under the proceeding portions of this paragraph shall apply regardless of whether the City Indemnees are negligent, but shall not apply to any Losses caused solely by the gross negligence or willful misconduct of any City Indemnees.

In addition, Developer shall indemnify, hold harmless and defend the City Indemnees from any and all federal enforcement action(s) arising from (i) the execution of this Agreement, (ii) the issuance of the CUP, permits, licenses, or other entitlements related to a cannabis operations, or (iii) any other entitlements or approvals by the City to operate the Developer’s commercial cannabis business. Further, Developer shall indemnify, hold harmless and defend the City Indemnees from any and all violation(s) of federal, state and/or local law by Developer, its officers, officials, employees, agents, subcontractors, independent contractors and volunteers.

If Developer should subcontract all or any portion of the work to be performed under this Agreement, Developer shall require each subcontractor to indemnify, hold harmless and defend the City Indemnees in accordance with the terms of the two prior paragraphs of this Section. Notwithstanding the preceding sentence, any subcontractor who is a "design professional" as defined in Section 2782.8 of the California Civil Code shall, in lieu of indemnity requirements set forth in the two prior paragraphs of this Section, be required to indemnify, hold harmless and defend the City Indemnees to the fullest extent allowed by law, from any and all Claims and Losses that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, its principals, officers, employees, agents or volunteers in the performance of this Agreement.
7.3.3 **Damage Claims.** The nature and extent of Developer’s obligations to indemnify, defend and hold harmless the City with regard to events or circumstances not addressed in Section 7.3.1 and 7.3.2 shall be governed by this Section 7.3.3. To the furthest extent allowed by law, Developer shall indemnify, hold harmless and defend City and each of its officers, officials, employees, consultants, attorneys, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Developer or any other person, and from any and all claims, demands and actions in law or equity (including attorney’s fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement or the performance of any or all work to be done by Developer or its contractors, agents, successors and assigns pursuant to this Agreement (including, but not limited to design, construction and/or ongoing operation and maintenance of any required Off-Site Improvements unless and until such Off-Site Improvements are dedicated to and officially accepted by the City). Developer’s obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, consultants, attorneys, agents, or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents or volunteers.

If Developer should subcontract all or any portion of the services to be performed under this Agreement, Developer shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, consultants, attorneys, agents and volunteers in accordance with the terms of the preceding paragraph. The Developer further agrees that the use for any purpose and by any person of any and all of the streets and improvements required under this Agreement, shall be at the sole and exclusive risk of the Developer, at all times prior to final acceptance by the City of the completed street and other improvements required under this Agreement, shall be at the sole and exclusive risk of the Developer, at all times prior to final acceptance by the City of the completed street and other improvements, unless any loss, liability, fines, penalties, forfeitures, costs or damages arising from said use were caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, consultants, attorneys, agents or volunteers.

Notwithstanding the preceding paragraph, to the extent that Subcontractor is a “design professional” as defined in section 2782.8 of the California Civil Code and performing work hereunder as a “design professional” shall, in lieu of the preceding paragraph, be required to indemnify, hold harmless and defend City and each of its officers, officials, employees, consultants, attorneys, agents and volunteers to the furthest extent allowed by law, from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in Agreement, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney’s fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, its principals, officers, employees, consultants, attorneys, agents or volunteers in the performance of this Agreement.

This Section 7.3 shall survive termination or expiration of this Agreement.

7.4 **Insurance.** Except for any Off-Site Improvements constructed pursuant to the terms of this Agreement (in which case insurance for the Off-Site Improvements shall be required through the date of the City’s final formal acceptance of Off-Site Improvements constructed), from the
Effective Date of this Agreement and at all times herein (the “Insurance Period”), Developer shall pay for and maintain in full force and effect all policies of insurance described in this section with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII” in Best's Insurance Rating Guide. The following policies of insurance are required:

7.4.1 COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and shall include insurance for bodily injury, property damage and personal injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, contractual liability (including indemnity obligations under this Agreement), with limits of liability of not less than $2,000,000 per occurrence for bodily injury and property damage, $1,000,000.00 per occurrence for personal injury, $2,000,000.00 general aggregate and $2,000,000.00 aggregate for products and completed operations and $2,000,000.00 general aggregate.

7.4.2 COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 B Any Auto), with combined single limits of liability of not less than $2,000,000.00 per accident for bodily injury and property damage.

7.4.3 WORKERS’ COMPENSATION insurance as required under the California Labor Code.

7.4.4 EMPLOYERS’ LIABILITY with minimum limits of liability of not less than $1,000,000.00 each accident, $1,000,000.00 policy limit and $1,000,000.00 for each employee.

In the event Developer purchases an Umbrella or Excess insurance policy(ies) to meet the “Minimum Limits of Insurance,” this insurance policy(ies) shall “follow form” and afford no less coverage than the primary insurance policy(ies).

Developer shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Developer shall also be responsible for payment of any self-insured retentions.

The above described policies of insurance shall be endorsed to provide an unrestricted thirty (30) calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a ten (10) calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this Agreement, Developer shall provide a new certificate evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, Developer shall file with City a new certificate and all applicable endorsements for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees, consultants, attorneys, and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Developer’s insurance shall be primary and no contribution shall be required of City. Any Workers'
Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees, consultants, attorneys, and volunteers. Developer shall have furnished City with the certificate(s) and applicable endorsements for all required insurance prior to start of construction of any phase of development. Developer shall furnish City with copies of the actual policies upon the request of City’s City Manager at any time during the life of the Agreement or any extension, and this requirement shall survive termination or expiration of this Agreement.

If at any time during the Insurance Period, Developer fails to maintain the required insurance in full force and effect, the City Engineer, or his/her designee, may order that the Developer, or its contractors or subcontractors, immediately discontinue any further work under this Agreement and take all necessary actions to secure the work site to insure that public health and safety is protected until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. The insurance requirements set forth in this Section 7.4 are material terms of this Agreement.

If Developer should hire a general contractor to provide all or any portion of the services or work to be performed under this Agreement, Developer shall require the general contractor to provide insurance protection in favor of City, its officers, officials, employees, consultants, attorneys, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that the general contractor’s certificates and endorsements shall be on file with Developer and City prior to the commencement of any work by the general contractor.

If the general contractor should subcontract all or a portion of the services or work to be performed under this Agreement to one or more subcontractors, Developer shall require the general contractor to require each subcontractor to provide insurance protection in favor of City, its officers, officials, employees, consultants, attorneys, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that each subcontractor shall be required to pay for and maintain Commercial General Liability insurance with limits of liability of not less than $1,000,000.00 per occurrence for bodily injury and property damage, $1,000,000.00 per occurrence for personal injury, $2,000,000.00 aggregate for products and completed operations and $2,000,000.00 general aggregate and Commercial Automobile Liability insurance with limits of liability of not less than less than $1,000,000.00 per accident for bodily injury and property damage. Subcontractors’ certificates and endorsements shall be on file with the general contractor, Developer and City prior to the commencement of any work by the subcontractor. Developer’s failure to comply with these requirements shall constitute an “Event of Default” as that term is defined in Section 10.1.

8. Benefits

8.1 Benefits to the City. The City has extensively reviewed the terms and conditions of this Agreement and, in particular, has specifically considered and approved the impact and benefits of the Project upon the regional welfare. The terms and conditions of this Agreement have been found by the City to be fair, just, and reasonable, and to provide appropriate benefits to the City. This Agreement and the development of the Project will serve the best interests, and the public health, safety, and welfare of the residents and invitees, of the City and the general public. This Agreement will help provide effective and efficient development of any Off-Site Improvements and other Required Exactions in the vicinity of the Project Area; help maximize effective utilization of resources within the City; increase City tax revenues; and provide other substantial public benefits to the City and its residents by achieving the goals and purposes of the Development Agreement Laws,
the Arvin Municipal Code and the 2035 Arvin General Plan (as may have been amended).

8.2 Benefits to the Developer. The Developer has expended and will continue to expend substantial amounts of time and money on the planning and development of the Project. In addition, the Developer may expend substantial amounts of time and money for the construction of the Off-Site Improvements, if required, and other Required Exactions and for the payment of the Required Development Fees in connection with the Project. The Developer would not make such expenditures except in reliance upon this Agreement. The benefit to the Developer under this Agreement consists of the assurance that the City will preserve the rights of Developer to develop the Project Area as planned and as set forth in the Project Approvals and this Agreement.


9.1 Annual Review. City and Developer shall annually review this Agreement, and all actions taken pursuant to the terms of this Agreement with respect to the Project in accordance with the provisions of California Government Code section 65865.1 and this Section 9. The Parties recognize that this Agreement and the Project Approvals and City Permits referenced herein contain extensive requirements and that evidence of each and every requirement would be a wasteful exercise of the Parties’ resources. Accordingly, Developer shall be deemed to have satisfied its duty of demonstration if it presents evidence satisfactory to the City of its good faith compliance, as that term is used in Government Code, section 65865.1, with the material provisions of this Agreement.

9.2 Developer Report. Not later than the first anniversary date of the Effective Date, and not later than each anniversary date of the Effective Date thereafter during the Term, Developer shall apply for annual review of this Agreement. Developer shall submit with such application a report to the City Manager describing Developer's good faith compliance with the terms of this Agreement during the preceding year (the “Developer Report”). The Developer Report shall include a statement that the report is submitted to City pursuant to the requirements of California Government Code section 65865.1.

9.3 Finding of Compliance. Within thirty (30) days after Developer submits the Developer Report under Section 9.2, the City Manager shall review Developer's submission to ascertain whether Developer has demonstrated good faith compliance with the material terms of this Agreement. If the City Manager finds and determines that Developer has in good faith complied with the material terms of this Agreement, or does not determine otherwise within thirty (30) days after delivery of the Developer Report, the annual review shall be deemed concluded. If the City Manager initially determines that the Developer Report is inadequate in any respect, he or she shall provide written notice to that effect to Developer, and Developer may supply such additional information or evidence as may be necessary to demonstrate good faith compliance with the material terms of this Agreement. If the City Manager concludes that Developer has not demonstrated good faith compliance with the material terms of this Agreement, he or she shall so notify Developer prior to the expiration of the thirty (30) day period herein specified and prepare a staff report to the City Council with respect to the conclusions of the City Manager and the contentions of Developer with respect thereto (the “Staff Report”).

9.4 Hearing Before City Council to Determine Compliance. After submission of the Staff Report of the City Manager, the City Council shall conduct a noticed public hearing to determine the good faith compliance by Developer with the material terms of this Agreement. At
least sixty (60) days prior to such hearing, the City Manager shall provide to the City Council, Developer, and to all other interested Persons requesting the same, copies of the Staff Report and other information concerning Developer's good faith compliance with the material terms of this Agreement and the conclusions and recommendations of the City Manager. At such public hearing, Developer and any other interested Person shall be entitled to submit evidence, orally or in writing, and address all the issues raised in the Staff Report on, or with respect or germane to, the issue of Developer's good faith compliance with the material terms of this Agreement. If, after receipt of any written or oral response of Developer, and after considering all of the evidence at such public hearing, the City Council finds and determines, on the basis of substantial evidence, that Developer has not complied in good faith with the material terms of this Agreement, then the City Council shall specify to Developer the respects in which Developer has failed to comply, and shall also specify a reasonable time for Developer to meet the terms of compliance, which time shall be not less than thirty (30) days after the date of the City Council’s determination, and shall be reasonably related to the time adequate to bring Developer's performance into good faith compliance with the material terms of this Agreement. If the areas of noncompliance specified by the City Council are not corrected within the time limits prescribed by the City Council hereunder, subject to Force Majeure pursuant to Section 13.1, then the City Council may by subsequent noticed public hearing extend the time for compliance for such period as the City Council may determine (with conditions, if the City Council deems appropriate), Terminate or modify this Agreement (in which case notice of said action shall be recorded pursuant to Arvin Municipal Code Section 17.64.200(c)), or take such other actions as may be specified in the Development Agreement Laws. Any notice to Developer of a determination of noncompliance by Developer hereunder, or of a failure by Developer to perfect the areas of noncompliance hereunder, shall specify in reasonable detail the grounds therefor and all facts demonstrating such noncompliance or failure, so that Developer may address the issues raised in the notice of noncompliance or failure on a point-by-point basis in any hearing held by the City Council hereunder.

9.5 Meet and Confer Process. If either the City Manager or the City Council makes a determination that Developer has not demonstrated good faith substantial compliance with the material terms of this Agreement, the City Manager and/or designated City Council representatives may initiate a meet and confer process with Developer pursuant to which the Parties shall meet and confer in order to determine a resolution acceptable to both Parties of the bases upon which the City Manager or City Council has determined that Developer has not demonstrated good faith substantial compliance with the material terms of this Agreement. If, as a result of such meet and confer process, the Parties agree on a resolution on the basis related to the determination that Developer has not demonstrated good faith substantial compliance with the material terms of this Agreement, the results and recommendations of the meet and confer process shall be presented to the City Council for review and consideration at its next regularly scheduled public meeting, including consideration of such amendments to this Agreement as may be necessary or appropriate to effectuate the resolution achieved through such meet and confer process. Developer shall be deemed to be in good faith substantial compliance with the material terms of this Agreement, only upon City Council acceptance of the results and recommendations of the meet and confer process.

9.6 Certificate of Compliance. If the City Manager (or the City Council, if applicable) finds good faith substantial compliance by Developer with the material terms of this Agreement, the City Manager shall issue a certificate of compliance within ten (10) days thereafter, certifying Developer's good faith compliance with the material terms of this Agreement through the period of the applicable annual review. Such certificate of compliance shall be in recordable form and shall contain such information as may be necessary in order to impart constructive record notice
of the finding of good faith compliance hereunder. Developer shall have the right to record the certificate of compliance in the Official Records.

9.7    Effect of City Council Finding of Noncompliance; Rights of Developer. If the City Council determines that Developer has not substantially complied in good faith with the material terms of this Agreement pursuant to Section 9.4 and takes any of the actions specified in Section 9.4 with respect to such determination of noncompliance, Developer shall have the right to contest any such determination of noncompliance by the City Council pursuant to a legal action filed in accordance with Section 16.5.

9.8    City Costs. Developer shall reimburse the City for all of the City’s reasonable costs, (including but not limited to, staff time, attorney’s fees, and administrative costs) incurred in connection with Sections 9.1 through 9.8 of this Agreement. Pursuant to this section, Developer shall remit a deposit of Two Thousand Dollars ($2,000) to the City at the time of submission of the required Developer Report. If the deposit is insufficient to reimburse the City, the City may submit an invoice to Developer, who shall rendered payment to the City within thirty (30) days of receiving an invoice from the City for its costs. Any excess monies deposited by Developer to the City pursuant to this Section 9.8 shall be returned to Developer by the City within thirty (30) days after issuance of the certificate of compliance or completion of any of the actions set forth in Section 9.7 of this Agreement.

10.    Events Of Default; Remedies; Estoppel Certificates.

10.1    Events of Default.

10.1.1 The failure by a Party to perform any material term or provision of this Agreement (including but not limited to the failure of a Party to approve a matter or take an action within the applicable time periods governing such performance under this Agreement) shall, subject to the provisions of this Agreement, constitute an “Event of Default”, if: (a) such defaulting Party does not cure such failure within thirty (30) days following delivery of a Notice (as hereinafter defined) of default from the other Party (“Notice of Default”), where such failure is of a nature that can be cured within such thirty (30) day period; or (b) where such failure is not of a nature which can be cured within such thirty (30) day period, the defaulting Party does not within such thirty (30) day period commence substantial efforts to cure such failure, or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure. Any Notice of Default given hereunder shall specify in reasonable detail the nature of the failures in performance by the defaulting Party and the manner in which such failures of performance may be satisfactorily cured in accordance with the terms and conditions of this Agreement.

10.1.2 Any Notice of Default to the defaulting Party pursuant to Section 10.1.1 shall satisfy the requirements of Section 15 of this Agreement and shall include a provision in at least fourteen face bold type substantially as follows: "YOU HAVE FAILED TIMELY TO PERFORM OR REND AN APPROVAL OR TAKE AN ACTION REQUIRED UNDER THE DEVELOPMENT AGREEMENT: [SPECIFY IN DETAIL]. YOUR FAILURE TO COMENCE TIMELY PERFORMANCE AND COMPLETE SUCH PERFORMANCE AS REQUIRED UNDER THE AGREEMENT OR RENDER SUCH APPROVAL TO TAKE SUCH ACTION WITHIN THIRTY (30) DAYS AFTER THE DATE OF THIS NOTICE SHALL ENTITLE THE UNDERSIGNED TO TAKE ANY ACTION OR EXERCISE ANY RIGHT OR REMEDY TO WHICH IT IS ENTITLED UNDER THE AGREEMENT AS A RESULT OF THE FOREGOING
CIRCUMSTANCES.”

10.2 Remedies. Upon the occurrence of an Event of Default, each Party shall have the right, in addition to all other rights and remedies available under this Agreement, to: (a) bring any proceeding in the nature of specific performance, injunctive relief or mandamus; and/or (b) bring any action at law or in equity as may be permitted by laws of the State of California or this Agreement.

10.3 Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict or timely performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party’s right to demand strict compliance by such other Party in the future. No waiver by a Party of any failure of performance, including an Event of Default, shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such failure. No express written waiver shall affect any other action or inaction, or cover any other period of time, other than any action or inaction and/or period of time specified in such express waiver. One or more written waivers under any provision of this Agreement shall not be deemed to be a waiver of any subsequent action or inaction. Nothing in this Agreement shall limit or waive any other right or remedy available to a party to seek injunctive relief or other expedited judicial and/or administrative relief to prevent irreparable harm.

10.4 Estoppel Certificate. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such other Party to certify in writing: (a) that this Agreement is in full force and effect and a binding obligation of the Parties; (b) that this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; (c) to the knowledge of such other Party, that neither Party has committed an Event of Default under this Agreement, or if an Event of Default has to such other Party's knowledge occurred, to describe the nature of any such Event of Default; and (d) such other certifications that may be reasonably requested by the other Party or a Mortgagee (as hereinafter defined). A Party receiving a request hereunder shall execute and return such certificate within twenty (20) days following the receipt thereof, and if a Party fails so to do within such twenty (20) day period, the information in the requesting Party’s notice shall conclusively be deemed true and correct in all respects. The City Manager, as to the City, shall execute certificates requested by Developer hereunder. Each Party acknowledges that a certificate hereunder may be relied upon by Transferees (as hereinafter defined) and Mortgagees (as hereinafter defined). No Party shall, however, be liable to the requesting Party, or other Person requesting or receiving a certificate hereunder, on account of any information therein contained, notwithstanding the omission for any reason to disclose correct and/or relevant information, but such Party shall be estopped with respect to the requesting Party, or such third Person, from asserting any right or obligation, or utilizing any defense, which contravenes or is contrary to any such information.

11. [Reserved]

12. Transfers.

12.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

“Affiliate” means any Person directly or indirectly Controlling, Controlled
by or under Common Control with Owner.

“Control” means the ownership (direct or indirect) by one Person of an interest in the profits and capital and the right to manage and control the day to day affairs of another Person. The term "Control" includes any grammatical variation thereof, including "Controlled" and "Controlling".

“Common Control” means that two Persons are both controlled by the same other Person.

”Person” means an individual, partnership, firm, association, corporation, trust, governmental agency, administrative tribunal or other form of business or legal entity.

“Transfer” means the sale, assignment, or other transfer by Developer of this Agreement, or any right, duty or obligation of Developer under this Agreement, including by foreclosure, trustee sale, or deed in lieu of foreclosure, under a Mortgage, but excluding: (a) a dedication of any portion of the Project Area to the City or another governmental agency; (b) a Mortgage; (c) ground leases, leases, subleases, licenses and operating agreements entered into by Developer with tenants or occupants of the Project for occupancy of space in any buildings or improvements (together with any appurtenant tenant rights and controls customarily included in such leases or subleases) in the Project, and any assignment or transfer of any such ground lease, lease, sublease, license or operating agreement by either party thereto; (d) any sale of a building pad and surrounding area in the Project Area to a future retail or restaurant occupant (or its affiliated entity) for the intended purpose of the development and occupancy of a building or improvement thereon; and (e) any Collateral Assignment of this Agreement to a Mortgagee.

“Transferee” means the Person to whom a Transfer is effected.

12.2 Conditions Precedent to Developer Right to Transfer. Except as otherwise provided in this Section 12, Developer shall only have the right to effect a Transfer subject to and upon fulfillment of the following conditions precedent:

12.2.1 No Event of Default by Developer shall be outstanding and uncured as of the effective date of the proposed Transfer, unless the City Council has received adequate assurances satisfactory to the City Council that such Event of Default shall be cured in a timely manner either by Developer or the Transferee under the Transfer.

12.2.2 Prior to the effective date of the proposed Transfer, Developer or the proposed Transferee has delivered to the City an executed and acknowledged assignment and assumption agreement (the “Assumption Agreement”) in recordable form. Such Assumption Agreement shall include provisions regarding: (a) the rights and interest proposed to be Transferred to the proposed Transferee; (b) the obligations of Developer under this Agreement that the proposed Transferee will assume; and (c) the proposed Transferee’s acknowledgment that such Transferee has reviewed and agrees to be bound by this Agreement. The Assumption Agreement shall also include the name, form of entity, and address of the proposed Transferee, and shall provide that the Transferee assumes the obligations of Developer to be assumed by the Transferee in connection with the proposed Transfer. The Assumption Agreement shall be recorded in the Official Records concurrently with the consummation of the Transfer.
12.2.3 Prior to the effective date of the proposed Transfer, City consents in writing to the Transfer. City's consent shall not be unreasonably withheld. Factors the City may consider in determining whether to consent to the transfer include the financial capacity of the proposed Transferee to comply with all of the terms of the Agreement and the history, if any, of compliance of Transferee, its principals, officers or owners with the provisions of federal or state law, the Arvin Municipal Code or agreements with the City relating to development projects within the City of Arvin.

12.3 Transfer to Affiliate. Notwithstanding the provisions of Section 12.2, Developer shall have the right to Transfer all of its rights, duties and obligations under this Agreement to an Affiliate of Developer. Such Affiliate shall become a Transferee upon: (a) the acquisition by such Affiliate of the affected interest of Developer under this Agreement; (b) delivery to the City of an Assumption Agreement executed by the Affiliate pursuant to which the Affiliate assumes, from and after the date such Affiliate so acquires its interest, the applicable rights, duties and obligations of Developer under this Agreement and (c) delivery to the City of documents and other evidence establishing, to the reasonable satisfaction of the City, the Affiliate’s financial capacity to meet all of its duties and obligations under this Agreement. By virtue of its demonstrated status as an Affiliate of Developer and recognizing that Transfers to Affiliates will facilitate Developer’s ability to develop the Project consistent with this Agreement, the City hereby consents to any Transfer to an Affiliate in accordance with this Section 12.3 and no further consent of the City shall be required for any Transfer by Developer to an Affiliate.

12.4 Mortgagee as Transferee. No Mortgage (including the execution and delivery thereof to the Mortgagee) shall constitute a Transfer. A Mortgagee shall be a Transferee only upon: (a) the acquisition by such Mortgagee of the affected interest of Developer encumbered by such Mortgagee’s Mortgage; and (b) delivery to the City of an Assumption Agreement executed by the Mortgagee pursuant to which the Mortgagee assumes from and after the date such Mortgagee so acquires its interest, the applicable rights, duties and obligations of Developer under this Agreement. No further consent of the City shall be required for any such Transfer to a Mortgagee.

12.5 Effect of Transfer. A Transferee shall become a Party to this Agreement only with respect to the interest transferred to it under the Transfer and then only to the extent set forth in the Assumption Agreement delivered under Sections 12.2.2, 12.3 and 12.4. When and if Developer Transfers all of its rights, duties and obligations under this Agreement in accordance with Section 12.2, 12.3 or 12.4, Developer shall be released from any and all obligations accruing after the date of the Transfer under this Agreement. If Developer effectuates a Transfer as to only some but not all of its rights, duties and obligations under this Agreement, Developer shall be released only from its obligations accruing after the date of the Transfer which the Transferee assumes in the Assumption Agreement.

12.6 No Transfer of Commercial Cannabis Permit. Notwithstanding any other provision of this Agreement, a commercial cannabis permit shall not be subject to the transfer process, and prior to any transfer Transferee must qualify for and obtain a commercial cannabis permit as required by Chapter 17.64 of the Arvin Municipal Code.

13. Enforced Delay; Extension of Time of Performance; Excused Performance.
13.1 **Force Majeure.** In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or failures to perform are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, the discovery and remediation of hazardous waste or significant geologic, hydrologic, archaeologic or paleontologic problems on the Project Area, fires, casualties, acts of God, shortages of labor or material, governmental restrictions imposed or mandated by governmental entities other than the City, enactment of conflicting state or federal statutes or regulations, judicial decisions, litigation not commenced by a Party to this Agreement claiming the enforced delay, or any other basis for excused performance which is not within the reasonable control of the Party to be excused. Causes for delay as set forth above are collectively referred to as **“Force Majeure.”**

13.2 **Notice.** If Notice (as hereinafter defined) of such delay or impossibility of performance is provided to a Party within thirty (30) days after the commencement of such delay or condition of impossibility, an extension of time for such cause shall not be unreasonably denied by such Party. The extension shall be for the period of the enforced delay, or longer as may be mutually agreed upon by the applicable Parties in writing. Any performance rendered impossible shall be excused in writing by the Party so notified.

14. **Project Approvals Independent.** Except to the extent otherwise recognized by CEQA, all City Permits which may be granted pursuant to this Agreement, and all Project Approvals which have been issued or granted by the City with respect to the Project Area and the Project, constitute independent actions and approvals by the City. If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, or if this Agreement is Terminated for any reason, then such invalidity, unenforceability or Termination of this Agreement, or any part hereof, shall not affect the validity or effectiveness of any such City Permits or the Project Approvals. In such cases, such City Permits and Project Approvals will remain in effect pursuant to their own terms, provisions, and conditions of approval. As such, the City may place conditions of approval on all City Permits which may be granted pursuant to this Agreement, and Project Approvals which have been issued or granted by the City with respect to the Project Area and the Project, so long as such conditions are consistent with the terms of this Agreement.

15. **Notices**

15.1 **Form of Notices; Addresses.** All notices and other communications (the **“Notices”**) required or permitted to be given by any Party to another Party pursuant to this Agreement shall be properly given only if the Notice is: (a) made in writing (whether or not so stated elsewhere in this Agreement); (b) given by one of the methods prescribed in Section 15.2; and (c) sent to the Party (to which it is addressed at the address set forth below (with a copy to the appropriate entity as indicated below) or at such other address as such Party (or the addressee required to be sent a copy) may hereafter specify by at least five (5) calendar days’ prior written notice:
15.2 Methods of Delivery. Notices may be either: (a) delivered by hand; (b) delivered by a nationally recognized overnight courier which maintains evidence of receipt; or (c) sent by facsimile transmission with a confirmation copy delivered the following day by a nationally recognized overnight courier which maintains evidence of receipt. Notices shall be effective on the date of receipt.


16.1 City’s Reservation of Authority. The Parties acknowledge and agree that the intent of the Parties is that this Agreement be construed in a manner that protects the vested rights granted to Developer herein. Except for the limitations on the exercise by the City of its police power which are provided in this Agreement or which are construed in accordance with the immediately preceding sentence, the Parties further acknowledge and agree that: (a) the City reserves all of its police power and/or statutory or other legal powers or responsibilities; (b) the City reserves all of its authority to enact additional regulations, whether enacted by the City Council or the City Manager, relating to commercial cannabis business activities; and (3) this Agreement shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit the discretion of the City or any of its officers or officials with regard to rules, regulations,
ordinances, laws, and entitlement of use which require the exercise of discretion by the City or any of its officers or officials. This Agreement shall not be construed to limit the obligations of the City to comply with CEQA or any other federal or state law.

16.2 Amendment or Cancellation. Subject to meeting the notice and hearing requirements of section 65867 of the California Government Code, this Agreement may be amended from time to time, or canceled in whole or in part, by mutual written consent of the City and Developer, or their respective successors in interest in accordance with the provisions of section 65868 of the California Government Code.

16.3 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought and referring expressly to this Section. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any other occurrence of event.

16.4 Successor and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties, and any subsequent owners of all or any portion of the Project Area and their respective successors and assigns. Any successors in interest to the City shall be subject to the provisions set forth in sections 65865.4 and 65868.5 of the California Government Code.

16.5 Interpretation and Governing State Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objective and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, both Parties having been represented by counsel in the negotiation and preparation hereof. All legal actions brought to enforce the terms of this Agreement shall be brought and heard solely in the Superior Court of the State of California, County of Kern.

16.6 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other Person shall have any right of action based upon any provision of this Agreement.

16.7 Future Acquisitions. In the event that Developer or an affiliate of Developer acquires or obtains a legal or equitable interest in any portion of the Project Area other than the Project Area (the “After Acquired Land”) during the Term of this Agreement, the City and Developer shall engage in good faith negotiations for a development agreement between the City and Developer pursuant to the Development Agreement Laws for the development of a portion of the Project on the After Acquired Land.

16.8 Attorneys’ Fees. If either Party commences any action for the interpretation, enforcement, termination, cancellation or rescission hereof, or for specific performance of the breach hereof, the prevailing party shall be entitled to its reasonable attorneys’ fees and litigation expenses and costs, and any judgment, order or decree rendered in such action, suit or proceeding shall include an award thereof. Attorneys’ fees under this Section shall include attorneys’ fees on any appeal and any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.
16.9 **Limitation of Legal Acts.** Except as provided in Section 16.8, in no event shall the City, or its officers, agents or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that the Developer's sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

16.10 **Validation.** If so requested in writing by the Developer, the City agrees to initiate appropriate procedure under California Code of Civil Procedure section 860 et seq., in order to validate this Agreement, and the obligations thereunder. Any validation undertaken at the request of the Developer shall be at the sole cost of the Developer.

16.11 **Successor Statutes Incorporated.** All references to a statute or ordinance, shall incorporate any, or all, successor statute or ordinance enacted to govern the activity now governed by the statute or ordinance, noted herein to the extent, however, that incorporation of such successor statute or ordinance does not adversely affect the benefits and protections granted to the Developer under this Agreement.

16.12 **Incorporation of Attachments.** All recitals and attachments to this Agreement, including all Exhibits referenced herein, and all subparts thereto, are incorporated herein by this reference.

16.13 **Negation of Partnership.** The Parties specifically acknowledge that the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the businesses of Developer, the affairs of the City, or otherwise, or cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended and shall not be construed to create any third party beneficiary rights in any Person who is not a Party or a Transferee; and nothing in this Agreement shall limit or waive any rights Developer may have or acquire against any third Person with respect to the terms, covenants or conditions of this Agreement.

16.14 **Not A Public Dedication.** Except for Required Exactions specifically set forth in this Agreement and then only when made to the extent so required, nothing herein contained shall be deemed to be a gift or dedication of the Project Area or any buildings or improvements constructed in the Project, to the general public, for the general public, or for any public use or purpose whatsoever, it being the intention and understanding of the Parties that this Agreement be strictly limited to and for the purposes herein expressed for the development of the Project Area as private property.

16.15 **Severability.** Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any Person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other Person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

16.16 **Counterparts.** This Agreement may be executed in two or more identical
counterparts, each of which shall be deemed to be an original and each of which shall be deemed to be one and the same instrument when each Party signs each such counterpart.

16.17 **Signature Pages.** For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute this as one complete Agreement.

16.18 **LLMD and CFD.** If required as a condition of a Project Approval, and at the written request of Developer, the City agrees to reasonably cooperate with Developer, at no cost or expense to the City, in the establishment of a Lighting and Landscaping Maintenance District (LLMD) or community facility district (CFD) encompassing the Project Area to assist in the financing of certain off-site improvements and Exactions related to the Project. In the alternative, upon request by the City, Developer i) agrees to join a Landscape and Lighting District or annex to the same; and ii) agrees to become part of a Community Facility District, under the Mello-Roos Community Facilities Act, or equivalent mechanism to address services such as fire, police, storm drainage maintenance, road infrastructure maintenance, or similar services, and agrees to annex or join the same. Developer shall be solely responsible for paying its proportionate cost for services associated with the same, including i) any costs of formation or annexation, including those incurred by the City; and ii) costs required by participants in said District(s). This provision will survive the termination of the Agreement.

16.19 **Days.** Unless otherwise specified in this Agreement, the term “days” means calendar days.

SIGNATURES ARE ON THE FOLLOWING PAGE
IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

“CITY”

CITY OF ARVIN,

a municipal corporation

By: __________________________
    Jerry Breckinridge, City Manager
    _____________, 2019

ATTEST:

______________________
    Cecilia Vela, City Clerk

“DEVELOPER”

Aaron Coppelson, M.D., Inc.,

a California Corporation

By: ______________________________
    Aaron Coppelson
    Its:
    _______________, 2019

Note: Developer’s signature shall be notarized, and appropriate attestations shall be included as may be required by the bylaws, articles of incorporation, or other rules or regulations applicable to developer’s business entity.

APPROVED AS TO FORM:

By: _________________________
    Name:
    Title:
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

<table>
<thead>
<tr>
<th>STATE OF CALIFORNIA</th>
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<tr>
<td>COUNTY OF ____________</td>
</tr>
</tbody>
</table>

On __________, 2019 before me, ________________, personally appeared ________________, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
Signature: _____________________________________

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

<table>
<thead>
<tr>
<th>CAPACITY CLAIMED BY SIGNER</th>
<th>DESCRIPTION OF ATTACHED DOCUMENT</th>
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<tbody>
<tr>
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<tr>
<td>☐ CORPORATE OFFICER</td>
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<tr>
<td>☐ PARTNER(S)</td>
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<tr>
<td>☐ LIMITED</td>
<td>TITLE OR TYPE OF DOCUMENT</td>
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<td>☐ ATTORNEY-IN-FACT</td>
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<tr>
<td>☐ TRUSTEE(S)</td>
<td>DATE OF DOCUMENT</td>
</tr>
<tr>
<td>☐ GUARDIAN/CONSERVATOR</td>
<td></td>
</tr>
<tr>
<td>☐ OTHER</td>
<td>SIGNER(S) OTHER THAN NAMED ABOVE</td>
</tr>
</tbody>
</table>

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))
_________________________________________
100 Sycamore Road, Arvin, California.
EXHIBIT "B"
Legal Description of Parcel

For APN/Parcel ID(s): 192-231-08-00

THE LAND REFERRED TO HEREIN BELOW IS Situated in the City of Arvin, County of Kern, State of California and is described as follows:

PARCELS 3, 4, 5, OF PARCEL MAP NO. 3943 in the City of Arvin, County of Kern, State of California, as per map filed February 9, 1977 in Book 17 Page 138 of Parcel Maps, in the Office of the County Recorder of said County.

Said property now known as parcel A as shown on Lot Line Adjustment #91-2, which certificate of compliance was recorded May 9, 1991.

Except all minerals, oil, gas, petroleum and other hydrocarbon substances within or underlying said land, as excepted and reserved by John J. Kovacevich and Beverly E. Kovacevich, Husband and Wife, in Deed recorded September 21, 1976 in Book 4979 Page 912, of Official Records.
A. Subject to annual adjustment as provided below, Developer shall pay the City one of the following maximum rates for cultivation activities within the Project Area:

(i) For all space utilized as cultivation area where Mixed-Light Cultivation is used one dollars ($1) per square foot on a quarterly basis;

(ii) For all space utilized as cultivation area other than as specified in subparagraph (i) – one dollars and fifty cents ($1.50) per square foot on a quarterly basis.

These quarterly payments shall be shall be adjusted annually on July 1 of each year, commencing July 1, 2020, based on the Consumer Price Index (“CPI”) for all urban consumers in the Los Angeles-Long Beach-Anaheim areas as published by the United States Government Bureau of Labor Statistics, (based on the prior calendar year increase).

The square footage shall be determined by measuring the canopy of the cannabis being cultivated. Upon request of the City, Developer shall allow City staff to independently verify the measurement of the canopy of the cannabis being cultivated. Failure to permit City staff to verify Developer’s measurement of the cannabis canopy shall be grounds for the City to terminate this Agreement.

B. Developer shall pay the City, other than cultivation pursuant to subsection (A), the following rates:

(i) For testing – up to two percent (2%) of Proceeds.

(ii) For manufacturing, up to the following tiered rate, based on a quarterly term:
   a. Six percent (6%) of Proceeds up to and including $625,000;
   b. Three point seven five percent (3.75%) of Proceeds over $625,000 and up to and including $2,500,000;
   c. Two point eight percent (2.8%) of Proceeds over $2,500,000.

(iii) For distribution – up to two percent (2%) of Proceeds.

(iv) For retail sales – up to three point seven five percent (3.75%) of Proceeds.

(v) For all operations subject to this subsection (B) other than as specified in subparagraphs (i) - (iv) – up to four percent (4%) of Proceeds.

The rates pursuant to this section (B) are quarterly rates.

C. Operations which engage in commercial cannabis activities specified in both subsection (A) and subsection (B) shall pay all applicable taxes for each such activity under both subsections.

In the event the City lowers the tax rates for cannabis under Measure M approved in November of 2018, Developer shall be entitled to pay said tax at the same lower rate.
TO: Arvin Planning Commission Members

FROM: R. Jerry Breckinridge, City Manager
       Jake Raper, City Planner

SUBJECT: Public Hearing to Consider and Adopt a Resolution of the Planning Commission of the City of Arvin Approving a Conditional Use Permit for Type 3b Cultivation, Type 11 Distribution, and Type 9 Non-Store Front Delivery and Site Development Plan/Permit (CUP 2018-001SS/SDP No. 2018-110SR) for Commercial Cannabis Operations located at 100 Sycamore Road, Arvin, CA. (Subject to approval of Development Agreement No. 2018-01.)

RECOMMENDATION:

Staff recommends that the Planning Commission approve the attached Resolution, which approves a conditional use permit (CUP) and site development permit (SDP) for certain commercial cannabis operations located at 100 Sycamore Road in Arvin, CA.

APPLICANT AND LOCATION:

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Aaron Coppelson, M.D. Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>P.O. Box 261399, Encino, CA 91426</td>
</tr>
<tr>
<td>Phone Number:</td>
<td>1-818-636-8662</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:dontoudelay@gmail.com">dontoudelay@gmail.com</a></td>
</tr>
<tr>
<td>Project Address:</td>
<td>100 Sycamore Road, Arvin, CA 93434</td>
</tr>
<tr>
<td>Project Location – See Figure 1.</td>
<td>100 Sycamore Road is located at the northwest corner of South Derby and Sycamore Road. (See general location, below.)</td>
</tr>
<tr>
<td>Address:</td>
<td>100 Sycamore Road, Arvin, CA 93434</td>
</tr>
<tr>
<td>Assessor Parcel No.</td>
<td>192-231-08, consists of 2.03 Acres.</td>
</tr>
<tr>
<td>Zoning</td>
<td>M-2, Light Manufacturing Zone</td>
</tr>
<tr>
<td>General Plan Land Use Designation</td>
<td>Industrial</td>
</tr>
</tbody>
</table>

BACKGROUND:

The City adopted Chapter 17.64 Commercial Cannabis Activity on June 19, 2018 permitting specific commercial cannabis activities by conditional use permit, including within the M-2 Zoning District.
zoned district. The ordinance include protections for the community, including restricting uses near homes, schools, parks and libraries.

Aaron Coppelson, M.D., Inc. (“Developer”) has filed applications with the City for development of 100 Sycamore Road, in Arvin, California, which is generally located north of Sycamore Road between Kavacevich Street and Derby Street/Tejon Highway. The Developer is proposing the property be used for the development of cannabis uses under for Type 3b cultivation, Type 9 non-store front delivery, and Type 11 distribution to be completed in two phases. In addition to the Development Agreement considered by the Planning Commission in the prior item, the Developer is required to obtain a CUP and SDP for operations, which are the items before the Planning Commission for approval at this time. Once the Developer has obtained approval of the Development Agreement, CUP and SDP, the Developer will then be required to obtain further permits for cannabis uses as required by Chapter 17.64 of the Arvin Municipal Code, as well as the appropriate licenses from the State before operations may commence.

Conditional Use Permit (CUP) 2018-100SS would allow the use of three different types of commercial cannabis activities: Type 3B Cultivation, Type 11, Distribution, and Type 9 Non-Store Front Retail Delivery. These uses are proposed within an existing 27,012 square foot building. The Site Development Plan/Permit (SDP) is for the re-utilization of the existing building consisting of approximately 27,012 square feet that has been vacant for 90 days or more. The Conditional Use Permits (CUP) and Site Development Plan (SDP) (collectively “entitlements”) will allow for commercial cannabis activities to operate at the site. The proposed cultivation area (Type 3B Cultivation) is approximately 26,000 square feet; the distribution area (Type 11, Distribution) is approximately 748 square feet, and the non-store front delivery area (Type 9 Non-Store Front Delivery) is approximately 264 square feet within the existing 27,012 square foot building. See Exhibit 1-Site Plan and Exhibit 2-Floor Area Illustration of Commercial Cannabis Activities, which are included in the attached Resolution.
CONDITIONS OF APPROVAL:

In addition to requiring compliance with the detailed conditions of the City’s commercial cannabis ordinance, the CUP and SDP include conditions related to parking (77 spaces, including 4 accessible parking spots), hours of operation (which are allowed 24 hours a day, 365 days a year for cultivation activities), building code, business license, locations of types of operations within the building, approvals by other agencies, etc. See the attachment to the proposed Resolution for additional details.

ENVIRONMENTAL CONSIDERATIONS:

As noted for Development Agreement 2018-01, which was considered immediately before this item, the City has performed a preliminary assessment of this project and, pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3), proposes to determine with certainty that there is no possibility this project will have a significant effect on the environment. The project will use existing facilities and will be subject to the restrictions of the Arvin Municipal Code for cannabis operations, including odor, noise, etc. In the alternative, this project is also subject to a Class 1 (Existing Facilities) categorical exemption pursuant to CEQA Guidelines section 15301, as it consists of the operation, repair, permitting and licensing of an existing private structure and any appurtenant structures, involving negligible or no expansion of use beyond that existing at the time of the City’s determination. Further, none of the exceptions to categorical exemptions set forth in CEQA Guidelines, section 15300.2, apply to this project.

As the CEQA assessed the Development Agreement as well as the proposed CUP and SDP, and since the Development Agreement must first be approved by the City Council, Staff is recommending approval of the CUP and SDP be effect and contingent upon the Development Agreement and CEQA for the project being first approved by the City Council. If the approval does not occur within 180 days, or if the Council makes changes that would affect the CUP or SDP, then those items will be returned to the Planning Commission for additional consideration.

PUBLIC NOTIFICATION:

The City properly noticed the December 11, public hearing before the Planning Commission for the proposed CUP 2018-100SS pursuant to Government Code sections 65090 and 65091 by publication in the newspaper on November 30, 2018. A copy of the notice is attached to this Staff report. In addition, the City Clerk provided notice of the proposed conditional use permit by mailing the public notice to all property owners within the 300-foot radius.

ATTACHMENTS:

1. Resolution Of The Planning Commission Of The City Of Arvin Approving A Conditional Use Permit For Type 3b Cultivation, Type 11 Distribution, And Type 9 Non-Store Front Delivery And Site Development Plan/Permit (CUP 2018-001SS/SDP No. 2018-110SR) For Commercial Cannabis Operations Located At 100 Sycamore Road, Arvin, CA.
   A. Conditions of Approval for CUP 2018-001SS
   B. Conditions of Approval for SDP 2018-110SR
i. Exhibit 1 – Site Plan
ii. Exhibit 2 – Illustration of Interior Use of the Existing Building for Commercial Cannabis Activities
iii. Exhibit 3 – Elevations of the Existing Building

2. Public Hearing Notice.
RESOLUTION NO. ______

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN
APPROVING A CONDITIONAL USE PERMIT FOR TYPE 3B CULTIVATION,
TYPE 11 DISTRIBUTION, AND TYPE 9 NON-STORE FRONT DELIVERY AND
SITE DEVELOPMENT PLAN/PERMIT (CUP 2018-001SS/SDP NO. 2018-110SR)
FOR COMMERCIAL CANNABIS OPERATIONS LOCATED AT 100
SYCAMORE ROAD, ARVIN, CA.

WHEREAS, Aaron Coppelson, M.D., Inc. (“Developer”) has filed the following
application(s) with the City for development of 100 Sycamore Road, in Arvin, California, APN:
192-231-08, which is generally located north of Sycamore Road between Kavacevich Street
and Derby Street/Tejon Highway, (the “Project Area” or “Property”) for the development of
cannabis uses under for Type 3b cultivation, Type 9 non-store front delivery, and Type 11
distribution to be completed in two phases (the “Project”):

1) An application for a Development Agreement (Development Agreement No. 2018-
01).
2) An application for a conditional use permit for cannabis cultivation, which would
allow the use of Type 3b cultivation, Type 9 non-store front delivery, and Type 11
distribution within the Project Area (CUP 2018-001SS).
3) An application for a site development permit (SDP NO. 2018-110SR).
4) An application for Commercial Cannabis Permit(s), as required by Chapter 17.64 of
the Arvin Municipal Code, for cannabis uses in the Project Area.

The various entitlements are collectively referred to as “Project Approvals” ; and

WHEREAS, the Project Approvals are being considered concurrently; and

WHEREAS, the City performed a preliminary environmental assessment pursuant to the
requirements of the California Environmental Quality Act (California Public Resources Code
section 21000, et seq.) and the Guidelines thereunder (14 California Code of Regulations section
15000, et seq.) (collectively, “CEQA”), and determined the Project Approvals were subject to
exemptions pursuant to CEQA Guidelines Section 15061(b)(3) and 15301 (Existing Facilities).

WHEREAS, after considering Development Agreement No. 2018-01 and the CEQA
assessment, the Planning Commission opened the public hearing on December 11, 2018,
regarding CUP 2018-001SS and SDP NO. 2018-110SR, and has received testimony and other
evidence at the meeting regarding the same; and

WHEREAS, public notice for the public hearing was published in the Bakersfield
Californian on November 30, 2018 and notices were mailed to individual property owners within
300-feet of the project site; and

WHEREAS, notice has been given in the time and in the manner required by State Law
and City Code; and
WHEREAS, CUP 2018-001SS and SDP NO. 2018-110SR have been assessed for the purposes of CEQA as noted above; and

WHEREAS, the Planning Commission of the City of Arvin desires to approve CUP 2018-001SS and SDP NO. 2018-110SR contingent upon the adoption of Development Agreement No. 2018-01 and associated CEQA by the City Council as set forth below.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Arvin as follows:

1. The recitals and findings set forth above are true and correct and incorporated herein by this reference.

2. The Planning Commission finds as follows with regard to Conditional Use Permit 2018-100SS:
   a. As conditioned, the Developer’s application for a conditional use permit has meet the requirements of Chapter 17.56 Conditional Use Permits and has met the locational requirements for commercial cannabis businesses pursuant to the requirements of Chapter 17.64 Commercial Cannabis Activity;
   b. The proposed commercial cannabis activities or operations are within an existing 27,012 square foot building located at 100 Sycamore Road, in Arvin, CA, and is consistent with the various elements and/or objectives of the City of Arvin’s comprehensive general plan;
   c. The Developer has agreed to full cost recovery for processing the application as is required by the Arvin Municipal Code and/or any rules, regulations or resolutions enacted by the City of Arvin, as required by Development Agreement 2018-01;
   d. The Developer has further agreed to comply with all requirements of the State of California and Arvin Municipal Code currently in effect and as may be amended from time to time, consistent with the terms and conditions of Development Agreement No. 2018-01;
   e. The procedures for public notice has been met in accordance with Government Code Section 65091 has been met, including that the City Clerk caused a public hearing notice to be published on November 30, 2018, in the Bakersfield Californian and the public hearing notice was mailed to the surrounding property owners within three hundred (300’) feet of the project site; and
   f. The proposed project will not have an adverse impact on the public health, safety or welfare.
   g. The proposed use is consistent with the Arvin General Plan and the purpose and standards of the applicable zoned district.
3. The Planning Commission contingently approves Conditional Use Permit 2018-100SS, subject to the conditions and requirements set forth within Exhibit A, for the property located at 100 Sycamore Road, Arvin, CA. This approval is contingent upon the adoption of Development Agreement No. 2018-01 and associated CEQA by the City Council.

4. The Planning Commission finds as follows with regard to SDP 2018-100SR:

   a. The existing building, located at 100 Sycamore Road, Arvin, CA, has been vacant for more than 90 days, and a change of use from a laboratory to cannabis activity for cultivation, distribution, and non-store front retail sales is proposed;

   b. As conditioned, SDP NO. 2018-110SR has met the requirements of the Arvin Municipal Code, including Chapter 17.70 (Site Development Standards), Chapter 17.64 (Commercial Cannabis Activity), and all applicable laws and ordinances of the City, including compliance with all applicable City policies duly adopted by a majority vote of the Planning Commission or the City Council;

   c. As conditioned, SDP NO. 2018-110SR meets the requirements for site layout, building appearance and structural design, landscaping, water and sewer service and other utilities, surface drainage and erosion control, fire protection, access, traffic circulation and parking. Compliance shall be confirmed with the City of Arvin prior to the issuance of the Certificate of Occupancy by the City of Arvin’s Building Official.

   d. Approval of SDP 2018-100SR will not be detrimental to the health, safety, peace, morals, comfort or general welfare. Under the circumstances of the particular case, the proposed use or buildings will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood.

5. The Planning Commission contingently approves Site Development Permit 2018-110SR, subject to the conditions and requirements set forth within Exhibit B, for the property located at 100 Sycamore Road, Arvin, CA. This approval is contingent upon the adoption of Development Agreement No. 2018-01 and associated CEQA by the City Council.

5. Prior to this Conditional Use Permit 2018-100SS or SDP NO. 2018-110SR becoming effective, the Developer, and any property owner(s) or business owner(s), shall submit affidavits of acceptance of the conditions of approval for this project, including an acknowledgement that failure to comply with the conditions of approval shall constitute grounds for suspension, revocation and/or other enforcement action.

6. This Resolution and conditional use permit shall only become effective immediately after approval of Development Agreement No. 2018-01, and the associated CEQA for the Project Approvals, by the City Council become final. If said approvals do not occur within 180 days, staff shall bring CUP 2018-100SS and SDP NO. 2018-110SR back before the Planning Commission for additional consideration. If Development Agreement No. 2018-01, or the associated CEQA determination, are modified in a manner such that it would require the modification of either CUP 2018-100SS and SDP NO. 2018-110SR, then the approvals will not become effective immediately after approval of Development Agreement No. 2018-01, and instead shall be returned to the Planning Commission for additional
consideration consistent with the action taken by the City Council on Development Agreement No. 2018-01 and the associated CEQA approval.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Planning Commission of the City of Arvin at a regular meeting thereof held on the 11th day of December, 2018 by the following vote:

AYES: __________________________________________

NOES: __________________________________________

ABSTAIN: ________________________________________

ABSENT: _________________________________________

ATTEST:

CECILIA VELA, Secretary

ARVIN PLANNING COMMISSION

By: ____________________________ 

JANETT ZAVAĻA, Vice Chairperson

I, _____________________________, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.
EXHIBIT A
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT (CUP) 2018-100SS
for Commercial Cannabis Activities or Operations (Limited to Type 3 Indoor Cultivation, Type 10 Non-Storefront Retail and Type 11 Distribution) within an existing building of approximately 27,012 Square Feet Located at 100 Sycamore Road

NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within ninety (90) calendar days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

PART A - PROJECT INFORMATION

| Applicant: | Aaron Coppelson, M.D. Inc. |
| Address: | P.O. Box 261399, Encino, CA 91426 |
| Phone Number: | 1-818-636-8662 |
| Email: | dontoudelayAgmail.com |
| Project Address: | 100 Sycamore Road, Arvin, CA 93434 |
| Project Location — See Figure 1. | 100 Sycamore Road is located at the northwest corner of South Derby and Sycamore Road. (See general location, below.) |
| Address: | 100 Sycamore Road, Arvin, CA 93434 |
| Assessor Parcel No. | 192-231-08, consists of 2.03 Acres. |
| Zoning — See Figure 4 | M-2, Light Manufacturing Zone |
| General Plan Land Use Designation - See Figure 3 | Light Industrial |
| Project Description | Commercial Cannabis Activities or Operations, limited to Type 3 Indoor Cultivation, Type 10 Non-Storefront Retail and Type 11 Distribution, within an existing building of approximately 27,012 Square Feet Located at 100 Sycamore Road |

PART B — GENERAL CONDITIONS AND REQUIREMENTS

The Planning Commission approved the following conditions on December 11, 2018:
1. The proposed use and the re-utilization of the building located at 100 Sycamore Road, a 2.03-acre site has a 27,012 square foot standalone building with improvements and shall meet the requirements of Chapter 17.70 Site Development Standards which includes but not limited to off-street parking, landscaping, drainage, exterior lighting, secured access to and from the site;

2. The interior conversion of the building for commercial cannabis operations will require tenant improvements including but not limited to bring the project site into compliance with the requirements of the California Building Code and Arvin Municipal Code;

3. The interior conversion and improvements are required to meet or exceed California Fire Code and Kern County Fire Department standards;

4. The commercial cannabis operations site shall be fully secured by fencing, thus separating the use from surrounding uses and activities, which is in compliance with the requirements of the Arvin Municipal Code and/or any City of Arvin rules, regulations, or resolutions governing fencing and security for commercial cannabis businesses;

5. The Applicant, project and location at 100 Sycamore Road shall comply with all of the requirements of Chapter 17.64 Commercial Cannabis Businesses of the Arvin Municipal Code and as may be amended by the City Council from time to time;

6. A Site Development Permit is required, and Site Plan representation shall be verified and subject to approval by Planning Staff prior to the issuance of the Certificate of Occupancy by the City of Arvin’s Building Inspector;

7. The Applicant shall timely pay all applicable fees, costs and obligations as established within a Development Agreement entered into between the Application and City of Arvin, the Arvin Municipal Code and/or any City of Arvin rules, regulations or resolutions;

8. The Applicant shall pay the City of Arvin for all actual costs incurred for processing the applications and all required approval materials for the project located at 100 Sycamore Road;

9. The Applicant shall allow the City of Arvin, its employees and/or contractors to conduct all required inspection(s) during normal business hours prior to the final approval of the project and/or any required City of Arvin issued permits, or as otherwise required by the Arvin Municipal Code;

10. The Applicant shall pay all fees and join a governing Landscape Lighting Maintenance District (LLMD) or community facility district (CFD) as follows:

   a. At the written request of Applicant, the City will reasonably cooperate with Applicant, at no cost or expense to the City, in the establishment of a LLMD or CFD encompassing the Project area to assist in the financing of certain off-site
improvements and exactions related to the Project.

b. In the alternative, upon request by the City, Applicant i) agrees to join a Landscape and Lighting District or annex to the same; and ii) agrees to become part of a Community Facility District, under the Mello-Roos Community Facilities Act, or equivalent mechanism to address services such as fire, police, storm drainage maintenance, road infrastructure maintenance, or similar services, and agrees to annex or join the same. Applicant shall be solely responsible for paying its proportionate cost for services associated with the same, including i) any costs of formation or annexation, including those incurred by the City; and ii) costs required by participants in said District(s).

11. The Applicant shall provide proof of clearance/approval from the Kern County Fire Department prior to the issuance of the Certificate of Occupancy by the City of Arvin’s Building Official;

12. The Applicant shall provide proof of availability of service from the Arvin Community Services District prior to the issuance of the Certificate of Occupancy by the City of Arvin’s Building Official;

13. Prior to the issuance of a Certificate of Occupancy by the City of Arvin’s Building Official, the conditions and requirements as established under the Site Development Permit application, SDP 2018-100SS shall be completed;

14. The Applicant shall submitted a complete an application, including but not limited to identifying all corporate directors, board members, investors, lenders, creditors and/or parent corporations whether publically or privately held, for a Commercial Cannabis Business, Type 3 Indoor Cultivation permit, Type 10 Non-Storefront Retail permit and Type 11 Distribution permit;

15. The Application shall seek and receive a Type 3 Indoor Cultivation permit, Type 10 Non-Storefront Retail permit and a Type 11 Distribution permit issued by the City of Arvin. Failure to receive said permit shall prohibit the Applicant from engaging in that commercial cannabis business operation or activity associated with the particular type of permit.

16. The Application shall seek and receive a Type 3 Indoor Cultivation license, Type 10 Non-Storefront Retail license and a Type 11 Distribution license issued by the State of California. Failure to receive said license from the State of California or its designated department charged with regulation cannabis licensing shall prohibit the Applicant from engaging in that commercial cannabis business operation or activity for which such a license is required.

17. The Applicant, project and building located at 100 Sycamore Road shall comply with all of the requirements of the State of California and Arvin Municipal Code governing cannabis businesses currently in existences and as may be amended and/or enacted from
time to time. Failure to comply with these requirements may result in suspension and/or revocation of this conditional use permit;

18. All improvements to the property located at 100 Sycamore Road shall comply with all requirements of the California Building Code, California Fire Code and Arvin Municipal Code;

19. The Applicant shall provide proof of clearance/approval from the Kern County Environmental Health Department prior to operation consistent with the “Cannabis Waste Management Plan”;

20. Prior to beginning operations, Applicant shall obtain a business license from the City of Arvin. Applicant shall maintain a business license when conducting operations;

21. The Applicant shall pay all fees, exactions or taxes required by the City of Arvin and/or Arvin Municipal Code, unless otherwise governed or superseded by a Development Agreement entered into between the Applicant and City of Arvin. Failure to pay the required fees, exactions or taxes is grounds for the immediate suspension or revocation of the conditional use permit;

22. The Applicant shall pay all fees, exactions or taxes as may be required by a Development Agreement entered into between the Applicant and City of Arvin. Failure to pay the required fees, exactions or taxes is grounds for the immediate suspension or revocation of the conditional use permit;

23. This conditional use permit, in and of itself, does not authorize the Applicant, project and/or property located at 100 Sycamore Road, Arvin, CA, to commence or engage in any cannabis activity regardless of whether it is authorized by the State of California or any department of the state authorized to regulate cannabis;

24. Aside from Type 3 Indoor Cultivation, Type 10 Non-Storefront Retail and Type 11 Distribution, this conditional use permit does not authorized the Applicant, project and/or property located at 100 Sycamore Road to engage in other cannabis activity or operation; however, the Applicant may apply to the City of Arvin for an amendment to this conditional use permit;

25. This conditional use permit does not guarantee nor require the City of Arvin to take any particular action and/or approve any future action sought by the Applicant, project and/or property located at 100 Sycamore Road, Arvin, CA;

26. These conditions shall run with the land. All owners, present and future, of the property located at 100 Sycamore Road, Arvin, CA, shall be subject to these conditions of approval. Failure to comply with any condition of approval is grounds for immediate suspension or revocation of this conditional use permit;
27. All owners, present or future, of the property located at 100 Sycamore Road, Arvin, CA, shall be subject to all State of California laws, statutes and/or regulations, and City of Arvin rules, regulations, resolutions and ordinances governing cannabis whether currently existing or as may be amended from time to time or subject to the provisions of an applicable development agreement. Failure to comply with any State of California laws, statutes and/or regulations, and City of Arvin rules, regulations, resolutions and ordinances governing cannabis, and any development agreement, may result in, and is grounds for, immediate suspension or revocation of this conditional use permit.

PART C — ADDITIONAL CONDITIONS

1. Approvals: The project shall be implemented and used in accordance with all approved plans, conditions of approval, and other required permits and approvals. All construction shall comply with applicable building codes and engineering requirements.

2. Laws and Regulations: The use will comply with all applicable laws and government regulations, including all applicable state, and local laws, Chapter 17.64 Commercial Cannabis Activity of Title 17 of the Arvin Municipal Code, Business and Professions Code, Division 10. Cannabis (§§26000 - 26231.2).

3. Location of Use: Application and operation shall be limited to the project site located at 100 Sycamore Road, Arvin, CA.

4. Secured Site, Fencing and Walls: The site shall be secured by the construction and continued maintenance of fencing compliant with the requirements of the Arvin Municipal Code. The site shall have security controls as is required by Chapter 17.64 Commercial Cannabis Activity.

5. Fees and Costs: Prior to commencing use under this conditional use permit, the applicant shall pay, in full, all fees and costs required for the processing of the use permit or otherwise required by any applicable City of Arvin resolution, ordinance, or development agreement. If a deposit has been made with the City, and is inadequate, the applicant shall pay any remaining balance(s) within thirty (30) days of being invoiced by the City, subject to the provisions of any applicable development agreement.

6. Indemnity, Defense and Hold Harmless: The Applicant shall enter into an indemnification agreement with the City. Additionally, as a condition of approval, the applicant, operator, and/or property owner (“Applicant” herein) agrees to indemnify, defend, and hold harmless the City of Arvin, its officers, agents, employees, departments, commissioners and boards (“City” herein) against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, in any way arising from, the terms and provisions of this conditional use permit, including without limitation any CEQA approval, or any related development approvals or conditions whether imposed by the City or not, except for City’s sole active negligence or willful misconduct. This indemnification condition does not prevent the Applicant from
challenging any decision by the City related to this project and the obligations of this condition apply regardless of whether any other permits or entitlements are issued.
EXHIBIT B
CONDITIONS OF APPROVAL
SITE DEVELOPMENT PLAN/PERMIT SDP 2018-100SR
For Utilization Of A Vacant Building For More Than 90 Days Of Approximately 27,012
Square Feet For Commercial Cannabis Activities Located at 100 Sycamore Road

NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within ninety (90) calendar days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

PART A - PROJECT INFORMATION

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Aaron Coppelson, M.D. Inc.</th>
</tr>
</thead>
<tbody>
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<td>Address:</td>
<td>P.O. Box 261399, Encino, CA 91426</td>
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<tr>
<td>Email:</td>
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<td>Project Address:</td>
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</table>

PART B — GENERAL CONDITIONS AND REQUIREMENTS

The Planning Commission approved the following conditions on December 11, 2018:
1. The proposed use and the re-utilization of the building located at 100 Sycamore Road, a 2.03-acre site has a 27,012 square foot standalone building with improvements and shall meet the requirements of Chapter 17.70 Site Development Standards which includes but not limited to off-street parking, landscaping, drainage, exterior lighting, secured access to and from the site;

2. The interior conversion of the building for commercial cannabis operations will require tenant improvements including but not limited bring the project site into compliance with the requirements of the California Building Code and Arvin Municipal Code;

3. The interior conversion and improvements are required to meet or exceed California Fire Code and Kern County Fire Department standards;

4. The commercial cannabis operations site shall be fully secured by fencing, thus separating the use from surrounding uses and activities, which is in compliance with the requirements of the Arvin Municipal Code and/or any City of Arvin rules, regulations, or resolutions governing fencing and security for commercial cannabis businesses;

5. The project may operate 24 hours a day, seven days a week, 365 days per year, for authorized cultivation uses. A standard shift is from 5:00 A.M. to 9:00 P.M., or 16 hours per day with two shifts of 8 hours each. The building occupancy capacity is estimated at 92 and is estimated to have 75 employees for the cultivation and distribution operations.

6. Site Plan representation shall be verified and subject to approval by Planning Staff prior to the issuance of the Certificate of Occupancy by the City of Arvin’s Building Inspector;

7. The Applicant shall timely pay all applicable fees, costs and obligations as established within a Development Agreement entered into between the Application and City of Arvin, the Arvin Municipal Code and/or any City of Arvin rules, regulations or resolutions;

8. The Applicant shall pay the City of Arvin for all actual costs incurred for processing the applications and all required approval materials for the project located at 100 Sycamore Road;

9. The Applicant shall allow the City of Arvin, its employees and/or contractors to conduct all required inspection(s) during normal business hours prior to the final approval of the project and/or any required City of Arvin issued permits, or as otherwise required by the Arvin Municipal Code;

10. The Applicant shall pay all fees and join a governing Landscape Lighting Maintenance District (LLMD) or community facility district (CFD) as follows:
   a. At the written request of Applicant, the City will reasonably cooperate with Applicant, at no cost or expense to the City, in the establishment of a LLMD or CFD encompassing the Project area to assist in the financing of certain off-site improvements and exactions related to the Project.
b. In the alternative, upon request by the City, Applicant i) agrees to join a Landscape and Lighting District or annex to the same; and ii) agrees to become part of a Community Facility District, under the Mello-Roos Community Facilities Act, or equivalent mechanism to address services such as fire, police, storm drainage maintenance, road infrastructure maintenance, or similar services, and agrees to annex or join the same. Applicant shall be solely responsible for paying its proportionate cost for services associated with the same, including i) any costs of formation or annexation, including those incurred by the City; and ii) costs required by participants in said District(s).

11. The Applicant shall provide proof of clearance/approval from the Kern County Fire Department prior to the issuance of the Certificate of Occupancy by the City of Arvin’s Building Official;

12. The Applicant shall provide proof of availability of service from the Arvin Community Services District prior to the issuance of the Certificate of Occupancy by the City of Arvin’s Building Official;

13. Prior to the issuance of a Certificate of Occupancy by the City of Arvin’s Building Official, the conditions and requirements as established under the Site Development Permit application, SDP 2018-100SS shall be completed;

14. The use shall maintain 77 parking spaces, including four disabled parking spaces.

15. [Reserved.]

16. [Reserved.]

17. [Reserved.]

18. All improvements to the property located at 100 Sycamore Road shall comply with all requirements of the California Building Code, California Fire Code and Arvin Municipal Code;

19. The Applicant shall provide proof of clearance/approval from the Kern County Environmental Health Department prior to operation consistent with the “Cannabis Waste Management Plan”;

20. Prior to beginning operations, Applicant shall obtain a business license from the City of Arvin. Applicant shall maintain a business license when conducting operations;

21. The Applicant shall pay all fees, exactions or taxes required by the City of Arvin and/or Arvin Municipal Code, unless otherwise governed or superseded by a Development Agreement entered into between the Applicant and City of Arvin. Failure to pay the required fees, exactions or taxes is grounds for the immediate suspension or revocation of the conditional use permit;
22. [Reserved];

23. This site development permit, in and of itself, does not authorize the Applicant, project and/or property located at 100 Sycamore Road, Arvin, CA, to commence or engage in any cannabis activity regardless of whether it is authorized by the State of California or any department of the state authorized to regulate cannabis;

24. [Reserved];

25. This site development permit does not guarantee nor require the City of Arvin to take any particular action and/or approve any future action sought by the Applicant, project and/or property located at 100 Sycamore Road, Arvin, CA;

26. These conditions shall run with the land. All owners, present and future, of the property located at 100 Sycamore Road, Arvin, CA, shall be subject to these conditions of approval. Failure to comply with any condition of approval is grounds for immediate suspension or revocation of this site development permit;

27. All owners, present or future, of the property located at 100 Sycamore Road, Arvin, CA, shall be subject to all State of California laws, statutes and/or regulations, and City of Arvin rules, regulations, resolutions and ordinances governing cannabis whether currently existing or as may be amended from time to time or subject to the provisions of an applicable development agreement. Failure to comply with any State of California laws, statutes and/or regulations, and City of Arvin rules, regulations, resolutions and ordinances governing cannabis, and any development agreement, may result in, and is grounds for, immediate suspension or revocation of this site development permit;

IMPORTANT: PLEASE READ CAREFULLY

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval will ultimately be deemed mandatory unless appealed to the City Council within 15 days after the decision by the Planning Commission or 10 days after the mailing required notices (if any), whichever date is later.

In the event you wish to appeal the Planning Commission’s decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk. The appeal shall include a statement of your interest in or relationship to the subject property, the decision or
action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

Approval of this site development permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

a. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property; and

b. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,

Approval of this site development permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the Zoning Ordinance, and all City Standards and Specifications. This site development permit is granted, and the conditions imposed, based upon the application submittal provided by the applicant. The application is material to the issuance of this site development permit. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the site development permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the site development permit review process or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions.

If the Site Development Permit is not implemented within one (1) year from the date of issuance of this site development permit, or within any extended period thereof, this site development permit shall expire, and the site development permit approval shall be null and void.

These conditions are applicable to any person or entity making use of this use permit, whether identified as “permittee,” “applicant,” “operator,” “developer,” or is unnamed.

PART C — ADDITIONAL CONDITIONS

1. Approvals: The project shall be implemented and used in accordance with all approved plans, conditions of approval, and other required permits and approvals. All construction shall comply with applicable building codes and engineering requirements. Construction shall be in compliance with the site plans attached hereto.

2. Laws and Regulations: The use will comply with will all applicable laws and government regulations, including all applicable state, and local laws, Chapter 17.64

3. **Location of Use:** Application and operation shall be limited to the project site located at 100 Sycamore Road, Arvin, CA.

4. **Secured Site, Fencing and Walls:** The site shall be secured by the construction and continued maintenance of fencing compliant with the requirements of the Arvin Municipal Code. The site shall have security controls as is required by Chapter 17.64 Commercial Cannabis Activity.

5. **Fees and Costs:** Prior to commencing use under this conditional use permit, the applicant shall pay, in full, all fees and costs required for the processing of the use permit or otherwise required by any applicable City of Arvin resolution, ordinance, or development agreement. If a deposit has been made with the City, and is inadequate, the applicant shall pay any remaining balance(s) within thirty (30) days of being invoiced by the City, subject to the provisions of any applicable development agreement.

6. **Indemnity, Defense and Hold Harmless:** The Applicant shall enter into an indemnification agreement with the City. Additionally, as a condition of approval, the applicant, operator, and/or property owner (“Applicant” herein) agrees to indemnify, defend, and hold harmless the City of Arvin, its officers, agents, employees, departments, commissioners and boards (“City” herein) against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, in any way arising from, the terms and provisions of this conditional use permit, including without limitation any CEQA approval, or any related development approvals or conditions whether imposed by the City or not, except for City’s sole active negligence or willful misconduct. This indemnification condition does not prevent the Applicant from challenging any decision by the City related to this project and the obligations of this condition apply regardless of whether any other permits or entitlements are issued.

7. **Site Characteristics:**
   
a. No exterior structural modifications are allowed to the existing building.

   b. The site shall conform with Exhibit 1 – Site Plan, and maintain the existing site coverage as follows:

      i. Building Coverage: 27,395 square feet with lot coverage of 31%;

      ii. Landscaped Area: 9,435 square feet with lot coverage of 11%

      iii. Paved Surface Area: 51,597 square feet with lot coverage of 58%

      iv. Total Lot Area: 88,427 square feet with total of 100%.
c. The site shall conform with Exhibit 2 – Illustration of Interior Use of the Existing Building for Commercial Cannabis Activities – cultivation, distribution, and non-store front retail.

d. The site shall conform with Exhibit 3 – Elevations of the Existing Building:

   i. The building height shall be maintained at approximately 24’-8;

   ii. The exterior of the building is painted metal siding.

   iii. The building colors are tan and dark brown.

   iv. Exterior lighting shall be maintained, and may include the use of the existing wall mounted HPS lights.

8. **Parking:** The use shall maintain 77 parking spaces, including four disabled parking spaces, as depicted on Exhibit 1 – Site Plan.
NOTICE OF PUBLIC HEARING

Development Agreement No. 2018-01 and Conditional Use Permit/Site Development Plan No. 2018-100SR for Commercial Cannabis Operations

Notice is hereby given that the Planning Commission of the City of Arvin, California, will conduct a public hearing, at which time you may be present and be heard to consider the following:

- Adoption of a Resolution Recommending the City Council Adopt an Uncodified Ordinance of the City Council of the City of Arvin, Approving Development Agreement No. 2018-1 Between the City of Arvin and Aaron Coppelson, M.D., Inc., for the Development of Certain Commercial Cannabis Operations located at 100 Sycamore Road, Arvin, CA.
- Adoption of a Resolution Approving a Conditional Use Permit for Type 3b Cultivation, Type 11 Distribution, and Type 9 Non-Store Front Delivery and Site Development Plan (CUP/SDP) No. 2018-100SR for commercial cannabis operations located at 100 Sycamore Road, Arvin, CA. (Subject to approval of Development Agreement No. 2018-01.)
- Recommendation of adoption of an exemption pursuant California Environmental Quality Act Guidelines Sections 15061(b)(3) and 15301 (Existing Facilities).

Arvin Planning Commission Public Hearing Information

Date: December 11, 2018
Time: 6:00 PM
Place: City of Arvin Council Chambers
200 Campus Drive, Arvin, CA 93203

Description of the Project: The purpose of the public hearing is to consider a recommendation to the City Council to adopt an uncodified ordinance approving Development Agreement No. 2018-01 between Aaron Coppleson, M.D. Inc. and the City of Arvin, as well as Planning Commission approval of a Conditional Use Permit (CUP) and Site Development Plan (SDP) (collectively “entitlements”). The entitlements would allow for commercial cannabis businesses to operate at the site, consisting of a Type 3b Cultivation, a Type 11 Distribution, and a Type 9 Non-Store Front Delivery, within the existing building located at 100 Sycamore Road. The
proposed cultivation area is approximately 26,000 square feet; the distribution area is approximately 748 square feet, and the non-store front delivery area is approximately 264 square feet within the existing 27,012 square foot building.

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Aaron Coppelson, M.D. Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>P.O. Box 261399, Encino, CA 91426</td>
</tr>
<tr>
<td>Phone Number:</td>
<td>1-818-636-8662</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:dontoudelay@gmail.com">dontoudelay@gmail.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project Address:</th>
<th>100 Sycamore Street, Arvin, CA 93434</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Location:</td>
<td>100 Sycamore Road is located at the northwest corner of South Derby and Sycamore Road. (See general location, above.)</td>
</tr>
<tr>
<td>Address:</td>
<td>100 Sycamore Road, Arvin, CA 93434</td>
</tr>
<tr>
<td>Assessor Parcel No.</td>
<td>192-231-08, consists of 2.03 Acres.</td>
</tr>
<tr>
<td>Zoning:</td>
<td>M-2, Light Manufacturing Zone</td>
</tr>
<tr>
<td>General Plan Land Use Designation</td>
<td>Industrial</td>
</tr>
</tbody>
</table>

The City has performed a preliminary assessment of this project and, pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3), proposes to determine with certainty that there is no possibility this project will have a significant effect on the environment. The project will use existing facilities and will be subject to the restrictions of the Arvin Municipal Code for cannabis operations, including odor, noise, etc. In the alternative, this project is also subject to a Class 1 (Existing Facilities) categorical exemption pursuant to CEQA Guidelines section 15301, as it consists of the operation, repair, permitting and licensing of an existing private structure and any appurtenant structures, involving negligible or no expansion of use beyond that existing at the time of the City’s determination. Further, none of the exceptions to categorical exemptions set forth in CEQA Guidelines, section 15300.2, apply to this project.

Additional information on the proposed project and proposed environmental finding may be obtained from the City from the City of Arvin, City Hall, 200 Campus Drive, Arvin, California, 93203, or the City’s web site at www.arvin.org.

All persons interested in this topic who have questions, would like to provide feedback, or who have comments are invited to attend. 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.

Cecilia Vela, City Clerk
Published: November 30, 2018, Bakersfield Californian