



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

**TUESDAY JULY 28, 2020 6:00pm**

*(Regular Session will commence no earlier than 6:00pm. Closed Session will commence soon after Regular Session however, it is not open to the public.)*

**CITY HALL COUNCIL CHAMBERS  
200 CAMPUS DRIVE, ARVIN**

This meeting is compliant with the Governor’s Executive Order N-25-20 issued on March 4, 2020 and N-29-20 issued on March 18, 2020, allowing for a deviation of teleconference rules required by the Brown Act. The purpose of this is to provide a safe environment for staff and the public to conduct city business, while allowing for public participation. The meeting will be held by teleconference only. **The public may participate by calling:**

**1-669-900-9128**

**Meeting ID: 814 7122 3031#**

**To join the meeting from your computer, tablet or smartphone click on the following link:**

<https://us02web.zoom.us/j/81471223031>

**The meeting agendas are available at:** <https://www.arvin.org/government/clerk/meeting-agendas-minutes/documents-page/>

The city will accept comments on any items on the agenda, inclusive of closed session items, in writing, and in advance of the meeting, **up until Monday, July 27, 2020 at 3:00pm.** Comments may be mailed to City of Arvin, City Clerk’s Office, PO Box 548, Arvin, CA 93203 or emailed to [cvela@arvin.org](mailto:cvela@arvin.org). In the subject line, please provide “PUBLIC COMMENT ITEM #” (insert the item number relevant to your comment) or “PUBLIC COMMENT NON-AGENDA ITEM”. All public comments will be provided to the City Council and may be read into the record or compiled as part of the record.

**CALL TO ORDER**

Mayor Jose Gurrola

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

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**ROLL CALL**

Jose Gurrola	Mayor
Jazmin Robles	Mayor Pro Tem
Gabriela Martinez	Councilmember
Olivia Trujillo	Councilmember
Mark S. Franetovich	Councilmember

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## **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.

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### **AMERICANS with DISABILITIES ACT:**

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

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

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

Roll Call: CM Martinez \_\_\_\_ CM Trujillo \_\_\_\_ CM Franetovich \_\_\_\_ MPT Robles \_\_\_\_ Mayor Gurrola \_\_\_\_

**2. PUBLIC COMMENTS**

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

**3. CLOSED SESSION REPORT FROM REGULAR CITY COUNCIL MEETING OF JULY 14, 2020. (City Attorney)**

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

- A. Approval of Demand Register(s) of July 11, 2020 – July 24, 2020.
- B. Approval of Payroll Register(s) of July 24, 2020.
- C. Approval of the Minutes of the Regular Meeting(s) of July 14, 2020.
- D. Approval of A Resolution of the City Council of the City of Arvin Authorizing Approval for the Arvin Police Department to Apply for Funds from the 2020 Edward Byrne Memorial Justice Assistance Grant.
- E. Approval of A Resolution of the City Council of the City of Arvin to Assign Funding to be Used for the Development of a Local Roadway Safety Plan (LRSP) to Kern Council of Governments To Be Used With the Same Funding From Other Participating Agencies for the Development of A Regional LRSP and Authorizing the Mayor and City Manager to Execute A Memorandum of Understanding with the Kern Council of Governments.
- F. Approval of A Resolution of the City Council of the City of Arvin Updating the City of Arvin 2020 Transit Title VI Compliance Program.

Staff recommends approval of the Consent Agenda.

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

Roll Call: CM Martinez \_\_\_\_ CM Trujillo \_\_\_\_ CM Franetovich \_\_\_\_ MPT Robles \_\_\_\_ Mayor Gurrola \_\_\_\_

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

- A.** A Public Hearing to Consider Adoption of An Uncodified Urgency Ordinance of the City Council of the City of Arvin Again Extending Urgency Ordinance No. 2020-465 (Portion Regarding Compliance With State And County Emergency Orders in Response to the COVID-19 Pandemic).

Staff recommends the City Council open the hearing, allow for public testimony, close the hearing and consider adoption of the Urgency Ordinance as appropriate (requires 4 votes).

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

Roll Call: CM Martinez \_\_\_ CM Trujillo \_\_\_ CM Franetovich \_\_\_ MPT Robles \_\_\_ Mayor Gurrola \_\_\_

- B.** A Public Hearing to Consider Adoption of An Ordinance of the City Council of the City of Arvin Adopting An Uncodified Ordinance, Approving A Development Agreement Between the City of Arvin and Cana Rose Realty Holdings, LLC. and Life & Nature Farms, LLC. for the Development of Certain Commercial Cannabis Operations Located at 901 Potato Road, Arvin, Ca. (Director of Administrative Services)

Staff recommends the City Council consider adopting the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive second reading of the Ordinance, and I) approve the adoption of the Ordinance and II) Adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).

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

Roll Call: CM Martinez \_\_\_ CM Trujillo \_\_\_ CM Franetovich \_\_\_ MPT Robles \_\_\_ Mayor Gurrola \_\_\_

**6. ACTION ITEM(S)**

- A.** Discussion and Action on Measures to Mitigate the Impacts of the COVID-19 (Coronavirus) Pandemic.

Staff recommends to discuss and take action as appropriate.

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

Roll Call: CM Martinez \_\_\_ CM Trujillo \_\_\_ CM Franetovich \_\_\_ MPT Robles \_\_\_ Mayor Gurrola \_\_\_

**7. STAFF REPORTS**

**8. COUNCIL MEMBER COMMENTS**

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

- A. Threats to Public Services or Facilities (Pursuant to Government Code, § 54957(a).)**  
Consultation with: City Attorney and/or City Emergency or Critical Function Personnel.
- B. CONFERENCE WITH LABOR NEGOTIATORS (Pursuant to Government Code, § 54957.6):**  
City Negotiator: Colin Tanner, Lead Negotiator and Pawan Gill, Director of Administrative Services  
Employee Organizations: Arvin Police Officers Association (APOA) and Central California Association of Public Employees SEIU Local 521.
- C. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation**  
Initiation of litigation pursuant to Government Code Section 54956.9(d)(4)  
One case (Community Recycling and Resource Recovery Center, Inc.)
- D. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation**  
Initiation of litigation pursuant to Government Code Section 54956.9(d)(4)  
One case (City of Arvin v. Clean Fuel Connection, Inc.)

**10. ADJOURNMENT**

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the Arvin City Council Chambers Bulletin Board not less than 72 hours prior to the meeting. Dated July 24, 2020.



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Cecilia Vela, City Clerk

**Edit List of Invoices - Detail w/GL**

Date: 07/14/2020

Time: 12:46 pm

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City of Arvin

Ref. No.	Vendor Name	Post Date	Bank	Invoice Description Line 2	Gross Amount
Vendor No.	Vendor Address	Pay. Date	Hold?	Invoice Description Line 2	Taxes Withheld
	City	Disc. Date	Req. No.	Use Description 1 On Check	Discoun
	State/Province Zip/Postal	Due Date	Disc. %	Hand Check Number/Date	Net Amount
	Email Address	Inv. Date	Invoice No.		
51533	VALLEY AG ENTERPRISE, INC	06/29/2020	BOFA	ABATE WEEDS & DISC PROPERT	
62-020	PO BOX 71089	06/29/2020	N	LOT #1 - 2.81 ACRES	2,300.00
	BAKERSFIELD	06/29/2020	N	N	0.00
	CA 93307	06/29/2020	0.00	N	0
	<Emailing Stub Disabled>	06/29/2020	1756		<u>2,300.00</u>

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
450-070-5034	PROFESSIONAL SERVICES		2,300.00	0.00
Distribution Total			2,300.00	0.00

Ref. No.	Vendor Name	Post Date	Bank	Invoice Description Line 2	Gross Amount
Vendor No.	Vendor Address	Pay. Date	Hold?	Invoice Description Line 2	Taxes Withheld
	City	Disc. Date	Req. No.	Use Description 1 On Check	Discoun
	State/Province Zip/Postal	Due Date	Disc. %	Hand Check Number/Date	Net Amount
	Email Address	Inv. Date	Invoice No.		
51534	VALLEY AG ENTERPRISE, INC	06/29/2020	BOFA	DISKING FIELDS - 8 PARCELS	
62-020	PO BOX 71089	06/29/2020	N		6,600.00
	BAKERSFIELD	06/29/2020	N	N	0.00
	CA 93307	06/29/2020	0.00	N	0
	<Emailing Stub Disabled>	06/29/2020	1757		<u>6,600.00</u>

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
450-070-5034	PROFESSIONAL SERVICES		6,600.00	0.00
Distribution Total			6,600.00	0.00

Vendor Total: 8,900.00

Grand Total: 8,900.00  
 Less Credit Memos: 0.00  
 Net Total: 8,900.00  
 Less Hand Check Total: 0.00  
 Outstanding Invoice Total: 8,900.00

Total Invoices: 2

Attachment: Demand Register(s) July 11, 2020 to July 24, 2020 (Demand Register(s) of July 11, 2020 - July 24, 2020.)

**Edit List of Invoices - Detail w/GL**

**4.A.1**

Date: 07/22/2020

Time: 3:39 pm

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City of Arvin

Ref. No.	Vendor Name	Post Date	Bank	Invoice Description Line 2	
Vendor No.	Vendor Address	Pay. Date	Hold?	Invoice Description Line 2	Gross Amount
	City	Disc. Date	Req. No.	Use Description 1 On Check	Taxes Withheld
	State/Province Zip/Postal	Due Date	Disc. %	Hand Check Number/Date	Discoun
	Email Address	Inv. Date	Invoice No.		Net Amount
51557	BAKERSFIELD CALIFORNIAN 1AF	06/30/2020	BOFA	LEGAL NOTICES JUN2020	
02-011	3700 PEGASUS DRIVE	06/30/2020	N		4,150.72
	BAKERSFIELD	06/30/2020	N	N	0.00
	CA 93308	06/30/2020	0.00	N	0
	<Emailing Stub Disabled>	06/30/2020	2730390		4,150.72

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5082	ADVERTISING-PUBLICATIONS-PRI	NOI TITLE 8 NUISANCES	342.50	0.00
420-016-5082	ADVERTISING-PUBLICATIONS-PRI	NOI SANITARY SEWER MASTER	628.28	0.00
100-001-5082	ADVERTISING-PUBLICATIONS-PRI	ADOPT ORD 2020-466 TITLE 8 NUI	351.16	0.00
319-001-5179	COVID-19 SUPPORT	ADOPT ORD 2020-467 UNCOD	1,425.00	0.00
100-001-5082	ADVERTISING-PUBLICATIONS-PRI	PERM HOUSING ALLOC NOFA	775.50	0.00
319-001-5179	COVID-19 SUPPORT	EMERG ORD 2020-468 COVID	628.28	0.00
Distribution Total			4,150.72	0.00

Vendor Total: 4,150.72

51560	BLUE SHIELD OF CALIFORNIA	07/14/2020	BOFA	MEDICAL 08.01.20 - 08.31.20	
02-490	PO BOX 749415	07/22/2020	N		17,472.67
	LOS ANGELES	07/14/2020	N	N	0.00
	CA 90074-9415	07/14/2020	0.00	N	0
	<Emailing Stub Disabled>	07/14/2020	201960025204		17,472.67

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5015	MEDICAL INSURANCE		4,716.87	0.00
100-007-5015	MEDICAL INSURANCE		637.94	0.00
100-013-5015	MEDICAL INSURANCE		632.05	0.00
100-014-5015	MEDICAL INSURANCE		3,910.71	0.00
200-020-5015	MEDICAL INSURANCE		3,873.89	0.00
230-032-5015	MEDICAL INSURANCE		340.26	0.00
400-023-5015	MEDICAL INSURANCE		1,713.95	0.00
100-000-0227	GEMCARE HMO DEDUCTION		1,647.00	0.00
Distribution Total			17,472.67	0.00

Vendor Total: 17,472.67

51541	BRANDON'S TRANSMISSION	06/22/2020	BOFA	UNIT 304 REP ENG RUNNING ISS	
50-015	9834 S. UNION AVE	06/22/2020	N		1,882.37
	BAKERSFIELD	06/22/2020	N	N	0.00
	CA 93307	06/22/2020	0.00	N	0
	<Emailing Stub Disabled>	06/22/2020	6116		1,882.37

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-019-5012	MAINTENANCE - VEHICLE		1,882.37	0.00
Distribution Total			1,882.37	0.00

Vendor Total: 1,882.37

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City of Arvin

Ref. No.	Vendor Name	Post Date	Bank	Invoice Description Line 2	
Vendor No.	Vendor Address	Pay. Date	Hold?	Invoice Description Line 2	Gross Amount
	City	Disc. Date	Req. No.	Use Description 1 On Check	Taxes Withheld
	State/Province Zip/Postal	Due Date	Disc. %	Hand Check Number/Date	Discoun
	Email Address	Inv. Date	Invoice No.		Net Amount
51549	CALSTART INC	07/08/2020	BOFA	BATTERY ELEC TRNST BUS DEPI	
03-046	48 S. CHESTER AVENUE	07/20/2020	N	JOB4920-001 06.02.20 -06.30.20	5,074.50
	PASADENA	07/08/2020	N	N	0.00
	CA 91106	07/08/2020	0.00	0	0.00
	<Emailing Stub Disabled>	07/08/2020	0111537		5,074.50

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
408-074-5034	PROFESSIONAL SERVICES		5,074.56	0.00
Distribution Total			5,074.56	0.00

Vendor Total: 5,074.50

51542	CLARK PEST CONTROL OF STOC	07/01/2020	BOFA	PEST CONTROL TRANSIT 07.01.2	
03-480	ACCOUNTING OFFICE	07/20/2020	N		75.00
	LODI	07/01/2020	N	N	0.00
	CA 95241-1480	07/01/2020	0.00	0	0.00
	<Emailing Stub Disabled>	07/01/2020	26346666		75.00

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
400-023-5077	OUTSIDE SERVICES		75.00	0.00
Distribution Total			75.00	0.00

51543	CLARK PEST CONTROL OF STOC	07/01/2020	BOFA	PEST CONTROL COMM DEV 07.0	
03-480	ACCOUNTING OFFICE	07/20/2020	N		75.00
	LODI	07/01/2020	N	N	0.00
	CA 95241-1480	07/01/2020	0.00	0	0.00
	<Emailing Stub Disabled>	07/01/2020	26346445		75.00

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-007-5077	OUTSIDE SERVICES		75.00	0.00
Distribution Total			75.00	0.00

51544	CLARK PEST CONTROL OF STOC	07/01/2020	BOFA	PEST CONTROL PD 07.01.20	
03-480	ACCOUNTING OFFICE	07/20/2020	N		150.00
	LODI	07/01/2020	N	N	0.00
	CA 95241-1480	07/01/2020	0.00	0	0.00
	<Emailing Stub Disabled>	07/01/2020	26346650		150.00

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-014-5008	MAINTENANCE - OTHER		150.00	0.00
Distribution Total			150.00	0.00

Vendor Total: 300.00

51546	COPOWER	ID 903697	07/08/2020	BOFA	CHIRO SVC AUG2020	
27-067	DEPT. 34604		07/20/2020	N		175.80
	SAN FRANCISCO		07/08/2020	N	N	0.00
	CA 94139		07/08/2020	0.00	0	0.00
	<Emailing Stub Disabled>		07/08/2020	2030626		175.80

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5015	MEDICAL INSURANCE		27.74	0.00
100-013-5015	MEDICAL INSURANCE		21.63	0.00
100-014-5015	MEDICAL INSURANCE		42.32	0.00
100-030-5015	MEDICAL INSURANCE		4.78	0.00
200-020-5015	MEDICAL INSURANCE		27.74	0.00
230-032-5015	MEDICAL INSURANCE		4.78	0.00

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Ref. No.	Vendor Name	Post Date	Bank	Invoice Description Line 2	
Vendor No.	Vendor Address	Pay. Date	Hold?	Invoice Description Line 2	Gross Amount
	City	Disc. Date	Req. No.	Use Description 1 On Check	Taxes Withheld
	State/Province Zip/Postal	Due Date	Disc. %	Hand Check Number/Date	Discoun
	Email Address	Inv. Date	Invoice No.		Net Amount

	MEDICAL INSURANCE				46.88	0.00
	Distribution Total				175.87	0.00

Vendor Total: 175.87

51548	DIAMOND TECHNOLOGIES, INC	07/07/2020		BOFA	DELL PWREDGE SERV LIC &	
	P.O BOX 660831	07/20/2020		N	EQUIP JUL2020	3,786.80
28-397	DALLAS	07/07/2020		N	N	0.00
	TX 75266-0831	07/07/2020	0.00	N	0	0.00
	<Emailing Stub Disabled>	07/07/2020	27388791			3,786.80

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-014-5100	IT SYSTEMS SUPPORT	DELL SERV	2,203.67	0.00
100-001-5100	IT SYSTEMS SUPPORT	DELL COMPUTER EQUIP	178.27	0.00
100-001-5100	IT SYSTEMS SUPPORT	DELL POWEREDGE SERVERS	1,404.92	0.00
	Distribution Total		3,786.86	0.00

Vendor Total: 3,786.86

51561	FEDEX	07/17/2020		BOFA	SVC 06.17.20 - 07.16.20	
	P.O. BOX 7221	07/22/2020		N		216.70
06-012	PASADENA	07/17/2020		N	N	0.00
	CA 91109-7321	07/17/2020	0.00	N	0	0.00
	<Emailing Stub Disabled>	07/17/2020	7-068-03747			216.70

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5026	POSTAGE		57.47	0.00
100-007-5026	POSTAGE		159.31	0.00
	Distribution Total		216.78	0.00

Vendor Total: 216.78

51540	GENERAL OFFICE	07/01/2020		BOFA	METER READING APD & COMM	
	P.O BOX 2486	07/20/2020		N	DEV 06.01.20 - 06.30.20	199.40
07-250	BAKERSFIELD	07/01/2020		N	N	0.00
	CA 93303	07/01/2020	0.00	N	0	0.00
	<Emailing Stub Disabled>	07/01/2020	15942			199.40

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-014-5054	CONTRACT SERVICES		119.93	0.00
100-007-5054	CONTRACT SERVICES		79.50	0.00
	Distribution Total		199.43	0.00

Vendor Total: 199.43

51550	GOLDEN EMPIRE FLEET SERVICE	06/30/2020		BOFA	UNIT 207 BATTERY REPLACEMEN	
	P.O. BOX 2192	06/30/2020		N		763.80
07-592	BAKERSFIELD	06/30/2020		N	N	0.00
	CA 93303-2192	06/30/2020	0.00	N	0	0.00
	<Emailing Stub Disabled>	06/30/2020	60686			763.80

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
400-023-5012	MAINTENANCE - VEHICLE		763.83	0.00
	Distribution Total		763.83	0.00

Vendor Total: 763.83

Attachment: Demand Register(s) July 11, 2020 to July 24, 2020 (Demand Register(s) of July 11, 2020 - July 24, 2020.)

**Edit List of Invoices - Detail w/GL**

**4.A.1**

Date: 07/22/2020

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City of Arvin

Ref. No.	Vendor Name	Post Date	Bank	Invoice Description Line 2	
Vendor No.	Vendor Address	Pay. Date	Hold?	Invoice Description Line 2	Gross Amount
	City	Disc. Date	Req. No.	Use Description 1 On Check	Taxes Withheld
	State/Province Zip/Postal	Due Date	Disc. %	Hand Check Number/Date	Discoun
	Email Address	Inv. Date	Invoice No.		Net Amount
	GRANICUS	06/28/2020	BOFA	IQM2 AGENDA & MINUTES	
	DEPT CH-BOX 19634	06/28/2020	N	06.28.20 - 07.27.20	561.00
51539	PALATINE	06/28/2020	N	N	0.00
07-703	IL 60055-9634	06/28/2020	0.00	N	0
	<Emailing Stub Disabled>	06/28/2020	127865		561.00

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5034	PROFESSIONAL SERVICES		561.00	0.00
Distribution Total			561.00	0.00

Vendor Total: 561.00

	GVD INVESTIGATIONS	07/18/2020	BOFA	BACKGROUND INVESTIGATION	
	78365 HIGHWAY 111, #314	07/20/2020	N	OF CURTIS ARTHUR	2,200.00
51545	LA QUINTA	07/18/2020	N	N	0.00
62-042	CA 92253	07/18/2020	0.00	Y	0
	<Emailing Stub Disabled>	07/18/2020	20-01B		2,200.00

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-007-5034	PROFESSIONAL SERVICES		2,200.00	0.00
Distribution Total			2,200.00	0.00

Vendor Total: 2,200.00

	KAISER PERMANENTE	08/05/2020	BOFA	MEDICAL AUG2020	
	FILE 5915	07/20/2020	N		23,668.00
51551	LOS ANGELES	08/05/2020	N	N	0.00
28-063	CA 90074-5915	08/05/2020	0.00	N	0
	<Emailing Stub Disabled>	08/05/2020	BU 690201404 - AUG2020		23,668.00

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5015	MEDICAL INSURANCE		1,467.42	0.00
100-007-5015	MEDICAL INSURANCE		1,072.97	0.00
100-013-5015	MEDICAL INSURANCE		2,122.46	0.00
100-014-5015	MEDICAL INSURANCE		2,909.81	0.00
100-015-5015	MEDICAL INSURANCE		1,534.95	0.00
200-020-5015	MEDICAL INSURANCE		4,443.38	0.00
230-032-5015	MEDICAL INSURANCE		367.59	0.00
400-023-5015	MEDICAL INSURANCE		7,603.50	0.00
100-000-0228	KAISER HMO DEDUCTION		2,146.00	0.00
Distribution Total			23,668.08	0.00

Vendor Total: 23,668.00

	MOUNTAINSIDE DISPOSAL	07/10/2020	BOFA	BIN RENT 4YD FL SVC JUN2020	
	8665 SO. UNION AVE	07/20/2020	N		66.94
51556	BAKERSFIELD	07/10/2020	Y	N	0.00
13-585	CA 93307	07/10/2020	0.00	N	0
	<Emailing Stub Disabled>	07/10/2020	587836		66.94

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5107	REFUSE COSTS		66.94	0.00
Distribution Total			66.94	0.00

Vendor Total: 66.94

Attachment: Demand Register(s) July 11, 2020 to July 24, 2020 (Demand Register(s) of July 11, 2020 - July 24, 2020.)

**Edit List of Invoices - Detail w/GL**

**4.A.1**

Date: 07/22/2020

Time: 3:39 pm

Page: 5

City of Arvin

Ref. No.	Vendor Name Vendor Address City	Post Date Pay. Date	PO Number Req. No.	Bank Hold? Sep. Ck.?	Invoice Description Line 2 Invoice Description Line 2 Use Description 1 On Check	Gross Amount Taxes Withheld
Vendor No.	State/Province Zip/Postal Email Address	Disc. Date Due Date Inv. Date	Disc. % Invoice No.	1099?	Hand Check Number/Date	Discoun Net Amount
51559 16-004	PG & E BOX 997300 SACRAMENTO CA 95899-7300 <Emailing Stub Disabled>	07/13/2020 07/22/2020 07/13/2020 07/13/2020 07/13/2020		BOFA N N N	ELEC SVC 06.12.20 - 07.12.20   0	 14,837.9 0.0 0.0 <u>0.0</u> 14,837.9

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-002-5060	UTILITIES EXPENSE		38.52	0.00
100-014-5060	UTILITIES EXPENSE		3,089.76	0.00
100-001-5060	UTILITIES EXPENSE		1,591.70	0.00
100-014-5060	UTILITIES EXPENSE		122.73	0.00
100-001-5060	UTILITIES EXPENSE		63.22	0.00
100-009-5060	UTILITIES EXPENSE		699.29	0.00
100-012-5060	UTILITIES EXPENSE		678.70	0.00
420-016-5060	UTILITIES EXPENSE		466.70	0.00
100-019-5060	UTILITIES EXPENSE		235.31	0.00
200-020-5060	UTILITIES EXPENSE		3,973.79	0.00
240-025-5060	UTILITIES EXPENSE		3,293.47	0.00
242-027-5060	UTILITIES EXPENSE		438.31	0.00
100-007-5060	UTILITIES EXPENSE		10.18	0.00
400-023-5060	UTILITIES EXPENSE		20.18	0.00
100-005-5060	UTILITIES EXPENSE		116.11	0.00
Distribution Total			14,837.97	0.00

Vendor Total: 14,837.9

51558 19-015	SAN JOAQUIN VALLEY APCD 34946 FLYOVER COURT BAKERSFIELD CA 93308 <Emailing Stub Disabled>	06/04/2020 06/04/2020 06/04/2020 06/04/2020 06/04/2020		BOFA N N N	20/21 ANNUAL PERMIT TO OPER/ 6068HF275J DIESEL EMERG GEN  0	  290.00 0.00 <u>0.00</u> 290.00
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GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-019-5022	LICENSES, PERMITS & FEES		290.00	0.00
Distribution Total			290.00	0.00

Vendor Total: 290.00

51547 02-581	SPECTRUM BUSINESS PO BOX 7195 PASADENA CA 91109-7195 <Emailing Stub Disabled>	07/02/2020 07/20/2020 07/02/2020 07/02/2020 07/02/2020		BOFA N N N	SVC 07.01.20 - 07.31.20 CAMPUS   0	 285.00 0.00 0.00 <u>0.00</u> 285.00
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GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-001-5036	COMMUNICATIONS		79.85	0.00
100-007-5036	COMMUNICATIONS		53.73	0.00
100-014-5036	COMMUNICATIONS		79.85	0.00
400-023-5036	COMMUNICATIONS		22.03	0.00
100-019-5036	COMMUNICATIONS		49.57	0.00
Distribution Total			285.03	0.00

Vendor Total: 285.00

Attachment: Demand Register(s) July 11, 2020 to July 24, 2020 (Demand Register(s) of July 11, 2020 - July 24, 2020.)

**Edit List of Invoices - Detail w/GL**

**4.A.1**

Date: 07/22/2020

Time: 3:39 pm

Page: 6

City of Arvin

Ref. No.	Vendor Name	Post Date	Bank	Invoice Description Line 2	
Vendor No.	Vendor Address	Pay. Date	Hold?	Invoice Description Line 2	Gross Amount
	City	Disc. Date	Req. No.	Use Description 1 On Check	Taxes Withheld
	State/Province Zip/Postal	Due Date	Disc. %	Hand Check Number/Date	Discoun
	Email Address	Inv. Date	Invoice No.		Net Amount
51552	URBAN FUTURES, INC	07/01/2020	BOFA	2019 A TAX ALLOCATION BONDS	
21-570	17821 E. 17TH ST. SUITE 245	07/20/2020	N	2019 B TAX ALLOCATION BONDS	4,300.00
	TUSTIN	07/01/2020	N	N	0.00
	CA 92780	07/01/2020	0.00	N	0
	<Emailing Stub Disabled>	07/01/2020	CD-2020-105		4,300.00

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
450-070-5034	PROFESSIONAL SERVICES	SERIES A - TAX-EXEMPT	2,150.00	0.00
450-070-5034	PROFESSIONAL SERVICES	SERIES B - TAXABLE	2,150.00	0.00
Distribution Total			4,300.00	0.00

Vendor Total: 4,300.00

51553	VERIZON WIRELESS A#64202330	06/28/2020	BOFA	SVC 05.29.20 -06.28.20 TRANSIT	
28-292	PO BOX 660108	06/28/2020	N		120.18
	DALLAS	06/28/2020	N	N	0.00
	TX 75266-0108	06/28/2020	0.00	N	0
	<Emailing Stub Disabled>	06/28/2020	9857606308		120.18

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
400-023-5056	TELEPHONE		120.18	0.00
Distribution Total			120.18	0.00

Vendor Total: 120.18

51554	WELLS FARGO LEASE PMTS	07/03/2020	BOFA	COPIER LEASE ARVIN PD	
23-201	PO BOX 10306	07/20/2020	N	06.29.20 - 07.28.20	183.88
	DES MOINES	07/03/2020	N	N	0.00
	IA 50306-0306	07/03/2020	0.00	N	0
	<Emailing Stub Disabled>	07/03/2020	5011015360		183.88

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-014-5072	EQUIPMENT - LEASE		183.88	0.00
Distribution Total			183.88	0.00

51555	WELLS FARGO LEASE PMTS	06/26/2020	BOFA	COPIER LEASE COMM DEV	
23-201	PO BOX 10306	06/26/2020	N	06.24.20 - 07.23.20	121.16
	DES MOINES	06/26/2020	N	N	0.00
	IA 50306-0306	06/26/2020	0.00	N	0
	<Emailing Stub Disabled>	06/26/2020	5010935696		121.16

GL Number	Account Name	Distribution Line Description	Pay Amount	Relieve Amount
100-007-5072	EQUIPMENT - LEASE		121.16	0.00
Distribution Total			121.16	0.00

Vendor Total: 305.00

Grand Total: 80,657.30

Less Credit Memos: 0.00

Net Total: 80,657.30

Less Hand Check Total: 0.00

Outstanding Invoice Total: 80,657.30

Total Invoices: 23

Attachment: Demand Register(s) July 11, 2020 to July 24, 2020 (Demand Register(s) of July 11, 2020 - July 24, 2020.)

**EARNINGS REPORT**

PAYROLL 7-24-2020

Emp. Code Desc.: CITY OF ARVIN  
 From 07/24/2020 to 07/24/20  
 City of Arvin

Date: 7/24/2020  
 Time: 8:29:52

Employee Name	Employee ID	1X CTO	2X CTYWK	ADLCO DEGRE	ADMLV DIFFL	ALLOW FH	BERV FTO	BNFT1 INSUR	COMP JURY	Oth Tot
		LONG	PBD	PBD3	PBDCO	PDADL	PHALW	POST	PTO	
		REG	RETOT	RETRO	SCKCO	SHOEA	SICK	SSWEP	TRAIN	
		TUPGR	UNADV	VAC	VACCO	WRKCO	TTD	COALV	COV1X	
		EPSL								
<b>Grand Total:</b>	<b>Employee Count: 56</b>	13,350.87	0.00	0.00	0.00	200.00	0.00	1,030.51	419.76	0.00
		1,476.92	0.00	392.33	176.40	0.00	145.38	1,994.16	0.00	133,950.00
		2,602.67	348.00	0.00	1,416.42	0.00	300.00	812.50	0.00	
		89,020.63	0.00	0.00	0.00	0.00	1,421.37	0.00	0.00	
		135.36	90.78	2,921.66	1,911.69	1,081.06	0.00	9,297.56	0.00	
		3,404.80								

**COST REPORT**

PAYROLL 7-24-2020

Emp. Code Desc.: CITY OF ARVIN  
 From 07/24/2020 to 07/24/20  
 City of Arvin

Date: 7/24/2020  
 Time: 8:31:06

Employee Name	Employee ID	PERS2	FUTA PERS3	MC PERS5	MC1 PERS6	PER2D PERS8	PER2M SS	PER3E SS1	PER5E SUTA	Oth Tr
<b>Grand Total:</b>	<b>Employee Count: 56</b>	0.00	0.00	1,714.04	348.48	1,551.95	1,023.28	1,346.85	119.59	0.00
		2,448.12	2,913.34	0.00	2,641.61	2,144.33	7,212.43	1,725.81	0.00	25,189.00

Attachment: Payroll Register(s) of July 24, 2020 (Payroll Register(s) of July 24, 2020)

## REGULAR MEETING MINUTES

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

JULY 14, 2020

**CALL TO ORDER @ 6:07PM**

**ROLL CALL: CM Trujillo absent; All others present. CM Martinez arrived late during Action Item 6A.**

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

**Motion to approve the Agenda.**

Motion Mayor Gurrola      Second CM Franetovich      Vote 3-0

#### 2. PUBLIC COMMENTS

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

**NONE**

#### 3. CLOSED SESSION REPORT FROM REGULAR CITY COUNCIL MEETING OF JUNE 23, 2020. (City Attorney)

**CLOSED SESSION REPORT FROM REGULAR CITY COUNCIL MEETING OF JUNE 23, 2020 BY CITY ATTORNEY: No reportable action.**

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

- A. Approval of Demand Register(s) of June 19, 2020 – July 10, 2020.
- B. Approval of Payroll Register(s) of June 26, 2020 and July 10, 2020.
- C. Approval of the Minutes of the Regular Meeting(s) of June 23, 2020.
- D. Approval of A Resolution of the City Council of the City of Arvin Confirming and Ratifying Authority of the City Manager to Request Payment from the State of California Pursuant to the Applicable Provisions of Control Section 11.90(D) of the Budget Act of 2020 (COVID-19 Expenditures).

**Resolution No. 2020-42**

- E. Approval of A Resolution of the City Council of the City of Arvin Authorizing the Submittal, and Receipt of Local Government Planning Support Grant Program Funds for a Grant Application to the California Department of Housing and Community Development (HCD) to the Local Early Action Planning (LEAP) Grants Program; and Authorizing Related Actions.

**Resolution No. 2020-43**

- F. Approval of A Resolution of the City Council of the City of Arvin Adopting the California Department of Transportation Local Assistance Procedures Manual Into the City's Policies for the Procurement of Architectural and Engineering Services for Federal and State Funded Projects.

**Resolution No. 2020-44**

- G. Approval of A Resolution of the City Council of the City of Arvin Approving An Audit Settlement Agreement Between the California Department of Transportation and the City of Arvin and Initiating Implementation of the Corrective Action Plan for Caltrans Projects No. ATPL-5370(027).

**Resolution No. 2020-45**

**Agreement No. 2020-12**

Staff recommends approval of the Consent Agenda.

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

Motion Mayor Gurrola      Second CM Franetovich      Vote 3-0

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

**A. A Public Hearing to Consider:**

- I) Approval of A Resolution of the City Council of the City of Arvin Authorizing the Submittal of a Grant Application to the State of California, Department of Housing and Community Development (HCD) Permanent Local Housing Allocation (PLHA) Program; and Authorizing Related Actions; and

**Resolution No. 2020-46**

- II) Approval of A Resolution of the City Council of the City of Arvin Adopting a Permanent Local Housing Allocation (PLHA) Plan; and Authorizing Related Actions. (Director of Administrative Services)

**Resolution No. 2020-47**

Staff recommends the City Council open the hearing, allow for public testimony, close the hearing and consider approval of the Resolutions.

**Hearing opened.**

**No public testimony.**

**Hearing closed.**

**Motion to approve the Resolutions.**

Motion Mayor Gurrola      Second CM Franetovich      Vote 3-0

- B.** A Public Hearing to Consider Introduction of An Ordinance of the City Council of the City of Arvin Adopting An Uncodified Ordinance, Approving A Development Agreement Between the City of Arvin and Cana Rose Realty Holdings, LLC. and Life & Nature Farms, LLC. for the Development of Certain Commercial Cannabis Operations Located at 901 Potato Road, Arvin, Ca. (Director of Administrative Services)

Staff recommends the City Council consider introducing the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, and I) approve the introduction of the Ordinance and II) Adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).

**Hearing opened.**

**No public testimony.**

**Hearing closed.**

**Motion to waive first reading of the Ordinance and approve introduction of the Ordinance.**

Motion MPT Robles                      Second Mayor Gurrola      Vote 2-1 (CM Franetovich voted No.)

**Motion to continue the item to the following regular City Council meeting.**

Motion Mayor Gurrola              Second MPT Robles              Vote 3-0

**THE CITY COUNCIL RETURNED TO CONSIDER PUBLIC HEARING ITEMS 5B AND 5C AFTER ITEM 7 DUE TO ARRIVAL OF COUNCILMEMBER MARTINEZ.**

**Public Hearing Item 5B:**

**Motion to remove item as a continued item from the agenda and place the item back onto the agenda for Council's consideration.**

Motion Mayor Gurrola              Second MPT Robles              Vote 4-0

**Motion to waive first reading of the Ordinance and approve introduction of the Ordinance with the following changes: 1) Remove signature block of the City Attorney on the ordinance and the Development Agreement and 2) Include additional language to the last bullet point of Exhibit B of the Development Agreement to read as follows: In the events the City Council lowers the tax rate for cannabis under Measure "M" approved in November of 2018, Developer shall be entitled to pay said tax at the same lower rate.**

Motion Mayor Gurrola              Second MPT Robles              Vote 3-1 (CM Franetovich voted No.)

- C.** A Public Hearing to Consider Adoption of An Uncodified Urgency Ordinance of the City Council of the City of Arvin Again Extending Urgency Ordinance No. 2020-465 (Portion Regarding Compliance With State And County Emergency Orders in Response to the COVID-19 Pandemic).

Staff recommends the City Council open the hearing, allow for public testimony, close the hearing and consider adoption of the Urgency Ordinance as appropriate (requires 4 votes).

**Public Hearing item 5C was not considered due to lack of quorum for this item.  
No motion and no action taken.**

**THE CITY COUNCIL RETURNED TO CONSIDER PUBLIC HEARING ITEMS 5B AND 5C AFTER ITEM 7 DUE TO ARRIVAL OF COUNCILMEMBER MARTINEZ.**

**Public Hearing Item 5C:**

**Hearing opened.**

**No public testimony.**

**Hearing closed.**

**Motion to adopt the Urgency Ordinance.**

Motion Mayor Gurrola      Second CM Robles      Vote 3-1 (CM Franetovich voted No.)

**Motion to continue item to the following regular City Council meeting.**

Motion CM Franetovich      Second CM Mayor Gurrola      Vote 4-0

## **6. ACTION ITEM(S)**

- A. Discussion and Action on Measures to Mitigate the Impacts of the COVID-19 (Coronavirus) Pandemic.**

Staff recommends to discuss and take action as appropriate.

**No motion and no action taken for above Action Item 6A.**

## **7. STAFF REPORTS**

**THE CITY COUNCIL RETURNED TO CONSIDER PUBLIC HEARING ITEMS 5B AND 5C AFTER ITEM 7 DUE TO ARRIVAL OF COUNCILMEMBER MARTINEZ.**

## **8. COUNCIL MEMBER COMMENTS**

### **9. CLOSED SESSION ITEM(S)**

- A. Threats to Public Services or Facilities (Pursuant to Government Code, § 54957(a).)**  
Consultation with: City Attorney and/or City Emergency or Critical Function Personnel.
- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Pursuant to Government Code § 54957(b)(1))**  
Position: City Manager
- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Pursuant to Government Code § 54957(b)(1))**  
Position: City Attorney

**D. CONFERENCE WITH LABOR NEGOTIATORS** (Pursuant to Government Code, § 54957.6):  
City Negotiator: Colin Tanner, Lead Negotiator and Pawan Gill, Director of Administrative Services  
Employee Organizations: Arvin Police Officers Association (APOA) and Central California Association of Public Employees SEIU Local 521.

**CLOSED SESSION REPORT BY CITY ATTORNEY: No reportable action.**

**10. ADJOURNED @ 8:18 PM**

Respectfully submitted,

\_\_\_\_\_  
Cecilia Vela, City Clerk

**DRAFT**

Attachment: Minutes of the Regular Arvin City Council Meeting of July 14, 2020 (Minutes of the Regular Meeting of July 14, 2020.)



**CITY OF ARVIN  
Staff Report**

Meeting Date: July 28, 2020

**TO:** City Council

**FROM:** Olan Armstrong, Lieutenant  
Jerry Breckinridge, City Manager

**SUBJECT:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN AUTHORIZING APPROVAL FOR THE ARVIN POLICE DEPARTMENT TO APPLY FOR, ACCEPT AND EXPEND FUNDS FROM THE 2020 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

**BACKGROUND:**

The United States Department of Justice, Bureau of Justice Assistance is soliciting applications for the FY2020 Edward Byrne Memorial Justice Assistance Grant. The JAG Grant provides funding toward the purchase of body cameras for the police department. During this funding period the Arvin Police Department is eligible for up to \$13,456.00.

**FINANCIAL IMPACT:**

There will be a onetime negative fiscal impact to the general fund of approximately \$3,000.00.

**RECOMMENDATION:**

Authorize Police Department to apply for and accept the FY 2020 Edward Byrne Memorial Assistance Grant if awarded.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN  
AUTHORIZING APPROVAL FOR THE ARVIN POLICE DEPARTMENT  
TO APPLY FOR FUNDS FROM THE 2020 EDWARD BYRNE MEMORIAL  
JUSTICE ASSISTANCE GRANT**

**WHEREAS**, the United States Department of Justice, Bureau of Justice Assistance is soliciting applications for the FY2020 Edward Byrne Memorial Justice Assistance Grant; and

**WHEREAS**, the City of Arvin has received Edward Byrne Memorial Justice Assistance Grant (JAG) funds each year for approximately the past 15 years; and

**WHEREAS**, the JAG funds are usually for supporting law enforcement technology improvements and other frontline services; and

**WHEREAS**, this funding period the JAG Grant will provides funding for the purchase of body cameras for Arvin Police Department, which is eligible for up to \$13,456.00; and

**WHEREAS**, it is estimated that to complete the purchase of the requisite body cameras, the Police Department will need approximately \$3,000.00 in addition to the grant funds; and

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

1. The above recitals are true and correct; and
2. The City Manager and the Police Department are hereby authorized to apply for the 2020 Edward Byrne Memorial Justice Assistance Grant and to execute all necessary documents required therefor.
3. A sum not to exceed three thousand dollars (\$3,000) is hereby authorized from the general fund for the purchase of body cameras for the Police Department which sum is intended to supplement any 2020 JAG grant received.

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**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Arvin at a regular meeting thereof held on the 28<sup>th</sup> day of July 2020 by the following vote:

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

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

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

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

**ATTEST**

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

**CITY OF ARVIN**

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

APPROVED AS TO FORM:

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

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



## CITY OF ARVIN Staff Report

Meeting Date: July 28, 2020

**TO:** City Council

**FROM:** Adam Ojeda, City Engineer  
Jerry Breckinridge, City Manager

**SUBJECT:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN TO ASSIGN FUNDING TO BE USED FOR THE DEVELOPMENT OF A LOCAL ROADWAY SAFETY PLAN (LRSP) TO KERN COUNCIL OF GOVERNMENTS TO BE USED WITH THE SAME FUNDING FROM OTHER PARTICIPATING AGENCIES FOR THE DEVELOPMENT OF A REGIONAL LRSP AND AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE KERN COUNCIL OF GOVERNMENTS

### **BACKGROUND:**

In October of 2019, Caltrans released a call for applications for funding to develop a Local Roadway Safety Plan (LRSP). Also in 2019, Caltrans and the FHWA announced that any agency that wanted to be eligible for future Highway Safety Improvement Plan (HSIP) funding and potentially additional funding would need to develop an LRSP. To this end, the Kern Council of Governments communicated with the member agencies of the COG, and advised that it might be worthwhile to pool agency funding together to hire a single qualified consultant to develop an LRSP for all participating agencies in an effort to simplify the process for all participants. In order to participate, each member agency would need to apply for the funding individually, and if awarded, agree to a Memorandum of Understanding (MOU) to pool the funds together to hire a single consultant to develop a plan for all member agencies.

The City of Arvin applied for the LRSP funding in December of 2019, and was notified of its award of funds in January of 2020. All member agencies were eligible for up to \$80,000 in funding with a 10% match of fund requirement meaning \$72,000 would be grant money with \$8,000 in matching money. The City of Arvin was awarded the full amount of \$80,000.

Following the award notification, the City communicated with Kern COG and agreed in principal to participate in the group effort. A total of nine (9) agencies within Kern COG ultimately agreed to participate with a total combined pool of \$600,000 (not all agencies received the full \$80,000) and a combined local fund match of \$60,000. The member agencies are as follows:

- City of Arvin
- City of Bakersfield
- City of California City
- City of Delano
- City of Maricopa
- City of Shafter
- City of Taft
- City of Tehachapi
- City of Wasco

A draft of the MOU was sent to the member agencies in early July, and needs to be approved by City Council to affirm the agreement of the City to participate in the program. The Kern COG has requested that each agency complete this step by the end of July. Assuming the City approves the MOU and authorizes the Mayor and City Manager to execute the agreement, the next step for Kern COG would be begin the RFP process to select a qualified consultant to develop the LRSP followed by the development of the LRSP itself.

**FINANCIAL IMPACT:**

The City of Arvin qualified for up to \$80,000 of funding which really equates to \$72,000 in reimbursable expenses with an \$8,000 match which represents the maximum dollar amount that the City would be required to pay. However, the total matching cost to the City is expected to be far lower depending on the cost of the consultant to develop the LRSP which will be determined after the MOU is agreed to by all member agencies. Assuming that each member agency on the previously mentioned list agrees to the terms of the MOU, the City of Arvin would be responsible for a 1/9th share of 10% of each invoice from the LRSP consultant up to a maximum of \$8,000 which will be general fund money unless another funding source is identified at the time that invoices are received several months from now.

**RECOMMENDATION:**

Staff recommends the Council approves the attached Resolution:

1. Agreeing to participate in the proposed cooperative effort outlined by the Memorandum of Understanding.
2. Affirming its commitment of up to \$8,000 in matching contributions towards the development of an LRSP.
3. Agreeing to the terms of the proposed Memorandum of Understanding, and authorizing the Mayor and City Manager to execute the signature page for the City of Arvin.

## RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN TO ASSIGN FUNDING TO BE USED FOR THE DEVELOPMENT OF A LOCAL ROADWAY SAFETY PLAN (LRSP) TO KERN COUNCIL OF GOVERNMENTS TO BE USED WITH THE SAME FUNDING FROM OTHER PARTICIPATING AGENCIES FOR THE DEVELOPMENT OF A REGIONAL LRSP AND AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE KERN COUNCIL OF GOVERNMENTS**

**WHEREAS**, the City of Arvin was previously awarded up to \$80,000 (\$72,000 in grant funding, and \$8,000 in local matching contributions) by Caltrans for the development of a Local Roadway Safety Plan (LRSP) to be eligible for future Highway Safety Improvement Plan funding and potentially other funding sources; and

**WHEREAS**, the City of Arvin has previously communicated with the Kern Council of Governments and several other member agencies, and has determined it to be advantageous to combine funding to hire a single consultant to develop an LRSP for each participating city; and

**WHEREAS**, in order to participate in such a program, it is necessary for the member agencies to agree to a Memorandum of Understanding (MOU) between Kern COG and the other participating agencies; and

**WHEREAS**, Kern COG has developed such an MOU, and has provided it to the member agencies for approval and execution; and

**WHEREAS**, under the terms of the MOU, Kern COG will facilitate the selection of a consultant to develop an LRSP, and the member agencies will be responsible for an even share of a 10% cost of each invoice; and

**WHEREAS**, the maximum financial obligation of the City of Arvin shall be \$8,000.

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

1. The above recitals are true and correct.
2. The City Council agrees to participate in the proposed cooperative effort outlined by the MOU.
3. The City Council agrees to a maximum financial commitment of \$8,000 which will be funded by the general fund unless another funding source can be identified at the time that invoices are received by the City several months from now.

4. The Mayor and City Manager are authorized to sign the City of Arvin signature page of the MOU to execute the agreement on behalf of the City of Arvin.

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Arvin at a Regular Meeting thereof held on the 28th day of July, 2020 by the following vote:

**ATTEST**

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

**CITY OF ARVIN**

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

APPROVED AS TO FORM:

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

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



June 26, 2020

**TO:** Adam Ojeda- City of Arvin  
 Joe Barragan- City of California City  
 Eric Ziegler- City of Maricopa  
 Craig Jones- City of Taft  
 Biridiana Bishop- City of Wasco

Stuart Patteson- City of Bakersfield  
 Edgardo Galero- City of Delano  
 Alex Gonzalez- City of Shafter  
 Jay Schlosser- City of Tehachapi

**FROM:** AHRON HAKIMI,  
 EXECUTIVE DIRECTOR

By: Ed Flickinger, Regional Planner

**RE: Local Road Safety Plans (LRSP) MOU - REQUEST FOR SIGNATURE(S)**

### MEMORANDUM

As you know, the Kern Council of Governments through the Transportation Technical Advisory Committee (TTAC) has agreed to hire a consultant that will develop individual Local Road Safety Plans for nine of our member agencies. The first step in the process to hire the consultant is for each of the participating agencies to sign a Memorandum of Understanding developed specifically for this task. Please obtain the appropriate signatures for the MOU and return the signature page by July 31, 2020. Let us know if you need more time. The draft request for qualifications (RFQ) document, to be used to for selecting a consultant, is included in this memo for your reference.

The November 6, 2019 TTAC meeting discussed and approved the option to have Kern COG hire a consultant to develop individual LRSP documents for participating cities including Arvin, Bakersfield, California City, Delano, Maricopa, Shafter, Taft, Tehachapi, and Wasco. Funding grants awarded by Caltrans to each of these agencies will be pooled and made available to Kern COG through the invoice process. The Kern COG consultant will rely on participating city staff for product development to ensure quality plans for each city.

Attached find the cover letter, RFQ, and MOU. Please contact Ed Flickinger at 661-635-2905 or email [eflickinger@kerncog.org](mailto:eflickinger@kerncog.org) at if you have questions.

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

## MEMORANDUM OF UNDERSTANDING

**Kern Regional Local Road Safety Plans**

THIS MEMORANDUM OF UNDERSTANDING is made and entered into on \_\_\_\_\_, by and among the CITY OF ARVIN, CITY OF BAKERSFIELD, CITY OF CALIFORNIA CITY, CITY OF DELANO, CITY OF MARICOPA, CITY OF SHAFTER, CITY OF TAFT, CITY OF TEHACHAPI, and the CITY OF WASCO ("**CITIES**" herein) municipal governments of the State of California, and the KERN COUNCIL OF GOVERNMENTS ("**KERN COG**" herein), a Joint Powers Agency formed pursuant to the California Government Code.

**RECITALS**

WHEREAS, California Government Code Section 6502 authorizes cities and counties to enter into agreements for their mutual benefit; and

WHEREAS, CITIES, and KERN COG have a compelling and mutual interest in developing Local Road Safety Plans (LRSPs) among participating cities; and

WHEREAS, CITIES are required to have a Local Road Safety Plan (LRSP) to apply for future Highway Safety Improvement Plan (HSIP) funding; and

WHEREAS, CITIES, and KERN COG recognize that consolidated development effort of LRSPs will benefit the citizens of the CITIES by reducing local agency staff requirements, improving the efficiency of local government, providing greater consistency, better quality; and

WHEREAS, CITIES applied for grant funds and were awarded by California Department of Transportation ("**CALTRANS**" herein) to develop LRSP's; and

WHEREAS, CITIES and KERN COG recognize that funding grants awarded to the CITIES will be transferred from CALTRANS to KERN COG to hire a consultant that will develop LRSP documents for each of the CITIES.

**AGREEMENT**

1. The foregoing recitals are true and correct, and are adopted into this contract as if set forth in full.
2. LRSP planning funds that CALTRANS awarded to the CITIES identified in this MOU will be accessed by KERN COG through invoices sent directly to CALTRANS. CITIES agree to provide any necessary documentation reasonably required in furtherance of this purpose.
3. KERN COG will access local matching funds from CITIES identified in this MOU through invoices sent directly to CITIES.
4. The table below reflects CALTRANS grant amounts with associated matching funds made available to KERN COG to hire a consultant that will develop individual LRSP documents.

City Name	As Approved by Caltrans			KCOG MOU		
	Total Cost	LRSP Funds	Local Funds	Total Cost	LRSP Funds	Local Funds
City of Arvin	\$80,000	\$72,000	\$8,000	\$80,000	\$72,000	\$8,000
City of Bakersfield	\$80,000	\$72,000	\$8,000	\$80,000	\$72,000	\$8,000
City of California City	\$45,000	\$40,500	\$4,500	\$45,000	\$40,500	\$4,500
City of Delano	\$80,000	\$72,000	\$8,000	\$80,000	\$72,000	\$8,000
City of Maricopa	\$25,000	\$22,500	\$2,500	\$25,000	\$22,500	\$2,500
City of Shafter	\$80,000	\$72,000	\$8,000	\$80,000	\$72,000	\$8,000
City of Taft	\$80,000	\$72,000	\$8,000	\$80,000	\$72,000	\$8,000
City of Tehachapi	\$50,000	\$45,000	\$5,000	\$50,000	\$45,000	\$5,000
City of Wasco	\$80,000	\$72,000	\$8,000	\$80,000	\$72,000	\$8,000
<b>TOTALS</b>	<b>\$600,000</b>	<b>\$540,000</b>	<b>\$60,000</b>	<b>\$600,000</b>	<b>\$540,000</b>	<b>\$60,000</b>

5. Should the consultant contract be less than total planning grants revenue concurrently with approval of consultant contract, the MOU amounts shall be prorated according to final amount of consultant contract including match.
6. CITIES and KERN COG agree that KERN COG will act as lead agency on managing the LRSP consulting contract. Utilizing the previously-identified funds, Kern COG shall hire a consultant to develop LRSP documents for the CITIES.
7. CITIES and KERN COG agree that KERN COG staff will require member agency staff to participate in the consultant selection process and product development to ensure quality plans for each city.
8. The failure of any party to enforce against another a provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Agreement.
9. All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

CITY: CITY OF ARVIN  
 City Clerk  
 200 Campus Drive  
 Arvin, CA 93203

CITY: CITY OF BAKERSFIELD  
 City Clerk  
 1501 Truxtun Avenue,  
 Bakersfield, California 93301

CITY: CITY OF CALIFORNIA CITY  
 City Clerk

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

21000 Hacienda Blvd.  
California City, CA 93505

CITY: CITY OF DELANO  
City Clerk  
P.O. Box 3010  
Delano, CA 93216

CITY: CITY OF MARICOPA  
City Clerk  
400 California Street  
Maricopa, CA 93252

CITY: CITY OF SHAFTER  
City Clerk  
336 Pacific Avenue  
Shafter, California 93263

CITY: CITY OF TAFT  
City Clerk  
209 East Kern Street  
Taft, CA 93268

CITY: CITY OF TEHACHAPI  
City Clerk  
115 South Robinson Street  
Tehachapi, CA 93561

CITY: CITY OF WASCO  
City Clerk  
746 8th Street  
Wasco, CA 93280

KERN COG: KERN COUNCIL OF GOVERNMENTS  
1401 19th Street, Suite 300  
Bakersfield, California 93301

- 10. This Agreement sets forth the entire Agreement between the parties and supersedes all other oral or written representations. This Agreement may be modified only in a writing approved by the City Councils and the Kern Council of Governments, Board of Directors.
- 11. Any services of CITIES or KERN COG are provided as independent contractors. No party is an agent or employee of any other party for any purpose and is not entitled to any of the benefits provided by any party to its employees. This Agreement shall not be construed as forming a partnership or any other association between CITIES, and KERN COG other than that of an independent contractor.
- 12. No party shall be liable to any other party for any loss, damage, liability, claim or cause of action for damage to or destruction of property or for injury to or death of persons arising from any act or omission of the other party's officers, agents, or

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

employees. Further, no party is liable to any other party for loss or inaccuracy of data. Each party is encouraged to have current backup storage of all data and other relevant information. Further, no party is liable to any other party for any damage to information or equipment, which results from the transfer of data.

13. A party against whom any claim arising from any subject matter of this Agreement is filed shall give prompt written notice of the filing of the claim to all other parties.
14. This Agreement is effective upon execution. It is the product of negotiation and, therefore, shall not be construed against any party.
15. Any party to this Memorandum of Understanding may terminate its participation in the activities herein described upon thirty (30) days' written notification to the other parties. Termination by one party does not terminate the agreement between the remaining parties.

-----o0o-----

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

"CITY of TEHACHAPI"

RECOMMENDED AND APPROVED  
AS TO CONTENT:

\_\_\_\_\_  
*City Manager or Mayor/Council  
Member City of TEHACHAPI*

\_\_\_\_\_  
Public Works Director  
City of TEHACHAPI

APPROVED AS TO FORM:

\_\_\_\_\_  
Legal Counsel

[Remainder of page left blank intentionally]

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

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

"KERN COUNCIL OF GOVERNMENTS"

RECOMMENDED AND APPROVED  
AS TO CONTENT:

\_\_\_\_\_  
AHRON HAKIMI  
Executive Director  
Kern Council of Governments  
APPROVED AS TO FORM:

\_\_\_\_\_  
Bob Smith, Chairman  
Kern Council of Governments

\_\_\_\_\_  
Deputy Counsel for  
Kern Council of Governments

[Remainder of page left blank intentionally]

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

# KERN COUNCIL OF GOVERNMENTS (Kern COG)

## **DRAFT** REQUEST FOR QUALIFICATIONS (RFQ)

### TO PROVIDE CONSULTANT SERVICES FOR LOCAL ROAD SAFTEY PLANS.

Additional information, schedule changes, and responses to inquiries on this Request for Qualifications can be found on the Kern COG website:

[www.kerncog.org](http://www.kerncog.org)

Refer to tab:

“Working with Kern COG”

DUE ..... October 29, 2020

TIME ..... Before 4:00 p.m.

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

## KERN COG

### Request for Qualifications (RFQ) to Provide: Consultant Services

Kern COG is issuing this Request for Qualifications (RFQ) to qualified firms to be used for Engineering and/or Planning Consultant Services for Local Road Safety Plans (LRSPs). Kern COG seeks a qualified consultant to work closely with Kern COG and participating city staff to prepare LRSPs for each participating city.

Kern COG will review responses to this RFQ and anticipates ranking the firms based on the firm’s Statement of Qualifications (SOQ), experience, and history of performance using predetermined selection criteria.

The attached Exhibit “A” contains a general outline of the Scope of Work that may be performed under the agreement.

Consultants are specifically directed not to contact any Kern COG personnel, other than the Contact Person indicated below, for any purpose related to this RFQ. **Unauthorized contact of any Kern COG personnel may be cause for rejection of a consultant’s SOQ.**

**All inquiries concerning this RFQ should be directed to the following Contact Person:**

Ed Flickinger  
Kern Council of Governments  
1401 19<sup>th</sup> Street, Suite 300  
Bakersfield, CA 93301

**Envelopes/packages containing the SOQs are to be marked SOQ: “Local Roadway Safety Plans (LRSP) - Consultant Services” and delivered to:**

Kern Council of Governments  
1401 19<sup>th</sup> Street, Suite 300  
Bakersfield, CA 93301  
Telephone (661) 635-2900

#### Projected Timetable

The following dates are set forth for information and planning purposes only. These dates may be changed by Kern COG upon notice to prospective consultants:

Issuance Date .....	September 18, 2020
Last day to submit Request for Information (RFI) from responding firms .....	October 19, 2020
Kern COG’s response to Request for Information (RFI) inquiries .....	October 23, 2020
Statement of Qualifications (SOQ) Due Date.....	October 29, 2020
Statement of Qualifications (SOQ) Due Time .....	Before 4:00 p.m.

Due to the uncertainty of packages being delivered in a timely fashion by various delivery services due to the recent COVID-19 pandemic, the Statements of Qualifications (SOQ) may be postmarked by the deadline date as proof of submittal. Consultants can provide proof that the package was postmarked and mailed by the submittal deadline and they can email the proof to the

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

contact person. This will be considered as meeting the deadline due to the delays in delivery caused by the COVID-19 pandemic. Electronic submittals will not be accepted. Only hard copies will be submitted per the guidelines in the RFQ document.

Selection Process/Interviews .....October 30-November 9, 2020  
Kern COG Board Approval .....November 19, 2020  
Notice to Proceed .....November 20, 2020

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Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

## **I. GENERAL INFORMATION**

### **A. Request for Qualifications/Rules for Competition**

The competitive method used for this solicitation is known as a ‘Request for Qualifications’ (RFQ). Firms shall be ranked and selected according to their Statement of Qualifications (SOQ).

### **B. Requests for Additional Information and Site Visits**

Inquiries regarding the RFQ shall be made in the following way:

By mail or e-mail to:

Kern COG

Attn: Ed Flickinger

1401 19<sup>th</sup> Street, Suite 300

Bakersfield, CA 93301

eflickinger@kerncog.org

**Any Request for Information (RFI) inquiries shall be accepted no later than ten (10) working days prior to the SOQ due date. Written responses to the inquiries shall be issued no later than seven (7) calendar days prior to the RFQ due date.**

### **C. Statement of Qualifications (SOQ)**

Response to this solicitation will be in the form of a Statement of Qualifications according to the work described in section E below and the attached Exhibit “A”. The SOQ shall document the firm’s qualifications as they apply to the Scope of Work found in Exhibit “A”.

Kern COG will evaluate all responses using the evaluation criteria stated in Section F; sub-section 3 paragraph h below. The selection panel will consist of representatives from Kern COG and various participating cities. Composition of the selection panel is subject to change at the sole discretion of Kern COG. Firms will be ranked in numerical order based on the scoring of the firm in relation to the evaluation criteria.

### **D. Project Background and Description**

Kern COG seeks a qualified consultant to work closely with Kern COG and participating city staff to prepare LRSPs for each participating city.

### **E. Consultant Scope of Work**

Attached as Exhibit A is a sample scope of work is provided to give proposers an idea of Kern COG’s expectations for this project. It is anticipated that the final scope of work for this project will be a product

created through the negotiation process with changes based upon the professional input from the selected consultant.

The successful consultant(s) will work closely with Kern COG and participating city staff to prepare LRSPs for each participating city.

**F. Statement of Qualifications Requirements and Format**

In responding to this Request for Qualifications, the responding firm is expected to demonstrate knowledge, experience and ability to perform the scope of work and provide the services being requested. If the responding firm makes no response on a task, the evaluators will assume that the firm has no expertise in that area.

**Cover must be titled:**

**Statements of Qualifications (SOQ) for Local Roadway Safety Plans (LRSP) For Consultant Services.**

**1. General**

a. The Statement (SOQ) shall be concise, well organized and demonstrate an understanding of the Scope of Work. (8 1/2 inches X 11 inches), inclusive of resumes, graphics, forms, photographs, dividers, front and back covers, cover letter, etc. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing.

b. The Statement (SOQ) will be evaluated in accordance with the required services indicated above and in the attached Exhibit "A".

**2. Content**

Elements of statements submitted in response to this RFQ shall be in the following order and shall include:

a. Executive Summary

Include a 1-2 page overview of the entire Statement of Qualifications describing its most important elements.

b. Identification of the Project Team

- Legal name and address of company

- Legal form of company (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture and provide all information required within this section for each member. Identify if the firm is the primary corporation or a subsidiary and, if a subsidiary, of what parent firm.

- Address(es) of office(s) working on the project.

- Name, title, address and telephone number of the person to contact concerning the submittal.

c. Experience and Technical Competence

The consultant shall describe his or her experience in completing similar consulting efforts. Identify the duration of time the firm has conducted business and the duration of time the firm has been performing services similar to those solicited under this RFQ.

- The consultant shall list five (5) successful projects of a similar nature completed in the last ten years - Limit: one page per project.

The name of the client, project manager, client references, valid telephone numbers, type of work performed, and the value of the consulting contracts shall be included.

- Provide a matrix referencing work performed relative to projects listed indicating key personnel responsible for performance and the extent of their involvement in the project they are listed under. Differentiate which work was performed by the responding firm, and which work was performed by the sub-consultants, if sub-consultants are proposed.

- Describe in detail, work the firm has directly performed on a maximum of four projects that shows a demonstrated ability to meet internal and project deadlines, budget constraints, major milestones and overall project schedules.

- Describe any litigation involvement in the last five years. List all publicly recorded legal actions stemming from performance of professional responsibilities in which the firm or individuals assigned to this project have been named (even if actions occurred under the employment of others). Specifically describe the outcome of all actions or declare the current status if litigation is pending.

d. Methods Proposed to Accomplish the Work

- Describe the operational/organizational approach of the firm to fulfill the scope of work and the goals of the project.
- Outline the basic technical procedures and the managerial approach which the project team leadership will adopt to incorporate these methods into the overall project effort.
- Provide assurance that adequate staffing is available to provide the services efficiently and in a timely fashion.
- Firms are encouraged to present suggestions that they believe will simplify the project and result in lower costs in the performance of the work.

e. Knowledge and Understanding of the Local Environment

- Describe the project team's experience working in the local environment. The environment may be defined as Kern COG's, other similar local agencies, and the State's policies, practices, design criteria and standards which will be drawn upon to accomplish the project.
- The consultant shall describe the local presence it has established for maintaining communication between the Kern COG's Project Manager and staff.

f. Project Organization and Key Personnel

The written SOQ must include a discussion of the consultant's staffing plan and level of personnel to be involved, their qualifications, experience, resumes, roles, and the name of the individual possessing a Professional Engineering license who will be overall in charge and responsible for coordination with Kern COG and participating cities.

- Indicate the role and responsibility of the prime consultant and all sub-consultants. Describe the ability of the firm to provide staffing continuity throughout the duration of the project.
- If applicable, indicate how local firms are being utilized to ensure a strong understanding of local laws, ordinances, regulations, policies, requirements and permitting.

- Kern COG’s evaluation of the SOQ will consider the consultant’s entire team. Once proposed, no changes in the team composition will be allowed without prior written approval of Kern COG. Sub-consultant letters of commitment may be required.

- Identify proposed sub-consultants (if any) which will be retained to perform specified items of work listed in the Scope of Work.

g. Schedule of Fees

Kern COG has budgeted \$600,000 over a term of 12 months for this planning effort.

The actual fee will be negotiated with the selected firm(s). In the event that a fee for the required services cannot be negotiated with the selected firm(s), Kern COG reserves the right to discontinue negotiations, and begin negotiations with the next ranked firm(s).

The SOQ must include an “**Exhibit 10-H Cost Proposal**” which lists each personnel classification that will work on the project, and the hourly rate charged for each classification, including any sub-consultants. **The cost proposal forms must be submitted in a separate sealed envelope.** The negotiated fee will be based upon the number of hours each personnel classification works on the required services. It will be the responsibility of the consultant to outline an efficient schedule to accomplish the required services.

h. Exceptions to this Request for Qualifications

The consultant shall certify whether or not it takes any exceptions to this RFQ, including, but not limited to, the sample Standard Professional Services Contract, which is attached as Exhibit “B”. Any and all such exceptions must be clearly identified in the SOQ. The identification of significant exceptions in a SOQ, as determined in the sole discretion of Kern COG, may be cause for rejection of the consultant’s SOQ.

3. **Selection Process**

a. All SOQ’s received by the specified deadline will be reviewed by a Consultant Selection Committee. Each member of the Committee will evaluate each of the Statement of Qualifications according to the criteria stated in sub-paragraph h below.

b. Based upon the SOQ submitted, the Committee may select a short list of firms qualified for this project to participate in oral interviews.

c. Based upon the SOQ and any oral interview, the Committee will rank the finalists as to qualifications. The top ranked firm(s) will be the selected firm(s). Kern COG may enter into contracts with more than one qualified firm. Kern COG intends to select a minimum of one, and a maximum of two, qualified firms.

d. Consultants are advised that Kern COG, at its option, may award a contract strictly on the basis of the SOQ, and not create a short list of firms or conduct oral interviews.

e. The Committee, or a representative, will enter into negotiations with the selected firm(s). The negotiations will cover: scope of work, contract schedule, contract terms and conditions, technical specifications, and fees. If the Committee or representative is unable to reach an acceptable agreement with the selected firm(s), the negotiations will be terminated, negotiations with the next ranked firm(s) will be initiated, or a new procurement process will be initiated with a revised scope of work.

f. After negotiating a proposed agreement, Kern COG will recommend to the Kern COG Board that Kern COG enter into the proposed agreement(s) with the selected firm(s), but the Board is not bound to accept the recommendation or approve the proposed agreement(s).

g. Local vendor preference shall not apply to any contracts funded in whole or in part with federal or state funds which do not allow the use of local preferences, or any other contracts which are statutorily or otherwise precluded from the use of local preferences during the selection process.

h. The following is a list of general criteria that will be used by the Selection Committee in making its selection(s).

- 1) Operational/Organizational approach of the responding firm to fulfill the scope of work and the goals of the project (30%).
  - a) Capability of developing innovative or advanced techniques.
  - b) Logical and Functional organization of benchmarks for the completion of the Safety Plan.

- c) Proposed methodology to determine statistically significant collision factors.
- 2) Project Understanding (30%):
    - a) Comprehension of the Scope of Work
    - b) Awareness of Kern COG's needs
    - c) Familiarity with the project
    - d) Knowledge of the California MUTCD and relevant Caltrans Standard Specifications.
    - e) Knowledge of Federal and State Cost/Benefit calculation methodologies.
  - 3) Experience (20%):
    - a) Familiarity with scope of work required.
    - b) Relevant technical experience
    - c) Relevant projects completed
    - d) Past performance on related assignments
  - 5) Client References and Consultant Financial Responsibility (10%).
    - a) Established a schedule that met the client's needs
    - b) Completed the Project on schedule
    - c) Completed the Project within the established Budget
    - d) Consultant has policies to control Project Scope, Schedule, and Budget.
  - 6) Project Team and Staffing Qualifications (10%):
    - a) A combination of experience, education, and background in undertaking similar type projects. Include one (1) copy of an example of a relevant similar project in the RFQ packet. This document does not count towards the 35-page limit.
    - b) Level of involvement by firm's principals
      - i. Kern COG reserves the right to reject any and all SOQ's and to waive informalities and irregularities in any SOQ received. Absence of required information may render a SOQ non-responsive, in the sole discretion of Kern COG, resulting in rejection of the SOQ.
      - j. Kern COG may, during the evaluation process, request from any consultant additional information which Kern COG deems necessary to determine the consultant's ability to perform the required services. If such information is requested, the consultant shall be permitted five (5) working days to submit the information requested.

k. An error in the SOQ may cause the rejection of that SOQ; however, Kern COG may, in its sole discretion, retain the SOQ and make any corrections it deems appropriate. In determining if a correction will be made, Kern COG will consider the conformance of the SOQ to the format and content required by the RFQ, and any unusual complexity of the format and content required by the RFQ. If the consultant's intent is clearly established based on review of the complete SOQ submittal, Kern COG may, at its sole option, correct an error based on that established content. Kern COG may also correct obvious clerical errors. Kern COG may also request clarification from a consultant on any item in a SOQ that Kern COG believes to be in error, and make corrections accordingly.

l. Kern COG reserves the right to select the SOQ which in its sole judgment best meets the needs of Kern COG. The recommendation by the Selection Committee, and the final selection of a consultant by the Kern COG Board, shall be based on any information and criteria the Selection Committee and Kern COG Board consider relevant, which may include criteria not listed in sub-paragraph above. **The schedule of costs is not a criteria for the initial selection(s) by the Selection Committee.**

m. All firms responding to this RFQ will be notified of their selection or non-selection in writing.

(1) All firms shall have seven (7) calendar days from the date of the written notice to submit any additional information **not previously submitted** to Kern COG representative for final consideration.

(2) Proposers may request a debriefing during the same seven (7) day time period. **No extension will be given.**

n. Kern COG employees will not participate in the selection process when those employees have a relationship with a person or business entity submitting a SOQ which would subject those employees to the prohibition of Section 87100 of the Government Code. Any person or business entity submitting a SOQ who has such a relationship with a Kern COG employee who may be involved in the selection process shall advise Kern COG of the name of Kern COG employee in the SOQ.

o. Any person or business entity which engages in practices which might result in unlawful activity relating to the selection process including, but not limited to, kickbacks or other unlawful

consideration paid to Kern COG employees, will be disqualified from the selection process.

p. The process, procedures and evaluation criteria used by Kern COG staff and the Selection Committee in developing and issuing this RFQ and evaluating the SOQ's received for purposes of completing the selection process shall be determined in the sole discretion of Kern COG. Potential consultants shall have no rights whatsoever regarding the processes and procedures used by Kern COG relating to this RFQ or the manner in which a consultant is selected by either the Selection Committee or the Kern COG Board, provided their decisions are not arbitrary and capricious, and there is some reasonable basis for the selection(s) made.

#### **G. Solicitation Caveat**

The issuance of this solicitation does not constitute an award commitment on the part of Kern COG, and Kern COG shall not pay for costs incurred in the preparation or submission of a SOQ. **Kern COG reserves the right to reject any or all SOQ's or portions thereof if Kern COG determines that it is in the best interest of Kern COG to do so.**

Failure to furnish all information requested or to follow the format requested herein, or the submission of false information, may disqualify the consultant, in the sole discretion of Kern COG. Kern COG may waive **any** deviation in a SOQ. Kern COG's waiver of a deviation shall in no way modify the RFQ requirements nor excuse the successful consultant from full compliance with any resultant agreement requirements or obligations.

#### **H. Time**

Time and the time limits stated in this RFQ are of the essence of this Request for Qualifications.

#### **I. Form of Agreement**

No agreement with Kern COG is in effect until a contract has been signed by both parties. Attached to this RFQ as Exhibit "B" is a sample agreement which is in substantially the form the successful consultant will be expected to sign. The final agreement may include the contents of this RFQ, any addenda to this RFQ, portions of the successful consultant's SOQ and any other modifications determined by Kern COG to be necessary prior to its execution by the parties.

Until such time as the Evaluation Committee has completed its deliberative process and the matter has been set for consideration before the Kern COG,

the agreement and all documents and materials relating thereto, the negotiation and execution thereof, including, without limitation, the existence of the Agreement and the negotiations taking place between the parties, shall be confidential.

The sample agreement included in this RFQ is for informational purposes and should not be returned with a SOQ; however, the SOQ shall include a statement that the consultant has reviewed the sample agreement and either i) will agree to the terms contained therein if selected, or ii) indicate those specific provisions of the sample agreement to which the consultant takes exception and why. Raising of significant exceptions in a SOQ, as determined in the sole discretion of Kern COG, may be cause for rejection of the consultant's SOQ.

The selected consultant(s) will be required to execute an agreement with Kern COG for the services requested within 20 business days of the award. If agreement on the terms and conditions of the contract that are acceptable to Kern COG including, but not limited to, compensation, cannot be achieved within that timeframe, Kern COG reserves the right to continue negotiations or to award the bid to another consultant and begin negotiations with that consultant.

Consultant must identify and provide contact information in their SOQ of the individual within their organization who is authorized to negotiate the terms and conditions of any agreement between consultant and Kern COG.

**J. Modifications to Scope of Work**

In the event that sufficient funds do not become available to complete all the services identified in this RFQ, the scope of work may be amended, as determined in the sole discretion of Kern COG. Kern COG may also, from time-to-time, request changes in and/or additions to the services to be provided by the successful consultant. Such changes, including any increase or decrease in compensation, which are mutually agreed upon by and between Kern COG and the successful consultant, shall be incorporated into the contract prior to execution of the contract, and by written amendments thereto after execution.

**K. News Releases**

News releases pertaining to any award resulting from this RFQ may not be made without prior written approval of the Director of Kern COG.

**L. Payment Schedule**

Periodic payments will be made to the consultant upon submission of an invoice, based on a payment schedule to be developed and included in the final agreement for services.

**M. Statutes and Rules**

The terms and conditions of this RFQ, and the resulting consulting services and activities performed by the successful consultant, shall conform to all applicable statutes, rules and regulations of the federal government, the State of California, and Kern COG.

**N. Background Review**

Kern COG reserves the right to conduct a background inquiry of each consultant that may include collection of appropriate criminal history information, contractual and business associations and practices, employment histories, reputation in the business community and financial condition. By submitting a SOQ to Kern COG the consultant consents to such an inquiry and agrees to make available to Kern COG such books and records Kern COG deems necessary to conduct the review.

**O. Organizational Conflict of Interest**

Consultant warrants, to the best of its knowledge, that neither Consultant nor its officers, agents or employees presently has any consulting or contractual arrangement with any firm or organization that would give rise to an organizational conflict of interest with respect to the work to be performed under this Agreement. Neither Consultant nor its officers, agents or employees shall enter into any contractual arrangement that would give rise to any potential conflict of interest, without first obtaining Kern COG's prior written approval before entering the agreement. If any organizational conflict of interest is discovered by Consultant relating to this Agreement, Consultant shall immediately notify Kern COG, and attempt to present a suitable mitigation plan. Kern COG may, at its sole discretion, terminate this agreement in the event that Consultant has any actual or potential organizational conflict of interest. As used in this paragraph, **"Organizational conflict of interest"** means any relationship whereby Consultant has present or planned interests related to the work to be performed under this Agreement which: (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in its being given an unfair advantage.

**P. Disadvantaged Business Enterprise (DBE) Certification**

It is the policy of Kern COG, the California State Department of Transportation and the U.S. Department of Transportation, that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with local, state or federal funds.

Consultant shall ensure that DBEs, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of this contract. In this regard, Consultant shall take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and to perform subcontracts arising out of this contract. Failure to carry out the requirements of this paragraph shall constitute a breach of contract and may result in termination of this contract or such other remedy Kern COG may deem appropriate.

During the period of this contract, the Consultant shall maintain records of all applicable subcontracts advertised and entered into germane to this contract, documenting the opportunity given to DBEs to participate in this contract, actual DBE participation, and records of materials purchased from DBE suppliers. Such documentation shall show the name and business address of each DBE subcontractor or vendor, and the total dollar amount actually paid each DBE subcontractor or vendor. Upon completion of the contract, a summary of these records shall be prepared and certified correct by the Consultant, and shall be furnished to Kern COG.

## II. SOQ INFORMATION AND REQUIREMENTS

### A. General Instructions

To receive consideration, SOQ's shall be made in accordance with the following general instructions:

1. The completed SOQ shall be without alterations or erasures. Errors may be crossed out and corrections printed in ink or typed adjacent, and must be initialed in ink by an authorized representative of the consultant.
2. No oral, telephonic, telegraphic, e-mailed or faxed SOQ's will be considered.
3. The submission of a SOQ shall be an indication that the consultant has investigated and satisfied him/herself as to the selection process to be used by Kern COG, the conditions to be encountered, the

character, quality and scope of the work to be performed, and the requirements of Kern COG.

4. All SOQ's shall remain firm for one hundred and eighty (180) days from the SOQ submission deadline.

**B. Business Address**

Consultants shall furnish their business street address. Any communications directed either to the address so given, or to the address listed on the sealed SOQ container, and deposited in the U.S. Postal Service by Certified Mail, shall constitute a legal service thereof upon the consultant.

**C. Corrections and Addenda**

If a consultant discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFQ, the consultant shall immediately notify the Contact Person of such error in writing and request clarification or modification of the document. Modifications will be made by addenda as indicated below to all parties in receipt of this RFQ.

If a consultant fails to notify the Contact Person prior to the date fixed for submission of SOQ's of a known error in the RFQ, or an error that reasonably should have been known, the consultant shall submit a SOQ at their own risk, and if the consultant is awarded a contract they shall not be entitled to additional compensation or time by reason of the error or its subsequent correction.

Addenda issued by Kern COG interpreting or changing any of the items in this RFQ, including all modifications thereof, shall be incorporated in the SOQ. The consultant shall sign and date the Addenda Cover Sheet and submit same with the SOQ (or deliver them to Kern COG, 1401 19<sup>th</sup> Street, Suite 300, Bakersfield, CA 93301, if the consultant has previously submitted a SOQ to Kern COG).

**Any oral communication by Kern COG's designated Contact Person or any other Kern COG staff member concerning this RFQ is not binding on Kern COG and shall in no way modify this RFQ or the obligations of Kern COG or any consultants.**

**D. SOQ SUBMITTAL REQUIREMENTS**

Ten copies of the SOQ shall be submitted to the address indicated below. SOQ's submitted by email or facsimile are not acceptable and will not be considered.

**Envelopes/packages containing the SOQs are to be marked:**

**delivered to:** SOQ: “Local Roadway Safety Plan (LSRP) Consultant Services” and

Kern Council of Governments  
1401 19<sup>th</sup> Street, Suite 300  
Bakersfield, CA 93301  
Telephone (661) 635-2900

SOQ’s may be delivered in person, by courier service or by mail to the address indicated above. ALL SOQ’s MUST BE SEALED AND RECEIVED BEFORE 4:00 P.M. on October 29, 2020, at the above office and address. SOQ’s submitted after the above deadline will not be accepted. It is strongly suggested that any consultants intending to hand deliver a SOQ on the last day for submission arrive at the Kern COG third floor front desk at least ten (10) minutes prior to the SOQ receipt deadline to receive a “test” time stamp to validate the official current time. The time stamp clock in the front desk of Kern COG will be the official time. Any SOQ received at or after 4:00 p.m. will be returned unopened.

Only one (1) SOQ may be submitted from each consultant. For purposes of this RFQ, a consultant is defined to include a parent corporation of the consultant and any other subsidiary of that parent corporation. If a consultant submits more than one (1) SOQ, all SOQs from that consultant shall be rejected.

SOQ’s are not publicly opened.

**E. Withdrawal and Submission of Modified SOQ**

A consultant may withdraw a SOQ at any time prior to the submission deadline by submitting a written notification of withdrawal signed by the consultant or his/her authorized agent. The consultant must, in person, retrieve the entire sealed submission package. Another SOQ may be submitted prior to the deadline. A SOQ may not be changed after the designated deadline for submission of SOQ’s.

**F. Confidential Information:**

Proposers are cautioned that because Kern COG is a public entity, materials designated as “confidential” may nevertheless be subject to disclosure. Proposers are advised that Kern COG does not wish to receive confidential or proprietary information and that proposers are not to supply such information except when it is absolutely necessary.

**IF CONFIDENTIAL INFORMATION IS SUBMITTED:**

- 1. ALL CONFIDENTIAL INFORMATION MUST BE STAMPED WITH A “CONFIDENTIAL” WATERMARK AND PLACED IN A SEPARATE TABBED SECTION #9 OF THE RFP MARKED “CONFIDENTIAL”.
- 2. Any documents labeled “CONFIDENTIAL” shall include the following statement signed and placed on the first page of the CONFIDENTIAL material:

“ \_\_\_\_\_ (legal name of proposer) shall indemnify, defend and hold harmless Kern COG, its officers, agents and employees from and against any request, action or proceeding of any nature and any damages or liability of any nature, specifically including attorneys' fees awarded under the California Public Records Act (Government Code §6250 et seq.) arising out of, concerning or in any way involving any materials or information in this Proposal that (legal name of proposer) has labeled as confidential, proprietary or otherwise not subject to disclosure as a public record.”

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

Confidential information as discussed in this section II.D.9 may include:

**Technical Information**

- (i) Any trade secret, know-how, invention, software program, application, documentation, schematic, procedure, contract, information, knowledge, data, process, technique, design, drawing, program, formula or test data, work in progress, engineering, manufacturing, marketing, financial, sales, supplier, customer, employee, investor, or business information;
- (ii) Any non-public business information, including, without limitation, personnel data; correspondence with governmental agencies; historical customer information and data; historical cost information such as budgets and operating expenses and capital costs; and projected capital additions and operating cost information;

**Financial Information**

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

- (i) financial statements, business plans, strategic plans, proprietary market information, analyses, compilations and any other strategic, competitively sensitive or proprietary information shared between the parties as a result of the discussions contemplated by this Agreement;

#### **Business Development-Related Information**

- (i) All trade secrets or proprietary information protected as intellectual property that relates to the business of the Vendor and is not generally available to the public, or generally known in the industry;
- (ii) Customers' identities and requirements, customer lists, suppliers' identities and products, pricing information, product price discount information, manufacturing processes and procedures, new product research, financial information not generally available to the public; and
- (iii) Any techniques, know how, processes or combinations thereof, or compilations of information, records and specifications, utilized or owned by the vendor regarding business development, marketing, pricing, business methods, strategies, financial or other analyses, policies or business opportunities.

#### **G. Disposition of SOQ's and Proprietary Data**

All materials submitted in response to this RFQ become the property of Kern COG. Any and all SOQ's received by Kern COG shall be subject to public disclosure and inspection, except to the extent the consultant designates trade secrets or other proprietary data to be confidential, after the Selection Committee has completed its deliberative process and either the consultant has been informed that they are not the vendor selected by the Selection Committee, or the matter has been set for consideration before the Kern COG Board, whichever comes first.

Material designated as proprietary or confidential shall accompany the SOQ and each page shall be clearly marked and readily separable from the SOQ in order to facilitate public inspection of the non-confidential portion of the SOQ. Prices, makes and models or catalog numbers of the items offered, deliverables, and terms of payment shall be publicly available regardless of any designation to the contrary. Kern COG will endeavor to restrict distribution of material designated as confidential or proprietary to only those individuals involved in the review and analysis of the SOQ's.

## EXHIBIT A

### I. INTRODUCTION:

Kern Council of Governments (Kern COG) requests qualifications from qualified consultants for Local Road Safety Plans (LRSPs). The amount of the contract is **for a total of up to \$600,000 through December 31, 2021**. Funding in any fiscal year is subject to Kern COG Board approval in the annual budget.

An LRSP for each city is required to obtain future Highway Safety Improvement Program (HSIP) funding and accelerate attainment of the federal safety targets. The November 6, 2019 Transportation Technical Advisory Committee (TTAC) meeting discussed the option to have Kern COG hire a consultant that would develop LRSP documents for participating cities. The participating cities are as follows: Arvin, Bakersfield, California City, Delano, Maricopa, Shafter, Taft, Tehachapi, and Wasco. Participating cities applied for grant funding for their individual LRSP. Funding grants would then be pooled and transferred to Kern COG to hire one consultant to create separate plans for each participating city. The Kern COG consultant will rely on participating city staff for product development to ensure quality plans for each city.

See “Scope of Work” below for details on the anticipated tasks for this project.

Contracts will only be awarded to consultants that demonstrate they maintain an adequate financial management system and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31.

### II. BACKGROUND:

Kern COG seeks a qualified consultant to work closely with Kern COG and participating city staff to prepare LRSPs for each participating city. This section is to be completed as “Scope of Work”.

The following sample scope of work is provided to give proposers an idea of Kern COG’s expectations for this project. These sample tasks are advisory only. Kern COG encourages proposers to provide a scope that demonstrates how they intend to best meet the objectives for this project. In developing the scope, the proposers should use their best judgment to maximize the resources available for this project.

### III. PROJECT OBJECTIVE:

The consultant shall prepare one stand-alone Long Range Safety Plan for each participating City. The Final report shall comply with all required elements as outlined in the Caltrans guideline for this plan: <https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/local-roadway-safety-plans>

### IV. SCOPE OF WORK

Consultant must show the ability to submit clear, concise, and accurate reports, memos, and proposals. Electronic versions of prepared reports are the preferred deliverable of this contract; however, paper copies may be required for large documents and figures. For large projects, up to three (3) hard copies will be required.

## **WORK TASKS:**

### **Task 1: Establish a working group**

A wide range of stakeholders from the "4E's" of highway safety should be encouraged to participate in developing the LRSPs. The 4E's refers to the engineering, law enforcement, education, and emergency response communities. These elements are also outlined in Caltrans Guidance: <https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/local-roadway-safety-plans>.

Stakeholders may include those with a passion for roadway safety such as parents and civic groups. Local agencies have seen success by designating a safety champion to lead development efforts and identifying a dedicated group of stakeholders to assist in managing the entire process across departments and agencies. This process normally includes planning, implementing, evaluating, and updating. The consultant will contact these groups of people and organize meetings for them to attend.

### **TASK 2: Identify Local Road Areas of Concern**

The Common areas of concern are usually related to road attributes, vulnerable road users, special vehicles, and crash types. An example is shown in the table on the next page. Agencies can modify these to reflect their area of concern. Other examples include:

- All-terrain Vehicles
- School Zones

### **TASK 3: REVIEW CRASH, TRAFFIC, AND ROADWAY DATA**

Stakeholders need to identify and compile relevant safety data to organize the information into categories that highlight an area of concern. These categories could be roadway characteristics, such as horizontal curves; vulnerable users, such as pedestrians; special vehicles, such as bicycles or school buses; or specific crash types, such as head-on crashes. Among the sources of data to include are local law enforcement records, State and local crash databases, local road traffic volumes, and roadway infrastructure records, if available. The consultant will acquire all such data. If data is not readily available, then safety data may become an area of concern of the LRSP, and objectives may include improving data collection.

The next step in developing the LRSP should be to select the areas of most concern related to causes of fatal and serious injury crash types on local roads for at least a 5-year period, similar to the example shown in the table in Task 4 below. The plan can also identify trends related to shifts in crash types (e.g., distracted driving crashes on the rise) and contributing factors.

**TASK 4: ESTABLISH GOALS, PRIORITIES, AND COUNTERMEASURES**

Consultant will assist stakeholders to define priorities and identify a safety goal (e.g., reduce 1 fatality and 10 serious injuries per year), identify countermeasures that correlate to each emphasis area, and include costs, benefits, and deployment levels for each countermeasure such that the safety goal is satisfied. Once stakeholders have agreed on safety countermeasures, the plan can isolate and recommend improvements at identified crash locations, corridors, intersections, etc. The plan should include an approach that may be considered spot, systemic, or comprehensive in nature.

- **Spot** countermeasures are applied at specific locations or roadway segments. An example of this would be reconstructing the 10 curves with the highest number of crashes.
- **Systemic** countermeasures are usually low-cost and deployed in a widespread manner. An example would be adding advisory speed plaques to all curves in a region.
- **Comprehensive** countermeasures can include a spot or systemic countermeasure with the addition of outreach and enforcement. An example would be a coordinated speed enforcement program with an accompanying outreach initiative.

**Example of Local Road Crash Data for Fatal and Serious Injury Crashes**

Fatalities						
Description	2007	2008	2009	2010	2011	Total
Aggressive Driving						
Following too close	0	0	0	0	0	0
Too fast for conditions	4	3	4	0	3	14
Speed limit exceeded	4	1	2	5	3	15
TOTAL for 3 conditions	8	4	6	5	6	29
Run-off-Road crashes	5	3	5	3	5	24
Unrestrained Occupants <sup>1</sup>	0	0	4	1	0	22
Horizontal Curves	6	3	4	2	5	22
Alcohol and/or other drugs	4	5	5	4	3	21
Collision with Tree	1	3	3	4	3	18
Young Drivers - 15-20	2	2	2	1	2	10
Distracted Drivers	2	2	2	1	1	8
Motorcyclists killed	1	1	1	1	1	5
Intersection crashes						
Un-signalized	1	0	0	1	1	3
Signalized	1	0	0	0	0	1
TOTAL for Intersection Fatalities	2	0	0	1	1	4
Head-on Crashes						
Head-on - Non-Interstate	2	0	0	0	2	4
TOTAL Head-on	2	0	0	0	2	4
Unlicensed drivers						
Unlicensed drivers	2	0	0	1	0	3
Commercial Motor Vehicles	0	0	0	1	2	3
Collision with Utility Pole	1	0	0	0	1	2
Older Drivers - 65-75	0	0	0	1	0	1
Older Drivers - 76 or older	0	0	0	1	0	1
Work Zones	0	0	0	0	0	0
Bicyclists Killed	0	0	0	0	0	0
School Buses/School bus signal <sup>2</sup>	0	0	0	0	0	0
<b>Total</b>						<b>176</b>

Serious Injuries					
Description	2007	2008	2009	2010	2011
Run-off-Road crashes	103	69	76	76	78
Horizontal Curves	87	59	75	47	41
Aggressive Driving					
Following too close	3	4	3	2	0
Too fast for conditions	60	43	48	32	30
Speed limit exceeded	14	5	10	8	5
TOTAL for 3 conditions	77	52	57	42	35
Unrestrained Occupants	50	46	64	28	19
Collision with Tree	44	36	42	27	23
Young Drivers - 15-20	37	37	46	31	18
Distracted Drivers	35	29	29	20	19
Alcohol and/or other drugs	29	20	34	17	15
Intersection crashes					
Un-signalized	11	11	3	2	5
Signalized	5	3	5	7	8
TOTAL for Intersection Serious Injuries	16	14	8	9	13
Head-on Crashes					
Head-on - Non-Interstate	22	12	13	4	8
TOTAL Head-on	22	12	13	4	8
Unlicensed drivers	22	9	10	5	4
Motorcyclists Seriously Injured	16	8	6	6	7
Collision with Utility Pole	7	0	10	12	5
Older Drivers - 65-75	8	0	2	0	0
Pedestrians Seriously Injured	9	3	3	4	5
Commercial Motor Vehicles	2	3	3	4	6
Older Drivers - 76 or older	5	3	1	0	2
Work Zones	0	0	0	2	0
Bicyclists Seriously Injured	0	2	0	0	0
School Buses/School bus signal	0	0	0	0	0
<b>Total</b>					

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

**TASK 5: Prepare draft HSIP Applications for 2 projects for each participating city totaling 18 draft applications.**

**TASK 6: IMPLEMENTATION AND ASSESSMENT OF THE PLAN AND FINAL REPORT.**

Overall, the LRSP should summarize the needs identified, the safety goal, emphasis areas, and a prioritized list of improvements or activities. Additionally, the plan can identify responsibilities and resources to carry out the plan. Items that may also be documented include the stakeholders and process used to develop the plan, successes realized through similar past or current efforts, and obstacles or challenges related to implementation. A working group, established by the consultant of city contract leads and stakeholder leaders, should monitor the plan to evaluate effectiveness and relevance over time and should adjust the plan periodically or as needed. The LRSP should include information on this evaluation.

- A draft customized LRSP report will be distributed to each participating city and a copy of each corresponding 9 draft LRSP reports for Kern COG for review by their staffs.
- The CONSULTANT will revise each draft based on comments compiled and provided by the participating city and Kern COG staffs. A copy of the final customized report will be distributed to each participating city and a copy of each corresponding 9 reports for Kern COG.

Consultant will provide all textual work products using MS WORD software. All data and reports may be shown on the KERN COG web site at the discretion of KERN COG staff.

<b>Task</b>	<b>Deliverables</b>
6	<i>18 Draft Reports</i>
6	<i>18 Final Reports</i>

**The Statement of Qualifications must show the ability and means to perform, at a minimum, each aspect of the tasks listed above. SOQs that do not adequately reflect the ability to handle all tasks will be considered non-compliant.**

**III. DELIVERABLES**

All deliverables will be delivered as established under Task 6.

**IV. CONSTRAINTS TO PROPOSER’S APPROACH AND METHODOLOGY**

- Location of work sites could be in remote locations throughout Kern County.
- Work sites may be subjected to extreme conditions.

## V. COMMUNICATIONS

Consultant will provide names and contact information of staff that will have access to real-time information regarding the status of all projects currently assigned. Consultant will be responsive to all project inquiries. Kern COG staff, participating city staffs, and Consultant will schedule project meetings, as necessary.

The consultant will manage project tasks and submit written progress reports with invoices. The progress report will document specific accomplishments of each task, identify percent completion by task, and difficulties encountered.

Kern COG will be the sole point of contact for all contractual matters related to this project. The consultant shall take direction only from Kern COG and shall regularly inform Kern COG of project progress, any outstanding issues, and all project related matters. Consultant will track the expenditures spent per city.

The consultant shall work with and consult with the staff of Kern COG and the participating cities on a regular basis. The consultant shall act as liaison with other agencies that may be identified during the study.

Participating entities may also offer suggestions and/or recommendations regarding the project or elements of the project. While Kern COG enjoys a close relationship with and has considerable confidence in the capabilities of these other parties, the consultant shall not act on any suggestions, solicited or unsolicited, without obtaining specific direction from Kern COG. Unless otherwise directed, all oral and written communication shall be directed only to Kern COG. Any distribution of project related communication and information will be at the discretion of Kern COG.

The selected consultant will best demonstrate the ability to deliver quality work on schedule and in a cost-effective manner, consistent with the tasks and deliverables in this RFQ, and as requested by Kern COG's Project Manager.

## VI. CONTACTS

All inquiries during the term of this Contract will be directed to the project representative identified below:

### Local Agency Contract Administrator:

Name: Ed Flickinger  
 Phone: 661-635-2905  
 E-mail: eflickinger@kerncog.org

### Consultant Project Manager:

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_

# EXHIBIT B

## SAMPLE CONTRACT BETWEEN THE KERN COUNCIL OF GOVERNMENTS AND ???????

### 2020 Safety Plans

THIS CONTRACT, made and entered into on \_\_\_\_\_, by and between the Kern Council of Governments, hereinafter referred to as "Kern COG," and, "???" hereinafter referred to as "Consultant."

### RECITALS:

WHEREAS, pursuant to the Joint Powers Agreement of November 4, 1970, creating Kern COG and the amended Joint Powers Agreement of May 1, 1982, Kern COG is authorized and empowered to employ consultants and specialists in the performance of its duties and functions;

WHEREAS, Kern COG issued a Request for Qualifications and CONSULTANT submitted a proposal concerning Consultant Services as needed for safety plans, as specified in the attached **Exhibit "A"** and incorporated herein by reference; and

WHEREAS, CONSULTANT has submitted a cost proposal in response to Kern COG's Request for Qualifications, and said proposal is attached as **Exhibit "10-H"** and incorporated herein by reference; and

WHEREAS, CONSULTANT has represented that they have the qualifications, experience, and facilities for doing the type of work herein contemplated and has offered to provide the required services on the terms set forth herein; and

WHEREAS, Kern COG desires to engage CONSULTANT to provide the services described in **Exhibit "A"** on the terms set forth herein; and

WHEREAS, Consultant represents it is qualified and willing to provide such services pursuant to the terms and conditions of this contract;

### AGREEMENT:

#### I. Contract Organization and Content

This contract is fully comprised of these terms and the attached exhibits: Scope of Work and Cost Proposal, all of which are incorporated herein by this reference.

#### II. Statement of Work

The work to be conducted by Consultant is specified for the delivery of products as specified in the Scope of Work, attached hereto as **Exhibit "A,"** and Cost Proposal, attached hereto as **Exhibit "10-H"**. During the performance of this contract, the representative project managers for Kern COG and Consultant will be:

Kern COG: Ed Flickinger  
Consultant: ????

#### III. Term

Time is of the essence in this contract. The term of this contract is November 20, 2020 through December 31, 2021 unless an extension of time is granted in writing by Kern COG.

#### IV. Assignability

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

Consultant shall not assign any interest in this contract, and shall not transfer the same, without the prior written consent of Kern COG.

#### V. Contract Changes

No alteration or deviation of the terms of this contract shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein, shall be binding on any of the parties.

Kern COG may request, at any time, amendments to this contract and will notify Consultant in writing regarding changes. Upon a minimum of ten (10) days notice, Consultant shall determine the impact on both time and compensation of such changes and notify Kern COG in writing. Upon agreement between Kern COG and Consultant as to the extent of these impacts on time and compensation, an amendment to this contract shall be prepared describing such changes. Such amendments shall be binding on the parties if signed by Kern COG and Consultant, and shall be effective as of the date of the amending document, unless otherwise indicated.

#### VI. Contract Costs and Reimbursements

##### A. Maximum Contract Amount/Budget Amendments:

CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal (**Exhibit "10-H"**). These rates are not adjustable for the performance period set forth in this Contract.

Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.

When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.

CONSULTANT shall not commence performance of work or services until this contract has been approved by KERN COG, and notification to proceed has been issued by Kern COG'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.

Consultant may bill and receive up to Six hundred thousand dollars (\$600,000), to be billed in accordance with **Exhibit "10-H,"** Costs. The total sum billed under this contract may not exceed including all costs, overhead, and fixed fee expenses. Such billings, up to the specified amount, shall constitute full and complete compensation for Consultant's services. Any amendments to the individual categories within the budget must be approved in writing in advance by Kern COG.

##### B. Progress Payments and Reports:

Progress payments are authorized under this contract. Progress billings in arrears may be submitted as often as monthly. Written progress reports shall accompany each billing and shall specify, by task, the percentage of contract work completed to date and since the date of the preceding billing, if any. Consultant shall be paid within 30 days following the receipt and approval of each billing by Kern COG. If Kern COG disputes any portion of a request for payment, Kern COG shall pay the undisputed portion of such request as provided herein and shall promptly notify Consultant of the amount in dispute and the reason therefore.

##### C. Billing Format and Content:

Requisitions for payment shall refer to Work Element number 601.4 as identified on the FY 2020-2021 Overall Work Program, or as may be specified in a written notice by Kern COG. Specific budget category detail is given below:

Consultant shall submit two copies of each invoice with adequate supporting documentation of work billed and costs charged by Task as defined in **Exhibit "A"**, to Kern COG, specifying those services which Consultant believes have been completed. The invoice shall specify: (1) hours worked multiplied times the billing rates authorized in **Exhibit "10-H"**, (2) an itemization of Other direct cost and/or subcontractor fees as agreed to in **Exhibit "10-H"**; (3) the total amount billed for the current period, (4) the total amount billed to-date for the project. (5) the retention amount withheld. The invoice shall include a written progress report adequately describing the services billed and provided, and summarizing the status of the PROJECT in regard to task completion, timelines, and budget.

Other Direct Costs: All direct costs billed must be specifically identified. Any travel costs may not exceed the per diem (\$65/day meals; \$225/day accommodations) and mileage rates shall be reimbursed at the IRS established standard mileage rate. Any other direct costs not specifically identified in the contract budget cannot be reimbursed.

D. **Contract Completion Retainer:**

Ten (10) percent shall be retained from each contract billing until the completion of the contract. This retention will be released to Consultant upon completion of contract and contract deliverables to the satisfaction of Kern COG.

E. **Allowable Costs and Documentation:**

All costs charged to this contract by Consultant shall be supported by properly executed payrolls, time records, invoices, and vouchers, evidencing in proper detail the nature and propriety of the charges, and shall be costs allowable as determined by Title 48 Code of Federal Regulations, Chapter 1, Part 31 (Contract Cost Principles and Procedures), Subpart 31.2 (Contracts with Commercial Organizations), as modified by Subpart 31.103. Consultant shall also comply with Title 49, Code of Federal Regulations, Part 18, (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) in the procurement of services, supplies or equipment.

#### VII. Progress Reports

Consultant shall submit progress reports, as described in **Exhibit "A"** and **Paragraph VI-B.** above. The purpose of the reports is to allow Kern COG to determine if Consultant is completing the activities identified in the Work Program in accordance with the agreed upon schedule, and to afford occasions for airing difficulties or special problems encountered so remedies can be developed.

Consultant's Project Manager shall meet with Kern COG's Project Manager, as identified under **Section II**, as needed to discuss work progress.

#### VIII. Inspection of Work

Consultant, and any subcontractors, shall permit Kern COG, Caltrans and the Federal Highway Administration (FHWA), and other participating agencies, the opportunity to review and inspect the project activities at all reasonable times during the performance period of this contract, including review and inspection on a daily basis.

#### IX. Staffing

There shall be no change in Consultant's Project Manager, or members of the project team, without prior written approval by Executive Director of Kern COG. The Project Manager shall be responsible for keeping Kern COG informed of the progress of the work and shall be available for no less than four (4) meetings with Kern COG.

#### X. Subcontracting

Consultant shall perform the work with resources available within its own organization, unless otherwise specified in this contract. No portion of the work included in this contract shall be subcontracted without written authorization by Kern COG. In no event shall Consultant subcontract for work in excess of fifty (50) percent of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing this particular type of work. All authorized subcontracts shall contain the same applicable provisions specified in this contract.

#### XI. Termination of Contract

##### A. Termination for Convenience of Kern COG:

Kern COG may terminate this contract at any time by giving notice to Consultant of such termination, and the effective termination date, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents and other materials shall, at the option of Kern COG, become its property. If this contract is terminated by Kern COG, as provided herein, Consultant shall be reimbursed for expenses incurred prior to the termination date, in accordance with the cost provisions of this contract. Consultant will also be allowed a proportion of any fixed fee that is equal to the same proportion of the project completed by Consultant on the date of termination of this contract.

##### B. Termination for Cause:

If through any cause, Consultant shall fail to fulfill in a timely and proper manner its obligations under this contract, or if Consultant violates any of the covenants, agreements, or stipulations of this contract, Kern COG shall thereupon have the right to immediately terminate the contract by giving written notice to Consultant of the intent to terminate and specifying the effective date thereof. Kern COG shall provide an opportunity for consultation with Consultant and a ten-day cure period prior to termination. In such an event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by Consultant under this contract shall, at the option of Kern COG, become the property of Kern COG. Consultant shall be entitled to receive compensation for all satisfactory work completed prior to the effective date of termination.

#### XII. Compliance with Laws, Rules and Regulations

All services performed by the Consultant pursuant to this contract shall be performed in accordance and full compliance with all applicable federal, state or local statutes, rules, and regulations.

#### XIII. Conflict of Interest

A. Consultant, and the agents and employees of Consultant, shall act in an independent capacity in the performance of this contract, and not as officers, employees or agents of Kern COG.

B. No officer, member, or employee of Kern COG or other public official of the governing body of the locality or localities in which the work pursuant to this contract is being carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the aforesaid work shall:

1. Participate in any decision relating to this contract which affects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or

2. Have any interest, direct or indirect, in this contract or the proceeds thereof during his tenure or for one year thereafter.

- C. Consultant hereby covenants that it has, at the time of the execution of this contract, no interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this contract. Consultant further covenants that in the performance of this work, no person having any such interest shall be employed.

#### XIV. Contingency Fees

Consultant warrants, by execution of this contract, that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingency fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business. For breach or violation of this warranty, Kern COG has the right to terminate this contract without liability, allowing payment only for the value of the work actually performed, or to deduct from the contract price, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

#### XV. Copyrights

Consultant shall be free to copyright material developed under this contract with the provision that Kern COG reserve a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, distribute, and to authorize others to use, and distribute for fee or otherwise, the work for any purpose. Consultant is subject to the duties of agency relating to rights in data and copyrights as set forth in 48 CFR 52.227-14.

#### XVI. Publication

- A. No report, information, or other data given to or prepared or assembled by Consultant pursuant to this contract, shall be made available to any individual or organization by Consultant without the prior written approval of Kern COG.
- B. The following acknowledgment of FHWA's participation must appear on the cover or title page of all final products:

"The preparation of this report has been financed, in part, through a grant from the U.S. Department of Transportation, Federal Highway Administration, under the authority of Section 148 of Title 23, United States Code (23 U.S.C §148)."

#### XVII. Disputes

Except as otherwise provided in this contract, any dispute concerning a question of fact which is not disposed of by mutual agreement, shall be decided by a court of competent jurisdiction.

#### XVIII. Hold Harmless

Consultant agrees to indemnify, defend and hold harmless Kern COG and Kern COG's agents, board members, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs, and expenses (including, but not limited to, reasonable attorneys' fees of County Counsel and other counsel retained by Kern COG, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any negligent, reckless, or willful act or omission of Consultant or Consultant's officers, agents, employees, independent contractors, sub-contractors of any tier, or authorized representatives, or breach of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of Kern COG; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of Consultant by any person or entity.

#### XIX. Insurance

Consultant, in order to protect Kern COG and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's actions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with Kern COG's authorized insurance representative. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. Consultant shall promptly deliver Kern COG a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to Kern COG not less than 30 days prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or Kern COG as an additional insured.

Without limiting Kern COG's right to obtain indemnification from the consultant or any third parties, the consultant, at its sole expense, shall maintain in full force and affect the following insurance policies throughout the term of the contract:

- A. Comprehensive general liability insurance with coverage of not less than \$2,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. Comprehensive general liability insurance policies shall name Kern COG, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under the terms of the contract are concerned. Such coverage for additional insured shall apply as primary insurance or self-insurance and any other insurance, maintained by Kern COG, its officers, agents, and employees, shall be given excess only and not contributing with insurance provided under the consultant's policies herein.
- B. Comprehensive automobile liability insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired, and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.
- C. Professional liability insurance of at least one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- D. Worker's compensation insurance as required by law.

This insurance shall not be canceled or changed without a minimum of thirty (30) days advance written notice given to Kern COG. The consultant shall provide certification of said insurance to Kern COG within twenty-one (21) days of the date of the execution of the contract. Such certification shall show, to Kern COG's satisfaction, that such insurance coverages have been obtained and are in full force; that Kern COG, its officers, agents, and employees will not be responsible for any premiums on the policies; that as and if required such insurance names Kern COG, its officers agents, and employees individually and collectively as additional insured (comprehensive and general liability only), but only insofar as the operations under the contract are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by Kern COG, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under the consultant's policies herein; and that this

insurance shall not be canceled or changed without a minimum of thirty (days) advance, written notice given to Kern COG.

In the event the consultant fails to keep in effect at all times insurance coverage as herein provided, Kern COG may, in addition to other remedies it may have, suspend or terminate the contract upon the occurrence of such event.

Consultant shall require any sub-contractors to provide workers' compensation for all of the sub-contractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by Labor Code section 3700, Consultant shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

- A. The Commercial General Liability and Automobile Liability Insurance required in subparagraph A and B. shall include an endorsement naming Kern COG and Kern COG's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided on ISO form CG 20 10 Edition date 11/85 or such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
- B. Any self-insured retentions in excess of \$10,000 must be declared on the Certificate of Insurance or other documentation provided to Kern COG and must be approved by Kern COG.
- C. If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.
- D. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the Consultant must be endorsed to provide that the coverage shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. Such notice shall be by certified mail, return receipt requested. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- E. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum of a "A-VII" rating. Any exception to these requirements must be approved by the Kern COG.
- F. If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The Kern COG will not accept such coverage unless Kern COG determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

- G. All insurance afforded by Consultant pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by Kern COG. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against Kern COG.
- H. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude Kern COG from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
- I. Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. Kern COG, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, Kern COG may purchase such required insurance coverage, and without further notice to Consultant, Kern COG shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by Kern COG for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse Kern COG for the premiums and any associated costs, Consultant agrees to reimburse Kern COG for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by Kern COG to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

#### XX. Equal Employment Opportunity/Nondiscrimination

Consultant shall comply with Title VI of the Civil Rights Act of 1964, as amended, and with the provisions contained in 49 CFR 21 through Appendix C and 23 CFR 170.405(b). During the performance of this contract, Consultant, for itself, its assignees and successors in interest, agrees as follows:

- A. **Compliance with Regulations:** Consultant shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter DOT) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

Prior to any performance under this agreement, Consultant must review, sign and return to Kern COG a copy of the Title 49, Code of Federal Regulations, Part 29 Debarment and Suspension Certifications ("**Certifications**") attached and incorporated here as **Exhibit "B"**, "Debarment and Suspension Certification." The signed copy of the Certifications shall be incorporated by this reference into the Agreement as if set forth in full herein.

- B. **Nondiscrimination:** Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection or retention of subcontractors, including the procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- C. **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiations made by Consultant for work to be performed under a subcontract, including the procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract, and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.

- D. Information and Reports: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Kern COG, Caltrans, FTA, or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to Kern COG, Caltrans, FTA, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, Kern COG shall impose such contract sanctions as it, Caltrans, FTA, or FHWA may determine to be appropriate, including, but not limited to:
- 1) Withholding of payments to Consultant under this contract until Consultant complies; and/or 2) Cancellation, termination or suspension of the contract, in whole or in part.
- F. Incorporation of Provisions: Consultant shall include the provisions of Paragraphs A through F of this Section XX in every subcontract, including procurements of materials and leases of equipment, unless exempt from the regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Kern COG, Caltrans, FTA, or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. However, in the event Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Consultant may request Kern COG to enter into such litigation to protect the interests of Kern COG, and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

#### XXI. Disadvantaged Business Enterprise (DBE)

It is the policy of Kern COG, the California State Department of Transportation and the U.S. Department of Transportation, that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with local, state or federal funds.

Consultant shall ensure that DBEs, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of this contract. In this regard, Consultant shall take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and to perform subcontracts arising out of this contract. Failure to carry out the requirements of this paragraph shall constitute a breach of contract and may result in termination of this contract or such other remedy Kern COG may deem appropriate.

During the period of this contract, the Consultant shall maintain records of all applicable subcontracts advertised and entered into germane to this contract, documenting the opportunity given to DBEs to participate in this contract, actual DBE participation, and records of materials purchased from DBE suppliers. Such documentation shall show the name and business address of each DBE subcontractor or vendor, and the total dollar amount actually paid each DBE subcontractor or vendor. Upon completion of the contract, a summary of these records shall be prepared and certified correct by the Consultant, and shall be furnished to Kern COG.

#### XXII. Audits

At any time during normal business hours, and as often as Kern COG, Kern COG's participating agencies, the California Department of Transportation, the Federal Transit Administration, the Federal Highway Administration, the Department of Labor, the Comptroller General of the United States, or other appropriate state and federal agencies, or any duly authorized representatives may deem necessary, Consultant shall make available for examination all of its records with respect to all matters covered by this contract for purposes of audit, examination, or to make copies or transcripts of such records, including, but not limited to, contracts, invoices, payrolls, personnel records, conditions of employment and other data relating to all matters covered by this contract.

Project costs are subject to audit and approval for payment according to the eligibility requirements of the funding agencies. However, Kern COG shall not have the right to audit Consultant's fixed rates or fees, percentage multipliers, or standard charges. All project records shall be retained and access to the facilities and premises of Consultant shall be made available during the period of performance of this contract, and for three years after Kern COG makes final payment under this contract.

XXIII. Clean Air Act/Clean Water Act Requirements

Consultant, in carrying out the requirements of this contract, shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857[h]), Section 508 of the Clean Water Act (33 USC 1368), Presidential Executive Order 11738, and those Environmental Protection Agency regulations contained in 40 CFR Part 15.

XXIV. Notice

Any notice or notices required or permitted to be given pursuant to this contract may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following addresses:

Mr. Ahron Hakimi,  
Executive Director  
Kern Council of Governments (Kern COG)  
1401 19th Street, Suite 300  
Bakersfield, California 93301

OR

??????????

XXV. Venue

If any party to this contract initiates any legal or equitable action to enforce the terms of this contract, to declare the rights of the parties under this contract or which relates to this contract in any manner, Kern COG and Consultant agree that the proper venue for any such action is the Superior Court of the State of California of and for the County of Kern.

XXVI. California Law

Kern COG and Consultant agree that the provisions of this contract will be construed in accordance with the laws of the State of California.

XXVII. No Authority to Bind Kern COG

It is understood that Consultant, in its performance of any and all duties under this contract, has no authority to bind Kern COG to any agreements or undertakings with respect to any and all persons or entities with whom Consultant deals in the course of its business.

XXVIII. Nonwaiver

No covenant or condition of this contract to be performed by Consultant can be waived except by the written consent of Kern COG. Forbearance or indulgence by Kern COG in any regard whatsoever shall not constitute a waiver of any covenant or condition to be performed by Consultant. Kern COG shall be entitled to invoke any remedy available to it under this contract or by law or in equity despite any such forbearance or indulgence.

XXIX. Independent Contractor

Nothing in this contract shall be construed or interpreted to make Consultant, its officers, agents, employees or representatives anything but independent contractors and in all their activities and

operations pursuant to this contract, Consultant, its officers, agents, employees and representatives shall for no purposes be considered employees or agents of Kern COG.

XXX. Partial Invalidity

Should any part, term, portion, or provision of this contract be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be effected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

XXXI. Signature Authority

Each person executing this contract on behalf of Consultant represents and warrants that he or she is authorized by Consultant to execute and deliver this contract on behalf of Consultant and that this contract is binding on Consultant in accordance with the terms.

IN WITNESS WHEREOF, the Kern Council of Governments and ?????? have executed this agreement as of the date first above written.

RECOMMENDED AND APPROVED  
AS TO CONTENT:

KERN COUNCIL OF GOVERNMENTS

\_\_\_\_\_  
Ahron Hakimi, Executive Director  
Kern Council of Governments

\_\_\_\_\_  
XXXXX, Chair  
"Kern COG"

APPROVED AS TO FORM:

CONSULTANT

\_\_\_\_\_  
Brian Van Wyk, Deputy  
Kern County Counsel

\_\_\_\_\_  
Consultant

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

R

## Exhibit "A"

### Scope of Work

#### I. INTRODUCTION:

Kern Council of Governments (Kern COG) requests qualifications from qualified consultants for Local Road Safety Plans (LRSPs). The amount of the contract is **for a total of up to \$600,000 through December 31, 2021**. Funding in any fiscal year is subject to Kern COG Board approval in the annual budget.

An LRSP for each city is required to obtain future Highway Safety Improvement Program (HSIP) funding and accelerate attainment of the federal safety targets. The November 6, 2019 Transportation Technical Advisory Committee (TTAC) meeting discussed the option to have Kern COG hire a consultant that would develop LRSP documents for participating cities. The participating cities are as follows: Arvin, Bakersfield, Delano, Maricopa, Shafter, Taft, Tehachapi, and Wasco. Participating cities applied for grant funding for their individual LRSP. Funding grants would then be pooled and transferred to Kern COG to hire one consultant to create separate plans for each participating city. The Kern COG consultant will rely on participating city staff for product development to ensure quality plans for each city.

See "Scope of Work" below for details on the anticipated tasks for this project.

Contracts will only be awarded to consultants that demonstrate they maintain an adequate financial management system and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31.

#### II. BACKGROUND:

Kern COG seeks a qualified consultant to work closely with Kern COG and participating city staff to prepare LRSPs for each participating city. This section is to be completed as "Scope of Work".

The following sample scope of work is provided to give proposers an idea of Kern COG's expectations for this project. These sample tasks are advisory only. Kern COG encourages proposers to provide a scope that demonstrates how they intend to best meet the objectives for this project. In developing the scope, the proposers should use their best judgment to maximize the resources available for this project.

#### III. PROJECT OBJECTIVE:

The consultant shall prepare one stand-alone Long Range Safety Plan for each participating City. The Final report shall comply with all required elements as outlined in the Caltrans guideline for this plan: <https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/local-roadway-safety-plans>

#### IV. SCOPE OF WORK

Consultant must show the ability to submit clear, concise, and accurate reports, memos, and proposals. Electronic versions of prepared reports are the preferred deliverable of this contract; however, paper copies may be required for large documents and figures. For large projects, up to three (3) hard copies will be required.

## WORK TASKS:

### Task 1: Establish a working group

A wide range of stakeholders from the "4E's" of highway safety should be encouraged to participate in developing the LRSPs. The 4E's refers to the engineering, law enforcement, education, and emergency response communities. These elements are also outlined in Caltrans Guidance: <https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/local-roadway-safety-plans>.

Stakeholders may include those with a passion for roadway safety such as parents and civic groups. Local agencies have seen success by designating a safety champion to lead development efforts and identifying a dedicated group of stakeholders to assist in managing the entire process across departments and agencies. This process normally includes planning, implementing, evaluating, and updating. The consultant will contact these groups of people and organize meetings for them to attend.

### TASK 2: Identify Local Road Areas of Concern

The Common areas of concern are usually related to road attributes, vulnerable road users, special vehicles, and crash types. An example is shown in the table on the next page. Agencies can modify these to reflect their area of concern. Other examples include:

- All-terrain Vehicles
- School Zones

### TASK 3: REVIEW CRASH, TRAFFIC, AND ROADWAY DATA

Stakeholders need to identify and compile relevant safety data to organize the information into categories that highlight an area of concern. These categories could be roadway characteristics, such as horizontal curves; vulnerable users, such as pedestrians; special vehicles, such as bicycles or school buses; or specific crash types, such as head-on crashes. Among the sources of data to include are local law enforcement records, State and local crash databases, local road traffic volumes, and roadway infrastructure records, if available. The consultant will acquire all such data. If data is not readily available, then safety data may become an area of concern of the LRSP, and objectives may include improving data collection.

The next step in developing the LRSP should be to select the areas of most concern related to causes of fatal and serious injury crash types on local roads for at least a 5-year period, similar to the example shown in the table in Task 4 below. The plan can also identify trends related to shifts in crash types (e.g., distracted driving crashes on the rise) and contributing factors.

### TASK 4: ESTABLISH GOALS, PRIORITIES, AND COUNTERMEASURES

Consultant will assist stakeholders to define priorities and identify a safety goal (e.g., reduce 1 fatality and 10 serious injuries per year), identify countermeasures that correlate to each emphasis area, and include costs, benefits, and deployment levels for each countermeasure such that the safety goal is satisfied. Once stakeholders have agreed on safety countermeasures, the plan can isolate and recommend improvements at identified crash locations, corridors, intersections, etc. The plan should include an approach that may be considered spot, systemic, or comprehensive in nature.

- **Spot** countermeasures are applied at specific locations or roadway segments. An example of this would be reconstructing the 10 curves with the highest number of crashes.
- **Systemic** countermeasures are usually low-cost and deployed in a widespread manner. An example would be adding advisory speed plaques to all curves in a region.
- **Comprehensive** countermeasures can include a spot or systemic countermeasure with the addition of outreach and enforcement. An example would be a coordinated speed enforcement program with an accompanying outreach initiative.

#### Example of Local Road Crash Data for Fatal and Serious Injury Crashes

Description	Fatalities					
	2007	2008	2009	2010	2011	Total
Aggressive Driving						
Following too close	0	0	0	0	0	0
Too fast for conditions	4	1	4	0	3	14
Speed limit exceeded	4	1	2	1	3	15
TOTAL for 3 conditions	8	4	6	1	6	29
Run-off-road crashes	5	1	5	3	3	24
Unrestrained Occupants <sup>1</sup>	5	4	4	3	0	22
Horizontal Curves	0	1	4	2	5	22
Alcohol and/or other drugs	4	1	5	1	3	21
Collision with Tree	1	1	2	4	2	15
Young Drivers - 15-20	2	3	2	1	2	10
Distracted Drivers	2	2	2	1	1	8
Motorcyclists killed	1	1	1	1	1	5
Intersection crashes						
Un-signalized	1	0	0	1	1	3
Signalized	1	0	0	0	0	1
TOTAL for Intersection Fatalities	2	0	0	1	1	4
Head-on Crashes						
Head-on - Non-Interstate	2	0	0	0	2	4
TOTAL Head-on	2	0	0	0	2	4
Pedestrians killed	1	1	1	3	0	3
Unlicensed drivers	2	0	0	1	0	3
Commercial Motor Vehicles	0	0	0	1	2	3
Collision with Utility Pole	1	0	0	0	1	2
Older Drivers - 65-75	0	0	0	1	0	1
Older Drivers - 76 or older	0	0	0	1	0	1
Work Zones	0	0	0	0	0	0
Bicyclists Killed	0	0	0	0	0	0
School Buses/School bus signal <sup>2</sup>	0	0	0	0	0	0
<b>Total</b>						<b>176</b>

Description	Serious Injuries					
	2007	2008	2009	2010	2011	Total
Run-off-road crashes	101	69	76	66	18	351
Horizontal Curves	83	50	75	17	41	305
Aggressive Driving						
Following too close	3	4	1	2	0	10
Too fast for conditions	60	43	46	12	20	111
Speed limit exceeded	14	9	10	6	5	42
TOTAL for 3 conditions	77	52	57	42	25	163
Unrestrained Occupants	50	46	44	20	19	107
Collision with Tree	44	36	42	17	23	174
Young Drivers - 15-20	41	37	34	31	18	149
Distracted Drivers	33	29	29	10	19	132
Alcohol and/or other drugs	29	20	34	17	15	115
Intersection crashes						
Un-signalized	11	11	3	2	5	32
Signalized	5	3	5	7	8	28
TOTAL for Intersection Serious Injuries	16	14	8	9	13	60
Head-on Crashes						
Head-on - Non-Interstate	25	12	12	4	8	58
TOTAL Head-on	25	12	12	4	8	58
Unlicensed Drivers	22	9	10	8	4	53
Motorcyclists Seriously Injured	16	8	6	8	7	45
Collision with Utility Pole	7	9	10	12	5	43
Older Drivers - 65-75	8	3	2	5	0	20
Pedestrians Seriously Injured	9	3	3	4	5	24
Commercial/Motor Vehicles	3	3	3	4	6	19
Older Drivers - 76 or older	5	3	1	0	2	11
Work Zones	0	0	0	2	0	2
Bicyclists Seriously Injured	0	2	0	0	0	2
School Buses/School bus signal	0	0	0	0	0	0
<b>Total</b>						<b>1019</b>

- A draft LRSP report will be distributed to each participating city and Kern COG for review by their staffs.
- The CONSULTANT will revise each draft based on comments compiled and provided by the participating city and Kern COG staffs. A copy of the final report will be distributed to Kern COG and each relevant participating city department.

Consultant will provide all textual work products using MS WORD software. All data and reports may be shown on the KERN COG web site at the discretion of KERN COG staff.

<b>Task</b>	<b>Deliverables</b>
6	<i>18 Draft Reports</i>
6	<i>18 Final Reports</i>

**The Statement of Qualifications must show the ability and means to perform, at a minimum, each aspect of the tasks listed above. SOQs that do not adequately reflect the ability to handle all tasks will be considered non-compliant.**

### **III. DELIVERABLES**

All deliverables will be delivered as established under Task 6.

### **IV. CONSTRAINTS TO PROPOSER'S APPROACH AND METHODOLOGY**

- Location of work sites could be in remote locations throughout Kern County.
- Work sites may be subjected to extreme conditions.

### **V. COMMUNICATIONS**

Consultant will provide names and contact information of staff that will have access to real-time information regarding the status of all projects currently assigned. Consultant will be responsive to all project inquiries. Kern COG staff, participating city staffs, and Consultant will schedule project meetings, as necessary.

The consultant will manage project tasks and submit written progress reports with invoices. The progress report will document specific accomplishments of each task, identify percent completion by task, and difficulties encountered.

Kern COG will be the sole point of contact for all contractual matters related to this project. The consultant shall take direction only from Kern COG and shall regularly inform Kern COG of project progress, any outstanding issues, and all project related matters. Consultant will track the expenditures spent per city.

The consultant shall work with and consult with the staff of Kern COG and the participating cities on a regular basis. The consultant shall act as liaison with other agencies that may be identified during the study.

Participating entities may also offer suggestions and/or recommendations regarding the project or elements of the project. While Kern COG enjoys a close relationship with and has considerable confidence in the capabilities of these other parties, the consultant shall not act on any suggestions, solicited or unsolicited, without obtaining specific direction from Kern COG. Unless otherwise directed, all oral and written communication shall be directed only to Kern COG. Any distribution of project related communication and information will be at the discretion of Kern COG.

The selected consultant will best demonstrate the ability to deliver quality work on schedule and in a cost-effective manner, consistent with the tasks and deliverables in this RFQ, and as requested by Kern COG's Project Manager.

**VI. CONTACTS**

All inquiries during the term of this Contract will be directed to the project representative identified below:

Local Agency Contract Administrator:

Name: Ed Flickinger  
Phone: 661-635-2905  
E-mail: eflickinger@kerncog.org

Consultant Project Manager:

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

Exhibit "B"

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29  
DEBARMENT AND SUSPENSION CERTIFICATION

- 1) The Consultant certifies, to the best of its knowledge and belief, that it and its contractors, subcontractors and subrecipients:
  - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b) Have not, within the three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in sub paragraph (1)(b) of this certification; and
  - d) Have not, within the three (3) year period preceding this certification, had one or more public transactions (federal, state, or local) terminated for cause or default.
  
- 2) The Applicant also certifies that, if Applicant later becomes aware of any information contradicting the statements of paragraph (1) above, it will promptly provide that information to Kern Council of Governments.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

\_\_\_\_\_  
(Consultant)

\_\_\_\_\_  
Date

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

"CITY of ARVIN"

RECOMMENDED AND APPROVED  
AS TO CONTENT:

\_\_\_\_\_  
City Manager  
City of ARVIN

\_\_\_\_\_  
*Mayor/Council Member*  
City of ARVIN

APPROVED AS TO FORM:

\_\_\_\_\_  
Legal Counsel

[Remainder of page left blank intentionally]

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)

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

"KERN COUNCIL OF GOVERNMENTS"

RECOMMENDED AND APPROVED  
AS TO CONTENT:

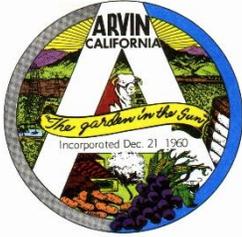
\_\_\_\_\_  
AHRON HAKIMI  
Executive Director  
Kern Council of Governments  
APPROVED AS TO FORM:

\_\_\_\_\_  
Bob Smith, Chairman  
Kern Council of Governments

\_\_\_\_\_  
Deputy Counsel for  
Kern Council of Governments

[Remainder of page left blank intentionally]

Attachment: MOU-LRSP (MOU with Kern COG to Develop LRSP)



## CITY OF ARVIN

### Agenda Report

Meeting Date: July 28, 2020

<b>TO:</b>	Arvin City Council
<b>FROM:</b>	Hesham Elshazly, Transportation Manager R. Jerry Breckinridge, City Manager
<b>SUBJECT:</b>	Consideration and Adoption of A Resolution of the City Council of the City of Arvin, CA, Updating the City of Arvin's Transit Title VI Compliance Program (2020)

#### RECOMMENDATION

Staff recommends that the City Council adopt the Resolution of the City Council of the City of Arvin updating the City of Arvin's Transit Title VI Compliance Program and authorize submission of same to the California Department of Transportation ("CalTrans").

#### BACKGROUND

The Federal Transit Administration ("FTA") requires that all direct and primary grant recipients document their compliance by submitting a Title VI Compliance Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. The last update was approved by the Council and submitted in July 2017, so the 2020 update is now due.

The 2020 Transit Title VI Compliance Program is essentially identical to the 2017 version. This is now before the City Council for approval.

#### FISCAL IMPACTS

There will be no fiscal impact to the General Fund. All expense, printing and translating costs will be paid from the Arvin Transit Division fund.

#### ATTACHMENTS

Resolution, with attached Arvin Transit Title VI Compliance Program July 28, 2020.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARVIN  
UPDATING THE CITY OF ARVIN 2020 TRANSIT TITLE VI  
COMPLIANCE PROGRAM**

**WHEREAS**, Title VI of the Federal Civil Right Act of 1964 states that: No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance; and

**WHEREAS**, as a subrecipient of federal transportation funds, the City of Arvin is required to comply with Title VI of the Civil Rights Act of 1964, including provisions detailed in U.S. Department of Transportation's FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients and the California Department of Transportation ("CalTrans") regulations; and

**WHEREAS**, the City Council of the City of Arvin previously approved City of Arvin's Transit Title VI Compliance Program in July, 2017; and

**WHEREAS**, to remain in compliance with the above agencies' regulations, the City has updated its Title VI Compliance Program, covering the period 2017 through 2020, and which will be submitted to the appropriate state and federal agencies; and

**WHEREAS**, the City Council of the City of Arvin desires to approve the updated Transit Title VI Compliance Program ("Program") to comply with the Federal Transportation Act and CalTrans requirements and to authorize the City Manager or designee to submit the Program to the appropriate state or federal agencies.

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

Section 1. The City of Arvin 2020 Title VI Compliance Program, is hereby adopted and approved as updated pursuant to the attached "City of Arvin 2020 Title VI Compliance Program".

Section 2. This Resolution is approved as of July 28, 2020.

///  
///

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Arvin at a regular meeting thereof held on the 28<sup>th</sup> day of July 2020 by the following vote:

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

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

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

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

**ATTEST**

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

**CITY OF ARVIN**

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

APPROVED AS TO FORM:

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

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

# City of Arvin Transit

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City of Arvin Transit

Title VI Compliance

Program

(July 28, 2020)

**Reference:** *FTA Circular 4702.1B Title VI Requirements and Guidelines for Federal Transit Administration (FTA) Recipients (October 1, 2012) (“The Circular”)*.

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Attachment: Transit Title VI Compliance Program 2020 (City of Arvin 2020 Transit Title VI Compliance Program)

## **Introduction**

The purpose of this Title VI Compliance Program is to establish guidelines to effectively ensure that the services provided by City of Arvin Transit are in compliance with FTA Title VI requirements.

Title VI states that “no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The FTA is required to ensure that federally-supported transit services and related benefits are provided consistent with Title VI. The Title VI Report requires an update every three years.

City of Arvin Transit will ensure that its programs, policies and activities comply with Department of Transportation’s (DOT) Title VI Regulations (49 CFR, Part 21) and with Limited English Proficient (LEP) Persons requirements (70 FR 74087, December 14, 2005). The City is committed to creating and maintaining a public transportation system that is free of all forms of discrimination. The City will take necessary preventive, corrective and disciplinary actions to stem behavior that violates this policy or the rights and privileges it is designed to protect. FTA requires recipients to document compliance with DOT Title VI regulations by submitting a Title VI Compliance Program to their FTA regional civil rights officer once every three years.

## **Signed Policy Statement and Title VI Notice to the Public**

The following sets forth Arvin Transit’s Title VI Policy

Statement: Title VI of the Civil Rights Act of 1964 states:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

City of Arvin Transit is committed to complying with the requirements of Title VI in all of its programs and activities.

A policy statement signed by the Transit Manager assuring City of Arvin Transit's compliance with Title VI of the Civil Rights Act of 1964 is attached as Exhibit “A”.

## Title VI Complaint Procedures

The City of Arvin Transit has a standard process for investigating all complaints. Members of the public may file a signed, written complaint up to one hundred and eighty (180) days from the date of alleged discrimination. Full procedures for filing a complaint and City of Arvin Transit's procedures for investigating complaints, in English, are attached **Exhibit "B."** These procedures, translated into Spanish, are attached as **Exhibit "C."** Both versions of these procedures are posted on the City's website at [www.arvin.org/transportation.htm](http://www.arvin.org/transportation.htm). At a minimum, the complaint should include the following information:

- Name, mailing address, and how to contact complainant (i.e., telephone number, email address, etc.)
- How, when, where and why complainant alleges s/he were discriminated against. Include the location, names and contact information of any witnesses.
- Other significant information.

The complaint may be filed in writing with City of Arvin Transit at the following address:

City of Arvin Transit  
 Transit Manager  
 Arvin Transit  
 165 Plumtree Drive  
 Arvin, CA 93203  
 By Phone: (661) 854-3139  
 By Facsimile: (661) 854-0847

English and Spanish versions of the Title VI Complaint Form are attached as **Exhibits "G"** and **"H."**

### Notification of City of Arvin Transit Title VI obligations

City of Arvin Transit publicizes its Title VI program by posting notices of its commitment to providing services without regard to race, color or national origin at the locations set forth in the table below:

Location Name	Address	City
Main Transit Station	165 Plumtree Drive	Arvin
City Hall	200 Campus Drive	Arvin
Arvin Transit Busses		
Schedule-Riders Guide		
Website	<a href="http://www.arvin.org/transportation.htm">www.arvin.org/transportation.htm</a>	

These notices include the following statements:

- The City of Arvin Transit is committed to ensuring that no person is excluded from participation in or denied the benefits of its services on the basis of race, color or national origin, as provided by Title VI of the Civil Rights Act of 1964.
- Please contact City of Arvin Transit Manager with questions or comments about City of Arvin Transit's non-discrimination policies, to get additional information, or to file a complaint.

In person or by mail:

Transit Manager  
 Arvin Transit  
 165 Plumtree Drive  
 Arvin, CA 93203  
[Email: heshame@arvin.org](mailto:heshame@arvin.org)  
 By Phone: (661) 854-3139  
 By Facsimile: (661) 854-0847  
 Website: [www.arvin.org/transportation.htm](http://www.arvin.org/transportation.htm)

English and Spanish versions of the Title VI Notice to the Public are attached as **Exhibit “D” and “E.”**

### **Record of Title VI investigations, complaints, or lawsuits**

Over the reporting period, City of Arvin Transit had no Title VI complaints, investigations or lawsuits filed against it.

### **Information Regarding Transit-related, Non-elected Planning Boards, Advisory Councils or Committees.**

The *Circular* states that Recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar committees, the membership of which is selected by the recipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees. (See *Circular*, Chap. III-9, paragraph 10.) The City of Arvin Transit does not have any transit-related appointed advisory councils, committees or boards. As such, it is not required to comply with this requirement until such time as it establishes such transit-related advisory councils or committees or similar committees or boards.

### **City of Arvin Transit Limited English Proficiency Outreach Plan**

A full copy of City of Arvin Transit's outreach plan for individuals with limited English proficiency can be found in **Exhibit “F”**. Key elements of the plan include:

- Spanish speaking translators available upon request during normal business hours.
- Route and Schedule brochures available in both English and Spanish.
- Route and Schedule information available in Spanish on the City of Arvin Transit website.
- Transit surveys conducted by City of Arvin Transit available in Spanish.
- Specific public meetings were held for the Spanish speaking community throughout the Arvin Urbanized Area. Information provided in Spanish and translators on site to help with questions or concerns.

### **Summary of Public Participation Efforts**

Over the last reporting period, City of Arvin Transit conducted the following public outreach and involvement activities:

#### **Spanish Service Schedules:**

Currently, service schedules are provided in English and Spanish and made available via paper brochures at the City of Arvin's Transit Station and on the City of Arvin's website.

#### **General Awareness Surveys:**

We conduct onboard rider and general awareness surveys annually. The public outreach entails marketing materials (in English and Spanish) and web site. Future public meetings will be held at other locations where service is also provided. The public will be able to provide feedback on route service recommendations.

#### **Bilingual Outreach:**

City of Arvin's Transit staff provides Spanish-speaking guests with information on public transit services in Spanish. Staff assistance is utilized in outreach programs and offered for programs and public meetings.

#### **Phone Access:**

Transit staff is available to answer questions in Spanish during normal working hours. Language Line and City of Arvin Transit have an agreement whereby City of Arvin Transit staff can contact Language Line and utilize their translations services whenever necessary.

### **Construction Projects:**

The City of Arvin did not undertake any construction projects during the reporting period. Should any projects be taken in the future, a fixed-facility impact analysis to

assess the effects on minority communities will be conducted (i.e. reference-related environmental assessment or environmental impact statement).

### **Information Regarding System-wide Standards and Policies**

As a transit provider that operates less than fifty (50) fixed route vehicles in peak service and which is not located in a urbanized area of 200,000 or more in population, Arvin Transit is not required to comply with most of the requirements of Chapter IV of the *Circular*. However, Arvin Transit is required to comply with one of the requirements set forth in Chapter IV, namely to establish system-wide service standards and policies and include said policies and standards in its Title VI Compliance Program. Attached as Exhibit "I" are the system-wide service standards and policies adopted by the City of Arvin for Arvin Transit.

**Exhibit A**

**CITY OF ARVIN TRANSIT  
TITLE VI  
NON-DISCRIMINATION  
POLICY STATEMENT**

July 28, 2020

Title VI of the Civil Rights Act of 1964 states:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

City of Arvin Transit is committed to complying with the requirements of Title VI in all of its programs and activities.

Hesham Elshazly  
Transit Manager

**Exhibit B****TITLE VI COMPLAINT PROCEDURES - ENGLISH VERSION**

Subj: Passenger Discrimination Complaint Procedures Div:

Arvin Transit

**General**

Any person who believes that he or she, individually, or as a member of any specific class of persons, has been subjected to discrimination on the basis of race, color, or national origin may file a written complaint with City of Arvin Transit.

**Procedure**

1. The complaint must meet the following requirements:

a. Complaint shall be in writing and signed by the complainant(s). In cases where Complainant is unable or incapable of providing a written statement, a verbal complaint may be made.

- The complaint can be mailed to  
165 Plumtree Drive  
Arvin, CA 93203
- The complaint can be phoned  
to: 661.854.3139
- The complaint may be made in person at:  
165 Plumtree Drive  
Arvin, CA 93203

OR

Arvin City Hall - City Manager  
200 Campus Drive  
Arvin, CA 93203

b. Include the date of the alleged act of discrimination, date when the Complainant(s) became aware of the alleged act of discrimination; or the date on which that conduct was discontinued or the latest instance of conduct.

- c. Present a detailed description of the issues, including names and job titles of those individuals perceived as parties in the complaint.
  - d. Federal law requires complaints be filed within 180 calendar days.
2. The complaint will be investigated and a determination made. Formal investigation of the complaint will be confidential and will include, but is not limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses. Claimant will be notified of the resolution.
  3. If the complainant is not satisfied with the resolution, they can appeal it to:

Office of the City Manager  
 200 Campus Drive  
 Arvin, CA 93203  
 Phone 661-854-3134  
 Fax 661-854-0817

4. All documents, information and recording (if necessary) will be kept on file at the City of Arvin Transportation Operations and Maintenance Facility at 165 Plumtree Drive, Arvin, CA 93203
5. Contacts for the different Title VI administrative jurisdictions are as follows:

Federal Transit Administration Office of Civil Rights  
 Attention: Title VI Program Coordinator  
 East Building, 5<sup>th</sup> Floor —TCR  
 1200 New Jersey Ave., SE  
 Washington, DC 20590

## Exhibit C

### TITLE VI COMPLAINT PROCEDURES - SPANISH VERSION

Tema: Procedimientos para la Presentación de Queja por Discriminación del Pasajero Div:

Arvin Transit

#### General

Cualquier persona que considere que él o ella, individualmente o como miembro de una clase específica de personas, ha sido objeto de discriminación por motivos de raza, color, u origen nacional puede presentar una queja por escrito ante City of Arvin Transit.

#### Procedimiento

1. La queja debe cumplir los siguientes requisitos:

a. La queja debe ser por escrito y firmada por el/los denunciante(s). En los casos en los que el Denunciante no puede o es incapaz de proporcionar una declaración por escrito, se puede presentar una queja verbal.

- La queja puede ser enviada por correo a:  
165 Plumtree Drive  
Arvin, CA 93203
- La queja se puede presentar por teléfono llamando al  
número: 661.854.3139
- La queja se puede presentar en persona en la dirección:  
165 Plumtree Drive  
Arvin, CA 93203

O

Arvin City Hall – Administrador de la Ciudad  
200 Campus Drive  
Arvin, CA 93203

b. Incluya la fecha del presunto acto de discriminación, la fecha cuando los Denunciantes se dieron cuenta del presunto acto de discriminación; o la fecha en que se suspendió esa conducta o el más reciente caso de la conducta.

- c. Presente una descripción detallada de las cuestiones, incluyendo los nombres y puestos de trabajo de los individuos percibidos como partes en la queja.
  - d. La ley federal requiere que se presenten las quejas dentro 180 días calendario de haber ocurrido la discriminación.
2. Se investigará la queja y se tomará una determinación. La investigación formal de la queja será confidencial e incluirá, pero no se limitará a, los detalles del incidente específico, frecuencia y fechas de los casos y los nombres de cualquier testigo. El demandante será notificado de la resolución.
  3. Si el denunciante no está satisfecho con la resolución, se puede apelar a:

Oficina del Administrador de Ciudad  
 200 Campus Drive  
 Arvin, CA 93203  
 Phone 661-854-3134  
 Fax 661-854-0817

4. Todos los documentos, información y grabaciones (si es necesario) se mantendrán en los archivos en la Instalación de Operaciones y Mantenimiento de Transporte de la Ciudad de Arvin ubicada en la dirección 165 Plumtree Drive, Arvin, CA 93203
5. Los contactos para las distintas jurisdicciones administrativas de Título VI son los siguientes:

Federal Transit Administration Office of Civil Rights  
 Attention: Title VI Program Coordinator  
 East Building, 5<sup>th</sup> Floor —TCR  
 1200 New Jersey Ave., SE  
 Washington, DC 20590

**Exhibit D**

## TITLE VI NOTICE TO THE PUBLIC - ENGLISH

**CITY OF ARVIN TRANSIT  
Title VI Notice & Complaint Process**

The City of Arvin Transit is committed to ensuring that no person is excluded from participation in or denied the benefits of its services on the basis of race, color or national origin, as provided by Title VI of the Civil Rights Act of 1964. Any person who believes that he or she has been subjected to discrimination under Title VI on the basis of race, color or national origin may file a Title VI complaint with the City.

**Complaints may be filed with Arvin Transit as follows:**

- The complaint may be made in person at, or mailed to:  
City of Arvin Transit  
Transit Manager  
165 Plumtree Drive  
Arvin, CA 93203, OR  
  
Arvin City Hall - City Manager  
200 Campus Drive  
Arvin, CA 93203
- The complaint can be phoned to City of Arvin Transit:  
661.854.3139

A copy of the Title VI Complaint Form (in English or Spanish) and additional information may be obtained from the City's web site at [www.arvin.org/transportation.htm](http://www.arvin.org/transportation.htm) or by calling (661) 854-3139. Arvin Transit will provide appropriate assistance to complainants who are limited in their ability to communicate in English.

**Exhibit E****TITLE VI NOTICE TO THE PUBLIC - SPANISH****CITY OF ARVIN TRANSIT  
Aviso y Proceso de Queja del Título VI**

City of Arvin Transit se compromete a garantizar que ninguna persona sea excluida de participar en o negado los beneficios de sus servicios por motivos de raza, color u origen nacional, conforme a lo dispuesto en el Título VI de la Ley de Derechos Civiles de 1964. Cualquier persona que considere que ha sido objeto de discriminación por motivos de raza, color u origen nacional conforme a Titulo VI, puede presentar una queja de Titulo VI ante la Ciudad.

**Las quejas se pueden presentar ante Arvin Transit de las siguientes maneras:**

- La queja se puede presentar en persona en, o enviado por correo a:  
City of Arvin Transit  
Transit Manager  
165 Plumtree Drive  
Arvin, CA 93203, OR  
  
Arvin City Hall – Administrador de la Ciudad  
200 Campus Drive  
Arvin, CA 93203
- La queja se puede presentar por teléfono llamando a City of Arvin Transit: 661.854.3139

Una copia del Formulario de Queja del Título VI (en inglés o en español) y cualquier información adicional se puede obtener en el sitio web de la Ciudad en [www.arvin.org/transportation.htm](http://www.arvin.org/transportation.htm) o llamando al (661) 854-3139. Arvin Transit le proporcionará ayuda adecuada a los denunciantes que están limitados en su capacidad de comunicarse en inglés.

**Exhibit F**

**CITY OF ARVIN TRANSIT SERVICES LIMITED  
ENGLISH PROFICIENT (LEP) PLAN  
July 28, 2020**

City of Arvin Transit is required to take responsible steps to ensure meaningful access to the benefits, services, information and other important portions of our programs and activities of individuals who are Limited English Proficient (LEP). City of Arvin Transit consulted the USDOT's LEP Guidance and performed a four factor analysis of our contact with the public to determine the appropriate mix of LEP services to offer.

**Four Factor Analysis:****1. The nature and importance of service provided by City of Arvin Transit.**

City of Arvin Transit provides important transit services to the public through its fixed route and paratransit programs. City of Arvin Transit provides a link between the rural areas and the downtown center of City of Arvin which offers shopping, healthcare and other services the public accesses frequently. Arvin Transit also provides a link between the City of Arvin and the, unincorporated community of Lamont, the City of Bakersfield and the Tejon Commercial/Industrial complex located adjacent to State Route 99.

**2. The number or proportion of LEP persons in the service area.**

Data was gathered from the following sources to identify information on persons who do speak languages other than English at home and who speaks it less than well or not at all and would be classified as limited English proficient or "LEP":

- a) 2010 Census Data
- b) Census Bureau's American Community Survey and Fact Finder Surveys.
- c) Department of Labor LEP Special Tabulation website.

A review of the census data on the numbers of limited English proficient or LEP persons revealed that in City of Arvin, the highest percentage of total population 5 years and over that spoke a language other than English at home were Spanish speakers. The total Spanish speaking population was 82.7% of the 19,304 total population of City of Arvin (see U.S. Census Bureau Data). The percentage of Spanish speaking **LEP** individuals that spoke English "not well" or "not at all" in Arvin was approximately 32.9%.

**3. The frequency with which LEP individuals come into contact with the service.**

We serve **LEP** persons daily via our buses, contracted services, paratransit, and demand response services. The staff in our administrative offices speak Spanish and can translate in person or over the phone as needed. We have an average of 0 (zero) calls a month that require translations when Spanish speaking employees are unavailable and had no calls for languages other than Spanish.

**4. The resources available to the recipient of the federal funds to assure meaningful access to the service by LEP persons.**

City of Arvin Transit currently provides some information in Spanish such as surveys, bus routes and fares, public service announcements and information on the buses. City of Arvin Transit has experienced staff members who are fluent in both Spanish and English.

**Implementation Plan:**

Based on the four factor analysis, City of Arvin Transit recognizes the need to continue providing language services in the region. A review of City of Arvin Transit relevant programs, activities and services that are being offered or will be offered by the City of Arvin as of July, 2020 include:

- Spanish speaking translators are available upon request during normal business hours.
- Route and Schedule brochures are available in both English and Spanish.
- Route and Schedule information available in Spanish on the City of Arvin website.
- Transit surveys conducted by City of Arvin Transit are available in Spanish.
- Specific public meetings are held to the Spanish speaking community in City of Arvin. Information was provided in Spanish and translators were on site to help with questions or concerns.
- City of Arvin Transit will expand its Rider Training program to include Spanish-speaking volunteers to assure Spanish-speaking customers have the opportunity to be taught how to ride the bus through training and through one-on-one assistance.
- The following vital documents have been or will be translated into Spanish, the LEP language within Arvin Transit's service area:
  - Title VI Notice to Public
  - Title VI Complaint Procedures
  - Title VI Complaint Form
  - Rider Guides, where practical
  - Signage advertising Arvin Transit's language assistance program
  - System map, where practical
  - Individual route schedules, where practical

Going forward, the extent of Arvin Transit's ability and obligation to translate written documents will be determined on a case-by-case basis, by looking at all elements presented in the Four Factor Analysis.

City of Arvin Transits' outreach and marketing initiatives have yielded a list of community organizations that serve populations with limited English proficiency. The Arvin Urbanized Area incorporates certain non-incorporated areas of the County

of Kern. The following list of community organizations and school systems will be contacted to assist in gathering information and see what services are most frequently sought by the LEP populations:

Arvin Unified School District  
 Kern High School District  
 Arvin High School  
 Grimmway Academy  
 Child Welfare Services  
 Employment Development Department  
 Kern County WIC Program  
 A Committee For A Better Arvin  
 Adelante Coalition - Arvin  
 Dolores Huerta Foundation  
 Farmworkers Institute for Education and Leadership Development  
 (FIELD)

City of Arvin will contact the community organizations that serve LEP persons, as well LEP persons themselves, and perform a four factor analysis every three years to identify what, if any, additional information or activities might better improve City of Arvin's services to assure non-discriminatory service to LEP persons. City of Arvin will then evaluate the projected financial and personnel needed to provide the requested services and assess which of these can be provided cost-effectively.

### **Staff Training:**

The following training has and/or will be provided to all staff:

- Information related to the City of Arvin's Title VI Compliance Program;
- Information pertaining to the City of Arvin's Limited English Proficient (LEP) Plan;
- Description of language assistance services offered to the public, including,
  - Spanish Service Schedules: Currently services schedules are provided in English and Spanish. They are made available via paper brochures at the City of Arvin's Transit Station and on the City of Arvin's website.
  - Spanish Route and Schedule Brochures: Brochures are available in both English and Spanish.
  - Spanish Transit Surveys: Surveys conducted by the City of Arvin Transit are available in Spanish.
  - Spanish Public Meetings: Specific public meetings were and are held for Spanish speaking community throughout the Arvin Urbanized Area. Information is provided in Spanish and translators are on site to help with questions or concerns.
  - Translator Phone Access: Transit staff is available to answer questions in Spanish during normal working hours. Language Line and the City of Arvin Transit have an agreement whereby City of Arvin Transit staff can contact Language Line and utilize their translations services whenever necessary;
- How to document and log language assistance requests; and
- Where to direct and manage potential Title VI Complaints.

## Exhibit G

## ARVIN TRANSIT TITLE VI COMPLAINT FORM

<b>Section I:</b> Please write legibly		
1. Name:		
2. Address:		
3. Telephone:		Secondary Phone: <i>(Optional)</i>
4. Email Address:		
5. Accessible Format Requirements?	<input type="checkbox"/> Large Print	<input type="checkbox"/> Audio Tape
	<input type="checkbox"/> TDD	<input type="checkbox"/> Other
<b>Section II:</b>		
6. Are you filing this complaint on your own behalf?	Yes*	No
*If you answered "yes" to #6, go to Section III		
7. If you answered "no" to #6, what is the name of the person for whom you are filing this complaint? Name:		
8. What is your relationship with this individual?:		
9. Please explain why you have filed for a third party:		
10. Please confirm that you have obtained permission of the aggrieved party to file on their behalf.	Yes	No
<b>Section III:</b>		
11. I believe the discrimination I experienced was based on <i>(check all that apply)</i> :		
<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin		
12. Date of alleged discrimination: (mm/dd/yyyy)		
13. Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known), as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.		

**ARVIN TRANSIT TITLE VI COMPLAINT FORM**

**PAGE 2**

<b>Section IV:</b>		
14. Have you previously filed a Title VI complaint with Arvin Transit?	Yes	No
<b>Section V:</b>		
15. Have you filed this complaint with any other Federal, State, or local agency, Federal or State court? _____ or with any _____		
[ ] Yes* [ ] No		
*If yes, check and fill-in all that apply:		
[ ] Federal Agency _____	[ ] State Agency _____	
[ ] Federal Court _____	[ ] Local Agency _____	
[ ] State Court _____		
16. If you answered "yes" to #15, provide information about a contact person at the agency/court where the complaint was filed.		
Name: _____		
Title: _____		
Agency: _____		
Telephone: _____	Email: _____	
<b>Section VI:</b>		
Name of Transit Agency complaint is against: _____		
Contact Person: _____		
Telephone: _____		

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date are required below to complete form:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Please submit this form in person or mail this form to the address below:

Attachment: Transit Title VI Compliance Program 2020 (City of Arvin 2020 Transit Title VI Compliance Program)

City of Arvin Transit Division  
Attn: Transit Manager  
165 Plumtree Drive  
Arvin, California 93203

## Exhibit H

## FORMULARIO DE QUEJA DEL TÍTULO VI DE ARVIN TRANSIT

<b>Sección I:</b> Por favor escriba de manera legible		
1. Nombre:		
2. Dirección:		
3. Teléfono:		Teléfono Secundario: <i>(Opcional)</i>
4. Dirección de Correo Electrónico:		
5. ¿Requisitos de Formato Accesible?	<input type="checkbox"/> Letra Grande	<input type="checkbox"/> Cinta de Audio
	<input type="checkbox"/> TDD	<input type="checkbox"/> Otro Formato
<b>Sección II:</b>		
6. ¿Presenta esta queja en nombre propio?	Sí*	No
*Si usted contestó "sí" a pregunta #6, vaya a la Sección III		
7. Si usted contestó "no" a la pregunta #6, ¿cuál es el nombre de la persona en cuyo nombre usted presenta esta queja? Nombre:		
8. ¿Cuál es su relación con esta persona?:		
9. ¿Por favor explique porque usted ha presentado esta queja para un tercero:		
10. Favor de confirmar que usted obtuvo el permiso de la parte agraviada para presentar esta queja en su nombre.	Sí	No
<b>Sección III:</b>		
11. Considero que la discriminación de la que fui objeto se basó en ( <i>marque todos los que correspondan</i> ):  <input type="checkbox"/> Raza <input type="checkbox"/> Color <input type="checkbox"/> Origen Nacional		
12. Fecha de la presunta discriminación: (mm/dd/aaaa)		
13. Explique lo más claramente posible lo que sucedió y por qué cree que fue discriminado. Describa a todas las personas que participaron. Incluya el nombre y la información de contacto de la(s) persona(s) que lo discriminó (discriminaron) a usted (de ser conocido(s)), así como los nombres e información de contacto de cualquier testigo. Si necesita más espacio, por favor use el dorso de este formulario.		

**FORMULARIO DE QUEJA DEL TÍTULO VI DE ARVIN TRANSIT**  
**PÁGINA 2**

<b>Sección IV:</b>		
14. ¿Ha presentado anteriormente una queja de Título VI ante Arvin Transit?	Sí	No
<b>Sección V:</b>		
15. ¿Ha presentado esta queja ante cualquier otra agencia Estatal, o local, o ante cualquier Federal, tribunal Federal o Estatal?		
[ ] Sí*    [ ] No		
*Si contestó sí, marque cada casilla que corresponda y llene la información correspondiente: ]		
[ ] Agencia Federal	[	Agencia
Estatad		
[ ] Tribunal Federal	[	Agencia Local
[ ] Tribunal Estatal		
16. Si usted contestó "sí" a la pregunta #15, proporcione la información acerca de una persona de contacto en la agencia o tribunal donde se presentó la queja.		
Nombre:		
Puesto:		
Agencia:		
Teléfono:		Correo Electrónico:
<b>Sección VI:</b>		
Nombre de la Agencia de Tránsito contra la que se presenta la queja:		
Persona de Contacto:		
Teléfono:		

Puede adjuntar cualquier material escrito u otra información que usted considere pertinente para su queja.

Se requiere firma y fecha a continuación para terminar de llenar este formulario:

Firma

Fecha

Favor de presentar este formulario en persona o enviar por correo a la dirección a continuación:  
City of Arvin Transit Division Attn: Transit Manager  
165 Plumtree Drive  
Arvin, California 93203

## Exhibit I

### **ADDITIONAL INFORMATION FOR TRANSIT PROVIDERS THAT OPERATE LESS THAN 50 FIXED ROUTE VEHICLES IN PEAK SERVICE AND ARE NOT LOCATED IN URBANIZED AREA (UZA) OF 200,000: SYSTEMWIDE POLICIES AND SERVICE STANDARDS**

#### **Effective Practices to Fulfill the Service Standard Requirement**

#### **1. Vehicle Load Standards**

- 1.1 Inter-City/Community Buses: Loads are not to exceed 1.0 passenger/seat.
- 1.2 Local Service: Loads are not to exceed 1.25 passengers/seat.

#### **2. Vehicle Headway Standards**

Arvin Transit operates four-fixed route bus routes, Arvin-City, Arvin-Lamont, Arvin-Bakersfield and Arvin-Tejon, Monday through Friday. Arvin Transit does not operate on Saturday and Sunday. The following sets forth the headways for each of the bus routes:

- 2.1 Arvin-City: 30 minute headways from 7:00 a.m. until 4:00 p.m.
- 2.2 Arvin-Lamont: 1 hour headways from 7:00 a.m. until 4:00 p.m.
- 2.3 Arvin-Bakersfield: 1 hour, 40 minute headways with buses leaving the Arvin Transit station at 8:00 a.m. and 11:30 a.m.
- 2.4 Arvin-Tejon Industrial Complex: 1 hour headways with buses leaving the Arvin Transit Station at 4:00 a.m. and 1:00 p.m. Arvin Transit will explore the possibility of increasing the frequency of this route as the Tejon Industrial Complex continues to develop and offer employment opportunities to Arvin residents.
- 2.5 Arvin Dial A Ride: operates on an as-needed basis

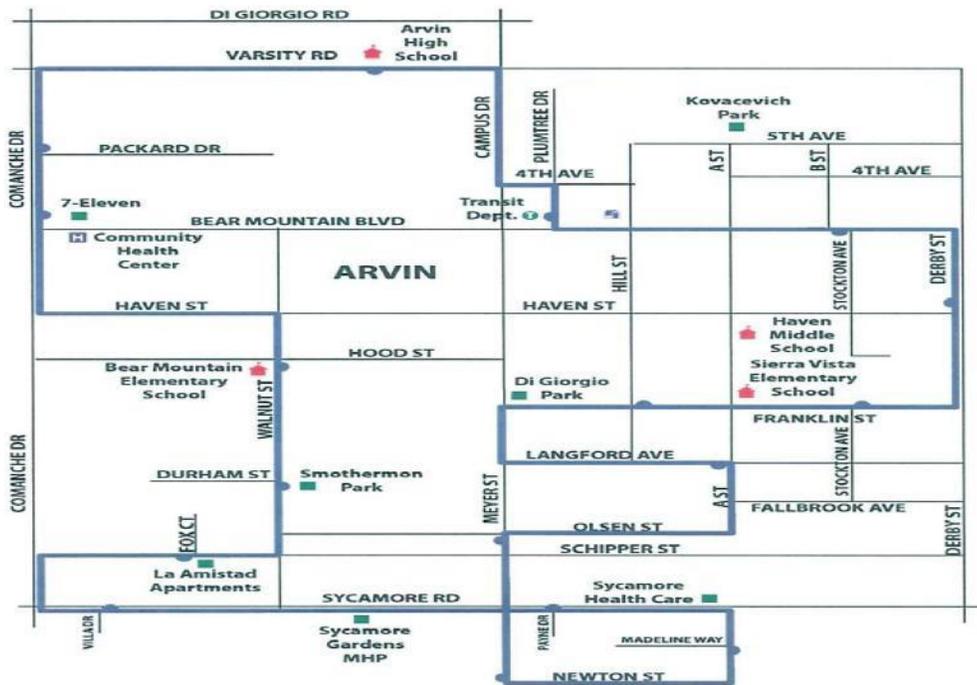
#### **3. On-Time Performance Standards**

- 3.1 Fixed Route [Local and Inter-City/Community]
  - Arvin Transit endeavors to operate with no early departures before the time shown in the schedule brochure.
  - 98 percent of all trips should be operated “on-time,” defined as departing a published time-point no more than five (5) minutes later than the published scheduled to accommodate the deviation pick-ups.
- 3.2 Demand Response [Dial-A-Ride]

- 98 percent of all monthly trips operate on-time five (5) minutes past the scheduled pick-up time, with the pick-up time, defined as within the 15 minute manifest block.

4. Service Availability Standards

4.1 Local Service: Arvin Transit’s entire service area population includes approximately 19,304 individuals, per the 2010 census and shown in the map below. Of this Arvin Transit currently serves 90 percent of its total service area population, individuals who live within 1/4 mile of Arvin Transit’s fixed route service area or live within the Dial-A-Ride service area which is depicted on the map below.



4.2 Demand Response: 100 percent of all trips requested by ADA-qualified patrons within the Arvin Transit service area shall be accommodated.

## Effective Practices to Fulfill the Service Policy Requirement

### 1. Vehicle Assignment Policy

- 1.1 Fixed Route [Local and Inter-City/Community]: Bus assignments take into account the operating characteristics of the various buses within the Arvin Transit fixed route fleet, which are matched to the operating characteristics of the route. In the absence of specific operating requirements, vehicle assignments will be done so as to ensure an equal use rotation of fleet vehicles throughout the routes in the Arvin Transit system.
- 1.2 Demand Response: Except for situations requiring the assignment of a trip to a specific vehicle for reasons such as lift capacity, interior clearance or operating characteristics within the service area, demand response trips shall be assigned so as to ensure that vehicles are randomly operated in these services.

### 2. Transit Amenities Policy

The following policies will be applied as funding allows:

- 2.1 Installation of a shelter should be considered at bus stops with an average per trip boarding of 10 or more passengers. Waste receptacles have been installed at locations with shelters. Seating/benches should be considered at bus stops with an average per trip boarding of 5 or more passengers.
- 2.2 Priority for benches and shelters should be given to bus stops serving senior housing or activity centers, or facilities which serve clients with mobility impairments.

**URGENCY ORDINANCE NO. \_\_\_\_\_**

**AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AGAIN EXTENDING URGENCY ORDINANCE NO. 2020-465 (PORTION REGARDING COMPLIANCE WITH STATE AND COUNTY EMERGENCY ORDERS IN RESPONSE TO THE COVID-19 PANDEMIC)**

**WHEREAS**, on March 17, 2020, the City of Arvin declared a local emergency due to the COVID-19 pandemic; and

**WHEREAS**, on May 12, 2020, the City Council of the City of Arvin adopted Urgency Ordinance No. 2020-465 Related to Facial Coverings and /or Personal Protective Equipment and Compliance with State and County Emergency Orders, in Response to the COVID-19 pandemic; and

**WHEREAS**, ON June 23, 2020, the City Council extended a portion of Urgency Ordinance 2020-465 to continue to require compliance with State and County emergency orders in response to the COVID-19 pandemic; and

**WHEREAS**, the City of Arvin still has the highest ratio of reported COVID-19 cases per 1,000 citizens in Kern County, and the City Council desires to extend the duration of that portion of portion of Urgency Ordinance 2020-465 to continue to require compliance with State and County emergency orders in response to the COVID-19 pandemic.

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

**SECTION 1.**     **Recitals.** The foregoing recitals are true and correct, and are incorporated herein by reference as findings of fact.

**SECTION 2.**     **Urgency and Emergency Findings.** The City Council finds that there is a current and immediate threat to public health, safety, and welfare posed by COVID-19, and adopts and ratifies the findings as set forth by Urgency Ordinance 2020-465 and Urgency Ordinance 2020-467. Additionally, the community of Arvin continues to have higher incidences of COVID-19 cases as compared to other communities of a similar size within Kern County.

**SECTION 3.**     **Urgency Ordinance Shall Be Extended.** Section 4 of Urgency Ordinance 2020-465 is hereby extended to the sooner of i) the termination of the City's local emergency; or ii) termination of the State emergency declared by the Governor.

**SECTION 4.**     **Violations Enforceable.** Violation of these requirements shall be enforceable, and all State and County Emergency Orders in Response to the COVID-19 Pandemic shall be complied with, under and within the City limits per Arvin City Municipal Code Title 8, Chapter 8.12 which provides for enforcement of violations as infractions and/or misdemeanors.

**SECTION 5. Adoption and Effective Date.** Pursuant to Government Code Section 36937, this urgency ordinance shall take effect immediately. The City Council finds and determines that the same is necessary to the preservation of the public peace, health or safety.

**SECTION 6 Severability.** The severability clause in Urgency Ordinance 2020-465 is incorporated herein as if set forth in full.

**I HEREBY CERTIFY** that the foregoing Urgency Ordinance No. \_\_\_\_\_ was duly adopted at its regular meeting held on the 28<sup>th</sup> day of July 2020, by the following roll call vote:

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

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

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

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

**ATTEST**

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

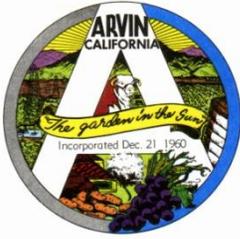
**CITY OF ARVIN**

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

**APPROVED AS TO FORM:**

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

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



**CITY OF ARVIN**  
**City Council Meeting**

**Meeting Date: July 28, 2020**

**TO:** City Council

**FROM:** R. Jerry Breckinridge, City Manager  
 Mitzy Cuxum, Senior Planner

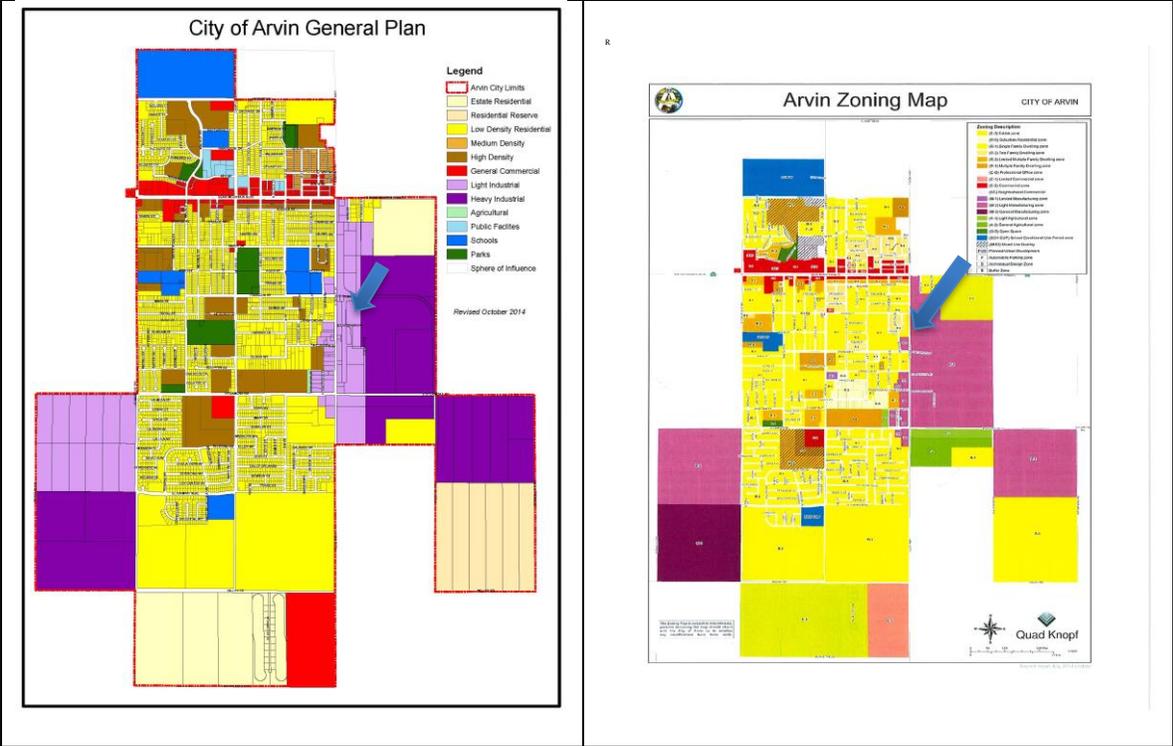
**SUBJECT:** Public Hearing to Consider and I) Approve An Ordinance of the City Council of the City of Arvin Adopting An Uncodified Ordinance, Approving A Development Agreement Between the City of Arvin and Cana Rose Realty Holdings, LLC., and Life & Nature Farms LLC., for the Development of Certain Cannabis Operations located at 901 Potato Road, Arvin, CA, and II) adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).

**RECOMMENDATION:**

Staff recommends that the City Council consider adopting the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive second reading of the Ordinance, and I) approve the adoption of the Ordinance and II) Adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).

**APPLICANT AND LOCATION:**

Applicant:	Cana Rose Realty Holdings, LLC and Life and Nature Farms, LLC Address: 5016 California Avenue, Bakersfield CA 93309
Project Address:	901 Potato Road, Arvin, CA 93203
Assessor Parcel No.	193-150-18
Zoning	M-2, Light Manufacturing Zone
General Plan Land Use Designation	Industrial



**BACKGROUND:**

On July 13, the Planning Commission held a public hearing. In this meeting the Planning Commission recommended the City Council of the City of Arvin to approve the Development Agreement between the City of Arvin and Cana Rosa Realty Holdings LLC., and Nature Farms LLC., for the development of certain cannabis operations.

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 zoned district. The ordinance includes protections for the community, including restricting uses near homes, schools, parks and libraries. The City’s ordinances also the City to enter development agreements with developer. The development agreement details the obligations of the City and the developer and it specifies the standards and conditions that will government the development of the property.

Development agreements are contracts approved by the City Council after consideration of the Planning Commission recommendation. They are entered into by the City and a developer to expressly define a development project’s rules, regulations, commitments, and policies for a specific period of time. The purpose is to strengthen the public planning process by encouraging private participation in the achievement of comprehensive planning goals and reducing the economic costs of development. A development agreement reduces the risks associated with development, thereby enhancing the City's ability to obtain public benefits beyond those achievable through existing ordinances and regulations.

Cana Rose Realty Holdings, LLC., and Life & Nature Farms, LLC., (“Developer”) has filed applications, including a development agreement, with the City for development of 901 Potato

Road, in Arvin, California, which is generally located north of Sycamore Road between and East of Fallbrook. Commercial cannabis uses are proposed within the existing buildings. The Planning Commission approved a site plan and conditional use permit for this location in 2019.

Along with the Development Agreement, a Conditional Use Permit (CUP) and Site Development Plan (SDP) (collectively “entitlements”) will allow for commercial cannabis activities to operate at the site with the appropriate City permits and State licenses. The Cannabis uses include: Cultivation, Manufacturing and Non-store front retail (delivery only).

The proposed Development Agreement 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. As existing facilities are proposed to be used, the Development Agreement does not include a subdivision as defined in section 66473.7 of the Government Code.

### **COMMUNITY BENEFITS:**

The Development Agreement will provide substantial benefit to the community including the following:

- Developer to pay \$100,000.00 in unrestricted community benefit funds.
- Developer to pay 1.00 per square foot of cultivated cannabis every quarter.
- Developer to pay 100% of the cost of processing Developer’s applications.
- 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.
- Developer shall pay the City one of the following maximum rates for cultivation activities within the Project Area:
  - For all space utilized as cultivation area where Mixed-Light Cultivation is used one dollars (\$1) per square foot on a quarterly basis;
  - 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.
- Developer shall pay the City, other than for cultivation, the following rates on a quarterly basis:
  - (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, other than as specified, up to four percent (4%) of Proceeds.

It is anticipated that the City Council may exercise its authority to further refine and clarify the

requirements of the Development Agreement as may be appropriate.

### **ENVIRONMENTAL CONSIDERATIONS:**

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. Further, none of the exceptions to categorical exemptions set forth in CEQA Guidelines, section 15300.2, apply to this project.

### **PUBLIC NOTIFICATION:**

The City properly noticed the July 14, 2020 hearing before the City Council for the proposed Development Agreement 2020-01 pursuant to Government Code sections 65090 and 65091 by publication in the newspaper on July 01, 2020. A copy of the notice is attached to this Staff report. In addition, the City Clerk provided notice of by mailing the public notice to all property owners within the 300-foot radius.

### **ATTACHMENTS:**

1. An Ordinance of the City Council of the City of Arvin to I) Adopt the Uncodified Ordinance of the City Council of the City of Arvin, Approving A Development Agreement Between the City of Arvin and Cana Rose Realty Holdings, LLC for the Development of Certain Cannabis Operations located at 901 Potato Road, Arvin, CA, and II) adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).
2. Public Hearing Notice.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, CALIFORNIA, ADOPTING AN UNCODIFIED ORDINANCE, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ARVIN AND CANA ROSE REALTY HOLDINGS, LLC. AND LIFE & NATURE FARMS, LLC. FOR THE DEVELOPMENT OF CERTAIN COMMERCIAL CANNABIS OPERATIONS LOCATED AT 901 POTATO ROAD, ARVIN, CA**

**WHEREAS**, Sections 65864-65869.5 of the California Government Code authorize the City of Arvin (“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**, Cana Rose Realty Holdings, LLC. and Life & Nature Farms, LLC. (“Developer”) has filed the a development agreement application with the City for development of 901 Potato Road, in Arvin, California, APN: 193-150-18, which is generally located north of Sycamore Road and East Fallbrook Avenue, (the “Project Area” or “Property”) for the development of cannabis uses under for Cultivation, Manufacture and Non-storefront delivery, to be completed in six phases (the “Project”) as approved on their Conditional Use Permit (Resolution N0. APC2019-05). 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).

**WHEREAS**, On July 13<sup>th</sup> the Planning Commission held a public hearing. In this meeting the Planning Commission recommended to the City Council of the City of Arvin to approve the Development Agreement between the City of Arvin and Cana Rosa Realty Holdings LLC., and Nature Farms LLC., for the development of certain cannabis operations.

**WHEREAS**, the City properly noticed the July 14, 2020, regular meeting of the City Council of the City of Arvin 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 three hundred (300’) feet of the proposed projects; and

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

1. The above recitals are true, correct and hereby incorporated by reference.

2. The City Council adopts 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 Development Agreement will have a significant, adverse, physical effect on the environment. Further, none of the exceptions to categorical exemptions set forth in CEQA Guidelines, section 15300.2, apply to this project.

3. The City Council approves the Development Agreement By And Between The City Of Arvin, A Municipal Corporation, and Cana Rose Realty Holdings, LLC., and Life & Nature Farms, LLC., A California Corporation 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 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 Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. If either said approval or payments have not occurred within sixty (60) days of the date of the adoption of this Ordinance, this Ordinance shall not take effect and will be null and void.

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**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council of the City of Arvin after waiving reading, except by Title, at a regular meeting thereof held on the 28<sup>th</sup> of July 2020, and adopted the Ordinance after the second reading at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2020, by the following roll call vote:

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

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

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

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

**ATTEST:**

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

**CITY OF ARVIN**

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

**Attachment:** Development Agreement by and Between The City Of Arvin, A Municipal Corporation, and Cana Rose Realty Holdings, LLC., and Life & Nature Farms, LLC., A California Corporation.

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.

RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

City of Arvin  
Attn: City Clerk  
City Hall  
200 Campus Drive  
PO Box 548  
Arvin, CA 93203

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

DEVELOPMENT AGREEMENT

by and between

**The City of Arvin**  
a municipal corporation

and

**Cana Rose Realty Holdings, LLC**  
a California Limited Liability Company

and

**Life & Nature Farms, LLC,**  
a California Limited Liability Company

Attachment: Dev Agmt Cana Rose Realty Holdings LLC and Life and Nature Farms LLC 901 Potato Rd\_CC Mtg 072820 (Public Hearing - 2nd

## DEVELOPMENT AGREEMENT

This Development Agreement (the “**Agreement**”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, 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 **Cana Rose Realty Holdings, LLC**, a California limited liability company and **Life & Nature Farms, LLC**, a California limited liability company. Cana Rose Realty Holdings, LLC and Life & Nature Farms, LLC are collectively referred to herein as (“**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 **901. Potato Road, Arvin, California**, APN: 193-150-18-00, that is generally located at the intersection of Derby and Sycamore Roads, Arvin, California (the “**Project Area**” or “**Property**”) for the development of commercial cannabis related uses (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 commercial cannabis cultivation, which would allow the use of the entire Project Area, including any existing structures, appurtenances or planned improvements thereto (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 \_\_\_\_, 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 \_\_\_\_\_, 2020, at a duly noticed public meeting and after introduction 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**”).

A G R E E M E N T

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. This Agreement shall be recorded in the Official Records of the County of Kern County, and the City and Developer shall execute any documents reasonably required by the other to effectuate such recordation. This Agreement must be recorded with the Kern County Recorder prior to commencement of any commercial cannabis use on the Property, regardless of the existence of any conditional use permit, site plan, entitlement, City-issued commercial cannabis permit or State-issued license for cannabis operations at the Property or in the Property Area.

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: (1) it has a legal right of possession to the Property and/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, unless otherwise extended pursuant to the mutual agreement of the Developer, and the City of Arvin, and, provided, further, 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 setbacks, 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, any other 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 Effective 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 an 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. The Developer has proposed a phased development of the Project as detailed and set forth in Exhibit “C” attached hereto and incorporated herein by this reference.

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 One Hundred Thousand Dollars (\$100,000.00) 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 first payment of Fifty Thousand Dollars (\$50,000.00) in community benefit funds shall be paid in full by Developer within sixty (60) days after the Execution Date of this Agreement. The second payment of Fifty Thousand Dollars (\$50,000.00) in community benefit funds shall be paid in full by Developer on or before sixty (60) days after issuance of the certificate of occupancy or operations commence, whichever is first.

6.2.1.2 On a quarterly basis, Developer shall pay the City in the amount one dollar (\$1.00) per square foot of cultivated cannabis. The first payment shall be due on \_\_\_\_\_ 2020. The square footage shall be determined by measuring the canopy of the cannabis being cultivated consistent with Exhibit “D.” 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.

6.2.1.3 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.

6.2.1.4 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.

6.2.1.5 Developer shall pay Required Exactions and fees set forth in Exhibit “D.”

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 Indemnitees”) 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 Indemnitee or held to be the liability of the City Indemnitee (including plaintiff's or petitioner's attorney's fees if awarded, in connection with the City Indemnitee's defense of its actions in any proceeding) (collectively, “Losses”) incurred by any City Indemnitees 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 preceding portions of this paragraph shall apply regardless of whether the City Indemnitees are negligent, but shall not apply to any Losses caused solely by the gross negligence or willful misconduct of any City Indemnitees.

In addition, Developer shall indemnify, hold harmless and defend the City Indemnitees 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, and/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 Indemnitees 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 Indemnitees 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 Indemnitees 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, 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 the City or any of its officers, officials, employees, consultants, attorneys, agents or authorized 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 obtain and pay for and maintain in full force and effect all policies of comprehensive commercial general liability 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 \$2,000,000.00 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. Annual Review of Compliance.

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 basis 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 (\$2,000.00) 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 RENDER AN APPROVAL OR TAKE AN ACTION REQUIRED UNDER THE DEVELOPMENT AGREEMENT: [SPECIFY IN DETAIL]. YOUR FAILURE TO COMMENCE 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 assuming, 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 seek 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, civil unrest, 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 agencies or 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:

If to City:

City of Arvin  
Attn: City Manager  
City Hall  
200 Campus Drive  
PO Box 548  
Arvin, CA 93203  
Facsimile: (661) 854-0817

and to:

Aleshire & Wynder, LLP  
Attn: Shannon Chaffin, City Attorney  
2440 Tulare Street, Suite 410  
Fresno, CA 93721  
Facsimile: (559) 486-1568

If to Developer:

Cana Rose Realty Holdings, LLC  
5016 California Avenue  
Bakersfield, California 93309  
Attn: J. Thorn, Manager  
Email: [JThorn47@me.com](mailto:JThorn47@me.com)

With a copy to: David R. Altshuler, a Law Corporation  
865 Via de la Paz #300  
Pacific Palisades, California 90272  
Email: [dra@drataxlaw.com](mailto:dra@drataxlaw.com)

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. General Provisions.

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 or 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  
\_\_\_\_\_, 2020

ATTEST:

\_\_\_\_\_  
Cecilia Vela, City Clerk

**“DEVELOPER”**

**Cana Rose Realty Holdings, LLC**  
a California limited liability company

By: \_\_\_\_\_  
Jeffrey D. Thorn,  
Its Manager  
\_\_\_\_\_, 2020

**Life & Nature Farms, LLC**  
a California limited liability company

By: \_\_\_\_\_  
Mario Delis,  
Its Manager

**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.

**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.

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2020 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

<input type="checkbox"/> <b>CAPACITY CLAIMED BY SIGNER</b>	<b>DESCRIPTION OF ATTACHED DOCUMENT</b>
<input type="checkbox"/> INDIVIDUAL	_____
<input type="checkbox"/> CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT
_____	_____
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED	NUMBER OF PAGES
<input type="checkbox"/> <small>TITLE(S)</small> GENERAL	_____
<input type="checkbox"/> ATTORNEY-IN-FACT	DATE OF DOCUMENT
<input type="checkbox"/> TRUSTEE(S)	_____
<input type="checkbox"/> GUARDIAN/CONSERVATOR	SIGNER(S) OTHER THAN NAMED ABOVE
<input type="checkbox"/> OTHER _____	_____
_____	

**SIGNER IS REPRESENTING:**

(NAME OF PERSON(S) OR ENTITY(IES))

\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT "A"**  
**Project Area**

**Address: 901 Potato Rd, Suite A, B, C and D.**  
**APN:193-150-18**



## EXHIBIT B – SCHEDULE OF EXTRACTIONS AND FEES

- Developer to pay \$100,000.00 in unrestricted community benefit funds.
- Developer to pay 1.00 per square foot of cultivated cannabis every quarter.
- Developer to pay 100% of the cost of processing Developer’s applications.
- 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.
- Developer shall pay the City one of the following maximum rates for cultivation activities within the Project Area:
  - For all space utilized as cultivation area where Mixed-Light Cultivation is used one dollars (\$1) per square foot on a quarterly basis;
  - 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.
- Consistent with the rates set and taxed by Measure “M,” Developer shall pay the City, other than for cultivation, the following rates on a quarterly basis:
  - (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, other than as specified, up to four percent (4%) of Proceeds.

In the event the City Council lowers the tax rate for cannabis under Measure “M” approved in November of 2018, Developer shall be entitled to pay said tax at the same lower rate.

Exhibit “C”  
To Development Agreement

**Schedule of Proposed Property Improvements**

Owner agrees to undertake the following phased improvements, within the relative timelines, for the Property. Refer to the approved site and street plans for additional phasing details. Modifications to the below phasing shall only be made if approved in writing by the City Engineer:

**June 2020-June 2021**

1. Obtain agency approval of all improvement plans, to include building “architecturals”, site plans, street plans, grading, utilities, landscaping and irrigation plans, SWPPP, DCP and other pertinent regulatory approvals.
2. Retrofit and upgrade existing buildings.
3. Perform select demolition on-site to remove obstructions and hazards where needed, to improve the onsite surface and drainage.
4. Construct on-site curb returns, ADA ramps signage and striping, other vehicular striping, on-site curb and gutters, on-site walkways, site fencing and gates, trash enclosure, site and street landscaping and irrigation.
5. Make new connections to the municipal sanitary sewer system as shown on the site and street plans. Pay connection fees to the city.
6. Aggregate base will be placed at select locations.
7. Grade native material on Potato Road to smooth ruts and provide improved drainage.
8. Place and compact a 3-inch depth of class 2 aggregate base within the paving limits of Potato Road. The Site’s entrance driveways will be done in concrete. This will provide an all-weather surface for emergency vehicles that will extend to Sycamore from Potato Road.
9. Fronting the Project site only, construct curb and gutter, sidewalk, a single catch basin, and landscaping. The catch basin would be routed into the existing sump.

**July 2021-February 2024**

1. In accordance with all previously approved onsite plans, complete all “conditioned” construction of the site, to include grading and ground covering of the site, drainage improvements, building pad preparation, backfill of the existing sump, excavation of a new sump, installation of drainage pipeline from the street catch basin to the new sump, and connections to previously extended sewer line and existing domestic water system.
2. Provide new asphalt pavement and cross gutters where shown on the approved plans.
3. Construct all remaining street improvements shown on the approved street plans.
4. Retrofit and upgrade existing buildings.
5. Construction of new structures as approved.